

**Questionnaire on the practical operation of the Hague Convention of 29 May 1993 on protection of children and co-operation in respect of intercountry adoption;**

**Response by the delegation of the Netherlands.**

**A EXPLANATIONS AND QUESTIONS**

**1. Description**

- (a) Is your country (primarily) a receiving State or a State of origin? If both, please ensure your answers to the questions clearly distinguish, when necessary, between your role as a receiving State and your role as a State of origin.**
- (b) If your country is not yet a Party, please specify if your country is considering becoming a party to the Convention.**
- (c) Was your country represented at the 2000 Special Commission? Were the Conclusions and Recommendations of that meeting discussed or implemented by relevant authorities in your country?**

- 1.
  - a. In practice, the Netherlands is a receiving country only.
  - b. Not applicable.
  - c. Yes, the Netherlands was represented at the Special Commission in 2000.  
The conclusions and recommendations were indeed discussed and implemented in policy. For instance, the Netherlands pursues the policy that the standards and safeguards of the Convention, including the subsidiarity principle, are also applied in relation to non-Convention countries. In contacts with these countries the importance is continuously emphasized that these countries take the necessary steps towards accession to or ratification of the Convention.

**2. Good practice**

**The Permanent Bureau has commenced work on a Guide to Good Practice on Implementation of the Convention. A consultative group met in September 2004 to provide advice to the Permanent Bureau on this project. It is anticipated that the draft Guide will be circulated, in English, French and Spanish, to all Contracting States in June 2005 seeking comments and for discussion at the Special Commission.**

- (a) In relation to any aspect of intercountry adoption, what examples of good practice can you report, (i) from your own country or (ii) from another country?**
- (b) Please indicate what topics you would suggest for future chapters in the Guide to Good Practice (in addition to "Implementation", "Central Authority Practice" and possibly "Accreditation").**

- (c) **Have you experienced any major concerns or problems (i) in your State and (ii) in another State, associated with implementation of the Convention, such as a lack of implementing legislation, inadequate staffing or funding issues?**
  - (d) **If your State has signed but not yet ratified the Convention, please indicate whether your State would like implementation assistance from the Permanent Bureau or other States. What type of assistance would be most beneficial?**
2.     a.     See the answer to question 3 in the Dutch contribution to the questionnaire for the Special Commission of 2000.  
By now, the model form for the medical report of the child is widely used as well.
- b.     Perhaps methods designed to prevent illegal adoption should be dealt with.
- c.     i.     No major problems were experienced as regards the implementation of the Convention in the Netherlands;  
              ii.    A source for concern is the fact that in some countries of origin the Convention took effect without having been implemented in national legislation, and without a central authority having been appointed. It has also appeared that various countries lack the resources to give practical implementation to the Convention in an adequate manner.
- d.     Not applicable.

### **3. Questions concerning scope**

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

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

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

3.     a., b. and c. No specific experiences.

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

- (a) What are the different types of care available to a child in need of care and protection in your State?**
- (b) Please specify the procedures or other measures in place to ensure that due consideration is given to the possibilities for placement of the child within the State of origin before intercountry adoption is**

considered (the principle of subsidiarity - see Article 4 b) and Preamble, paragraphs 1-3).

- (c) What are your procedures to establish if a child is adoptable?
  - (d) What procedures are in place to ensure that consent to an adoption is given in accordance with Article 4 c) and d) of the Convention?
  - (e) Do you make use of the Model Form for the "Statement of consent to the Adoption"? See < [www.hcch.net](http://www.hcch.net) >, "Intercountry Adoption", "Practical Operation Documents", "Annex B to the Special Commission Report of October 1994".
  - (f) Have you applied the "Recommendation concerning the application to refugee children and other internationally displaced children of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption"? See Annex A to the Special Commission Report of October 1994.
  - (g) How is the eligibility and suitability of prospective adoptive parents assessed in your country (see Article 5 a))?
  - (h) What preparation (counselling, education or training) is given to prospective adoptive parents to prepare them for the intercountry adoption?
  - (i) Please also specify the measures / procedures in place to ensure that the requirements concerning the counselling of prospective adopters are complied with (see Article 5 b)).
  - (j) Please specify any post-adoption services established or contemplated in your country (see Article 9 c)).
- 4.
- a. The Netherlands has various forms of childcare, such as guardianship, putting under supervision, a care order and placement in a foster family.
  - b. The situation in the Netherlands is that in principle every child becoming available for adoption can be placed in the Netherlands.
  - c. In those cases where a child becomes available for adoption in the Netherlands, it is the task of the Child Care and Protection Board (*Raad voor de Kinderbescherming*, an independent branch of the Ministry of Justice) to investigate whether the child would ultimately be eligible for adoption. Subsequently it is up to the court to assess this and take a decision.
  - d. The aforementioned Child Care and Protection Board advises and assists the relinquishing parent in his decision to give the child up for adoption. In this context a minimum period of 60 days is applied in which the parent can reconsider his decision. In practice, the relinquishment forms designed for the purpose of the Convention are also used where a child is given up for adoption in the Netherlands.
  - e. Yes.
  - f. Until now, the Netherlands has not come across the situation in which children with refugee status were made eligible for

