

Peter ^{pfund}

2/6/96

66 countries in '93

State Dept. minimum norms + process

INS - Strauss, ^{London} Major player - US

Herb Roth 9,700 from abroad

Carol Williams 15-20,000

Alan Trexler Central auth in ea country - acc'd agencies
- other ag - lawyers
- SA's

Permits private A - who interviewed

Single person A - OK

Govt need not approve ea match

Flex

Averts same sex, rights of putative father

Regs recogn of A

Simple A - don't sever birth p - Latin Am

25 signed; 9 parties -

delegation - Connie Fair's

5/93

Impetus - abuses -

Involved

Adopt Forum of Am

J + C on Ch Svcs

Natl C for A - Bill Pierce

Prof Harry Kraus

Betsy Rosenbaum

ABA

Small adoption agencies - if standards for access high
Rules would apply if Adopting from Country That Signed
Short Circuit effort to shut down adoptions
Ensure that Person Agreeing is in Authority
Not Induced

Adoptable

Internat'l after Nat'l - UN Convention Rights -

Don't have to send to Sen?

Natl A

Inter Nat'l A

1 nat'l

FC.

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HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

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From: Sarah Adam, Secretary to J.H.A. van Loon, First Secretary

Date sent: 6 February 1996

Ref: 121(96)VI.N/A

For your information.

HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

**HAGUE CONVENTION OF 29 MAY 1993
ON
PROTECTION OF CHILDREN AND CO-OPERATION
IN RESPECT OF INTERCOUNTRY ADOPTION**

(Listing as of 1 February 1996)

The following States have signed the Convention:

Costa Rica	29 May 1993
Mexico	29 May 1993
Romania	29 May 1993
Brazil	29 May 1993
Colombia	1 September 1993
Uruguay	1 September 1993
Israel	2 November 1993
Netherlands	5 December 1993
United Kingdom	12 January 1994
United States	31 March 1994
Canada	12 April 1994
Finland	19 April 1994
Burkina Faso	19 April 1994
Ecuador	3 May 1994
Sri Lanka	24 May 1994
Peru	16 November 1994
Cyprus	17 November 1994
Switzerland	16 January 1995
Spain	27 March 1995
France	5 April 1995
Luxembourg	6 June 1995
Poland	12 June 1995
Philippines	17 July 1995
Italy	11 December 1995

TOTAL NUMBER OF SIGNATORIES: 24

The following States have ratified the Convention:

Entry into force:

Mexico	14 September 1994	1 May 1995
Romania	28 December 1994	1 May 1995
Sri Lanka	23 January 1995	1 May 1995
Cyprus	20 February 1995	1 June 1995
Poland	12 June 1995	1 October 1995
Spain	11 July 1995	1 November 1995
Ecuador	7 September 1995	1 January 1996
Peru	14 September 1995	1 January 1996
Costa Rica	30 October 1995	1 February 1996
Burkina Faso	11 January 1996	1 May 1996

TOTAL NUMBER OF RATIFICATIONS: 10

THE CONVENTION ENTERED INTO FORCE ON 1 MAY 1995

EDITION DEFINITIVE
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

Final Act of the Seventeenth Session

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,

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 -

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;

SCOPE -
Sec also
ART. 41

REQUIS
ON
COUNTRIES
OF
ORIGIN

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

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

CA
FUNCTIONS
DELIVERANCE
TO
ADOPTION
REFERENCE
PROVIDERS

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

ACCREDITED AGENCIES

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.

APPROVED AGENCIES + INDIVID. PROVIDERS

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

RECOGN. OF CONV. ADOPTIONS

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.

PUBLIC POLICY EXCEPTION

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 -

CONVERSION OF SIMPLE TO FULL ADOPTIONS

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.

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

SCOPE
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

HOPE
SESSIONS
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.

B The following Decisions on matters pertaining to the Agenda of the Conference -

The Seventeenth Session.

Having regard to the proposals and suggestions advanced within the First Commission -

1. Decides to include in the Agenda of the Eighteenth Session the revision of the *Convention of 5 October 1961 concerning the powers of authorities and the law applicable in respect of the protection of minors*, and a possible extension of the new convention's scope to the protection of incapacitated adults.

2. a. Decides to include in the Agenda for the work of the Conference the question of the recognition and enforcement of foreign judgments in civil and commercial matters:

b. Requests the Secretary General to convene as soon as is feasible a Special Commission charged with

- studying further the problems involved in drafting a new convention, on the basis of a document prepared by the Permanent Bureau, taking into account the discussions of the Seventeenth Session.

- making proposals with respect to the work which might be undertaken.

- suggesting the timing of such work:

c. Leaves it to the Special Commission on general affairs and policy of the Conference to make recommendations to the Eighteenth Session on the further steps to be taken.

