

**HONG KONG SPECIAL ADMINISTRATIVE REGION (HKSAR)  
OF THE PEOPLE'S REPUBLIC OF CHINA**

**Response to the Questionnaire on the Practical Operations of the Hague  
Convention of 29 May 1993 on Protection of Children and Co-operation  
in Respect of Intercountry Adoption**

**1. Description**

- (a) Is your country (primarily) a receiving State or a State of origin? If both, please ensure your answers to the questions clearly distinguish, when necessary, between your role as a receiving State and your role as a State of origin.*

It is envisaged that the Hong Kong Special Administrative Region (HKSAR) would primarily act as a State of origin in relation to intercountry adoption, as there are about 20 Hong Kong children placed for overseas adoption each year while there are only about 3 to 4 children adopted by local families from places outside Hong Kong.

- (b) If your country is not yet a Party, please specify if your country is considering becoming a party to the Convention.*

Not applicable.

- (c) Was your country represented at the 2000 Special Commission? Were the conclusions and Recommendations of that meeting discussed or implemented by relevant authorities in your country?*

The HKSAR was represented at the 2000 Special Commission and we have made the necessary legislative amendments with a view to implementing the conclusions and recommendations of that meeting as appropriate.

**2. Good practice**

*The Permanent Bureau has commenced work on a Guide to Good Practice on Implementation of the Convention. A consultative group met in September 2004 to provide advice to the Permanent Bureau on*

*this project. It is anticipated that the draft Guide will be circulated, in English, French and Spanish, to all Contracting States in June 2005 seeking comments and for discussion at the Special Commission.*

- (a) In relation to any aspect of intercountry adoption, what examples of good practice can you report, (i) from your own country or (ii) from another country;*

Not Applicable.

- (b) Please indicate what topics you would suggest for future chapters in the Guide to Good Practice (in addition to “Implementation”, Central Authority Practice” and possibly “Accreditation”).*

Nil.

- (c) Have you experienced any major concerns or problems (i) in your State and (ii) in another State, associated with implementation of the Convention, such a lack of implementing legislation, inadequate staffing or funding issues?*

Not Applicable.

- (d) If your State has signed but not yet ratified the Convention, please indicate whether your State would like implementation assistance from the Permanent Bureau or other States. What type of assistance would be most beneficial?*

While we envisage that the HKSAR does not need implementation assistance from the Permanent Bureau or other States at this stage, we would, in consultation with the Central People’s Government of the PRC, see whether there is a need for such assistance as we continue with our preparations for applying and implementing the Convention.

### **3. Question concerning scope**

*Please specify any difficulties you have experienced in determining whether certain situations do or do not come within the scope of the Convention.*

*In particular, have there been any problems in determining whether :*

- (a) a child was or was not habitually resident in the State of origin;*
- (b) a prospective adopter was or was not habitually resident in the receiving State (as e.g. in the case of a short-term or temporary resident); and*
- (c) the removal of the child was or was not ‘for the purpose of adoption’ in the receiving State (e.g. where the child is initially moved to the receiving country on a temporary basis or for foster care, and later on adoption is considered)?*

Not applicable.

#### **4. General principles for protection of children**

- (a) What are the different types of care available to a child in need of care and protection in your State?*

The Social Welfare Department of the HKSAR Government, in collaboration with the Non-Governmental Organizations (NGOs), provides a spectrum of services for children in need of care and protection. The services include individual/group counselling, residential child care services, statutory supervision of children who are subject to care and protection order under our Protection of Children and Juveniles Ordinance, formulation of permanency plan, and psychological service, etc as appropriate.

- (b) Please specify the procedures or other measures in place to ensure that due consideration is given to the possibilities for placement of the child within the State of origin before intercountry adoption is considered (the principle of subsidiarity – see Article 4b) and Preamble,*

*paragraphs 1-3).*

Our measures for ensuring that due consideration is given to the possibilities for placement of the child within the State of origin before intercountry adoption is considered remain the same as set out in our answer to Question 6(a) in our 2000 questionnaire.

