

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:

Australia.

Information for follow-up purposes

Name and title of contact person:

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Please note:

The Secretary of the Australian Government Department of Social Services is the Commonwealth (or Australian) Central Authority for intercountry adoption.

Each Australian state and territory also has a central authority.

Australia's Commonwealth Government is responsible for establishing and managing intercountry adoption arrangements and related policy. The Australian Central Authority is responsible for ensuring that Australia, as a whole, meets its obligations under the Convention. The Australian Central Authority also funds post adoption support nationally.

State and territory central authorities provide intercountry adoption services, including assessing the eligibility and suitability of people wanting to adopt a child from overseas against criteria outlined in their own legislation, managing the adoption application process, obtaining and handling associated individual case information and data, and providing post placement supervision, support and reporting.

The responses below largely concern Australian state and territory responsibilities as they relate to the questions asked. Where the questions concern national issues, the Australian Central Authority has also provided a response.

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 type="checkbox"/> Yes. Please specify where the information is centralised: Australia does not have a national public facility for this purpose. However, each state and territory holds the information concerning the child's origins and records of the child's adoption.</p> <p><input checked="" type="checkbox"/> No. Please specify where the information is stored:</p> <p>New South Wales (NSW): All information concerning the child's origins and adoption is held by Adoption and Permanency Services, who are the NSW Central Authority for intercountry adoption. Prior to an adoption order being made and during any mandatory post-placement reporting period, this information is kept by the Intercountry Adoption team and then by the Adoption Information Unit post-adoption. Both of these teams are part of Adoption and Permanency Services with the government Department of Communities and Justice.</p> <p>Tasmania (TAS): Information is held by the Adoption Information Service and can be accessed, where appropriate, on request.</p> <p>Northern Territory (NT): Information is held electronically on a government database and hard copy files and can be accessed, where appropriate, on request</p> <p>Australian Capital Territory (ACT): The ACT Central Authority holds all records of adoptions, as per Section 61 of the ACT Adoptions Act 1993. This adoption information is managed by the Central Authority and the Courts. This information is not able to be accessed publicly.</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: Yes, some Australian state and territory central authorities offer a specialised programmes or general support - usually regarding access to information. Other jurisdictions will engage with individuals or refer them to other support services, when contacted about support for a person who is searching for origins. Australian state and territory central authorities do not actively undertake search for birth families in overseas countries.</p> <p>ACT:</p>
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The ACT Central Authority adoptions team has a dedicated 'Family Information Services' section. The Family Information Service was established to assist people who are affected by the provisions of the ACT Adoption Legislation, which relate to obtaining identifying information about an adoption. The ACT Adoption Act 1993 allows adopted people, over the age of eighteen (18) years, their birth parents, adoptive parents and descendants to receive identifying information about their adoptions.

The Adoption Act 1993 includes the following provisions which are provided by the Family Information Service:

- access to identifying information for adopted people, adoptive parents, birth parents and birth relatives where the adopted person is over 18 years;
- for adoptions made prior to 2010, the capacity to have identifying information released but to refuse future contact or communication (called a 'veto' on contact);
- provision of a Reunion and Contact Information Register for those who would like to register their wishes to meet other parties of their adoptions;
- provision of an information service.

The Family Information Service is limited to information obtained from the country of origin in the intercountry adoption process and does not actively undertake search for birth families in overseas countries.

TAS:

Adoption Information Service facilitates the provision of information for adoptees & also conducts searches for adoptees on a local basis. The service facilitates contact with overseas authorities.

NT:

NT Adoption specialises in all aspects of adoption, including post-adoption and support relating to information that can support a search for origins.

No. Please specify how the search for the origins is handled:

NSW:

The NSW Adoption Information Unit, generally refers adopted persons to other services for this work.

Australian Central Authority:

The ACA funds the Intercountry Adoption Family Support Service, which offers emotional support and counselling to adoptees and their families considering or undertaking a search for origins.

4. Has your State developed any good practices to ensure that **Recommendation No 21**¹ of the 2015 Special Commission is implemented?

Yes. Please specify the good practices developed in that regard:

NSW:

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].

When applicants express an interest in intercountry adoption and progress to an education seminar, they are provided with the messaging that a search for origins is likely to be an inevitability, rather than a possibility. Applicants are invited to consider how best they can support an adopted person to navigate this process. Our agency is also committed to seeking as much information as possible from the relevant partner country at the time of allocation, to assist wherever possible in future searches. The importance of support through the process of search for origins is also emphasised.

ACT:

The Family Information Service undertakes this role with assistance from an Intercountry Adoption Coordinator (for example, making contact with overseas central authorities and in the education training process undertaken by prospective adoptive parents (PAPs) at the beginning of the process).

TAS:

As part of the National Assessment Guidelines, searching for origins is something that is discussed with PAPs during the assessment process. When an adult adoptee contacts the Adoption Information Service they have the support of a worker within the service (often by phone) & if further support is required, a referral to the nationally funded Intercountry Adoption Family Support Service can be made.

NT:

Possible issues relating to future family finding are discussed with PAPs. Adopted children are supported to contact agencies to find family and counselled as to possible available information (or lack thereof).

No. Please specify any reasons:

5. If your State allows for the use of **DNA testing** to search for origins, please specify:
- (a) **which body** is in charge of the DNA testing (*e.g.*, government, private companies, NGOs);
NSW:
 Adopted persons engage in this process independently of our agency, largely through websites such as www.ancestry.com.
- (b) where the **data** is stored, and whether it is stored by a public or private entity;
NSW:
 Generally stored by the independent company.
- (c) the average **cost** of a DNA test in your State and whether any subsidy is available;
NSW:
 Online charges can vary.
- (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.
NSW:
 NSW, amongst others, wrote to organisations and companies responsible for online DNA testing, requesting that they consider directing adopted persons who are going down this path, to online information and support. The identified risk is that many adopted persons may be going down this path with limited support.

