

## RECEIVING STATE

**COUNTRY NAME:** United States of America

**PROFILE UPDATED ON:** 14 August 2021

### PART I: CENTRAL AUTHORITY

1. Contact details <sup>1</sup>	
Name of office:	Office of Children's Issues Consular Affairs, Overseas Citizens Services U.S. Department of State
Acronyms used:	CI
Address:	United States Department of State CA/OCS/CI 2201 C. St., NW SA-17; 9th Floor Washington, DC 20522-1709
Telephone:	1-888-407-4747 (From the U.S. or Canada) 1-202-501-4444 (Outside the U.S. or Canada)
Fax:	N/A
E-mail:	adoption@state.gov
Website:	www.adoption.state.gov
Contact person(s) and direct contact details (please indicate language(s) of communication):	LaTina Marsh, Branch Chief - Bilateral Engagement Division MarshLA@state.gov Office Tel: 202-485-6042 (English) Marisa Light, Division Chief - Adoption Oversight Division LightM@state.gov Office Tel: 202-485-6024

<sup>1</sup> Please verify whether the contact details on the "Adoption Section" of the HCCH website < [www.hcch.net](http://www.hcch.net) > under "Central Authorities" are up to date. If not, please e-mail the updated contact information to < [secretariat@hcch.net](mailto:secretariat@hcch.net) >.

(English)

If your State has designated more than one Central Authority, please provide contact details for the further Central Authorities below and specify the territorial extent of their functions.

N/A

**PART II: RELEVANT LEGISLATION**

<b>2. The 1993 Adoption Convention and domestic legislation</b>	
<p>a) When did the 1993 Adoption Convention enter into force in your State?</p> <p><i>This information is available on the <a href="#">Status Table</a> for the 1993 Adoption Convention (accessible via the <a href="#">Adoption Section</a> of the HCCH website &lt; <a href="http://www.hcch.net">www.hcch.net</a> &gt;).</i></p>	1 April 2008
<p>b) Please identify the legislation / regulations / procedural rules which implement or assist with the effective operation of the 1993 Adoption Convention in your State. Please also provide the date of their entry into force.</p> <p><i>Please remember to indicate how the legislation / regulations / rules may be accessed: e.g., provide a link to a website or attach a copy. Where applicable, please also provide a translation into English or French if possible.</i></p>	<p>(1) Intercountry Adoption Act of 2000 (IAA) – 6 October 2000</p> <p>(2) 22 CFR 42.24; 22 CFR 96.1 et seq.; 22 CFR 97.1 et seq.; 22 CFR 98.1 et seq.; 22 CFR 99.1 et seq.</p> <p>(3) 8 CFR 103.7; 8 CFR 204.1; 8 CFR 204.2; 8 CFR 204.300 et seq.; 8 CFR 213a.2; 8 CFR 299.1; 8 CFR 320 and 8 CFR 322.3</p> <p>(4) 82 FR 40614 Memorandum of Agreement between the U.S. Department of State Bureau of Consular Affairs and Intercountry Adoption and Accreditation Maintenance Entity, Inc.</p> <p>In addition, the U.S. Universal Accreditation Act, which came into effect on 14 July 2014, extends the federal accreditation standards applicable to adoption service providers in Convention cases to providers performing adoption services in non-Convention cases in which the United States is the receiving State.</p> <p>These laws and regulations may be accessed on the adoption.state.gov website at:  <a href="https://travel.state.gov/content/travel/en/Intercountry-Adoption/adopt_ref.html">https://travel.state.gov/content/travel/en/Intercountry-Adoption/adopt_ref.html</a></p>

**3. Other international agreements on intercountry adoption<sup>2</sup>**

<sup>2</sup> See Art. 39(2) which states: “Any Contracting State may enter into agreements with one or more other Contracting States, with a view to improving the application of the Convention in their mutual relations. These agreements may derogate only from the provisions of Articles 14 to 16 and 18 to 21. The States which have concluded such an agreement shall transmit a copy to the depositary of the Convention” (emphasis added).

<p>Is your State party to any other international (cross-border) agreements concerning intercountry adoption?</p> <p><i>See Art. 39.</i></p>	<p><input checked="" type="checkbox"/> Yes:</p> <p><input type="checkbox"/> Regional agreements (please specify):</p> <p><input type="checkbox"/> Bilateral agreements (please specify):</p> <p><input type="checkbox"/> Non-binding memoranda of understanding (please specify):</p> <p><input checked="" type="checkbox"/> Other (please specify): The United States has established administrative arrangements concerning intercountry adoptions with other states, such as the Pre-Adoption Immigration Review (PAIR) process with Taiwan (and previously Ethiopia) and certain specific operational procedures with Ireland.</p> <p><input type="checkbox"/> No</p>
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### PART III: THE ROLE OF AUTHORITIES AND BODIES

4. Central Authority(ies)	
<p>Please briefly describe the functions of the Central Authority(ies) designated under the 1993 Adoption Convention in your State.</p> <p><i>See Arts 6-9 and Arts 14-21 if accredited bodies are not used.</i></p>	<p>The U.S. Department of State is the Central Authority for the United States under the Convention, with the Office of Children's Issues within the Bureau of Consular Affairs as the designated office responsible for the daily oversight and implementation of the Convention in the United States. Some of the U.S. Central Authority's primary functions include: designating accrediting entities to accredit or approve adoption service providers to act in Convention adoption cases; monitoring the work of the accrediting entities; taking adverse action when appropriate against accrediting entities; taking adverse action against adoption service providers who are not in substantial compliance with applicable law and regulations when the accrediting entity has failed or refused, after consultation with the Secretary, to take action; reviewing the accrediting entity's monitoring of complaints against accredited or approved adoption service providers and accrediting entity efforts to address complaints appropriately; providing guidance to, and cooperating with, competent and public authorities in Convention adoption cases; providing information about the adoption process to prospective adoptive parents, adoption service providers, and members of the U.S. Congress; working with</p>

	<p>U.S. Embassies on diplomatic efforts with other governments about adoption laws and procedures; and promulgating regulations to implement the Convention in accordance with the Intercountry Adoption Act of 2000 (IAA) and the Universal Accreditation Act of 2012 (UAA).</p> <p>The U.S. competent entity authorized to accept applications to adopt under Article 14 is the U.S. Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS).</p> <p>U.S. accredited bodies, and approved bodies and persons, will generally perform the case-specific Central Authority duties set forth in Articles 15 through 21. However, the U.S. Department of State – acting through U.S. consular officers in its consulates and embassies abroad – fulfills the requirements of Article 17 in cases in which the United States is a receiving State.</p>
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<b>5. Public and competent authorities</b>	
<p>Please briefly describe the role of any public and / or competent authorities, including courts, in the intercountry adoption procedure in your State.</p> <p><i>See Arts 4, 5, 8, 9, 12, 22, 23 and 30.</i></p>	<p>USCIS makes the determination under Article 5(a) based on its Form I-800A (Application for Determination of Suitability to Adopt a Child from a Convention Country) application process and contributes to the fulfillment of Article 5(b) through the adjudication of Form I-800A and Form I-800 (Petition to Classify Convention Adoptee as an Immediate Relative).</p> <p>The U.S. Department of State makes the determination in Article 5(c).</p> <p>U.S. accredited bodies and approved persons act in the place of the U.S. Central Authority as appropriate for other parts of Articles 9 and 22.</p> <p>U.S. courts are involved in completing adoptions not finalized in the country of origin. The U.S. state court exercising jurisdiction over an adoption will issue the final adoption order. U.S. state law requirements vary. For information on state laws, see:</p> <p><a href="https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/intercountry/">https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/intercountry/</a></p>

6. National accredited bodies <sup>3</sup>	
<p>a) Has your State accredited its own adoption bodies?</p> <p><i>See Arts 10-11.</i></p> <p><b>N.B.</b> the name(s) and address(es) of any national accredited bodies should be communicated by your State to the Permanent Bureau of the HCCH (see Art. 13).<sup>4</sup></p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No – <b>go to Question 8</b></p>
<p>b) Please indicate the number of national accredited bodies in your State, including whether this number is limited and, if so, on what basis.<sup>5</sup></p>	<p>As of 28 July 2021, there are 101 U.S. non-profit accredited bodies and 2 for-profit bodies or individual approved providers that may handle intercountry adoption cases that involve the immigration of children to the United States (incoming cases). The United States refers to these approved for-profit bodies or individual providers as “approved persons” in its regulations and will continue to match its regulatory language throughout this document. The United States commonly refers to its accredited organizations and approved persons collectively as accredited adoption service providers or adoption service providers, a phrase that will be used throughout our response. The number of accredited bodies is not limited. Updated information on the number of accredited bodies is available to the public at the following location:  <a href="https://www.iaame.net/accreditation/accredited-approved-agencies-persons/">https://www.iaame.net/accreditation/accredited-approved-agencies-persons/</a></p>
<p>c) Please briefly describe the role of national accredited bodies in your State.</p>	<p>U.S. accredited adoption service providers will generally perform the case-specific functions as indicated in question 4 and set forth in Articles 15 through 21 of the Convention. The six adoption services that U.S. adoption service providers must be accredited or approved to provide are:</p> <p>(1) Identifying a child for adoption and arranging an adoption;</p>

<sup>3</sup> “National accredited bodies” in this Country Profile means adoption bodies based within your State (receiving State) which have been accredited under the 1993 Adoption Convention by the competent authorities in your State. See further *Guide to Good Practice No 2 on Accreditation and Adoption Accredited Bodies* (“GGP No 2”), available on the [Adoption Section](#) of the HCCH website < [www.hcch.net](http://www.hcch.net) > at Chapters 3.1 *et seq.*

<sup>4</sup> *Ibid.*, Chapter 3.2.1 (para. 111).

<sup>5</sup> *Ibid.*, Chapter 3.4.

	<p>(2) Securing the necessary consent to termination of parental rights and to adoption;</p> <p>(3) Performing a background study on a child or a home study on a prospective adoptive parent(s), and reporting on such a study;</p> <p>(4) Making non-judicial determinations of the best interests of a child and the appropriateness of an adoptive placement for the child;</p> <p>(5) Monitoring a case after a child has been placed with prospective adoptive parent(s) until final adoption; or</p> <p>(6) When necessary because of a disruption before final adoption, assuming custody and providing (including facilitating the provision of) childcare or any other social service pending an alternative placement.</p>
<b>6.1 The accreditation procedure (Arts 10-11)</b>	
<p>a) Which authority / body is responsible for the accreditation of national adoption bodies in your State?</p>	<p>There is currently one accrediting entity designated by the U.S. Department of State to carry out the accreditation and approval of adoption service providers, the Intercountry Adoption and Accreditation Maintenance Entity, Inc. (IAAME).</p>
<p>b) Please briefly describe the <i>procedure</i> for granting accreditation and the most important accreditation <i>criteria</i>.</p>	<p>The accrediting entity evaluates an agency or person's substantial compliance with applicable accreditation and approval standards promulgated by the U.S. federal government and set forth in 22 CFR Part 96. The accreditation process involves reviewing the agency or person's written application and supporting documentation, verifying the information provided by the agency or person by examining underlying documentation, an on-site visit by accreditation evaluators, scrutiny of any complaints against the agency or person, and review of any derogatory information relevant to the agency or person's application for accreditation or approval. After a rigorous review of each applicant's written policies and procedures and following on-site meetings with each applicant's leadership, staff, and local stakeholders, the accrediting entity arrives at a decision to accredit or approve by using a Department-approved substantial compliance system (SCS) that establishes a weighting of relative importance for each accreditation standard in 22 CFR Part 96,</p>

	<p>Subpart F. The weighting groups standards into three categories: mandatory, critical, and foundational. In addition, the SCS provides for a rating of compliance using a scale ranging from full compliance to non-compliance. By applying the SCS the accrediting entity produces a compliance rating for each applicable standard and a final determination of substantial compliance with the standards as a whole. Applicants for accreditation or approval should strive to be in full compliance with every applicable standard and must demonstrate full compliance with designated mandatory standards (including those that embody the Convention's prohibitions on the abduction, sale, and trafficking in children for purposes of intercountry adoption, as well as its provisions against improper financial gain). Similarly, applicants must demonstrate full or substantial compliance with all critical standards and substantial or at least partial compliance with foundational standards. Substantial compliance with the standards as a whole is determined by taking into account the applicant's compliance ratings for each applicable standard. Applicants are also required to provide evidence of any license to provide adoption services and criminal and other background checks to verify a lack of criminal convictions or other actions taken against the applicant or its organization, leadership, and employees.</p>
<p>c) For how long is accreditation granted in your State?</p>	<p>Accreditation or approval may be granted for a period of time between three and five years.</p>
<p>d) Please briefly describe the criteria and the procedure used to determine whether the accreditation of a national adoption body will be <i>renewed</i>.</p>	<p>Once the agency or person has been accredited or approved pursuant to 22 CFR Part 96, the accrediting entity must, for the purposes of monitoring, renewal, enforcement, and reapplication after adverse action, consider the agency's or person's actual performance in deciding whether the agency or person is in substantial compliance with the standards contained in subpart F of 22 CFR Part 96, unless the accrediting entity determines that it is still necessary to measure capacity because adequate evidence of actual performance is not available. This determination is made via application of</p>

	the same substantial compliance system (SCS) used to evaluate suitability for the initial accreditation or approval.
<b>6.2 Monitoring of national accredited bodies<sup>6</sup></b>	
<p>a) Which authority is competent to monitor / supervise national accredited bodies in your State?</p> <p><i>See Art. 11(c).</i></p>	<p>The Department-designated accrediting entity, the Inter-country Adoption and Accreditation Maintenance Entity, Inc. (IAAME), monitors the compliance of accredited agencies and approved persons with applicable requirements, including review of complaints against accredited agencies and approved persons.</p> <p>The Central Authority monitors the performance of the accrediting entity.</p>
<p>b) Please briefly describe how national accredited bodies are monitored / supervised in your State (<i>e.g.</i>, if inspections are undertaken, how frequently).</p>	<p>The accrediting entity conducts monitoring of accredited bodies and approved persons to evaluate whether each body is in substantial compliance with applicable U.S. accreditation and approval standards. See 22 CFR Part 96, Subpart I, Routine Oversight by Accrediting Entities.</p> <p>Routine Oversight includes:</p> <ol style="list-style-type: none"> <li>(1) Accredited bodies and approved persons make an annual attestation of substantial compliance with applicable accreditation and approval standards, including specific attestations to individual standards, to the accrediting entity.</li> <li>(2) The accrediting entity may on its own initiative conduct site visits to inspect an accredited body or approved person's premises or programs, with or without advance notice for random verification of compliance or to investigate complaints (see below).</li> <li>(3) The accrediting entity requires accredited bodies and approved persons to report incidents to the accrediting entity as they occur, <i>i.e.</i>, significant occurrences or changes, relating to, for example, its financial status, U.S. state license or authorization, or leadership.</li> </ol> <p>The accrediting entity also conducts oversight through review of complaints. See 22 CFR</p>

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<sup>6</sup> *Ibid.*, Chapter 7.4.



