

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:	United States of American
Information for follow-up purposes	
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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: Please insert text here</p> <p><input checked="" type="checkbox"/> No. Please specify where the information is stored: In intercountry adoption cases, federal accreditation standards require accredited bodies to retain or archive records in a safe, secure, and retrievable manner for the period of time required by applicable state or federal law. These requirements apply when the United States is either the state of origin or the receiving state. As a receiving state, immigration-related documents are maintained by the federal government. Records of adoption proceedings in the United States would be maintained by the U.S. states in accordance with state law.</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: Please insert text here</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 type="checkbox"/> Yes. Please provide its name and explain the services provided: Please insert text here</p> <p><input checked="" type="checkbox"/> No. Please specify how the search for the origins is handled: As noted in Section 1.1.1 above, while certain information related to immigration is available from the federal government, most adoption records are maintained by adoption service providers as mandated by federal law. The period of retention and criteria for release of this information is governed by the individual state law. The federal Department</p>
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	<p>of Health and Human Services maintains general information on conducting a search for origins as well as detailed information on state laws regarding adoption at https://www.childwelfare.gov/pubPDFs/infoaccessap.pdf.</p>
4.	<p>Has your State developed any good practices to ensure that Recommendation No 21¹ of the 2015 Special Commission is implemented?</p> <p><input type="checkbox"/> Yes. Please specify the good practices developed in that regard: Please insert text here</p> <p><input checked="" type="checkbox"/> No. Please specify any reasons: To date there are no federal training requirements that reflect the intent of Recommendation No 21. However, individual states may have additional training requirements.</p>
5.	<p>If your State allows for the use of DNA testing to search for origins, please specify:</p> <p>(a) which body is in charge of the DNA testing (e.g., government, private companies, NGOs); There is no specialized federal program regarding the search for origins and we are not aware of state run programs. Private companies provide DNA testing.</p> <p>(b) where the data is stored, and whether it is stored by a public or private entity; Unknown</p> <p>(c) the average cost of a DNA test in your State and whether any subsidy is available; Private companies show the cost could be between 150-500 dollars.</p> <p>(d) details of any challenges and / or good practices your State may have developed with respect to the issues identified in this question and DNA testing in general. N/A</p>
6.	<p>What is your State's practice when the background information of an adoption is incomplete or non-existent? How does your State support adoptees in such situations?</p> <p>There is no specialized federal program regarding the search for origins. For an adoption to be complete, minimum background information must be provided to the relevant court (adoption of a child emigrating from the United States) or as part of the immigration process (adoption of a child immigrating to the United States).</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>The U.S. Central Authority maintains a public complaint registry for submission of concerns and complaints regarding the practice of U.S. accredited and approved adoption service providers and their supervised providers. Submissions to the complaint registry will be considered by the U.S. accrediting entity for possible adverse action against the accredited or approved adoption service provider. As appropriate such information may lead to a law enforcement referral.</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);</p>

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

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

	<p>Such statistics are not available</p> <p>(b) how many were not successful and what were the reasons.</p> <p>Such statistics are not available</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>In nearly all U.S. states, adoption records are sealed and withheld from public inspection after an adoption is final. However, most States have instituted procedures by which parties to an adoption may obtain both non-identifying and identifying information from an adoption record while still protecting the interests of all parties. State information on these matters is available at https://www.childwelfare.gov/pubPDFs/infoaccessap.pdf.</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>Many U.S. states do make a distinction between identifying and non-identifying information. State information on these matters is available at https://www.childwelfare.gov/pubPDFs/infoaccessap.pdf. For distinctions regarding record maintenance by adoption service providers, see response to question 12.</p> <p><input type="checkbox"/> No. Please explain your response:</p> <p>Please insert text here</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>According to information compiled by the federal Department of Health and Human Services, “approximately 26 States allow birth parents access to non-identifying information, generally about the health and social history of the child. In addition, 15 States give such access to adult birth siblings. Policies on what information is collected and how that information is maintained and disclosed vary from State to State.” In addition, “statutes in nearly all [U.S.] States permit the release of identifying information when the person whose information is sought has consented to the release. If consent is not on file with the appropriate entity, the information may not be released without a court order documenting good cause to release the information. A person seeking a court order must be able to demonstrate by clear and convincing evidence that there is a compelling reason for disclosure that outweighs maintaining the confidentiality of a party to an adoption.” See https://www.childwelfare.gov/pubPDFs/infoaccessap.pdf.</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>Federal accreditation regulations require accredited and approved adoption service providers to retain “adoption records in a safe, secure, and retrievable manner for the period of time required by applicable State law.” The service provider must also make “readily available to the adoptee and the adoptive parent(s) upon request all non-identifying information in its custody about the adoptee's health history or background.”</p>
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See 22 CFR 96.42 at <https://www.govinfo.gov/app/details/CFR-2011-title22-vol1/CFR-2011-title22-vol1-sec96-42>. In addition, federal regulations require the U.S. government to preserve certain Convention adoption records for 75 years.

No.