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>NSW: When receiving an allocation, NSW attempts to ask as many questions as possible to ensure the profiles reflect as much background information as possible. We note that the quality of the information provided varies between countries and that different countries have differing perspectives regarding openness in adoption and what information should be provided. We support the provision of as much information as legally possible.</p> <p>ACT: ACT would refer the adoptee to overseas country of origin central authority to undertake their search process. The Family Information Service can assist the adoptee/adoptive parent in completing any required overseas application documentation for this process to occur, as well as providing emotional support throughout the process.</p> <p>TAS: TAS provides an explanation of the intercountry adoption context regarding how information is obtained and held at the point of adoption allocation, including any limitations to available information for individual cases. For example, adoptions from China often don't include any information about biological parents. TAS also supports the adoptee through this challenging time.</p> <p>NT: Counselling and support for clients is available through adoption practitioners.</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>Australian state and territory central authorities would generally notify the Australian Central Authority when an individual case or broader concerns come to light. The Australian Central Authority would consider the available information, and in partnership with state or territory central authority, determine a response or appropriate next steps.</p> <p>Australia has a National Protocol for Responding to Allegations of Child Trafficking in Intercountry Adoption. In partnership, all Australian Central Authorities are reviewing current policies and any practice guidance material to develop jurisdictional-specific guides to be available to the public and to supplement the National Protocol.</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); Australia does not capture statistics relating to search for origins. Australia recently conducted a consultation on post-adoption support, including seeking views on support to search for origins. A suggestion raised through consultations was, 'measures of success' when searching for origins should not be based on successful reunification with birth family, but instead on the adoptees' wellbeing before, during and after the process.</p> <p>(b) how many were not successful and what were the reasons. Australian states and territories anecdotally report that unsuccessful searches were usually due to poor historical record keeping practices or poor provision of relevant information from many decades ago.</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> <p>NSW: NSW find that information contained in the Child Studies we receive can be varied. We approach a Child Study with the expectation that the identity of both parents should be provided, if known. If we are concerned about the content provided, we will write to the partner country to seek further clarification.</p> <p>NT: In the NT, veto arrangements are in place for people who were parties to adoption prior to the Adoption of Children Act 1994.</p> <p><input 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>ACT: SECTION 68 - ACT Adoptions Act 1993, indicates the distinctive difference. In most instances, identifying information can be released to the adoptee, adoptive parents, birth parent and/or birth relative, except when the adoptee is under the age of 18 years. If the adoptee is under the age of 18, the applicant can only receive non-identifying information, unless all parties to the adoption have agreed in writing to the release of identifying information.</p> <p><input checked="" type="checkbox"/> No. Please explain your response:</p> <p>NSW: In relation to NSW state adoption legislation and the right to access information, NSW use the term 'prescribed information'. As a receiving state, we are interested in receiving as much information regarding birth family as possible to best meet the identity and developmental needs of an adopted person.</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>NSW: If NSW receives such requests, the request would generally be directed towards our post adoption unit - the Adoption Information Unit. The request would commonly be a central authority in another jurisdiction reaching out to the unit.</p> <p>ACT: The ACT Family Information Service manages these types of requests from the birth family. The ACT reports no intercountry birth parents have accessed this service for support or information dating back to 2016. It is not clear if any intercountry birth parents have done so before this date, but it is likely to be uncommon.</p> <p>NT: There is no specific programme. Birth parents are processed in a similar fashion to domestic adoptions completed in NT.</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>NSW:</p> <p>While no formal guidelines have been developed, we seek to obtain as much information as possible from our partner countries at the time of allocation. We understand from adopted persons that there are numerous potential challenges in accessing this information later on so, we feel it best to maximise what information we can receive at the outset. We also work with adoptive applicants to ensure they see the value in maintaining birth family connections wherever possible. Within our state, we practice open adoption practices, with a focus on maintaining relationships where possible and we would like the same outcome for our intercountry adopted persons. NSW does refer to the International Social Services Search for Origins Guide.</p> <p>ACT:</p> <p>Yes. A guide has been developed which is upheld in accordance with the ACT Adoptions Act 1993 (legislation).</p> <p>https://www.communityservices.act.gov.au/__data/assets/pdf_file/0005/808448/Searching-for-adoption-information-and-birth-relatives.pdf</p> <p>https://www.legislation.act.gov.au/a/1993-20</p> <p>TAS:</p> <p>Legislation informs preservation of information - Adoption Act 1988 and Adoption Regulations 2016. Procedures/manuals are in the process of being updated.</p> <p><input type="checkbox"/> No.</p>
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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> <p><input checked="" type="checkbox"/> Yes. Please specify the good practices developed in that regard:</p> <p>NSW:</p> <p>Our post-adoption unit is comprised of skilled adoption practitioners who can guide adopted persons or others affected by adoption to support services at any time post-adoption. Whilst the capacity of our unit to work directly with such clients has its limits, we do have other post-adoption services within NSW that can assist. The largest of these is the Post Adoption Resource Centre.</p>
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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].