adoption. In situations in which an entire social structure is turned upside down, as happened recently after the Tsunami in Asia, the Netherlands in principle takes a reticent attitude where adoption is concerned.

- g. In the Netherlands, prospective adoptive parents should first attend a general information course, whereupon the Child Care and Protection Board investigates the suitability and eligibility of the prospective adoptive parents, using various investigative models.
- h. The prospective adoptive parents receive extensive written details, followed by a series of meetings in which they are informed about all aspects of adoption.
- i. Taking part in the aforementioned information meetings is compulsory for prospective adoptive parents who are adopting for the first time (Section 5 (2) of the Act). The same applies to the investigation by the Child Care and Protection Board, regardless of whether this concerns a first, second or subsequent application.
- j. See the answer to question 10 of the Dutch response to the questionnaire for the Special Commission of 2000.

## **5. Central Authorities**

- (a) Please specify any of the functions under Chapter IV of the Convention performed directly by your Central Authority or Central Authorities.**
- (b) Please indicate the number of personnel employed by your Central Authority to deal with intercountry adoption, their experience and qualifications, and what type of training they have received. (Where personnel undertake other functions, count them only for the amount of time spent on intercountry adoption, for example, if a person spends 50% of their time on intercountry adoption, count them as 0.5 of a person.)**
- (c) What procedures are in place to ensure continuity of experienced staff and training for new staff?**
- (d) Have you experienced difficulties with regard to the establishment or operation of the Central Authority, for example, difficulties over funding or resources?**
- (e) Please provide details of any difficulties you have experienced communicating with "central" Central Authorities in other countries or with provincial Central Authorities (in your own country or other countries)?**

- 5.
  - a. The Act of 14 May 1998 implementing the present Convention designates the Minister of Justice as the central authority (the relevant legislation was attached to the response to the questionnaire for the Special Commission of 2000). Within the Ministry of Justice, the duties of the central authority are carried out by the Directorate Judicial Youth Policy (*Directie Justitieel Jeugdbeleid*).
  - b. As stated above, the tasks under the Convention are

performed by the Directorate Judicial Youth Policy. Altogether this involves approximately 10 persons. With the exception of the administrative staff, the staff members have a legal and socio-educational background.

- c. The staff members concerned are given the opportunity to expand their knowledge and experience by attending courses and training sessions and taking part in working conferences.
- d. No, there have been no problems in setting up and organising the central authority, or in performing the tasks. The performance of the tasks of the central authority is however thwarted as a consequence of the circumstance that the number of applications for permission to adopt a child from abroad exceeds the number of children who are placed for adoption in the Netherlands each year. Between the moment of application and the moment in which a child is being placed, a number of years may pass.
- e. Not applicable.