***(c) What are your procedures to establish if a child is adoptable?***

According to the Adoption Ordinance of the HKSAR, an adoption order shall not be made except with the consent of every person who is a parent or guardian of the child who is liable by virtue of any order or agreement to contribute to the maintenance of the child. The Social Welfare Department of the HKSAR ensures that such consent has been obtained before regarding a child to be adoptable. When the parental consent to adoption cannot be obtained, e.g. in the case of an abandoned child, deceased parents or parents confirmed to be unfit to make statement, an application would need to be made to the court so that the child can be legally freed for adoption.

***(d) What procedures are in place to ensure that consent to an adoption is given in accordance with Article 4c) and d) of the Convention?***

Though the HKSAR has not implemented the Convention, we also require that consent of the parents, guardians or a person who is liable by virtue of any order or agreement to contribute to the maintenance of the infant needs to be obtained before an adoption order can be made. Our procedures for ensuring such consent have been set out in our answer to Question 6(c) of our questionnaire in 2000.

***(e) Do you make use of the Model Form of the “Statement of consent to the Adoption”? See <[www.hcch.net](http://www.hcch.net)>, “Intercountry Adoption”,***

***“Practical Operation Documents”, “Annex B to the Special Commission Report of October 1994”.***

Not Applicable.

- (f) Have you applied the “Recommendation concerning the application to refugee children and other internationally displaced children of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption”? See Annex A to the Special Commission Report of October 1994.***

Not Applicable.

- (g) How is the eligibility and suitability of prospective adoptive parents assessed in your country (see Article 5a))?***

Our assessment of the eligibility and suitability of prospective adoptive parents remains the same as that set out in our answer to Question 6(f) of the questionnaire in 2000.

- (h) What preparation (counselling, education or training) is given to prospective adoptive parents to prepare them for the intercountry adoption?***

If the HKSAR acts as the receiving State, we provide counseling to prospective adoptors as part and parcel of our home assessment process. Details have been set out in our answer to Question 6(g) of our questionnaire in 2000.

- (i) Please also specify the measures / procedures in place to ensure that the requirements concerning the counselling of prospective adoptors are complied with (see Article 5b)).***

Though the HKSAR has not yet implemented the Convention, we do put in place measures and procedures to counsel the prospective adoptors

when the HKSAR acts as a receiving State. They have been set out in our answer to Question 6(g) of our questionnaire in 2000 and remain the same at the moment.

***(j) Please specify any post-adoption services established or contemplated in your country (see Article 9c)).***

In the HKSAR, there are two supportive groups formed among adopters who can join on a voluntary basis. They are self-help groups providing mutual support and sharing of experience among adoptive families. For families who may require more intensive service, they would approach the Adoption Unit or the integrated family service centres of the Social Welfare Department or NGOs for assistance.

Where the HKSAR acts as the State of origin, post-adoption services such as supportive groups and counselling are provided by the adoption agencies of the receiving States.

**5. Central Authorities**

***(a) Please specify any of the functions under Chapter IV of the Convention performed directly by your Central Authority or Central Authorities.***

Upon commencement of our amended legislation for compliance with the Convention, it is envisaged that, subject to the declaration made by the Central People's Government of the PRC, the Director of Social Welfare will be appointed as the Central Authority in the HKSAR. An accreditation system will be put in place to allow NGOs duly accredited to perform duties delegated by our Central Authority. The general division of labour between our Central Authority and Accredited Bodies is that the Central Authority would make the key decisions while the accredited bodies may be asked to take up any particular case and carry out the administrative steps.

The more specific division of labour is as follows though the exact details are still being worked out :

***(a) where the HKSAR acts as the State of origin,*** the Central

Authority will make approval decisions on matching and placement, and make application to the Court for an Order for the child to be taken out of the HKSAR in connection with a Convention adoption.

Accredited bodies may be entrusted with procedural tasks, including preparation of child study reports, assessment on the suitability of the overseas prospective adopters (including home studies), liaison with the overseas Central Authority or its delegates, arrangements for adoption placement and monitoring such placements; and

- (b) *where the HKSAR acts as the receiving State*, the Central Authority will approve the suitability of the prospective adopters (home approval) and liaise with the Immigration Department to confirm the permission for the child to enter and stay in the HKSAR for the purpose of adoption (the latter task may be shared with the accredited bodies).