ACT:

Post-adoption support in the ACT includes:

- Outreach – such as contacting the adoptee or birth parent/s on behalf of the applicant
- Intermediary – intermediary services for anyone who needs support or assistance with contacting birth relatives
- Reunion - providing a supportive and objective role to people meeting each other for the first time (when preparing to meet and where the meeting occurs in the ACT)
- Counselling – limited counselling support (due to the small size of our state) for people involved at any stage of the process, including for people affected by issues around their adoption. Referral to other support services as required.

TAS:

We have the Adoption Information Service that allows for provision of information and some support in terms of search for origins. For greater support, referrals are made to the nationally funded Intercountry Adoption Family Support Service.

NT:

Noting the NT is a small jurisdiction, parties to the adoption are treated and processed on an individual case-by-case basis, including for support offered in the immediate post-adoption reporting period. For greater support, referrals are made to the nationally funded Intercountry Adoption Family Support Service.

No. Please specify any reasons:

14. If your State provides **specialised** post-adoption services, please specify:

(a) the **type** of services provided and **to whom** they are provided (*e.g.*, child and adult adoptees, birth families, adoptive families);

Australian Central Authority: Department of Social Services (DSS):

DSS funds the Intercountry Adoption Family Support Service (ICAFSS) which provides a free counselling and support service offering post-adoption support for adoptees and families formed by intercountry adoption, including adoptions by expatriate Australians while living overseas. The ICAFSS also provides support to individuals and couples before and during the intercountry adoption process.

Currently, the ICAFSS aims to provide:

- broad-based relationship and education counselling
- intensive, long-term and early intervention support
- information and referrals to other support services as required
- responsive support tailored to meet the needs of the client
- parenting and education training
- distance and outreach services (including face-to-face, email, telephone and video-link, depending on the client's needs)
- training and education for families to prepare them to:
 - o support children with special needs
 - o respond to issues commonly associated with intercountry adoption (including family functioning, cultural identity, mental health, trauma, grief and social issues).

DSS is currently undertaking a re-design of the service to ensure it continues to meet the needs of the intercountry adoption community within the available funding.

NSW:

NSW post-adoption unit provides a service to any person who wants to apply for past adoption information or for those who are considering making contact with an adopted person, birth parent or family member. The Post Adoption Resource Centre provides post adoption support to people who have been adopted, parents, siblings, partners and others who have been separated from family by adoption. The Post Adoption Resource Centre supports families by offering counselling, intermediary services to assist with search for origins, information in accessing records and family tracing and therapeutic groups.

ACT:

Services in the ACT are listed, as per question 13.

These are available to the adoptee, birth families and adoptive families - noting, generally these services have not been accessed by overseas birth families.

TAS:

Legislation allows the provision of information to adoptees, birth parents, adoptive parents & birth relatives as defined by the Act.

NT:

Services are provided by the adoption practitioner to all parties to an adoption.

(b) **who** provides the services (*e.g.*, social welfare administration, school, health personnel);

DSS:

DSS funds a specialised non-government organisation to administer ICAFSS.

NSW:

Our post adoption unit is comprised of caseworkers and is part of the government Department of Communities and Justice. The Post Adoption Resource Centre is a non government organisation.

ACT:

Social worker or health professional in the role of 'Co-ordinator' of the Family Information Service

TAS:

Adoption Information Service utilises practioners and counsellors to deliver the service.

NT:

Senior Adoption Practitioners.

(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);

NSW:

No. The preparation of PAPs is done by our intercountry adoption casework team.

ACT:

The ACT is small and adoption numbers are low, therefore our adoptions team is also small. We do have dual roles within all aspects of adoption practices. Post adoption services are generally not offered by the intercountry adoption coordinator (preparation teams). Rather, it is managed within the Family Information Service.

TAS:

Yes. We are a small jurisdiction covering all aspects of intercountry adoption.

NT:

Yes. We are a small jurisdiction covering all aspects of intercountry adoption.

(d) how, if there are different services, these various services are **coordinated**;

NSW:

Both the intercountry adoption casework team and the post-adoption unit are teams within Adoption and Permanency Services, Department of Communities and Justice. The Post Adoption Resource Centre is external.

NT:

Support services are coordinated on an individual case-by-case basis.

(e) how the post-adoption services are **financed** (e.g., the government funds its own services, the government funds Adoption Accredited Bodies (AAB) services, adoptees and their families pay for the services themselves, other);

DSS:

ICAFSS is financed via Federal Government funding and operates as a national service.

NSW:

The NSW Adoption Information Unit is part of NSW Government. The Post Adoption Resource Centre is funded by NSW Government to provide services.

ACT:

The ACT Government funds the provision of services.

TAS:

The Adoption Information Service is a government service.

NT:

The NT Government funds the provision of services.

(f) the **length of time** this support is available.

DSS:

ICAFSS is available to all intercountry adoptees and their families, at any stage of their life course.

NSW:

	<p>The support offered in NSW is available at any time.</p> <p>ACT: Post-adoption support is available in the ACT to a person involved in adoption at any time. The response to the need, or issue raised, is limited due to the small team capacity. People receive support throughout the process of applying to a country of origin for their information or for contact with birth family, one-off counselling around a particular issue and follow-up referral as needed.</p> <p>TAS: No length of time, however, if needs are high or complex, we would look to refer to other appropriate supports.</p> <p>NT: The length of support is offered on a case-by-case basis.</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>NSW: Information regarding the services our Adoption Information Unit and the Post Adoption Resource Centre provide is publically available online.</p> <p>TAS: Tasmania is a small central authority which offers one point of contact for adoption. Legislation requires the Adoption Information Service be advertised 'from time to time'.</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>DSS: In early-2020, DSS consulted with the intercountry adoption community about the ICAFSS in response to calls from the community to be more involved in the design of the services they access and deliver. The consultation recognised the significant benefits that can be gained by listening to people with lived-experience. The aim of the consultation was to capture ideas on ways to improve the design of the ICAFSS so it continues to meet the needs of the intercountry adoption community. Young and adult intercountry adoptees, intercountry adoptive parents, PAPs, advocacy groups, service providers, allied health professionals and academics were encouraged to participate in consultation workshops and/or provide a written submission.</p> <p>NSW: NSW actively invites adoptees to be part of education seminars for PAPs. This enables PAPs to hear lived histories.</p> <p>NT: Yes. NT has been able to do so under best-practice.</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> <p><input type="checkbox"/> Yes. Please provide a link or attach a copy with your response:</p> <p><input checked="" type="checkbox"/> No.</p>
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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>As noted in Australia's response to the '2014 questionnaire': Australian state and territory central authorities and NGOs work in partnership to provide a range of post-adoption services to adoptees and their families.</p> <p>In relation to support immediately following an intercountry adoption, Australian state and territory central authorities supervise the placement for at least the first 12 months, and prepare any post placement reports required by the country of origin. Some state and territory central authorities offer additional visits to ensure families are supported and linked with appropriate services. This is particularly valuable for families who have adopted a child with special needs.</p> <p>In most Australian states and territories, if more extensive counselling or support is required, the central authority will refer the family or adoptee to an NGO specialising in post-adoption support.</p> <p>NSW:</p> <p>NSW has encountered situations where the Child Study material provided by the State of Origin does not necessarily reflect the realities of caring for that child. We attempt to overcome this issue by asking as many questions as possible when receiving an allocation and also by thoroughly explaining to PAPs the changing nature of intercountry adoption - that they are likely to be allocated an older child who may have a history of experiencing significant trauma. While we attempt to support the family to prepare for the arrival of the child, there does appear to be a gap in available trauma-informed parenting training between approval and allocation.</p> <p>ACT:</p> <p>There is limited adoption related support in ACT, due to being a small state and finding services with the required expertise in the adoption space.</p> <p>TAS:</p> <p>We take into account what supports are likely to be in place in terms of the approval as we are a small state with limited specialist support services. Unless PAPs can show exceptional capacity, we are likely to be more conservative in terms of age range and additional needs for PAPs.</p>
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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](#)").

NT:

Support is provided by Senior Adoption Practitioners and where needed, referrals are made to specialist services.

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:</p> <p style="padding-left: 20px;">All states are in agreement that actively ensuring that all PAPs are educated in post-adoption reporting requirements and their responsibility to engage. This is often a prerequisite to approval for suitability to adopt.</p> <p><input type="checkbox"/> No. Please specify when and how PAPs are otherwise informed:</p> <p style="padding-left: 20px;">Please insert text here</p>
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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>NSW:</p> <p>As a receiving State, we attempt to have these reports provided on time and for them to accurately reflect the circumstances of the family.</p> <p>TAS:</p> <p>There have been no issues regarding post-placement reports that we complete as a service in the immediate post-placement period. However, we have found with some families that are required to do post-adoption reporting for their child up to the age of 18, sometimes these reports drop-off in terms of completion. We send reminder letters as encouragement, however, ultimately they are legal parents and we have no authority to enforce the sending of updates.</p> <p>NT:</p> <p>Country-specific post-placement reporting is completed and there have been no identified issues.</p>

1.4. Adoption breakdowns

Both States of origin and receiving States

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
- Intercountry adoptions are infrequent and some states have not encountered a breakdown in 15 years.
- States have reported that influencing factors include: reported risk of harm to children within the household, and the capacity of the adoptive parents to meet the child's needs, if not accurately described in the Child Study material or the child's needs outlined prior to placement. This cause is becoming more apparent to NSW in older intercountry adopted children.
- (b) how your State **has addressed** these situations and whether your State has any good practices to share in this regard;⁷
- NSW:
We have followed our state-based child protection procedures and legislative requirements for responding to risk of harm reports against a child. This includes identifying the risks and vulnerabilities within the household and ensuring holistic supports are engaged in a strength-based manner.
- (c) what **support** is available for the adoptee and the adoptive family to prevent and / or respond to the breakdown of intercountry adoptions;
- NSW:
Adoptees and adoptive families can access support from both NSW and federal government support services. Depending on what period of time and complexity of support they are seeking, they may have an allocated intercountry adoption government caseworker who is also available to assist. Due to the funding structure of intercountry adoption, there are limited state resources available, which is a barrier for this group of adoptees and their families.
- NT:
PAPs are well supported by Senior Adoption Practitioners and if appropriate, or deemed required, NT will refer to other specialised services to support the family.
- (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:
- NSW:
NSW reviews the potential allocation material provided against the approval parameters of the family and only progresses to presenting the allocation if we are

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."

confident that there is a match. We are also conscious of the importance of connecting PAPs to the adoption community and to adoption issues throughout the process to ensure they have a realistic view of intercountry adoption.

NT:

PAPs are well supported, trained and referred to external services.

No. Please specify any reasons:

(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;

There have been no identified cases in Australia in which it has been determined that it is in a child's best interests to return to the state of origin.

(f) **how many** cases of breakdown in intercountry adoptions have been reported in your State between 2015 and the present date;

Relevant data is not available.

(g) how many of these cases included a **new placement** (e.g., foster care, new adoption) for the child;

In Australia, two cases involved the following:

1 - An experienced intercountry adoptive parent was approached to care for the child. The matter is still being finalised with the goal of adoption.

