

By videoconference

**REPORT OF THE WORKING GROUP  
ON PREVENTING AND ADDRESSING ILLICIT PRACTICES IN INTERCOUNTRY ADOPTION  
(Meeting of 8 – 10 July 2020)**

**I. Introduction**

1. From 8 to 10 July 2020, the Working Group on Preventing and Addressing Illicit Practices in Intercountry Adoption (hereinafter “the Group”) met via videoconference. The meeting was attended by 58 participants representing 24 States, including both States of origin and receiving States, and four international organisations, as well as members of the Permanent Bureau (hereinafter “PB”).
2. The mandate of the Group is “to consider the development of more effective and practical forms of cooperation between States to prevent and address specific instances of abuse”,<sup>1</sup> and more specifically, to “develop a Toolkit containing the elements described in the [2016] Report” of the Working Group.<sup>2</sup>
3. At its 2020 meeting, the HCCH’s Council on General Affairs and Policy (“CGAP”) endorsed the proposal of the Group to hold another meeting.<sup>3</sup> The 2020 meeting of the Group focused on revision of the draft Toolkit.
4. One of the main objectives of the meeting was to have the Group agree on the structure of this Toolkit, with the objective of presenting an advanced draft for the consideration of the next meeting of the Special Commission on the practical operation of the *Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (hereinafter, “1993 Adoption Convention”), tentatively scheduled for June 2021.
5. The Group reaffirmed that the proposed Toolkit would be a valuable resource to assist States in identifying, preventing and addressing illicit practices. The Group agreed that the voices of adoptees should be taken into account in drafting this Toolkit.

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<sup>1</sup> See “Conclusions and Recommendations adopted by the Third Meeting of the Special Commission on the practical operation of the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (17-25 June 2010)” (hereinafter, “C&R of the 2010 SC”), C&R No 2, available on the HCCH website at < [www.hcch.net](http://www.hcch.net) > under “Adoption Section” then “All Special Commission meetings”; “Conclusions and Recommendations adopted by the Council on General Affairs and Policy (5-7 April 2011)”, C&R No 24, available on the HCCH website at < [www.hcch.net](http://www.hcch.net) > under “Governance” then “Council on General Affairs and Policy”.

<sup>2</sup> See “Conclusions and Recommendations adopted by the Council on General Affairs and Policy (14-16 March 2017)”, C&R No 24.

<sup>3</sup> “Conclusions and Decisions adopted by CGAP (3-6 March 2020)”, C&D No 28.

## II. Draft Toolkit

6. The Group discussed the structure of the Toolkit and agreed that it should include Fact Sheets, a Model Procedure and Guidelines, as described in the sections below. In addition, the Group agreed to include a Checklist for individual cases based on a proposal made by Canada ahead of the meeting.

7. The Group agreed that each tool of the Toolkit may be read separately and may serve different purposes.

8. The Group recalled its previous recommendation that “the Toolkit should address how to respond to all cases of illicit practices, including those in non-Convention countries and those preceding the entry into force of the 1993 [Adoption] Convention.”<sup>4</sup> However, some participants raised possible concerns as to applying the Toolkit to cases preceding the entry into force of the 1993 Adoption Convention.

### A. Fact Sheets

9. The Fact Sheets would be directed at Central Authorities, other competent authorities and bodies. They may also be useful when providing technical assistance, for States becoming Party to the Convention or State Parties wishing to improve their system.

10. The participants discussed the structure of the Fact Sheets and reaffirmed that they should include the following:

- a section identifying the relevant illicit practices;
- a section identifying systemic weaknesses and enabling factors that may facilitate or promote the occurrence of such illicit practices;
- a section on prevention of such illicit practices; and
- a section with additional information and further resources.

11. The Group discussed several alternative structures and finally agreed that the structure should be composed of two columns, with the illicit practices or enabling factors and preventive measures side by side.

12. The Group discussed the content of some of the Fact Sheets, as well as removing or adding new topics for Fact Sheets, and agreed that the Fact Sheets should cover the following topics:

- abduction, sale of and traffic in children;
- misrepresentation of identity;
- forgery and falsification of documents;
- adoptability: lack of, or deficient, consent;
- misrepresentation of adoptability of children of unknown parents;
- failure to respect subsidiarity;
- improper matching;
- no preservation of, and access to, records;
- circumventing the adoption procedure;
- improper financial or other gain.