Accredited bodies may be entrusted with procedural tasks, including assessment on the suitability of adoption applicants (including home studies), screening the child study report prepared by the overseas Central Authority or its delegates, liaison with the overseas Central Authority or its delegates, arrangements for adoption placement and monitoring such placements.

- (b) *Please indicate the number of personnel employed by your Central Authority to deal with intercountry adoption, their experience and qualifications, and what type of training they have received. (Where personnel undertake other functions, count them only for the amount of time spent on intercountry adoption, for example, if a person spends 50% of their time on intercountry adoption, count them as 0.5 of a person.)*

Though the HKSAR has not yet implemented the Convention, we envisage that, similar to the present arrangement, the Central Authority will be staffed by qualified social workers with experience in childcare and adoption as well as experienced managers and administrators at the appropriate levels. The social workers must have received relevant training and have been registered in the Social Workers Registration

Board in the HKSAR.

At present, our Social Welfare Department, which oversees and provides adoption services in the HKSAR and will be designated as the Central Authority, has 12 registered social workers providing all types of adoption services including intercountry adoptions. This set-up may be changed in the light of any changes in demand and/or administrative steps as a result of the implementation of the Convention in the HKSAR and we stand ready to provide a more precise analysis on the manpower requirement dedicated to intercountry adoption after that.

***(c) What procedures are in place to ensure continuity of experienced staff and training for new staff?***

Social workers of our Social Welfare Department overseeing and providing adoption services are qualified in this field as a result of their training and experience mentioned in Question 5(b) above. It has been a usual practice that the adoption workers will stay in the post for a period long enough to consolidate experience and apply their knowledge/skills in adoption cases. On-the-job trainings are also provided for the adoption workers to strengthen the social workers' skills, sensitivity and expertise in handling issues in relation to adoption arrangement for the children. The essence is to ensure a manpower planning mechanism whereby experience and skills can be transferred and accumulated smoothly.

***(d) Have you experienced difficulties with regard to the establishment or operation of the Central Authority, for example, difficulties over funding or resources?***

Not applicable.

***(e) Please provide details of any difficulties you have experienced communicating with "central" Central Authorities in other countries or with provincial Central Authorities (in your own country or other countries)?***

Not applicable.

**6. Accreditation**



***At the Special Commission meeting in September 2005, the first day will be devoted to an examination of accreditation issues. Your responses to this part of the questionnaire will be very helpful to the Permanent Bureau in the planning and preparations for that day.***

- (I) Please indicate whether your country uses or intends to use accredited bodies in intercountry adoption. If so, please provide details on the topics (a) to (m) below.***

Upon the implementation of the Convention in the HKSAR, an accreditation system will be put in place to allow non-governmental adoption agencies duly accredited by the Director of Social Welfare to perform functions and procedural duties in relation to intercountry adoption. While details of the accreditation system are being worked out, the system seeks to lay down the service quality and professional standards of intercountry adoption practice in the HKSAR; and ensure effective and ethical intercountry adoption practices etc.

- (a) Please provide details (including powers and resources) of the authority or authorities which grant accreditation.***

When the Convention is implemented in the HKSAR, the Director of Social Welfare may, in accordance with our Adoption Ordinance and the principles set out in Articles 10 and 11 of the Convention, accredit, or renew the accreditation of, a body or persons as an accredited body in relation to Convention adoption, subject to such conditions as the Director may reasonably impose.

On the resource side, as mentioned in Question 5(b) above, there are 12 registered social workers in our Social Welfare Department responsible for adoption. We envisage that they would also be responsible for administering the accreditation system. We would review the resources required for granting/renewing accreditation to see if any additional manpower is required.

- (b) How many bodies have been accredited by your country? Federal States may provide the number for each state or province. If possible, please indicate how many bodies have been refused accreditation.***

Our accreditation system is still being developed and no organization has been accredited yet.

***(c) Please give a brief outline of your accreditation criteria, guidelines or legislation.***

The statutory requirements on accredited bodies are set out in section 26, 26A and 26B of our Adoption Ordinance after amendments. Please see Annex A. A brief outline of our accreditation criteria, guidelines, operational requirements and monitoring mechanism is at Annex B.

***(d) What is the process by which accreditation is granted?***

While the details are still being developed, we envisage that an application for accreditation must be made to the Director of Social Welfare in a prescribed form and accompanied by such information as the Director may require. The information required is likely to include the agency's organization, background, services provided, experience in intercountry adoption, overseas network and connections, financial status, and past track record, etc.