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>No recent changes have taken place regarding the provision of post-adoption services. The U.S. social work community considers the provision of post-adoption services to families who have adopted both domestically and internationally to be a best practice. As part of the accreditation regulations, an accredited body is required to discuss with prospective adoptive parents (PAPs) the post-adoption services it can provide. The adoption service provider and the PAPs agree in advance which services the provider will provide. Resources for providers are available on the federal Health and Human Services website: https://www.childwelfare.gov/topics/adoption/postplacement/.</p> <p>In the case of parents who obtain guardianship in order to bring a child to the United States for the purpose of final adoption, the accredited body is obliged to provide post-placement services, at least until the final adoption. U.S. law implementing the Convention regulates the activities of accredited bodies and approved persons through the finalization of the adoption. The U.S. Central Authority cannot mandate that accredited bodies or approved persons provide additional services post-adoption.</p> <p><input type="checkbox"/> No. Please specify any reasons: Please insert text here</p>
14.	<p>If your State provides specialised post-adoption services, please specify:</p> <p>(a) the type of services provided and to whom they are provided (<i>e.g.</i>, child and adult adoptees, birth families, adoptive families);</p> <p>Specialised post-adoption services are established by the individual U.S. states. Information on state programs can be found here: https://www.childwelfare.gov/topics/adoption/adopt-assistance/?CWIGFunctionsaction=adoptionByState:main.getAnswersByQuestion&questionID=7.</p> <p>(b) who provides the services (<i>e.g.</i>, social welfare administration, school, health personnel);</p> <p>See above</p> <p>(c) whether the professionals involved in the post-adoption services are the same as those involved in the preparation of the prospective adoptive parents (PAPs);</p> <p>See above</p> <p>(d) how, if there are different services, these various services are coordinated;</p>

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

³ C&R No 18 of the 2015 SC:

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

	<p>See above</p> <p>(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);</p> <p>See above</p> <p>(f) the length of time this support is available.</p> <p>See above</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>Accredited bodies inform PAPs in their service contract if they will or will not provide post-adoption services, including any services to be provided if an adoption is dissolved. In addition, extensive information regarding post-adoption services is maintained on the website of the Department of Health and Human Services and individual U.S. state websites.</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>Post-adoption services are addressed under the laws of the individual U.S. states, accordingly we do not have access to the information needed to answer this question. The Quality Improvement Center for Adoption and Guardianship Support and Preservation (QIC-AG) has involved young adult adoptees in its work and some U.S. states have youth/young adult advisory boards that inform various aspects of child welfare.</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 checked="" type="checkbox"/> Yes. Please provide a link or attach a copy with your response:</p> <p>In 2019, the Quality Improvement Center for Adoption and Guardianship Support and Preservation (QIC-AG) concluded a five-year, federally-funded research project to develop, test, and implement interventions and practices aimed at achieving long-term, stable permanence in adoptive homes. See www.qic-ag.org for more information.</p> <p><input type="checkbox"/> No.</p>

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>The U.S. social work community considers the provision of post-adoption services to families who have adopted both domestically and internationally to be a best practice, however U.S. state programs connected to intercountry adoptions vary widely. We are aware that some families in more remote, rural parts of the country may experience challenges in seeking direct post-adoption support due to resources being more widely available in larger population areas.</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](#)").

In addition, as such families are not routinely identified to U.S. state child welfare offices, they may not be aware of the services available to them.

The training required for prospective adoptive parents assists families in considering their ability to provide and receive adequate support before proceeding with an adoption. In this regard, U.S. accreditation regulations require accredited and approved adoption service providers to provide training regarding the specific needs of each particular child referred to PAPs. This includes training on the “known health risks in the specific region or country where the child resides; and...any other medical, social, background, birth history, educational data, developmental history, or any other data known about the particular child.” The Department of Health and Human Resources webpage referenced in question 14 above is a good practice in this area.

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>U.S. accredited bodies are required to provide training to PAPs which includes “an explanation of any reporting requirements associated with intercountry adoptions, including any post-placement or post-adoption reports required by the expected country of origin.” See 22 CFR 96.48 In addition, when post-adoption reports are required the adoption service provider includes the requirement in the service contract. See 22 CFR 96.51(c)</p> <p><input type="checkbox"/> No. Please specify when and how PAPs are otherwise informed: 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 checked="" type="checkbox"/> Yes. Please specify the types of situations and what action your State has taken to address this type of situation:</p> <p>Based only on voluntarily submitted information from the adoptive parents, we are aware of one case involving an adolescent who requested protection of her privacy when the parents attempted to comply with the country of origin’s post-adoption reporting requirements. The U.S. adoption service provider notified the Central Authority in the country of origin, which sought confirmation from the U.S. Central Authority. The Department of State took steps to inform the adoptive parents of the reasons for and importance of post-adoption reporting but does not have the authority to compel the family’s compliance.</p> <p><input 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>U.S. law implementing the Convention regulates the activities of accredited bodies through the finalization of the adoption. The U.S. Central Authority (USCA) cannot mandate that accredited bodies or approved persons provide additional services post-adoption or oversee their efforts to ensure compliance with post-adoption reporting requirements. However, U.S. accreditation regulations do require that “when post-adoption reports are required by the child's country of origin, the [accredited body] includes a requirement for such reports in the adoption services</p>

contract and makes good-faith efforts to encourage adoptive parent(s) to provide such reports.” Despite this requirement, the USCA is aware of numerous instances in which the PAPs have not completed required post-adoption reports. We recognize this as a serious issue, but for the reasons stated, are limited in our ability to ensure compliance. We believe that simplification of reporting requirements, both as to duration, frequency, and method of filing, may serve to improve compliance rates and assist countries of origin in obtaining the information regarding the child that they seek. For example, minimizing requirements for notarization, allowing email submission of reports, and providing options for video reporting are likely to improve compliance rates.

As a country of origin, post-adoption reporting requirements are set by the individual U.S. state and the USCA does not have data on rates of compliance.

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

Adoption service providers and adoptive families have reported the primary causes of adoption instability and subsequent breakdown to be lack of adequate preparation and training for parents; incomplete or inaccurate medical and social background information about the child; and difficulty in accessing affordable or relevant post-adoption support and services. Additional contributing factors include the adjustment challenges of all family members, including other children in the household, and the older age of adopted children who may have lived longer in institutional or foster care settings and experienced higher levels of trauma, loss, or abuse.

