

Recommended Model Forms for use under the 1993 Adoption Convention

Article 17 Agreement



Recommended Model Form No 8A (SO)

Agreement that the adoption may proceed
(Art. 17(c))

State of origin (SO)

Recommended Model Form No 8A (SO)

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ARTICLE 17 OF THE 1993 ADOPTION CONVENTION

Article 17(c)

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

c) the Central Authorities of both States have agreed that the adoption may proceed; [...]

EXPLANATORY SECTION

1. What has been included in this Recommended Model Form?

This Form includes information about which authority issues the agreement that the adoption may proceed; the verifications that have been made; the agreement of the prospective adoptive parents; the approval of the decision of entrustment if applicable, and the agreement of both authorities that the adoption may proceed.

2. When should this agreement be issued?

This agreement should be given before the State of origin decides to entrust a child to prospective adoptive parents. Therefore, it should be done before the prospective adoptive parents travel to the State of origin to meet the child.

Competent authorities of the relevant Contracting State should ensure that this form is preserved (see Arts. 9(a), 30 and 31 of the Convention).

3. Is the use of this Model Form compulsory?

No, it is only a recommended Model Form which may need to be adapted by each State.

RECOMMENDED MODEL FORM

Agreement that the adoption may proceed (Art. 17(c))

State of origin

TIMING OF THE AGREEMENT¹

The agreement under Article 17(c) of the 1993 Adoption Convention may be first provided by the State of origin, or first by the receiving State. In this particular adoption, please specify what is the situation:

- State of origin first: The State of origin sends **first** the Article 17(c) agreement to the receiving State with the proposed match. After the reception of the Article 17(c) agreement of the State of origin, then the receiving State provides its agreement.

OR

- receiving State first: The receiving State sends **first** its Article 17(c) agreement to the State of origin with a notice that the match has been accepted. After the reception of the Article 17(c) agreement of the receiving State, then the State of origin provides its agreement.

1. AUTHORITY

The undersigned _____

Address: _____

- Central Authority
- Public Authority (acting under the authority of the Central Authority)
- Adoption Accredited Body (acting under the authority of the Central Authority)
- of _____ (*name of the State*)

¹ The timing as to when this form is issued, and of the agreement by the Central Authorities of both the receiving State and the State of origin that the adoption can proceed, in conformity with Art. 17(c) of the 1993 Adoption Convention, may follow different patterns according to domestic practice, so long as all the requirements for agreement under the Convention have been met.

2. IDENTITY OF THE CHILD AND THE PROSPECTIVE ADOPTIVE PARENT(S)

a. Identity of the child

Family name: _____

Given name(s): _____

Gender: _____

Date of birth: _____

Place of birth: _____

State of habitual residence at the time of the adoption: _____

Address: _____

Nationality: _____

b. Identity of the prospective adoptive parent(s)

Family name of the prospective adoptive parent: _____

Given name(s): _____

Gender: _____

Date of birth: _____

Place of birth: _____

State of habitual residence at the time of the adoption: _____

Address: _____

Other contact details: _____

Nationality: _____

If the child is to be adopted by a couple:

Family name of the second prospective adoptive parent: _____

Given name(s): _____

Gender: _____

Date of birth: _____

Place of birth: _____

State of habitual residence at the time of the adoption: _____

Address: _____

Other contact details: _____

Nationality: _____

3. VERIFICATIONS OF THE ADOPTION PROCEDURE

- The **habitual residence** of the child and the habitual residence of the prospective adoptive parents have been verified (see Section 2, above)
- Due consideration was given to the **possibilities** of reintegrating the child with their birth family in accordance with the principle of subsidiarity
- Due consideration was given to the **possibilities** for **domestic placement** of the child in accordance with the principle of subsidiarity
- The necessary **consents** from persons, institutions and authorities were obtained in accordance with the requirements of the Convention
- Having regard for the age and degree of maturity of the **child**, the child was properly **counselled**, consideration was given to the child's **wishes** and **opinions**, and the child's **consent** to being adopted in general was obtained²
- The child was declared **adoptable** for intercountry adoption by the appropriate authorities
- The **report** on the **child**³ contains the information required by the Convention, is complete and up to date, and was transmitted to the receiving State
- The **report** on the **prospective adoptive parents**, including the home study conducted by the appropriate social welfare authorities, contains the information required by the Convention, and was transmitted to the State of origin by the receiving State
- The **matching**:
 - was conducted according to a multidisciplinary and impartial procedure
 - was conducted in accordance with an impartial procedure and taking into consideration the Reports on the child and the prospective adoptive parents
 - was based on the prospective adoptive parents' apparent capacity to take care of the child's needs

² Consent should, ideally, be obtained at two stages of the adoption:

- First, **general consent prior to the child being considered for adoption**. It is important that they consent to being adopted generally (*i.e.*, in order for the child to be mentally prepared to the idea of a possible adoption, but also in order to prevent situations where a child is declared adoptable while that child refuses to be adopted).
- Second, **consent to a specific adoption**, after the child has been matched with prospective adoptive parents. Indeed, a general consent does not fulfil the requirement under Art. 4(d)(1) of the Convention, as this requirement for consent must be given in light of the particular prospective adoption. For further information, see G. Parra-Aranguren, Explanatory Report on the 1993 Adoption Convention ("Explanatory Report"), para. 161: "[T]he consent of the child, having regard to his or her age and maturity, shall be given not to the adoption in general, but for the specific adoption in a particular case, since it would be against his or her fundamental rights to have the child adopted without even knowing who the adoptive parents are going to be".

Taking this into consideration, the consent referred to in this section refers to the *first* consent and **not** to the consent required under Art. 4 of the 1993 Adoption Convention.

³ It is recommended to use the Recommended Model Form on the Report on the child.

- was conducted using a reversal of the flow of the files approach
- The child has obtained or will obtain **permission** to **leave** the State of origin⁴
- No illicit practices** in the adoption process have been identified at the stage of giving this agreement, based on the review of the information and documentation collected to complete the adoption
- The State of origin **respected** the procedures and fundamental principles of the **Convention**, and
- The envisaged placement is in the **best interests of the child**

4. AGREEMENT OF THE PROSPECTIVE ADOPTIVE PARENTS

- The **prospective adoptive parents agree** to the adoption (Art. 17(a)).

5. APPROVAL OF THE DECISION OF ENTRUSTMENT

Check one of the three options:

- The Central Authority of the State of origin requires that the Central Authority of the receiving State approves the decision to entrust the child
- The Central Authority of the receiving State **has approved the decision to entrust** the child to the prospective adoptive parents (Art. 17(b))

OR

- The law of the receiving State requires that the Central Authority of the receiving State approves the decision to entrust the child
- The Central Authority of the receiving State **has approved the decision to entrust** the child to the prospective adoptive parents (Art. 17(b))

OR

- Neither the Central Authority of the State of origin nor the law of the receiving State require the Central Authority of the receiving State to approve the decision to entrust the child

⁴ *i.e.*, the child has the ability to leave the State of origin.

6. AGREEMENT THAT THE ADOPTION MAY PROCEED

Agrees that the adoption may proceed (Art. 17(c))

7. COMMENTS

Please add any relevant comments: _____

8. SIGNATURE / SEAL

Name: _____

Title: _____

Authority: _____

Done at _____ on _____
City, State Date

Signature / Seal: _____

HCCH - Permanent Bureau

Churchillplein 6b
2517 JW The Hague
Netherlands

Tel.: +31 70 363 3303
Fax: +31 70 360 4867
secretariat@hcch.net
www.hcch.net



Hague Conference on Private International Law
Conférence de La Haye de droit internationa privé
Conferencia de La Haya de Derecho Internacional Privado