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Interagency Working Group: Human Rights Treaties [3]

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Background for Possible ABA Questions

CEDAW

The Convention on the Elimination of All Forms of Discrimination Against Women, which the United States signed in July 1980, was transmitted to the Senate in November, 1980. Although the Senate Foreign Relations Committee voted in favor of ratification in 1994 (by a vote of 13-5), the Senate has not formally considered the treaty since that time. The Administration strongly supports the goal of CEDAW ratification. Indeed, the President on several occasions has made clear his commitment to this result. In March 1998, for instance, he sent a letter to Senate leaders, strongly urging them to facilitate the ratification of CEDAW. On Human Rights Day this past December, the President reaffirmed his interest in Senate action. CEDAW remains at the top of the list of the human rights treaties for which the Administration urges the Senate to give its advice and consent.

On March 10, 2000, a resolution was introduced in the House of Representatives by over 40 Members expressing the sense of the House that the Senate should ratify CEDAW. On March 30, a resolution was introduced by over 30 Senators expressing the sense of the Senate that the SFRC should hold hearings on CEDAW and the Senate should act on CEDAW before July 19, 2000, the 20th anniversary of the signing of the Convention by the United States. While the Administration has not taken a position on these resolutions, we strongly support the Senate's giving advice and consent to CEDAW.

On May 11, Jesse Hems introduced a resolution expressing the sense of the Senate that the Senate should reject CEDAW because "it demeans motherhood and undermines the traditional family."

Hague Intercountry Adoption Convention

The Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption has three stated objectives: (1) to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect to the child's fundamental rights under international law; (2) to establish a system of co-operation amongst the State Parties to the Convention to ensure that those safeguards are respected and thereby prevent the abduction, sale of, or traffic in children; and (3) to secure the recognition of State Parties of adoptions made in accordance with the Convention.

The Administration submitted the Convention to the Senate for advice and consent in June 1998, and it was voted out of committee on April 27, 2000. Implementing legislation is currently being debated on the Hill (there is both a House and Senate version) and is a moving target. The Administration supports the goals of the Convention and the implementing legislation, which also have strong support from the

adoption community. According to State lawyers, we are very close to getting the implementing legislation through Congress.

[FYI - The NSC has not been actively engaged in the implementing legislation.]

U.N. Arrears

Attached are a few pages of background and talking points from the State Department.

In a nutshell, the Foreign Relations Authorization Act for fiscal years 2000 and 2001 authorized the payment of a significant portion of our arrears to the U.N. and other international organizations in three tranches. (This portion of the Act is referred to as "Helms-Biden.") Before paying each tranche, the Secretary of State must make certain certifications. We made the first \$100 million arrears payment after the Secretary of State made a certification relating to "United States sovereignty." The second tranche is linked to a certification relating to reform of the U.N. assessment rate ceiling for the U.S. from 25 to 22% for the regular budget and from 30.4 to 25% for peacekeeping. We have not yet made that certification. The third tranche is linked to a certification on budget and personnel reform, which we have not yet made. [FYI -- Helms-Biden did not authorize the appropriation of as much money as the Administration requested, which was less than the U.N. thinks that we owe because of a 5% discrepancy regarding payment for U.N. peacekeeping.]

The bottom line is that we support paying our arrears to the U.N. and other international organizations, we are pleased that legislation passed authorizing payment of our dues, and we will do everything we can to make the certifications necessary for continued payment of our arrears.

UN REFORMS AND ARREARS

Background: Legislation was enacted which permits payment of arrears conditioned on continuing implementation of budget and management reforms in the UN and other international organizations. We have already made the first \$100 million arrears payment to the UN, but the next payment of \$582 million is contingent on a lowering of the UN assessment rate ceiling from 25 to 22 percent (regular budget) and 30.4 to 25 percent (peacekeeping). Achieving agreement among member states to make these adjustments as part of comprehensive assessment rate scale reform is the most important challenge we face in paying our UN arrears. Given the lack of enthusiasm among virtually all members for a lowering of the U.S. assessment rate, this will not be easy. We are currently developing specific proposals that will be the basis for what will likely be long, intense negotiations. A revised UN budget scale will be adopted at the 2000 UNGA toward the end of this year.

Talking Points

- Recently enacted legislation provides means to clear \$926 million in arrears to UN and other organizations. First \$100 million arrears payment made to UN in December. *\$112 million*
- U.S. committed to strong UN and supports reform efforts to date, but believes process must continue. *\$214 million*
- In particular, reform of UN assessment rate scales is long overdue; since last ceiling adjustment to 25 percent in 1972, 55 States have joined the UN and there have been marked shifts in the concentrated wealth of nations.
- Scale reform should correct anomalies and reduce over-reliance on single member without burdening those States truly unable to pay more.
- Look forward to working with member states to address this issue over the next year.

Core points on UN assessment rate scale reform

Scale reform overdue: Since last adjustment in 1972: 55 new UN members, marked shifts in the wealth of nations.

Scale anomalies need correcting: Need flatter, more equitable scale.

Protect the poorest: Seek no added burden on those truly unable to pay more.

Others can and should pay more: China and Russia each pays only about 1%; Perm-5 member assessments should reflect their special responsibilities.

Concurrent review of scales: Regular budget and peacekeeping scales are intertwined; should be reviewed in tandem.

We want to pay arrears: First \$100m already paid; Helms-Biden provides additional \$826 million.

Next major goal: Key conditions for paying \$582 million this year: establishing 22%/25% ceilings for regular/peacekeeping budget.

U.S. still the largest contributor: Well over \$2 billion in voluntary and assessed contributions to UN system.

Full engagement on scale reform: Want everyone's input and to be flexible; need your support.

(If asked) Contested arrears: Committed to working with UN members on this, hope to find mutually satisfactory resolution.

(If asked) No additional conditions: View Helms-Biden as comprehensive, committed not to seek additional conditions.

U.S. CONTRIBUTIONS TO THE UN SYSTEM

Question:

We've heard much about the large amount owed by the U.S. to the UN. How much does the U.S. actually contribute to the UN?

Answer:

- Regardless of our arrears, the U.S. remains the largest contributor to the UN system, with annual contributions of close to \$2.5 billion.
- This includes assessed contributions to the UN (over \$500 million); monetary and in-kind food assistance (close to \$700 million); voluntary contributions to other UN programs and activities in such areas as humanitarian assistance, broad-based growth, protection of the global environment, and democracy and human rights (over \$800 million); and our contributions to the UN specialized and affiliated agencies (\$460 million).

N.B. - Specialized and affiliated agencies include, inter alia, the FAO, ILO, WHO, IAEA.

UNITED NATIONS: SCALES OF ASSESSMENT

Background:

To win release of "tranche two" of the Helms-Biden arrears funding (\$582 million in funding and credits), the U.S. must win a reduction in the U.N. scale of assessments for the regular budget and peacekeeping by the end of this year.

Question:

What is the likelihood of success in achieving reductions in our UN scales of assessment this year?

Answer:

- This is a top priority for the remainder of the year, and we are working very aggressively in New York, Washington, and capitals to make it happen.
- Our approach to the scale ceiling issue is to move for a long overdue reform of the UN's regular budget and peacekeeping scales of assessment.
- We have developed several proposals, all of which revolve around a more equitable, flatter scale that lessens over-reliance on the U.S. as the largest contributor.
- As for chances of success, I would say we are cautiously optimistic, though we have an enormous amount of heavy lifting to do in the year ahead.

UNITED NATIONS: CONTESTED ARREARS**Background:**

The Helms-Biden package does not include funding to the UN for some \$551 million in so-called contested arrears. These funds are owed as a result of legislative and policy withholdings taken over the years. The largest piece (\$202 million) results from the FY 1996 legislated 25 percent payment cap for UN peacekeeping (we are currently billed at 30.4 percent). Other components include disputed billings for peacekeeping resulting from the dissolution of the Soviet Union (\$123 million) and a disagreement concerning the taxation of U.S. citizens employed by the UN (\$100 million).

Question:

What is the U.S. doing to address contested arrears at the United Nations?

Answer:

- The contested arrears -- about \$551 million -- are made up of over a dozen discrete legislative and policy withholdings made over the years. Some resulted from a dispute over the taxation of U.S. citizens, other portions grew out of our 1995 legislation capping U.S. peacekeeping payments.
- We want the UN to establish a special "contested arrears" account that would omit these arrears from the loss-of-vote calculation under Article 19. The major difficulty is that only the General Assembly can authorize the establishment of such an account. We face a major

challenge in the moving process forward, especially this year when we also seek reductions in the U.S. assessment rates.

DEPARTMENT OF STATE

*Bureau of International
Organization Affairs (IO/S)*

F A X C O V E R S H E E TDATE: 5/15/00

Number of Pages including cover sheet: _____

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Remarks:

Sorry this is so much volume - our efforts this year are focussed on achieving the key "benchmarks" required to make the largest arrears payment to the UN - as a result we don't have much "general support for paying arrears" material lying around - can you call what you need from this?

Calendar No. 523

106TH CONGRESS }
2d Session }

SENATE

{ REPORT
106-276

INTERCOUNTRY ADOPTION ACT OF 2000

APRIL 27, 2000.—Ordered to be printed

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

REPORT

[To accompany S. 682]

The Committee on Foreign Relations having had under consideration S. 682, a bill to implement the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, and for other purposes, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill do pass.

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I. PURPOSE

The bill to implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (hereinafter, the Intercountry Adoption bill) 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 improve the ability of the United States to assist its citizens seeking to adopt children from abroad.

The Convention, also reported favorably this day by the Committee, is designed to establish a international legal framework for

ensuring that intercountry adoptions follow standard procedures and provide sufficient protections to adoptive parents and children. The Convention and the implementing legislation will not cover all intercountry adoptions, but only those involving nations that are both party to the Convention. But it is hoped that the nations with significant involvement in intercountry adoptions will join the Convention, thereby creating a uniform international standard for most such adoptions.

II. COMMITTEE ACTION

The Committee on Foreign Relations held a public hearing on the Intercountry Adoption bill on October 5, 1999. At the hearing, Assistant Secretary of State for Consular Affairs Mary Ryan testified in support of legislation to implement the Convention. The hearing also included testimony from a private panel of experts in the field of international adoption and child health. The Committee considered the Intercountry Adoption bill on April 13, 2000. There was one amendment in the nature of a substitute by Senator Helms that was approved during the mark-up. The Committee ordered the bill favorably reported by a voice vote, with Senator Brownback voting in the negative.

III. SECTION-BY-SECTION ANALYSIS

Section 1. Short Title; Table of Contents

This section provides the bill's short title and table of contents.

Sec. 2. Findings and Purposes

This section describes the purposes of the legislation.

Sec. 3. Definitions

This section defines various terms used in the Act.

TITLE I—UNITED STATES CENTRAL AUTHORITY

Sec. 101. Authority of the Department of State

Subsection (a) designates the Department of State as the United States central authority for purposes of carrying out U.S. obligations under the Convention.

Subsection (b) provides that the Secretary of State shall be responsible for the performance of all central authority functions of the United States under the Convention and the Act, except as otherwise specified in the Act. It also requires that personnel hired by the State Department to carry out these new responsibilities have some professional experience with consular affairs or child services, or personal or professional experience in the field of international adoption. Some of these duties will be new to the Department of State. Therefore, hiring of experienced, motivated staff will facilitate the implementation of the new obligations and responsibilities. The Committee is interested in the State Department providing the best possible service to the prospective adoptive parents and others involved in the adoption process.

Subsection (c) authorizes the Secretary of State to prescribe regulations to carry out central authority functions on behalf of the United States.