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

In the United States, child welfare and protection falls under the jurisdiction of individual U.S. states. The federal Department of Health and Human Services (HHS) has encouraged states to allocate funding to the provision of post-adoption services for all adoptive families, including those who adopt through the intercountry process, and has funded multiple grants to support improvements in adoption stability and permanency. In 2019, the Quality Improvement Center for Adoption and Guardianship Support and Preservation (QIC-AG) concluded a five-year, federally-funded research project to develop, test, and implement interventions and practices aimed at achieving long-term, stable permanence in adoptive homes. See www.qic-ag.org for more information.

The Center for Adoption Support and Education is administering the National Adoption Competency Mental Health Training Initiative, a federally-funded effort to develop standardized training to build the capacity of child welfare and mental health professionals to effectively support adoptive families and adopted children. See www.adoptionsupport.org/nti for more information. Finally, Spaulding for Children is administering the National Training and Development Curriculum for Foster and Adoptive parents, a federally-funded initiative to implement a nationwide curriculum to prepare foster and adoptive parents of children who have been exposed to trauma and to support

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](#).

their ability to understand and promote healthy child development. See www.ntdcportal.org for more information.

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

Most mental health care, including counselling and support services for adoptive families and their children, are accessed privately throughout the United States. Adoption service providers that handle intercountry adoptions provide some post-adoption support, as defined in their contractual relationships with client families. State child welfare authorities may become involved and provide support services when there are abuse or neglect concerns or when the child's needs exceed the parents' capacity to provide necessary care.

- (d) whether your State has developed any good practices to ensure that **Recommendation No 19⁸** of the 2015 Special Commission is implemented:

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

The U.S. Central Authority engages U.S. accredited and approved adoption service providers and other adoption professional stakeholders to encourage rigorous pre-adoption training and preparation for all prospective adoptive parents. This important issue was examined during the Department of State's Intercountry Adoption Symposiums in 2015 and 2019. U.S. Central Authority staff have provided subject matter expertise to federal grantees working on developing a national adoption training curriculum and contribute to public information being developed at the federal and state levels.

No. Please specify any reasons:

[Please insert text here](#)

- (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;

U.S. federal regulations require that an accredited or approved adoption service provider may only return a child whose placement has disrupted or whose adoption has dissolved to the country of origin if both Central Authorities have approved such return in writing. To date, the U.S. Central Authority has not approved the return of any child.

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

U.S. law requires the Central Authority to report annually on the numbers of disrupted Convention placements (the interruption of a placement before adoption is finalized) as reported by accredited and approved adoption services providers, and the total number (Convention and non-Convention cases) of internationally adopted children who enter state care as a result of a disrupted placement or dissolved adoption (as defined in U.S. regulations at 22 CFR 96.2). Available data from the Department's Annual Reports to Congress, is as follows:

FY 2015: 3 disruptions reported by ASPs; 59 children entered state care

FY 2016: 10 disruptions reported by ASPs; 102 children entered state care

FY 2017: 13 disruptions reported by ASPs; 88 children entered state care

FY 2018: 4 disruptions reported by ASPs; 72 children entered state care

Source:

https://travel.state.gov/content/travel/en/Intercountry-Adoption/adopt_ref/adoption-publications.html

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

The U.S. Central Authority does not have official statistics on secondary placements and re-adoptions since these fall under individual U.S. state jurisdiction.

- (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);

As noted in the response to (f), the available data on breakdowns cited is all for cases processed under the 1993 Convention. While some information is available regarding adoptions completed outside the Convention it is incomplete and non-conclusive.

- (i) in line with **Recommendation No 20**⁹ 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.

The United States is a signatory to the 1996 Convention but has not ratified.

Receiving States only

23.	<p>Is your State's Central Authority informed and involved / consulted when an intercountry adoption breaks down?</p> <p><input checked="" type="checkbox"/> Yes. Please explain your response:</p> <p>U.S. federal regulations require that accredited and approved adoption service providers seek approval of the Central Authority before sending a child back to the country of origin when a placement disrupts or an adoption dissolves. As discussed in question 22, federal law also requires some reporting to Congress, as provided in the legislation that implemented the Convention in the United States, but the emphasis is on statistics rather than case-specific information about the child or family involved. However, the majority of disruptions and dissolutions are followed by a domestic secondary placement or re-adoption within the United States. Such activities take place according to state law and do not require reporting to the federal government, where the U.S. Central Authority resides. The U.S. Central Authority coordinates extensively with state authorities, the federal Department of Health and Human Services, and accredited ASPs to share information as needed when it is in the child's best interests.</p> <p><input type="checkbox"/> No. Please specify whether the staff of the child protection services include workers specialised in adoption:</p> <p>Please insert text here</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>

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."

	<input checked="" type="checkbox"/> Yes. Please describe the type of cooperation: <p style="color: blue;">U.S. accredited and adoption service providers are required to consult with the country of origin Central Authority when a placement for adoption is disrupting. Though not required to do so, they may also notify when a finalized adoption has dissolved, often in the context of post-adoption reports that may be submitted by the second adoptive family. When cases come to our attention, the U.S. Central Authority does not routinely notify country of origin Central Authorities; however, we are responsive to requests for assistance and information and regularly facilitate communication between foreign and U.S. state authorities about specific children.</p> <input type="checkbox"/> No. (b) before determining a new placement for the child? <input checked="" type="checkbox"/> Yes. Please describe the type of cooperation: <p style="color: blue;">See above</p> <input type="checkbox"/> No.
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States of origin only

25.	Is your State's Central Authority (or other competent authority) informed or involved / consulted by the competent authorities of the child's receiving State: (a) if an adoption breaks down? <input type="checkbox"/> Yes. Please describe the type of cooperation: <p style="color: blue;">Please insert text here</p> <input checked="" type="checkbox"/> No. (b) before determining a new placement for the child? <input type="checkbox"/> Yes. Please describe the type of cooperation: <p style="color: blue;">Please insert text here</p> <input checked="" type="checkbox"/> No.
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1.5. Other post-adoption matters