3. Decides to include also in the Agenda for the work programme of the Conference the question of the determination of the law applicable, and possibly questions arising from conflicts of jurisdiction, in respect of civil liability for environmental damage.

4. Decides to include or retain in the Agenda of the Conference, but without priority -

a. jurisdiction, and recognition and enforcement of decisions in matters of succession upon death.

b. protection of privacy in connection with transfrontier data flows.

c. the law applicable to unmarried couples.

d. the law applicable to negotiable instruments.

e. the international legal problems raised by electronic data interchange.

f. the law applicable to bank guarantees.

g. the law applicable to unfair competition.

5. Requests the Secretary General to convene at appropriate times Special Commissions to study the operation of the following Conventions -

a. Hague Conventions on the law applicable to or on the recognition and enforcement of decisions relating to maintenance obligations, as well as the New York Convention of 20 June 1956 on the Recovery Abroad of Maintenance.

b. Hague Conventions on civil procedure and on international judicial and administrative co-operation.

C The following Decision -

The Seventeenth Session of the Hague Conference on private international law:

Considering that the *Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption* will apply to children habitually resident in the Contracting States under the circumstances described in Article 2 of the Convention:

Concerned that refugee children and other internationally displaced children be afforded the special consideration within the framework of this Convention that their particularly vulnerable situation may require.

Considering the consequent need for further study and possibly the elaboration of a special instrument supplementary to this Convention:

Requests the Secretary General of the Hague Conference, in consultation with the United Nations High Commissioner for Refugees, to convene in the near future a working group to examine this issue and make specific proposals which might be submitted to a Special Commission of the Hague Conference to ensure appropriate protection of these categories of children.

REFUGEE
CHILDREN
INTERCOUN
ADOPTION

D The following Resolution -

The Seventeenth Session, in the presence of the Ministers of Justice and High Representatives of the States Members of the Hague Conference on private international law, meeting at The Hague on 19 May 1993 on the occasion of the celebration of the Centenary of the Conference.

Considering that according to its Statute, the Conference's purpose is to work for the progressive unification of the rules of private international law.

Considering the unique, broad and important work accomplished by the Conference and the effectiveness of its working methods confirmed by the fact that since the Seventh Session in 1951 thirty-one Conventions have been drawn up.

Confirming that the Conference's mission is to facilitate both the relationships between private parties across international borders and international legal transactions.

Recognizing that the Conference also is developing into a worldwide centre in the service of international judicial and administrative co-operation in the field of private law, and particularly in the area of child protection.

Considering however that it is essential that the Conference continue to be effectively supported by its Member States within their Countries and in other international organizations.

Congratulates the Conference on its contributions to the field of private international law over the past century:

Urges Member States both to maintain and enhance their support for the Conference and to encourage non-Member States to join the Conference:

Recommends to the Member States that they -

1. explore and develop mechanisms in consultation with the Permanent Bureau to encourage wider adherence to Hague Conventions;

2. take the appropriate measures to publicize the existence and the operation of the Conventions;

3. work in co-operation with the Permanent Bureau to develop effective mechanisms to implement the Conventions;

4. co-ordinate more fully their positions on private international law in various international bodies involved with unification or harmonization of questions of private law.

E The following Wish -

The Seventeenth Session.

Considering that the *Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption* provides -

a. in Article 4, sub-paragraph c, that adoptions under the Convention shall take place only if the competent authorities of the State of origin of the child have ensured that the required consents have been given in conformity with certain safeguards.

b. in Article 23, paragraph 1, that the recognition of an adoption made under the Convention requires a document certifying that the adoption has been made in accordance with the Convention.

Convinced that the use of forms based on a uniform model by the competent authorities of the Contracting States may promote the proper and uniform application of those provisions.

Expresses the Wish that the Experts participating in the first meeting of the Special Commission convened in accordance with Article 42 establish recommended forms to that effect.

PREPARE

14

RECOMM

FORMS

INTERC

ADOPT

Fait à La Haye, le vingt-neuf mai mil neuf cent quatre-vingt-treize en un seul exemplaire qui sera déposé dans les archives du Bureau Permanent et dont une copie certifiée conforme sera remise à chacun des Gouvernements représentés à la Dix-septième session de la Conférence.

Done at The Hague on the 29th day of May nineteen hundred and ninety-three in a single copy which shall be deposited in the archives of the Permanent Bureau and of which a certified copy shall be sent to each of the Governments represented at the Seventeenth Session of the Conference.

Pour la République Fédérale d'Allemagne
For the Federal Republic of Germany

EXECUTIVE OFFICE OF THE PRESIDENT

26-Jan-1996 01:23pm

TO: Deborah R. Both
FROM: Diana M. Fortuna
Domestic Policy Council
SUBJECT: state dept on adoption

Someone from NSC just called me to say that the state dept. has negotiated some kind of multilateral treaty on international adoption (allegedly with assistance from relevant domestic agency/ies), and would like to submit this treaty to the Senate for ratification. As part of this, they have to also submit any changes in U.S. federal law that may be required to conform to the treaty, so they want someone in the White House who works on domestic issues to bring in HHS or whoever is appropriate to help with this. That's why they called me.