Upon receiving an application, assessment will be conducted by our Social Welfare Department. The successful applicant will be issued an accreditation certificate specifying the functions and duties that have been delegated to the applicant in relation to Convention adoptions. The Director of Social Welfare may also impose such conditions of accreditation as he considers appropriate.

***(e) If possible, please provide an electronic copy of your accreditation criteria, guidelines or legislation, and any translations into English, French or Spanish.***

Yes, please see our answer to Question 6(c) above. An electronic copy is attached.

***(f) How is the supervision of accredited bodies carried out in your State (Article 11c)? Are there regular reporting requirements (including financial reporting) by the accredited body to the supervising***

***authority?***

While details of our monitoring system for accredited bodies are still being developed, we envisage that the system would consist of the following three major components :

- (a) accredited bodies will be required to have a clearly defined adoption procedures and a systematic plan for services it renders throughout the adoption process;
- (b) to ensure the service quality and the professional practice of accredited bodies in providing intercountry adoption service, a set of code of conduct for accredited bodies is being developed, which provides, inter alia, that the accredited bodies must not hold any financial or other interest in relation to its services; must maintain fairness and equity in dealing with issues or applicants for adoption, and provide appropriate review and complaints handling mechanism, etc.; and
- (c) accredited bodies are required to provide monthly statistical returns to the Central Authority; report to the Central Authority any formal complaints made to the body; submit self-assessment report/annual audited financial report to the Central Authority; and manage and evaluate its adoption program properly, etc.

***(g) How is the performance of the accredited body assessed or evaluated?***

While we are still developing details for evaluating the performance of accredited bodies, it is likely that the performance of accredited bodies will be assessed based on, among others, the following criteria :

- (a) track record of the accredited body in providing the services, e.g. the number of children adopted through the accredited body, types of children with special needs placed for adoption and adoption processing time attributable to the accredited body;
- (b) compliance with the relevant articles of the Convention; and

- (c) mechanism in place to handle complaints arising from the adoption service; etc.

We also envisage that our Central Authority may require an applicant to provide such further information in connection with the application as the Central Authority thinks necessary. The assessment may include the following activities:

- (a) review of program records and case records;
- (b) review of administrative records;
- (c) program implementation site visit; and
- (d) actual observation on the operation of the program.

***(h) Has the competent supervisory authority encountered any difficulties in relation to (f)?***

Not applicable.

***(i) Are you aware of any acts or behaviour by accredited bodies or approved bodies or persons that contravened your accreditation criteria? Please also provide details of any sanctions or penalties applied?***

Not applicable.

***(j) What are the conditions for renewal of accreditation?***

Same as 6(g) above.

***(k) Have you experienced any difficulties in obtaining assistance or cooperation from other Central Authorities in regard to accredited bodies?***

Not applicable.

***(l) Have you experienced any difficulties or concerns regarding the supervision of accredited bodies in other countries?***

Not applicable.

***(m) Do you consider that standard or model accreditation guidelines would assist countries in developing appropriate safeguards or procedures?***

We have no strong views on this at this stage.

***(2) Has your country authorised foreign accredited bodies to undertake intercountry adoptions in your country (see Article 12)?***

Not applicable.

***(3) If your State has decided not to use accredited bodies, please explain the reasons and indicate what has influenced the decision.***

Not applicable.

***(4) What particular issues concerning accreditation would you like discussed on the Accreditation Day (17 September)?***

We do not have any particular issues in mind.

***(5) Would you like to see a chapter on Accreditation developed for the Guide to Good Practice for Intercountry Adoption? What issues do you think should be covered in this chapter?***

We consider that such a chapter should be useful reference to us though flexibility should be allowed to cater for different circumstances of different parties to the Convention.

### ***Approved bodies and persons***

***(6) Please indicate whether your country uses or intends to use approved bodies or persons (see Article 22(2)) in intercountry adoption.***

We do not intend to use any approved bodies or persons for intercountry adoption in the HKSAR.