States of origin only

26.	Are adoptees, who did not retain the nationality of their State of origin, permitted to regain it at a later stage? <input checked="" type="checkbox"/> Yes. Please specify the conditions to regain nationality: <p style="color: blue;">Minor adoptees who are U.S. citizens do not lose U.S. nationality upon adoption or upon becoming a national of the foreign State. U.S. law establishes that U.S. nationals are subject to loss of nationality if they perform certain specified acts voluntarily and with the intention to relinquish U.S. nationality. Should an adoptee lose their U.S. nationality, they would be eligible to seek to regain their nationality through an established immigration option absent a disqualifying action.</p> <input type="checkbox"/> No. Please explain your response: <p style="color: blue;">Please insert text here</p>
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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 checked="" type="checkbox"/> Yes. Please specify the situations and how they were handled:</p> <p>We are aware of three separate cases involving adolescent adoptees whose desire to return to their country of origin was not possible because they lost the citizenship of their country of origin at the time of acquiring U.S. citizenship. In one of the cases the family was advised that citizenship of the country of origin could not be regained without relinquishing the child's U.S. citizenship.</p> <p><input type="checkbox"/> No.</p>
28.	<p>Please give the reasons, if any, why your State would or would not support the development of a Guide to Good Practice on post-adoption.</p> <p>The USCA recognizes the importance of post-adoption services and support, including their potential to influence successful outcomes for adopted children and families. We support consideration of ways to highlight and collaborate on these issues at the Special Commission.</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 checked="" type="checkbox"/> Yes. Please specify:</p> <p>(a) the type of illicit practices which were discovered;</p> <p>In 2016 the USCA debarred an accredited adoption service provider for multiple violations of U.S. accreditation regulations. Most importantly, the provider offered consideration to birth parents to induce them to release their children for adoption, failed to ensure appropriate consent by birth parents, withheld or misrepresented social or other pertinent information on children, and failed to adequately supervise its providers in foreign countries. More information is available here: https://travel.state.gov/content/travel/en/Intercountry-Adoption/about-adoption-service-providers/agencies-denied-or-subject-to-adverse-action.html.</p> <p>(b) when the illicit practices were discovered (<i>i.e.</i>, during or after the adoption procedure);</p> <p>Most cases were detected post adoption, however, some were detected before the child left their country of origin.</p> <p>(c) whether the illicit practices were done under or outside the scope of the 1993 Adoption Convention;</p> <p>The majority of cases occurred outside of the Convention.</p> <p>(d) how your State handled these situations;</p> <p>In the most egregious cases, the adoption service provider involved had its accreditation cancelled by the accrediting entity. There was a criminal prosecution in one case.</p> <p><input type="checkbox"/> No.</p>
30.	<p>Please specify any good practices of your State to prevent and address illicit practices.</p> <p>U.S. regulations on accreditation of adoption service providers are robust, including prohibitions against child buying and inducement and safeguards in connection with child background studies, consents, fees and compensation. Further, the Department of State oversees the work of the entity that accredits and approves adoption service providers and has</p>

	<p>authority to take direct action against adoption service providers under certain circumstances in which the accrediting entity fails or is unable to act.</p> <p>In addition, U.S. immigration law includes specific eligibility requirements for adopted children, as well as the requirement for irrevocable consents to be freely given in writing, where applicable. U.S. consular officers are trained to detect fraud and illicit practices and carefully adjudicate each case on its merits. Under U.S. law, an immigration benefit for a Convention adoptee cannot be obtained until the consular officer determines the child's eligibility under U.S. law and certifies compliance with the Convention.</p>
31.	<p>Is it possible in your State to annul an intercountry adoption?</p> <p><input checked="" type="checkbox"/> Yes. Please specify:</p> <p>(a) the authority which has jurisdiction to do so; The authority to annul an adoption that took place in the United States rests with U.S. state courts and U.S. state law. An overview of state laws on adoption can be found here: https://www.childwelfare.gov/topics/adoption/laws/laws-state/. State laws generally apply to adoptions finalized in the courts of that particular state.</p> <p>(b) who can request the annulment (<i>e.g.</i>, adoptee, adoptive parents, birth parents); Varies according to U.S. state laws.</p> <p>(c) the grounds upon which this may be done; Varies according to U.S. state laws.</p> <p>(d) whether there is an age limit for the annulment of an adoption; Varies according to U.S. state laws.</p> <p>(e) the procedure involved; Varies according to U.S. state laws.</p> <p>(f) the number of intercountry adoptions which are on average annulled per year. Not known.</p> <p><input type="checkbox"/> No.</p>
32.	<p>Is it possible in your State to revoke an intercountry adoption?</p> <p><input checked="" type="checkbox"/> Yes. Please specify:</p> <p>(a) the authority which has the jurisdiction to do so; The authority to revoke an adoption that took place in the United States rests with U.S. state courts and U.S. state law. An overview of state laws on adoption can be found here: https://www.childwelfare.gov/topics/adoption/laws/laws-state/. State laws generally apply to adoptions finalized in the courts of that particular state.</p> <p>(b) who can request the revocation (<i>e.g.</i>, adoptee, adoptive parents, birth parents); Varies according to U.S. state laws.</p> <p>(c) the grounds upon which this is done; Varies according to U.S. state laws.</p> <p>(d) whether there is an age limit for the revocation of the adoption; Varies according to U.S. state laws.</p> <p>(e) the procedure involved; Varies according to U.S. state laws.</p> <p>(f) the number of intercountry adoptions which are on average revoked per year.</p>

	Not known.
<input type="checkbox"/>	No.