	<p>Part 96, Subpart J, Oversight Through Review of Complaints.</p> <p>(4) The U.S. Central Authority maintains a web-based complaint registry. Complaints that come through the registry are subject to review in accordance with U.S. regulations as well as procedures agreed upon between the U.S. Department of State and the accrediting entity.</p> <p>(5) Complaints must relate to the 1993 Hague Convention, the Intercountry Adoption Act, Intercountry Adoption Universal Accreditation Act of 2012, or the accreditation regulations.</p> <p>(6) The accrediting entity reviews complaints according to written procedures, takes adverse action as appropriate, and reports the outcome of any investigation or review to the complainant.</p> <p>(7) If an accrediting entity's review of complaints reveals that an accredited body or approved person has engaged in a pattern of serious, willful, grossly negligent, or repeated failures to comply with the accreditation and approval standards, or indicates that continued accreditation or approval would not be in the best interests of the children and families concerned, it must report the substantiated complaint to the Secretary of State.</p>
<p>c) Please briefly describe the circumstances in which the accreditation of bodies can be revoked (<i>i.e.</i>, withdrawn).</p>	<p>U.S. accredited bodies and approved persons may lose accreditation or approval (temporary or permanent suspension of the accreditation or approval) when they are found to be out of substantial compliance with the accreditation standards (revealed through routine oversight, a re-authorization/approval process, or from a review of a complaint).</p> <p>U.S. accreditation and approval regulations require the accrediting entity to take "adverse action" when it determines that an accredited body or approved person is no longer in substantial compliance with applicable accreditation and approval standards. Adverse actions include suspending or cancelling accreditation or approval; refusing to renew accreditation or approval; requiring an accredited body or approved person to take a specific</p>

	<p>corrective action to bring itself into compliance; and imposing other sanctions such as requiring an adoption service provider to cease providing services in a particular case or in a specific foreign country. See 22 CFR 96.75, Adverse Action by the Accrediting Entity: Adverse action against accredited bodies or approved persons not in substantial compliance.</p> <p>In addition, U.S. accreditation and approval regulations require the Secretary of State to suspend or cancel the accreditation or approval granted by an accrediting entity when the Secretary finds, in the Secretary's discretion, that the accredited body or approved person is substantially out of compliance with the standards in the accreditation regulations and that the accrediting entity has failed or refused, after consultation with the Secretary, to take action. See 22 CFR 96.83, Oversight of Accredited Agencies and Approved Persons by the Secretary: Suspension or Cancellation of accreditation or approval by the Secretary. See also 22 CFR 96.39(e) (accredited bodies and approved persons cooperate with reviews, inspections, and audits by the accrediting entity or the Secretary).</p>
<p>d) If national accredited bodies do not comply with the 1993 Adoption Convention, is it possible for sanctions to be applied?</p>	<p><input checked="" type="checkbox"/> Yes, please specify possible sanctions (e.g., fine, withdrawal of accreditation): See response to question 6.2 c)</p> <p><input type="checkbox"/> No</p>

7. Authorisation of national accredited bodies to work in other Contracting States (Art. 12) <sup>7</sup>	
7.1 The authorisation procedure	
<p>a) Which authority / body in your State is responsible for the authorisation of national accredited bodies to work with, or in, other Contracting States?</p>	<p>The United States has adopted an open authorization system. Bodies and persons undergo a rigorous review of their practices, policies, and backgrounds, and their compliance with Convention requirements during the accreditation or approval process. As part of that process, each body or person's adoption programs in States of origin are evaluated for compliance with the Convention and U.S. accreditation and approval standards.</p>

<sup>7</sup> In relation to authorisation of accredited bodies, *ibid.*, Chapter 4.2.

	Bodies and persons who receive accreditation or approval have demonstrated their ability to provide high quality services in incoming Convention adoption cases in a manner consistent with the Convention, U.S. implementing legislation, and U.S. accreditation and approval regulations wherever they are authorized by States of origin to do so.
b) Is authorisation granted as part of the accreditation procedure or is a separate authorisation procedure undertaken?	<input checked="" type="checkbox"/> Authorisation is granted as part of the accreditation procedure. <input type="checkbox"/> A separate procedure is undertaken for authorisation.
c) Is authorisation granted to national accredited bodies to work in <i>all</i> States of origin or must national accredited bodies apply for authorisation to work in specific, pre-identified State(s) of origin?	<input checked="" type="checkbox"/> Authorisation is granted generally: once authorised, national accredited bodies are able to work in <i>all</i> States of origin. <input type="checkbox"/> Authorisation is granted specifically: national accredited bodies must apply for authorisation to work in one or more pre-identified State(s) of origin.
d) Please briefly describe the <i>procedure</i> for granting authorisation and the most important authorisation <i>criteria</i> . <sup>8</sup> If your State does not have authorisation criteria, please explain on what basis decisions concerning authorisation are made. Please also explain whether your State has any criteria concerning how the national accredited body must establish itself in the State(s) of origin or whether this is left entirely to the requirements of the State of origin ( <i>e.g.</i> , requirements that the body must have a local representative in the State of origin, or must establish a local office).	Not applicable. See above response to question 7.1 a).
e) For how long is authorisation granted?	Not applicable. See above response to question 7.1 a).
f) Please briefly describe the criteria and procedure used to determine whether authorisation will be <i>renewed</i> .	Not applicable. See above response to question 7.1 a).
<b>7.2 Monitoring the work of your authorised national accredited bodies in other Contracting States</b>	

<sup>8</sup> In relation to authorisation criteria, *ibid.*, Chapters 2.3.4.2 and 4.2.4.

<p>a) Please briefly describe how your State ensures that authorised national accredited bodies (including their representatives, co-workers and any other staff<sup>9</sup> in the State of origin) are monitored / supervised by your State in relation to their work / activities <i>in the State of origin</i>.</p>	<p>See above response to question 6.2 b.</p>
<p>b) Please briefly describe the circumstances in which the authorisation of national accredited bodies can be revoked (<i>i.e.</i>, withdrawn).</p>	<p>See above response to question 6.2 c.</p>

<b>8. Approved (non-accredited) persons (Art. 22(2))<sup>10</sup></b>	
<p>Is the involvement of approved (non-accredited) persons permitted in intercountry adoption procedures in your State?</p> <p><i>N.B. see Art. 22(2) and check whether your State has made a declaration according to this provision. You can verify this on the <a href="#">Status Table</a> for the 1993 Adoption Convention, available on the <a href="#">Adoption Section</a> of the HCCH website.</i></p> <p><i>If your State has made a declaration according to Art. 22(2), the Permanent Bureau of the HCCH should be informed of the names and addresses of these bodies and persons (Art. 22(3)).<sup>11</sup></i></p>	<p><input checked="" type="checkbox"/> Yes, our State has made a declaration under Article 22(2) and the involvement of approved (non-accredited) persons is possible. Please specify their role:</p> <p>As part of its ratification of the 1993 Hague Convention, the United States declared, pursuant to Article 22(2), that in the United States the Central Authority functions under Articles 15-21 may also be performed by bodies or persons meeting the requirements of Articles 22(2)(a) and (b).</p> <p>Approved persons are subject to the same accreditation standards as accredited bodies; see 22 CFR Part 96.</p> <p>Under U.S. law and regulation, with certain minor exceptions, the accrediting entity must apply the same standards to both accredited bodies and approved persons, namely the standards set forth in 22 CFR Part 96, Subpart F, Standards for Intercountry Adoption Accreditation and Approval. See response to question 6.1(b).</p> <p><input type="checkbox"/> No</p>

#### PART IV: THE CHILDREN PROPOSED FOR INTERCOUNTRY ADOPTION

<sup>9</sup> For an explanation of the terminology used concerning the staff of the national accredited body working in the State of origin, *ibid.*, Chapters 6.3 and 6.4.

<sup>10</sup> *Ibid.*, Chapter 13.

<sup>11</sup> *Ibid.*, Chapter 13.2.2.5.

### 9. The adoptability of a child (Art. 4(a))

Does your State have its own criteria concerning the adoptability of a child (*e.g.*, maximum age) which must be applied *in addition to* the requirements of the State of origin?

Yes – please specify: The U.S. implementing legislation for the Convention, the Intercountry Adoption Act of 2000 (IAA), amended the Immigration and Nationality Act (INA) to create a new definition of “child,” applicable only to children being adopted from Convention countries. This definition includes certain conditions that affect a child’s eligibility for adoption. Under INA Section 101(b)(1)(G), the term “child” means a child, younger than 16 years of age at the time a petition is filed on the child’s behalf to accord a classification as an immediate relative under section 201(b) of [the INA], who has been adopted in a foreign state that is a party to the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, done at The Hague on May 29, 1993, or who is emigrating from such a foreign state to be adopted in the United States by a United States citizen and spouse jointly or by an unmarried United States citizen who is at least 25 years of age.

In addition, the amended law provides, in relevant part, that:

- (I) the Secretary of Homeland Security is satisfied that proper care will be furnished the child if admitted to the United States;
- (II) the child’s natural parents (or parent, in the case of a child who has one sole or surviving parent because of the death or disappearance of, abandonment or desertion by, the other parent), or other persons or institutions that retain legal custody of the child, have freely given their written irrevocable consent to the termination of their legal relationship with the child, and to the child’s emigration and adoption;
- (III) in the case of a child having two living natural parents, the natural parents are incapable of providing proper care for the child;
- (IV) the Secretary of Homeland Security is satisfied that the purpose of the adoption is to form a bona fide parent-child relationship, and the parent-child relationship of the child and the natural

	<p>parents has been terminated (and in carrying out both obligations under this subclause the Secretary of Homeland Security may consider whether there is a petition pending to confer immigrant status on one or both of such natural parents); and for children whose adoptions are to be finalized in the United States, the amended law also provides the following criteria in order to determine eligibility for immigration before the finalization of the adoption:</p> <p>(V) in the case of a child who has not been adopted –</p> <p>(aa) the competent authority of the foreign state has approved the child’s emigration to the United States for the purpose of adoption by the prospective adoptive parent or parents; and</p> <p>(bb) the prospective adoptive parent or parents has or have complied with any preadoption requirements of the child’s proposed residence.</p> <p>Additionally, biological siblings of a child, who is under the age of 16 and otherwise defined as adoptable under U.S. law, are also considered adoptable if the sibling: was adopted abroad, or is coming to the United States for adoption, by the adoptive parent (or prospective adoptive parent) or parents of the sibling described in INA Section 101(b)(1)(G)(i), subparagraph (E)(i), or subparagraph (F)(i); and is otherwise described in INA Section 101(b)(1)(G)(i), except that the child is younger than 18 years of age at the time a petition is filed on his or her behalf for classification as an immediate relative under section 201(b) of [the INA].</p> <p><input type="checkbox"/> No, there are no additional criteria concerning adoptability – the requirements of the State of origin are determinative.</p>
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<b>10. The best interests of the child and subsidiarity (Art. 4(b))</b>	
<p>Does your State request information / evidence from the State of origin to satisfy itself that the State of origin has respected the principle of subsidiarity (<i>i.e.</i>, proof that family reunification was attempted, or that</p>	<p><input checked="" type="checkbox"/> Yes – please specify: In the United States this is satisfied by submission of the Article 16 report with the child’s immigration petition. The Article 16 report provided by the State of Origin establishes the</p>

the possibility of in-country permanent family placements has been explored)?	<p>competent authorities have, as required under Article 4 of the Convention, determined, among other things, that after having given due consideration to the possibility of placing the child for adoption within the Convention country, that intercountry adoption is in the child's best interests.</p> <p><input type="checkbox"/> No</p>
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<b>11. Children with special needs</b>	
Does your State have its own definition of the term "special needs children" which is applied in intercountry adoption cases?	<p><input type="checkbox"/> Yes – please provide the definition used in your State:</p> <p><input checked="" type="checkbox"/> No – the definition used in the State(s) of origin is determinative.</p>

<b>12. The nationality of children who are adopted intercountry<sup>12</sup></b>	
Do children who are adopted intercountry to your State acquire the nationality of your State?	<p><input type="checkbox"/> Yes, always. Please specify:</p> <p>(i) At what stage nationality is acquired by the child:           ; and</p> <p>(ii) The procedure which must be undertaken (or whether acquisition of nationality is <i>automatic</i> upon the occurrence of a particular event, <i>e.g.</i>, the making of the final adoption decision):</p> <p><input checked="" type="checkbox"/> It depends – please specify which factors are taken into consideration (<i>e.g.</i>, the nationality of the prospective adoptive parents ("PAPs"), whether the child loses his / her nationality of the State of origin): In most cases, children adopted following the Convention process will acquire citizenship upon admission into the United States. The conditions for automatic acquisition are laid out in the Child Citizenship Act and in INA 320:</p> <ul style="list-style-type: none"> <li>• At least one of the child's parents is a U.S. citizen;</li> <li>• The child is under 18 years of age;</li> <li>• The child is residing in the United States in the legal and physical custody of the U.S. citizen parent;</li> <li>• The child is admitted into the United States as a lawful permanent resident; and</li> </ul>

<sup>12</sup> Regarding nationality, see further the *Guide to Good Practice No 1 on the implementation and operation of the 1993 Hague Intercountry Adoption Convention* ("GGP No 1"), available on the [Adoption Section](http://www.hcch.net) of the HCCH website < [www.hcch.net](http://www.hcch.net) >, at Chapter 8.4.5.

	<ul style="list-style-type: none"> <li>• The child satisfies the requirements applicable to adopted children under INA 101(b)(1)(G). The adoption must be final. If the child is considered to be coming to the United States for adoption, the child acquires citizenship once the foreign adoption is recognized by the state where the child resides or when the adoption is finalized in the United States, as long as the other conditions are met.</li> </ul> <input type="checkbox"/> No, the child will never acquire this nationality.
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#### PART V: PROSPECTIVE ADOPTIVE PARENTS (“PAPs”)

<b>13. Limits on the acceptance of files</b>	
a) Does your State place any limit on the total number of applications for intercountry adoption which are accepted at any one time?	<input type="checkbox"/> Yes, please specify the limit applied and the basis on which it is determined: <input checked="" type="checkbox"/> No
b) Does your State allow PAPs to apply to adopt from more than one State of origin at the same time?	<input checked="" type="checkbox"/> Yes, please specify whether any limits are applied: There is no limit to the number of applications, however, the Convention adoption home study requirements found in 8 CFR 204.311(r) do require that the home study include the number of children the applicant may adopt at the same time, and that it contain approval for adoption of a child from a specific Convention country or countries including a discussion of the reasons for such approval. <input type="checkbox"/> No – PAPs may only apply to adopt from one State of origin at any one time.

<b>14. Determination of the eligibility and suitability of PAPs wishing to undertake an intercountry adoption<sup>13</sup> (Art. 5(a))</b>	
<b>14.1 Eligibility criteria</b>	
a) Do PAPs wishing to undertake an intercountry adoption have to fulfil any criteria in your State concerning their relationship status(es)?  <i>Please tick any / all boxes which apply and indicate in the space provided whether any further conditions are imposed (e.g., duration of marriage / partnership / relationship, cohabitation).</i>	<input checked="" type="checkbox"/> Yes, the following person(s) may apply in our State for an intercountry adoption: <input checked="" type="checkbox"/> Married, heterosexual couples: As stated in response to question 9, the U.S. Immigration and Nationality Act (INA) permits adoptions subject to the Convention by a U.S. citizen and spouse jointly. In addition, the adoptive parents must be found suitable to adopt by USCIS in accordance with U.S. federal

<sup>13</sup> *I.e.*, this section refers to the eligibility criteria applied, and suitability assessment undertaken, in relation to PAPs who are habitually resident in your State and who wish to adopt a child who is habitually resident in another Contracting State to the 1993 Adoption Convention: see further Art. 2 of the Convention.



