

November 2009



**THE HAGUE CONFERENCE INTERNATIONAL CENTRE
FOR JUDICIAL STUDIES AND TECHNICAL ASSISTANCE**

THE INTERCOUNTRY ADOPTION TECHNICAL ASSISTANCE PROGRAMME

Document drawn up by the Permanent Bureau

Permanent Bureau | *Bureau Permanent*
6, Scheveningseweg 2517 KT The Hague | *La Haye* The Netherlands | *Pays-Bas*
telephone | *téléphone* +31 (70) 363 3303 fax | *télécopieur* +31 (70) 360 4867
e-mail | *courriel* secretariat@hcch.net website | *site internet* <http://www.hcch.net>

THE HAGUE CONFERENCE INTERNATIONAL CENTRE FOR JUDICIAL STUDIES AND TECHNICAL ASSISTANCE¹

1. The idea of, and indeed the need for, the Hague Conference International Centre for Judicial Studies and Technical Assistance has been developing gradually over the past decade. As the cross-border movement of people and transactions have increased, so too has the need for the legal and administrative frameworks established by the Hague Conventions. As an increasing number of States become Party to the Conventions, the need for implementation assistance expands in parallel. For the past decade the Hague Conference has been providing implementation assistance *inter alia* through diagnostic visits, advice and consultation, and judicial seminars, first on a country-by-country basis, and gradually through regional initiatives. These developments have been viewed as successful and have been generously funded by Member States of the Hague Conference on Private International Law through voluntary contributions to the Supplementary Budget.

2. The creation of the Centre, established in 2006 at the new Academy Building on the premises of the Peace Palace, as an integral part of the Permanent Bureau of the Hague Conference on Private International Law put these initiatives on a more secure footing. The first stage of the Centre was made possible by an initial grant of the Government of the Netherlands. Moreover its first pilot programme (the Intercountry Adoption Technical Assistance Programme) was also supported by the Government of the Netherlands, and subsequently by the Government of the United States of America and the Government of Australia. The Centre will enable a more systematic approach to be taken to the provision of implementation assistance and training.

3. The Hague Conference International Centre for Judicial Studies and Technical Assistance focuses on providing administrative and logistical support to the Convention-specific projects, as well as regional and other initiatives being undertaken and developed by the Permanent Bureau in consultation with its Member States, in particular in respect of the Hague Children's Conventions and the Hague Judicial and Administrative Co-operation Conventions.

4. The Permanent Bureau and the Centre focus on providing co-ordinated assistance under the Conventions along three major lines of action:

- a) identifying weaknesses or needs in States / regions or where a Hague Convention is about to come into operation;
- b) considering what the Hague Conference is able to offer itself and in co-operation with others (States Parties, Regional Bodies or NGOs) in the way of training and technical assistance; and
- c) examining how to access any necessary funding.

5. In particular the Centre:

- a) deals with requests for assistance;
- b) assists scheduling and carrying out the logistical work surrounding the training and seminar programmes of the Hague Conference;
- c) helps establish an international panel of resource persons (already many international experts are involved in the programmes);
- d) assists in the development of training materials;

¹ Part of this document comes from the Prel. Doc. No 4 of February 2008 for the attention of the Council of April 2008 on General Affairs and Policy of the Conference "Regional Developments".

- e) drafts and implements funding proposals.

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I. BACKGROUND

6. The principal multilateral instrument to regulate intercountry adoption in detail is the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption*, which establishes safeguards to ensure that where intercountry adoptions take place they do so in the best interests of the child with respect to the child's fundamental rights. On November 2009 81 States were parties to the 1993 Hague Convention.

7. The Convention recognises that intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her country of origin. It requires that possibilities for the placement of the child within the country of origin be considered first.