Sec. 102. Responsibilities of the Secretary of State

Subsection (a) provides that the Secretary of State shall be responsible for liaison with the central authorities of other Convention countries and the coordination of Convention activities by persons subject to U.S. jurisdiction.

Subsection (b) provides that the Secretary of State shall be responsible for providing information, and facilitating the transmittal and exchange of information, to and among the central authorities of other Convention countries, Federal and State agencies (including State courts) within the United States, and agencies accredited and persons approved under title II of the Act to provide adoption services in the United States in cases subject to the Convention.

Subsection (c) provides that the Secretary of State shall carry out the functions prescribed by the Convention with respect to the accreditation of agencies and the approval of persons to provide adoption services in the United States in cases subject to the Convention. It also provides that the Secretary of State may not delegate this authority to any Federal agency. Currently, the Federal Government does not have any responsibility or capacity in the area of accreditation of adoption agencies. Because the Department of State was already the primary Federal agency with regard to intercountry adoption, the Committee believes that the assignment of responsibilities under this Act to the Departments of State and Justice (as opposed to additional Federal agencies) will create a relatively streamlined interagency coordination process.

Subsection (d) provides that the Secretary of State shall monitor individual adoption cases involving U.S. citizens, may facilitate interactions between U.S. citizens and officials of other Convention countries in any case in which an accredited agency or approved person is unwilling or unable to do so.

Subsection (e) provides that the Secretary of State and the Attorney General shall jointly establish a case registry to track all adoptions involving immigration of the child into the United States and all adoptions involving emigration of the child from the United States to any other Convention country, regardless of whether the adoption occurs under the Convention. Although this case registry, particularly of non-Convention adoptions, is not required by the Convention, the Committee believes it will be a useful means of gathering data regarding all intercountry adoptions.

Subsection (f) provides that the Secretary of State may authorize public or private entities to perform appropriate central authority functions for which the Secretary is responsible, pursuant to regulations or under agreements published in the Federal Register, and may carry out such functions through grants to, or contracts with, such entities. However, this authority needs to be read in conjunction with subsection (c), which prohibits the delegation of any authorities regarding that subsection to any Federal agency. The Committee does not intend subsection (f) to permit delegation of the authorities described in subsection (c) to any Federal agency.

Sec. 103. Responsibilities of the Attorney General

This section provides that the Attorney General shall perform the central authority functions specified in Article 14 of the Convention, which requires prospective adoptive parents wishing to adopt a child habitually resident in another Contracting State to apply to the central authority of their country of residence.

Sec. 104. Annual Report on Intercountry Adoptions

This section requires the Secretary of State, in consultation with the Attorney General, and other appropriate agencies, to submit an annual report to House and Senate committees describing the activities of the U.S. central authority. The report must include information on intercountry adoptions involving immigration to and emigration from the United States; disruption rates for Convention adoptions and certain information provided by the States regarding dissolution rates (as required by sec. 205); the average time required for the completion of a Convention adoption; the list of agencies accredited and persons approved to provide adoption-related services; the names of agencies and persons debarred from accreditation or approval; the range of adoption fees charged in connection with Convention adoptions; and, the range of fees charged for accreditation of agencies and the approval of persons engaged in providing adoption services. The purpose of this provision is to improve the type of data collected, to develop a data base on intercountry adoptions, and to increase access to information that may be of interest to the Congress, the public or prospective adoptive parents.

TITLE II—PROVISIONS RELATING TO ACCREDITATION AND APPROVAL

Sec. 201. Accreditation or Approval Required in Order to Provide Adoption Services in Cases Subject to the Convention

This section bars any person from offering or providing adoption services in connection with a Convention adoption in the United States unless that person is accredited or approved under this title, or is providing the services through or under the supervision and responsibility of an agency or person so accredited or approved. The latter phrase (providing adoption services “through or under the supervision and responsibility” of an accredited agency or approved person) is intended to apply broadly, and includes people acting as agents (including contractors) of adoption agencies or approved persons.

The provisions of this section do not apply to (1) a social work professional or organization that provides only the background or home study, or the report on such a study, as long as the background or home study is approved by an accredited agency; (2) an entity that provides only child welfare services in connection with a case subject to the Convention; (3) a person who provides only legal services (rather than adoption services) in connection with a case subject to the Convention; or (4) U.S. prospective adoptive parents acting on their own behalf, to the extent permitted by the law of the State in which they reside.

The Committee does not intend to alter the current practice followed by some prospective adoptive parents of obtaining a home or background study prior to the actual selection of a placing agency. However, at the point where a placing agency is selected and a placement is imminent, such a home or background study must be approved by an accredited agency.

Sec. 202. Process for Accreditation and Approval; Role of Accrediting Entities

Subsection (a) provides that the Secretary of State shall designate one or more qualified private, nonprofit entities as accrediting entities responsible for the accreditation of agencies and approval of persons who may provide adoption services under the Convention. This is a critical responsibility under the Convention and this Act, and this section provides that the Secretary may find the best private or public entity (or entities) for this purpose. The Committee understands that an accrediting entity designated by the Secretary pursuant to this section may also be involved in the accreditation of agencies for services other than intercountry adoptions. The Committee believes that an accrediting entity should not use the substantial power granted pursuant to this section to, in effect, require or coerce an agency or person seeking accreditation or approval to use the accrediting entity's other services if the agency is not seeking such services. The Secretary of State should ensure that no such coercive pressure or leverage is used. The Committee intends to review carefully the practices of the accrediting entity or entities in this regard.

Subsection (b) sets forth the responsibilities of accrediting entities, including accreditation and approval, monitoring of the compliance of accredited agencies and approved persons with applicable requirements (including review of complaints), the taking of adverse actions for noncompliance, and record keeping and reporting. The Committee expects that the Secretary of State will provide guidance in regulations for the exercise of the enforcement authorities provided in this subsection. Such regulations should set out clear guidance for accrediting entities to ensure that agencies and persons affected by enforcement decisions are afforded due process.

Subsection (c) provides remedies for adverse action by an accrediting entity. The subject of the action may re-apply for accreditation or approval upon demonstrating to the satisfaction of the accrediting entity that the deficiencies resulting in the adverse action have been corrected. The adverse action is not subject to administrative review, but an agency or person who is subject to the adverse action may seek judicial review under the standards applicable to a Federal agency under the Administrative Procedure Act.

Subsection (d) requires that fees set by the accredited agencies and approved persons, must be approved by the Secretary of State, may not exceed the costs of accreditation, and must take into account the relationship of the relative size of, the geographic location of, and the number of Convention adoption cases managed by the agency or approved person. The Committee understands that certain accrediting entities which provide accreditation services currently in other contexts have a sliding fee scale, predicated on the revenue base of the agency being accredited. The Committee

believes that the Secretary should carefully review the fees of any qualified accrediting entity designated under this section to ensure that smaller, well-run agencies are not charged fees that will have the effect of ending their provision of intercountry adoption services.

The Committee is also concerned about the practice by certain accrediting entities of providing discounts to agencies based on their affiliation with associations or organizations. The Committee believes that any fee structure established by an entity should not discriminate against agencies that are not members of such associations or organizations.

The Committee recognizes that there may be a surge in requests for accreditation as the treaty enters into force. The Committee believes that smaller agencies should not be disadvantaged during this process. The State Department and the accrediting entities should develop procedures to minimize this risk.

To ensure that some degree of competition exists so that the costs of accreditation remain reasonable and strong services are maintained by accrediting entities, this provision allows for the designation of more than one accrediting entity to accredit agencies and approve persons. The Committee is concerned, however, that if an agency or person fails to obtain accreditation or approval it may seek accreditation or approval from another accrediting entity. The Committee believes that the regulations issued by the Secretary should make clear that if an agency is denied accreditation, or believes it will be denied accreditation after having begun the process of accreditation with one accrediting entity, it should not be permitted to seek accreditation from another accrediting entity.

Sec. 203. Standards and Procedures for Providing Accreditation or Approval

Subsection (a) requires the Secretary of State to establish by regulation standards and procedures to be used by accrediting entities in accrediting agencies and approving persons to provide adoption services in the United States in cases subject to the Convention. In developing the regulations, the Secretary of State shall consider standards and procedures developed by outside experts, must provide the opportunity for notice and comment (consistent with 5 U.S.C. §553), and must consider the views of individuals and entities with interest and expertise in international adoptions and family social services.

Subsection (b) sets forth certain minimum requirements which must be included in the standards for accreditation and approval. Many of these requirements, which agencies and approved persons must agree to prior to accreditation or approval, are designed to improve the adoption process, and protect adoptive parents and children. In addition, the purpose is to ensure that the agency has the capacity to provide intercountry adoption services and meet the other requirements of this Act.

The standards require that an accredited agency or approved person: (1) provide medical records (in English if practicable) of the child in advance of travel to finalize an adoption; (2) provide prospective adoptive parents with a training program that includes counseling and guidance to promote a successful intercountry adop-

tion; (3) employ personnel providing intercountry adoption services on a fee for service basis in order to reduce financial motivation for manipulating any information presented to prospective parents; (4) fully disclose its policies and practices and disruption rates to prospective adoptive parents; (5) have the capacity (either directly or through arrangements with others) to perform all adoption services in cases subject to the Convention; (6) have procedures in place to ensure that social service functions requiring the application of clinical skills and judgment are performed only by qualified professionals; (7) have the ability to comply with information management requirements concerning record retention, reports, reviews, inspections, and audits, and the safeguarding of sensitive information; (8) have adequate liability insurance; and (9) have adequate measures in place to ensure compliance with the Convention, the Act, and any other applicable law.

In addition to the above, accredited agencies must be private nonprofit organizations licensed to provide adoption services in at least one State.

Accreditation or approval shall be granted for a period of not less than three and not more than five years, and may be renewed on a showing that the agency or person continues to meet the applicable requirements.

Subsection (c) authorizes the Secretary to establish through regulations issued under this section a temporary registration system for small community based agencies. An agency that is registered under such a system can provide adoption services for a period of up to two years even if it does not meet the standards in subsection (b) as long as it satisfies the following criteria: (1) it is a non-profit agency licensed in the State where it is located; (2) it has been providing intercountry adoption services for at least five years; (3) it has demonstrated that it will be able to provide all information related to the annual report required under section 104; (4) it has initiated the process of becoming accredited and is taking steps to become accredited; and (5) it has not been found to be involved in any improper conduct relating to intercountry adoptions. This provision is intended to ensure that for two years after the Convention enters into force, established, small community based agencies can continue to provide services with respect to Convention adoptions even if they do not meet the standards in subsection (b). This provision may also have the salutary effect of permitting the President to ratify the Convention more quickly.

Sec. 204. Secretarial Oversight of Accreditation and Approval

Subsection (a) requires the Secretary of State to monitor the performance of accrediting entities, and to suspend or cancel the designation of the entity as an accrediting entity, if the Secretary finds the entity to be substantially out of compliance with the Convention, the Act, other applicable laws, or the regulations prescribed pursuant to the Act.

Subsection (b) requires the Secretary of State to suspend or cancel the accreditation or approval granted by an accrediting entity if the Secretary finds that the agency or person is substantially out of compliance with applicable requirements and the accrediting entity has failed or refused, after consultation with the Secretary, to

take appropriate enforcement action. In other words, the Secretary may take enforcement actions against agencies and person only after the established avenue of enforcement—that is, by the accrediting entity—has been found wanting. In those cases where the Secretary does take enforcement action, the affected agency or person may be reinstated or re-apply for accreditation or approval once the Secretary is satisfied that the deficiencies have been corrected.

