

QUESTIONNAIRE ON THE PRACTICAL OPERATION OF THE 1993 ADOPTION CONVENTION
Prel. Doc. 3 of February 2020 for the Special Commission meeting in 2021

Name of State:	The Hong Kong Special Administrative Region of the People's Republic of China (HKSAR)
Information for follow-up purposes	
Name and title of contact person:	Chief Social Work Officer (Family and Child Welfare) ²
Name of Authority / Office	Family and Child Welfare Branch, Social Welfare Department
Telephone number:	852 - 2892 5168
E-mail address:	cfcw2@swd.gov.hk

1. POST-ADOPTION MATTERS

1.1. Preservation of, and access to, information

Both States of origin and receiving States

1.1.1. Preservation of information and use of data

1.	<p>Has your State centralised, in a public facility, information concerning the child's origins and the adoption of the child?</p> <p><input checked="" type="checkbox"/> Yes. Please specify where the information is centralised: Information concerning the child's origins and adoption is kept at the child's case file stored at the Adoption Unit ("AU") of Social Welfare Department ("SWD") of the HKSAR Government ("HKSARG").</p> <p><input type="checkbox"/> No. Please specify where the information is stored:</p>
2.	<p>Has your State encountered situations where personal data obtained during the intercountry adoption process has been misused (see Art. 31 of the Convention)?</p> <p><input type="checkbox"/> Yes. Please provide details of the types of situations your State encountered and the action(s) taken in response:</p> <p><input checked="" type="checkbox"/> No.</p>

1.1.2. Search for origins

3.	<p>Is there a specialised programme or section in the Central Authority which deals with the search for the origins of an adoptee?</p> <p><input checked="" type="checkbox"/> Yes. Please provide its name and explain the services provided: In HKSAR, root tracing service is provided by AU of SWD. It aims to assist adoptees to obtain information about themselves and their birth parents as well as establish contact with their birth families.</p> <p><input type="checkbox"/> No. Please specify how the search for the origins is handled:</p>
----	---

4.	<p>Has your State developed any good practices to ensure that Recommendation No 21¹ of the 2015 Special Commission is implemented?</p> <p><input checked="" type="checkbox"/> Yes. Please specify the good practices developed in that regard: The prospective adoptive parents ("PAPs") are all briefed of the root tracing service before they adopt. Social workers in HKSAR would provide counselling and support to adoptees and their families throughout the process of root tracing.</p> <p><input type="checkbox"/> No. Please specify any reasons:</p>
5.	<p>If your State allows for the use of DNA testing to search for origins, please specify:</p> <p>(a) which body is in charge of the DNA testing (e.g., government, private companies, NGOs); N/A</p> <p>(b) where the data is stored, and whether it is stored by a public or private entity; N/A</p> <p>(c) the average cost of a DNA test in your State and whether any subsidy is available; N/A</p> <p>(d) details of any challenges and / or good practices your State may have developed with respect to the issues identified in this question and DNA testing in general. N/A</p>
6.	<p>What is your State's practice when the background information of an adoption is incomplete or non-existent? How does your State support adoptees in such situations?</p> <p>In HKSAR, there are some cases (such as abandoned children) of which the background information of the child is missing and not known. In handling these adoptees' request for root tracing, counselling would be provided to support them to face the missing part of their past history.</p>
7.	<p>What is the procedure in your State when illicit practices are discovered during a search for origins? Please provide details of any challenges and / or good practices.</p> <p>SWD, as the Central Authority ("CA") in HKSAR, has not encountered such situation so far.</p>
8.	<p>If statistics are available in your State regarding the number of adoptees who are searching / have searched for their origins, please specify:</p> <p>(a) how many of these searches were successful (e.g., the adoptee found his birth family); We have not captured such figures in relation to intercountry adoption.</p> <p>(b) how many were not successful and what were the reasons. We have not captured such figures in relation to intercountry adoption.</p>
9.	<p>Has your State encountered any challenges with regard to access to information due to the confidentiality of the identity of the birth parents?</p> <p><input checked="" type="checkbox"/> Yes. Please specify the challenges and how your State addressed them:</p>

¹ ["Conclusions and Recommendations adopted by the Fourth Meeting of the Special Commission on the practical operation of the 1993 Hague Intercountry Adoption Convention \(8-12 June 2015\)"](#), C&R No 21 (hereinafter, "C&R of the 2015 SC");

"The SC recommended that the possibility of a child searching for his or her origins be **included** in the **counselling and preparation** of the prospective adoptive parents. When an adopted child or an adult adoptee undertakes such a search, **professional support** at all stages is recommended" [emphasis added].

	<p>For instance, there are challenges on the balance between the adoptees' right of access to information and the birth parents' right to keep confidential their identity and personal data from the adoptees and/or adoptive families. In any case, the birth parents' will will be respected as regards the disclosure of their identity.</p> <p><input checked="" type="checkbox"/> No.</p>
10.	<p>Does your State make a distinction between the disclosure of identifying versus non-identifying information?</p> <p><input checked="" type="checkbox"/> Yes. Please explain your response:</p> <p>AU of SWD keeps both the identifying and non-identifying information of the birth families. Where the adoptees request to search for birth information with the identifying information of the birth families, AU of SWD would check against the file record to ascertain if a veto has been imposed by the birth parents either at the time of relinquishing the child or any time after the relinquishment. In case a veto has not been imposed, all birth information including the identifying information of the birth parents will be provided to the adopted person. Should a veto be in place and has not been lifted, only those birth information without identifying information of the birth parents would be released.</p> <p><input type="checkbox"/> No. Please explain your response:</p>
11.	<p>What is the procedure in your State for processing requests from the birth family to receive information concerning the adoption of their child? Does your State have a specific programme / database to handle such requests?</p> <p>There is no specific programme for birth family. Birth parents are briefed that their parental rights and contact with the child will be terminated when the relinquishment procedures are completed. In order to protect the rights of the child, root tracing service will only be provided to adoptees. Birth parents will receive information of adoption in the scenario that the adoptees initiate contacts with their birth families.</p>

1.1.3. Guidelines and good practices

12.	<p>Has your State developed any guidelines (e.g., procedures, manuals) and / or good practices regarding preservation of information and search for origins?</p> <p><input checked="" type="checkbox"/> Yes. Please provide a link or attach a copy with your response:</p> <p>SWD, as CA in HKSAR, has a procedural guide on root tracing. A copy is attached for internal reference only. Please do not make public this internal procedural guide.</p> <p><input type="checkbox"/> No.</p>
-----	---

1.2. Post-adoption services²

Both States of origin and receiving States

13.	<p>Has your State developed any good practices to ensure that Recommendation No 18³ of the 2015 Special Commission is implemented?</p>
-----	--

² Post-adoption services may be provided to adoptees, birth families and adoptive families.