I don't know what the substance is on the treaty (and neither did the NSC guy) but he thought we should start with a briefing from the state dept with hhs present.

Assuming you want to come, are you free next Thursday morning or Friday morning?

I will also call Carol W. about this to see what she knows about it.

Carol W -

Fed vs state issues
m Wald

Carol + Anne + Olivia

Krecko

Always >10

Tu 6th x 11

>2

W 7th x lunch

Th 8th - ?

9th - OK >10

ABCDEF GHIJKLMNOP
QRSTUVWXYZ

Central authority - role?

Regs for accreditation.

Excluding US some done to avoid term of parts

Opposition? - SWK; Adoptive par comm on NY
- make A more bureaucratic

Congressional - N Council for A + JTC - talked up; Hyde bipartisan coal.
Oberstar, Smith - don't get focused

Big ~~struggle~~ vs small ag

C of origin may object to non-signing - Latin Am.
- pressure on parents; money on side

Baro improves for gain - but how?

May arm opponents when country
to fight abuses

Qual for SSF, yes; motive - people want

Parents frustrated by state - bad adoption
- feds do more



International Adoption
United States Department of State

Washington, D.C. 20520

March 6, 1996

MEMORANDUM

TO: Office of the First Lady - Ms. Peggy Lewis
White House/DPC - Ms. Diana Fortuna
NSC - Mr. Alan Kreczko
HHS/Childrens Bureau - Ms. Carol W. Williams
INS/OGC - Ms. Joanna London
INS/Adjudications - Mr. Michael Straus
- Ms. Rita Arthur

FROM: Jami S. Borek, Deputy Legal Adviser *JAB*

SUBJECT: 1993 Hague Convention on Intercountry Adoption --
Transmission of General Briefing Papers for Comment

At the meeting on February 6 in Mr. Kreczko's office, the Department undertook to share with those who attended and with their agencies/offices some of the papers that have been prepared in the State Department related to the 1993 Hague Intercountry Adoption Convention and its implementation. The papers attached for your examination include an updated briefing paper, earlier versions of which have been made available to the U.S. adoption community upon request, a status sheet showing countries that have signed/ratified the Convention, and a brief description of the major functions of the U.S. Central Authority. A copy of the 1993 Convention is also enclosed for your information.

After hearing from you we will send you a proposed agenda for an inter-agency meeting to discuss fundamental policy questions addressed in other, more detailed papers related to U.S. implementation and a draft of federal implementing legislation. The purpose of that meeting would be to make policy decisions on which refinement of the draft legislation and future preparations can be based. In the meantime, you are invited to examine the enclosed papers and let us have the preliminary comments of your office/agency with regard to the Convention and its implementation by the United States. Your comments should be sent to:

Peter H. Pfund
Assistant Legal Adviser for
Private International Law
Office of the Legal Adviser
Suite 203, South Building
2430 E Street, N.W.
Washington, DC 20037-2800

*Thank you
for your
attention.*

cc: CA/OCS/CI - Ms. L. Rowe
CA/OCS/PRI - Mr. C. DiPlacido
- Ms. B. Cooper
CA/VO/F/P - Mr. R. Hannan
L/CA - Ms. C. Brown
Ms. M. Gonatas

Drafted: L/PIL:P H Pfund:rtg



United States Department of State

Washington, D.C. 20520

1993 Hague Convention on Intercountry Adoption

Briefing Paper (Revised)

Status: February 1996

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Summary

The final text of the 1993 Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, a multilateral treaty, prepared by the international organization known as the Hague Conference on Private International Law, was adopted on May 29, 1993 at the conclusion of the organization's 17th session (inter-governmental diplomatic conference). The Convention is to cover all adoptions between countries that become parties to it, whether those adoptions are adoptive-parent-initiated or are arranged by Convention-accredited adoption agencies or by Convention-approved private/independent providers of adoption-related services. The Convention sets certain internationally agreed minimum norms and procedures that are to be complied with to protect the children involved as well as the interests of their birth parents and their adoptive parents. Additional requirements or prohibitions may be maintained or newly imposed by countries party to the Convention.

As there were about 9700 adoptions of children from abroad to the United States in the year ending on September 30, 1995 (out of a world total of 15-20,000), as well as perhaps two hundred adoptions of children from the United States by persons resident abroad, the United States has a considerable stake in the future of the Convention.