Subsection (c) authorizes the Secretary of State to debar an agency from accreditation or a person from approval, either temporarily (for a minimum of three years, after which time the agency or person may apply to the Secretary for withdrawal of the debarment) or permanently. Debarment—whether temporary or permanent—requires (1) substantial evidence that the agency or person is out of compliance with applicable requirements and (2) a pattern of serious, willful, or grossly negligent failures to comply or other aggravating circumstances indicating that continued accreditation or approval would not be in the best interests of the children and families concerned.

Subsection (d) provides for judicial review of final actions of suspension, cancellation and debarment by the Secretary in either the U.S. District Court in the District of Columbia or the Federal district court in which the person or agencies resides. The court shall review the action in accordance with the standards of the Administrative Procedure Act.

Sec. 205. State Plan Requirement

This section amends Part B of Title IV of the Social Security Act to add to State plans under that title a requirement that States describe activities undertaken for children adopted from other countries including the provision of adoption and post adoption services. This amendment also requires States to collect and report information on children who are adopted from other countries and who enter State custody as a result of a dissolution or disruption of an adoption. Information on disrupted and dissolved adoptions should include the aggregate number of children, special needs status, the reason for placement into State custody, the age of the child, the agency that made adoption arrangements, the country from which the child emigrated, and the plans for the child. This is a new section that was not included in S. 682 prior to amendment.

TITLE III—RECOGNITION OF CONVENTION ADOPTIONS IN THE UNITED STATES

Sec. 301. Adoptions of Children Immigrating to the United States

Subsection (a) directs the Secretary of State to issue a final adoption certificate, or, in the case of a prospective adoption, a declaration that legal custody has been granted for the purpose of emigration and adoption, if the Secretary receives appropriate notification from the central authority of the child's country of origin and has verified that the requirements of the Act have been met with respect to the adoption. The certificate, together with the original adoption decree, shall be treated in the United States as conclusive evidence that a final adoption has taken place.

Subsection (b) provides that a final adoption in another Convention country, certified by the Secretary of State in accordance with the Convention, shall be recognized in the United States as a final valid adoption for the purposes of all Federal, State, and local laws.

Subsection (c) provides that no adoption of a child who has entered the United States from another Convention country for purposes of adoption shall be final unless the Secretary of State has issued the certificate required under subsection (a).

Sec. 302. Immigration and Nationality Act Amendments Relating to Children Adopted From Convention Countries

Subsection (a) amends section 101(b) of the Immigration and Nationality Act (INA) to add children adopted in Hague Convention countries, or emigrating from such countries for purposes of their adoption in the United States, as new categories of children who may be classified as immediate relatives of U.S. citizens for immigration purposes. These children would not need to meet the definition of "orphan" under the INA, but other requirements of current law would continue to apply, including those relating to age and U.S. citizenship of the adoptive parents. The Committee has been assured that consular officers of the Department of State and officials of the Immigration and Naturalization Service will continue to be vigilant in identifying cases where there is fraud or improper financial inducement related to adoptions. While the Convention is intended to help States of origin implement protections to ensure that abuse in their countries end, the Committee strongly believes that both sending and receiving countries must cooperate to guarantee the integrity of the adoption process.

Subsection (b) amends section 204(d) of the INA to provide that, in the case of a Convention adoption, an immigrant visa shall not be issued to a child as an immediate relative of the prospective adoptive parent unless the Secretary of State has certified that the central authority of the child's country of origin has given notice that the child has been adopted, or custody for purposes of adoption has been granted, in accordance with the Convention.

Subsection (c) is a conforming amendment to the definition of "parent" under the INA.

Sec. 303. Adoptions of Children Emigrating From the United States

Subsection (a) requires, in regard to a U.S. resident child emigrating to another Convention country for purposes of adoption, that the accredited agency or approved person providing adoption services, or the prospective adoptive parents acting on their own behalf, ensure that (1) a background study on the child is completed; (2) the accredited agency or approved person has made reasonable efforts to actively recruit and make a diligent search for adoptive parents in the United States, but despite such efforts, has not been able to place the child for placement in the United States in a timely manner; and (3) a determination is made that the placement is in the best interests of the child. The subsection also requires the agency or person to furnish the necessary documentation to the State court with jurisdiction over the case and the U.S. central authority. The Committee expects that the requirements to make reasonable efforts to locate a family within the United States

will result in a small number of U.S. children being adopted by citizens of other countries.

The provision also requires the background report to include a criminal background check. While the Committee understands that police records in foreign countries may vary widely, every effort should be made to investigate criminal histories of the prospective adoptive parent or parents. The central authorities should work together to improve the quality of such checks.

Subsection (b) provides that an adoption or grant of custody for the purpose of adoption in the case of a U.S. resident child emigrating to another Convention country for purposes of adoption may not proceed unless the court has received and verified the documents required under the Convention, made the determinations required of the country of origin by the Convention, and determined that the placement is in the best interests of the child. For children emigrating from the United States, the State courts and other appropriate authorities should review closely the background and home study, including criminal background reviews, to be sure it meets acceptable standards. State courts should also obtain a child's consent when the child is at appropriate age and maturity level.

Subsection (c) requires the Secretary of State to issue a certificate of adoption, or a declaration of custody for purposes of adoption, in each case in which the requirements of this section have been met.

Subsection (d) requires accredited agencies or approved persons or others to file information as required by the registry provision (section 102(e)) on non-Convention intercountry adoptions involving emigration from the United States.

TITLE IV—ADMINISTRATION AND ENFORCEMENT

Sec. 401. Access to Convention Records

Subsection (a) requires the Secretary of State, in consultation with the Attorney General, to issue regulations, following notice and comment, that establish procedures and requirements for the preservation of Convention records (defined in Section 3(11) as information about a Convention adoption that has been preserved by the Secretary of State or the Attorney General).

Subsection (b) permits the disclosure of a Convention record maintained under the authority of the Immigration and Nationality Act (INA) to the adopted child or the adoptive parents under applicable Federal law. This subsection also provides that unlawful disclosure of a Convention record will be punishable under applicable Federal law.

Subsection (b) further provides that access to a Convention record is permitted among the Secretary of State, the Attorney General, central authorities, accredited agencies and approved persons only to the extent necessary to administer this Act.

Subsection (c) provides that access to non-Convention records, including records of State adoption proceedings, shall be governed by applicable State law. Penalties for unlawful disclosure of a non-Convention record shall be governed by applicable State law.

In recent years, the issue of access to adoption records has been extensively debated in the States, with ballot initiatives and court cases providing the battleground. The Committee takes no position with respect to that debate, and the Committee does not intend this legislation to affect the scope of access to adoption records under existing Federal or State law. Under current law, Federal records that contain information regarding intercountry adoptions are subject to Federal laws regarding disclosure and access to information maintained by the Federal Government (primarily the Privacy Act and the Freedom of Information Act). Records regarding intercountry adoptions held by States or in the files of adoption agencies are governed by any State law that may apply to such records. Applicable State laws vary: some States have a restrictive regime with respect to adoption records, others have an open regime, and still others take a variety of approaches in between. Under section 401, Federal records will continue to be governed by applicable Federal law, while non-Federal records, including records of adoption proceedings conducted in the United States, will continue to be governed by applicable State law. No State is required by this provision to change its laws regarding access to, and disclosure of, adoption records.

Sec. 402. Documents of Other Convention Countries

This section provides that documents originating in another Convention country and related to a Convention adoption shall require no authentication or legalization to be admissible in U.S. courts, unless a specific and supported claim is made that the documents are false, have been altered, or are otherwise unreliable.

Sec. 403. Authorization of Appropriations; Collection of Fees

Subsection (a) authorizes appropriation of such sums as may be necessary to agencies of the Federal Government for the purpose of implementing the Convention and the Act, and provides for such sums to remain available until expended.

Subsection (b) permits the Secretary of State, subject to appropriations, to charge and retain a fee prescribed by regulation for new or enhanced intercountry adoption services undertaken to meet the requirements of the Act. These fees may not exceed the costs of such services.

Subsection (c) restricts the funds provided in this section from being made available to an accrediting entity to carry out the purposes of this Act.

Sec. 404. Enforcement

This section provides for the Attorney General, through the Civil Division of the Department of Justice, to seek civil money penalties of not more than \$50,000 for a first violation and not more than \$100,000 for each subsequent violation, against any person who (1) provides adoption services in the United States in connection with Convention adoptions without proper accreditation or approval; (2) with regard to a material fact, provides false statements or fraudulent statements or misrepresentations; (3) gives, solicits, or accepts inducement by way of compensation to obtain consent to adoption or the relinquishment of parental rights or to influence a decision

of an accrediting entity or any entity performing a central authority function; or (4) engages another person as an agent in the United States or abroad who takes any of the actions described in (1), (2) or (3) above. The Committee believes that the Attorney General should not seek to obtain civil money penalties in the case of unintentional or harmless failures to comply with the requirements of this Act, or the implementing regulations issued under this Act. The section also provides for criminal penalties of not more than \$250,000, imprisonment for up to five years, or both, for knowing and willful violations of paragraph (1) or (2) of subsection (a).

TITLE V—GENERAL PROVISIONS

Sec. 501. Recognition of Convention Adoptions

This section provides for the recognition in the United States of Convention adoptions concluded between two other Convention countries before the date the Convention enters into force for the United States.

Sec. 502. Special Rules for Certain Cases

Subsection (a) authorizes the Secretary of State to establish by regulation alternative procedures for the adoption of children in Convention cases by individuals related to them by blood, marriage or adoption. The inclusion of adoption in this list reflects that family relationships are established through the act of adoption and these individuals are as much a part of the family as a relation by blood or marriage.

Subsection (b) provides that notwithstanding any other provision of the Act, to the extent consistent with the Convention, the Secretary of State may, on a case-by-case basis, waive applicable requirements of, or regulations issued under the Act, in the interests of justice or to prevent grave physical harm to the child. This authority may not be delegated.

Sec. 503. Relationship to Other Laws

Subsection (a) provides that the Convention and the Act shall not be construed to preempt any provision of State or local law except to the extent that any such provision is inconsistent with either the Convention or the Act, and then only to the extent of the inconsistency.

Subsection (b) provides that nothing in the Act shall be construed to affect the application of the Indian Child Welfare Act, which gives tribal authorities exclusive jurisdiction with respect to adoptions of children with tribal affiliations.

Subsection (c) provides an exemption from the Paperwork Reduction Act with regard to the collection of data, maintenance of records, reporting to the Secretary, the U.S. central authority, State courts, and other entities, and the collection of information for Convention records as defined by this Act.

Sec. 504. No Private Right of Action

This section provides that the Convention and the Act shall not be construed to create a private right of action to seek administrative or judicial relief, except as expressly provided in the Act.

Sec. 505. Effective Dates; Transition Rule

Subsection (a) (1) provides that specific provisions of the Act are to become effective immediately upon enactment, so that various preparatory steps can be taken before the Convention's entry into force for the United States, including the establishment of the U.S. central authority and a case tracking system, designation by the Secretary of State of accrediting entities, and issuance by the Secretary of State of regulations to establish standards and procedures for accreditation and approval.

Subsection (a) (2) provides that the remaining provisions of the Act shall take effect upon the entry into force of the Convention for the United States, and that the substantive provisions of the Act will govern Convention adoptions that are finalized after that date.

The resolution of ratification for the Convention, as approved by the Committee (and also reported this day), provides that the President may 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." This condition is consistent with the position taken by the Executive Branch in submitting the Convention to the Senate. In other words, the Convention—and therefore many provisions of this Act—will not take effect for the United States until the Federal Government is in a position to carry out the duties under the Convention.