	<p>regulations, 8 CFR Section 204. Additional U.S. state requirements may also apply. For information on who may adopt in each of the U.S. states, the District of Columbia, and U.S. commonwealths and territories, see: <a href="https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/parties/">https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/parties/</a></p> <p><input checked="" type="checkbox"/> Married, same-sex couples: Under U.S. federal law, a U.S. citizen and his or her spouse jointly may be eligible. See above response</p> <p><input checked="" type="checkbox"/> Heterosexual couples in a legally registered partnership: Under U.S. federal law, an unmarried couple may be eligible provided one of the individuals is a U.S. citizen who is at least 25 years of age. See above response. U.S. state requirements vary.</p> <p><input checked="" type="checkbox"/> Same-sex couples in a legally registered partnership: Under U.S. federal law, an unmarried couple may be eligible provided one of the individuals is a U.S. citizen at least 25 years of age. See above response. U.S. state requirements vary.</p> <p><input checked="" type="checkbox"/> Heterosexual couples that have not legally formalised their relationship: Under U.S. federal law, an unmarried couple may be eligible provided one of the individuals is a U.S. citizen at least 25 years of age. See above response. U.S. state requirements vary.</p> <p><input checked="" type="checkbox"/> Same-sex couples that have not legally formalised their relationship: Under U.S. federal law, an unmarried couple may be eligible provided one of the individuals is a U.S. citizen at least 25 years of age. See above response. U.S. state requirements vary.</p> <p><input checked="" type="checkbox"/> Single men: The INA permits adoptions subject to the Convention by single U.S. citizens at least 25 years of age.</p> <p><input checked="" type="checkbox"/> Single women: The INA permits adoptions subject to the Convention by single U.S. citizens at least 25 years of age.</p> <p><input type="checkbox"/> Other (please specify):</p> <p><input type="checkbox"/> No, there are no relationship status criteria for PAPs.</p>
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<p>b) Are there any age requirements in your State for PAPs wishing to undertake an intercountry adoption?</p>	<p><input checked="" type="checkbox"/> Yes, please specify:</p> <p><input checked="" type="checkbox"/> Minimum age requirements: See above response to 14.1 a). U.S. state requirements vary.</p> <p><input checked="" type="checkbox"/> Maximum age requirements: U.S. state requirements vary.</p> <p><input checked="" type="checkbox"/> Difference in years required between the PAPs and the child: U.S. state requirements vary.</p> <p><input type="checkbox"/> Other (please specify):</p> <p><input type="checkbox"/> No</p>
<p>c) Are there any <i>other</i> eligibility criteria which your State requires PAPs to fulfil?</p>	<p><input type="checkbox"/> Yes, please specify:</p> <p><input type="checkbox"/> Additional / differing criteria must be met for PAPs wishing to adopt a child with special needs (please specify):</p> <p><input type="checkbox"/> Couples must supply evidence of infertility:</p> <p><input type="checkbox"/> For persons with children already (biological or adopted), there are additional criteria (please specify):</p> <p><input checked="" type="checkbox"/> Other (please specify): The U.S. Immigration and Nationality Act (INA) permits the issuance of visas to children with approved visa petitions whose adoptions are subject to the Convention, when the adopting parents are a U.S. citizen and spouse jointly or single U.S. citizens at least 25 years of age, provided that the Department of Homeland Security is satisfied that the proper care will be furnished to the child if admitted to the United States. Additionally, U.S. state law requirements may vary. In the case of a child who is coming to the United States to be adopted, the prospective parent or parents must have complied with any preadoption requirements of the child's proposed residence in one of the several U.S. states.</p> <p>For a state-by-state summary of who may adopt, see: <a href="https://www.childwelfare.gov/pubPDFs/intercountry.pdf">https://www.childwelfare.gov/pubPDFs/intercountry.pdf</a></p> <p><input type="checkbox"/> No</p>

<b>14.2 Suitability assessment<sup>14</sup></b>	
a) Which body(ies) / expert(s) perform the assessment of whether the PAPs are suitable persons to undertake an intercountry adoption?	USCIS is the U.S. entity that determines the suitability and eligibility of prospective adoptive parents to adopt from a Convention country based, in large part, on a home study prepared by either a public domestic authority, accredited agency, approved person, supervised provider, or exempted provider, who (if not a public domestic authority) holds any license or other authorization required to conduct adoption home studies under the law of the jurisdiction in which they conduct the home study.
b) Please briefly describe the procedure which is used to assess the PAPs and determine their suitability to undertake an intercountry adoption.	<p>The filing requirements for Form I-800A are set forth in 8 CFR Section 204.310. Form I-800A requires the submission of the home study, which USCIS evaluates as part of the suitability determination. Convention home study requirements are set forth at 8 CFR Section 204.311.</p> <p>Home studies are conducted by an accredited/approved adoption service provider, supervised provider, or exempted provider and must generally include the following:</p> <ul style="list-style-type: none"> <li>• An in-person interview and home visit with the prospective adoptive parents. In addition, all adult members of the prospective parents' household must also be interviewed.</li> <li>• An evaluation of the physical, mental, and emotional capabilities of the prospective adoptive parents and any other adult members of the household.</li> <li>• A detailed description of the finances of the prospective adoptive parents, including but not limited to income, debts, expenses, and the costs of supporting other members of the family.</li> <li>• A detailed description of the prospective adoptive parents' living conditions.</li> <li>• If applicable, a detailed description of the prospective adoptive parents' ability to provide proper care for a child with special needs.</li> </ul>

<sup>14</sup> This suitability assessment will usually form one part of the report on the PAPs (Art. 15): as to which, see GGP No 1 (*op. cit.* note 12), Chapter 7.4.3 and Question 17 below.

	<ul style="list-style-type: none"> <li>• A description of counseling provided to the prospective adoptive parents or plans for post-placement counseling.</li> <li>• Specific assessment of how the above factors would affect the prospective adoptive parents' ability to care for an adopted child from a particular country of origin, the number of children the parents may adopt, and any restrictions on the children who should be placed with the parent(s).</li> <li>• A check of child abuse records and inquiries into substance abuse, child or sexual abuse, and/or domestic violence. These checks and inquiries must relate to each adult member of the prospective parents' household. The results of these checks and inquiries must be noted in the home study.</li> <li>• Explanations of any previous rejections for adoption, or if an unfavorable home study was ever prepared regarding any adult member of the prospective household</li> <li>• A criminal history of each adult in the prospective parents' household. Failure to disclose any record of arrest and/or conviction, history of any substance abuse, sexual or child abuse, or domestic violence may result in a denial of Form I-800A</li> <li>• The applicant, spouse (if any), and all adult members of the household have an ongoing duty of candor to disclose any arrest conviction, adverse criminal history, or other relevant information (such as physical, mental, or emotional health issues) until there is a final decision admitting the child to the United States.</li> </ul>
<b>14.3 Final approval</b>	
Which body / person gives the final approval that the PAPs are eligible and suited to undertake an intercountry adoption?	USCIS. See above response to question 14.2 a)
<b>15. Preparation and counselling of PAPs (Art. 5(b))</b>	
a) In your State, are courses provided to prepare PAPs for intercountry adoption?	<input checked="" type="checkbox"/> Yes, please specify the following: <ul style="list-style-type: none"> <li>- Whether the courses are mandatory: First, the accredited body (agency) or approved person prepares prospective adoptive parents for international</li> </ul>

	<p>adoption. 22 CFR 96.48 addresses this issue:</p> <ul style="list-style-type: none"><li>- 96.48 Preparation and training of prospective adoptive parent(s) in incoming cases.</li><li>- (a) The agency or person provides prospective adoptive parent(s) with at least ten hours (independent of the home study) of preparation and training, as described in paragraphs (b) and (c) of this section, designed to promote a successful intercountry adoption. The agency or person provides such training before the prospective adoptive parent(s) travel to adopt the child or the child is placed with the prospective adoptive parent(s) for adoption.</li><li>- (b) The training provided by the agency or person addresses the following topics:<ul style="list-style-type: none"><li>- (1) The intercountry adoption process, the general characteristics and needs of children awaiting adoption, and the in-country conditions that affect children in the Convention country from which the prospective adoptive parent(s) plan to adopt;</li><li>- (2) The effects on children of malnutrition, relevant environmental toxins, maternal substance abuse, and of any other known genetic, health, emotional, and developmental risk factors associated with children from the expected country of origin;</li><li>- (3) Information about the impact on a child of leaving familiar ties and surroundings, as appropriate to the expected age of the child;</li><li>- (4) Data on institutionalized children and the impact of institutionalization on children, including the effect on children of the length of time spent in an institution and of the type of care provided in the expected country of origin;</li><li>- (5) Information on attachment disorders and other emotional problems that institutionalized or traumatized children and children with a history of multiple caregivers may</li></ul></li></ul>
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	<p>experience, before and after their adoption;</p> <ul style="list-style-type: none"> <li>- (6) Information on the laws and adoption processes of the expected country of origin, including foreseeable delays and impediments to finalization of an adoption;</li> <li>- (7) Information on the long-term implications for a family that has become multicultural through intercountry adoption; and</li> <li>- (8) An explanation of any reporting requirements associated with Convention adoptions, including any post-placement or post-adoption reports required by the expected country of origin.</li> </ul> <p>(c) The agency or person also provides the prospective adoptive parent(s) with training that allows them to be as fully prepared as possible for the adoption of a particular child. This includes counseling on:</p> <ul style="list-style-type: none"> <li>- (1) The child's history and cultural, racial, religious, ethnic, and linguistic background;</li> <li>- (2) The known health risks in the specific region or country where the child resides; and</li> <li>- (3) Any other medical, social, background, birth history, educational data, developmental history, or any other data known about the particular child.</li> </ul> <p>(d) The agency or person provides such training through appropriate methods, including:</p> <ul style="list-style-type: none"> <li>- (1) Collaboration among agencies or persons to share resources to meet the training needs of prospective adoptive parents;</li> <li>- (2) Group seminars offered by the agency or person or other agencies or training entities;</li> <li>- (3) Individual counseling sessions;</li> <li>- (4) Video, computer-assisted, or distance learning methods using standardized curricula; or</li> </ul>
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	<ul style="list-style-type: none"> <li>- (5) In cases where training cannot otherwise be provided, an extended home study process, with a system for evaluating the thoroughness with which the topics have been covered.</li> <li>- (e) The agency or person provides additional in-person, individualized counseling and preparation, as needed, to meet the needs of the prospective adoptive parent(s) in light of the particular child to be adopted and his or her special needs, and any other training or counseling needed in light of the child background study or the home study.-</li> <li>- (f) The agency or person provides the prospective adoptive parent(s) with information about print, internet, and other resources available for continuing to acquire information about common behavioral, medical, and other issues; connecting with parent support groups, adoption clinics and experts; and seeking appropriate help when needed.</li> <li>- (g) The agency or person exempts prospective adoptive parent(s) from all or part of the training and preparation that would normally be required for a specific adoption only when the agency or person determines that the prospective adoptive parent(s) have received adequate prior training or have prior experience as parent(s) of children adopted from abroad.</li> <li>- (h) The agency or person records the nature and extent of the training and preparation provided to the prospective adoptive parent(s) in the adoption record.</li> <li>-</li> <li>- Second, USCIS requires submission of</li> <li>- 1) a summary of the pre-placement preparation and training already provided to the prospective adoptive parents, as well as plans for future preparation and training, as part of the home study submitted with Form I- 800A (see 8 CFR 204.311(c)(8)); and</li> </ul>
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- 2) before the prospective adoptive parents can be approved for a specific child, a statement from the primary adoption service provider indicating that all of the pre-placement preparation and training provided for in 22 CFR
- 96.48 has been completed (see 8 CFR 204.313(d)(2)).
- At what stage of the adoption procedure they are offered: See response above.
- Who provides the courses: The accredited body or approved person provides such preparation and training. See response above.
- Whether they are provided to PAPs individually or collectively (*i.e.*, in a group): As set forth in 22 CFR 96.48, the accredited body or approved (non-accredited) person provides such training through appropriate methods, including:
  - (1) Collaboration among agencies or persons to share resources to meet the training needs of prospective adoptive parents
  - (2) Group seminars offered by the agency or person or other agencies or training entities;
  - (3) Individual counseling sessions;
  - (4) Video, computer-assisted, or distance learning methods using standardized curricula; or
  - (5) In cases where training cannot otherwise be provided, an extended home study process, with a system for evaluating the thoroughness with which the topics have been covered.
- Whether they are provided "in person" or electronically: See response above
- How many hours the courses last: See response above.
- The content of the courses: See response above.
- Whether there are specific courses for PAPs wishing to adopt a child with special needs: See response above, and specifically 22 CFR 96.48(c)(3). The accredited body or approved person



	<p>may also provide additional in-person, individualized counseling and preparation, as needed, to meet the needs of the prospective adoptive parent(s) in light of the particular child to be adopted and his or her special needs, and any other training or counseling needed in light of the child background study or the home study.</p> <ul style="list-style-type: none"> <li>- Whether the courses are (or can be) targeted at preparing PAPs for the adoption of a child from specific States of origin: - Whether the courses are (or can be) targeted at preparing PAPs for the adoption of a child from specific States of origin: See response above.</li> </ul> <p><input type="checkbox"/> No</p>
<p>b) Aside from any courses provided, what, if any, (other) counselling or preparation is provided to individual PAPs (e.g., meeting with adoptive parents, language and culture courses)? Please specify, in each case:</p> <ul style="list-style-type: none"> <li>(i) If it is mandatory for PAPs to use the service;</li> <li>(ii) Who provides the service; and</li> <li>(iii) At what stage in the adoption procedure the service is provided.</li> </ul>	<p>As stated above, U.S. regulations require accredited bodies and approved persons to provide preparation as outlined in 22 CFR 96.48. See response above.</p>

#### PART VI: THE INTERCOUNTRY ADOPTION PROCEDURE

16. Applications	
<p>a) To which authority / body should PAPs apply for an intercountry adoption?</p>	<p>Once USCIS determines PAPs satisfy the criteria for suitability and eligibility to adopt, the PAPs may arrange for the relevant accredited body or approved person to have the approval notice, the accompanying home study, and other supporting evidence submitted to the Central Authority in the Convention country in which the PAPs plan to adopt.</p>
<p>b) Please indicate which documents your State requires to be included within the</p>	<ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> An application form for adoption completed by the PAPs</li> <li><input checked="" type="checkbox"/> A statement of "approval to adopt" issued by a competent authority</li> </ul>

<p>PAPs' file for transmission to the State of origin:<sup>15</sup></p> <p><i>Please tick all which apply.</i></p>	<p><input checked="" type="checkbox"/> A report on the PAPs including the "home study" and other personal assessments (see Art. 15)</p> <p><input checked="" type="checkbox"/> Copies of the PAPs' passports or other personal identification documents</p> <p><input checked="" type="checkbox"/> Copies of the PAPs' birth certificates</p> <p><input checked="" type="checkbox"/> Copies of the birth certificates of any children living with the PAPs</p> <p><input checked="" type="checkbox"/> Copies of marriage, divorce or death certificates, as applicable (please specify in which circumstances):</p> <p><input checked="" type="checkbox"/> Information concerning the health of the PAPs (please specify in which circumstances and what type of information is required):</p> <p><input checked="" type="checkbox"/> Evidence of the financial circumstances of the family (please specify in which circumstances and what type of information is required):</p> <p><input checked="" type="checkbox"/> Information concerning the employment status of the PAPs (please specify in which circumstances and what type of information is required):</p> <p><input type="checkbox"/> Proof of no criminal record</p> <p><input checked="" type="checkbox"/> Other(s): please explain Evidence of background and security checks.</p> <p>The above checked documents are required to be submitted to USCIS. U.S. families must include in their file documents to be transmitted to the State of origin according to the requirements of the State of origin.</p> <p>See response to question 14.2 above.</p> <p>USCIS requires PAPs to submit additional documents under 8 CFR 204.310, including:</p> <ol style="list-style-type: none"> <li>1) Evidence that the applicant is a U.S. citizen, as set forth in 8 CFR 204.1(g), or, in the case of a married applicant, evidence either that both spouses are citizens, or, if only one spouse is a U.S. citizen, evidence of that person's citizenship and evidence that the other spouse, if he or she lives in the United States, is either a non-citizen U.S. national or an alien who holds a lawful status under U.S. immigration law;</li> <li>2) A copy of the current marriage certificate, unless the applicant is not married;</li> </ol>
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<sup>15</sup> Please remember that a specific State of origin may have other / additional requirements concerning the documentation that must be submitted to it. A list of documents required by the specific State of origin can be found in the State of origin's Country Profile.