## **6. Accreditation**

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

### ***Accredited bodies***

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

- (a) Please provide details (including powers and resources) of the authority or authorities which grant accreditation.**
- (b) How many bodies have been accredited by your country? Federal States may provide the number for each state or province. If possible, please indicate how many bodies have been refused accreditation.**
- (c) Please give a brief outline of your accreditation criteria, guidelines or legislation.**
- (d) What is the process by which accreditation is granted?**
- (e) If possible, please provide an electronic copy of your accreditation criteria, guidelines or legislation, and any translations into English, French or Spanish.**
- (f) How is the supervision of accredited bodies carried out in your State (Article 11 c))? Are there regular reporting requirements (including financial reporting) by the accredited body to the supervising authority?**
- (g) How is the performance of the accredited body assessed or evaluated?**

- (h) Has the competent supervisory authority encountered any difficulties in relation to (f)?
  - (i) Are you aware of any acts or behaviour by accredited bodies or approved bodies or persons that contravened your accreditation criteria? Please also provide details of any sanctions or penalties applied?
  - (j) What are the conditions for renewal of accreditation?
  - (k) Have you experienced any difficulties in obtaining assistance or cooperation from other Central Authorities in regard to accredited bodies?
  - (l) Have you experienced any difficulties or concerns regarding the supervision of accredited bodies in other countries?
  - (m) Do you consider that standard or model accreditation guidelines would assist countries in developing appropriate safeguards or procedures?
- (2) Has your country authorised foreign accredited bodies to undertake intercountry adoptions in your country (see Article 12)?
- (a) What steps are involved in the process of authorisation?
  - (b) What supervision of foreign authorised bodies occurs?
  - (c) Have you experienced any difficulties regarding a body accredited in one State and authorised to act in another State?
- (3) If your State has decided not to use accredited bodies, please explain the reasons and indicate what has influenced the decision.
- (4) What particular issues concerning accreditation would you like discussed on the Accreditation Day (17 September)?
- (5) Would you like to see a chapter on Accreditation developed for the Guide to Good Practice for Intercountry Adoption? What issues do you think should be covered in this chapter?

***Approved bodies and persons***

- (6) Please indicate whether your country uses or intends to use approved bodies or persons (see Article 22(2)) in intercountry adoption. If so,
- (a) How many bodies or persons have been approved by your country to provide adoption services in accordance with Article 22(2)?
  - (b) Do you grant approval to persons or bodies from abroad?
  - (c) What are the guidelines by which approval is granted (if different from 1(c))?
  - (d) What is the process by which approval is granted and renewed?
  - (e) How is the supervision of approved bodies or persons carried out in your State (Article 22(2))?

**(f) Has your country made a declaration under Article 22(4)?**

6. The Netherlands makes use of the possibility of accreditation.
- 1.a. In the Netherlands, a number of tasks have been assigned to organisations accredited for that purpose. The power to grant accreditation has been allotted to the Minister of Justice (Section 16 of the Act).
- b. At present, there are seven accredited organisations.
- c. The accreditation criteria have also been laid down in Section 16 of the Act (Appendix 3 to the Dutch contribution in the response to the questionnaire for the Special Commission of 2000).  
Also enclosed for your information is the Protocol on the procedure followed by the Central Authority Bureau in granting a licence to mediate in intercountry adoption or an extension of the validity of such a licence.
- d. See the aforementioned protocol.
- e. Idem.
- f. Under Section 25 of the Act, the supervision of the licensed mediation agencies has been vested in the Youth Care Inspectorate (*Inspectie Jeugdzorg*). This is an independent supervisory body in the field of youth care. Further criteria are being determined at present in respect of the (financial) annual reporting procedure.
- g. The aforementioned Youth Care Inspectorate carries out annual inspections at the mediation agencies and reports to the Minister of Justice.  
In addition, the accredited organisations should re-apply for accreditation every five years, whereupon a further investigation follows to check whether they still fulfil the criteria of acting with due care and honesty.
- h. No.
- i. No.
- j. See the protocol referred to under c.
- k. No.
- l. No.
- m. In the opinion of the Dutch delegation, standard guidelines may be a tool for countries that have no experience (as yet) with accreditation.
2. No. In the Netherlands there are no children available for intercountry adoption.
3. Not applicable.
4. - The qualification of persons or bodies who are eligible for accreditation;  
- Should the government stimulate the accreditation of bodies?  
- Should limitations be applied with respect to the geographic region in which an accredited body may operate in a foreign state?  
- What is non-profitable?  
- Should there be a complaints regulations?

- 5. Yes.
- 6. No.
- 6.a. to e. inclusive: Not applicable.
- 6.f. No.