2. An experienced intercountry adoptive family was approached and an order was made in favour of this family.

(h) how many cases of breakdowns were intercountry adoptions done (a) under the **1993 Adoption Convention** ; and (b) outside of the Convention (i.e., prior to the entry into force of the Convention in your State or with non-State Party);

Relevant data is not available

(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.

Australia is committed to enhanced cooperation to support clear communication with its partner countries where adoption breakdown occurs.

Receiving States only

23.

Is your State's **Central Authority** informed and involved / consulted when an intercountry adoption breaks down?

Yes. Please explain your response:

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>All state central authorities work collaboratively with their state counterparts and the Australian Central Authority to ensure best-practice is achieved under the principles of the Convention and to best meet the needs of the child.</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:</p> <p>Generally, in consultation with the Australian Central Authority, all state and territory central authorities will communicate with the child's State of origin. However, this would depend on when a breakdown occurs and if they are aware of the breakdown. Some state and territory central authorities have experienced adoption breakdown while the child was in pre-adoptive placement. Those states notified the Central Authority in the State of origin, providing regular updates and seeking their consultation. There may be instances of adoption breakdown that states are unaware of, as they may have ceased involvement in the case and the breakdown may not be reported.</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:</p> <p>Generally, Australian states and territories would consult with the overseas Central Authority and involve them in the process where possible.</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 type="checkbox"/> Yes. Please describe the type of cooperation:</p> <p><input type="checkbox"/> No.</p> <p>(b) before determining a new placement for the child?</p> <p><input type="checkbox"/> Yes. Please describe the type of cooperation:</p> <p><input type="checkbox"/> No.</p>
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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 type="checkbox"/> Yes. Please specify the conditions to regain nationality:</p>
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No. Please explain your response:

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:</p> <p><input checked="" 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>All states are in agreeance that a Guide to Good Practice on post-adoption would be considerably beneficial in ensuring consistent practice nationally and to ensure the best interests of the child are maintained</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); Please insert text here</p> <p>(c) whether the illicit practices were done under or outside the scope of the 1993 Adoption Convention; Please insert text here</p> <p>(d) how your State handled these situations; Please insert text here</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>DSS: DSS refers to the national approach discussed in question 7.</p> <p>NSW: Development (in process) of jurisdictional specific support guides to prevent and adress illicit practices.</p> <p>ACT: The ACT Adoptions Unit assesses PAPs and determines if they are eligible to adopt in compliance with Article 15 of the Hague Convention. In addition to this, The ACT's intercountry adoption legislation requires couples to undergo a range of background checks, such as</p>

criminal and personal history, child protection history check and reference checks, to determine that the applicants are of good character and for the purpose of assessing suitability to be adoptive parents. The assessment process is rigorous as the principle of the ACT legislation promotes the well-being and best interest of adopted persons throughout their lives.

TAS:

If anything was noted the ACA would be advised.

NT:

All assessments and practices are thorough. Documents provided are checked for their authenticity.

31. Is it possible in your State to **annul** an intercountry adoption?

Yes. Please specify:

(a) the **authority** which has jurisdiction to do so;

ACT:

In the ACT, the Supreme Court has jurisdiction to discharge an adoption order. The 1993 Adoptions Act is the Adoptions Legislation in the ACT.

NSW and NT - No.

(b) **who** can request the annulment (*e.g.*, adoptee, adoptive parents, birth parents);

ACT:

The Section 39L - Discharge of adoption order:

(1) On application by a prescribed person, the court may make an order (a discharging order) discharging an adoption order if the court considers that:

(a) the adoption order, or any consent to the adoption, was obtained by fraud, duress or other improper means; or

(b) there are other circumstances that justify the discharging order.

Prescribed person, in relation to an application for a discharging order for a person, means the Minister, the director-general, the public advocate, the adopted person, an adoptive parent or a person whose consent to the adoption was required

(c) the **grounds** upon which this may be done;

ACT:

Please see above (a) & (b)

(d) whether there is an **age limit** for the annulment of an adoption;

ACT:

Section 39L-(5) A discharging order must not be made unless the applicant has, not later than 28 days before the return date for the application, served written notice of the application and its return date on:

(a) if the adopted person is 12 years old or older—the adopted person; and

(b) each adoptive parent; and

(c) each person whose consent to the adoption was required.

(e) the **procedure** involved;

Discharge of an adoption order application to the Supreme Court.

	<p>(f) the number of intercountry adoptions which are on average annulled per year. The ACT Adoptions Unit has not been made aware of such applications in the last 5 years.</p> <p><input checked="" 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; NSW, TAS and NT - No ACT responded - Yes (refer to question 31)</p> <p>(b) who can request the revocation (<i>e.g.</i>, adoptee, adoptive parents, birth parents);</p> <p>(c) the grounds upon which this is done;</p> <p>(d) whether there is an age limit for the revocation of the adoption;</p> <p>(e) the procedure involved;</p> <p>(f) the number of intercountry adoptions which are on average revoked per year.</p> <p><input checked="" 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>
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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:</p> <p>DSS: DSS, in collaboration with the states, is currently reviewing the (nationally agreed) National Practice Agreement on Relative Intercountry Adoptions. The National Practice Agreement is being reviewed to ensure a nationally consistent approach to ensuring that all relative intercountry adoptions uphold the principals of the Hague Convention and the best interests of the child.</p> <p>NSW: Our agency has a known child/relative factsheet that clearly states the parameters for considering such adoptions.</p> <p>ACT: The ACT Adoptions Unit assesses the PAPs to determine their eligibility to adopt in the same way they would be assessed for an Intercountry Adoption from a partner country programme. The ACT Adoptions Unit works closely with the DSS when making decisions regarding involvement in an intercountry adoption of a child. Information regarding the child’s situation is requested from the country of origin to ensure the Hague Convention principles are adhered to and respected, and the adoption is in the best interest of the child. Once this information has been exchanged between both states (origin and receiving), the ACT Adoptions Unit makes the final decision to approve this adoption according to Article 17 of the Convention.</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 checked="" type="checkbox"/> Yes. Please provide a link or attach a copy with your response:</p> <p>As discussed in question 34, there is a nationally consistent and agreed approach in the National Practice Agreement for Relative Intercountry Adoptions. This is currently being reviewed to align with updated practice standards.</p> <p>States have also developed guidelines and procedures in line with their relevant legislation and policy.</p> <p><input type="checkbox"/> No.</p>
36.	<p>Has your State encountered any particular difficulties with adoptability decisions in the context of intrafamily adoptions?</p>