Subsection (b) provides that the Convention and the Act shall not govern adoption cases (1) initiated by the filing of an orphan petition or petition to classify an orphan as an immediate relative before the Convention's entry into force for the United States, or (2) involving foreign nationals seeking to adopt children resident in the United States, where the prospective adoptive parents initiated an adoption application in their home country before the Convention's entry into force for the United States.

IV. COST ESTIMATE

In accordance with rule XXVI, paragraph 11(a) of the Standing Rules of the Senate, the Committee provides the following estimate of the cost of this legislation prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 14, 2000.

Hon. JESSE HELMS
*Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 682, the Intercountry Adoption Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sunita D'Monte.

Sincerely,

STEVEN M. LIEBERMAN
(for DAN L. CRIPPEN, *Director*)

[Enclosure.]

S. 682—INTERCOUNTRY ADOPTION ACT OF 2000

SUMMARY

S. 682 would authorize the United States to implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption and would authorize appropriations for that purpose. CBO estimates that those discretionary costs would be less than \$500,000 a year over the 2001–2005 period, assuming appropriation of the necessary amounts. The bill has other provisions that would affect governmental receipts (revenues) and direct spending, but CBO estimates that those effects would be insignificant. Because enactment of S. 682 would affect receipts and direct spending, pay-as-you-go procedures would apply.

Section 4 of the Unfunded Mandates Reform Act (UMRA) excludes from application of that act bills that would be necessary for the ratification or implementation of international treaty obligations. CBO has determined that the provisions of S. 682 would implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption and would thus fall within that exclusion.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

For purposes of this estimate, CBO assumes that the initial appropriations for S. 682 would be provided in fiscal year 2001 and that outlays would follow historical spending patterns. The costs of this legislation fall within budget function 150 (international relations) and 750 (administration of justice).

SPENDING SUBJECT TO APPROPRIATION

The bill would provide an open-ended authorization of appropriations for the Departments of State and Justice to meet the requirements of the bill and would authorize new consular fees, which the State Department could spend subject to appropriation action. CBO estimates that the net cost of implementing the bill would be less than \$500,000 annually over the 2001–2005 period.

Department of State.—S. 682 would designate the State Department as the central authority responsible for coordinating and implementing international adoptions under the convention. Under current law, the State Department has no routine role in international adoptions. When it does act, it is usually in response to requests from the adopters. The bill would establish an official role for the Department and require it to:

- Enter into agreements with nonprofit organizations that would accredit and monitor adoption agencies that would provide services under the convention,

- Monitor the performance of accreditation agencies,
- Monitor and facilitate individual cases of adoption under the convention,
- Provide the Congress with an annual report on international adoptions and the implementation of the convention,
- Establish a registry of all international adoptions, and
- Issue certificates when an adoption under the convention has been finalized.

Based on information from the State Department, CBO estimates the Department would spend approximately \$4 million a year to carry out those responsibilities. This estimate includes costs for hiring personnel and contractors and implementing a computerized tracking system to monitor individual adoption cases. To recover those costs, the bill would allow the Department to charge a new fee for its services and to retain and spend any collections on consular services, subject to appropriation action. CBO estimates the Department would charge a \$200 fee on approximately 20,000 cases each year.

Civil and Criminal Prosecutions.—Violators of the provisions of S. 682 would be subject to civil penalties and criminal prosecution. As a result, the Federal Government would be able to pursue cases that it otherwise would not be able to prosecute. CBO expects that any increase in Federal costs for law enforcement, court proceedings, or prison operations would not be significant, however, because of the small number of cases likely to be involved.

DIRECT SPENDING AND REVENUES

Because violators of the provisions of S. 682 could be subject to criminal and civil fines, the Federal Government might collect additional fines if the bill is enacted. Collections of criminal fines are recorded in the budget as governmental receipts (revenues), which are deposited in the Crime Victims Fund and spent in subsequent years. Civil fines are recorded as receipts and deposited into the general fund of the Treasury. CBO expects that any additional receipts and direct spending would be less than \$500,000 each year.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. CBO estimates that the net changes in both outlays and governmental receipts that are subject to pay-as-you-go procedures would be negligible.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

Section 4 of UMRA excludes from application of that act bills that would be necessary for the ratification or implementation of international treaty obligations. CBO has determined that the provisions of S. 682 would implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption and would thus fall within that exclusion.

PREVIOUS CBO ESTIMATE

On April 7, 2000, CBO prepared a cost estimate for H.R. 2909 as ordered reported by the House Committee on International Relations. The bills are identical except for two additional subsections in S. 682, which do not change the estimated costs.

Estimate Prepared By: Federal Costs: International Affairs—Sunita D'Monte. Immigration Law and Enforcement—Mark Grabowicz. Impact on State, Local, and Tribal Governments—Leo Lex. Impact on the Private Sector—Keith Mattrick.

Estimate Approved By: Robert A. Sunshine, Assistant Director for Budget Analysis.

V. EVALUATION OF REGULATORY IMPACT

In accordance with rule XXVI, paragraph 11(b) of the Standing Rules of the Senate, the Committee has concluded that there will be minimal regulatory impact from this legislation because many of the agencies providing intercountry adoption services already have undertaken many of the requirements of the legislation. In addition, the legislation provides for delayed implementation of all requirements for smaller agencies currently providing adoption services. The State Department estimates that 200–300 adoption agencies will seek to attain accreditation to provide intercountry adoption services.

VI. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 422 OF THE SOCIAL SECURITY ACT

STATE PLANS FOR CHILD WELFARE SERVICES

SEC. 422. (a) * * *

(b) Each plan for child welfare services under this subpart shall—

(1) * * *

* * * * *

(11) contain a description, developed after consultation with tribal organizations (as defined in section 4 of the Indian Self-Determination and Education Assistance Act) in the State, of the specific measures taken by the State to comply with the Indian Child Welfare Act; **[and]**

(12) contain assurances that the State shall develop plans for the effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements for waiting children**[.]**;

(13) *contain a description of the activities that the State has undertaken for children adopted from other countries, including the provision of adoption and post-adoption services; and*

(14) *provide that the State shall collect and report information on children who are adopted from other countries and who enter into State custody as a result of the disruption of a placement for adoption or the dissolution of an adoption, including the number of children, the agencies who handled the placement or adoption, the plans for the child, and the reasons for the disruption or dissolution.*

* * * * *

IMMIGRATION AND NATIONALITY ACT

* * * * *

TITLE I—GENERAL

DEFINITIONS

SECTION 101. (a) * * *

* * * * *

(b) As used in titles I and II—

(1) The term “child” means an unmarried person under twenty-one years of age who is—

(A) * * *

* * * * *

(E)(i) a child adopted while under the age of sixteen years if the child has been in the legal custody of, and has resided with, the adopting parent or parents for at least two years: *Provided*, That no natural parent of any such adopted child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act; or

(ii) subject to the same proviso as in clause (i), a child who: (I) is a natural sibling of a child described in clause (i) or subparagraph (F)(i); (II) was adopted by the adoptive parent or parents of the sibling described in such clause or subparagraph; and (III) is otherwise described in clause (i), except that the child was adopted while under the age of 18 years; **[or]**

(F)(i) * * *

(ii) subject to the same provisos as in clause (i), a child who: (I) is a natural sibling of a child described in clause (i) or subparagraph (E)(i); (II) has been adopted abroad, or is coming to the United States for adoption, by the adoptive parent (or prospective adoptive parent) or parents of the sibling described in such clause or subparagraph; and (III) is otherwise described in clause (i), except that the child is under the age of 18 at the time a petition is filed in his or her behalf to accord a classification as an immediate relative under section 201(b)**[.]**; or

(G) *a child, under the age of sixteen at the time a petition is filed on the child's behalf to accord a classification as an immediate relative under section 201(b), who has been adopted in a foreign state that is a party to the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption done at The Hague on May 29, 1993, or who is emigrating from such a foreign state to be adopted in the United States, by a United States citizen and spouse jointly, or by an unmarried United States citizen at least twenty-five years of age—*

(i) if—

(I) *the Attorney General is satisfied that proper care will be furnished the child if admitted to the United States;*

(II) *the child's natural parents (or parent, in the case of a child who has one sole or surviving parent because of the death or disappearance of, abandonment or desertion by, the other parent), or other persons or institutions that retain legal custody of the child, have freely given their written irrevocable consent to the termination of their legal relationship with the child, and to the child's emigration and adoption;*

(III) *the child is not the grandchild, niece, nephew, brother, sister, aunt, uncle, or first cousin of one or both of the adopting parents, unless—*

(aa) the child has no living parents because of the death or disappearance of, abandonment or desertion by, separation from, or loss of, both parents; or

(bb) the sole or surviving parent is incapable of providing the proper care for the child and has in writing irrevocably released the child for emigration and adoption; and

(IV) in the case of a child who has not been adopted—

(aa) the competent authority of the foreign state has approved the child's emigration to the United States for the purpose of adoption by the prospective adoptive parent or parents; and

(bb) the prospective adoptive parent or parents has or have complied with any pre-adoption requirements of the child's proposed residence; and

(ii) except that no natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.

(2) The term "parent", "father", or "mother" means a parent, father, or mother only where the relationship exists by reason of any of the circumstances set forth in (1) above, except that, for purposes of paragraph (1)(F) (other than the second proviso therein) and paragraph (1)(G)(i) in the case of a child born out of wedlock described in paragraph (1)(D) (and not described in paragraph (1)(C)), the term "parent" does not include the natural father or the child if the father has disappeared or abandoned or deserted the child or if the father has in writing irrevocably released the child for emigration and adoption.

* * * * *

TITLE II—IMMIGRATION

CHAPTER 1—SELECTION SYSTEM

* * * * *

PROCEDURE FOR GRANTING IMMIGRANT STATUS

SEC. 204. (a) * * *

* * * * *

(d)(1) Notwithstanding the provisions of subsections (a) and (b) no petition may be approved on behalf of a child defined in [section 101(b)(1)(F)] *subparagraph (F) or (G) of section 101(b)(1)* unless a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States.

(2) *Notwithstanding the provisions of subsections (a) and (b), no petition may be approved on behalf of a child defined in section 101(b)(1)(G) unless the Secretary of State has certified that the central authority of the child's country of origin has notified the United States central authority under the convention referred to in such section 101(b)(1)(G) that a United States citizen habitually resident in the United States has effected final adoption of the child, or has*

been granted custody of the child for the purpose of emigration and adoption, in accordance with such convention and the Intercountry Adoption Act of 2000.

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3RD ITEM of Level 1 printed in FULL format.

CONGRESSIONAL RECORD -- SENATE

Thursday, April 27, 2000

106th Congress, 2nd Session

146 Cong Rec S 3022

REFERENCE: Vol. 146, No. 50

TITLE: EXECUTIVE REPORTS OF COMMITTEES

SPEAKER: Mr. WARNER

TEXT: [*S3022]

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. John L. Woodward, Jr., 3961

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Harry D. Raduege, Jr., 9435

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Army nominations beginning James M. Brown and ending Thomas E. Stokes, Jr., which nominations were received by the Senate and appeared in the Congressional Record on April 11, 2000.

Navy nomination of Leanne M. York-Slagle, which was received by the Senate and appeared in the Congressional Record of March 30, 2000.

Navy nominations beginning James H. Fraser and ending Dwayne K. Hopkins, which nominations were received by the Senate and appeared in the Congressional Record on March 30, 2000.

Navy nominations beginning Gerald L. Gray and ending Linda M. Gardner, which nominations were received by the Senate and appeared in the Congressional Record on April 4, 2000.