## **7. Procedural aspects**

- (1) Please indicate any operational difficulties that have been experienced, including in particular :***
- (a) obtaining accurate and sufficient health and social information on the child;***
  - (b) obtaining accurate and sufficient information on prospective adoptive parents;***
  - (c) obtaining an accurate estimate of fees to be paid by adoptive parents prior to adoption and/or travel to collect the child;***
  - (d) documentation requirements, including requirements for legalisation or authentication of documents, or the acceptance of documents by the other country;***
  - (f) obtaining the agreements required in Article 17;***
  - (g) receiving post-placement reports from adoptive parents or Central Authorities;***
  - (h) translation requirements;***
  - (i) time taken to process Convention cases.***

Not Applicable.

- (2) Do you permit prospective adopters, once their eligibility and suitability have been established, to make their own arrangements for contacting directly the placement agencies in the country of origin?***

We do not intend to allow this. The adoption arrangements have to be completed by the overseas licensed adoption agencies concerned to ensure full compliance with the requirements and procedures in protecting the interests of the child.

- (3) Has the practice referred to in the preceding question given rise to particular problems of which you are aware?***

Not Applicable.

- (4) Please provide details on the breakdown of placements in the Receiving State. What steps have been or are being taken in your country to address this problem (Article 21)?***

Not Applicable.

- (5) *Legalisation of foreign documents can be very time consuming for Contracting States. At the Special Commission on the Apostille, Evidence and Service Conventions in November 2003, a recommendation was made concerning the 1993 Convention. The Report states that :*

*“The Special Commission stressed the usefulness of linking the application of the Hague Adoption Convention of 1993 to the Apostille Convention [the 1961 Convention Abolishing the Requirement of Legalisation for Foreign Public Documents]. In light of the high number of public documents included in a typical adoption procedure, the Special Commission recommended that States that are party to the Adoption Convention but not to the Apostille Convention consider actively becoming party to the latter.”*

*Would you favour a similar recommendation from the forthcoming Special Commission meeting for the 1993 Convention?*

No comments.

- (6) *DNA testing has been used to establish identity (if, for example, a consent is in doubt). Can you provide details of such cases, including the cost and procedures involved?*

Our Social Welfare Department has only come across one case in the past two years that involved DNA testing. It was about whether consent was required for the putative father of a prospective adoptive child to proceed with the adoption arrangement. In detail, the unmarried birth mother of the prospective adoptive child had registered the putative father, one of her boyfriends, in the birth certificate of her child. The putative father later suspected that he might not be the actual father of the child. He then conducted a DNA test which subsequently showed that he had no blood relationship with the child and hence his consent was not required for the adoption arrangement. He paid for the test and no cost was incurred for the HKSAR Government.

## **8. Private international law issues**

- (1) *The Convention does not determine which authorities have jurisdiction*

*to grant or amend/revoke an adoption nor which law applies to the conditions governing, or the effects of, an adoption.*

*(a) Are you aware of any difficulties that may have arisen in the application of the Convention concerning the jurisdiction of the authorities to grant or amend/revoke an adoption?*

*(b) Are you aware of any difficulties that may have arisen in the application of the Convention concerning the law or laws to be applied to the conditions governing, or the effects of, an adoption?*

*If the answer to either or both of these questions is 'yes', do you wish to the Permanent Bureau to study these questions further?*

Not applicable.

*(2) Issues of applicable law may arise when bodies accredited in one Contracting State act in another Contracting State (Article 12), for example :*

- whether and to what extent agents of that body are authorized to act and bind their principal;*
- whether they have exceeded or misused their authority.*

*Have you experienced any difficulties in this respect (see also the Hague Convention of 14 March 1978 on the Law Applicable to Agency)?*

Not Applicable.

## **9. Recognition and effects**

*(1) Have your courts used the Recommended Model Form 'Certificate of Conformity of Intercountry Adoption'? See [www.hcch.net](http://www.hcch.net), "Intercountry Adoption", "Practical Operation Documents", "Annex C to the Special Commission Report of October 1994"*

Not Applicable.



***(2) Have you knowledge of any difficulties that have arisen in obtaining certificates under Article 23(1)?***

Not Applicable.

***(3) Do you have information about any case in which recognition of a Convention adoption has been refused under Article 24?***

Not Applicable.

***(4) Are there any circumstances in which you would recognize the validity of a foreign adoption coming within the scope of the Convention despite Convention procedures or requirements not having been followed?***

Not applicable.