The Hague Conference and Its Project

The Hague Conference on Private International Law has existed since 1893 and has operated in its current form since 1951. The United States, with Congressional authorization, has been a member State since 1964. We have become a party to four much-used conventions produced by the organization, dealing with the service of process abroad, the taking of evidence abroad, the simplified certification of documents intended for use abroad, and the return of children wrongfully removed or retained abroad (usually in custody-related disputes). The Hague Conference has over 40 Member States, including all EC and most European Free Trade Area countries, several eastern European countries, Israel, Egypt, Australia, China, Japan, and several countries in the Western Hemisphere including Argentina, Canada, Chile, Mexico and Venezuela.

The organization's deliberations are legal-technical, professional, non-politicized and non-confrontational. Its Permanent Bureau (secretariat) consists of four lawyers and a supporting staff of about 6 persons.

In order to ensure that the work on the intercountry adoption Convention would be relevant and potentially broadly acceptable, the participating Member States working on this Convention were joined in that work by about 30 non-Member States, primarily from Latin America and southeast Asia but also from Eastern Europe and Africa. These non-Member States represented the major countries that make children available for adoption abroad. Eighteen international organizations, several particularly focussed on child welfare and protection, including adoption, also participated.

After the decision of Hague Conference Member States in 1988 to entrust the preparation of a convention on this topic to the organization, the Permanent Bureau in 1990 issued an in-depth 100-page study of the legal institution of intercountry adoption examining its history and forms in various legal and social systems, relevant national laws, and problems and issues that might be dealt with in a convention. With the steadily increasing participation of Member and other States, the Conference convened three two-week sessions of a preparatory commission that identified issues to be addressed and prepared initial language to deal with them and, ultimately, the preliminary draft convention. The United States and other countries submitted written comments on the draft convention that were compiled by the Permanent Bureau and distributed to all participating countries in order to facilitate the final negotiations in May 1993.

The preliminary draft convention formed the basic working document at the session of the Hague Conference itself on May 10-29, 1993. By a unanimous vote of the 55 countries present at the time, the Session adopted the final Convention text, which

was opened on May 29 for signature and ratification by States. Four States -- Brazil, Costa Rica, Mexico and Romania -- signed the Convention on May 29, thereby signalling their early intent to proceed with efforts to obtain the necessary domestic authority to ratify the Convention.

By the end of May 1994, 15 countries, including the United States, had signed the Convention -- more than had signed any convention previously produced by the Hague Conference during the first year after the adoption of a convention's final text. By February 1996 twenty-four countries had signed. With ratification of the Convention by the requisite three countries to bring it into force -- Mexico, Romania and Sri Lanka -- the Convention entered into force among these three countries as of May 1, 1995. Six further countries have ratified as of February 1996.

U.S. Role at the Hague Conference; Consultation with U.S. Private Sector

The United States was an active and important participant in these negotiations. The U.S. delegation to preparatory meetings included a family and comparative law professor and representatives of Adoptive Families of America, Inc., the American Academy of Adoption Attorneys, the National Council For Adoption, and the Department of State. The delegation to the Hague Conference's 17th session was headed by Peter H. Pfund, Assistant Legal Adviser for Private International Law (L/PIL), and James L. Ward, Acting Assistant Secretary for Consular Affairs (CA), both Department of State, and included, in addition to the representatives mentioned above, two adoptive mothers appointed by the White House, a representative of the American Public Welfare Association, the nominee of the President of the American Bar Association, and a representative of the U.S. Immigration and Naturalization Service.

The U.S. delegation sought to ensure throughout the preparation of the Convention that in addition to setting meaningful norms and procedures, the Convention would remain sufficiently flexible and capable of support by the various elements of the U.S. adoption community to permit the United States to become a party. Many of the participating countries, where, unlike the United States, adoption services are provided only or primarily by public authorities, *perceived* private adoptions to be more prone to abuses, such as those that occurred in Romania a few years ago, than adoptions for which public authorities or licensed agencies provide adoption services. However, the Convention as adopted clearly permits and regulates private adoptions.

Throughout the project, L/PIL in the State Department's Office of the Legal Adviser, which has responsibility for action on the Convention, has sought and received guidance from the private sector through a 50-person Study Group on Inter-country

Adoption and other adoption interests attending Study Group meetings. The Study Group is composed of representatives of adoption agencies, private adoption interests like the Joint Commission on International Childrens Services (JCICS) and the National Council For Adoption, the American Bar Association and the American Academy of Adoption Attorneys, law professors expert in family and comparative law, the American Public Welfare Association, the Child Welfare League of America, as well as officials from the Consular Affairs Bureau in the Department of State, the Departments of Justice, Defense and Health and Human Services, and the U.S. Immigration and Naturalization Service. It met for three all-day meetings between 1990 and 1993, all open to the public, announced in advance in the Federal Register, and attended by over 70 persons from all over the United States. The most recent meeting, in October 1993, attended by over 160 persons, discussed the Convention as adopted and, in a general way, the issues that would be involved in its implementation in the United States.