³ C&R No 18 of the 2015 SC:

“The SC recognised that post-adoption services are essential and should take into account the **lifelong nature** of adoption. States are encouraged to develop **specialised post-adoption services**, in addition to the general services already in place” [emphasis added].

	<p><input checked="" type="checkbox"/> Yes. Please specify the good practices developed in that regard:</p> <p>Currently, the Accredited Bodies ("ABs") in HKSAR and their overseas partners provide post-adoption services for inter-country adoption cases with HKSAR as the State of Origin. For inter-country adoption cases with HKSAR as the Receiving State, ABs would provide post-adoption services for the adoptive families and adoptees.</p> <p><input type="checkbox"/> No. Please specify any reasons:</p>
14.	<p>If your State provides specialised post-adoption services, please specify:</p> <p>(a) the type of services provided and to whom they are provided (<i>e.g.</i>, child and adult adoptees, birth families, adoptive families);</p> <p>Post-adoption services are provided to the adoptees and adoptive families. Coverage of services provided through counselling includes (1) identifying of the needs of adoptees and adoptive families such as the integration of adoptees into the adoptive families, the medical, rehabilitation training and educational needs of the adoptees; and (2) rendering of advice on issues arising from the emigration to a new country.</p> <p>(b) who provides the services (<i>e.g.</i>, social welfare administration, school, health personnel);</p> <p>Post-adoption services are provided by registered social workers of ABs in HKSAR.</p> <p>(c) whether the professionals involved in the post-adoption services are the same as those involved in the preparation of the prospective adoptive parents (PAPs);</p> <p>For the sake of continuity of service and good understanding on the need of the adoptees and adoptive parents, the social workers involved in the preparation of PAPs will also provide post-adoption services.</p> <p>(d) how, if there are different services, these various services are coordinated;</p> <p>N/A</p> <p>(e) how the post-adoption services are financed (<i>e.g.</i>, the government funds its own services, the government funds Adoption Accredited Bodies (AAB) services, adoptees and their families pay for the services themselves, other);</p> <p>In HKSAR, post-adoption services are provided by ABs subvented by HKSARG.</p> <p>(f) the length of time this support is available.</p> <p>Varies, usually lasts from six months to two years.</p>
15.	<p>Please provide details of any good practices in your State which ensure that adoptees, adoptive families and birth families are adequately informed about, and can easily access, post-adoption services.</p> <p>The overseas partners of our ABs in handling intercountry adoption with HKSAR as the State of Origin are encouraged to provide post-adoption services to the adoptive families and adoptees. On the other hand, our ABs will provide post-adoption services in handling intercountry adoption with HKSAR as the Receiving State. Birth families are not involved in post-adoption services.</p>
16.	<p>In setting up post-adoption services in your State, were the voices of adoptees considered?</p> <p><input checked="" type="checkbox"/> Yes. Please specify in what way their voices were considered:</p> <p>Adoptees' views would be listened to and collected in the process.</p> <p><input type="checkbox"/> No.</p>
17.	<p>Has research been carried out in your State in the past five years assessing post-adoption services?</p>

	<input type="checkbox"/> Yes. Please provide a link or attach a copy with your response: <input checked="" type="checkbox"/> No.
--	---

Receiving States only

18.	<p>Please specify any challenges your State encounters in ensuring that adequate support is in place for adoptees and the adoptive family following an intercountry adoption, including where parents have adopted a child with special needs. Please also share any good practices your State has developed to overcome such challenges.⁴</p> <p>All children in HKSAR share the same rights for services including medical, educational, social services. In case counselling service is required by adoptees and adoptive families in relation to post-adoption services, referral would be made to relevant integrated family service centres for support and assistance.</p>
-----	--

1.3. Post-adoption reports

Receiving States only

19.	<p>Does the preparation of PAPs in your State include the provision of information on post-adoption report requirements of the State where the PAPs (would like to) adopt?</p> <p><input checked="" type="checkbox"/> Yes. Please explain your response: All PAPs in HKSAR are briefed on the provision of post-adoption supervision and post-adoption report requirements when applying for adoption.</p> <p><input type="checkbox"/> No. Please specify when and how PAPs are otherwise informed:</p>
-----	--

Both States of origin and receiving States

20.	<p>Has your State encountered situations where the adopted child refused or objected to the obligation to comply with the post-adoption report requirements?</p> <p><input type="checkbox"/> Yes. Please specify the types of situations and what action your State has taken to address this type of situation:</p> <p><input checked="" type="checkbox"/> No.</p>
21.	<p>What has been your State's recent experience regarding post-adoption reports? Please provide details of any challenges and / or good practices in this regard.</p> <p>Both ABs in HKSAR and their overseas partners are all accredited bodies. The post-adoption reports submitted by them are considered to be up-to-date and comprehensive which clearly showed the condition of the children's integration into the adoptive homes.</p>

1.4. Adoption breakdowns

Both States of origin and receiving States

⁴ If applicable, you may wish to refer to your State's response to Question 17 of "[Prel. Doc. No 2 of October 2014 - Questionnaire No 2 on the practical operation of the 1993 Hague Intercountry Adoption Convention](#)" (hereinafter "[2014 Questionnaire](#)").

22. If your State has had any experience regarding **intercountry adoptions which have broken down**, please specify:⁵

(a) what have been the main **causes** of the breakdowns;⁶

From our experience, the reasons of the breakdown include death of the child before commencement of the overseas adoption placement, or stressful events encountered by the PAPs such as financial difficulty, unexpected pregnancy and subsequent postpartum depression which had weakened the PAPs' ability to be emotionally present for the child being matched.