Navy nominations beginning Coy M. Adams, Jr. and ending Michael A. Zurich, which nominations were received by the Senate and appeared in the Congressional Record on April 4, 2000.

Marine Corps nomination of J. E. Christiansen, which was received by the Senate and appeared in the Congressional Record of April 4, 2000.

Marine Corps nomination of Clifton J. McCullough, which was received by the Senate and appeared in the Congressional Record of April 4, 2000.

Marine Corps nomination of Landon K. Thorne III, which was received by the Senate and appeared in the Congressional Record of April 4, 2000.

Marine Corps nominations beginning David R. Chevallier and ending John K. Winzeler, which nominations were received by the Senate and appeared in the Congressional Record on April 4, 2000.

By Mr. HELMS, from the Committee on Foreign Relations
Treaty Doc. 105-51 Convention on Protection of Children and
Co-operation in Respect of Intercountry Adoption (Exec.
Report No. 106-14).

[*S3023]

Text of the Committee Recommended Resolution of Advice and Consent:

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 on 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'' provisions 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.

SUBJECT: TREATIES (93%); ADOPTION (91%);

LOAD-DATE: 04-28-2000

THE WHITE HOUSE

Office of the Press Secretary
(Ankara, Turkey)

For Immediate Release

November 15, 1999

PRESS BRIEFING
BY
SECRETARY OF STATE MADELEINE ALBRIGHT

The Sheraton Hotel
Ankara, Turkey

7:25 P.M. (L)

MR. LOCKHART: Good evening again, everyone. As promised at the last briefing, the Secretary of State, Madeleine Albright, joins us now. She'll have a brief statement and take some questions.

SECRETARY ALBRIGHT: Thank you. Well, I think we've had a very good day in foreign policy. First of all, the President, I think, had a very successful day here in Turkey, talking with President Demirel and Prime Minister Ecevit, and his address now to the assembly. And then, on a wider front, you've heard that we have been able to conclude the WTO deal, that the Cyprus talks are going to be launched. And then George Mitchell called to say that Northern Ireland, there had been some progress, important progress on that.

And, now, I would like to say that we have had a breakthrough in terms of our U.N. dues. And I'm pleased to report that a tentative agreement has been reached by the White House and congressional negotiators that would pave the way for the United States to pay our U.N. bills. For years, the Clinton administration has been urging Congress to meet our obligations to the U.N. in order to protect our national security interests and preserve American influence within the organization and around the world.

The agreement we are seeking would enable us to move in that direction by implementing the Helms-Biden bill, which

authorizes the payment of arrears contingent on further progress towards U.N. reform. I expect that as details of the agreement emerge, that it will meet our goal in minimizing the practical impact on U.S. support for women's health programs around the globe. I caution, though, at this point that final agreement has not yet been reached. It is essential that fully adequate provisions be included for international debt relief, and that the payment of our U.N. obligations not be subjected to unreasonable conditions.

President Clinton and I have worked, basically, for seven years to come to this time where we will be able to regain our leadership role in the United Nations, and I'm very grateful to the President for all the effort that he has put into this, and I'm very, very grateful to Ambassador Holbrooke, who has really been dogging this issue from the moment that he was confirmed. And so I hope very much that this tentative agreement will, in fact, become final.

I have to go to the State Dinner, but I'll be happy to answer a couple of questions.

Q Madame Secretary, Congresswoman Pelosi says that it's not compromise, it's capitulation on the U.N. arrears deal. What do you say to her?

SECRETARY ALBRIGHT: Well, Congresswoman Pelosi has been, and is, a great friend of the administration and of this family planning issue. Let me just say that it is my sense that what is going -- the agreement that I hope will come out will not interfere with family planning around the world, and that it will have minimal effect.

Q What is the abortion language in the tentative deal?

SECRETARY ALBRIGHT: I am not -- I can't give it to you at this stage. As I said, the details of this are still being worked out, but we do believe that there is a way that with minimal effect on family planning, that this will not only allow the U.N. money to go forward, it will not go into permanent law. And it will allow the President to carry out his family -- our family, U.S. family planning policy around the world.

Q Will he be speaking with family planning groups and so forth to try to reassure them on this point?

SECRETARY ALBRIGHT: Well, we have been doing that. In Washington, I will be, yes. And I think that they will see, once this is down on paper and evident to everybody, that it will not interfere with the family planning programs around the world.

Q Madame Secretary, can you tell us to what extent the WTO agreement today took into consideration China's status as a developing country? And, second, how important was this agreement in the overall scheme of trying to right badly strained Sino-American relations?

SECRETARY ALBRIGHT: I understand you've had a full briefing on all of this from Sandy Berger. All I would like to say is that I think it's a big step forward, and obviously very useful in Sino-American relations.

MR. LOCKHART: We'll take one more.

Q Can I ask about debt relief? If you could be more explicit about what the status of that is?

SECRETARY ALBRIGHT: Well, again, I think that they are in the process of negotiating that. And what I'd like to say is that we have to have international debt relief, and that the payment of that debt relief not be subjected to any unreasonable conditions.

Q Do you think the U.N. would accept the deal that you're trying to work out with Congress? The U.N. has to approve this as well.

SECRETARY ALBRIGHT: Well, it's my sense, first of all, that the U.N. has been waiting a long time for this. When I first became Ambassador to the U.N., what had happened was that as a result of the large number of peacekeeping operations that had been undertaken, there was a large debt that had been accumulated. And we have worked very hard to try to figure out a way to pay that. And it has been a consistent effort for seven years to try to make sure that we would be able to get the U.N. reformed at the same time, because that was very much part of the agenda that President Clinton asked me to undertake when I was U.N. Ambassador, that he asked Ambassador Richardson to continue, and Ambassador Holbrooke to continue.

So we have worked on this. There were those that felt that with Boutros-Ghali as Secretary General, we would not be able to

move forward. We got Kofi Annan, who was more reform-minded. And I think that generally we are now on a path where the U.N. is accepting the various reforms that we have suggested. They have not all been done, but some of the steps that have been taken have been necessary, perhaps not sufficient.

But we believe it is very important now that we get this language and everything agreed to. And I do believe -- I would be very surprised if the U.N. were not very pleased that they were going to, over a period of three years, get \$926 million.

Q Madame Secretary, just a little confusion. Is the reduction in aid that the family planning centers would get, is it 3 percent or 6 percent?

SECRETARY ALBRIGHT: I'm not going to go into the details of this. When it's all finalized, you'll have all the details of it. But let me just say again that I do consider this a breakthrough, because we have been working at this for seven years, and it's a very important decision for our national security. I have been very concerned about the fact that our lack of payment of our U.N. dues and arrears has impeded our ability to have the kind of influence that we need to have at the U.N. And, therefore, for national security reasons, I think this tentative agreement is very important, which is why I believe that it is appropriate to call it a breakthrough. Thank you very much.

MR. LOCKHART: Anything else for me? Yes?

Q What are the conditions that the money can't be attached to unreasonable conditions? What kind of conditions are they deemed unreasonable?

MR. LOCKHART: This is -- both the debt relief and the U.N. arrears are both what we're now trying to go from a tentative agreement to a formal agreement. And that's -- on debt relief in particular, Secretary Summers has been leading our effort, and I think they're better placed to be doing the work they're doing now in the negotiations, and we hope that sometime soon, we'll be able to provide details on each of these things in addition to the family planning issue.

Q But you can't give an example to what kind of conditions are unacceptable on debt relief?

MR. LOCKHART: I don't know what specifics they're talking about in the negotiations, only that these three issues are linked, and we'll move forward and have a formal agreement when each of the details is worked out.

Q Way off the topic, one of the wires reported this morning that former Labor Secretary Robert Reich is going to endorse Bill Bradley, rather than Al Gore. Is the President aware of that and does it concern him?

MR. LOCKHART: It's been a very busy day and that was not high on our list of briefing items. (Laughter.) Thank you, Mark. I thought it was funny.

Last chance. See you tomorrow.

Q Do you want to look ahead to tomorrow?

MR. LOCKHART: I think one of our senior administration officials did that. I mean, obviously, we're going to be focusing on the disaster relief that the U.S. and other countries around the world have provided. And the President will get a firsthand look at those efforts and hear directly from people the plight of those who have been displaced and those who have lost many family members.

Q Can you clarify whether there's just going to be actual, additional aid, or whether it's just going to be a re-jiggering of existing --

MR. LOCKHART: No, I think what they're talking about is some new aid, that we've obviously already provided some, but there are some new things here.

Q Joe, the U.N. money and the abortion deal is tentative because it is also tied to debt relief, and no agreement --

MR. LOCKHART: It is tentative because there are a number of language issues that need to be worked out, including on U.N. arrears and including on debt relief.

Q Well, where are the abortion terms -- I mean, can you rough describe the language on family planning

MR. LOCKHART: I'm not going to get into the exact provisions, beyond saying that I think when you see them, you'll

understand that there will be no interference in the work of international family planning.

Q But what did you give the conservatives, then? I mean, what did you give the people who --

MR. LOCKHART: I think we'll wait until we have a final agreement to get into the details, but having some familiarity with them, I think you'll share our assessment at the end of the day, if they get their work done, that this won't interfere with those groups that do work in international family planning.

Q Secretary Albright used the words, minimal impact. Does that mean that a little money that otherwise would have gone to these groups might not be going to --

MR. LOCKHART: I think the point that the Secretary made, I'm trying to make and others have made is, you'll see when the -- there are details, there will be a minimal impact; but, importantly, you'll see at the end of the day that they won't interfere with the ability of international family groups to do their work. And that's what's important to us.

Q -- enough money would be held back to really impact.

MR. LOCKHART: I think that would be a fair guess.

Q Joe, the Secretary said she would be meeting, when she gets back in Washington, with women's groups and that sort of thing the talk this through. Does the administration have any other plan on how you're going to deal with objections likely to come from --

MR. LOCKHART: Yes, I think that in the absence of details, there has been a lot of concern. I think as we're able to fill in the details, we hope we can address that concern, and we'll be aggressive in reaching out to interested groups who have raised concern at all levels, including from the White House, from the State Department and from all the places that were involved in this.

Q Joe, did the Secretary tell the President that she would take the blame from family planning groups because of this deal?

MR. LOCKHART: I read that in the paper, but I wasn't in the meeting that it supposedly happened, so I can't address that.

Q Joe, what special qualifications does she bring in addressing this issue to those groups? The President is very pro-choice, as well. Why does she have to do this? Is it just her gender?

MR. LOCKHART: Listen, having not been able to answer Mark's question, I certainly can't answer that one.

Okay, I'm losing the attention of this side of the room.

Q Joe, she would not necessarily be the point person, Joe?

MR. LOCKHART: I think there will be a wide-ranging effort and I think she brings a lot to the table on this, as well as a number of others in the administration.

Thank you.