Major Advantages Offered by the Convention

The Convention as adopted will eventually affect future intercountry adoptions to and from the United States, whether the United States becomes a party to it or not. It may cause numerous countries, and especially sending States, to review and possibly change their domestic laws and procedures governing adoptions to foreign countries, thereby also affecting countries like the United States which receive children in adoption from those countries.

The advantages offered by the Convention include the following:

-- It constitutes a first formal intergovernmental stamp of approval for the process of intercountry adoption when the process conforms to minimum norms set by the Convention. This differs from the perception some have of the effect of language in the earlier U.N. Convention on the Rights of the Child, to which about 170 countries are parties and which the United States has recently signed. That Convention appears to treat intercountry adoption as a last resort for children if they cannot be placed for adoption or in foster homes in their country of origin or if they cannot otherwise be appropriately cared for (institutionalized) in that country. The U.N. Convention might thus be invoked in support of the belief in some countries, also hitherto held by a number of international organizations, that intercountry adoption is a process by which industrialized countries exploit a national resource of poorer developing countries, a view that has played to the self-esteem problems that authorities in some countries experience because they are currently not able to provide for appropriate care for some of the children resident in those countries. Moreover, the U.N. Convention has been

interpreted by some as totally forbidding private intercountry adoptions. The Preamble of the 1993 Convention starts by recognizing that the child, for the full and harmonious development of its personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding. After recalling that every State should take appropriate measures to enable the child to remain in the care of its family of origin, the third provision of the Preamble recognizes "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." The Preamble thereby suggests that intercountry adoption, providing the child a permanent family, should be placed ahead of foster or institutional care in the child's country of origin -- a very welcome and important endorsement of intercountry adoptions if they meet the internationally agreed minimum requirements set out in the Hague Convention.

-- By providing for national Central Authorities to be established in every party country, the Convention ensures that there is a single authoritative source of information about the laws and procedures for intercountry adoptions in every such country, and a single point of contact in every country for the authorities of other party countries to look to for reliable information and responsibility for what occurs or should (and should not) occur in that country.

-- The Convention establishes a minimum set of core norms and procedures that will be uniform for every party country and every adoption involving two party countries. However, every party country is able to maintain or to add further conditions and restrictions at any time beyond those set by the Convention.

-- The Convention establishes reasonable certainty that adoptions decreed pursuant to the Convention will be recognized and given effect in all other party countries.

-- It may make politically possible the establishment of a new category of children admissible to the United States for permanent residence, separate from the "eligible orphans" requirement that children must currently meet under the U.S. Immigration and Nationality Act (INA). This would facilitate the adoption of children from other party countries by prospective adoptive parents resident in the United States.

-- Implementation of the Convention may make possible greater automaticity for the acquisition by adopted children of American citizenship.

The U.S. Political Process Before U.S. Ratification of the Convention

The text of the Convention as adopted at the end of May 1993 has been mailed by L/PIL to the 5-600 persons and organizations on its mailing list and it has been published in the July 1993 issue of International Legal Materials and in the Spring 1994 issue of Family Law Quarterly. On the basis of the general endorsement of the Convention by the American Bar Association, the Joint Council on International Childrens Services (JCICS), the North American Council on Adoptable Children, the National Council For Adoption and others who have been associated with us on this project, the United States signed the Convention on March 31, 1994 -- a symbolic act without legal effect but signalling an intention to seek authority eventually to ratify the Convention and a commitment not to act contrary to the objects, and purpose of the Convention in the interim.

The Convention with an article-by-article legal analysis of its provisions will eventually be submitted by the Secretary of State to the President for transmission to the Senate for advice and consent to U.S. ratification. In the Senate the Convention would be referred to the Senate Foreign Relations Committee for a hearing and recommendations to the full Senate.

Approximately at the same time that the Convention is transmitted to the Senate, an Administration bill with proposed federal implementing legislation, prepared by interested federal agencies in consultation with the private sector via the Department's Study Group on Intercountry Adoption, would be introduced in the House and Senate.

Only after the Senate has given its advice and consent to U.S. ratification, and the Congress has enacted appropriate federal legislation that the President has signed, will final preparations be possible within the federal government, the States of the United States and the adoption community with regard to the accreditation of agencies and the authorization of other providers of adoption services and to deal with many other aspects of implementation so that the United States would be able to ratify the Convention and bring it into force for the United States a few months later. Such advance preparations before U.S. ratification would need to have been made to ensure that intercountry adoptions covered by the Convention initiated as of the day on which the Convention would enter into force for the United States could comply with the Convention's requirements.

Summary of the Convention's Provisions

The Convention is to apply to all adoptions between countries becoming parties to it (Art. 2) that create a permanent parent-child relationship, but would cease to apply if a child becomes 18 before certain Convention-steps have occurred (Art. 3). If those steps have occurred, the Convention, in particular

its provisions on recognition, continue to apply regardless of the age of the adoptee. However, the child would remain capable of adoption after the Convention ceases to apply -- just not under the Convention.