(b) how your State **has addressed** these situations and whether your State has any good practices to share in this regard;⁷

If both CAs of the State of Origin and the Receiving State are satisfied that it would be in the child's best interests to be placed for adoption with another prospective adoptive home in the Receiving State, upon considering the views of the child concerned, the CA or other relevant authorities of the Receiving State would try to identify a suitable alternative adoptive home in the Receiving State for the child.

(c) what **support** is available for the adoptee and the adoptive family to prevent and / or respond to the breakdown of intercountry adoptions;

During the adoption placement, the CA or other relevant authorities of the Receiving State would monitor the progress of the adoption placement of the child through regular interviews with the PAPs and visits to the prospective adoptive home. Periodic progress reports would be forwarded to the State of Origin as required.

Should there be a breakdown of intercountry adoption, professional assessment would be conducted on the reasons of the breakdown and follow-up arrangement. If it is considered not in the child's best interests to be placed for adoption with another prospective adoptive home in the Receiving State or no alternative placement is available, the ABs of HKSAR would arrange escort of the child to return from the Receiving State back to the State of Origin. For cases with HKSAR as the State of Origin, AU and the overseas agency would arrange follow-up services for the child and the adoptive family respectively.

(d) whether your State has developed any good practices to ensure that **Recommendation No 19**⁸ of the 2015 Special Commission is implemented:

Yes. Please specify any good practices developed in this regard:

To reduce the risk of breakdown of intercountry adoption, PAPs are required to receive pre-adoption training and counselling rendered by adoption agencies in their State of Origin. Moreover, the PAPs would be assisted to critically review their conditions, as well as the to-be-adopted children's, especially on the possible challenges and difficulties, so as to ensure that children's need could be met after adoption. The adoptive families are also encouraged to receive post-adoption service and/or other support service as far as possible.

⁵ If the Central Authority in your State is not informed about this information because it relates to a child protection measure which is a different department / institution than the Central Authority, we would be grateful if you could request this information from the relevant authorities in your State.

⁶ If applicable, you may wish to refer to your State's response to Question 18(a) of the [2014 Questionnaire](#).

⁷ If applicable, you may wish to refer to your State's response to Question 18(b) of the [2014 Questionnaire](#).

⁸ C&R No 19 of the 2015 SC:

"The SC recognised that appropriate evaluations, preparation, reports, matching and post-adoption support, in relation to both the child and prospective adoptive parents, will reduce the risk of the breakdown of intercountry adoptions."

	<p><input type="checkbox"/> No. Please specify any reasons:</p> <p>(e) whether your State has experienced breakdown cases in which it was determined that it was in the child's best interests to return to the State of origin, and if so, what the situations were and how they were handled; HKSAR has no such experience.</p> <p>(f) how many cases of breakdown in intercountry adoptions have been reported in your State between 2015 and the present date; One</p> <p>(g) how many of these cases included a new placement (<i>e.g.</i>, foster care, new adoption) for the child; One</p> <p>(h) how many cases of breakdowns were intercountry adoptions done (a) under the 1993 Adoption Convention ; and (b) outside of the Convention (<i>i.e.</i>, prior to the entry into force of the Convention in your State or with non-State Party); (a) One; (b) Nil</p> <p>(i) in line with Recommendation No 20⁹ of the 2015 Special Commission, whether your State has applied the 1996 Child Protection Convention to enhance cooperation between States of origin and receiving States in cases of breakdown, and if so, please explain. N/A</p>
--	---

Receiving States only

23.	<p>Is your State's Central Authority informed and involved / consulted when an intercountry adoption breaks down?</p> <p><input checked="" type="checkbox"/> Yes. Please explain your response: SWD, being the CA in HKSAR, would be informed when an intercountry adoption breaks down. SWD would advise and be given advice on formulation and handling of the children's welfare plan.</p> <p><input type="checkbox"/> No. Please specify whether the staff of the child protection services include workers specialised in adoption:</p>
24.	<p>Do your State's authorities consult with the Central Authority of the child's State of origin:</p> <p>(a) if an adoption breaks down?</p> <p><input checked="" type="checkbox"/> Yes. Please describe the type of cooperation: In case an intercountry adoption breaks down, we would consult the CA of the child's State of Origin on the case handling and formulation of welfare plan for the child.</p> <p><input type="checkbox"/> No.</p>

⁹ C&R No 20 of the 2015 SC:

"The SC encouraged States to consider ratification of, or accession to, the *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children* (hereinafter, "the 1996 Hague Convention") in view of its relevance in enhancing cooperation to protect children in many different situations, including following the breakdown of intercountry adoptions."

	<p>(b) before determining a new placement for the child?</p> <p><input checked="" type="checkbox"/> Yes. Please describe the type of cooperation: For the best interests of the child, we would discuss with the CA of the child's State of Origin on whether a new placement would be arranged for the child.</p> <p><input type="checkbox"/> No.</p>
--	---

States of origin only

25.	<p>Is your State's Central Authority (or other competent authority) informed or involved / consulted by the competent authorities of the child's receiving State:</p> <p>(a) if an adoption breaks down?</p> <p><input checked="" type="checkbox"/> Yes. Please describe the type of cooperation: As a prerequisite, the overseas partners must inform SWD, being the CA of HKSAR, as early as possible if an adoption breaks down. SWD would work closely with the overseas partners in rendering social work intervention/counselling to the child as well as on the formulation of feasible plan for the child so as to help the child go through the difficult period of breakdown of relationship.</p> <p><input type="checkbox"/> No.</p> <p>(b) before determining a new placement for the child?</p> <p><input checked="" type="checkbox"/> Yes. Please describe the type of cooperation: SWD has reserved our right over the formulation of the child's adoption plan until an adoption order is granted. We would listen to the child's views towards adoption and render necessary social work intervention/counselling/support to the child in accepting the breakdown of the adoption arrangement and preparation of the new placement.</p> <p><input type="checkbox"/> No.</p>
-----	---

1.5. Other post-adoption matters

States of origin only

26.	<p>Are adoptees, who did not retain the nationality of their State of origin, permitted to regain it at a later stage?</p> <p><input checked="" type="checkbox"/> Yes. Please specify the conditions to regain nationality: If the original nationality of the adoptees is Chinese, the adoptees may be able to regain it on application to the Immigration Department of the HKSARG.</p> <p><input type="checkbox"/> No. Please explain your response:</p>
-----	--

