

## **TERMINOLOGY ADOPTED BY THE EXPERTS' GROUP ON THE FINANCIAL ASPECTS OF INTERCOUNTRY ADOPTION**

These definitions are descriptive in nature and should not be interpreted as approving or disapproving particular practices. All these definitions apply to States of origin and receiving States.

**Co-operation projects:** this term is used in the context of intercountry adoption when it refers to programmes or projects with the aim of strengthening the child protection system in a State of origin. These are mostly focused on capacity building and training of stakeholders, and should ideally be self-sustainable in the future. Without compromising other forms of co-operation projects, the co-operation projects discussed in the *Note on the financial aspects of intercountry adoption* ("Note")<sup>1</sup> are considered as a category of development aid.

**Contribution:** two types of contributions are referred to:

*Contributions demanded by the State of origin*, which are mandatory and meant to improve either the adoption system or the child protection system. The amount is set by the State of origin. These contributions are managed by the authorities or others appropriately authorised in the State of origin which decide how the funds will be used.

*Contributions demanded by the accredited body from prospective adoptive parents*. These contributions may be for particular children's institutions (e.g., for maintenance costs for the child) or for the co-operation projects of the accredited body in the State of origin. The co-operation projects may be a condition of the authorisation of that body to work in the State of origin. The amount is set by the accredited body or its partners. The payment may not be a statutory obligation and accredited bodies may present the demand in terms of "highly recommended contribution", but in practice it is "mandatory" for the prospective adoptive parents in the sense that their application will not proceed if the payment is not made.

**Costs (Art. 32(2) of the 1993 Hague Intercountry Adoption Convention):** a collective term to refer to the amount requested to obtain a specific service or group of services (e.g., translation costs, administrative costs) to complete the adoption. In the Note the term "costs" may be used in conjunction or interchangeably with the term "**expenses**". Costs include fees and other amounts for specific services and for obtaining specific documents.

**Development aid:** aid in the form of money, technical assistance or essential supplies of goods or services, aiming to reduce inequalities and to help a developing nation become more self-sufficient in a mid and long-term perspective. The aid would normally finance sustainable actions involving major stakeholders of the targeted State. It is generally provided through official channels or receives official authorisation. The aid could be provided directly by government aid agencies, or through international intergovernmental and non-governmental organisations, foundations or other similar groups or professionals. In the context of intercountry adoption, this aid mainly focuses on child protection.<sup>2</sup>

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<sup>1</sup> See Hague Conference on Private International Law, *Note on the financial aspects of intercountry adoption*, 2014, available on the Hague Conference website at < [www.hcch.net](http://www.hcch.net) > under "Intercountry Adoption Section".

<sup>2</sup> See Hague Conference on Private International Law, *The Implementation and Operation of the 1993 Hague Intercountry Adoption Convention: Guide to Good Practice*, Guide No 1, Family Law (Jordan Publishing Ltd), 2008, available on the Hague Conference website at < [www.hcch.net](http://www.hcch.net) > under "Intercountry Adoption Section" (hereinafter, "Guide to Good Practice No 1"), Chapter 6. This Chapter refers to the national child care context which includes: the child's entry into care, family preservation and reunification, prevention of abandonment, temporary child care, and national adoption.

**Donations:** voluntary *ad hoc* payments or gifts of material goods from prospective adoptive parents or accredited bodies for the well-being of children in institutions. Donations are usually given to the orphanage or institution connected to the parents' adopted child. The donation might also be given by an accredited body to a specific fund in the State of origin.

**Expenses (Art. 32(2)):** an amount of money *spent* on a particular service to complete the adoption. Costs are charged and expenses are paid. A cost converts into an expense as soon as it is paid. Whereas all expenses are costs, not all costs are expenses.<sup>3</sup> This term is used with the term "**costs**" in the Convention and in the Note the two terms are used in conjunction or interchangeably.

**Fees (Art. 32(2)):** an amount that a person or entity charges for a particular service (e.g., court filing fee). It generally takes the form of a lump-sum paid in one instalment for one particular service or group of services, but it might also be fixed on an hourly rate (e.g., lawyers' fees). It may be classified as a subcategory of the costs of the adoption. "Professional fees" referred to in Article 32(2) refer to the amount requested by professionals, such as lawyers, psychologists and doctors, for their work on a particular case.

**Improper financial or other gain (Arts 8 and 32(1)):** an amount of money or other material gain that is not justifiable because it is not in accordance with ethical practices and standards, including national and international legislation, and / or is not reasonable in relation to the service rendered. The usual meaning of improper is dishonest or morally wrong.<sup>4</sup> In the area of intercountry adoption, improper financial or other gain results in illegal or unethical enrichment and often in improper influence on decisions regarding a child's adoption.

**Reasonable (Art. 32(2) and (3)):** may refer to fees or remuneration that adequately compensate the service rendered (e.g., the remuneration of accredited body management and employees), measured in relation to the circumstances and the living standards in a specific State and other child welfare services. The list of factors to assess whether a fee or remuneration is reasonable is discussed in Chapter 8.6 of the Guide to Good Practice No 2<sup>5</sup> and further considered in Chapter 5.3 of the Note. This term may be applied to other financial aspects of intercountry adoption when the amounts involved are not excessively high.

**Remuneration (Art. 32(3)):** an amount that directors, administrators, and employees of bodies involved in an adoption may be paid for their work. In practice, remuneration may come in the form of a salary or may, exceptionally, be paid on a case-by-case basis, or on a standard hourly rate.

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<sup>3</sup> See the Business Dictionary, available at < [www.businessdictionary.com](http://www.businessdictionary.com) >.

<sup>4</sup> See Oxford Advanced Learner's Dictionary, 7th Edition, Oxford University Press, 2005.

<sup>5</sup> Hague Conference on Private International Law, *Accreditation and Adoption Accredited Bodies: General Principles and Guide to Good Practice*, Guide No 2, Family Law (Jordan Publishing Ltd), 2012, available on the Hague Conference website at < [www.hcch.net](http://www.hcch.net) > under "Intercountry Adoption Section".