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 checked="" type="checkbox"/> Another competent authority. Please specify which authority and the reasons for designating a different authority:</p> <p style="color: blue;">There is no single authority in the United States responsible for intrafamily adoptions. Adoptions in the United States are handled under the authority of U.S. state courts and U.S. state law. This is true for adoptions in which the United States is the state of origin and for adoptions to be finalized in the United States as the receiving state. If the intrafamily adoption is processed under the Convention as required by U.S. law, the U.S. Central Authority would need to certify Convention compliance before issuance of a certifying document.</p>
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 style="color: blue;">The USCA website makes clear that the Convention applies to intrafamily adoptions. See https://travel.state.gov/content/travel/en/Intercountry-Adoption/Adoption-Process/how-to-adopt/adopting-a-relative-for-immigration.html.</p> <p><input type="checkbox"/> No. Please specify any reasons:</p> <p style="color: blue;">Please insert text here</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>

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.

¹¹ C&R No 32 of the 2015 SC:

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

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

	<p>Varies according to U.S. state laws. An overview of state laws on adoption can be found here: https://www.childwelfare.gov/topics/adoption/laws/laws-state/.</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> <p><input checked="" type="checkbox"/> Yes. Please specify the situations and how they were handled:¹²</p> <p>Yes. We have seen some confusion relating to adoptability and relinquishment of parental rights in some States where it is common for children to be raised by extended family members who assume the role of parents. Such arrangements are often informal and may not be transparent to the caregiver involved. If these relatives become unable to continue to provide care, it may be difficult to determine whose rights must be terminated prior to a matching and adoption. In countries where these concerns with intra-family adoptions are common, we often have related concerns in non-relative adoptions such as insufficient information regarding the child.</p> <p>A pressing concern is how some States of origin handle dual nationals adopting in their home countries, but residing in the United States. In some States of origin, dual nationals (citizens of the State of origin who are also U.S. citizens) are required to utilize the domestic adoption process, rather than the Convention adoption process. This is most common in relative adoptions. In some cases, domestic adoption processes are less rigorous than the intercountry adoption process. Children found to be adoptable for domestic adoption purposes sometimes do not meet the definition of a Convention adoptee under U.S. law. There may also be fundamental issues regarding parental consents because a domestic adoption may not benefit from the same safeguards. As a result, these children may not be eligible for a U.S. immigrant visa.</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 checked="" type="checkbox"/> It only affects the child and his or her mother and father.</p> <p><input type="checkbox"/> It affects the child and his or her mother and father, but also the other members of the family.</p> <p><input checked="" type="checkbox"/> Other. Please explain your response:</p> <p>The termination of legal rights is of the parental rights and there are typically efforts to assure siblings are placed/adopted together or at least have the ability to maintain visitation with siblings if they cannot be placed together.</p>
38.	<p>Has your State encountered cases of breakdown in intrafamily intercountry adoptions?</p> <p><input checked="" 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>Because adoptive families are not required to report dissolutions to the U.S. Central Authority, we do not have comprehensive statistics. The reporting that is required, as discussed in connection with previous questions, does not differentiate between intrafamily and other types of adoptions. The QIC-AG, referenced in question 22, has reported that in general, intrafamily adoptions may have a higher rate of breakdown because family members feel obligated to complete the adoption, may not participate or engage in pre-adoption training as fully as non-family adoptive parents, and may be less</p>

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

	<p>realistic about the potential for the child’s and family’s adjustment difficulties. Parents and children in intrafamily adoptions have access to the same services that non-family adoptive families have.</p> <p><input 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 checked="" 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>Some Central Authorities in states of origin have processed intrafamily Convention adoptions with the United States though they do not typically process other types of cases. But in each instance the United States considers itself to be cooperating with those States despite the infrequent cases.</p> <p><input 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 type="checkbox"/> Yes.</p> <p><input checked="" type="checkbox"/> No. Please describe any different procedures used and explain the reasons for these different procedures:¹³</p> <p>Under U.S. accreditation regulations, accredited bodies are required to make “reasonable efforts to find a timely adoptive placement for the child in the United States.” However, domestic parental recruitment measures outlined in 22 CFR 96.54(a) and (b) do not apply in the case of adoption by relatives or in special circumstances accepted by the U.S. state court with jurisdiction over the case.</p>
41.	<p>Is intrafamily adoption used frequently to protect children within the extended family and / or are there other child protection measures (e.g., kinship care, foster care) that your State applies to protect children within the extended family?</p> <p><input checked="" type="checkbox"/> Intrafamily adoption is used frequently. Please explain your response:</p> <p>There is always an effort to place children with kin (intrafamily) whenever possible and to keep them with family that is known to them. There is also the term of “fictive kin” to allow for possible placements with people that are like kin to the family in terms of their relationship to the children and the family. These may be close friends that a child might call “Auntie” or “Cousin” even when there is no biological connection between them. It is considered less traumatic for the child if intrafamily placements can be made.</p> <p><input 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>Please insert text here</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>Please insert text here</p>