Both States of origin and receiving States

27.	<p>Has your State encountered situations where adoptees have sought to regain the nationality of their State of origin?</p> <p><input type="checkbox"/> Yes. Please specify the situations and how they were handled: N/A. We do not maintain the relevant statistics.</p> <p><input type="checkbox"/> No.</p>
-----	--

28.	<p>Please give the reasons, if any, why your State would or would not support the development of a Guide to Good Practice on post-adoption.</p> <p>We have no objection to the development of a Guide to Good Practice on post-adoption in view of its benefits to adoptive families in face of possible challenges arising at different developmental stage of their adopted children.</p>
-----	--

2. PREVENTING AND ADDRESSING ILLICIT PRACTICES

Both States of origin and receiving States

29.	<p>Have illicit practices in intercountry adoption been discovered since 2015 in your State?</p> <p><input type="checkbox"/> Yes. Please specify:</p> <p>(a) the type of illicit practices which were discovered;</p> <p>(b) when the illicit practices were discovered (<i>i.e.</i>, during or after the adoption procedure);</p> <p>(c) whether the illicit practices were done under or outside the scope of the 1993 Adoption Convention;</p> <p>(d) how your State handled these situations;</p> <p><input checked="" type="checkbox"/> No.</p>
30.	<p>Please specify any good practices of your State to prevent and address illicit practices.</p> <p>As stipulated under section 23A of the Adoption Ordinance (Cap. 290), no person other than (a) the Director of Social Welfare; (b) an accredited body acting under and in accordance with its accreditation; or (c) a person acting in pursuance of an order of the Court, shall make arrangements for the adoption of an infant, or place an infant for adoption. Any person who contravenes the above restrictions or receives an infant placed with him in contravention of the above restrictions shall be guilty of an offence.</p>
31.	<p>Is it possible in your State to annul an intercountry adoption?</p> <p><input checked="" type="checkbox"/> Yes. Please specify:</p> <p>(a) the authority which has jurisdiction to do so;</p> <p>Section 20C of the Adoption Ordinance (Cap. 290), which stipulates the extent of application of the other provisions of the Ordinance in relation to Convention adoptions, does not exclude section 20(2) which provides, "(2) Where an adoption order is quashed or an appeal against an adoption order allowed, the Court shall give directions to the Registrar to cancel any marking of an entry in the registers of births, and any entry or any marking of an entry in the Adopted Children Register, which was effected in pursuance of the order. ". There are however no specifications on who can apply for the adoption order to be quashed or appeal against the order, or the grounds on which this may be done, the age limit. There are no reported cases of appeal against / application to annul or revoke an intercountry adoption order in HKSAR.</p> <p>(b) who can request the annulment (<i>e.g.</i>, adoptee, adoptive parents, birth parents);</p> <p>Please see (a) above.</p> <p>(c) the grounds upon which this may be done;</p>

	<p>Please see (a) above.</p> <p>(d) whether there is an age limit for the annulment of an adoption; Please see (a) above.</p> <p>(e) the procedure involved; Please see (a) above.</p> <p>(f) the number of intercountry adoptions which are on average annulled per year. No reported case is found.</p> <p><input type="checkbox"/> No.</p>
32.	<p>Is it possible in your State to revoke an intercountry adoption?</p> <p><input checked="" type="checkbox"/> Yes. Please specify:</p> <p>(a) the authority which has the jurisdiction to do so; See answer to 31(a).</p> <p>(b) who can request the revocation (e.g., adoptee, adoptive parents, birth parents); See answer to 31(a).</p> <p>(c) the grounds upon which this is done; See answer to 31(a).</p> <p>(d) whether there is an age limit for the revocation of the adoption; See answer to 31(a).</p> <p>(e) the procedure involved; See answer to 31(a).</p> <p>(f) the number of intercountry adoptions which are on average revoked per year. No reported case is found.</p> <p><input type="checkbox"/> No.</p>

3. INTRAFAMILY ADOPTIONS

In this Questionnaire, an “intrafamily adoption” is one in which the adoptive parent(s) are either **relatives** of the child (e.g., an aunt, a grandparent, a cousin) or a **stepparent** of the child. These adoptions are respectively referred to as “relative adoptions” and “stepparent adoptions.” *The Convention applies to all intrafamily adoptions.*¹⁰

3.1. General questions for intrafamily adoptions (i.e., relative and stepparent adoptions)

Both States of origin and receiving States

33.	<p>In your State, which authority is in charge of intrafamily adoptions?</p> <p><input checked="" type="checkbox"/> The Central Authority.</p> <p><input type="checkbox"/> Another competent authority. Please specify which authority and the reasons for designating a different authority:</p>
-----	--

¹⁰ See Permanent Bureau of the Hague Conference on Private International Law, [Guide to Good Practice No 1: The Implementation and Operation of the 1993 Hague Intercountry Adoption Convention](#), Bristol, Family Law (Jordan Publishing Limited), 2008 (hereinafter, “[Guide to Good Practice No 1](#)”), sections 8.6.4 and 8.6.5.

34.	<p>Has your State developed any good practices to ensure that Recommendation No 32¹¹ of the 2015 Special Commission is implemented?</p> <p><input checked="" type="checkbox"/> Yes. Please specify the good practices developed in that regard: In-depth and comprehensive assessment on the family must be conducted by social workers of ABs and submitted to CA for matching approval. Motivation for adoption, views of PAPs, the child, the birth parents and other family members as well as preparedness of all parties involved are some of the crucial areas of assessment.</p> <p><input type="checkbox"/> No. Please specify any reasons:</p>
35.	<p>Are there specific guidelines or procedures for intrafamily adoptions in your State?</p> <p><input type="checkbox"/> Yes. Please provide a link or attach a copy with your response:</p> <p><input checked="" type="checkbox"/> No.</p>
36.	<p>Has your State encountered any particular difficulties with adoptability decisions in the context of intrafamily adoptions?</p> <p><input type="checkbox"/> Yes. Please specify the situations and how they were handled:¹²</p> <p><input checked="" type="checkbox"/> No.</p>
37.	<p>In your State, does the termination of the pre-existing legal relationship affect only the child and his or her mother and father, or does it also affect the other members of the family (see Art. 26(1)(c) of the Convention)?</p> <p><input type="checkbox"/> It only affects the child and his or her mother and father.</p> <p><input checked="" type="checkbox"/> It affects the child and his or her mother and father, but also the other members of the family.</p> <p><input type="checkbox"/> Other. Please explain your response:</p>
38.	<p>Has your State encountered cases of breakdown in intrafamily intercountry adoptions?</p> <p><input type="checkbox"/> Yes. Please provide information on (a) the number of breakdowns; (b) the causes of the breakdowns; and (c) the ways your State addresses(ed) them:</p> <p><input checked="" type="checkbox"/> No.</p>