END

7:40 P.M. (L)

ÉDITION DÉFINITIVE
FINAL EDITION

CONFÉRENCE DE LA HAYE
DE DROIT INTERNATIONAL PRIVÉ

HAGUE CONFERENCE
ON PRIVATE INTERNATIONAL LAW

DIX-SEPTIÈME SESSION

SEVENTEENTH SESSION

ACTE FINAL

FINAL ACT

647
1957
Rose Ehrenreich

LA HAYE, LE 29 MAI 1993

THE HAGUE, 29 MAY 1993

Final Act of the Seventeenth Session

Desiring to establish common provisions to this effect, taking into account the principles set forth in international instruments, in particular the *United Nations Convention on the Rights of the Child*, of 20 November 1989, and the United Nations Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally (General Assembly Resolution 41/85, of 3 December 1986),

Have agreed upon the following provisions -

The undersigned, Delegates of the Governments of Argentina, Australia, Austria, Belgium, Canada, Chile, China, Cyprus, the Czech Republic, Denmark, Egypt, Finland, France, Germany, Greece, Hungary, Ireland, Israel, Italy, Japan, Luxembourg, Mexico, the Netherlands, Norway, Poland, Portugal, Romania, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Uruguay and Venezuela, Member States, as well as the Delegates of the Governments of Albania, Belarus, Benin, Bolivia, Brazil, Bulgaria, Burkina Faso, Colombia, Costa Rica, El Salvador, Ecuador, Haiti, the Holy See, Honduras, India, Indonesia, Kenya, the Republic of Korea, Lebanon, Madagascar, Mauritius, Nepal, Panama, Peru, the Philippines, the Russian Federation, Senegal, Sri Lanka, Thailand and Viet Nam participating as Invitees, convened at The Hague on 10 May 1993, at the invitation of the Government of the Netherlands, in the Seventeenth Session of the Hague Conference on Private International Law.

Following the deliberations laid down in the records of the meetings, have decided to submit to their Governments -

A The following draft Convention -

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

The States signatory to the present Convention,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Recalling that each State should take, as a matter of priority, appropriate measures to enable the child to remain in the care of his or her family of origin,

Recognizing that intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her State of origin,

Convinced of the necessity to take measures to ensure that intercountry adoptions are made in the best interests of the child and with respect for his or her fundamental rights, and to prevent the abduction, the sale of, or traffic in children,

CHAPTER I - SCOPE OF THE CONVENTION

Article 1

The objects of the present 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 as recognized in international law;

b to establish a system of co-operation amongst Contracting States to ensure that those safeguards are respected and thereby prevent the abduction, the sale of, or traffic in children;

c to secure the recognition in Contracting States of adoptions made in accordance with the Convention.

Article 2

1 The Convention shall apply where a child habitually resident in one Contracting State ('the State of origin') has been, is being, or is to be moved to another Contracting State ('the receiving State') either after his or her adoption in the State of origin by spouses or a person habitually resident in the receiving State, or for the purposes of such an adoption in the receiving State or in the State of origin.

2 The Convention covers only adoptions which create a permanent parent-child relationship.

Article 3

The Convention ceases to apply if the agreements mentioned in Article 17, sub-paragraph c, have not been given before the child attains the age of eighteen years.

CHAPTER II - REQUIREMENTS FOR INTERCOUNTRY ADOPTIONS

Article 4

An adoption within the scope of the Convention shall take place only if the competent authorities of the State of origin -

- a have established that the child is adoptable;
- b have determined, after possibilities for placement of the child within the State of origin have been given due consideration, that an intercountry adoption is in the child's best interests;

c have ensured that

- (1) the persons, institutions and authorities whose consent is necessary for adoption, have been counselled as may be necessary and duly informed of the effects of their consent, in particular whether or not an adoption will result in the termination of the legal relationship between the child and his or her family of origin,
 - (2) such persons, institutions and authorities have given their consent freely, in the required legal form, and expressed or evidenced in writing,
 - (3) the consents have not been induced by payment or compensation of any kind and have not been withdrawn, and
 - (4) the consent of the mother, where required, has been given only after the birth of the child; and
- d have ensured, having regard to the age and degree of maturity of the child, that
- (1) he or she has been counselled and duly informed of the effects of the adoption and of his or her consent to the adoption, where such consent is required,
 - (2) consideration has been given to the child's wishes and opinions,
 - (3) the child's consent to the adoption, where such consent is required, has been given freely, in the required legal form, and expressed or evidenced in writing, and
 - (4) such consent has not been induced by payment or compensation of any kind.

Article 5

An adoption within the scope of the Convention shall take place only if the competent authorities of the receiving State -

- a have determined that the prospective adoptive parents are eligible and suited to adopt;
- b have ensured that the prospective adoptive parents have been counselled as may be necessary; and
- c have determined that the child is or will be authorized to enter and reside permanently in that State.

CHAPTER III - CENTRAL AUTHORITIES AND ACCREDITED BODIES

Article 6

- 1 A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention upon such authorities.
- 2 Federal States, States with more than one system of law or States having autonomous territorial units shall be free to appoint more than one Central Authority and to specify the territorial or personal extent of their functions. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which any communication may be addressed for transmission to the appropriate Central Authority within that State.

Article 7

- 1 Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their States to protect children and to achieve the other objects of the Convention.
- 2 They shall take directly all appropriate measures to -

- a provide information as to the laws of their States concerning adoption and other general information, such as statistics and standard forms;
- b keep one another informed about the operation of the Convention and, as far as possible, eliminate any obstacles to its application.

Article 8

Central Authorities shall take, directly or through public authorities, all appropriate measures to prevent improper financial or other gain in connection with an adoption and to deter all practices contrary to the objects of the Convention.

Article 9

Central Authorities shall take, directly or through public authorities or other bodies duly accredited in their State, all appropriate measures, in particular to -

- a collect, preserve and exchange information about the situation of the child and the prospective adoptive parents, so far as is necessary to complete the adoption;
- b facilitate, follow and expedite proceedings with a view to obtaining the adoption;
- c promote the development of adoption counselling and post-adoption services in their States;
- d provide each other with general evaluation reports about experience with intercountry adoption;
- e reply, in so far as is permitted by the law of their State, to justified requests from other Central Authorities or public authorities for information about a particular adoption situation.

Article 10

Accreditation shall only be granted to and maintained by bodies demonstrating their competence to carry out properly the tasks with which they may be entrusted.

Article 11

An accredited body shall -

- a pursue only non-profit objectives according to such conditions and within such limits as may be established by the competent authorities of 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 subject to supervision by competent authorities of that State as to its composition, operation and financial situation.

Article 12

A body accredited in one Contracting State may act in another Contracting State only if the competent authorities of both States have authorized it to do so.

Article 13

The designation of the Central Authorities and, where appropriate, the extent of their functions, as well as the names and addresses of the accredited bodies shall be communicated by each Contracting State to the Permanent Bureau of the Hague Conference on Private International Law.

CHAPTER IV - PROCEDURAL REQUIREMENTS IN INTERCOUNTRY ADOPTION

Article 14

Persons habitually resident in a Contracting State, who wish to adopt a child habitually resident in another Contracting State, shall apply to the Central Authority in the State of their habitual residence.

Article 15

1 If the Central Authority of the receiving State is satisfied that the applicants are eligible and suited to adopt, it shall prepare a report including information about their identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for adoption, ability to undertake an intercountry adoption, as well as the characteristics of the children for whom they would be qualified to care.

2 It shall transmit the report to the Central Authority of the State of origin.

Article 16

1 If the Central Authority of the State of origin is satisfied that the child is adoptable, it shall -

a prepare a report including information about his or her identity, adoptability, background, social environment, family history, medical history including that of the child's family, and any special needs of the child;

b give due consideration to the child's upbringing and to his or her ethnic, religious and cultural background;

c ensure that consents have been obtained in accordance with Article 4; and

d determine, on the basis in particular of the reports relating to the child and the prospective adoptive parents, whether the envisaged placement is in the best interests of the child.

2 It shall transmit to the Central Authority of the receiving State its report on the child, proof that the necessary consents have been obtained and the reasons

for its determination on the placement, taking care not to reveal the identity of the mother and the father if, in the State of origin, these identities may not be disclosed.

Article 17

Any decision in the State of origin that a child should be entrusted to prospective adoptive parents may only be made if -

a the Central Authority of that State has ensured that the prospective adoptive parents agree;

b the Central Authority of the receiving State has approved such decision, where such approval is required by the law of that State or by the Central Authority of the State of origin;

c the Central Authorities of both States have agreed that the adoption may proceed; and

d it has been determined, in accordance with Article 5, that the prospective adoptive parents are eligible and suited 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 all necessary steps to obtain permission for the child to leave the State of origin and to enter and reside permanently in the receiving State.

Article 19

1 The transfer of the child to the receiving State may only be carried out if the requirements of Article 17 have been satisfied.

2 The Central Authorities of both States shall ensure that this transfer takes place in secure and appropriate circumstances and, if possible, in the company of the adoptive or prospective adoptive parents.

3 If the transfer of the child does not take place, the reports referred to in Articles 15 and 16 are to be sent back to the authorities who forwarded them.

Article 20

The Central Authorities shall keep each other informed about the adoption process and the measures taken to complete it, as well as about the progress of the placement if a probationary period is required.

Article 21

1 Where the adoption is to take place after the transfer of the child to the receiving State and it appears to the Central Authority of that State that the continued placement of the child with the prospective adoptive parents is not in the child's best interests, such Central Authority shall take the measures necessary to protect the child, in particular -

a to cause the child to be withdrawn from the prospective adoptive parents and to arrange temporary care;

b in consultation with the Central Authority of the State of origin, to arrange without delay a new

placement of the child with a view to adoption or, if this is not appropriate, to arrange alternative long-term care; an adoption shall not take place until the Central Authority of the State of origin has been duly informed concerning the new prospective adoptive parents;

c as a last resort, to arrange the return of the child, if his or her interests so require.

2 Having regard in particular to the age and degree of maturity of the child, he or she shall be consulted and, where appropriate, his or her consent obtained in relation to measures to be taken under this Article.

Article 22

1 The functions of a Central Authority under this Chapter may be performed by public authorities or by bodies accredited under Chapter III, to the extent permitted by the law of its State.

2 Any Contracting State may declare to the depositary of the Convention that the functions of the Central Authority under Articles 15 to 21 may be performed in that State, to the extent permitted by the law and subject to the supervision of the competent authorities of that State, also by bodies or persons who –

a meet the requirements of integrity, professional competence, experience and accountability of that State; and

b are qualified by their ethical standards and by training or experience to work in the field of intercountry adoption.

3 A Contracting State which makes the declaration provided for in paragraph 2 shall keep the Permanent Bureau of the Hague Conference on Private International Law informed of the names and addresses of these bodies and persons.

4 Any Contracting State may declare to the depositary of the Convention that adoptions of children habitually resident in its territory may only take place if the functions of the Central Authorities are performed in accordance with paragraph 1.

5 Notwithstanding any declaration made under paragraph 2, the reports provided for in Articles 15 and 16 shall, in every case, be prepared under the responsibility of the Central Authority or other authorities or bodies in accordance with paragraph 1.

CHAPTER V – RECOGNITION AND EFFECTS OF THE ADOPTION

Article 23

1 An adoption certified by the competent authority of the State of the adoption as having been made in accordance with the Convention shall be recognized by operation of law in the other Contracting States. The certificate shall specify when and by whom the agreements under Article 17, sub-paragraph *c*, were given.

2 Each Contracting State shall, at the time of signature, ratification, acceptance, approval or

accession, notify the depositary of the Convention of the identity and the functions of the authority or the authorities which, in that State, are competent to make the certification. It shall also notify the depositary of any modification in the designation of these authorities.

Article 24

The recognition of an adoption may be refused in a Contracting State only if the adoption is manifestly contrary to its public policy, taking into account the best interests of the child.

Article 25

Any Contracting State may declare to the depositary of the Convention that it will not be bound under this Convention to recognize adoptions made in accordance with an agreement concluded by application of Article 39, paragraph 2.

Article 26

1 The recognition of an adoption includes recognition of

a the legal parent-child relationship between the child and his or her adoptive parents;

b parental responsibility of the adoptive parents for the child;

c the termination of a pre-existing legal relationship between the child and his or her mother and father, if the adoption has this effect in the Contracting State where it was made.

