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**Attorney-General's Department  
Intercountry Adoption Strategic Plan 2008**

**Attorney-General's Department  
International Family Law Branch**

## What is the purpose of this strategic plan?

The purpose of this strategic plan is to outline the way in which the Attorney-General's Department, as the Australian Central Authority under the *Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption*, will ensure Australia has a nationally consistent and coordinated approach to the establishment and management of intercountry adoption programs.

Without a coordinated approach, the resources available to government agencies, stakeholders and prospective adoptive parents risk being diverted from activities most likely to produce the optimum results for children needing permanent family placement outside their country of origin, to activities that may produce outcomes that may not be reliable, sustainable or credible. A strategic, principles based approach provides the best opportunity to realise the most effective and credible intercountry adoption programs and arrangements which maintain and promote the international principles that govern intercountry adoption.

## Introduction

Australia recognises that intercountry adoption must be based upon the best interests of the child and take place in accordance with the principle of subsidiarity. This principle means that priority must be given to enabling a child to remain in the care of their family of origin but recognises that intercountry adoption may offer the advantage of a permanent family where a suitable family cannot be found in the child's country of origin.

The Attorney-General's Department also recognises the importance of adoption to family creation and considers it necessary to adopt a strategic approach to the development of Australia's intercountry adoption program. The aim of the strategic plan is to ensure that:

- existing programs are effectively and efficiently maintained and developed, in accordance with clearly defined workplans
- opportunities for new programs are identified and explored in a timely and efficient manner
- all stakeholders and State and Territory Central Authorities are able to appropriately participate in the development of the program into the future, and
- assistance is provided to partner countries to allow them to better provide for the best interests of their children.

## Background

### *The Hague Convention*

The international principles that govern intercountry adoption are set out in the *Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption*. The Hague Convention was concluded on 29 May 1993 and entered into force on 1 May 1995. Australia ratified the Convention on 25 August 1998 and it entered into force in Australia on 1 December 1998.

The Hague Convention protects children and their families against the risks of illegal, irregular, premature or ill-prepared adoptions abroad. It does this by establishing principles for countries to follow that focus on the need for intercountry adoptions to occur only where it is in the best interests of the child and with respect for his or her fundamental rights, and having regard to the principle of subsidiarity. That principle provides that priority should be given to enabling a child to remain in the care of their family of origin, but recognises that intercountry adoption may offer the benefit of a permanent family where a suitable family cannot be found in the child's country of origin. The Hague Convention also focuses on the need for countries to work to prevent the abduction, sale, or trafficking of children.

In order to meet its international obligations, Australia must uphold the integrity of its intercountry adoption programs and ensure, in cooperation with the State of origin, that intercountry adoptions take place only in the best interests of the child. Although not all countries with whom Australia has adoption agreements are signatories to the Hague Convention, the Australian Central Authority and State and Territory Central Authorities work to ensure that all adoption programs meet the standards of the Hague Convention.

To this end, the Commonwealth, States and Territories engaged in lengthy negotiations prior to Australia's ratification of the Hague Convention culminating in the *1998 Commonwealth-State Agreement for the Implementation of the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption*.

### *The current role of the Commonwealth, States and Territories*

The Commonwealth, States and Territories each have defined roles in the intercountry adoption process. These roles will be set out in the revised Commonwealth-State Agreement as discussed below. A key role of the States and Territories is the processing of all intercountry adoption applications. This means that all intercountry adoption casework, including education, assessment, approval and placement services, will be handled by the relevant State or Territory agency.

Until mid-2007, primary responsibility for the establishment and management of intercountry adoption programs rested with State and Territory Governments. This arose after a 1991 agreement between the Commonwealth, States and Territories known as the *Protocols and Procedures for the Development of New Programs for Intercountry Adoption with New Countries*.

To date, State and Territory Governments have, in general, investigated the establishment of a new program after interest has been raised by adoptive parents or adoptive parent support groups. This has meant programs have largely been

established on an *ad hoc* basis and, in some cases, the development of programs has been dependent on the goodwill and proactive involvement of intercountry adoption support groups.