¹¹ C&R No 32 of the 2015 SC:

“In relation to in-family adoption, the SC:

- a. recalled that in-family adoptions **fall within the scope** of the Convention;
- b. recalled the need to respect the **safeguards** of the Convention, in particular to **counsel** and **prepare** the prospective adoptive parents;
- c. recognised that the **matching** process might be **adapted** to the specific features of infamily adoptions;
- d. recommended that the **motivations** of all parties should be **examined** to determine whether the child is genuinely **in need of adoption**;
- e. recognised that it is necessary to undertake an **individualised assessment of each child’s situation** and it should **not** be **automatically assumed** that either an in-country or infamily placement is in a child’s best interests” [emphasis added].

¹² If applicable, you may wish to refer to your State’s response to Question 3(b) of the [2014 Questionnaire](#).

39.	<p>In the context of intrafamily intercountry adoptions, does your State cooperate with States with which it normally does not cooperate?</p> <p><input type="checkbox"/> Yes. Please specify any challenges your State encounters and share any good practices your State may have developed in this regard:</p> <p><input checked="" type="checkbox"/> No.</p>
-----	--

States of origin only

40.	<p>In your State, is the subsidiarity principle applied in the same manner to intrafamily intercountry adoptions?</p> <p><input checked="" type="checkbox"/> Yes.</p> <p><input type="checkbox"/> No. Please describe any different procedures used and explain the reasons for these different procedures:¹³</p>
41.	<p>Is intrafamily adoption used frequently to protect children within the extended family and / or are there other child protection measures (<i>e.g.</i>, kinship care, foster care) that your State applies to protect children within the extended family?</p> <p><input type="checkbox"/> Intrafamily adoption is used frequently. Please explain your response:</p> <p><input checked="" type="checkbox"/> Other child protection measures are applied. Please specify:</p> <p>(a) which other child protection measures are applied to protect children within the extended family:</p> <p style="padding-left: 20px;">Children may be entrusted to the care by extended families if their parents cannot take care of them. The extended families can apply for legal guardianship of the child in order to ensure that they can exercise the rights to take care of them. In the case if the extended families want to legalise their relationship with the child through adoption, intrafamily adoption would be made. For those children who cannot be protected within the extended families, residential care services, such as foster care, small group home and children's home, would be arranged to ensure that their welfare is well taken care of.</p> <p>(b) if your State is a Party to the 1996 Child Protection Convention, whether your State applies that Convention to give effect to these other child protection measures in other Contracting States:</p> <p style="padding-left: 20px;">N/A</p>

3.2. Stepparent adoptions

Both States of origin and receiving States

42.	<p>Does your State apply the 1993 Adoption Convention to stepparent intercountry adoptions?</p> <p><input checked="" type="checkbox"/> Yes.</p> <p><input type="checkbox"/> No. Please specify any reasons:</p>
-----	--

¹³ If applicable, you may wish to refer to your State's response to Question 33(i) of the [2014 Questionnaire](#).

43.	<p>What is the profile of children who are adopted intercountry by a stepparent, either in your State or in the State with which your State cooperates?</p> <p><i>We have not captured the required information.</i></p>
44.	<p>(a) Please specify any challenges your State encounters with stepparent intercountry adoptions:</p> <p><i>Nil.</i></p> <p>(b) Please specify any good practices of your State for stepparent intercountry adoptions, including those for overcoming any challenges:</p> <p><i>In handling stepparent intercountry adoption, the best interests of the children is our paramount concern. The child's relationship with his/her birth parents, his/her integration into the step-families as well as the views of all involved parties towards the adoption are some of the important areas when handling stepparent intercountry adoptions.</i></p>

3.3. Intrafamily adoptions and circumvention of immigration laws

Both States of origin and receiving States

45.	<p>Has your State encountered situations where intrafamily adoptions were sought / used to circumvent immigration laws?</p> <p><input type="checkbox"/> Yes. Please specify what the situations were and how your State addressed these situations:</p> <p><input checked="" type="checkbox"/> No.</p>
-----	---

4. DETERMINING THE CHILD'S HABITUAL RESIDENCE WHEN THE MOTHER MOVES TO ANOTHER STATE SHORTLY BEFORE GIVING BIRTH

Scenario: A pregnant woman, habitually resident in one State (State A), travels to another State (State B) where she gives birth to her child and relinquishes her newborn child for adoption in that other State (i.e., State B).

Both States of origin and receiving States

46.	<p>If your State has been involved in situation(s) similar to the above-described scenario:</p> <p>(a) was your State the State of habitual residence of the mother (State A), the State of birth of the child (State B), or another State?</p> <p><i>State B</i></p> <p>(b) how was the child's habitual residence determined? Which factors were considered?</p> <p><i>Under the existing practice, once the mother relinquishes her newborn child where general consent for placement of adoption is given, child's adoption will be handled with HKSAR as the child's habitual residence so as to protect the child's welfare in HKSAR.</i></p> <p>(c) if adoption was considered the best option for the child, did your State determine it as being a domestic adoption or an intercountry adoption?</p> <p><i>Domestic adoption</i></p> <p>(d) what challenges did your State face in dealing with such situation(s)?</p> <p><i>We would accord priority to match children with PAPs having the same race and cultural background but sometimes it is not possible due to the unavailability of suitable PAPs.</i></p> <p>(e) if your State was the State where the child was born, was contact sought with the State of habitual residence of the mother? Was there any cooperation between the concerned States?</p>
-----	---