***Please specify any other difficulties that have arisen in relation to Chapter V of the Convention.***

Not applicable.

## **10. Payment of reasonable charges and fees**

***(1) Please quantify the costs and expenses charged or fees paid in your country in respect of intercountry adoptions (Article 32(2)). Is this information freely available and accessible to prospective adoptive parents and competent authorities?***

When the Convention applies to the HKSAR, an accredited body shall operate on a self-financing basis and pursue only non-profit making objectives. It may charge prospective adoptive parents fees to cover the administrative costs including professional charges for providing the adoption service, but the level of such fees has to be reasonable, in an amount that is calculated in accordance with a schedule of fees approved by the Central Authority from time to time. The cost and expenses for the accredited bodies, which are not known at this stage, should be available and easily accessible to prospective adoptive parents and competent authorities.

On the other hand, our Central Authority may also charge fees for cases which it acts as the Guardian Ad Litem.

- (2) Have you had any experiences with the use of fee caps, established and publicised appropriate fees, established expediting fees, or other similar controls?***

Not Applicable.

- (3) Do you have any comments on the practice in some countries of requiring a mandatory contribution by adoptive parents for the support or development of child protection services in such countries?***

We consider that this is a matter for individual countries.

- (4) Do you have any comments on or experiences of uneven processing amongst countries due to large disparities in fees (for example, applications from countries that offer higher fees may be processed more quickly)?***

Nil.

- (5) Are you aware of any instances of disparity between professional salaries or fees charged for adoptions compared to other forms of legal work? (For example, large legal fees may be charged for adoption, while standard or lower fees are paid for other family law matters such as divorces – see Article 32(3).)***

Not Applicable.

- (6) Are you aware of any significant differences in fees charged for intercountry adoption by regional or provincial authorities?***

Not Applicable.

- (7) To what extent, if any, are intercountry adoption fees used (a) to support or develop the national childcare and protection system; or (b) to contribute to funding resources of Central Authorities or accredited bodies?***

As explained in our answer to Question 10(1) above, the fees to be charged by the accredited bodies would be used to cover the cost for their adoption arrangements. Our Central Authority would only charge a small amount of fees for certain services. In any case, the adoption fees to be collected for intercountry adoptions under the Convention would **not** be used to finance our childcare and protection system, or for funding resources of the Central Authority.

***(8) Do you have any other comments about reasonable or unreasonable costs and expenses or fees?***

No.

***(9) Are you aware of any other problems arising from the payment of fees or charges in your country or in other countries with which you have adoption arrangements?***

Not Applicable.

## **11. Improper financial gain**

***(1) Please indicate the laws (including criminal sanctions), measures and procedures in place to give effect to the principle that no one shall derive improper financial or other gain from an activity related to an intercountry adoption (Article 32(1)).***

At present, before the Convention applies to the HKSAR, we have already measures and procedures preventing one from obtaining improper financial or other gain from an activity related to intercountry adoption. Under section 22 of our Adoption Ordinance, there is a prohibition for payment in connection with the adoption or proposed adoption of a child, except with the sanction of the Court, and in consideration of the professional services of a qualified barrister or solicitor, or payment of a prescribed fee to the Director of Social Welfare.

Currently, any person who contravenes this provision shall be guilty of an offence and liable to a fine of HK\$2,000 and to imprisonment for 6 months. In view that the existing fines fail to reflect the seriousness of

the offences and carry minimal retributive and deterrent effects, we have introduced legislative amendments to increase the penalties of fines to HK\$100,000. The imprisonment penalty remains unchanged.

- (2) Are you aware of any instances of success in enforcing penalties to discourage improper financial gain?***

There had been no reported cases of breach of the relevant sections of our Adoption Ordinance about improper financial gains.

- (3) Are you aware of any difficulties in the enforcement of laws or regulations or in prosecution of criminal activity?***

No.

- (4) Apart from the measures referred to in Question 11(1) above, have any other preventive measures been taken in your country to combat improper financial gain?***

No.

- (5) Please provide details of any measures taken to prevent solicitation (e.g. through inducements to consent) of children for adoption (Articles 8 and 29).***

Please see the answer to Question 11(1). It is also an offence under section 23 of the Adoption Ordinance to publish advertisements indicating that a person desires to adopt an infant or the infant's parent or guardian desires to cause the infant to be adopted, or any person is willing to make arrangements for the adoption of an infant.