Until recently, the main function of the Attorney-General's Department, as the Australian Central Authority under the Hague Convention, was to enable the performance of Australia's obligations under the Hague Convention and to ensure that Australia, as a whole, complies with the requirements and standards of the Hague Convention.

### *The 2005 'Overseas Adoption in Australia' Report*

Following the release of the 2003-2004 Annual Report of the Australian Institute of Health and Welfare, the House of Representatives Standing Committee on Family and Human Services conducted an inquiry into the adoption of children from overseas. On 28 November 2005, the Chair of the Committee, the Hon Bronwyn Bishop MP, released the Committee's Report: *Overseas Adoption in Australia* (the Report).

The Report included 27 recommendations designed to improve the system of intercountry adoption in Australia.

A primary recommendation of the Report was that the Commonwealth should take the lead role in the overall development and management of intercountry adoption programs. The States and Territories will maintain a key role in assessing and approving applications for adoptions. In response to the Report, Ministers have agreed there is a need to formulate a strategic plan for intercountry adoption programs.

## The way forward

### *Existing programs*

Part 1 outlines the strategy for ensuring existing intercountry adoption programs are effectively and efficiently maintained and developed.

### *New programs*

Part 2 outlines the strategy for ensuring opportunities for new programs based on children requiring adoptive families are identified and explored in a timely and efficient manner.

### *Participation of stakeholders and State and Territory Central Authorities*

The Attorney-General's Department recognises the central importance of consultation with the States and Territories and all key stakeholders. Consultation with the States and Territories is particularly important given their experience and expertise in intercountry adoption matters. It is intended that States and Territories will be consulted as this plan is implemented.

### Stakeholder participation: formation of a national peak overseas adoption support group (national peak group)

A range of non-government stakeholders can be identified in relation to Australia's intercountry adoption program. Key stakeholders include:

- adoptees
- adopters
- Intercountry Adoption Support Organisations (ISOs)
- intercountry adoption specialists
- countries of origin
- birth parents
- overseas Central Authorities
- the Hague Conference on Private International Law
- International Social Services, and
- a national peak group, once established.

Recommendation 27 of the Report is that the Attorney-General's Department establish a program to fund a national peak group.

It is envisaged that a national peak group will be broadly representative of all key non-government stakeholders in Australia and will be consulted on all major issues affecting Australia's intercountry adoption programs. This will facilitate a collaborative approach to the development of Australia's intercountry adoption program.

Consultation forums with intercountry adoption stakeholders on the formation and composition of the national peak group were conducted in each State and Territory during February and March 2007.

### State and Territory Central Authority participation: renegotiation of the Commonwealth-State Agreement

Recommendation 1 of the Report states that the Attorney-General renegotiate the *Commonwealth-State Agreement for the Implementation of the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption* with the States and Territories.

The revised Agreement, entitled the *Commonwealth-State Agreement for the Continued Operation of Australia's Intercountry Adoption Program*, is currently being renegotiated with States and Territories to give effect to the Committee's recommendations. It will reflect the Attorney-General's Department responsibility for the overall management and establishment of all intercountry adoption programs. It will also outline the role and responsibilities of the State and Territory Governments regarding intercountry adoption. A Sub-Committee of the Community and Disability Services Ministers' Advisory Council was formed for this purpose.

On 25 July 2007, the revised Agreement was considered by the Community and Disability Services Ministers' Conference. Ministers gave their in-principle support for the revised Agreement.

Ongoing participation of the States and Territory Central Authorities will be facilitated via the biannual meetings of all Australian Central Authorities under the continued chairmanship of the Commonwealth.

*Providing assistance to partner countries*

Consideration will be given to the ways in which assistance can be provided to partner countries to allow them to better provide for the best interests of their children and enable them to meet Hague Convention standards. This can be done in a number of ways, including:

- visiting countries that do not currently have an intercountry adoption program to provide information and training about the principles of the Hague Convention and how the Australian intercountry adoption program operates
- inviting officials of these countries to visit Australia to provide information and training about how the Australian intercountry adoption program operates, in collaboration with States and Territories
- identifying opportunities to support the work of the Hague Conference on Private International Law in relation to intercountry adoption, and
- through capacity building and governance activities supported through Australia's aid programs, reflecting the priorities determined jointly by Australia and aid recipient countries.