2 In the case of an adoption having the effect of terminating a pre-existing legal parent-child relationship, the child shall enjoy in the receiving State, and in any other Contracting State where the adoption is recognized, rights equivalent to those resulting from adoptions having this effect in each such State.

3 The preceding paragraphs shall not prejudice the application of any provision more favourable for the child, in force in the Contracting State which recognizes the adoption.

Article 27

1 Where an adoption granted in the State of origin does not have the effect of terminating a pre-existing legal parent-child relationship, it may, in the receiving State which recognizes the adoption under the Convention, be converted into an adoption having such an effect –

a if the law of the receiving State so permits; and

b if the consents referred to in Article 4, sub-paragraphs *c* and *d*, have been or are given for the purpose of such an adoption.

2 Article 23 applies to the decision converting the adoption.

CHAPTER VI - GENERAL PROVISIONS

Article 28

The Convention does not affect any law of a State of origin which requires that the adoption of a child habitually resident within that State take place in that State or which prohibits the child's placement in, or transfer to, the receiving State prior to adoption.

Article 29

There shall be no contact between the prospective adoptive parents and the child's parents or any other person who has care of the child until the requirements of Article 4, sub-paragraphs *a* to *c*, and Article 5, sub-paragraph *a*, have been met, unless the adoption takes place within a family or unless the contact is in compliance with the conditions established by the competent authority of the State of origin.

Article 30

1 The competent authorities of a Contracting State shall ensure that information held by them concerning the child's origin, in particular information concerning the identity of his or her parents, as well as the medical history, is preserved.

2 They shall ensure that the child or his or her representative has access to such information, under appropriate guidance, in so far as is permitted by the law of that State.

Article 31

Without prejudice to Article 30, personal data gathered or transmitted under the Convention, especially data referred to in Articles 15 and 16, shall be used only for the purposes for which they were gathered or transmitted.

Article 32

1 No one shall derive improper financial or other gain from an activity related to an intercountry adoption.

2 Only costs and expenses, including reasonable professional fees of persons involved in the adoption, may be charged or paid.

3 The directors, administrators and employees of bodies involved in an adoption shall not receive remuneration which is unreasonably high in relation to services rendered.

Article 33

A competent authority which finds that any provision of the Convention has not been respected or that there is a serious risk that it may not be respected, shall immediately inform the Central Authority of its State. This Central Authority shall be responsible for ensuring that appropriate measures are taken.

Article 34

If the competent authority of the State of destination of a document so requests, a translation certified as being in conformity with the original must be furnished. Unless otherwise provided, the costs of such translation are to be borne by the prospective adoptive parents.

Article 35

The competent authorities of the Contracting States shall act expeditiously in the process of adoption.

Article 36

In relation to a State which has two or more systems of law with regard to adoption applicable in different territorial units -

a any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit of that State;

b any reference to the law of that State shall be construed as referring to the law in force in the relevant territorial unit;

c any reference to the competent authorities or to the public authorities of that State shall be construed as referring to those authorized to act in the relevant territorial unit;

d any reference to the accredited bodies of that State shall be construed as referring to bodies accredited in the relevant territorial unit.

Article 37

In relation to a State which with regard to adoption has two or more systems of law applicable to different categories of persons, any reference to the law of that State shall be construed as referring to the legal system specified by the law of that State.

Article 38

A State within which different territorial units have their own rules of law in respect of adoption shall not be bound to apply the Convention where a State with a unified system of law would not be bound to do so.

Article 39

1 The Convention does not affect any international instrument to which Contracting States are Parties and which contains provisions on matters governed by the Convention, unless a contrary declaration is made by the States Parties to such instrument.

2 Any Contracting State may enter into agreements with one or more other Contracting States, with a view to improving the application of the Convention in their mutual relations. These agreements may derogate only from the provisions of Articles 14 to 16 and 18 to 21. The States which have concluded such an agreement shall transmit a copy to the depositary of the Convention.

Article 40

No reservation to the Convention shall be permitted.

Article 41

The Convention shall apply in every case where an application pursuant to Article 14 has been received after the Convention has entered into force in the receiving State and the State of origin.

Article 42

The Secretary General of the Hague Conference on Private International Law shall at regular intervals convene a Special Commission in order to review the practical operation of the Convention.

CHAPTER VII - FINAL CLAUSES

Article 43

1 The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Seventeenth Session and by the other States which participated in that Session.

2 It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands, depositary of the Convention.

Article 44

1 Any other State may accede to the Convention after it has entered into force in accordance with Article 46, paragraph 1.

2 The instrument of accession shall be deposited with the depositary.

3 Such accession shall have effect only as regards the relations between the acceding State and those Contracting States which have not raised an objection to its accession in the six months after the receipt of the notification referred to in sub-paragraph *b* of Article 48. Such an objection may also be raised by States at the time when they ratify, accept or approve the Convention after an accession. Any such objection shall be notified to the depositary.

Article 45

1 If a State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in the Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

2 Any such declaration shall be notified to the depositary and shall state expressly the territorial units to which the Convention applies.

3 If a State makes no declaration under this Article, the Convention is to extend to all territorial units of that State.

Article 46

1 The Convention shall enter into force on the first day of the month following the expiration of three months after the deposit of the third instrument of ratification, acceptance or approval referred to in Article 43.

2 Thereafter the Convention shall enter into force -

a for each State ratifying, accepting or approving it subsequently, or acceding to it, on the first day of the month following the expiration of three months after the deposit of its instrument of ratification, acceptance, approval or accession;

b for a territorial unit to which the Convention has been extended in conformity with Article 45, on the first day of the month following the expiration of three months after the notification referred to in that Article.

Article 47

1 A State Party to the Convention may denounce it by a notification in writing addressed to the depositary.

2 The denunciation takes effect on the first day of the month following the expiration of twelve months after the notification is received by the depositary. Where a longer period for the denunciation to take effect is specified in the notification, the denunciation takes effect upon the expiration of such longer period after the notification is received by the depositary.

Article 48

The depositary shall notify the States Members of the Hague Conference on Private International Law, the other States which participated in the Seventeenth Session and the States which have acceded in accordance with Article 44, of the following -

a the signatures, ratifications, acceptances and approvals referred to in Article 43;

b the accessions and objections raised to accessions referred to in Article 44;

c the date on which the Convention enters into force in accordance with Article 46;

d the declarations and designations referred to in Articles 22, 23, 25 and 45;

e the agreements referred to in Article 39;

f the denunciations referred to in Article 47.

In witness whereof the undersigned, being duly authorized thereto, have signed this Convention.

Done at The Hague, on the day of 19...
in the English and French languages, both texts being
equally authentic, in a single copy which shall be
deposited in the archives of the Government of the
Kingdom of the Netherlands, and of which a certified
copy shall be sent, through diplomatic channels, to each
of the States Members of the Hague Conference on
Private International Law at the date of its Seventeenth
Session and to each of the other States which
participated in that Session.



United States Department of State

Washington, D.C. 20520

Office of the Assistant Legal Adviser for Consular Affairs
Room 5527A

Telephone: (202) 647-4415
FAX: (202) 736-7559

Fax Cover Sheet

TO: NSC – Joan Krass

FAX: 456-9110

PHONE:

FROM: *Emily O'Connor, Attorney-Adviser**wa 5/12*

DATE: May 11, 2000

Number of pages, including cover sheet: 6

Re: intercountry adoption legislation

Caroline: As per our conversation.

Emily

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

March 11, 1998

TEXT OF A LETTER TO SENATORS LOTT,
DASCHLE, HELMS, AND BIDEN

March 11, 1998

Dear :

I write to seek your support in obtaining Senate consent to the ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). CEDAW is the most comprehensive and detailed international treaty developed to date relating to the rights of women. The United States actively participated in the drafting of CEDAW and signed the treaty in 1980. Although the Senate Foreign Relations Committee voted in favor of ratification in 1994, the Senate has not formally considered the treaty since that time.

The rights of women are an issue of global importance ?) and one that is integral to our foreign policy. The success of any government depends ultimately on ensuring that all its citizens can participate fully in the decisions that affect their lives. Too many societies continue to shunt women to the sidelines, limiting their access to education, health care, and economic opportunity. Moreover, violence against women remains a widespread problem. I think you would agree that, as we enter the next century, we must address these issues. CEDAW provides us with an effective tool for doing so.

I believe that the ratification of CEDAW is critical to our efforts to advance the status of women throughout the world. To date, 161 countries have ratified CEDAW, including all our European allies and most of our important trading partners. The United States is one of the few countries that has not. This impedes our efforts to ensure that women everywhere are treated fairly and have the opportunity to achieve their full potential.

As you know, U.S. state and federal law already provides strong protections for women and is largely consistent with the provisions of CEDAW. In 1994, the Administration submitted a detailed analysis of the consequences of CEDAW ratification for U.S. law. All concerns at that time were addressed by the small number of reservations, understandings, and declarations upon which the Senate Foreign Relations Committee and the State Department agreed. These included an explicit understanding that the treaty does not create a right to an abortion.

Today, in celebration of International Women's Day, I am announcing that obtaining Senate advice and consent to the ratification of CEDAW is a top Administration priority during this session of Congress. I am also announcing my goal of having the full Senate act on CEDAW this year, which marks the 150th anniversary of the first women's rights convention at Seneca Falls, New York.

I would very much like to have your support in ratifying CEDAW and look forward to working with you on this very important issue.

Sincerely,

WILLIAM J. CLINTON

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UNIVERSITY OF MINNESOTA

Human Rights Library

Convention on the Elimination of All Forms of Discrimination against Women, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, *entered into force* Sept. 3, 1981.

Ratification Information

The States Parties to the present Convention,

Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

Noting that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

Noting that the States Parties to the International Covenants on Human Rights have the obligation to ensure the equal rights of men and women to enjoy all economic, social, cultural, civil and political rights,

Considering the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting equality of rights of men and women,

Noting also the resolutions, declarations and recommendations adopted by the United Nations and the specialized agencies promoting equality of rights of men and women,

Concerned, however, that despite these various instruments extensive discrimination against women continues to exist,

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

Convinced that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women,

Emphasizing that the eradication of apartheid, all forms of racism, racial discrimination,

colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women,

Affirming that the strengthening of international peace and security, the relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women,

Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,

Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole,

Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women,

Determined to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations,

Have agreed on the following:

PART I

Article 1

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical

realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.

Article 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

Article 5

States Parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

(b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

PART II

Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Article 8

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

Article 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

PART III

Article 10

States Parties shall take all appropriate measures to eliminate discrimination against

women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;
- (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
- (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
- (d) The same opportunities to benefit from scholarships and other study grants;
- (e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- (f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;
- (g) The same Opportunities to participate actively in sports and physical education;
- (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to work as an inalienable right of all human beings;
- (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
- (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
- (d) The right to equal remuneration, including benefits, and to equal

treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

(e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

(f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

(c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

(d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

Article 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Article 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to family benefits;

(b) The right to bank loans, mortgages and other forms of financial credit;

- (c) The right to participate in recreational activities, sports and all aspects of cultural life.

Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

- (a) To participate in the elaboration and implementation of development planning at all levels;
- (b) To have access to adequate health care facilities, including information, counselling and services in family planning;
- (c) To benefit directly from social security programmes;
- (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
- (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;
- (f) To participate in all community activities;
- (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
- (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

PART IV

Article 15

1. States Parties shall accord to women equality with men before the law.

2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.

4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(a) The same right to enter into marriage;

(b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;

(c) The same rights and responsibilities during marriage and at its dissolution;

(d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;

(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

(f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

(g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

PART V

Article 17

1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of Discrimination

against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification of or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.