An adoption under the Convention may take place only if:

-- the competent authorities of the State (country) of origin have established that the child is adoptable, that an intercountry adoption is in the child's best interests, and have ensured that the necessary consents to the adoption have been given freely and without inducement, expressed or evidenced in writing after appropriate counselling about the effect of consent and whether it will result in termination of the parent-child relationship, and, on the part of the mother, after the birth of the child (Art. 4); and

-- the competent authorities of the receiving State (country) have determined that the prospective adoptive parents are eligible and suited to adopt, that they have been counseled as necessary, and that the child they wish to adopt will be authorized to enter and reside permanently in that State (Art. 5).

Every party country is to establish a Central Authority (Art. 6) with the non-delegable functions to cooperate with the Central Authorities of other party countries to protect children and achieve the other objects of the Convention, and to provide information on the laws of their country on adoption and general information (including statistics and standard forms) (Art. 7).

The functions for Central Authorities set out in Article 9 may be performed through public authorities or Convention-accredited bodies (agencies). The functions of Central Authorities in Chapter IV on Procedural Requirements (Articles 14 to 21) may, according to Article 22(1), be performed by public authorities or "bodies accredited under Chapter III". This means that such "bodies" (agencies) must meet the requirements of Articles 10 and 11 (demonstrate competence to carry out properly the administrative and social tasks with which they may be entrusted; pursue only non-profit objectives; be directed and staffed by persons specially qualified by their ethical standards and by training or experience to work in the field of intercountry adoption; be subject to supervision by competent authorities as to their composition, operation and financial situation) and Article 32 (not derive improper or other financial gain; may charge or pay only costs and expenses, including reasonable professional fees; staff involved in an adoption shall not receive unreasonably high remuneration in relation to services rendered).

Independent or private adoptions are addressed in the second and fourth paragraphs of Article 22. The second paragraph permits any party country to declare that Central Authority functions set out in Articles 15 to 21 may be performed in that country "also by persons or bodies who meet the requirements of integrity, professional competence, experience and accountability of that State" and "are qualified by their ethical standards and by training or experience to work in the field of intercountry adoption", e.g., lawyers and social workers. However, Article 22(4) explicitly permits any State to declare that adoptions of its children may only take place if the functions of Central Authorities are performed in accordance with Article 22(1), i.e., by public authorities or accredited bodies (agencies). Thus, private adoptions are permitted if both the State of origin and the receiving State permit them, and subject to essentially the same fundamental provisions, procedures and requirements of the Convention as agency adoptions.

The Convention's procedural chapter provides in Article 14 that persons wishing to adopt a child resident in another party State are to apply to the Central Authority of their own State which, under Article 22(1), could be an accredited agency there but not an approved provider of adoption services covered by the Article 22(2).

The Convention contains no prohibition against parent-initiated adoptions but also contains no explicit authorization. However, the bar in Article 29 to contacts between the prospective adoptive parents and the child's parents or any other person who has care of the child (until certain requirements have been met) makes sense only if there may be activities (aimed at an intercountry adoption) by prospective adoptive parents in the State of origin of a child they may wish to adopt.

Many functions of Central Authorities under Chapter IV, with the exception of immigration matters, may be carried out by accredited agencies or private adoption intermediaries in the United States meeting the Convention requirements. However, only the U.S. Central Authority may perform the non-delegable functions set out in Article 7. The U.S. Central Authority will be generally responsible for monitoring U.S. implementation of the Convention and other party countries will look to that Authority to ensure that U.S. obligations under the Convention are complied with.

It seems likely that if U.S. states wish adoption agencies and other adoption service providers from each of their territories to be able to qualify under the Convention (Article 22(1) and (2)), they will need to arrange, on the basis of standards and criteria set by federal regulation, to screen applicant agencies for compliance with those standards and criteria. The adoption community is preparing accreditation standards and criteria that it expects soon to propose to the Department of State.

Article 17 sets out the requirements that must be met before a child can be "entrusted" to (in essence: "matched with and placed in the care of") the prospective adoptive parents. Article 17(b) deals with approval of the matching decision by the Central Authority of the receiving State -- an approval delegable to the accredited agency involved, or to a private adoption intermediary when such an intermediary is acceptable to both the State of origin and the receiving State, thereby leaving the U.S. Central Authority without the need itself to approve the matching if such approval should be required by the Central Authority of the State of origin.

Adoptions certified as made in accordance with the Convention shall be recognized by operation of law in other party States (Article 23), subject to the restricted ("manifestly contrary to") public policy exception in Article 24. The United States delegation sought unsuccessfully further to limit the scope of this exception, which is rarely invoked in practice.