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

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 type="checkbox"/> Yes.</p> <p><input checked="" type="checkbox"/> No. Please specify any reasons:</p> <p>The United States does not consider all stepparent adoptions to be covered under Article 2(2) of the Convention, consistent with Section 8.6.5 of the Guide to Good Practice on the Implementation and Operation of the 1993 Intercountry Adoption Convention. U.S. immigration law provides an immigration benefit for adopted stepchildren separate from benefits available to Convention adoptees.</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>The U.S. Central Authority does not separately track information on these cases as a state of origin or as a receiving state.</p>
44.	<p>(a) Please specify any challenges your State encounters with stepparent intercountry adoptions:</p> <p>U.S. law includes provisions to permit the immigration of a child to the United States based on a step-parent relationship. If such cases result in adoption after the child's entry to the United States, those cases would generally not be subject to the Convention under U.S. law. This outcome may be in conflict with the position of the Central Authority of a country of origin. The difficulties noted in question 36 may also be applicable in stepparent adoptions.</p> <p>(b) Please specify any good practices of your State for stepparent intercountry adoptions, including those for overcoming any challenges:</p> <p>The U.S. Central Authority considers the existence of parent-child relationship pre-existing the adoption, consistently with Article 2(2) of the Convention and GGP, section 8.6.5.</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>We are aware of circumstances in which it appears that non-immigrant travel to the United States was undertaken with the intention of completing intrafamily adoptions outside of the Convention process. We are also aware of situations where families process an intrafamily adoption in a foreign country without going through the Convention process, though intentional efforts to circumvent immigration laws may not be clear. U.S. Citizenship and Immigration Services (USCIS), in the Department of Homeland Security, serves as a U.S. competent authority on immigration issues and has implemented regulations, policies and procedures aimed at reducing the risk of circumvention. The USCA works closely with USCIS to liaise with other central authorities to address issues of possible circumvention. Domestically, efforts include improving guidance to U.S. state courts, adoption service providers, and U.S. state authorities.</p> <p><input type="checkbox"/> No.</p>
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4. DETERMINING THE CHILD'S HABITUAL RESIDENCE WHEN THE MOTHER MOVES TO ANOTHER

STATE SHORTLY BEFORE GIVING BIRTH

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

Both States of origin and receiving States

46.	<p>If your State has been involved in situation(s) similar to the above-described scenario:</p> <p>(a) was your State the State of habitual residence of the mother (State A), the State of birth of the child (State B), or another State? The state of birth of the child.</p> <p>(b) how was the child's habitual residence determined? Which factors were considered? In any habitual residence review, consideration is given to the facts of the individual's presence in the United States, including, for example, the length of time, social ties, immigration status, etc.</p> <p>(c) if adoption was considered the best option for the child, did your State determine it as being a domestic adoption or an intercountry adoption? Based on the specific facts of the case, it was determined to be a domestic adoption.</p> <p>(d) what challenges did your State face in dealing with such situation(s)? The United States does not define habitual residence in the legislation that implements the Convention. At the time of the subject case, there were few judicial decisions addressing the habitual residence of a child, particularly as regards a newborn or very young child. Since that time the U.S. Supreme Court decided <i>Monasky v. Taglieri</i> which involved the habitual residence of an eight week old child under the 1980 Convention on the Civil Aspects of International Child Abduction. The Court ruled that the test to determine a child's habitual residence under the Abduction Convention is a fact bound inquiry which should consider the totality of the circumstances specific to the case.</p> <p>(e) if your State was the State where the child was born, was contact sought with the State of habitual residence of the mother? Was there any cooperation between the concerned States? Yes, there was contact and cooperation.</p>
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: As noted, the determination of habitual residence is a fact bound inquiry regarding the subject's presence and circumstances in the country. To the extent information raised concerns about a child's safety, such issues would certainly be considered as regards illicit practices, the role of accredited bodies, protection of children, and potential criminal activity.</p> <p><input type="checkbox"/> No. Please explain your response: Please insert text here</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? The U.S. Central Authority would work closely with the other State to resolve any opposing conclusions, focusing on the facts and the totality of the circumstances. If resolution were not possible, we believe deference would be given to the State in which the subject of the</p>

	<p>habitual residence determination was at the key moment in the process (e.g., relinquishment, abandonment, etc.)</p> <p>(b) would determine the child's habitual residence not to be in their State? See reponse to (a) above.</p>
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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: Please insert text here</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? The U.S. Central Authority does not have this information.</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: Legal guardianships (similar to the concept of simple adoption) are encouraged in the United States, typically only with relatives, when there is difficulty obtaining, or it is not possible to obtain, termination of parental rights. The ideal of legal guardianship is to allow a relative to provide for the child without having to terminate parental rights. This allows for the possibility that at a later point in time, the birth parent might be better able to regain guardianship of his or her child and provide for it. Relatives providing for children also prefer not feeling as though they are forcing the termination of their relatives' parental rights which must occur if they use adoption as the means to provide for the child.</p> <p>In both the receiving state and state of origin contexts, adoption law is a matter of U.S. state law which may change based on legislative action in a particular U.S. state. General information on U.S. state adoption law can be found here: https://www.childwelfare.gov/topics/adoption/laws/laws-state/. State laws generally apply to adoptions finalized in the courts of that particular state.</p> <p><input type="checkbox"/> No. Please explain your response: Please insert text here</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>