	<p>If the applicant has been married previously, a death certificate or divorce or dissolution decree to establish the legal termination of all previous marriages, regardless of current marital status;</p> <p>3) If the applicant is not married, their birth certificate, U.S. passport biological information page, naturalization or citizenship certificate, or other evidence, to establish that they are at least 24 years old;</p> <p>4) A written description of the pre-adoption requirements, if any, of the state of the child's proposed residence in cases where it is known that any child the applicant may adopt will be adopted in the United States, and of the steps that have already been taken or that are planned to comply with these requirements. The written description must include a citation to the state statutes and regulations establishing the requirements. Any preadoption requirements which cannot be met at the time Form I-800A is filed because of the operation of state law must be noted and explained when Form I-800A is filed.</p> <p>5) A home study that meets the requirements of 8 CFR 204.311 and that bears the home study preparer's original signature.</p>
<p>c) Is it compulsory in your State for an accredited body to be involved in an intercountry adoption procedure?<sup>16</sup></p>	<p><input checked="" type="checkbox"/> Yes, please specify at which stage(s) of the procedure an accredited body must be involved (<i>e.g.</i>, for the preparation of the home study, for the submission of the adoption file to the State of origin, for all stages of the procedure): Accredited and approved adoption service providers are subject to regulations governing their conduct in intercountry adoption cases. These regulations require an accredited or approved provider to act as the primary provider in each case(see 22 CFR 96.14). The primary provider develops and implements a service plan to provide six key defined adoption services§, either directly or through certain specified others (see 22 CFR 96.14 and 44). In addition, per USCIS regulations, PAPs cannot obtain immigration benefits for the child without</p>

<sup>16</sup> See GGP No 1 (*op. cit.* note 12), paras 4.2.6 and 8.6.6: "independent" and "private" adoptions are not consistent with the system of safeguards established under the 1993 Adoption Convention.

	<p>the involvement of an accredited or approved primary provider in the case.</p> <p>§ “Adoption service means any one of the following six services:</p> <p>(1) Identifying a child for adoption and arranging an adoption;</p> <p>(2) Securing the necessary consent to termination of parental rights and to adoption;</p> <p>(3) Performing a background study on a child or a home study on a prospective adoptive parent(s), and reporting on such a study;</p> <p>(4) Making non-judicial determinations of the best interests of a child and the appropriateness of an adoptive placement for the child;</p> <p>(5) Monitoring a case after a child has been placed with prospective adoptive parent(s) until final adoption; or</p> <p>(6) When necessary because of a disruption before final adoption, assuming custody and providing (including facilitating the provision of) child care or any other social service pending an alternative placement.”</p> <p>22 CFR 96.1 Definitions.</p> <p><input type="checkbox"/> No. Please specify who assists PAPs if no accredited body is involved in the adoption procedure:</p>
<p>d) Are any <i>additional</i> documents required if PAPs apply through an accredited body?</p> <p><i>Please tick all which apply.</i></p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> A power of attorney issued by the PAPs to the accredited body (<i>i.e.</i>, a written document provided by the PAPs to the accredited body in which the PAPs formally appoint the accredited body to act on their behalf in relation to the intercountry adoption):</p> <p><input checked="" type="checkbox"/> A contract signed by the accredited body and the PAPs:</p> <p><input type="checkbox"/> A document issued by a competent authority of the receiving State certifying that the accredited body may undertake intercountry adoptions:</p> <p><input type="checkbox"/> Other (please specify):</p> <p><input type="checkbox"/> No</p>

**17. The report on the PAPs (Arts 5(a) and 15(1))**

<p>a) Which body(ies) / expert(s) prepare the report on the PAPs?</p>	<p>Only a public domestic authority, an accredited body or approved person, a supervised</p>
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<p>Please include all those involved with the preparation of any of the documents which are included within such a report.</p>	<p>provider, or an exempted provider is authorized to complete adoption home studies. Home study providers must be licensed or otherwise authorized in the jurisdiction in which the home study is conducted.</p> <p>A supervised provider means any agency, person, or other non-governmental entity, including any foreign entity, regardless of whether it is called a facilitator, agent, attorney, or by any other name, that is providing one or more adoption services in an intercountry adoption case under the supervision and responsibility of an accredited agency or approved person that is acting as the primary provider in the case.</p> <p>An exempted provider means a social work professional or organization that performs a home study on PAPs or a child background study (or both) in the United States in connection with an intercountry adoption (including any reports or updates), but that is not currently providing and has not previously provided any other adoption service in the case.</p>
<p>b) Is a “standard form” used for the report on the PAPs in your State?</p>	<p><input type="checkbox"/> Yes, please provide a link to the form or attach a copy:</p> <p><input checked="" type="checkbox"/> No. Please indicate whether your State has any requirements concerning the information which must be included in the report on the PAPs and / or the documentation which must be attached to it: - An in-person interview and home visit with the PAPs. In addition, all adult members of the prospective parents’ household must also be interviewed.</p> <ul style="list-style-type: none"> <li>- An evaluation of the physical, mental, and emotional capabilities of the PAPs and any other adult members of the household.</li> <li>- A detailed description of the finances of the PAPs, including but not limited to income, debts, expenses, and the costs of supporting other members of the family.</li> <li>- A detailed description of the PAPs’ living conditions.</li> <li>- A detailed description of the PAPs’ ability to provide proper care for a child with special needs, if applicable.</li> <li>- A summary of the pre-placement preparation and training already provided</li> </ul>

	<p>to the PAPs, plans for future preparation and training, and plans for post-placement monitoring, if applicable.</p> <ul style="list-style-type: none"> <li>- Specific assessment of how the above factors would affect the PAPs’ ability to care for an adopted child from a particular country of origin, the number of children that the parents may adopt, and any restrictions on the children who should be placed with the parents.</li> <li>- A check of available child abuse registries, and inquiries into substance abuse, child or sexual abuse, and/or domestic violence.</li> </ul> <p>These checks and inquiries must relate to each adult member of the prospective parents’ household. The results of these checks and inquires must be noted in the home study.</p> <ul style="list-style-type: none"> <li>- Information on each prior or terminated home study and whether the prior home study recommended for or against finding the applicant or additional adult member of the household suitable for adoption, foster care, or other custodial care of a child.</li> <li>- A criminal history of each adult in the prospective parents’ household. Failure to disclose any record of arrest and/or conviction, history of any substance abuse, sexual or child abuse, or domestic violence may result in a denial of Form I-800A.</li> </ul> <p>Intercountry adoption home study requirements are set forth in U.S. federal regulations at 8 CFR 204.311. U.S. state law may set forth additional home study requirements.</p>
<p>c) For how long is the report on the PAPs valid in your State?</p>	<p>An amended or updated home study is required if there is a gap of more than 6 months between the date the home study is completed and the date it is submitted to USCIS. Ordinarily, once a home study has been submitted to USCIS, it will not have to be updated or amended during the period of validity of the approval of the Form I-800A (Application for Determination of Suitability to Adopt a Child from a Convention Country), unless there is a significant change in the PAPs’ household since the home study was completed. A list of examples representing significant changes in the household can be found on</p>

	the Instructions for Form I-800A, located at the Forms tab on the uscis.gov website.
d) Who is responsible in your State for renewing the report on the PAPs if the period of validity expires before the intercountry adoption is completed and what is the procedure for renewal?	See response to question 17. c)

<b>18. Transmission of the PAPs' file to the State of origin</b>	
a) Who sends the finalised application file of the PAPs to the State of origin?	See the U.S. response to question 16. a).
b) If no accredited body is involved with the intercountry adoption application (see Question 16(c) above), who assists the PAPs with compiling and transmitting their application file?	<input checked="" type="checkbox"/> Not applicable – an accredited body will always be involved (see response to Question 16(c) above).

<b>19. Receipt of the report on the child (Art. 16(2)) and acceptance of the match (Art. 17(a) and (b))</b>	
<b>19.1 Receipt of the report on the child (Art. 16(2))</b>	
Which authority / body in your State receives the report on the child from the State of origin?	The U.S. accredited body or approved person, or supervised provider in the State of origin, may receive the matching proposal and the report on the child. See 22 CFR 96.52 (b)(2).
<b>19.2 Acceptance of the match</b>	
a) Does your State require that the matching be accepted by a competent authority in your State?	<input type="checkbox"/> Yes, please provide the following details: <ul style="list-style-type: none"> <li>- Which authority determines whether to accept the match (e.g., the Central Authority or another competent authority):            and</li> <li>- The procedure which is followed (e.g., the report on the child is transmitted <u>first</u> to the competent authority to determine whether the match is accepted and only if this authority accepts the match is the report sent to the PAPs): <b><u>Go to Question 19.2 b)</u></b></li> </ul> <input checked="" type="checkbox"/> No. Please explain the procedure which is followed once the authority / body referred to in Question 19.1 has received the report on the child from the State of origin: The U.S. accredited body or approved person, or supervised provider in the State of origin, may inform the foreign Central authority or other competent authority that the

	prospective adoptive parent(s) agree to the adoption. See 22 CFR 96.52 (b)(3). <b>Go to Question 19.2 c)</b>
b) Which criteria must be fulfilled for the relevant authority in your State to accept the match?	N/A
c) Does your State impose any requirements on PAPs concerning the length of time they are given to decide whether to accept a match?	<input type="checkbox"/> Yes, in addition to any requirements of the State of origin, our State has a time-limit – please specify: <input checked="" type="checkbox"/> No, the requirements of the State of origin are determinative in this regard.
d) Do PAPs receive any kind of assistance from your State when deciding whether to accept a match?	<input checked="" type="checkbox"/> Yes – please specify what type of assistance is provided ( <i>e.g.</i> , counselling): U.S. regulations require accredited bodies or approved persons to provide training to PAPs, as outlined in the response to question 15 a). In particular, the regulations require adoption service providers or approved persons to provide PAPs with counseling specific to the child. Additionally, agencies and approved persons are required to provide additional in-person, individualized counseling and preparation, as needed, to meet the needs of the prospective adoptive parent(s) in light of the particular child to be adopted and his or her special needs, and any other training or counseling needed in light of the child background study or the home study. See 22 CFR 96.48. Accredited bodies and approved persons are required to provide PAPs with extensive medical and social background information on the child. See 22 CFR 96.49.  <input type="checkbox"/> No

<b>20. Agreement under Article 17(c)</b>	
a) Which competent authority / body agrees that the adoption may proceed in accordance with Article 17(c)?	<p>The U.S. Central Authority has delegated to U.S. consular officers the authority to issue an Article 5/17 letter.</p> <p>The Article 5/17 letter will inform the State of origin that the prospective adoptive parents are suitable and eligible to adopt, that based on information currently available the child will be able to enter and reside permanently in the United States, and that the U.S. Central Authority agrees that the adoption may proceed.</p>



b) At what point in the adoption procedure is the Article 17(c) agreement given in your State?	<input checked="" type="checkbox"/> Our State waits for the State of origin to provide its agreement first <b>OR</b> <input type="checkbox"/> Our State sends its agreement to the State of origin with a notice that the match has been accepted <b>OR</b> <input type="checkbox"/> Other (please specify):

<b>21. Travel of the PAPs to the State of origin<sup>17</sup></b>	
a) Does your State impose any travel requirements / restrictions on PAPs in addition to those imposed by the State of origin?	<input type="checkbox"/> Yes, please specify the additional requirements / restrictions: <input checked="" type="checkbox"/> No
b) Does your State permit an escort to be used to bring the child to the adoptive parents in your State in any circumstances?	<input checked="" type="checkbox"/> Yes, please specify in which circumstances: As set forth in 22 CFR 96.50(a), the accredited body or approved person “takes all appropriate measures to ensure that the transfer of the child takes place in secure and appropriate circumstances, with properly trained and qualified escorts, if used, and, if possible, in the company of the prospective adoptive parent(s).” <input type="checkbox"/> No

<b>22. Authorisation for the child to enter and reside permanently (Arts 5(c) and 18)</b>	
a) Please specify the procedure to obtain authorisation for the child to enter and reside permanently in your State.	Final adjudication of the visa application occurs once all other steps in the Convention adoption process have been completed. This includes provisional approval of the Form I-800 petition, the issuance of the Article 5/17 letter to the State of origin by the consular officer, the completion of a full and final adoption or grant of custody for the purpose of adoption in the United States, and final approval of the Form I-800 petition by the consular officer.
b) Which documents are necessary for a child to be able to enter and reside permanently in your State ( <i>e.g.</i> , passport, visa)?	An immigrant visa issued in a travel document that complies with U.S. immigration regulations permits an adopted child to be presented at the port of entry where the immigration official may admit the child and authorize him or her to reside permanently in the United States.
c) Which of the documents listed in response to Question 22(b) above must be issued by your State?	See response to question 22. a) and b)

<sup>17</sup> See GGP No 1 (*op. cit.* note 12), Chapter 7.4.10.