13. The Group also discussed whether to include a Fact Sheet regarding the improper assessment of the eligibility and suitability of the prospective adoptive parents or to include this topic further in

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<sup>4</sup> See “Conclusions and Recommendations adopted by the Working Group on Preventing and Addressing Illicit Practices in Intercountry Adoption (21-23 May 2019)”, C&R No 5, available on the HCCH website at < [www.hcch.net](http://www.hcch.net) > under “Adoption Section” then “Preventing and Addressing Illicit Practices”.

other Fact Sheets. The Group acknowledged the importance of this topic, its connection to the breakdown of adoptions and the need for further work in this area, in a manner that is not strictly related to illicit practices, recognising that it has practical consequences in the final result of an intercountry adoption process.<sup>5</sup>

14. In relation to the Fact Sheet on improper financial gain, the Group discussed how to frame the points regarding medical and maintenance costs, keeping in mind consistency with the Note on Financial Aspects and Conclusion and Recommendation No 9 agreed upon by the Group at its 2019 meeting.

15. In relation to the Fact Sheets on abduction, sale and traffic in children and on consent, participants agreed to develop further the issue of inducement.

#### **B. Checklist to Assist Decision Making by Central Authorities in Light of Existing Risks of Illicit Activity**

16. The Group considered the new proposal to include a Checklist in the Toolkit. The Checklist would assist Central Authorities, and if applicable adoption accredited bodies, in taking decisions in individual cases of adoption and in identifying what they should watch out for and what actions they should take to prevent illicit activity from permeating or influencing the adoption process, following the steps of the adoption procedure.

17. Many participants welcomed this proposal for its practicality. They indicated that such a Checklist would complement the Fact Sheets and agreed that this Checklist should be used as an additional tool, rather than as a replacement for the Fact Sheets.

#### **C. Model Procedure to Respond to Suspected and Actual Cases of Illicit Practices**

18. There was general support that the Model Procedure should include the following steps:<sup>6</sup>

- disclosure and recording of suspected cases of illicit practices;
- considerations of temporary child protection measures;
- services to impacted persons;
- investigation;
- informing concerned authorities, bodies and persons; and
- possible actions following the investigation.

19. The Group agreed that the Model Procedure should cover both responses to individual cases of illicit practices and responses in cases of a pattern of illicit practices.

20. The Group agreed that the Model Procedure is aimed at all State actors connected to the case.

21. The Group discussed to whom this Model Procedure should be addressed. Some participants pointed out the possible challenges relating to certain of the services<sup>7</sup> and the political nature of some of the measures described in the Model Procedure. Nonetheless, many participants emphasised the importance that the Model Procedure be addressed to all State actors and recognised the value of proposing a wide array of measures. In any case, the Group agreed to make it clear that not all services and measures may be available in all States and that each State may develop its own procedure based on its own legislative and institutional framework, as well as their available resources.

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<sup>5</sup> See "Conclusions and Recommendations of the Second Meeting of the Special Commission on the Practical Operation of the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (17-23 September 2005)", C&R No 2; C&R of the 2010 SC, C&R No 10.

<sup>6</sup> The order of these steps is subject to change based on the needs of the States or the particular case.

<sup>7</sup> For example, availability of DNA testing for the purpose of searching for origins.

22. The Group acknowledged the importance of the best interests of the child in addressing suspected and actual cases of illicit practices and the need to be sensitive to concerns of adoptees, as well as birth and adoptive families. Similarly, the Group expressed the need to take into account not only the short, but also the long-term effects on the adoptee of any action taken to address the illicit practice.

#### **D. Guidelines on Preventing and Responding to Patterns of Illicit Practices**

23. The Group agreed that the Guidelines should be a separate tool focusing on cooperation and coordination to prevent and respond to illicit practices, including patterns.

24. Some participants stated that they would like to see more references as to how technology and data analysis may be used to identify patterns of illicit practices.

### **III. Next Steps**

25. The Group agreed with the following next steps regarding the Toolkit:

- Participants are requested to provide any further comments in writing on each tool (*i.e.*, Fact Sheets, Checklist, Model Procedure, Guidelines) to the PB by 30 September 2020.
- The PB will revise the Fact Sheets, the Model Procedure and the Guidelines, while Canada will revise the Checklist, in light of the comments received during the meeting and through written submissions after the meeting.
- Once revised, the full Toolkit will be sent to all HCCH Members, Contracting Parties to the 1993 Adoption Convention, and relevant international organisations in preparation for the next Special Commission meeting tentatively scheduled for June 2021.
- The final version of the Toolkit will be submitted to CGAP for approval.