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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].

	<p><input checked="" type="checkbox"/> Yes. Please specify the situations and how they were handled:¹²</p> <p>NSW:</p> <p>It is common to receive Child Study material from certain jurisdictions where the principle of subsidiarity has not been considered. Family options within the country of origin may have not been considered. Our agency operates from the position that ICA should be considered as a last option.</p> <p>ACT:</p> <p>The ACT relies on the information provided by the overseas adoption authority. The ACT Adoptions unit have encountered delays in receiving this information from the overseas countries. The ACT Adoptions Unit have informed the DSS of such situations and have been working collaboratively to find a viable solution to this.</p> <p><input 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: Please insert text here</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>
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>
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¹² If applicable, you may wish to refer to your State's response to Question 3(b) of the [2014 Questionnaire](#).

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

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>(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>NT: Children remain in the same State.</p>
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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>
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>No precedent has been set for the category.</p>
44.	<p>(a) Please specify any challenges your State encounters with stepparent intercountry adoptions:</p> <p>Nil comment.</p> <p>(b) Please specify any good practices of your State for stepparent intercountry adoptions, including those for overcoming any challenges:</p> <p>Nil comment</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 checked="" type="checkbox"/> Yes. Please specify what the situations were and how your State addressed these situations:</p> <p>NSW: Our agency does at times receive requests to consider adoptions that we suspect are sought to circumvent immigration laws. We are able to respond that we only are involved</p>
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in matters where children are in need of intercountry adoption and refer them to the principle of subsidiarity in relation to family and domestic placements within the country of origin needing to be considered first.

NT:

Unlawful adoption. Other adoptions did not meet subsidiarity principles. These adoption applications were not approved.

TAS:

This has only been encountered at the initial enquiry stage. We clearly explain that adoption is not a pathway for migration into the country. It often appears that people simply do not understand either process (intercountry adoption and migration).

No.

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. If your State has been involved in situation(s) similar to the above-described scenario:
- (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?
- NSW:
NSW experienced a case where the mother was a habitual resident and (on a student visa) at the time of child's birth, then the mother moved overseas with child remaining in NSW.
- (b) how was the **child's habitual residence** determined? Which **factors** were considered?
- NSW:
The NSW Supreme Court granted an order placing the child in the responsibility of the Secretary of our Department, which meant the child was able to remain in NSW and be granted Australian citizenship.
- (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**?
- NSW:
Local voluntary adoption (domestic)
- (d) what **challenges** did your State face in dealing with such situation(s)?
- (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?
- NSW:

	No, due to the privacy of mother who made a decision to voluntarily place her child for adoption in NSW. Cultural views surrounding this and her privacy and safety in her country of origin were considered. The mother did not want extended family to know of the child due to the consequences for mother and child.
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><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?</p> <p>State and territory central authorities would consult with the Australian Central Authority and refer to the Permanent Bureau note on Habitual Residence and seek legal advice on individual cases as needed</p> <p>(b) would determine the child's habitual residence not to be in their State?</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>Australia has a positive formal intercountry adoption partnership with Thailand who often complete simple adoption arrangements with Australia.</p>
51.	<p>If your State permits both full and simple adoption, are simple adoptions encouraged / promoted?</p> <p><input checked="" type="checkbox"/> Yes. Please explain your response:</p>

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

	<p>Australia has numerous states that complete simple adoptions. These are finalised in the Australian state and territory Supreme Courts and full parental responsibility is allocated to the adoptive parents.</p> <p><input type="checkbox"/> No. Please explain your response:</p>
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> <p><input type="checkbox"/> Yes. Please specify the situations which have arisen and how your State has dealt with these situations:</p> <p><input checked="" type="checkbox"/> No.</p>
53.	<p>(a) Please specify any challenges your State encounters with simple adoptions:</p> <p>(b) Please specify any good practices of your State for simple adoptions, including those for overcoming any challenges:</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> <p><input checked="" 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:</p> <p>NSW:</p> <p>Openness in adoption in NSW refers to an open attitude as well as actions and is an integral part of adoption legislation and practice within NSW.</p> <p>ACT:</p> <p>Open adoption is when an adopted child has on-going contact with their birth family. The frequency of this contact depends on the age of the child and their relationship with a member or members of their birth family. Contact includes face-to-face visits, letters, telephone calls, photos and cards.</p> <p>Open adoption is provided by law and in practice. It is promoted by our state and country.</p> <p>TAS:</p> <p>It is provided in practice and it is promoted via a discussion both with PAPs and locally relinquishing parents. It is different in each situation - for some it might take the form of annual reports, a one-off meeting or ongoing meetings.</p> <p><input type="checkbox"/> No. Please explain what is understood in your State by the terms “open adoption”, “openness in adoption” or similar concepts:</p>
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¹⁵ If applicable, you may wish to refer to your State's response to Questions 19 and 20 of the [2014 Questionnaire](#).