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

	<input type="checkbox"/> Yes. Please specify the situations which have arisen and how your State has dealt with these situations: Please insert text here <input checked="" type="checkbox"/> No.
53.	<p>(a) Please specify any challenges your State encounters with simple adoptions: The primary challenge of simple adoption or legal guardianship is that this relationship legally ends at the age of 18 years and may leave a youth emancipated legally but without the enduring lifelong commitment of a family. As most of these legal guardianships are with relatives of the child/youth, our hope is that the relationship endures, however, this is without the legal aspect of the relationship continuing past the age of 18 years.</p> <p>(b) Please specify any good practices of your State for simple adoptions, including those for overcoming any challenges: The best practices of legal guardianship are when the services and supports received in these placements are identical to those provided through adoption.</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>The Child Information Gateway, a service of the U.S. Department of Health and Human Services, includes the following in its glossary of terms: “Open adoption is a type of adoption in which birth and adoptive families have some form of initial and/or ongoing contact.” U.S. federal laws do not address openness in intercountry adoption. Open adoption would be a matter of U.S. state law or be left to practice according the wishes of the parties involved. See the resource referenced in question 51 for an overview of the laws of particular U.S. states.</p> <p>Resources on the Child Information Gateway address changing attitudes toward open adoption in the United States. In part they note: “ A national study of adoptive families in the United States found that in approximately one-third of all adoptive families, the adoptive parents or the adopted child or youth had some contact with the birth family after the adoption. Several factors have contributed to the increasing openness of adoption. Foremost, there is the growing awareness of the negative effects of secrecy and the benefits of openness for many adopted children and youth, birth parents, and adoptive parents. In recent years, more and more birth mothers have asked for openness and the ability to receive and share information as a condition of an adoption. Additionally, responding to large numbers of adult adopted persons and birth parents who returned to adoption agencies to seek information about each other, states have changed their adoption laws, and agencies have added programs and services that support open adoption.”</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: Please insert text here</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: U.S. federal laws do not address openness in intercountry adoption. In both the receiving state and state of origin contexts, adoption law is a matter of U.S. state law which may have changed based on legislative action in a particular U.S. state. General information on U.S. state adoption law can be found here: https://www.childwelfare.gov/topics/adoption/laws/laws-state/. State laws generally apply to adoptions finalized in the courts of that particular state.</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: The U.S. Department of Health and Human Services provides an extensive guide to the concepts, benefits and challenges of open adoption on its childwelfare.gov website: https://www.childwelfare.gov/pubPDFs/openadoption.pdf. Addition resources are available here: https://www.childwelfare.gov/topics/adoption/preplacement/adoption-openness/.</p> <p><input type="checkbox"/> No. Please specify any reasons: Please insert text here</p>
57.	<p>(a) What is the profile of children for whom an open intercountry adoption is made, either in your State or in the State(s) with which your State cooperates? The U.S. Central Authority does not have access to this information.</p> <p>(b) Does your State have a specific approach depending on the profile of these children? <input type="checkbox"/> Yes. Please specify these different approaches: Please insert text here</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: Please see response to question 55 above. We are not aware of assistance specific to those involved in open adoptions at the U.S. state level, but general U.S. state services are summarized here: https://www.childwelfare.gov/topics/adoption/adopt-assistance/.</p> <p><input type="checkbox"/> No. Please explain your response: Please insert text here</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].

59.	<p>Has your State encountered situations where adoptees, adoptive parents and / or birth parents wanted to change the frequency or the method of contact between them after the adoption?</p> <p><input type="checkbox"/> Yes. Please specify what action was taken in response: Please insert text here</p> <p><input checked="" type="checkbox"/> No.</p>
60.	<p>(a) Please specify any other challenges your State encounters regarding open adoptions: N/A</p> <p>(b) Please specify any good practices of your State with regard to open adoptions, including those for overcoming any challenges: N/A</p>

6. NON-CONSENSUAL ADOPTIONS

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

States of origin only

61.	<p>What are the circumstances in your State in which a parent can lose his or her parental responsibility?</p> <p>The U.S. Department of Health and Human Services advises that while each State has its own TPR [termination of parental rights] rules, the Federal Adoption and Safe Families Act requires a TPR when parents have failed to meet the goals of their case plan within a specific timeframe. If parents don't achieve these goals and a child has spent 15 of the most recent 22 months in foster care, the child welfare agency is required to seek a TPR or provide a reason for requesting an extension. The court may schedule a termination hearing sooner if it determines that reunifying the child with the parents is not an appropriate goal. Parents may also voluntarily relinquish their rights.</p> <p>A TPR signifies the official and permanent termination of the parent-child relationship and parental rights with respect to the child (unlike custody rights, which can be changed based on circumstances). While States have differing grounds for what constitutes an involuntary TPR, in general, parental rights are terminated when a child cannot safely be returned home without risk of harm or when the parent is not able to meet the child's basic needs. For more information, see the publication Grounds for Involuntary Termination of Parental Rights at https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/groundtermin/.</p>
62.	<p>Does your State permit the adoption of children whose birth parents have been deprived of parental responsibility?</p> <p><input checked="" type="checkbox"/> Yes. Please specify:</p> <p>(a) whether the consent of the birth parents who have lost their parental responsibility is still required?</p> <p><input type="checkbox"/> Yes. Please explain your response: Please insert text here</p> <p><input checked="" type="checkbox"/> No. Please explain your response: As noted in the response to question 61, in general, a U.S. state court action to terminate parental rights "signifies the official and permanent termination of the</p>

parent-child relationship and parental rights with respect to the child.” Accordingly, consent of the birth parents would not be required for adoption.

- (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.

Extensive efforts are made by child welfare professionals and U.S. state courts to support the birth family’s stability and reunification. As noted by the U.S. Department of Health and Human Services: “Federal law requires your child welfare agency to make reasonable efforts to prevent your child from being removed from the home, and—if your child is removed—the agency is required to make reasonable efforts to support your family’s reunification. For more information, see Reasonable Efforts to Preserve or Reunify Families and Achieve Permanency for Children in Information Gateway’s State Statutes series at <https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/reunify/>.”

An outline of child welfare actions in the U.S. state courts is available here: <https://www.childwelfare.gov/pubPDFs/cwandcourts.pdf>.

- (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).

Please see response to (b) above, particularly the outline of child welfare actions linked document.

No. Please explain your response:

[Please insert text here](#)

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:

We have encountered such situations in non-Convention countries or cases pre-dating the entry into force of the Convention in the United States or the other country. In some instances, the person contesting the adoption, sometimes represented by an attorney or assisted by an NGO, has filed a petition in the court where the adoption was finalized. We have seen the involvement of law enforcement, where appropriate.

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?

The U.S. Central Authority does not have data on the profile of children subject to termination of parental rights and placed for intercountry adoption.

65. (a) Please specify any **challenges** your State encounters with non-consensual adoptions:

Department of State consular officers in charge of adjudicating visas based on an adoption may have conflicting information about how the consent was obtained. The consular officers may be in possession of information suggesting that consent was not voluntarily

obtained but also have to weigh in the fact that a court may have issued an adoption that appears valid on its face.