## Part 1: Principles for managing existing intercountry adoption programs

### Principles

The key principles in managing existing intercountry adoption programs are:

- the maintenance of effective, credible and reliable programs that meet the Hague standards
- that programs provide an effective means for children in need of families to join suitable Australian families wishing to adopt children
- that opportunities to expand programs are explored as appropriate. Whether a program might be considered for expansion will depend on a number of factors, including:
  - an assessment of the effectiveness of the program in the past, and the sustainability of the program in the future
  - whether the country has, and is likely to continue to have, the number of children in need of families that would warrant committing resources to exploring possibilities for expansion
  - whether the country has expressed an interest in expanding the existing intercountry adoption program with Australia
  - whether the country has, or can be assisted to have, the capacity to manage an expanded program, including its capacity to effectively progress an expanded number of applications from Australian families and without risk to Hague standards, and
  - the likelihood of successfully expanding the program if such an activity were commenced.

There are three types of existing programs:

- an 'open' program
- a 'suspended' program, and
- a 'closed' program.

In certain circumstances, a sending or receiving country may consider it necessary to suspend or close an existing intercountry adoption program. This may be for several reasons, such as concerns about the operation of the program in that country and possible non-compliance with the Hague principles (see **Attachment A**). In some circumstances, programs will be closed or suspended at the request of the overseas country.

## Lead State Responsibilities

As the Attorney-General's Department gradually assumed responsibility for the overall management of each intercountry adoption program it took over the 'lead state' responsibilities for that particular program. Formerly, one State or Territory would be given lead state responsibility for managing any general issues that arise in relation to that intercountry adoption program on behalf of all the States and Territories.\*

The lead state would generally be the conduit through which issues are raised and resolved with the program and information is exchanged such as quotas. Set out below is a table which shows lead state responsibility for each program with a timetable for the transfer of lead state responsibilities to the Attorney-General's Department:

<b>COUNTRY</b>	<b>LEAD STATE</b>	<b>TRANSFERRED</b>	<b>MONTH OF TRANSFER</b>
Bolivia	NSW	Yes	January 2006
Chile	NSW	Yes	January 2007
China	VIC	Yes	July 2007
Colombia	NSW	Yes	January 2007
Costa Rica**	NSW	Yes	January 2007
Ethiopia	QLD	Yes	June 2007
Fiji	QLD	Yes	June 2007
Hong Kong	VIC	Yes	July 2007
India***	SA	Yes	September 2007
Lithuania	VIC	Yes	July 2007
Philippines	VIC	Yes	July 2007
South Korea	NSW	Yes	July 2006
Sri Lanka	VIC	Yes	July 2007
Thailand	VIC	Yes	March 2007
Taiwan	NSW	Yes	January 2007

\* Country programs differ in each State and Territory. States and Territories may not have an established program with every country listed in the table

\*\*This program is yet to be re-established since it was closed in 1995

\*\*\* This program operates with certain orphanages for each State and Territory

## **Managing an 'open' program**

An open program is identified as a bilateral agreement or arrangement between Australia and another country (whether a Hague Convention country or not) that:

- i. provides the framework for the operation of an intercountry adoption program, and
- ii. is operative, in that Australia is able to send applications on behalf of prospective adoptive applicant(s) to the other country and the other country will consider and, if appropriate, allocate a child in need of a family to a prospective adoptive applicant(s).

Once an intercountry adoption arrangement or agreement has been established it is vital that ongoing work be carried out to ensure the program is maintained and remains viable, opportunities for expansion of the program are considered and the program continues to comply with the principles outlined in the Hague Convention. Undertaking consultation and ensuring the effective exchange of information is also important.