Please indicate which public / competent authority is responsible for issuing each document.	
d) Once the child has arrived in your State, what is the procedure, if any, to notify the Central Authority or accredited body of his / her arrival?	<p>As set forth in 22 CFR 96.52(a), the standards governing communications and coordination in incoming cases, the accredited body or approved person keeps the Central Authority of the State of origin and the U.S. Secretary of State informed as necessary about the adoption process and the measures taken to complete it.</p> <p>In general, no notification to the U.S. Central Authority concerning the child’s arrival in the United States is explicitly required.</p>

23. Final adoption decision and the Article 23 certificate	
<p>a) If the final adoption decision is made in your State, which competent authority:</p> <p>(i) Makes the final adoption decision; and</p> <p>(ii) Issues the certificate under Article 23?</p> <p><i>N.B. According to Art. 23(2), the authority responsible for issuing the Art. 23 certificate should be formally designated at the time of ratification of / accession to the 1993 Convention. The designation (or any modification to a designation) should be notified to the depositary of the Convention.</i></p> <p><i>The answer to (ii) above should therefore be available on the <a href="#">Status Table</a> for the 1993 Adoption Convention (under “Authorities”), available on the <a href="#">Adoption Section</a> of the HCCH website.</i></p>	<p>(i) (i) The U.S. state court exercising jurisdiction over the adoption will issue the final adoption order. U.S. state law requirements vary. For information on state laws and additional resources, see: <a href="https://www.childwelfare.gov/pubPDFs/intercountry.pdf">https://www.childwelfare.gov/pubPDFs/intercountry.pdf</a></p> <p>(ii) (ii) For cases in which the Convention country granted the adoptive parent(s) legal custody for the purposes of emigration and adoption, the adoptive parent(s) will complete the adoption process and obtain a final adoption decree in the United States. Article 23 Certificates are only issued by the United States for outgoing adoptions, and incoming cases must receive a certificate from the State of origin. For a discussion of issuance of Article 23 Certificates in incoming cases in which adoptive parents obtain a full and final adoption in the United States following receipt of a grant of custody in the country of origin for the purpose of adoption in the United States, see 22 CFR 97.5.</p>
<p>b) Does your State use the “Recommended model form – Certificate of conformity of intercountry adoption”?</p> <p><i>See GGP No 1 – Annex 7.</i></p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>
<p>c) Please briefly describe the procedure for issuing the Article 23 certificate.</p>	<p>The process for seeking an Article 23 certificate is found in the regulation 22 CFR 97.5 Certification of Hague Convention</p>

<p><i>E.g.</i>, how long does it take to issue the certificate? Is a copy of the certificate always given to the PAPs? Is a copy sent to the Central Authority in the State of origin?</p>	<p>Compliance in an incoming convention case where final adoption occurs in the United States.</p> <p>(a) Once the Convention has entered into force for the United States, any person may request the Secretary to certify that a Convention adoption in an incoming case finalized in the United States was done in accordance with the Convention.</p> <p>(b) Persons seeking such a certification must submit the following documentation:</p> <p>(1) A copy of the certificate issued by a consular officer pursuant to 22 CFR 42.24(j) certifying that the granting of custody of the child has occurred in compliance with the Convention;</p> <p>(2) An official copy of the adoption court's order granting the final adoption; and</p> <p>(3) Such additional documentation and information as the Secretary may request at the Secretary's discretion.</p> <p>(c) If a person seeking the certification described in paragraph (a) of this section fails to submit all the documentation and information required pursuant to paragraph (b) of this section within 120 days of the Secretary's request, the Department may consider the request abandoned.</p> <p>(d) The Secretary may issue the certification if the Secretary, in the Secretary's discretion, is satisfied that the adoption was made in compliance with the Convention. The Secretary may decline to issue a certification, including to a party to the adoption, in the Secretary's discretion. A certification will not be issued to a non-party requestor unless the requestor demonstrates that the certification is needed to obtain a legal benefit or for purposes of a legal proceeding, as determined by the Secretary in the Secretary's discretion.</p> <p>(e) A state court's final adoption decree, when based upon the certificate issued by a consular officer pursuant to 22 CFR 42.24(j), certifying that the grant of custody of the child has occurred in compliance with the Convention, or upon its determination that the requirements of Article 17 of the Convention have been met constitutes the</p>
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	certification of the adoption under Article 23 of the Convention.
d) In cases in which the Article 23 certificate is issued in the State of origin, which authority or body in your State should receive a copy of this certificate?	When the certificate is issued in the State of origin, the relevant U.S. Embassy or Consulate abroad receives a copy of the certificate from the appropriate State of origin authority.

#### PART VII: INTRA-FAMILY INTERCOUNTRY ADOPTIONS

<b>24. Procedure for the intercountry adoption of a child who is a relative of the PAPs (“intra-family intercountry adoption”)</b>	
<p>a) Please explain the circumstances in which an intercountry adoption will be classified as an “<i>intra-family</i> intercountry adoption” in your State.</p> <p>Please include an explanation of the degree of relationship which a child must have with PAPs to be considered a “relative” of those PAPs.</p>	<p>In the United States, these terms -- “intra-family adoption” and “relative adoption” -- are not defined in U.S. Federal law, including in the laws and regulations implementing the Convention. Rather, consistent with Article 29 of the Convention, the United States has promulgated regulations to prevent contact between PAPs and the child’s parents, legal custodians, or others who have care of the child until the requirements of Articles 4 and 5 have been met, unless the adoption takes place within a family or unless the contact is in compliance with the conditions established by the competent authority of the State of origin. The relevant provisions are found in 8 CFR 204.309(b)(2)(iii), which are Department of Homeland Security regulations clarifying when the Form I-800, Petition to Classify Convention Adoptee as an Immediate Relative, must be denied. The following petitioning relatives are excluded from the prohibition on prior contacts if such petitioner was already, before the adoption:</p> <p>“the father, mother, son, daughter, brother, sister, uncle, aunt, first cousin (that is, the petitioner, or either spouse, in the case of a married petitioner had at least one grandparent in common with the child’s parent), second cousin (that is, the petitioner, or either spouse, in the case of a married petitioner, had at least one great-grandparent in common with the child’s parent), nephew, niece, husband, former husband, wife, former wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister of the child’s parents.”</p>

<p>b) Does your State apply the procedures of the 1993 Adoption Convention to intra-family intercountry adoptions?</p> <p><i>N.B. If the child and PAs are habitually resident in different Contracting States to the 1993 Adoption Convention, <b>the Convention is applicable</b>, irrespective of the fact that the child and PAs are related: see further GGP No 1 at para. 8.6.4.</i></p>	<p><input checked="" type="checkbox"/> Yes – <b><u>go to Question 25</u></b></p> <p><input type="checkbox"/> Yes, in general, although there are some differences in the procedures for intra-family intercountry adoptions – please specify: <b><u>Go to Question 25</u></b></p> <p><input type="checkbox"/> No – <b><u>go to Question 24 c)</u></b></p>
<p>c) If your State does not apply the Convention procedures to intra-family intercountry adoptions, please explain the laws / rules / procedures which are used in relation to:</p> <p>(i) The counselling and preparations which PAs must undergo in your State;</p> <p>(ii) The preparation of the child for the adoption;</p> <p>(iii) The report on the PAs; and</p> <p>(iv) The report on the child.</p>	<p>(i) N/A</p> <p>(ii) N/A</p> <p>(iii) N/A</p> <p>(iv) N/A</p>

## PART VIII: SIMPLE AND FULL ADOPTION<sup>18</sup>

25. Simple and full adoption	
<p>a) Is “full” adoption permitted in your State?</p> <p><i>See GGP No 1 at Chapter 8.8.8 and note 18 below.</i></p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> In certain circumstances only – please specify:</p> <p><input type="checkbox"/> Other (please explain):</p>
<p>b) Is “simple” adoption permitted in your State?</p> <p><i>See GGP No 1 at Chapter 8.8.8 and note 18 below.</i></p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> In certain circumstances only (e.g., for intra-family adoptions only) – please specify: The Foreign Affairs Manual that guides the work of Consular Officers in handling Convention cases (9 FAM 502.3-1(G)) clarifies when a simple adoption may be sufficient for U.S. immigration purposes under the Convention adoption process:</p> <p>“a. The law of the country of adoption determines the validity of the adoption. The competent authority to grant adoptions may be a judicial or administrative body</p>

<sup>18</sup> According to the 1993 Adoption Convention, a **simple** adoption is one in which the legal parent-child relationship which existed before the adoption is not terminated but a new legal parent-child relationship between the child and his / her adoptive parents is established. A **full** adoption is one in which the pre-existing legal parent-child relationship is terminated. See further Arts 26 and 27 and GGP No 1 (*op. cit.* note 12), Chapter 8.8.8.

	<p>depending on the law of the country where the adoption was completed.</p> <p>b. Simple adoption: Some countries distinguish between full or plenary adoption and simple adoption. There is usually a relevant legal distinction in the country between a simple and full adoption, such as the continuation of some right or obligation between the child and natural parents or differences in the requirements to terminate the adoptive parent-child relationship. Previously, simple adoptions were considered insufficient for immigration purposes. However, in some countries, a simple adoption can be considered to satisfy all essential elements for an adoption for immigration purposes. To be valid for immigration purposes, the adoption must:</p> <ol style="list-style-type: none"> <li>(1) Create a legal permanent parent-child relationship comparable to that of a natural legitimate child between a child and someone who is not already the child's legal parent, and the parent-child relationship cannot be terminated for other than "serious" or "grave" reasons; and</li> <li>(2) Terminate the legal parent-child relationship with the prior legal parent(s); and</li> <li>(3) Be valid under the law of the country (or political subdivision) granting the simple adoption"</li> </ol> <p>If the foreign adoption meets these requirements, an adoption under foreign law could meet US immigration requirements for Convention adoptees.</p> <p>See also parallel content in the USCIS Policy Guidance of 2012:  <a href="https://www.uscis.gov/sites/default/files/USCIS/Outreach/Feedback%20Opportunities/Interim%20Guidance%20for%20Comment/guidance-adoption-valid-ina-july-9-12.pdf">https://www.uscis.gov/sites/default/files/USCIS/Outreach/Feedback%20Opportunities/Interim%20Guidance%20for%20Comment/guidance-adoption-valid-ina-july-9-12.pdf</a></p> <p><input type="checkbox"/> Other (please explain):</p>
<p>c) Does the law in your State permit "simple" adoptions to be converted into "full" adoptions in accordance with Article 27 of the 1993 Adoption Convention?</p> <p><i>See Art. 27(1)(a).</i></p>	<p><input checked="" type="checkbox"/> Yes – please provide details of how this is undertaken and please specify whether this is done on a regular basis when a State of origin grants a "simple" adoption or only in specific cases: Where such processes exist, state law governs the process of validating foreign adoptions, readoption following a foreign adoption, or conversion of a foreign adoption into one recognized under state</p>

	<p>law. (See the summary of state provisions in <a href="https://www.childwelfare.gov/pubPDFs/intercountry.pdf">https://www.childwelfare.gov/pubPDFs/intercountry.pdf</a> )</p> <p><input type="checkbox"/> No – <b><u>go to Question 26</u></b></p>
<p>d) If conversion of a “simple” adoption into a “full” adoption is sought in your State following an intercountry adoption, how does your State ensure that the consents referred to in Article 4(c) and (d) of the 1993 Adoption Convention have been given in the State of origin to a “full” adoption (as required by Art. 27(1)(b))?</p> <p><i>See Art. 27(1)(b) and Art. 4(c) and (d).</i></p>	<p>In all Convention intercountry adoptions, both the State of origin and the U.S. Consular Officer certify that the adoption occurred in accordance with the Convention. In addition, the Consular Officer certifies that the adoption occurred in accordance with U.S. law. These certifications would form part of the documentary record put before the court under state law when a simple adoption would be considered for conversion to full adoption. Because the Article 23 certification and the Consular Officer’s certification both require compliance with provisions governing consents in Article 4, the court is apprised of compliance with the provisions of Articles 4 and 23.</p>
<p>e) Following a conversion in your State, please explain which authority is responsible for issuing the Article 23 certificate in relation to the conversion decision. Please also explain the procedure which is followed.</p>	<p><input type="checkbox"/> The competent authority and the procedure is the same as stated in response to Question 23 above.</p> <p><input checked="" type="checkbox"/> Other (please specify): The provisions of 22 CFR 97.5 Certification of Hague Convention Compliance applies.</p> <p>(a) Once the Convention has entered into force for the United States, any individual may request the Secretary to certify that a Convention adoption in an incoming case finalized in the United States was done in accordance with the Convention.</p> <p>(b) Individuals seeking such a certification must submit the following documentation:</p> <p>(1) A copy of the certificate issued by a consular officer pursuant to 22 CFR 42.24 (j) [<a href="https://www.law.cornell.edu/cfr/text/22/42.24">https://www.law.cornell.edu/cfr/text/22/42.24</a>] certifying that the granting of custody of the child has occurred in compliance with the Convention;</p> <p>(2) An official copy of the adoption court's order [<a href="https://www.law.cornell.edu/cfr/text/22/97.5">https://www.law.cornell.edu/cfr/text/22/97.5</a>] granting the final adoption; and</p> <p>(3) Such additional documentation and information as the Secretary may request at the Secretary's discretion.</p> <p>(c) If a person seeking the certification described in paragraph (a) [<a href="https://www.law.cornell.edu/cfr/text/22/97.5">https://www.law.cornell.edu/cfr/text/22/97.5</a>]</p>

	<p>7.5#a] of this section fails to submit all the documentation and information required pursuant to paragraph (b) [<a href="https://www.law.cornell.edu/cfr/text/22/97.5#b">https://www.law.cornell.edu/cfr/text/22/97.5#b</a>] of this section within 120 days of the Secretary's request, the Department may consider the request abandoned.</p> <p>(d) The Secretary may issue the certification if the Secretary, in the Secretary's discretion, is satisfied that the adoption was made in compliance with the Convention. The Secretary may decline to issue a certification, including to a party to the adoption, in the Secretary's discretion. A certification will not be issued to a non-party requestor unless the requestor demonstrates that the certification is needed to obtain a legal benefit or for purposes of a legal proceeding, as determined by the Secretary in the Secretary's discretion.</p> <p>(e) A state court's final adoption decree, when based upon the certificate issued by a consular officer pursuant to 22 CFR 42.24(j) [<a href="https://www.law.cornell.edu/cfr/text/22/42.24">https://www.law.cornell.edu/cfr/text/22/42.24</a>], certifying that the grant of custody of the child has occurred in compliance with the Convention, or upon its determination that the requirements of Article 17 of the Convention have been met constitutes the certification of the adoption under Article 23 of the Convention.</p>
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#### PART IX: POST-ADOPTION MATTERS