55.	<p>Has your State changed its legislation, rules or practices in recent years regarding open or openness in intercountry adoption?</p> <p><input checked="" type="checkbox"/> Yes. Please specify the changes made and the reasons for these changes:</p> <p>NSW: Proposal to introduce Integrated Birth Certificates for adopted persons in NSW. Changes to the Births, Deaths and Marriages Registration Act 1995. Challenges for intercountry adoptees which are being further explored by NSW, due to some partner countries not providing sufficient identity information to support an intercountry adoptee obtaining an integrated birth certificate.</p> <p><input type="checkbox"/> No.</p>
56.	<p>Has your State developed any good practices to ensure that Recommendation No 31¹⁶ of the 2015 Special Commission is implemented?</p> <p><input checked="" type="checkbox"/> Yes. Please specify the good practices developed in that regard:</p> <p>NSW: At the time of receiving an allocation the intercountry adoption team will ask the other central authority whether there is an option for maintaining contact with birth family. Our applicants are expected to be able to support adopted persons with maintaining these relationships wherever possible.</p> <p>ACT: In the ACT, both domestic and international adoptions are open. Therefore, children who are adopted grow up with an understanding that they have been adopted and, where possible, are supported to have a relationship with or knowledge of their family of origin and cultural heritage. PAPs are encouraged and supported by the ACT Adoptions Unit to preserve the identity of the child. The ACT Adoptions Unit, in collaboration with the overseas adoption authority, will support birth family searches and contact in accordance with information provision laws in the ACT and the overseas country.</p> <p>The ACT Adoption Act 1993 (Part 5) includes the following provisions which are provided by Family Information Service:</p> <ul style="list-style-type: none"> • access to identifying information for adopted people, adoptive parents, birth parents and birth relatives where the adopted person is over 18 years; • for adoptions made prior to 2010, the capacity to have identifying information released but to refuse future contact or communication (called a ‘veto’ on contact); • provision of a Reunion and Contact Information Register for those who would like to register their wishes to meet other parties of their adoptions; • provision of an information service. <p><input type="checkbox"/> No. Please specify any reasons:</p>

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].

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?</p> <p>NSW: The profile of children in need of intercountry adoption varies, however the trend we are seeing is generally that these are children coming from complex social backgrounds and older than young infants.</p> <p>(b) Does your State have a specific approach depending on the profile of these children?</p> <p><input checked="" type="checkbox"/> Yes. Please specify these different approaches:</p> <p>NSW: We always look to match the profiles of children in need of intercountry adoption with families who have been assessed as capable to parent such needs.</p> <p><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 checked="" type="checkbox"/> Yes. Please specify the support / services provided and any challenges and / or good practices in this regard:</p> <p>NSW: Casework support is provided by the allocated intercountry adoption caseworker to assist with navigating these relationships. The nationally available Intercountry Adoption Family Support Service is also available at any time to assist.</p> <p>ACT - please see 56</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 checked="" type="checkbox"/> Yes. Please specify what action was taken in response:</p> <p>NSW: Our agency sees this regularly in our Out of Home Care domestic adoption work. In the intercountry space this has historically been less of the case, but we envisage as other countries become more embracing of openness, there will be the need for more work in this area.</p> <p>TAS: Yes, in terms of local adoption. Initially we try and speak to all parties to seek a resolution. Whilst it hasn't ever got to this point, if it became very complicated we may refer to a mediation service. Ultimately, after an adoption is finalised, its an adoptive parent's decision. This is all discussed with birth parents prior to relinquishment.</p> <p><input checked="" type="checkbox"/> No.</p>
60.	<p>(a) Please specify any other challenges your State encounters regarding open adoptions:</p> <p>NSW: Cultural norms of other countries that shape their perception of what openness means. We find that with some countries there is still quite an emphasis on protectionism and enabling</p>

an adopted person to decide when to have contact, rather than encouraging maintenance of relationships from the beginning.

ACT:

It is noted that sometimes limited information is known by the country of origin. As our ACT jurisdiction is small, our team is limited in the role for search and contact with overseas birth family and does not actively undertake search for birth families in overseas countries. ACT will assist adoptees in this process in liaising with the overseas country and Intercountry Adoption Coordinator.

- (b) Please specify any **good practices** of your State with regard to open adoptions, including those for overcoming any challenges:

ACT:

Regarding intercountry adoption, the ACT team is limited to the information obtained from the country of origin in the intercountry adoption process. It is our best practice to work with the country of origin to obtain as much known information about the adoptee and their family, social and medical history when an offer of adoption to the perspective adoptive parents is made. This information is shared with the PAPs on acceptance of the placement offer.

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.	What are the circumstances in your State in which a parent can lose his or her parental responsibility?
62.	<p>Does your State permit the adoption of children whose birth parents have been deprived of parental responsibility?</p> <p><input type="checkbox"/> Yes. Please specify:</p> <p>(a) whether the consent of the birth parents who have lost their parental responsibility is <u>still</u> required?</p> <p><input type="checkbox"/> Yes. Please explain your response:</p> <p><input type="checkbox"/> No. Please explain your response:</p> <p>(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.</p> <p>(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).</p>

No. Please explain your response:

Receiving States only

63. 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?
- Yes. Please specify what actions, if any, your State has taken to deal with these situations:
- No.