6. The election of the five additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of this article, following the thirty-fifth ratification or accession. The terms of two of the additional members elected on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.

7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.

8. The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.

9. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

Article 18

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:

(a) Within one year after the entry into force for the State concerned;

(b) Thereafter at least every four years and further whenever the Committee so requests.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

Article 19

1. The Committee shall adopt its own rules of procedure.

2. The Committee shall elect its officers for a term of two years.

Article 20

1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.

2. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee.

Article 21

1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

2. The Secretary-General of the United Nations shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

Article 22

The specialized agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

PART VI

Article 23

Nothing in the present Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained:

(a) In the legislation of a State Party; or

(b) In any other international convention, treaty or agreement in force for that State.

Article 24

States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.

Article 25

1. The present Convention shall be open for signature by all States.
2. The Secretary-General of the United Nations is designated as the depositary of the present Convention.
3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
4. The present Convention shall be open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 26

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

Article 27

1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

Article 29

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.
3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 30

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed the present Convention.

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Expressing the sense of the Senate with respect to Mother's Day that the United States Senate should reject the United Nations Convention on the Elimination of Discrimination Against... (Introduced in the Senate)

SRES 307 IS

106th CONGRESS

2d Session

S. RES. 307

Expressing the sense of the Senate with respect to Mother's Day that the United States Senate should reject the United Nations Convention on the Elimination of Discrimination Against Women (CEDAW) as it demeans motherhood and undermines the traditional family.

IN THE SENATE OF THE UNITED STATES

May 11, 2000

Mr. HELMS submitted the following resolution; which was ordered to lie over, under the rule

RESOLUTION

Expressing the sense of the Senate with respect to Mother's Day that the United States Senate should reject the United Nations Convention on the Elimination of Discrimination Against Women (CEDAW) as it demeans motherhood and undermines the traditional family.

Whereas motherhood is a God-given right of women to bear and rear children;

Whereas, since 1914, the United States has officially observed the second Sunday in May as Mother's Day to display public expression of love and reverence for all American mothers;

Whereas Mother's Day is recognized by the United States and many other countries in affirmation of the invaluable role mothers play in providing a family upbringing for children;

Whereas the Convention on the Elimination of Discrimination Against Women integrates a derogatory sentiment toward motherhood as manifested in the Convention's January 3, 2000 Committee Report on Belarus specifically condemning symbols such as Mother's Day;

Whereas the Senate affirms its commitment that the United States should work with other nations to enhance the protection of the fundamental right of motherhood, including the condemnation of coercive population control programs where expectant mothers are forced to undergo abortions or sterilizations;

Whereas the Convention's agenda to promote abortion worldwide invades the laws of countries that hold a religious or moral belief that abortion is the destruction of innocent human life and that it subjects expectant mothers to physical and emotional trauma;

Whereas the Convention seeks to supplant the primary care and nurturing provided by stay-at-home mothers with institutionalized daycare facilities as advocated in the Convention's August 12, 1997 Committee Report on Slovenia, which stated that children cared for at home are deprived of 'educational and social opportunities offered in formal daycare institutions'; and

Whereas more than a hundred United States-based family, religious, and educational organizations representing countless millions of Americans strongly oppose United States ratification of the Convention on the Elimination of Discrimination Against Women: Now, therefore, be it

Resolved, That it is the sense of the Senate that--

- (1) the tenets of the Convention on the Elimination of Discrimination Against Women are incompatible with the tradition and policy of the United States to uphold motherhood and to regard motherhood with the highest degree of honor and respect;
- (2) the Convention would create negative perceptions toward motherhood; and
- (3) the Senate should not give its advice and consent to ratification of the fundamentally flawed Convention on the Elimination of Discrimination Against Women.

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Expressing the sense of the Senate with respect to Mother's Day that the United States Senate should reject the United Nations Convention on the Elimination of Discrimination Against... (Introduced in the Senate)

SRES 306 IS

106th CONGRESS

2d Session

S. RES. 306

Expressing the sense of the Senate with respect to Mother's Day that the United States Senate should reject the United Nations Convention on the Elimination of Discrimination Against Women (CEDAW) as it demeans motherhood and undermines the traditional family.

IN THE SENATE OF THE UNITED STATES

May 11, 2000

Mr. HELMS submitted the following resolution; which was referred to the Committee on Foreign Relations

RESOLUTION

Expressing the sense of the Senate with respect to Mother's Day that the United States Senate should reject the United Nations Convention on the Elimination of Discrimination Against Women (CEDAW) as it demeans motherhood and undermines the traditional family.

Whereas motherhood is a God-given right of women to bear and rear children;

Whereas, since 1914, the United States has officially observed the second Sunday in May as Mother's Day to display public expression of love and reverence for all American mothers;

Whereas Mother's Day is recognized by the United States and many other countries in affirmation of the invaluable role mothers play in providing a family upbringing for children;

Whereas the Convention on the Elimination of Discrimination Against Women integrates a derogatory sentiment toward motherhood as manifested in the Convention's January 3, 2000

Committee Report on Belarus specifically condemning symbols such as Mother's Day;

Whereas the Senate affirms its commitment that the United States should work with other nations to enhance the protection of the fundamental right of motherhood, including the condemnation of coercive population control programs where expectant mothers are forced to undergo abortions or sterilizations;

Whereas the Convention's agenda to promote abortion worldwide invades the laws of countries that hold a religious or moral belief that abortion is the destruction of innocent human life and that it subjects expectant mothers to physical and emotional trauma;

Whereas the Convention seeks to supplant the primary care and nurturing provided by stay-at-home mothers with institutionalized daycare facilities as advocated in the Convention's August 12, 1997 Committee Report on Slovenia, which stated that children cared for at home are deprived of 'educational and social opportunities offered in formal daycare institutions'; and

Whereas more than a hundred United States-based family, religious, and educational organizations representing countless millions of Americans strongly oppose United States ratification of the Convention on the Elimination of Discrimination Against Women: Now, therefore, be it

Resolved, That it is the sense of the Senate that--

- (1) the tenets of the Convention on the Elimination of Discrimination Against Women are incompatible with the tradition and policy of the United States to uphold motherhood and to regard motherhood with the highest degree of honor and respect;
- (2) the Convention would create negative perceptions toward motherhood; and
- (3) the Senate should not give its advice and consent to ratification of the fundamentally flawed Convention on the Elimination of Discrimination Against Women.

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Expressing the sense of the House of Representatives that the Senate should ratify the Convention on the Elimination of All Forms of Discrimination Against Women. (Introduced in the House)

HRES 107 IH

106th CONGRESS

1st Session

H. RES. 107

Expressing the sense of the House of Representatives that the Senate should ratify the Convention on the Elimination of All Forms of Discrimination Against Women.

IN THE HOUSE OF REPRESENTATIVES**March 10, 1999**

Ms. WOOLSEY (for herself, Ms. NORTON, Mrs. MINK of Hawaii, Mrs. MALONEY of New York, Ms. MILLENDER-MCDONALD, Ms. DEGETTE, Ms. LEE, Mr. SANDERS, Mr. MARKEY, Mr. GEORGE MILLER of California, Mrs. MORELLA, Ms. KAPTUR, Ms. PELOSI, Ms. JACKSON-LEE of Texas, Mr. TIERNEY, Mr. OLVER, Mr. SHAYS, Mr. ABERCROMBIE, Ms. WATERS, Mr. FILNER, Ms. DELAURO, Mr. CONYERS, Mr. UNDERWOOD, Mr. PAYNE, Mr. SERRANO, Mr. LAFALCE, Mr. WAXMAN, Mrs. JONES of Ohio, Mr. BRADY of Pennsylvania, Mr. LEWIS of Georgia, Mrs. STABENOW, Ms. ESHOO, Ms. ROYBAL-ALLARD, Ms. LOFGREN, Mrs. NAPOLITANO, Mr. THOMPSON of California, Mr. FARR of California, Ms. RIVERS, Mr. GEJDENSON, Ms. MCKINNEY, Mr. VENTO, and Mr. LAMPSON) submitted the following resolution; which was referred to the Committee on International Relations

RESOLUTION

Expressing the sense of the House of Representatives that the Senate should ratify the Convention on the Elimination of All Forms of Discrimination Against Women.

Resolved, That it is the sense of the House of Representatives that--

(1) the full realization of the rights of women is vital to the development and well-being of people of all nations; and

(2) the Senate should, therefore, give its advice and consent to the ratification of the Convention on the Elimination of All Forms of Discrimination Against Women.

NATIONAL SECURITY COUNCIL

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Message:

CEDAW resolution

Expressing the sense of the Senate that the United States Senate Committee on Foreign Relations should hold hearings and the Senate should act on the Convention on the Elimination of... (Introduced in the Senate)

SRES 279 JS

106th CONGRESS

2d Session

S. RES. 279

Expressing the sense of the Senate that the United States Senate Committee on Foreign Relations should hold hearings and the Senate should act on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

IN THE SENATE OF THE UNITED STATES

March 30, 2000

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Mrs. BOXER (for herself, Mr. AKAKA, Mr. BIDEN, Mr. BINGAMAN, Ms. COLLINS, Mr. DASCHLE, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. HARKIN, Mr. INOUE, Mr. KERRY, Mr. KENNEDY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mrs. LINCOLN, Ms. MIKULSKI, Mr. MOYNIHAN, Mrs. MURRAY, Mr. ROBB, Mr. REED, Mr. SARBANES, Mr. SCHUMER, Ms. SNOWE, Mr. SPECTER, Mr. TORRICELLI, Mr. WELLSTONE, and Mr. WYDEN) submitted the following resolution; which was referred to the Committee on Foreign Relations

RESOLUTION

Expressing the sense of the Senate that the United States Senate Committee on Foreign Relations should hold hearings and the Senate should act on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Whereas the United States has shown leadership in promoting human rights, including the rights of women and girls, and was instrumental in the development of international human rights treaties and norms, including the International Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW);

Whereas the Senate has already agreed to the ratification of several important human rights treaties, including the Genocide Convention, the Convention Against Torture, the International Covenant on Civil and Political Rights, and the Convention on the Elimination of All Forms of Racial Discrimination;

Whereas CEDAW establishes a worldwide commitment to combat discrimination against women and girls;

Whereas 165 countries of the world have ratified or acceded to CEDAW and the United States is among a small minority of countries, including Afghanistan, North Korea, Iran, and Sudan, which have not;

Whereas CEDAW is helping combat violence and discrimination against women and girls around the world;

Whereas CEDAW has had a significant and positive impact on legal developments in countries as diverse as Uganda, Colombia, Brazil, and South Africa, including, on citizenship rights in Botswana and Japan, inheritance rights in Tanzania, property rights and political participation in Costa Rica;

Whereas the Administration has proposed a small number of reservations, understandings, and declarations to ensure that U.S. ratification fully complies with all constitutional requirements, including states' and individuals' rights;

Whereas the legislatures of California, Iowa, Massachusetts, New Hampshire, New York, North Carolina, South Dakota, and Vermont have endorsed U.S. ratification of CEDAW;

Whereas more than one hundred U.S.-based, civic, legal, religious, education, and environmental organizations, including many major national membership organizations, support U.S. ratification of CEDAW;

Whereas ratification of CEDAW would allow the United States to nominate a representative to the CEDAW oversight committee; and

Whereas 2000 is the 21st anniversary of the adoption of CEDAW by the United Nations General Assembly: Now, therefore, be it

Resolved, That it is the sense of the Senate that--

- (1) the Senate Foreign Relations Committee should hold hearings on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); and
- (2) the Senate should act on CEDAW by July 19, 2000, the 20th anniversary of the signing of the Convention by the United States.