<b>26. Preservation of, and access to, information concerning the child's origins (Art. 30) and the adoption of the child</b>	
<p>a) Which authority in your State is responsible for preserving information concerning the child's origins, as required by Article 30?</p>	<p>The Secretary of State and the U.S. Department of Homeland Security (DHS) preserve, or require the preservation of, Convention records, which generally include any item, collection, or grouping of information in whatever form that has been generated or received by the U.S. Department of State or the U.S. Department of Homeland Security in a Convention case. See 22 CFR 98.1(b).</p> <p>Moreover, as stated in 22 CFR Part 96.42(a), the accredited body or approved person also retains or archives adoption records in a safe,</p>



	secure, and retrievable manner for the period of time required by applicable U.S. state law.
<p>b) For how long is the information concerning the child's origins preserved?</p>	<p>As regards the requirements of 22 CFR 98.2 noted above, Convention records are to be preserved for a period of not less than 75 years. For Convention records involving a child who is immigrating to or emigrating from the United States, the 75-year period shall start on the date that the Secretary of State or DHS generates or receives the first Convention record related to the adoption of the particular child. For Convention records related to an adoption or placement for adoption involving two Convention countries other than the United States, the 75-year period shall start on the date that the Secretary of State or DHS generates or receives the first Convention record in connection with the performance of a Central Authority function. DHS records on Hague Convention Adoptees are considered permanent records and are kept active for 100 years. After 100 years they are moved to be permanently archived.</p>
<p>c) Does your State permit the following persons to have access to information concerning the child's origins and / or information concerning the adoption of the child:</p> <ul style="list-style-type: none"> <li>(i) the adoptee and / or his / her representative(s);</li> <li>(ii) the adoptive parent(s);</li> <li>(iii) the birth family; and / or</li> <li>(iv) any other person(s)?</li> </ul> <p>If so, are there any criteria which must be met for access to be granted (<i>e.g.</i>, age of the adopted child, consent of the birth family to the release of information concerning the child's origins, consent of the adoptive parents to the release of information concerning the adoption)?</p> <p><i>See Art. 9(a) and (c) and Art. 30.</i></p>	<p>(i) <input checked="" type="checkbox"/> Yes – please explain any criteria: In the United States, access to information concerning a child's origins in an incoming Convention case depends on who holds the information. Documents and other records relating to incoming Convention adoptions are held by accredited bodies, approved persons, providers in the State of origin, U.S. state authorities, and U.S. federal authorities. For example, the accredited agency or approved person is required to retain or archive adoption records in a safe, secure, and retrievable manner for the period of time required by U.S. state law, and is further required to make readily available to the adoptee (and the adoptive parent(s) upon request all non-identifying information in its custody about the adoptee's health history or background in accordance with 22 CFR Part 96.42(b).</p> <p>Access to Convention records held by the U.S. federal government is governed by applicable federal law, including the Privacy Act, the Freedom of Information Act, and the Immigration and Nationality Act.</p>

	<p>The adoptee, adoptive parents, or birth parents may contact the accredited body or approved person or the State that handled the adoption for non-identifying information. The amount of information that would be released varies depending upon the details that were recorded at the time of the birth and adoption as well as upon applicable U.S. state law and / or adoption service provider policy</p> <p><input type="checkbox"/> No</p> <p>(ii) <input checked="" type="checkbox"/> Yes – please explain any criteria: See above response <input type="checkbox"/> No</p> <p>(iii) <input checked="" type="checkbox"/> Yes – please explain any criteria: See above response <input type="checkbox"/> No</p> <p>(iv) <input checked="" type="checkbox"/> Yes – please explain any criteria: See above response <input type="checkbox"/> No</p>
<p>d) Where access to such information is provided, is any counselling or other guidance / support given in your State?</p>	<p><input checked="" type="checkbox"/> Yes – please specify: This varies depending upon applicable U.S. state law and/or adoption service provider policy. <input type="checkbox"/> No</p>
<p>e) Once access to such information has been provided, is any <i>further</i> assistance offered to the adoptee and / or others (e.g., regarding making contact with his / her biological family, tracing extended family)?</p>	<p><input checked="" type="checkbox"/> Yes – please specify: No direct assistance is provided to adopted persons at the federal level. However, there are many resources in the United States for adopted persons to utilize. These resources and strategies are summarized on the U.S. Department of Health and Human Services’ Child Welfare Information Gateway website at: <a href="https://www.childwelfare.gov/pubPDFs/f_search.pdf">https://www.childwelfare.gov/pubPDFs/f_search.pdf</a></p> <p>Also, the Gateway’s National Foster Care and Adoption Directory includes State contact information for Reunion Registries, Confidential Intermediary Services and support groups for adoptees, birth and adoptive families. It is available at: <a href="https://www.childwelfare.gov/nfcad/">https://www.childwelfare.gov/nfcad/</a></p> <p><input type="checkbox"/> No</p>

<b>27. Post-adoption reports</b>	
<p>a) Absent specific requirements of the State of origin in this regard, who is responsible in your State for <i>writing</i> post-adoption reports and <i>sending</i> such reports to the State of origin?</p>	<p>When post adoption reports are required by a State of origin, the accredited body or approved person includes preparation of the reports in their adoption services contract with the PAPs and makes good-faith efforts to encourage adoptive parent(s) to provide such reports. See 22 CFR 96.51(c).</p> <p>Generally, professional social workers prepare the reports, which are then submitted to the appropriate entity in the State of origin. The accredited body or approved person generally sends them on to the appropriate entity in the State of origin depending on the preferences of the State of origin.</p>
<p>b) Absent any specific requirements of the State of origin in this regard, is there a model form which is used by your State for post-adoption reports?</p>	<p><input type="checkbox"/> Yes – please specify whether use of the form is mandatory and indicate where it may be accessed (<i>e.g.</i>, provide a link or attach a copy):</p> <p><input checked="" type="checkbox"/> No – in which case, please specify the content expected by <i>your</i> State in a post-adoption report (<i>e.g.</i>, medical information, information about the child’s development, schooling): Not applicable</p>
<p>c) How does your State ensure that the requirements of the State of origin in relation to post-adoption reporting are fulfilled?</p>	<p>Pursuant to 22 CFR 96.51(c) when post-adoption reports are required by the child’s country of origin, accredited adoption service providers and approved persons include a requirement for such reports in the adoption services contract and make good-faith efforts to encourage adoptive parents to provide such reports.</p>

<b>28. Post-adoption services and support (Art. 9(c))</b>	
<p>Apart from the matters raised in Question 26 above, what, if any, post-adoption services and support is / are provided by your State to the child and / or PAPs following completion of an intercountry adoption (<i>e.g.</i>, counselling, support to preserve cultural links)?</p> <p>In particular, please state whether any specific post-adoption services or support are provided in your State in the case of special needs children.</p>	<p>It is a well-accepted and established social work practice in the United States for adoption professionals to follow up with adopting families once an adoption has been completed, but there are no standards for this specified in U.S. accreditation and approval regulations. Some accredited bodies and approved persons work with their families for several years to provide post adoption services. Such common services are provided for in the adoption services contract with adoptive families. U.S. accreditation and approval regulations require accredited bodies and approved persons to indicate whether they will provide any post-</p>

	adoption services in the agreement with prospective adoptive families.
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## PART X: THE FINANCIAL ASPECTS OF INTERCOUNTRY ADOPTION<sup>19</sup>

*Receiving States are also kindly requested to complete the “Tables on the costs associated with intercountry adoption”, available on the [Adoption Section](#) of the HCCH website.*

29. The costs <sup>20</sup> of intercountry adoption	
a) Are the costs of intercountry adoption regulated by law in your State?	<input checked="" type="checkbox"/> Yes – please specify any relevant legislation / regulations / rules and indicate how they may be accessed (e.g., link to a website or attach a copy). Please also briefly explain the legal framework: U.S. accreditation and approval regulations require accredited bodies or approved persons to comply with requirements regarding compensation in intercountry adoption cases and transparency with respect to adoption fees. U.S. regulations prohibit accredited bodies or approved persons from compensating any individual who provides intercountry adoption services with an incentive fee or contingent fee for each child located or placed for adoption (22 CFR 96.34, 36, 45, and 46). Accredited bodies or approved persons may compensate its directors, officers, employees, and supervised providers who provide intercountry adoption services only for services actually rendered and only on a fee-for-service, hourly wage, or salary basis rather than a contingent fee basis. Accredited bodies or approved persons may not make any payments, promise payment, or give other consideration to any individual directly or indirectly involved in provision of adoption services in a particular case, except for salaries or fees for services actually rendered and reimbursement for costs incurred.  This does not prohibit an agency or person from providing in-kind or other donations not intended to influence or affect a particular adoption. The fees, wages, or

<sup>19</sup> See the tools developed by the “Experts’ Group on the Financial Aspects of Intercountry Adoption”, available on the [Adoption Section](#) of the HCCH website: *i.e.*, the *Terminology adopted by the Experts’ Group on the financial aspects of intercountry adoption* (“Terminology”), the *Note on the financial aspects of intercountry adoption* (“Note”), the *Summary list of good practices on the financial aspects of intercountry adoption* and the *Tables on the costs associated with intercountry adoption*.

<sup>20</sup> See the definition of “costs” provided in the harmonised Terminology, *ibid.*

	<p>salaries paid to the directors, officers, employees, and supervised providers of the agency or person are prohibited from being unreasonably high in relation to the services actually rendered, taking into account the country in which the adoption services are provided and norms for compensation within the intercountry adoption community in that country, to the extent such norms are known; the location, number, and qualifications of staff; workload requirements; budget; and size of the agency or person. Any other compensation paid to the agency's or person's directors or members of its governing body may not be unreasonably high in relation to the services rendered, taking into account the same factors listed above and its for-profit or nonprofit status. 22 CFR 96.34)</p> <p>The agency or person identifies all vendors to whom clients are referred for non-adoption services and discloses to the accrediting entity any corporate or financial arrangements and any family relationships with such vendors. As set forth in 22 CFR 96.40, the accredited body or approved person provides to all applicants, prior to application, a written schedule of expected total fees and estimated expenses and an explanation of the conditions under which fees or expenses may be charged, waived, reduced, or refunded and when and how the fees and expenses must be paid. In addition, before providing any adoption service to prospective adoptive parents, the agency or person itemizes and discloses in writing information for each separate category of fees and estimate expenses that the prospective adoptive parents will be charged in connection with an intercountry adoption.</p> <p><input type="checkbox"/> No</p>
<p>b) Does your State monitor the payment of the costs of intercountry adoption?</p>	<p><input checked="" type="checkbox"/> Yes – please briefly describe how this monitoring is undertaken: The accrediting entity is responsible for monitoring ASP compliance with the accreditation standards, including standards relating to the payment of costs for intercountry adoption. See response to Question 29 a). In addition, the IAA establishes civil and</p>

	<p>criminal penalties for offering, giving, soliciting, or accepting inducement by way of compensation, intended to influence or affect in the United States or a foreign country.</p> <p>The IAA also establishes civil penalties for engaging another person as an agent, whether in the United States or in a foreign country, who in the course of that agency takes such action.</p> <p><input type="checkbox"/> No</p>
<p>c) Are the costs of intercountry adoption which must be paid in your State paid through the accredited body involved in the particular intercountry adoption (if applicable – see Question 16 (c) above) or directly by the PAPs themselves?</p> <p><i>See the “Note on the financial aspects of intercountry adoption” at para. 86.</i></p>	<p><input type="checkbox"/> Through the accredited body:</p> <p><input type="checkbox"/> Directly by the PAPs:</p> <p><input checked="" type="checkbox"/> Other (please explain): In some cases, prospective adoptive parents may pay costs through the accredited provider, but the parties may also agree that some fees will be paid directly by the prospective adoptive parents. As set forth in 22 CFR 96.40, the accredited body or approved person provides to all applicants, prior to application, a written schedule of expected total fees and estimated expenses and an explanation of the conditions under which fees or expenses may be charged, waived, reduced, or refunded and when and how the fees and expenses must be paid.</p>
<p>d) Are the costs of intercountry adoption which must be paid in your State paid in cash or only by bank transfer?</p> <p><i>See the “Note on the financial aspects of intercountry adoption” at para. 85.</i></p>	<p><input type="checkbox"/> Only by bank transfer:</p> <p><input type="checkbox"/> In cash:</p> <p><input checked="" type="checkbox"/> Other (please explain): Both may be permitted; however, information regarding payment of fees must be provided to all applicants, prior to application, via a written schedule of expected total fees and estimated expenses that includes when and how the fees and expenses must be paid.</p>
<p>e) Which body / authority in your State receives the payments?</p>	<p>See response to question 29. c)</p>
<p>f) Does your State provide PAPs (and other interested persons) with information about the costs of intercountry adoption (e.g., in a brochure or on a website)?</p> <p><i>N.B. Please also ensure that your State has completed the “Tables on the costs associated with intercountry adoption” (see above).</i></p>	<p><input checked="" type="checkbox"/> Yes – please indicate how this information may be accessed: The U.S. Department of State reports annually to the U.S. legislature the range of adoption fees charged in connection with incoming Convention adoptions and the median of such fees set forth by the country of origin. This information is made publicly available. The most recent information is provided in the fiscal year 2019 Annual Report on Intercountry Adoptions available to the</p>

	<p>public on the U.S. Department of State's Intercountry Adoption website, adoption.state.gov, at the following location:</p> <p><a href="https://travel.state.gov/content/dam/NEWadoptionassets/pdfs/FY%202019%20Annual%20Report%20.pdf">https://travel.state.gov/content/dam/NEWadoptionassets/pdfs/FY%202019%20Annual%20Report%20.pdf</a></p> <p>As stated above, the accredited body or approved person provides to all applicants, prior to application, a written schedule of expected total fees and estimated expenses and an explanation of the conditions under which fees or expenses may be charged, waived, reduced, or refunded and when and how the fees and expenses must be paid.</p> <p><input type="checkbox"/> No</p>
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<b>30. Contributions, co-operation projects and donations<sup>21</sup></b>	
<p>a) Does your State permit contributions<sup>22</sup> to be paid (either through your State's Central Authority or a national accredited body) to a State of origin in order to engage in intercountry adoption with that State?</p> <p><i>For good practices relating to contributions, see the "Note on the financial aspects of intercountry adoption" at Chapter 6.</i></p>	<p><input checked="" type="checkbox"/> Yes – please explain:</p> <ul style="list-style-type: none"> <li>- What type of contribution is permitted by your State: Contributions by accredited bodies and approved persons are not explicitly prohibited, but U.S. laws and regulations generally govern the issue of payments in several ways, including:</li> <li>- The IAA establishes civil and criminal penalties for offering, giving, soliciting, or accepting inducement by way of compensation, intended to influence or affect in the United States or a foreign country a decision by an accrediting entity with respect to the relinquishment of parental rights or the giving of parental consent relating to the adoption of a child, or a decision or action of any entity performing a</li> </ul>

<sup>21</sup> See the definitions of these terms provided in the harmonised Terminology. In addition, on contributions and donations, see Chapter 6 of the Note (*op. cit.* note 19).

<sup>22</sup> See further the harmonised Terminology, *supra*, note 19, which states that there are two types of contributions: (1) 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; (2) contributions demanded by the accredited body from PAPs. 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 PAPs in the sense that their application will not proceed if the payment is not made.