26. The Chair of the Working Group will report on the status of the Group's work to CGAP at its 2021 meeting.

## ANNEX

**MEETING OF THE WORKING GROUP  
ON PREVENTING AND ADDRESSING ILLICIT PRACTICES IN INTERCOUNTRY ADOPTION  
(Meeting of 8 – 10 July 2020)**

**LIST OF PARTICIPANTS**

Representing	First Name	Surname	Job Title	Organisation
<b>HCCH Members</b>				
<b>Contracting Parties to the 1993 Adoption Convention</b>				
<b>Australia</b>	Elisabeth	Wale	Acting Director	Department of Social Services, Central Authority (CA) Australia Adoption Convention
<b>Australia</b>	Samuel	MacKay	Policy Officer	Department of Social Services, CA Australia Adoption Convention
<b>Belgium</b>	Ariane	van den Berghe	Director	Flemish Central Authority Adoption, <i>Kind en Gezin</i>
<b>Belgium</b>	Koen	Rummens	Staff member	Flemish Central Authority Adoption, <i>Kind en Gezin</i>
<b>Brazil</b>	Unable to attend			
<b>Canada</b>	Marie	Riendeau	Counsel	Department of Justice Canada
<b>Canada</b>	Erin	O'Donoghue- Given	Deputy Director	Minister of Immigration, Refugees and Citizenship Canada, Intercountry Adoption Services, Federal CA Canada Adoption Convention

Representing	First Name	Surname	Job Title	Organisation
Canada	Josée-Anne	Goupil	Director General	Ministry of Health and Social Services, CA Quebec Adoption Convention, Intercountry Adoption Services
Chile	María Isabel	Torres	Legal Officer	National Service for Minors of Chile (SENAME), Department of Adoptions
Chile	Sebastián	Canales Angulo	Second Secretary	Embassy of Chile
China	Lijun	Zhang	Deputy Director	Ministry of Civil Affairs (MCA), Dept. for Child Welfare, Division for Child Adoption
China	Juan	Li	Vice manager	China Center for Children's Welfare and Adoption (CCCWA), Division for Child Adoption
China	Yunmei (May)	Wang	Vice Manager	China Center for Children's Welfare and Adoption (CCCWA), Division for Policy Study
China	Yanbo	Ma	Attache	Ministry of Foreign Affairs, Department of Treaty and Law
Denmark	Karina	Haahr-Pedersen	Legal Adviser	National Social Appeals Board
Denmark	Karin	Rønnow Søndergaard	Legal Adviser	National Social Appeals Board
France	Gaëlle	Paris-Muller	Magistrate - Adjointe au chef de service	Mission de l'Adoption internationale (MAI)
France	Nathalie	Brat	Cheffe de bureau	Mission de l'Adoption internationale (MAI)

Representing	First Name	Surname	Job Title	Organisation
<b>India</b>	Manoj Kumar	Singh	Director (Child Welfare)	Ministry of Women and Child Development
<b>India</b>	Sanjay	Barshilia	Director (Programme)	Central Adoption Resource Authority (CARA)
<b>Ireland</b>	Patricia	Carey	Chief Executive Officer	Adoption Authority of Ireland
<b>Italy</b>	Alessandra	Barberi	Executive service adoption - Technical Secretariat	Commission for International Adoption
<b>Italy</b>	Joseph	Moyersoem	External relations and international cooperation - Technical Secretariat	Commission for International Adoption
<b>Italy</b>	Grazia	Cesaro	Expert of the Commission	Commission for International Adoption
<b>Malta</b>	Edwina	Gouder	Head Malta Central Authority (Adoptions)	Ministry for the Family, Children's Rights and Social Solidarity, Social Care Standards Authority
<b>Malta</b>	Francesca	Muscat Camilleri	Head Regulations and Standards	Ministry for the Family, Children's Rights and Social Solidarity, Social Care Standards Authority
<b>Malta</b>	Denise	Frendo	Legal Officer	Ministry for the Family, Children's Rights and Social Solidarity, Social Care Standards Authority
<b>Mexico</b>	Dulce María	Mejía Cortés	Director General for Legal Representation and Restitution of Rights of Boys, Girls and Adolescents	National System for the Comprehensive Development of the Family