	If the whereabouts of the birth mother are unknown, we would contact the concerned States for tracing.
47.	<p>If there is a risk that the situation described above involves a case of human trafficking, would this be considered by your State when determining the child's habitual residence?</p> <p><input checked="" type="checkbox"/> Yes. Please explain your response:</p> <p>Determination of one's habitual residence is a question of facts of the circumstances of individual case. One should exercise due diligence to take such risk into consideration when determining the child's habitual residence.</p> <p>If there is any indication that human trafficking may have been involved in any adoption application, the case will be referred to investigation side and/or other legal enforcement agencies for investigation as appropriate. The determination of habitual residence will only be determined after the chance of human trafficking is eliminated.</p> <p><input type="checkbox"/> No. Please explain your response:</p>
48.	<p>Which actions would your State take to address the case where both your State and the other State:</p> <p>(a) would determine the child's habitual residence to be in their State? For the best interests of child, we would follow the child's adoption arrangement according to our policy.</p> <p>(b) would determine the child's habitual residence not to be in their State? Same as (a) above.</p>

5. SIMPLE AND OPEN ADOPTIONS

Both States of origin and receiving States

5.1. Simple adoptions

A simple adoption is one in which the parent-child relationship which existed before the adoption is not terminated but a new legal parent-child relationship between the child and his or her adoptive parents is established, and these adoptive parents have parental responsibility for the child.¹⁴

49.	<p>Has your State changed its legislation, rules or practices in recent years regarding simple intercountry adoption?</p> <p><input type="checkbox"/> Yes. Please specify the changes made and the reasons for these changes:</p> <p><input checked="" type="checkbox"/> No.</p>
50.	<p>What is the profile of children for whom a simple intercountry adoption is made, either in your State or in the State(s) with which your State cooperates?</p> <p>N/A</p>
51.	<p>If your State permits both full and simple adoption, are simple adoptions encouraged / promoted?</p> <p><input type="checkbox"/> Yes. Please explain your response:</p>

¹⁴ See [Guide to Good Practice No 1](#), Glossary.

	<input checked="" type="checkbox"/> No. Please explain your response: N/A
52.	<p>Has your State faced any problems regarding seeking the birth mother / family's consent to convert a simple adoption into a full adoption in the State of origin (Art. 27 of the Convention)?</p> <input type="checkbox"/> Yes. Please specify the situations which have arisen and how your State has dealt with these situations:
	<input checked="" type="checkbox"/> No.
53.	<p>(a) Please specify any challenges your State encounters with simple adoptions: N/A</p> <p>(b) Please specify any good practices of your State for simple adoptions, including those for overcoming any challenges: N/A</p>

5.2. Open adoptions / openness in adoption

54.	<p>Does the terms “open adoption”, “openness in adoption” or similar concepts exist in your State?¹⁵</p> <input type="checkbox"/> Yes. Please specify: (a) how it is defined; (b) whether it is provided by law, regulation or only in practice; and (c) whether it is promoted in your State:
	<input checked="" type="checkbox"/> No. Please explain what is understood in your State by the terms “open adoption”, “openness in adoption” or similar concepts: No similar concept in HKSAR.
55.	<p>Has your State changed its legislation, rules or practices in recent years regarding open or openness in intercountry adoption?</p> <input type="checkbox"/> Yes. Please specify the changes made and the reasons for these changes:
	<input checked="" type="checkbox"/> No.
56.	<p>Has your State developed any good practices to ensure that Recommendation No 31¹⁶ of the 2015 Special Commission is implemented?</p> <input checked="" type="checkbox"/> Yes. Please specify the good practices developed in that regard: Upon the adoptive family's request, we would facilitate the communication between the adoptive family and the biological family as far as possible as a root tracing case. The

¹⁵ If applicable, you may wish to refer to your State's response to Questions 19 and 20 of the [2014 Questionnaire](#).

¹⁶ C&R No 31 of the 2015 SC:

“The SC noted that, where not prohibited by domestic legislation, and after professional matching, **contact between the adoptee and biological family** in intercountry adoption may be **beneficial** in some cases. In order to maximise the benefits and minimise the risks of such contact, professional support should be offered to prepare the parties, as well as to assist them during and after contact. The adopted child’s best interests should guide the nature of this contact, considering his or her wishes” [emphasis added].

	<p>biological family's view and willingness towards the contact would be explored and respected. Counselling on their expectation and preparation towards the contacts would be rendered. Professional judgement on their readiness for the contact and mode of contact would also be shared among the parties.</p> <p><input type="checkbox"/> No. Please specify any reasons:</p>
57.	<p>(a) What is the profile of children for whom an open intercountry adoption is made, either in your State or in the State(s) with which your State cooperates? N/A</p> <p>(b) Does your State have a specific approach depending on the profile of these children? <input type="checkbox"/> Yes. Please specify these different approaches: <input type="checkbox"/> No.</p>
58.	<p>Does your State provide professional support or services to birth families (in the case of States of origin) or adoptive families (in the case of receiving States) and adoptees in open adoptions (e.g., support for contact agreements, supervising contact after adoption)?</p> <p><input type="checkbox"/> Yes. Please specify the support / services provided and any challenges and / or good practices in this regard: N/A</p> <p><input type="checkbox"/> No. Please explain your response:</p>
59.	<p>Has your State encountered situations where adoptees, adoptive parents and / or birth parents wanted to change the frequency or the method of contact between them after the adoption?</p> <p><input type="checkbox"/> Yes. Please specify what action was taken in response: N/A</p> <p><input type="checkbox"/> No.</p>
60.	<p>(a) Please specify any other challenges your State encounters regarding open adoptions: N/A</p> <p>(b) Please specify any good practices of your State with regard to open adoptions, including those for overcoming any challenges: N/A</p>

6. NON-CONSENSUAL ADOPTIONS

In this Questionnaire, non-consensual adoption refers to the adoption of children whose birth parents have been deprived of parental responsibility by a competent authority but nonetheless disagree with the adoption. It does not intend to cover adoption where consent of the birth parents is required but not sought (such adoptions would fall under the category of illegal adoption), or where consent of the birth parents cannot be sought (e.g., they are deceased or unknown).