## **7. Procedural aspects**

**(1) Please indicate any operational difficulties that have been experienced, including in particular:**

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

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

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

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

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

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

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



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

7.
  - 1.a. Information about the child's health and its background is not always sufficient – in particular where special needs children are concerned – in order to assess whether the proposed matching with prospective adoptive parents is acceptable.
  - b. Not applicable.
  - c. No problems known.
  - d. In relation to one single adoption from Panama, there was a problem in that the statement that the adoption had been performed in accordance with the Convention did not meet the standards set by the Convention (Article 23). As a result, the adoption was not eligible for direct recognition.
  - e. No problems known.
  - f. Not applicable.
  - g. No problems known.
  - h. No problems known. However, in general terms it may be observed that in the Netherlands the number of applications exceeds the number of children placed in the Netherlands.
2. Making one's own arrangements with child-placing agencies abroad is according to sections 14 and 15 not permitted in relation to those countries that are party to the convention; in the Netherlands it is however permitted in relation to non-convention countries provided that certain conditions are met (such as a check as to whether the child-placing agency acts with due care and honesty).
3. Problems only arise in relation to non-convention countries.
4. In the Netherlands, the Child and Youth Care Bureau (*Bureau Jeugdzorg*) in the region of the child's place of residence is the agency designated to indicate the measures to be taken. This could be providing assistance to the adoptive family, a family supervision order, a care order, etc. If it proves necessary to find the child a different adoptive family, the Child and Youth Care Bureau will examine, in consultation with the foreign central authority involved, whether, with a view to the child's interests, the child should be placed in the Netherlands or in its country of origin.
5. The Dutch delegation is not unconditionally in favour of this recommendation. It would be desirable in the first instance to ascertain how frequently fraudulent documents or concealment of a person's status arises in adoption cases and to what extent these constitute a reason not to encourage certain states to ratify the Apostille Convention.
6. Until now, the Netherlands has only applied such a measure in relation to adoption from Guatemala. To this end, a protocol was drawn up between the Ministry of Justice and the Ministry of Foreign Affairs, the mediation agency and the laboratory carrying out the test. In addition to the sampling of DNA in the building of the Dutch embassy in Guatemala City by a person with the appropriate medical qualifications,

staff members of this embassy also conduct an interview with the relinquishing parent(s) in order to ascertain whether the relinquishment is entirely voluntary, no payments or other compensation have been offered and no pressure is exerted on the relinquishing parent(s) to give up the child for adoption.

All the costs are borne by the adoptive parents.

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

**(1) The Convention does not determine which authorities have jurisdiction to grant or amend / revoke an adoption nor which law applies to the conditions governing, or the effects of, an adoption.**

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

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

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

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

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

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

8. 1a. No particular problems have been encountered so far as regards jurisdiction of the courts in adoption matters. Jurisdiction of the courts in the Netherlands to revoke an adoption may give rise to problems of recognition of such an order in the country of origin.
- b. The Dutch conflict-of-laws rules relating to adoption are contained in the act of 3 July, 2003, Stb. 283, an English and a French translation of which are enclosed. Sections 1 and 5 of this Act provide that the 1993 Hague Adoption Convention shall prevail.
- As a large majority of adoptions under the Convention lead to adoption orders in the country of origin, which are subsequently recognized in the Netherlands, our delegation does not see a need to explore these questions any further. It might be helpful to have a documentation of rules on jurisdiction and applicable laws of the States parties to the

- Convention.
2. We are not aware of any difficulties experienced by Dutch accredited agencies operating abroad under the Convention, as far as representation is concerned.

## **9. Recognition and effects**

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

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

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

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

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

9.
  1. As the occasion arises, a form based on the recommended model is used (see Section 10 of the Act of 14 May 1998 implementing the Convention concluded on 29 May 1993 on the protection of children and cooperation in respect of intercountry adoption).
  2. In the recent past, problems were experienced as regards the issue of this statement (with Colombia, for example). Recently, a similar problem occurred in relation to Panama, whereby the statement issued did not contain the details referred to in Article 23.
  3. No.
  4. In case the recognition of the adoption is being denied, a declaratory judgement on the validity may be requested from the court. To our knowledge, there is no case law on this subject.