To ensure these outcomes, the management of programs will involve:

- ongoing gathering and exchange of information relevant to the program
- assessment of programs for possible expansion, including the need of overseas countries for more adoption applications from Australia
- monitoring of the program and the identification of issues and concerns relating to the program. This may include the development of measures to address these concerns where appropriate
- periodic review of programs as resources permit. The review will include consideration of the viability of the program, its ongoing compliance with Hague standards and future options for the program (including continuation without change, negotiations for remedial action, expansion, suspension or closure). Central Authorities and the Community and Disability Services Ministers' Council will be advised of the outcomes of a review
- consultation with States and Territories to ascertain viability and identify any practical issues relating to the program
- consultation with the national peak group to identify issues relating to the program in light of the experience of adopting families and adoptees
- information sharing with States and Territories, as well as overseas adoption support group organisations with the aim of increasing awareness of the intercountry adoption programs entered into by Australia and their basic requirements, and
- maintenance and consolidation of existing relationships with the countries with whom Australia operates an intercountry adoption program. This usually would include periodic visits by official Australian delegates to the other country as well as invitations for representatives of relevant organisations/agencies of the other country to visit Australia.

## **Managing a ‘suspended’ program**

A suspended program is a bilateral agreement or arrangement between Australia and another country that is either temporarily or indefinitely inoperative. A program may be suspended unilaterally by the overseas country. For example, due to a focus on domestic adoption they may not have children in need of intercountry adoption and suspend or close their program.

If, after a review, or at any other time, it becomes apparent that it may be necessary to suspend an intercountry adoption program when it is not at the request of the other country then the Attorney-General’s Department will undertake the following steps:

- identification of the key issues and/or concerns leading to the consideration of the suspension of the intercountry adoption program
- gathering further information relevant to these issues and/or concerns
- engaging in negotiations with the other country – raising and evidencing concerns, seeking information, and proposing options for resolution
- exchanging information – continuing to share information until such time as the concerns and issues resulting in the suspension of the program are addressed. This may result in the program being reopened or closed
- consulting – with relevant agencies, organisations, support groups and Governments relevant to the issues and/or concerns to work towards a resolution
- monitoring – the progress of measures taken to overcome the issues and/or concerns, and
- reviewing – the status of the program throughout the above steps and continued assessment of the options for the program eg continued suspension, closing of program or re-opening of program.

These steps may be revised if immediate action is necessary.

## **Managing a ‘closed’ program**

A closed program is a bilateral agreement or arrangement between Australia and another country that is inoperative.

The Attorney-General’s Department will do the following in relation to closed programs:

- consider the reasons for the closure of the program
- periodically monitor and review the status of the program, and
- maintain contact with agencies in the country, as appropriate.

## **Consideration of compliance of program against Hague standards and principles**

When undertaking a review of an existing program whether open, suspended or closed it will be necessary to consider the extent to which a program complies with the standards and principles of the Hague Convention.

Whilst a full review may not be necessary in all circumstances, if appropriate the checklist at **Attachment A** will be used as a basis for this review. The review may be conducted in consultation with the country concerned, State and Territory authorities, the national peak group and other stakeholders.

## **Part 2: Principles for establishing new intercountry adoption programs.**

### **Principles**

A strategic, principles based approach will be undertaken in relation to establishing new programs. Relevant principles are:

- whether Australia's objectives of providing for the best interests of children in their countries and, where appropriate, facilitating programs for the adoption of children in need of families by Australian families are better achieved by exploring opportunities to expand existing programs (although expanding existing programs and working to establish new programs are not mutually exclusive)
- identifying countries which have, and are likely to continue to have, children in need of suitable families in Australia
- assessing whether those countries do, or are able to comply with the standards and principles of the Hague Convention
- analysis of any experience other government agencies, state and territory Central Authorities, or stakeholders have had with that country
- assessment of the experience of other countries programs with that country, and assessments of reports of civil society and non-government organisations.

### **Ad hoc requests**

As a general principle, individual requests to countries with which there is no ongoing program will not be consistent with a coordinated, strategic and therefore effective approach to Australia's management of Intercountry Adoption programs. Such requests may reflect arrangements made regarding individuals. They may depend on the activities of, and judgements of (and about) individuals rather than governments or relevant agencies. As such they may not be capable of the rigorous assessment required to warrant progressing an adoption from such a country. Managing ad hoc requests involves the commitment of significant resources from Governments, which could divert effort from the maintenance or establishment of broader, more accessible programs that are likely to better provide for the best interests of children in those countries and facilitate the adoption of children in need of families by Australian families. There is an increased risk for children and prospective adoptive parents in engaging in adoption processes outside of established programs.