- (6) Have you experienced any difficulties in obtaining co-operation or assistance from other States in eliminating practices that lead to improper financial gain?***

Not Applicable.

## **12. Relative adoptions**

***Do you have any comments on the application of the Convention***

*procedures to relative (inter-family) adoptions?*

No comments.

### **13. Children with special needs**

*What policies or programmes do you have to ensure that children with special needs are given the same opportunity to find a family through intercountry adoption as other children?*

In the HKSAR, because of our policy to identify a local home for a prospective adoptive child as far as possible, children referred for intercountry adoption are normally those with special needs. We work closely with our adoption agencies with connection overseas to try making adoption arrangements for all these children. We also hope that their chance of getting adopted overseas will increase after the Convention is implemented in the HKSAR.

### **14. Other forms of cross-border child care**

*International foster care, transnational kafala and other forms of child care with a cross-border element are not covered by the 1993 Convention, but by the Hague Convention of 19 October 1996 on Jurisdiction, Applicable law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children : See for example its Articles 3(e) and 33(1).*

*(1) Is your country involved in international placements of children other than for purposes of adoption?*

No.

*(2) Are you aware of any difficulties concerning such placements?*

Not Applicable.

**(3) *If your country is not yet a Party to the 1996 Convention, is your country actively studying ratifying or acceding to it?***

No comments.

## **15. Avoiding the Convention**

***Are you aware of any attempts to circumvent the Convention or to avoid protections afforded to children, including the moving of children or birth parents to other countries?***

Not Applicable.

## **16. Additional safeguards and bilateral arrangements**

***Please describe any additional safeguards, requirements or procedures, which you apply to Convention adoptions (i.e. over and above those which are set out in the Convention itself). Are these applied generally, or only in relation to particular States?***

When the Convention applies to the HKSAR, we intend to follow the safeguards, requirements and procedures in the Convention for intercountry adoption with parties to the Convention, though we would also have some general additional safeguards such as the prohibition of private unrelated adoption and the restriction on removal of infant from the HKSAR with a view to adoption. We would also need to review the position when we have implemented the Convention and see if any additional administrative safeguards, requirements or procedures would be required.

***Have you made agreements with one or more other Contracting State (See Article 32(2)) with a view to improve the application of the Convention? If so, please specify with which States and what matters are covered by the agreements.***

Not Applicable.

***Do you have any comments on the efficacy of bilateral arrangements:***

***(a) with non-Contracting States? Are Convention safeguards applied?***

***(b) With Contracting States? Do they improve the operation of the Convention? Have they caused any difficulties?***

When the Convention is implemented in the HKSAR, we intend to align the safeguards and procedures for adoptions made under the Convention and adoptions made outside the Convention as far as possible. We would, however, exercise flexibility for non-Convention adoption arrangements as these requirements and controls may vary from country to country.

#### **17. Limits on number of States with whom co-operation is possible**

***In making arrangements for intercountry adoption (whether as a receiving State or as a State of origin), have you found it necessary to confine co-operation under the Convention to a limited number of other Contracting States? If so, please explain the reasons (e.g. no appropriate accredited body, lack of resources to process applications from large number of States, etc) and indicate what has influenced the choice of these States.***

Not applicable.

#### **B. SUGGESTIONS FOR THE SEPTEMBER SPECIAL COMMISSION**

***(18) Do you regularly hold seminars, training sessions or workshops on the Adoption Convention in your State? Would you welcome participants from other countries? Would you find it helpful if there was a consistent way to announce such activities to other States? Do you have suggestions?***

Not applicable.

***(19) In the current negotiations for a new Convention on the***

***International Recovery of Child Support and other Forms of Family Maintenance, an Administrative Co-operation Working Group has been established to examine and report on practical problems and issues of administrative co-operation between authorities. Would you favour the establishment of a similar group for the 1993 Convention?***

No comments.

***(20) Please indicate which topics you consider priority issues for the Special Commission in September 2005, and their degree of importance.***

No comments.

***(21) Any other suggestions, comments and observations are welcomed.***

Nil please.