States of origin only

61.	<p>What are the circumstances in your State in which a parent can lose his or her parental responsibility? HKSARG has published the draft Children Proceedings (Parental Responsibility) Bill which seeks to replace the concept of custody with "parental responsibility" for public consultation in late</p>
-----	---

2015. The proposed legislation has not yet been enacted. As our law presently stands, under the existing law on child custody and access, parent-child relationship is still defined in terms of the rights and authority that parents have over their children."

The court is, for instance, given power to make an order that either party is unfit to have custody in the decree of divorce or judicial separation under section 19(3) of the Matrimonial Proceedings and Property Ordinance (Cap. 192), or appoint the Director of Social Welfare as legal guardian of a child or juvenile where they are "in need of care or protection" defined in section 34(2) of the Protection of Children and Juveniles Ordinance (Cap. 213).

62. Does your State **permit** the adoption of children whose birth parents have been deprived of parental responsibility?

Yes. Please specify:

(a) whether the **consent** of the birth parents who have lost their parental responsibility is still required?

Yes. Please explain your response:

Under any circumstances, consent of the parents (as defined in the Adoption Ordinance (Cap. 290)) to the child's adoption is required.

No. Please explain your response:

(b) how your State ensure that the **principle of subsidiarity** is respected. Please also specify whether measures to support the birth family's reunification and alternative care options (e.g., long-term foster care, kinship care) are considered prior to making the decision of non-consensual adoption.

HKSAR pays tremendous efforts to maintain or reintegrate the child in his/her biological family. Counselling/social work intervention would be provided to the child, the parents and the extended family in enhancing their child care capacities. Alternate child care service would also be arranged as a support to the family for the permanency plan of their children before resorting to the decision of dispensing with their consent to the arrangement of adoption.

(c) what is the **procedure** applicable to such non-consensual adoptions (e.g.: how the child is declared adoptable; if the birth parents are given notice of the procedure; if the birth parents can contest).

According to section 6(1) of Adoption Ordinance (Cap. 290), the Court may dispense with any consent if it is satisfied (a) in a case of a parent or guardian of the infant, that he has abandoned, neglected or persistently ill-treated the infant; (b) in the case of a person liable by virtue of an order or agreement to contribute to the maintenance of the infant, that he has persistently neglected or refused so to contribute; (c) in any case, that the person whose consent is required cannot be found or is incapable of giving his consent or that his consent is unreasonably withheld, or if it is of opinion that such consent ought, in all the circumstances of the case, to be dispensed with. Under section 5A of the Adoption Ordinance, where on an application made by the Director of Social Welfare, the Court is satisfied that any consent required should be dispensed with, it may make an order declaring an infant free for adoption. Before making an order under this section, the Court shall notify every person whose consent is to be dispensed with and who can be found (other than a person who is incapable of giving his consent) of the application and give every such person an opportunity of being heard.

No. Please explain your response:

--

Receiving States only

63.	<p>Has your State encountered situations in which the birth parents in the State of origin contested a non-consensual intercountry adoption when the child was already in the receiving State?</p> <p><input type="checkbox"/> Yes. Please specify what actions, if any, your State has taken to deal with these situations:</p> <p><input checked="" type="checkbox"/> No.</p>
-----	--

Both States of origin and receiving States

64.	<p>What is the profile of children for whom a non-consensual intercountry adoption is made, either in your State or in the State(s) with which your State cooperates?</p> <p><i>We have not captured the required information.</i></p>
65.	<p>(a) Please specify any challenges your State encounters with non-consensual adoptions:</p> <p><i>Handling of non-consensual adoptions is time-critical. The professionals, i.e. social workers and clinical psychologists, would need time to work with the parents and their family for returning the child under their care. When the biological family eventually fails to perform their parental responsibility properly and it is necessary to apply to the court to dispense their consent for freeing the child for adoption, the adoption opportunity of the children may diminish as they grow older.</i></p> <p>(b) Please specify any good practices of your State regarding non-consensual adoptions, including those for overcoming any challenges:</p> <p><i>On-going training is conducted to enhance frontline social workers' knowledge and capability in handling cases / potential cases of non-consensual adoptions.</i></p>

7. CONTACT BETWEEN THE PAPs AND THE CHILD BEFORE MATCHING

Both States of origin and receiving States

7.1. General questions

66.	<p>Does your State prohibit any contact between the child and the PAPs before matching?</p> <p><input checked="" type="checkbox"/> Yes. Please explain your response:</p> <p><i>PAPs can indicate their child preference in their adoption application, and a basket of factors related to PAPs' suitability to adopt a child would be considered in the matching process. To protect children from possible negative feelings of being frequently visited by different PAPs, contacts between the children and the PAPs are not allowed before matching is made.</i></p> <p><input type="checkbox"/> No. Please specify:</p> <p>(a) in which circumstances such contact is permitted;</p> <p>(b) the experience of your State with regard to such contact.</p>
-----	--

7.2. Summer camps / hosting programmes

In this Questionnaire, the “summer camps” practice is when adoptable children and PAPs attend an event (usually a camp) in the PAPs’ State of residence (i.e., receiving State) or in the State of origin, usually for a period of several weeks. The hope is that the PAPs will want to apply to adopt one or more of the children they have spent time with during this event.

“Hosting programmes” (including “respite care” programmes for children who go abroad to improve their physical and psychological well-being) are when adoptable children are hosted by families living abroad, usually for a period of several weeks, sometimes with the hope that the families will wish to adopt them after the hosting.