Consistent with this, ad hoc approaches to countries are likely to be considered only where there are **exceptional circumstances** and:

- the approach would not divert resources from higher priority activities relating to Australia's Intercountry Adoption programs and obligations
- it is possible for an assessment to be made that the adoption would satisfy the Hague requirements, international law and principles and the laws of the overseas country

- there is evidence from the Government of that country, or other official source, of a sufficiently large number of children in need of families that would support an intercountry adoption program with Australia if one were established
- the approach would assist in the assessment of whether a new program might be established with the other country, and
- the approach would comply with Australian law including immigration requirements.

### **Consideration of compliance of program against Hague standards and principles**

As noted in the steps set out below, when considering whether to establish a new intercountry adoption program it will be necessary to consider the extent to which a country is able to comply with the principles and standards of the Hague Convention. If appropriate, the checklist at **Attachment A** will be used as the basis for undertaking this assessment. This assessment may be conducted in consultation with the country concerned, State and Territory authorities, the national peak group and other stakeholders.

### **Summary**

In considering whether to establish a new intercountry adoption program, the Attorney-General's Department as the Australian Central Authority for intercountry adoption will undertake the following steps:

1. Scoping
2. Consulting
3. Briefing
4. Contacting
5. Negotiating
6. Establishing and Implementing
7. Monitoring and Reviewing

#### ***1. Scoping***

This phase is designed to ascertain whether certain conditions exist both within Australia and in a particular country that would make an intercountry adoption program possible.

In order to gather information for the scoping phase the Attorney-General's Department may initiate contact with the country concerned and seek information on their adoption practices. The Attorney-General's Department may also rely on other sources including International Social Services, the Hague Conference on Private International Law, information provided by State and Territory authorities, the national peak group (once established), parent support organisations, information provided through the diplomatic post in that country and other sources as appropriate.

In the scoping phase, initial investigation will be undertaken in two phases:

*Phase 1:*

- identify a country that has children in need of families. The following factors may be used to help identify these countries:
  - a. public information (for example information provided by International Social Services) indicates the country may have children in need of adoption
  - b. the country is a Hague Convention country and a sending country
  - c. the country has an existing intercountry adoption program with other countries whether pursuant to the Hague Convention or otherwise
  - d. the country is considering joining the Hague Convention
  - e. the country has initiated contact with Australia in relation to intercountry adoption issues
- identify any features of that country that may impact on the likelihood and suitability of establishing a program with that country. For example:
  - a. the proximity of that country to Australia
  - b. the country's relationship with Australia such as cultural connections, intergovernmental links or historical ties
  - c. the country is a party or is considering becoming a party, of the Hague Convention
  - d. the existence of an Australian diplomatic post in that country
  - e. Australia has an existing program with a neighbouring country
  - f. the country has expressed a willingness to consider opening a program with Australia
  - g. an appropriate infrastructure is in place
  - h. the extent to which a program could comply with the standards and principles of the Hague Convention as set out in Attachment A
- identify the benefits available to children in need of families in that country if the child were to be adopted by an Australian family (eg cultural community existing in Australia, existence of support groups, proximity to country of origin).

*Phase 2:*

- identify any barriers that may exist, or are likely to exist, if an intercountry adoption program was to be established with that country (for example, uncertainty of compliance with Hague Convention, economic circumstances, lack of effective systems and procedures in place to ensure that any children placed for adoption are legally able to be adopted ie proper abandonment procedures or legal and fully informed consent of parents has been sought)
- where available, identify any criteria that apply to an intercountry adoption program that may limit the program having a broad accessibility for Australian applicants (for example the age and special needs of children needing

intercountry adoption, or whether to apply both applicants must be citizens of that country etc), and

- identify what contacts and/or infrastructure is present in that country to assist in initiating discussion.

## **2. Consulting**

Once a program has been identified through the scoping procedure as a possible new program then the Attorney-General's Department will consult with relevant parties to ensure the views of all stakeholders about a particular program are considered prior to entering into detailed discussions with that country.