	<p>central authority function, among other things. See Section 404 (a) of the IAA.</p> <ul style="list-style-type: none"> <li>- - The accreditation regulations address this issue in several ways, including by prohibiting the employees and agents of accredited agencies or approved persons from giving money or other consideration, directly or indirectly, to a child's parent(s), other individual(s), or an entity as payment for the child or as an inducement to release the child. Regulations also require fees to be transparent as they relate to fixed contributions to child protection or child welfare service programs in the child's country of origin. In cases in which a U.S. accredited body or approved person expects or requires a prospective adoptive parent to pay a fixed contribution amount or percentage to child protection or child welfare service programs in the child's Convention country or in the United States, U.S. accreditation and approval regulations provide that, prior to providing any adoption service, the accredited body or approved person discloses this information in writing to the prospective adoptive parents, along with an explanation of the intended use of the contribution and the manner in which the transaction will be recorded and accounted for. See 22 CFR 96.40(b)(6).</li> <li>- Who is permitted to pay it (<i>i.e.</i>, the Central Authority or a national accredited body): See above response</li> <li>- How it is ensured that contributions do not influence or otherwise compromise the integrity of the intercountry adoption process: 22 CFR 96.34 addresses compensation in the following way to ensure the integrity of the intercountry adoption process: <ul style="list-style-type: none"> <li>- - (a) The agency or person does not compensate any individual who provides intercountry adoption services with an incentive fee or contingent fee for each child located or placed for adoption.</li> </ul> </li> </ul>
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	<ul style="list-style-type: none"><li>- - (b) The agency or person compensates its directors, officers, employees, and supervised providers who provide intercountry adoption services only for services actually rendered and only on a fee-for-service, hourly wage, or salary basis rather than a contingent fee basis.</li><li>- - (c) The agency or person does not make any payments, promise payment, or give other consideration to any individual directly or indirectly involved in provision of adoption services in a particular case, except for salaries or fees for services actually rendered and reimbursement for costs incurred. This does not prohibit an agency or person from providing in-kind or other donations not intended to influence or affect a particular adoption.</li><li>- - (d) The fees, wages, or salaries paid to the directors, officers, employees, and supervised providers of the agency or person are not unreasonably high in relation to the services actually rendered, taking into account the country in which the adoption services are provided and norms for compensation within the intercountry adoption community in that country, to the extent that such norms are known to the accrediting entity; the location, number, and qualifications of staff; workload requirements; budget; and size of the agency or person.</li><li>- - (e) Any other compensation paid to the agency's or person's directors or members of its governing body is not unreasonably high in relation to the services rendered, taking into account the same factors listed in paragraph</li><li>- - (d) of this section and its for-profit or nonprofit status.</li><li>- - (f) The agency or person identifies all vendors to whom clients are referred for non-adoption services and discloses to the accrediting entity any corporate or financial</li></ul>
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	<p>arrangements and any family relationships with such vendors.</p> <ul style="list-style-type: none"> <li>- - See also the discussion of IAA Section 404(a) in this question, above.</li> </ul> <p><input type="checkbox"/> No</p>
<p>b) Does your State undertake (either through the Central Authority or national accredited bodies) co-operation projects in any States of origin?</p>	<p><input checked="" type="checkbox"/> Yes - please explain:</p> <ul style="list-style-type: none"> <li>- What type of co-operation projects are permitted by your State: The U.S. Central Authority encourages other States to use the resources of the Hague Conference and provides information regarding U.S. practices with regard to the Convention for countries considering joining the Convention. The U.S. Central Authority remains willing to provide technical assistance as is possible. In addition, some U.S. accredited bodies have extensive programs contributing to the development of child welfare systems and capacities and enhancing the legislative and regulatory frameworks in foreign countries to protect the best interests of children.</li> <li>- Who undertakes such projects (<i>i.e.</i>, the Central Authority and / or national accredited bodies): See response above.</li> <li>- Whether such projects are mandatory according to the law of your State: These projects are not mandatory</li> <li>- Whether such projects are monitored by an authority / body in your State: The U.S. Central Authority does not monitor these projects. Any projects funded by U.S. government funds would be subject to any required monitoring related to the use of United States government funds.</li> <li>- How it is ensured that co-operation projects do not influence or otherwise compromise the integrity of the intercountry adoption process: The United States has promulgated regulations to address this issue, specifically by prohibiting contingency fees, promoting transparency and reasonableness, and clearly stating that donations should not be intended to influence or affect a particular</li> </ul>

	<p>adoption. See response to Question 30 a).</p> <p><input type="checkbox"/> No</p>
<p>c) If permitted in the State of origin, does your State permit PAPs or accredited bodies to make donations to orphanages, institutions or birth families in the State of origin?</p> <p><b><i>N.B. This is <u>not</u> recommended as a good practice: see further the “Note on the financial aspects of intercountry adoption” at Chapter 6 (in particular, Chapter 6.4).</i></b></p>	<p><input checked="" type="checkbox"/> Yes – please explain:</p> <ul style="list-style-type: none"> <li>- To whom donations may be made (e.g., to orphanages, other institutions and / or birth families): - To whom donations may be made (e.g., to orphanages, other institutions and / or birth families): Accredited bodies and approved persons are neither required to nor prohibited from engaging in such activities; accredited agencies and approved persons are not prohibited from providing in-kind or other donations not intended to influence or affect a particular adoption. The accreditation regulations address this issue in the context of transparency of fees as it relates to fixed contributions to child protection or child welfare service programs in the child’s country of origin. In cases in which a U.S. accredited body or approved person expects or requires a prospective adoptive parent to pay a fixed contribution amount or percentage to child protection or child welfare service programs in the child’s Convention country or in the United States, U.S. accreditation and approval regulations provide that, prior to providing any adoption service, the accredited body or approved person discloses this information in writing to the prospective adoptive parents, along with an explanation of the intended use of the contribution and the manner in which the transaction will be recorded and accounted for.</li> <li>- See 22 CFR 96.40(b)(6).</li> <li>- Many accredited bodies and approved persons engage in a wide variety of humanitarian work in foreign countries, including building or renovating orphanages, contributing to the care of older children less likely to be adopted, contributing to multinational humanitarian non-governmental organizations, and contributing to projects identified by the State of origin. Some of these</li> </ul>

	<p>efforts involve voluntary efforts by families who have adopted from the country of origin as part of the agency's effort to help the family maintain a close association with the country of origin, which informs the child's identity and connection to the country of origin, something that many experts in child development assert is important to the child's development of its identify and sense of self-worth</p> <ul style="list-style-type: none"> <li>- What donations are intended to be used for: See above response</li> <li>- Who is permitted to pay donations (<i>e.g.</i>, only accredited bodies or also PAPs): See above response</li> <li>- At what stage of the intercountry adoption procedure donations are permitted to be paid: See above response</li> <li>- How it is ensured that donations do not influence or otherwise compromise the integrity of the intercountry adoption procedure: See above response</li> </ul> <p><input type="checkbox"/> No</p>
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<b>31. Improper financial or other gain (Arts 8 and 32)</b>	
<p>a) Which authority is responsible for preventing improper financial or other gain in your State as required by the Convention?</p>	<p>The Department-designated accrediting entities are responsible for monitoring U.S. accredited bodies and approved persons to ensure that no improper financial gain occurs. They require accredited bodies and approved persons to report fee schedule changes and to make an annual attestation about conformity of their Convention adoptions programs with the Convention, the IAA, and applicable U.S. accreditation and approval regulations, and investigate complaints of unusually high fees. See below response to Question 31 b). In addition, accredited agencies and approved persons are also subject to financial reporting requirements of federal and state laws and regulations.</p>
<p>b) What measures have been taken in your State to prevent improper financial or other gain?</p>	<p>U.S. accreditation and approval regulations include several different ways of preventing improper financial gain. They lay out mandatory provisions relating to compensation (see below); they provide for transparency through disclosure of fees at the first opportunity to prospective adoptive parents (22 CFR 96.39 and 96.40) and subject the</p>

	<p>accredited agency or approved person to reviews, inspections, and audits by the accrediting entity - independent audits every four years as well as annual internal financial reviews that must be submitted to the accrediting entity each year (22 CFR 96.33). U.S. accreditation and approval regulations provide for consequences should accredited bodies and approved persons fail to adhere to the mandatory standards or fall out of substantial compliance with the disclosure provisions.</p> <p>The following are the mandatory provisions contained in 22 CFR 96.34(a) through (c), relating to compensation:</p> <p>a) The agency or person does not compensate any individual who provides intercountry adoption services with an incentive fee or contingent fee for each child located or placed for adoption.</p> <p>b) The agency or person compensates its directors, officers, employees, and supervised providers who provide intercountry adoption services only for services actually rendered and only on a fee-for-service, hourly wage, or salary basis rather than a contingent fee basis.</p> <p>c) The agency or person does not make any payments, promise payment, or give other consideration to any individual directly or indirectly involved in provision of adoption services in a particular case, except for salaries or fees for services actually rendered and reimbursement for costs incurred. This does not prohibit an agency or person from providing in-kind or other donations not intended to influence or affect a particular adoption.</p>
<p>c) Please explain the sanctions which may be applied if Articles 8 and / or 32 are breached.</p>	<p>Under the U.S. accreditation and approval system, an adoption service provider receives accreditation or approval when it is in substantial compliance with applicable U.S. accreditation and approval standards. If an accredited body or approved person falls out of substantial compliance with these standards, the accredited body or approved person will be subject to a range of adverse actions taken against it by the accrediting entity. In some cases, corrective action may be imposed with a deadline for re-establishing substantial</p>

	<p>compliance, with the adverse action becoming more severe – including suspension or loss of accreditation and, in limited circumstances, a complete bar from ever engaging in intercountry adoption – depending on the nature and seriousness of the conduct of the provider. 22 CFR 96.75 clarifies what adverse action the accrediting entities may take when an accredited body or approved person does not maintain its accreditation or approval. In addition, the IAA establishes federal civil and criminal penalties for certain actions that may relate to improper financial or other gain. See IAA Section 404.</p>
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## PART XI: ILLICIT PRACTICES<sup>23</sup>

<b>32. Response to illicit practices in general</b>	
<p>Please explain how your Central Authority and / or other competent authorities respond to intercountry adoption cases involving alleged or actual illicit practices.<sup>24</sup></p>	<p>The accreditation regulations include provisions for the oversight and monitoring of accredited adoption service providers. The accrediting entity supervises and oversees accredited bodies and approved persons on several levels:</p> <ul style="list-style-type: none"> <li>- Routine Oversight: Accrediting entities conduct routine oversight of accredited bodies and approved persons to ensure that each body remains in substantial compliance with applicable U.S. accreditation and approval standards. See 22 CFR Part 96, Subpart I.</li> <li>- Adverse Action: U.S. accreditation and approval regulations require the accrediting entity to take “adverse action” when it determines that an accredited body or approved person is no longer in substantial compliance with applicable accreditation and approval standards. Adverse actions include suspending or cancelling accreditation or approval; refusing to renew accreditation or approval; and requiring an accredited body or approved person to take a specific corrective action to bring itself into compliance. See 22 CFR 96.75, Adverse action against accredited</li> </ul>

<sup>23</sup> “Illicit practices” in this Country Profile refers to “situations where a child has been adopted without respect for the rights of the child or for the safeguards of the Hague Convention. Such situations may arise where an individual or body has, directly or indirectly, misrepresented information to the biological parents, falsified documents about the child’s origins, engaged in the abduction, sale or trafficking of a child for the purpose of intercountry adoption, or otherwise used fraudulent methods to facilitate an adoption, regardless of the benefit obtained (financial gain or other)” (from p. 1 of the *Discussion Paper: Cooperation between Central Authorities to develop a common approach to preventing and addressing illicit practices in intercountry adoption cases*, available on the [Adoption Section](http://www.hcch.net) of the HCCH website < [www.hcch.net](http://www.hcch.net) >).

<sup>24</sup> *Ibid.*

	<p>bodies or approved persons not in substantial compliance.</p> <ul style="list-style-type: none"><li>- The Complaint Registry: The U.S. Central Authority maintains a web-based complaint registry. Complaints that come through the registry are subject to review in accordance with U.S. regulations as well as procedures agreed upon between the U.S. Department of State and the accrediting entity. Complaints must relate to the 1993 Hague Convention, the Intercountry Adoption Act of 2000, the Intercountry Adoption Universal Accreditation Act of 2012, or relevant regulations. If the accrediting entity's review of complaints reveals that an accredited body or approved person has engaged in a pattern of serious, willful, grossly negligent, or repeated failures to comply with the accreditation and approval standards, or indicates that continued accreditation or approval would not be in the best interests of the children and families concerned, it must report the substantiated complaint to the Secretary of State.</li><li>- Department of State Monitoring and Oversight of Accredited and Approved Adoption Service Providers: U.S. accreditation and approval regulations also require the Secretary of State to suspend or cancel the accreditation or approval granted by an accrediting entity when the Secretary finds, in the Secretary's discretion, that the accredited body or approved person is substantially out of compliance with the standards in the accreditation regulations and that the relevant accrediting entity has failed or refused, after consultation with the Secretary, to take action. See 22 CFR 96.83.</li></ul> <p>Suspension or Cancellation of accreditation or approval by the Secretary.</p> <p>In addition, the Secretary of State may suspend or cancel the accreditation or approval granted by an accrediting entity if the Secretary finds that such action:</p> <ol style="list-style-type: none"><li>1) Will protect the interests of children;</li><li>2) Will further U.S. foreign policy or national security interests; or</li><li>3) Will protect the ability of U.S. citizens to adopt children under the [1993 Hague] Convention. See 22 CFR 96.83(b).</li></ol>
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See also 22 CFR 96.39(e) (requiring accredited bodies and approved persons to cooperate with reviews, inspections and audits by the accrediting entity or the Secretary of State).

Section 404 of the IAA also establishes civil and criminal penalties for (among other things) acting without accreditation or approval or inducing consent to adoption. The relevant sections of the IAA are included below:

a) Civil Penalties – Any person who:

1) Violates section 201 [Accreditation or Approval Required in order to Provide Adoption Services in Cases Subject to the Convention];

2) makes a false or fraudulent statement, or misrepresentation, with respect to a material fact, or offers, gives, solicits, or accepts inducement by way of compensation, intended to influence or affect in the United States or a foreign country:

A) a decision by an accrediting entity with respect to the accreditation of an agency or approval of a person under title II [of the IAA];

B) the relinquishment of parental rights or the giving of parental consent relating to the adoption of a child in a case subject to the Convention; or

C) a decision or action of any entity performing a central authority function; or

3) Engages another person as an agent, whether in the United States or in a foreign country, who in the course of that agency, takes any of the actions described in paragraph (1) or (2), shall be subject, in addition to any other penalty that may be prescribed by law, to a civil money penalty of not more than \$50,000 for a first violation, and not more than \$100,000 for each succeeding violation.

b) Civil Enforcement –

1) Authority of Attorney General: The Attorney General may bring a civil action to enforce subsection (a) against any person in any U.S. district court.

2) Factors to be considered in imposing penalties: In imposing penalties, the court shall consider the gravity of the violation, the degree of culpability of the defendant, and any history of prior violations by the defendant.

c) Criminal Penalties – Whoever knowingly and willfully violates paragraph (1) or (2) of



subsection (a) shall be subject to a fine of not more than \$250,000, imprisonment for not more than 5 years, or both.

U.S. Department of Homeland Security Regulations: The Department of Homeland Security promulgated regulations governing PAPs who seek an intercountry adoption covered by the Hague Convention.