67.	<p>Is your State involved in summer camps / hosting programmes for children?¹⁷</p> <p><input type="checkbox"/> Yes. Please specify:</p> <p>(a) whether such programmes specifically aim to be a precursor to adoption for some children (e.g., for children with special needs):</p> <p><input type="checkbox"/> Yes. Please explain your response:</p> <p><input type="checkbox"/> No.</p> <p>(b) whether such programmes have, in fact, resulted in the adoption of children:</p> <p><input type="checkbox"/> Yes. Please specify the percentage of children involved in the programmes that are adopted:</p> <p><input type="checkbox"/> No.</p> <p>(c) where a child is adopted following such a programme, how is it ensured that the safeguards of the 1993 Adoption Convention have been respected (bearing in mind that it is likely that the child remains “habitually resident” in his or her State of origin and thus the adoption would fall within the scope of the Convention under Art. 2)?</p> <p><input checked="" type="checkbox"/> No.</p>
68.	<p>If your State is involved in summer camps / hosting programmes specifically aimed at the adoption of some children, please specify:</p> <p>(a) whether the children benefiting from these programmes must have been declared adoptable before they can be part of such programmes; N/A</p> <p>(b) whether the PAPs participating in such programmes must have been declared eligible and suitable to adopt to be allowed to take part in such programmes; N/A</p> <p>(c) how the PAPs and children are selected to participate in such programmes, and whether a selection is made in cooperation with the other State; N/A</p> <p>(d) how the children are prepared for such programmes; N/A</p> <p>(e) what are the effects on and the feedback from the children who participated in such programmes but were not adopted;</p>

¹⁷ Regarding respite care, if applicable, you may wish to refer to your State's response to Question 54 of the [2014 Questionnaire](#).

	N/A
	(f) whether there have been situations where the adoption broke down after the child was adopted following participation in such programmes;
	N/A
	(g) if the PAPs wish to adopt the child, whether it is possible for the child to remain in the receiving State or whether he or she must return to the State of origin before the adoption procedure can be initiated;
	N/A
	(h) who finances such programmes;
	N/A
	(i) what is the experience of your State with these practices (<i>i.e.</i> , challenges and any potential benefits).
	N/A

7.3. Voluntourism

In this Questionnaire, "voluntourism" refers to the practice of an individual travelling to another State to volunteer in that State. One common practice is to travel to volunteer in a children's institution. In these situations, some volunteers may subsequently wish to adopt one or more children from the child institution in which they were volunteering.

69.	Has your State experienced situations where "voluntourists" commenced an adoption procedure to adopt a child from the children's institution in which they volunteered? <input type="checkbox"/> Yes. Please specify how your State handled these situations and any difficulties these situations may have caused: <input checked="" type="checkbox"/> No.
70.	Has your State taken any action to prohibit, regulate or to otherwise add safeguards to the practice of "voluntourism"? <input type="checkbox"/> Yes. Please explain your response: <input checked="" type="checkbox"/> No. Please explain your response: N/A

7.4. Adoption of children already under the care of PAPs

71.	If your State is aware of situations where PAPs have adopted or wished to adopt a child who was already under their care in the State of origin (<i>e.g.</i> , as part of a foster care placement, kinship care, " <i>niño puesto</i> ", ¹⁸ or a more informal arrangement such as temporary care by neighbours or within a community), please specify. ¹⁹
-----	---

¹⁸ "*Niño puesto*" refers to a practice in some Latin American States where persons who already have care of a child request to adopt even if the child has not yet been declared adoptable nor have the persons been declared eligible and suitable to adopt.

¹⁹ Regarding foster care, if applicable, you may wish to refer to your State's response to Question 55 of the [2014 Questionnaire](#).

	<p>(a) whether the child had already been declared adoptable before the PAPs' adoption application was submitted; There has not been any case in the context of intercountry adoption.</p> <p>(b) at what stage in the process the PAPs were declared eligible and suitable to adopt; As stipulated under section 27A of the Adoption Ordinance (Cap. 290), all adoption applicants must apply to the Director of Social Welfare or an accredited body for assessing their suitability and eligibility to be PAPs before considering a matching for adoption.</p> <p>(c) what the profile of these children was; We have not captured the required information.</p> <p>(d) what was done to ensure that the safeguards and procedures of the 1993 Adoption Convention had been respected; To safeguard the best interests of the child, all adoption applicants (no matter relative adoption or non-related adoption) must go through in-depth and comprehensive assessment. For relative adoption, after considering the view of the child and the concerned parties, the matching will be approved by CA direct without the need to go through the matching panel. For non-related adoption, when a child is confirmed to be eligible for adoption, AU of SWD (i.e. CA) will put up the child in the matching panel for consideration as soon as possible so that the most suitable adoptive home among all the approved PAPs (including the PAPs who are taking care of the child) could be identified for him/her.</p> <p>(e) your State's experience with such adoptions. Please refer to (a) to (d) above.</p>
--	---

8. USE OF NEW TECHNOLOGIES

Both States of origin and receiving States

72.	<p>Has your State changed its practices recently to integrate new technologies into work processes (e.g., blockchain to facilitate transmission and access to data)?</p> <p><input checked="" type="checkbox"/> Yes. Please specify (a) what the experiences of your State are in this regard (i.e., benefits and challenges) and (b) how your State take into account data protection in this context:</p> <p>(a) Modern technologies such as internet, websites, email, facetime are regularly used in the adoption work process in HKSAR so as to facilitate the communication amongst the concerned parties including CA, ABs in HKSAR, PAPs, the child and social workers of overseas adoption agencies, at different stages. It helps transmission of data more speedily and the adoption procedure could be completed within a shorter period of time. Moreover, it facilitates the communication between the PAPs and the child in a convenient way before they finally meet each other and this contributes a lot to the child's adjustment and integration into the adoptive home.</p> <p>(b) All personal data shared through the electronic means should be handled in confidentiality, such as mails being encrypted with passwords. Moreover, some essential documents in original or certified copies are still required.</p> <p><input type="checkbox"/> No.</p>
-----	---

9. STATISTICS

Both States of origin and receiving States

73.	<p>Please specify the number of intercountry adoptions per year (between 2015 and the present date) involving your State that are:</p> <p>(a) relative adoptions (<i>i.e.</i>, excluding stepparent adoptions);²⁰ Four</p> <p>(b) stepparent adoptions; Nil</p> <p>(c) simple adoptions; N/A</p> <p>(d) open adoptions or adoptions that involve a certain degree of openness; and N/A</p> <p>(e) non-consensual adoptions. We have captured the figures on non-consensual adoption since 2017 only but there is no such case since then.</p>
-----	--

10. OTHER MATTERS

74.	<p>Please specify any other comments your State wishes to make concerning the implementation and / or operation of the 1993 Adoption Convention. Nil</p>
-----	--

²⁰ For receiving States, you may wish to refer to your State's response to the HCCH [Annual Adoption Statistics Form](#).