In the consulting phase, advice, information and comments will be sought from the key stakeholders including government agencies (such as the diplomatic post for the country in question) about such issues as:

- the findings arising from the scoping phase that have identified a country or countries as appropriate to enter into an intercountry adoption program with Australia
- previous and/or existing relations with that country
- useful contact details including key government agencies, and
- providing support to the Attorney-General's Department in the event it decides to proceed to the next phase in relation to that country.

## **3. Briefing**

The Attorney-General's Department will then advise the Attorney-General of the outcomes of the Scoping and Consulting phases for a decision to be made on the desirability of continuing work on the possible development of an adoption program with a country.

If the Attorney-General decides not to proceed after consultation has taken place, the reasons for this will be made available to the parties who were consulted about the possibility of the program.

## **4. Contacting**

The Attorney-General's Department will then establish a connection with a person, agency, organisation or government department that is capable of entering into negotiations about the possible establishment of an intercountry adoption program with Australia.

In the 'Contacting' phase the Attorney-General's Department will initiate communication with that country in consultation with the Australian Department of Foreign Affairs and Trade.

## **5. *Negotiating***

The Attorney-General's Department will seek to develop a productive working relationship with the prospective country and establish the most effective method to progress discussions for establishing an intercountry adoption program.

During this phase the Attorney-General's Department will follow up with the contact in that country by sending out an intercountry adoption package. The package will include such information as is appropriate about:

- the framework for intercountry adoption in Australia, including the standard to which Australian families are prepared and assessed as being suitable to adopt
- the benefits for the children and families of each country in establishing an intercountry adoption program, and
- an invitation to engage in further discussion whether in person, in writing or teleconference.

It will also be appropriate in this phase to consider a visit to that country to view the infrastructure in place and to meet with contacts to engage in negotiations. If a visit is organised the Attorney-General's Department will consult with the State Central Authorities (and accredited bodies if applicable) and, if appropriate, invite a representative(s) to accompany the Australian delegation.

If a positive response is received from that country then the Attorney-General's Department will move to the next phase for the establishment of an intercountry adoption program.

If a non-committal or negative response is received from the prospective country then the Attorney-General's Department will assess, and if necessary seek further information, about the reason(s) for the response and consider what, if any, further action should be taken.

If no response is received after a reasonable period then the Attorney-General's Department will endeavour to contact the recipient of the correspondence in the prospective country by telephone and/or follow up letter. If, after a further three months, a response has still not been received then investigations will be undertaken to ascertain the reason(s) for the lack of response. The Attorney-General's Department will decide whether it is appropriate to continue to seek a response from the prospective country at that time and/or whether it may be preferable to contact the prospective country at a future time.

## **6. *Establishing and Implementing***

In the formal negotiating phase, a senior member of the team representing the Australian Central Authority in these matters shall lead negotiations between Australia and the prospective country. These negotiations will take place with a view to achieving an agreement or arrangement for the adoption of children in need of families by Australian adoptive applicants.

Whilst preferable, the agreement will not need to be in writing before becoming operational.

Throughout negotiations the Attorney-General's Department will ensure that the integrity of Australia's existing intercountry adoption programs is maintained and that the best interests of the child underpin the negotiations.

The Attorney-General's Department will consult with State and Territory Central Authorities, the national peak group and stakeholders, as appropriate.

All formal agreements will have the following (but not be limited to):

- measures in place to ensure satisfactory compliance with principles of the Hague Convention
- designated Central Authority(ies) and Accredited Bodies (or their equivalents for non-Hague countries) in each country
- the procedures to be followed for an intercountry adoption under that program
- sharing and updating of information relevant to the program, and
- maintenance of records.

#### ***7. Monitoring and Reviewing***

Programs will be monitored and reviewed in accordance with the procedures outlined in Part 1 for managing an open program.

**Principles and requirements of the *Hague Convention on the Protection of Children and Co-operation in respect of Intercountry Adoption***

The following are the criteria the Attorney-General's Department uses in order to make the decision whether it is of the view a country is Hague Compliant. Essentially, the criteria all examine the means by which children enter an adoption program.