Among those provisions is 8 CFR 204.304, "Improper inducement prohibited":

a) Prohibited payments: Neither the applicant/petitioner, nor any individual or entity acting on behalf of the applicant/petitioner may, directly or indirectly, pay, give, offer to pay, or offer to give to any individual or entity or request, receive, or accept from any individual or entity, any money (in any amount) or anything of value (whether the value is great or small), directly or indirectly, to induce or influence any decision concerning:

- 1) The placement of a child for adoption;
- 2) The consent of a parent, a legal custodian, individual, or agency to the adoption of a child;
- 3) The relinquishment of a child to a competent authority, or to an agency or person as defined in 22 CFR 96.2, for the purpose of adoption; or
- 4) The performance by the child's parent or parents of any act that makes the child a Convention adoptee.

b) Permissible payments: Paragraph (a) of this section does not prohibit an applicant/petitioner, or an individual or entity acting on behalf of an applicant/petitioner, from paying the reasonable costs incurred for the services designated in this paragraph. A payment is not reasonable if it is prohibited under the law of the country in which the payment is made or if the amount of the payment is not commensurate with the costs for professional and other services in the country in which any particular service is provided. The permissible services are:

- 1) The services of an adoption service provider in connection with an adoption;
- 2) Expenses incurred in locating a child for adoption;

	<p>3) Medical, hospital, nursing, pharmaceutical, travel, or other similar expenses incurred by a mother or her child in connection with the birth or any illness of the child;</p> <p>4) Counseling services for a parent or a child for a reasonable time before and after the child's placement for adoption;</p> <p>5) Expenses, in an amount commensurate with the living standards in the country of the child's habitual residence, for the care of the birth mother while pregnant and immediately following the birth of the child;</p> <p>6) Expenses incurred in obtaining the home study;</p> <p>7) Expenses incurred in obtaining the reports on the child as described in 8 CFR 204.313(d)(3) and (4);</p> <p>8) Legal services, court costs, and travel or other administrative expenses connected with an adoption, including any legal services performed for a parent who consents to the adoption of a child or relinquishes the child to an agency; and</p> <p>9) Any other service the payment for which the officer finds, on the basis of the facts of the case, was reasonably necessary.</p> <p>Foreign Corrupt Practices Act: This anti-bribery law, which makes it unlawful to pay a foreign official as a means of influencing business, has been used to prosecute adoption fraud cases.</p> <p>U.S. State law: Individual U.S. states have laws relating to child abduction and illicit practices in the adoption context.</p>
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<b>33. The abduction, sale of and traffic in children</b>	
<p>a) Please indicate which laws in your State seek to prevent the abduction, sale of and traffic in children in the context of your intercountry adoption programmes.</p> <p>Please also specify which bodies / persons the laws target (<i>e.g.</i>, accredited bodies (national or foreign), PAPs, directors of children's institutions).</p>	<p>The U.S. response to this question focuses specifically on the abduction and sale of children and other illicit practices in the context of intercountry adoption, i.e., as it applies to illicitly obtaining children for placement abroad with adoptive families. U.S. law does not use the term "trafficking in persons" in the context of intercountry adoption. The abduction or unlawful buying or selling of an infant or child for the purpose of offering that child for adoption is a serious criminal offense, but not a form of human trafficking as it does not necessarily involve</p>

	<p>the use of force, fraud, or coercion to compel services from a person.</p> <p>As part of Convention implementation, the United States put in place several mechanisms to prevent the abduction and sale of children in the context of adoption. In accordance with the IAA, the U.S. domestic legislation implementing the 1993 Hague Convention, the United States established a system for the accreditation of bodies and approval of persons to provide certain defined adoption services in connection with Convention adoption cases. This system is memorialized in U.S. federal accreditation and approval regulations at Part 96 of Title 22 of the Code of Federal Regulations and is now, with the passage of the Universal Accreditation Act in 2012 (UAA), applicable in non-Convention cases.</p> <p>The accreditation and approval process is carried out in the United States through accrediting entities in accordance with the provisions of the IAA, the UAA, and U.S. accreditation regulations. U.S. law implementing the Convention includes rigorous accreditation and approval requirements for agencies and persons providing one or more of the six defined adoption services in an intercountry adoption case. The accreditation regulations also provide a framework that holds U.S. accredited bodies and approved persons accountable for the conduct and practices of the providers they engage to provide adoption services in the United States or in another country.</p> <p>Accredited bodies and approved persons are subject not only to U.S. accreditation and approval regulations, but also to the laws of individual U.S. states and territories governing licensure of adoption professionals, which may include provisions covering, for example, limitations on the participation of attorneys in the adoption process and fee arrangements.</p> <p>U.S. accreditation and approval regulations include standards that apply to all accredited bodies and approved persons, and such bodies and persons must be in substantial compliance with all applicable standards to achieve and</p>
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	<p>maintain their accreditation or approval. The standards expressly prohibit the abduction, sale, and trafficking in children for purposes of adoption. The standards also have specific provisions covering the use of internet resources. See 22 CFR 96.39(f).</p> <p>For reference, excerpts from several relevant standards are copied below:</p> <p>22 CFR 96.35 Suitability of agencies and persons to provide adoption services consistent with the Convention.</p> <p>a) The agency or person provides adoption services ethically and in accordance with the Convention's principles of: 1) Ensuring that intercountry adoptions take place in the best interests of children; and</p> <p>2) Preventing the abduction, exploitation, sale, or trafficking of children.</p> <p>22 CFR 96.36 Prohibition on child buying.</p> <p>a) The agency or person prohibits its employees and agents from giving money or other consideration, directly or indirectly, to a child's parent(s), other individual(s), or an entity as payment for the child or as an inducement to release the child. If permitted, or required by the child's country of origin, an agency or person may remit reasonable payments for activities related to the adoption proceedings, pre-birth and birth medical costs, the care of the child, the care of the birth mother while pregnant and immediately following the birth of the child, or the provision of child welfare and child protection services generally. Permitted or required contributions shall not be remitted as payment for the child or as an inducement to release the child.</p> <p>b) The agency or person has written policies and procedures in place reflecting the prohibitions in paragraph (a) of this section and reinforces them in its employee training programs.</p> <p>22 CFR 96.45 Using supervised providers in the United States.</p> <p>a) The agency or person, when acting as the primary provider and using supervised providers in the United States to provide</p>
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	<p>adoption services, ensures that each such supervised provider:</p> <p>...</p> <p>2) Does not engage in practices inconsistent with the Convention’s principles of furthering the best interests of the child and preventing the sale, abduction, exploitation, or trafficking of children...</p> <p>22 CFR 96.46 Using providers in foreign countries.</p> <p>a) The agency or person, when acting as the primary provider and using foreign supervised providers to provide adoption services in foreign countries, ensures that each such foreign supervised provider:</p> <p>...</p> <p>2) Does not engage in practices inconsistent with the Convention’s principles of furthering the best interests of the child and preventing the sale, abduction, exploitation, or trafficking of children...</p> <p>Note: Supervised providers are defined for the purposes of 22 CFR Part 96 as “any agency, person, or other non- governmental entity, including any foreign entity, regardless of whether it is called a facilitator, agency, attorney, or by any other name, that is providing one or more adoption services in an intercountry adoption case under the supervision and responsibility of an accredited agency, or approved person that is acting as the primary provider in the case.”</p>
b) Please explain how your State monitors respect for the above laws.	See above response to Question 32. a)
c) If these laws are breached, what sanctions may be applied? (e.g., imprisonment, fine, withdrawal of accreditation.)	See above response to Question 32. a)

### 34. Private and / or independent adoptions

<p>Are private and / or independent adoptions permitted in your State?</p> <p><i>N.B. “Independent” and “private” adoptions are <u>not</u> consistent with the system of safeguards established under the 1993 Adoption Convention: see further GGP No 1 at Chapters 4.2.6 and 8.6.6.</i></p> <p><i>Please tick all which apply.</i></p>	<p><input checked="" type="checkbox"/> Private adoptions are permitted – please explain how this term is defined in your State: The term “private adoption” is not defined in U.S. law. For purposes of answering this Questionnaire, the definition of “private adoption” is taken from the Guide to Good Practice No.1: “[an adoption] where arrangements have been made</p>
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	<p>directly between the biological parent in one Contracting State and prospective adopters in another Contracting State.”</p> <p>U.S. prospective adoptive parents may make arrangements with the biological parents only when the laws of the U.S. state in which they reside as well as the laws of the State of origin permit such arrangements. In addition, PAPs will not be able to obtain immigration benefits for the child without the involvement of an accredited or approved primary provider.</p> <p><input type="checkbox"/> Independent adoptions are permitted - please explain how this term is defined in your State:</p> <p><input type="checkbox"/> <u>Neither</u> private nor independent adoptions are permitted.</p>
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## PART XII: INTERNATIONAL MOBILITY

35. The scope of the 1993 Adoption Convention (Art. 2)	
<p>a) If foreign national PAPs, habitually resident in your State, wish to adopt a child habitually resident in another Contracting State to the 1993 Adoption Convention, are they permitted to do so under the law of your State?</p> <p><i>Example: Indian PAPs are habitually resident in the USA and wish to adopt a child habitually resident in India.</i></p>	<p><input type="checkbox"/> Yes – please explain whether this would be treated as an <i>intercountry</i> or <i>domestic</i> adoption in your State<sup>25</sup> and please briefly explain the procedure which would be followed, as well as any specific criteria / conditions which would apply:</p> <p><input checked="" type="checkbox"/> No. U.S. immigration law permits only U.S. citizens to adopt a child from another country and immediately obtain an immigrant visa for the child to reside in the United States. Non-U.S. citizen PAPs who are permanent residents of the United States may adopt a child from another country and petition for the child to join them in the United States. However, the immigration process is not immediate and requires the parent to have two years of legal custody and joint residence with the child prior to approval of the petition and visa issuance. See the Department of State Intercountry Adoption webpages [<a href="https://travel.state.gov/content/travel/en/Intercountry-Adoption/Adoption-Process/before-you-adopt/adoption-by-non-us-citizens-living-in-us.html">https://travel.state.gov/content/travel/en/Intercountry-Adoption/Adoption-Process/before-you-adopt/adoption-by-non-us-citizens-living-in-us.html</a>] for additional information.</p>

<sup>25</sup> According to the 1993 Adoption Convention (see Art. 2), this is an *intercountry* adoption due to the differing habitual residences of the PAPs and the child. The Convention procedures, standards and safeguards should therefore be applied to such adoptions: see further, GGP No 1 (*op. cit.* note 12), Chapter 8.4.

<p>b) If foreign national PAPs, habitually resident in your State, wish to adopt a child also habitually resident in your State, are they permitted to do so under the law of your State?</p> <p><i>Example: Indian PAPs are habitually resident in the USA and wish to adopt a child also habitually resident in the USA.</i></p>	<p><input checked="" type="checkbox"/> Yes – please explain whether this would be treated as an <i>intercountry</i> or <i>domestic</i> adoption in your State<sup>26</sup> and please briefly explain the procedure which would be followed, as well as any specific criteria / conditions which would apply: Domestic adoption is permitted in cases where a foreign prospective adoptive parent meets the residence requirements of the state in which s/he plans to adopt and if the jurisdiction of the child’s residence permits adoption by non-U.S. citizens. U.S. state laws will determine the procedures to follow.</p> <p>However, citizens of countries party to the Convention should review guidance for non-citizens in the United States, including consideration of habitual residence, available on the Department of State Intercountry Adoption webpages. [<a href="https://travel.state.gov/content/travel/en/Intercountry-Adoption/Adoption-Process/before-you-adopt/adoption-by-non-us-citizens-living-in-us.html">https://travel.state.gov/content/travel/en/Intercountry-Adoption/Adoption-Process/before-you-adopt/adoption-by-non-us-citizens-living-in-us.html</a>]</p> <p><input type="checkbox"/> No</p>
<p>c) If a State of origin treats an adoption by PAPs habitually resident in your State as a <i>domestic</i> adoption when, in fact, it should be processed as an intercountry adoption under the 1993 Adoption Convention, how does your State deal with this situation?</p> <p><i>Example: PAPs who are nationals of State X habitually reside in your State. They wish to adopt a child from State X. Due to their nationality, the PAPs are able to adopt a child in State X in a domestic adoption procedure (in breach of the Convention). They then seek to bring the child back to your State.</i></p>	<p>Prospective adoptive parents who finalize an adoption as a domestic adoption when it should have been processed as a Convention adoption may be denied immigration benefits for the child.</p>

### PART XIII: SELECTION OF PARTNERS FOR INTERCOUNTRY ADOPTION<sup>27</sup>

36. Selection of partners	
<p>a) With which States of origin does your State currently partner on intercountry adoption?</p>	<p>The United States has not raised an objection to any acceding State pursuant to Article 44 of the Convention. However, the United States does not currently process intercountry adoption cases with</p>

<sup>26</sup> According to the 1993 Adoption Convention (see Art. 2), this is a *domestic* adoption due to the fact that the habitual residence of the PAPs and the child is in the same Contracting State: see further, GGP No 1 (*op. cit.* note 12), Chapter 8.4.

<sup>27</sup> In relation to the choice of foreign States as partners in intercountry adoption arrangements, see further GGP No 2 (*op. cit.* note 3), Chapter 3.5.

	<p>all Convention countries. This information is subject to change. Please consult the country information pages for specific information on individual countries.</p> <p><a href="https://travel.state.gov/content/travel/en/Inter-country-Adoption/Inter-country-Adoption-Country-Information.html">https://travel.state.gov/content/travel/en/Inter-country-Adoption/Inter-country-Adoption-Country-Information.html</a></p>
<p>b) How does your State determine with which States of origin it will partner?</p> <p>In particular, please specify whether your State only partners with other <i>Contracting States</i> to the 1993 Adoption Convention.</p> <p><i>To see which States are Contracting States to the 1993 Adoption Convention, please refer to the <a href="#">Status Table</a> for the Convention (accessible via the <a href="#">Adoption Section</a> of the HCCH website &lt; <a href="http://www.hcch.net">www.hcch.net</a> &gt;).</i></p>	<p>The United States' decision to process intercountry adoptions from a specific country is made after an evaluation of the country's laws, procedures, and practices, also considering the capacity of foreign authorities to process intercountry adoptions.</p>
<p>c) If your State also partners with <i>non-Contracting States</i>, please explain how it is ensured that the safeguards of the 1993 Adoption Convention are complied with in these cases.<sup>28</sup></p>	<p>The United States permits intercountry adoptions from non-Convention countries. Certain aspects of non-Convention procedures are distinct from the Convention procedures. However, with the passage of the UAA in 2012 and effective in July 2014, the same accreditation requirements and safeguards (previously only applied in Convention cases) apply to adoption service providers providing adoption services in non-Convention cases. In addition, children must meet the definition of "orphan," as defined under INA 101(b)(1)(F) to be eligible for immigration benefits under the orphan process.</p> <p><input type="checkbox"/> Not applicable: our State only partners with other <i>Contracting States</i> to the 1993 Adoption Convention.</p>
<p>d) Are any formalities required in order to commence intercountry adoptions with a particular State of origin (<i>e.g.</i>, the conclusion of a formal agreement<sup>29</sup> with that State of origin)?</p>	<p><input type="checkbox"/> Yes – please explain the content of any agreements or other formalities.<sup>30</sup></p> <p><input checked="" type="checkbox"/> No</p>

<sup>28</sup> See GGP No 1 (*op. cit.* note 12), Chapter 10.3 regarding the fact that "[i]t is generally accepted that States Party to the Convention should extend the application of its principles to non-Convention adoptions".

<sup>29</sup> See note 2 above concerning Art. 39(2) and the requirement to transmit a copy of any such agreements to the depositary for the 1993 Adoption Convention.

<sup>30</sup> *Ibid.*