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

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

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

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

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

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

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

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

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

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

10.     1.     At present, the prospective adoptive parents have to pay an amount of € 900 for the compulsory general information. As yet there is no charge for the other services rendered by the government in the area of adoption. The mediation agencies, on the other hand, charge and pass on costs incurred both in the Netherlands and in the child's country of origin. These range between € 5,000 and € 20,000. The information about the extent of the costs is transparent and clear to anyone interested.
2.     No.
3.     It is acceptable to charge a certain amount in order to partly fund the child protection system in respect of those children for whom adoption is not an acceptable option, provided that account be rendered of the way in which the funds received are spent.
4.     Not known.
5.     No.
6.     No.
7.     Not applicable.
8.     No.
9.     No.

## **11. Improper financial gain**

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

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

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

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

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

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

11.    1.    The Act stipulates that improper financial gain is a criminal offence.
2.    No experience known.
3.    No.
4.    The Act provides that the mediation agencies should not have a profit motive. This is monitored, too.
5.    Not applicable.
6.    No.

## **12. Relative adoptions**

**Do you have any comments on the application of the Convention procedures to relative (inter-family) adoptions?**

12.    Where children are adopted by relatives, in most cases the child will already be part of the adoptive family at the time of the adoption request, after it has been granted permanent residence in the country of reception and has made this country its habitual residence in a way other than via the procedure of the Convention.

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

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

13.    The aim of the policy in this area is on the one hand that the adoptive parents are adequately prepared for the admittance of special needs children, and on the other that the mediating

agencies make sure that they receive all the relevant medical, social and psychological reports before introducing a special needs child to adoptive parents. Subsequently the adoptive parents should be given sufficient time to make a well-considered decision as to whether they can and want to accept the disabled child offered. As the occasion arises, the Child Care and Protection Board is asked for further advice.

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

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

- (1) Is your country involved in international placements of children other than for purposes of adoption?**
- (2) Are you aware of any difficulties concerning such placements?**
- (3) If your country is not yet a Party to the 1996 Convention, is your country actively studying ratifying or acceding to it?**

- 14.
  - 1. See 3.
  - 2. See 3.
  - 3. A proposed Kingdom Act approving the 1996 Hague Child Protection Convention and a proposed Act implementing that Convention are before Parliament. The implementing act will implement the provisions of Article 33 of that Convention in a manner resembling the procedure for adoption.

#### **15. Avoiding the Convention**

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

- 15. It has happened that a married Dutch man fathered a child while staying abroad and recognised the child in that country, whereafter attempts were made to have the child adopted locally. It has also happened that prospective adoptive parents tried to take in a child through surrogate motherhood.

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

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

**Have you made agreements with one or more other Contracting State (see Article 32(2)) with a view to improving the application of the**

**Convention? If so, please specify with which States and what matters are covered by the agreements.**

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

- (a) with non-Contracting States? Are Convention safeguards applied?**
- (b) with Contracting States? Do they improve the operation of the Convention? Have they caused any difficulties?**

16. A married man of Dutch nationality can only acknowledge paternity of a child of foreign nationality provided that the requisites of Dutch internal law are met. Such an acknowledgement having come into being abroad can also only be valid provided that requisites of Dutch law are met (section 4, subsection 2 and section 10, subsection 2 under a. Dutch conflict-of-laws rules relating to descent) This means that court must have established the plausibility that a tie exists or has existed between the man and the mother which is sufficiently to be considered in line with a marriage, or that there is a tight personal relationship between the man and the child (section 204, subsection 1 under c., Book I of the Dutch Civil Code).
- a. Until now, the Dutch policy has been not to conclude bilateral agreements with non-Convention countries and to induce the countries concerned to become party to the Convention.
  - b. To date, there has been no cause for making bilateral arrangements with other Convention countries.

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

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

17. No; Parliament is exerting pressure to find more adoption channels abroad.

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

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

18. There are regular consultations with the relevant chain partners on all kinds of subjects in this area, including the application of the Convention. Until now, none of the chain partners has expressed a need for contributions from other countries.

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

19. Further discussion about this thought is necessary. It is not quite clear to the Dutch delegation what advantages such a concept may offer above follow-up meetings of a Special Commission

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

20. When countries ratify the Convention, it is normally assumed that these countries will be able to apply the Convention in full from the moment the Convention takes effect in those countries. What gives cause for concern, however, is that a number of these countries have not yet implemented the Convention in national legislation by the time it takes effect and sometimes even have not yet appointed a central authority. We recommend that this issue be addressed within the framework of the Hague Conference.

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

21. No.