**Table 1: Compliance with Principles**

	<b>Hague Convention Principle</b>	<b>Principle In Place In Law/Practice Yes/No/Not Applicable</b>
1	<ul style="list-style-type: none"> <li>• A child should grow up in a family environment (Preamble)</li> </ul>	
2	<ul style="list-style-type: none"> <li>• Families of origin should be supported to retain care of their children (Preamble)</li> </ul>	
3	<ul style="list-style-type: none"> <li>• Intercountry adoption may offer the advantages of a permanent family (Preamble)</li> </ul>	
4	<ul style="list-style-type: none"> <li>• Intercountry adoption should only be considered if a suitable family cannot be found in the State of Origin (Preamble)</li> </ul>	
5	<ul style="list-style-type: none"> <li>• Intercountry Adoption must take place in the best interest of the child (1 a)</li> </ul>	
6	<ul style="list-style-type: none"> <li>• Children must be adoptable and all the necessary consents obtained ( 4 a, 4 c, and 16 c)</li> </ul>	
7	<ul style="list-style-type: none"> <li>• Certified adoptions made under the Convention shall be recognised in all other Contracting States (1 c and 23.1)</li> </ul>	
8	<ul style="list-style-type: none"> <li>• Recognition of an adoption may only be refused if it is contrary to public policy (24)</li> </ul>	
9	<ul style="list-style-type: none"> <li>• Information concerning the child's origin should be preserved (30.1 and 9 a) and accessible by the child as appropriate (30.2)</li> </ul>	
10	<ul style="list-style-type: none"> <li>• Intercountry adoption should have rights equivalent to those resulting from in-country adoptions (26.2)</li> </ul>	
11	<ul style="list-style-type: none"> <li>• No improper financial gain is to be obtained from intercountry adoption (8 and 32)</li> </ul>	
12	<ul style="list-style-type: none"> <li>• The abduction, sale of, or trafficking in children must not be permitted (Preamble, 1 b and 32)</li> </ul>	
13	<ul style="list-style-type: none"> <li>• Central authorities provide the administrative framework for the Convention (6, 7, 8, 9, 13 and 14)</li> </ul>	

**Notes**

In considering these principles against countries that are not parties to the Convention, the language of the Convention such as Central Authorities, Accredited Bodies and Contracting States needs to be considered.

Numbers in brackets refer to the appropriate Article in the Convention

**Table 2: Compliance with obligations on all Contracting States**

Category	Hague Convention Principle	Obligation Already In Place In Law/Practice Yes/No/Not Applicable
1. Central Authority	<ul style="list-style-type: none"> <li>• Designate a Central Authority or multiple CA's (6.1)</li> <li>• Where multiple CA's, designate the CA to which any communication may be addressed for transmission to the appropriate CA within that State</li> <li>• Notify Hague Convention of accredited bodies (13)</li> </ul>	
2. Cooperation between Central Authorities	<ul style="list-style-type: none"> <li>• CA's to cooperate with each other: (7.1)</li> <li>• Provide information as to:                             <ul style="list-style-type: none"> <li>(a) laws of their state on adoption; and</li> <li>(b) other general information including statistics and standard forms (7.2)</li> </ul> </li> <li>• Keep one another informed about the operation of the Convention (7.2 b)</li> </ul>	
3. Cooperation within Contracting State	<ul style="list-style-type: none"> <li>• Promote cooperation amongst competent authorities in their states to:                             <ul style="list-style-type: none"> <li>(a) protect children; and</li> <li>(b) achieve the other objects of Convention (7.1)</li> </ul> </li> </ul>	
4. Obstacles	<ul style="list-style-type: none"> <li>• Eliminate obstacles to the application of the Convention (7.2.b)</li> <li>• Take appropriate measures if provisions of the Convention has not been respected (33)</li> <li>• Act expeditiously (35)</li> </ul>	
5. Accredited Bodies	<ul style="list-style-type: none"> <li>• Accredite competent bodies (10)</li> <li>• Supervise accredited bodies(11)</li> <li>• Ensure bodies are staffed by qualified persons and pursue non-profit objectives (11)</li> </ul>	
6. Evaluation	<ul style="list-style-type: none"> <li>• Provide each other with general evaluation reports about experience with intercountry adoption</li> </ul>	
7. Fees	<ul style="list-style-type: none"> <li>• Monitor fees charged (32.2)</li> </ul>	
8. Trafficking	<ul style="list-style-type: none"> <li>• Prevent improper financial or other gain (8)</li> </ul>	