Representing	First Name	Surname	Job Title	Organisation
<b>Mexico</b>	Miguel Angel	Reyes Moncayo	Director for Family Law	Mexican Ministry of Foreign Affairs (SRE), Directorate for Protection of Mexicans Abroad
<b>Mexico</b>	Alejandro	León-Vargas	Second Secretary, Legal Adviser	Embassy of the United Mexican States
<b>Netherlands</b>	Aryan	van Leur	Policy Officer	Ministry of Justice and Security
<b>Norway</b>	Unable to attend			
<b>Peru</b>	Mayda Alejandrina	Ramos Ballón	General Director of Adoptions	Ministry of Women and Vulnerable Populations MIMP, General Directorate of Adoptions
<b>Peru</b>	Nora Soledad	Cisneros Campoverde	Assistant II of the General Directorate of Adoptions	Ministry of Women and Vulnerable Populations MIMP, General Directorate of Adoptions
<b>Philippines</b>	Bernadette	Abejo	Executive Director	Inter-country Adoption Board (ICAB)
<b>Portugal</b>	Eliana	Santos	Jurist	Social Security Institute, Department of Social Development, Childhood and Youth Unit, Portuguese Central Authority for Intercountry Adoption
<b>Sri Lanka</b>	Chandima	Sigera	Commisionner	Department of Probation and Child Care Services
<b>Sri Lanka</b>	Nirmalee	Perera	Probation Officer	Department of Probation and Child Care Services

Representing	First Name	Surname	Job Title	Organisation
Switzerland	Joëlle	Schickel-Küng	Co-Head of Unit	Federal Office of Justice, Federal Department of Justice and Police, Private International Law Unit
United States of America	Marisa	Light	Adoption Division Chief, Monitoring and Oversight	U.S. Department of State, Office of Legal Affairs for Overseas Citizen Services, Bureau of Consular Affairs
United States of America	Carine	Rosalia	Attorney Adviser (Chair of the Working Group)	U.S. Department of State, Office of Legal Affairs for Overseas Citizen Services, Bureau of Consular Affairs
United States of America	Kjersti	Olson	Attorney	U.S. Department of State, Office of Legal Affairs for Overseas Citizen Services, Bureau of Consular Affairs
Viet Nam	Thi Kim Anh	Pham	Deputy Director-General of the Department of Adoption	Ministry of Justice, Department of Adoption
Viet Nam	Tran Anh Tuan	Dang	Deputy Director-General of the Department of Adoption	Ministry of Justice, Department of Adoption
<b>HCCH Members</b>				
<b>Non-Contracting Parties to the 1993 Adoption Convention</b>				
Korea, Republic of	Hwayon	Lee	Judge	Suwon District Court (Seongnam Branch Court)
<b>Non HCCH Members</b>				
<b>Contracting Parties to the 1993 Adoption Convention</b>				
Cabo Verde	Jose Carlos	Correia	President	International Adoption Council (CAI), Office of the Attorney General
Cabo Verde	Catia	Cardoso	Psychologist	International Adoption Council (CAI), Office of the Attorney General

Representing	First Name	Surname	Job Title	Organisation
<b>Cabo Verde</b>	Margarida	Lopes Borges Andrade	Social Worker	International Adoption Council (CAI), Office of the Attorney General
<b>Haiti</b>	Andolphe Elie Ducarmel	Guillaume	Juriste	Institut du Bien-être Social et de Recherches (IBESR)
<b>Togo</b>	Abd-Nafiou	Mamanh	Président du Comité national d'adoption d'enfants au Togo	Ministry of Social Action and National Solidarity, National Committee for the Adoption of Children (CNAET)
<b>Observers</b>				
<b>Intergovernmental Organisations</b>				
<b>United Nations Children's Fund (UNICEF)</b>	Nigel	Cantwell	Senior Consultant	UNICEF
<b>Non-Governmental Organisations</b>				
<b>International Social Service (ISS)</b>	Mia	Dambach	Director International Reference Centre (ISS/IRC)	ISS, International Reference Centre
<b>Intercountry Adoptee Voices (ICAV)</b>	Lynelle	Long	Founder of ICAV	ICAV
<b>Nordic Adoption Council (NAC)</b>	Øystein	Gudim	Director emeritus of <i>Adopsjonsforum</i>	NAC
<b>Permanent Bureau of the HCCH</b>				
	Christophe	Bernasconi	Secretary General	HCCH
	Laura	Martínez-Mora	Secretary	HCCH

Representing	First Name	Surname	Job Title	Organisation
	Capucine	Page	Legal Officer	HCCH
	Yoon	Choi	Judge on Secondment	Seoul Central District Court
	Chandler	Michaels	Intern	HCCH
	Clara	Paul	Intern	HCCH
	Mathilde	Préнас	Senior Administrative Assistant	HCCH