Article 26 details what recognition includes, and touches indirectly on the more limited nature of "simple" adoptions in some countries of origin (that do not terminate the pre-existing legal parent-child relationship). Article 27 sets out requirements that apply for the conversion of a simple adoption to a full adoption that does include termination of the pre-existing legal parent-child relationship. The converting full adoption made by authorities of the receiving State then replaces the simple adoption and is the adoption that is to be recognized pursuant to Article 23 in all other party countries.

The Convention is to apply to adoptions when an application pursuant to Article 14 is received after the Convention has entered into force for the State of origin and the receiving State, i.e., when the Convention will be in force to apply to all essential steps of the intercountry adoption process (Art. 41).

Only certain declarations (Arts. 22, 23, 25 and 45), but no reservations, are permitted (Art. 40).

A session of a special commission of the Hague Conference was convened in October 1994 in accordance with Article 42 to review implementation of the Convention. The experts prepared recommended forms for the required consents to intercountry adoption under Article 4(c) and for the certification of adoptions made in accordance with the Convention (Art. 23). That session also prepared a recommendation with regard to the availability of the Convention safeguards to protect refugee or other internationally displaced children that are to be adopted from (and within) their country of asylum.

Summary of Issues in the Preparation of U.S. Federal Implementing Legislation

The Convention is self-executing in form and does not legally require federal implementing legislation. However, it is difficult to imagine effective implementation of the Convention by the 50+ U.S. jurisdictions without federal legislation to ensure its full and relatively uniform implementation. Such legislation (the International Child Abduction Remedies Act) substantially assisted authorities and others in the United States to understand and effectively implement the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Aspects of Convention implementation to be addressed in such legislation might well include:

- establishment of a U.S. Central Authority within the federal government and authorization and appropriation of funds for its operation (Art. 6);
- the possible authorization for the U.S. Central Authority to arrange for the more routine and ministerial functions of the Central Authority and research to be contracted out or otherwise to be performed by the private sector under Central Authority supervision -- such functions to include the use during the running-in period of management consultants to help set up sound and expeditious procedures and coordination and to develop training programs on implementation of the Convention and on pre- and post-placement counselling and services for intercountry adoptions;
- accreditation of "accredited bodies" in the United States under the Convention (Art. 22(1) pursuant to federal criteria developed with adoption community input, probably with an important role for State licensing authorities;
- screening and approval of U.S. providers of intercountry adoption services other than accredited agencies (Art. 22(2);
- implementation by the authorities in the States of the United States of obligations placed on the United States when a child resident in the United States is the subject of an adoption covered by the Convention (Art. 4) (i.e., when the United States is the *sending* State;
- amendment of the Immigration & Nationality Act (INA) to facilitate the entry for permanent residence of children being adopted under the Convention and possibly also provide for their more automatic acquisition of U.S. citizenship;

- ensuring that children brought to the United States for adoption are in fact legally adopted after arrival;
- recognition of adoptions under the Convention (Art. 23), probably including recognition of adoptions covered by the Convention between other party countries made before the Convention enters into force for the United States;
- preservation of information concerning childrens' medical histories and their origins (Art. 30);
- handling and disposition of reported cases of violations of Hague Convention requirements (Art. 33);
- form and admissibility of documents that may be exempted from authentication and legalisation to facilitate paperwork.

There may be additional aspects that need to be covered by such legislation, and some of the issues mentioned above may not need to be addressed in federal legislation.

The State Department's intention is to consult on the manner in which draft proposed legislation deals with these matters with the members of its Study Group on Intercountry Adoption and others attending a fifth Study Group meeting at some future time before Administration clearance and before introduction of such legislation in Congress is sought. Once such legislation is before Congress, the adoption community will, of course, have a further opportunity to be heard with regard to the provisions of the proposed legislation.

The timing of transmission of the Convention to the Senate and of introduction of the legislation in both houses of Congress will largely depend on the support that the Convention and implementing legislation receive from the U.S. adoption community. The total process of obtaining Senate consent to U.S. ratification, Congressional enactment of federal legislation, and subsequent preparations for implementation of the Convention is likely to take longer in the United States than in most other countries that have centralized governments, a single legal system, and a parliamentary system of government.

Prepared by: Peter H. Pfund
Assistant Legal Adviser for
Private International Law
U.S. Department of State
L/PIL, Suite 203 South Bldg.
2430 E Street, NW
Washington, DC 20037-2800

HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

**HAGUE CONVENTION OF 29 MAY 1993
ON
PROTECTION OF CHILDREN AND CO-OPERATION
IN RESPECT OF INTERCOUNTRY ADOPTION**

(Listing as of 1 February 1996)

The following States have signed the Convention:

Costa Rica	29 May 1993
Mexico	29 May 1993
Romania	29 May 1993
Brazil	29 May 1993
Colombia	1 September 1993
Uruguay	1 September 1993
Israel	2 November 1993
Netherlands	5 December 1993
United Kingdom	12 January 1994
United States	31 March 1994
Canada	12 April 1994
Finland	19 April 1994
Burkina Faso	19 April 1994
Ecuador	3 May 1994
Sri Lanka	24 May 1994
Peru	16 November 1994
Cyprus	17 November 1994
Switzerland	16 January 1995
Spain	27 March 1995
France	5 April 1995
Luxembourg	6 June 1995
Poland	12 June 1995
Philippines	17 July 1995
Italy	11 December 1995

TOTAL NUMBER OF SIGNATORIES: 24

The following States have ratified the Convention:

		<i>Entry into force:</i>
Mexico	14 September 1994	1 May 1995
Romania	28 December 1994	1 May 1995
Sri Lanka	23 January 1995	1 May 1995
Cyprus	20 February 1995	1 June 1995
Poland	12 June 1995	1 October 1995
Spain	11 July 1995	1 November 1995
Ecuador	7 September 1995	1 January 1996
Peru	14 September 1995	1 January 1996
Costa Rica	30 October 1995	1 February 1996
Burkina Faso	11 January 1996	1 May 1996

TOTAL NUMBER OF RATIFICATIONS: 10

THE CONVENTION ENTERED INTO FORCE ON 1 MAY 1995

Extract from the Final Act
of the Seventeenth Session
signed on the 29th of May 1993*

ENGLISH TEXT --

Alternate pages only

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,

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 –

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;

* For the complete text of the Final Act, see *Proceedings of the Seventeenth Session (1993)*, tome I, *Miscellaneous matters*.

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.

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.

* The Convention was signed on the 29th of May 1993 and thus bears that date

1993 Hague Intercountry Adoption Convention

Functions of U.S. Central Authority (USCA)

Mandatory Functions (Art. 7):

Cooperate with Central Authorities of other party countries
Promote cooperation among U.S. competent [federal, State, local] authorities to protect children and achieve Convention objectives

Take directly appropriate measures to:

- provide information on U.S. adoption laws and other information (statistics; standard forms)
- keep other CAs informed about Convention operation
- eliminate obstacles to Convention application

USCA Direct Functions or through Public Authorities (Art. 8):

All appropriate means to:

- prevent improper financial or other gain in connection with Convention adoptions
- deter practices contrary to Convention objectives

USCA Direct Functions, or through Public Authorities or Other Bodies (Adoption Agencies) (Art. 9):

Collect, preserve, exchange info relevant to specific adoptions as necessary to complete them [to extent this not routinely done by adoption service providers]

Facilitate, follow, expedite adoption proceedings [to extent this not routinely done by adoption service providers]

Promote [further] development of [existing] adoption counselling/post-adoption services [development of training program seems desirable]

Exchange with other CAs general evaluation reports about intercountry adoption experience [to extent this not routinely done in connection with periodic Hague Conference special commission sessions to be convened by Hague Conference Secretary General -- Art. 42]

Respond to justified requests from other CAs for info about status of specific adoptions [when problems in a few cases annually rise to governmental CA level]

Other U.S. Central Authority Functions:

Develop, monitor and be responsible for U.S. program for Convention-accreditation/approval (see Arts. 10, 11, 22 and 32 for Convention-imposed standards) of U.S. adoption service providers & reporting such providers to Hague Conference Permanent Bureau

Receive applications of U.S. prospective adoptive parents wishing to adopt a child from another Convention party country [current INS acceptance of I-600 A application with home study could readily be fashioned to meet this

- requirement of Art. 14, and transmission of approved home study on U.S. prospective adoptive parents to CA of country of origin or designated public authority or adoption agency there in compliance with Article 15 could be effected through governmental channels]
- All other functions of CAs set by Chapt. IV (Arts. 15-21) [would be met by U.S. adoption service providers accredited/approved under Convention, much as most such functions are currently performed now by State-licensed adoption service providers and individual service providers, in absence of requirements codified by Hague Convention]
- Monitor compliance in U.S. with recognition requirements of Arts. 23-27 [may require no more than dealing with complaints about non-compliance brought to USCA attention]
- Maintain info on any federal/State restrictions/conditions re contacts between foreign prospective adoptive parents and birth parents of U.S. child they wish to adopt (Art. 29) [No such restrictions/conditions known currently to exist in U.S.; the Convention does not require the establishment of new ones.]
- Maintain info on any necessary federal/State authorizations for direct activities in U.S. of adoption service providers from other party countries (Art. 12) [Few, if any, such activities currently take place in U.S.; thus, no federal authorizations are likely to be necessary.]
- Guide federal, State and local authorities, as well as adoption service providers, on preservation of information held by them on child's origin, medical history and identity of birth parents (Art. 30 (1))
- Receive from U.S. competent authorities information that Convention provision has not been or may not be respected in some systematic way [rather than in isolated cases] and ensure that "appropriate measures" are taken (Art. 33)