**Table 3: Obligations on State of Origin**

Category	Hague Convention Requirement	Obligation Already In Place In Law/Practice Yes/No/Not Applicable
1. Case planning	<ul style="list-style-type: none"> <li>• Establish child is adoptable (4 a)</li> <li>• Give due consideration to placement of the child within the State of Origin (4 b)</li> <li>• Give consideration to wishes and opinion of child (4 d 2)</li> <li>• Determine intercountry adoption is in the child's best interests (4 b)</li> <li>• Give due consideration to the child's upbringing and to his or her ethnic, religious and cultural background (16 b)</li> <li>• Determine the envisaged placement is in the best interests of the child (16 d )</li> </ul>	
2. Birth parents	<ul style="list-style-type: none"> <li>• Promote adoption counselling service (9 c)</li> </ul>	
3. Contact by Adoptive Parents	<ul style="list-style-type: none"> <li>• There shall be no contact between the applicants and the child's caregivers prior to determination of adoptability, except in specified circumstances (29)</li> </ul>	
4. Consent of person, institutions or authorities	<ul style="list-style-type: none"> <li>• Provide counselling to those whose consent is required (4 c 1)</li> <li>• Counselling to include information on effects of adoption (4 c 2)</li> <li>• Consents expressed or evidenced in writing (4 c 2)</li> <li>• Consent of mother, where required, only given after the birth of the child (4 c 4)</li> <li>• Ensure that consent has not been induced by payment or compensation of any kind (4 c 3 )</li> </ul>	
5. Consent of Child	<ul style="list-style-type: none"> <li>• Provide counselling (subject to age) including effects of adoption (4 d 1)</li> <li>• Consent expressed or evidenced in writing (4 d 3)</li> <li>• Ensure that consent has not been induced</li> </ul>	
6. Report on Child	<ul style="list-style-type: none"> <li>• Prepare report on child (16.1)</li> <li>• Transmit (a) report on child, (b) evidence that necessary consents have been obtained, and (c) reasons for approval of placement to Receiving State</li> </ul>	

## Attachment A

Category	Hague Convention Requirement	Obligation Already In Place In Law/Practice Yes/No/Not Applicable
	(16.2)	
7. Applicants	<ul style="list-style-type: none"> <li>• Ensure that applicants agree to placement of child before entrustment (17 b)</li> </ul>	
8. Entry to receiving State	<ul style="list-style-type: none"> <li>• Check placement is agreed to by responsible agency in receiving state before entrustment, where required. (17 b)</li> <li>• Check child may enter and reside permanently (17 d and 18)</li> </ul>	
9. Entrustment	<ul style="list-style-type: none"> <li>• Ensure applicants are eligible and suitable to adopt prior to entrustment (17 d)</li> </ul>	
10. Transfer of Child	<ul style="list-style-type: none"> <li>• Obtain permission for child to leave (18)</li> <li>• Child to be transferred to Receiving State in secure and appropriate circumstance and in the company of the adoptive or prospective adoptive parents if possible (19.2)</li> </ul>	
11. Recognition	<ul style="list-style-type: none"> <li>• Recognise an adoption certified as having been made in accordance with the Convention (23.1)</li> <li>• Recognition means the creation of a legal parent-child relationship with accompanying obligations upon parents for the care and development of the child (26)</li> </ul>	
12. Adoption Information	<ul style="list-style-type: none"> <li>• Preserve Information about the child's origins (30.1)</li> <li>• Ensure access to information (30.2)</li> </ul>	
13. Delays	<ul style="list-style-type: none"> <li>• Act Expeditiously (35)</li> </ul>	

**Notes:**

\* Bilateral programs were reviewed in 2004. The continuation of these bilateral programs was endorsed by the Community Services Ministers' Advisory Council in 2004. Note that China was not party to the Hague Convention at this stage.