- (b) Please specify any **good practices** of your State regarding non-consensual adoptions, including those for overcoming any challenges:

U.S. immigration law requires that written, irrevocable consent be freely given to enable the termination of parent rights, emigration and adoption. State Department officials work diligently to ensure such consents have been provided by the child's birth parent(s) or other persons or entities with legal custody of the child. Such efforts may include in-person interviews with the birth parent(s), field investigations and consultation with local officials.

7. CONTACT BETWEEN THE PAPs AND THE CHILD BEFORE MATCHING

Both States of origin and receiving States

7.1. General questions

66.	<p>Does your State prohibit any contact between the child and the PAPs before matching?</p> <p><input checked="" type="checkbox"/> Yes. Please explain your response:</p> <p style="padding-left: 20px;">As a receiving country, the USCA would allow contact between the PAPs and the child's caregiver or birth parents as a result of the adoption taking place within a family or based on the country of origin's determination of permissible contact in line with Article 29. As a country of origin, individual U.S. states may establish conditions under which contact between the PAPs and the child's caregiver or birth parents is permitted.</p> <p><input type="checkbox"/> No. Please specify:</p> <p style="padding-left: 20px;">(a) in which circumstances such contact is permitted; Please insert text here</p> <p style="padding-left: 20px;">(b) the experience of your State with regard to such contact. Please insert text here</p>
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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 style="padding-left: 20px;">(a) whether such programmes specifically aim to be a precursor to adoption for some children (e.g., for children with special needs):</p> <p style="padding-left: 40px;"><input type="checkbox"/> Yes. Please explain your response: Please insert text here</p>
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¹⁷ Regarding respite care, if applicable, you may wish to refer to your State's response to Question 54 of the [2014 Questionnaire](#).

	<p><input type="checkbox"/> No.</p> <p>(b) whether such programmes have, in fact, resulted in the adoption of children:</p> <p><input type="checkbox"/> Yes. Please specify the percentage of children involved in the programmes that are adopted: Please insert text here</p> <p><input type="checkbox"/> No.</p> <p>(c) where a child is adopted following such a programme, how is it ensured that the safeguards of the 1993 Adoption Convention have been respected (bearing in mind that it is likely that the child remains “habitually resident” in his or her State of origin and thus the adoption would fall within the scope of the Convention under Art. 2)? Please insert text here</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; The U.S. Central Authority has no involvement in these programs and does not have access to the information requested below.</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; Please insert text here</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; Please insert text here</p> <p>(d) how the children are prepared for such programmes; Please insert text here</p> <p>(e) what are the effects on and the feedback from the children who participated in such programmes but were not adopted; Please insert text here</p> <p>(f) whether there have been situations where the adoption broke down after the child was adopted following participation in such programmes; Please insert text here</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; Please insert text here</p> <p>(h) who finances such programmes; Please insert text here</p> <p>(i) what is the experience of your State with these practices (<i>i.e.</i>, challenges and any potential benefits). Please insert text here</p>

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 checked="" type="checkbox"/> Yes. Please specify how your State handled these situations and any difficulties these situations may have caused:</p> <p style="color: blue;">Anecdotally we have heard of such cases (particularly in countries not a party to the Convention). In Convention countries, such cases would raise issues under Article 29 of the Convention and concerns of possible improper financial or other gain under Articles 8 and 32 or improper inducement in connection with the adoption.</p> <p><input 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 checked="" type="checkbox"/> Yes. Please explain your response:</p> <p style="color: blue;">The Department of State provides public information regarding the vulnerability of institutionalized children to human traffickers and the risks and unintended consequences to children that voluntourism programs can raise. See: https://www.state.gov/child-institutionalization-and-human-trafficking/.</p> <p><input type="checkbox"/> No. Please explain your response:</p> <p style="color: blue;">Please insert text here</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 (e.g., as part of a foster care placement, kinship care, "niño puesto",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>(b) at what stage in the process the PAPs were declared eligible and suitable to adopt;</p> <p style="color: blue;">Please insert text here</p> <p>(c) what the profile of these children was;</p> <p style="color: blue;">Please insert text here</p> <p>(d) what was done to ensure that the safeguards and procedures of the 1993 Adoption Convention had been respected;</p> <p style="color: blue;">Please insert text here</p> <p>(e) your State's experience with such adoptions.</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](#).

We are anecdotally aware of such cases, but do not maintain specific information about them. We have been contacted by dual citizens and citizens of other Contracting States who are living in the United States who have completed U.S. domestic adoptions of children from foster care and have experienced difficulties in obtaining citizenship for their child from their country of citizenship due to the fact that the adoption was completed under laws governing U.S. domestic adoptions and not the Convention adoption process.

8. USE OF NEW TECHNOLOGIES

Both States of origin and receiving States

72.	<p>Has your State changed its practices recently to integrate new technologies into work processes (e.g., blockchain to facilitate transmission and access to data)?</p> <p><input type="checkbox"/> Yes. Please specify (a) what the experiences of your State are in this regard (i.e., benefits and challenges) and (b) how your State take into account data protection in this context: Please insert text here</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.e., excluding stepparent adoptions);²⁰ The USCA does not maintain data relevant to these categories. See general reporting in our statistical reports to the HCCH as well as on our website at https://travel.state.gov/content/travel/en/Intercountry-Adoption/adopt_ref/adoption-statistics1.html?wcmmode=disabled.</p> <p>(b) stepparent adoptions; Please insert text here</p> <p>(c) simple adoptions; Please insert text here</p> <p>(d) open adoptions or adoptions that involve a certain degree of openness; and Please insert text here</p> <p>(e) non-consensual adoptions. Please insert text here</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. Please insert text here</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](#).