8. The Convention establishes a system of co-operation between authorities in countries of origin and receiving countries, designed to ensure that intercountry adoption takes place under conditions which help to guarantee the best adoption practices and the elimination of abuses. Contracting States may adopt additional safeguards where needed to protect the child. The Convention safeguards aim to prevent the abduction, the sale of, or traffic in children. The Convention guarantees the recognition in all Contracting States of adoptions made in accordance with the Convention.

9. The 1993 Hague Convention, inspired by Article 21 of the *United Nations Convention on the Rights of the Child*,² is supported by the UN Committee on the Rights of the Child. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography notes specifically the Hague Intercountry Adoption Convention in its Preamble.

10. In 2002 the United Nations General Assembly adopted the Resolution 'A World Fit for Children',³ reaffirming its commitment to address issues emerging from, in particular, the United Nations Millennium Declaration⁴ through national action and international co-operation. In order to achieve its goals, the General Assembly resolved to "protect children from adoption and foster care practices that are illegal, exploitative or that are not in their best interests."⁵ UNICEF issued a statement in October 2007 in support of the 1993 Hague Convention as the most appropriate global instrument for intercountry adoption.

II. PURPOSE OF THE INTERCOUNTRY ADOPTION TECHNICAL ASSISTANCE PROGRAMME

11. In order for the 1993 Hague Convention to operate successfully, it is essential that the initial steps necessary for its effective implementation within each Contracting State be carefully planned. The Convention places heavy burdens of responsibility on States of Origin, and implementation and technical assistance may be particularly vital in countries that have few resources available for this purpose.

² CRC Article 21: "States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall [. . . safeguards set out in sub-Articles (a), (b), (c) and (d)] (e) [p]romote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavours, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs."

³ A/RES.S-27/2, 11 October 2002, A World Fit for Children.

⁴ Resolution 55/2.

⁵ See point 44(12) of A/RES.S-27/2.

12. The States Parties to the Convention have entrusted the Secretariat of the Hague Conference (the Permanent Bureau) with the responsibility of monitoring and reviewing the operation of the Convention in the different Contracting States and of providing States with assistance to help ensure its effective implementation and operation. The Permanent Bureau has unrivalled experience in assessing country compliance with Hague standards as well as the expertise of persons who have been involved in a number of country missions - including those that have been involved in the drafting of the Convention itself and with considerable experience with Central Authority practice. Hague Teams have undertaken missions to various countries (*inter alia* Albania, Armenia, Belarus, Brazil, Cambodia, China, Colombia, Guatemala, Kenya, Kyrgyzstan, Namibia, Nepal, Panama, Paraguay, Romania, Ukraine, Viet Nam) to advise on adoption and related child protection matters and have received and advised delegations from around the world.

13. The Intercountry Adoption Technical Assistance Programme (ICATAP), first proposed in the 2002-2003 Supplementary Budget of the Hague Conference, was designed to provide assistance directly to the Governments of certain States which are planning ratification of, or accession to, the Convention, or which have ratified or acceded but are experiencing difficulties with implementation of the Convention.

III. ASSISTANCE

14. ICATAP is operated directly by the Permanent Bureau, utilising staff and resources dedicated to this project, as well as international consultants and experts. The use of a pilot programme enables the Permanent Bureau to review at periodic intervals the effectiveness of the programme, and to keep Member States updated on the progress of the project.

15. An initial grant by the Government of the Netherlands and subsequent support by the Governments of the United States of America and Australia assisted with the Implementation Assistance Programme staff and running costs for two pilot States. The pilot project has demonstrated the value of ICATAP, and there has been large interest in the programme from many States. Specific requests for assistance have been received from authorities in Convention States and non-Convention States Parties.

16. The Committee on the Rights of the Child now regularly recommends to States to join the 1993 Hague Convention and seek technical assistance.

17. It is anticipated that the next phase of the programme will provide assistance to one or two States in the Asia-Pacific region, Africa and / or Latin America. The need for contributions - as funds or professional expertise - from other Convention States or Members of The Hague Conference organisation, remains an urgent priority.