Both States of origin and receiving States

64. 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?
65. (a) Please specify any **challenges** your State encounters with non-consensual adoptions:
- (b) Please specify any **good practices** of your State regarding non-consensual adoptions, including those for overcoming any challenges:

7. CONTACT BETWEEN THE PAPs AND THE CHILD BEFORE MATCHING

Both States of origin and receiving States

7.1. General questions

66. Does your State prohibit any **contact** between the child and the PAPs before matching?
- Yes. Please explain your response:
- All states are of the mutual understanding that there is to be no contact prior to matching to ensure the safety and wellbeing of children.
- NSW:
- We ask that our adoptive applicants do not make direct contact with another central authority/child. When we receive an allocation we assess the material and make a decision as to whether to present the allocation. If we decide not to present the allocation, the applicants are not made aware of the allocation. There is a potential that if the family are in contact with the other Central Authority they may become aware of an inappropriate allocation that is yet to be matched by our team.
- No. Please specify:
- (a) in which **circumstances** such contact is permitted;
- (b) the **experience** of your State with regard to such contact.

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 checked="" 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 checked="" 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;</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;</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;</p> <p>(d) how the children are prepared for such programmes;</p>

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

	<p>(e) what are the effects on and the feedback from the children who participated in such programmes but were not adopted;</p> <p>(f) whether there have been situations where the adoption broke down after the child was adopted following participation in such programmes;</p> <p>(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;</p> <p>(h) who finances such programmes;</p> <p>(i) what is the experience of your State with these practices (<i>i.e.</i>, challenges and any potential benefits).</p>
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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.	<p>Has your State experienced situations where "voluntourists" commenced an adoption procedure to adopt a child from the children's institution in which they volunteered?</p> <p><input type="checkbox"/> Yes. Please specify how your State handled these situations and any difficulties these situations may have caused:</p> <p><input checked="" type="checkbox"/> No.</p>
70.	<p>Has your State taken any action to prohibit, regulate or to otherwise add safeguards to the practice of "voluntourism"?</p> <p><input type="checkbox"/> Yes. Please explain your response:</p> <p><input checked="" type="checkbox"/> No. Please explain your response:</p> <p style="color: blue;">NSW:</p> <p style="color: blue;">No specific action has been taken, however when we are assessing suitability of applicants we will look carefully at motivations and not proceed should we have concerns.</p> <p style="color: blue;">ACT:</p> <p style="color: blue;">The ACT Adoptions Unit have not been made aware of such practices in the ACT. Additionally, in order to prevent inappropriate and illegal practices, the ACT Adoptions Unit advises the PAPs that this authority does not become involved in adoptions which are not compliant with the Hague Convention principles, and encourages PAPs to consider the risk involved with this.</p>

7.4. Adoption of children already under the care of PAPs

71.	<p>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</p> <p>(a) whether the child had already been declared adoptable before the PAPs’ adoption application was submitted;</p> <p>ACT: Yes, steps towards adoption had been taken in the country of origin before an application was submitted by the PAPs in the ACT. The child had been relinquished at birth and the care of the child was assumed by PAPs who were relative of the child. Although, the child was declared adoptable under Hama Law, the Adoption Order was not valid due to not being recognised in the ACT.</p> <p>(b) at what stage in the process the PAPs were declared eligible and suitable to adopt;</p> <p>ACT: In the above situation - a new application for a relative intercountry adoption was submitted in the country of origin. Following a formal request from the country of origin, the PAPs were assessed by the ACT Adoptions Unit and determined eligible to adopt the relative child.</p> <p>(c) what the profile of these children was;</p> <p>ACT: Relative child.</p> <p>(d) what was done to ensure that the safeguards and procedures of the 1993 Adoption Convention had been respected;</p> <p>ACT: Follow the principles and procedures of a Intercountry Adoption and consult with the Department of Social Services and Government Solicitor to ensure that the ACT Adoptions Unit has a role in this adoption and it complies with the territory and Commonwealth adoption laws.</p> <p>(e) your State's experience with such adoptions.</p> <p>ACT: Limited, due to being a small jurisdiction.</p>
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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 (<i>e.g.</i>, blockchain to facilitate transmission and access to data)?</p> <p><input type="checkbox"/> Yes. Please specify (a) what the experiences of your State are in this regard (<i>i.e.</i>, benefits and challenges) and (b) how your State take into account data protection in this context:</p>
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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>ACT responded - Yes. A new Child Protection Service system where the adoption information access is strictly restricted to the members of the Adoptions Unit.</p> <p><input checked="" type="checkbox"/> No.</p>
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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 This is not captured in nationally available data.</p> <p>(b) stepparent adoptions; NSW, NT, ACT, Tas: 0</p> <p>(c) simple adoptions; NSW - 0 ACT: 2015-2016 - 1 simple adoption 2016-2017 - 1 simple adoption 2017-2018 - 1 simple adoption 2018-2019 - 0 simple adoptions</p> <p>(d) open adoptions or adoptions that involve a certain degree of openness; and NSW: Difficult to quantify. We expect all adoptive applicants to approach their adoptions with and attitude of openness. The ability to maintain connections is largely dependent on the perspective of the other country. ACT: 2015-2016 - 1 simple adoption 2016-2017 - 1 simple & 2 full adoptions 2017-2018 - 1 simple adoption & 1 relative full adoption 2018-2019 - 3 full adoptions</p> <p>(e) non-consensual adoptions. NSW and ACT: 0</p>
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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.</p>
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²⁰ For receiving States, you may wish to refer to your State's response to the HCCH [Annual Adoption Statistics Form](#).