UNICEF Guidance Note on Intercountry Adoption in the CEE/CIS Region

unite for children

unicef

UNICEF GUIDANCE NOTE ON INTERCOUNTRY ADOPTION (ICA) IN THE CEE/CIS REGION

This Guidance Note issued by the UNICEF Regional Office for CEE/CIS (Central and Eastern Europe and the Commonwealth of Independent States) is primarily designed to assist UNICEF offices in the region in dealing with policy and practice issues regarding intercountry adoption (ICA) that have proved to be of special importance in the region.

The guidance is founded on relevant international standards and principles, and builds on the overall position paper drawn up by UNICEF.

September 2009

UNICEF Regional Office for Central and Eastern Europe and
the Commonwealth of Independent States (CEE/CIS)

September 2009

Cover photo:
UNICEF/2004/Pirozzi
Russian Federation, 2004

CONTENTS

A. BACKGROUND INFORMATION

A.1. Intercountry adoption and children's rights

Intercountry adoption (hereafter referred to as "ICA") is a child welfare practice foreseen in international human rights law, which specifies the general conditions under which it is to be carried out in compliance with children's rights (Convention on the Rights of the Child, Art. 21). The procedures and cooperation deemed necessary to safeguard these rights in an adoption process are set out, at the global level, primarily in an international private law treaty, the 1993 Hague Convention on Intercountry Adoption.

Decisions on intercountry adoption are of extraordinary significance from the standpoint of the rights of the child, since they result in a complete change in identity (name, family ties and, invariably, nationality), physical displacement across borders, and are almost always made without the child's consent, due to his or her age.

Adoption is the only sphere covered by the Convention on the Rights of the Child where the best interests of the child are to be *the paramount* consideration, as opposed to being simply *a primary* consideration in general. This clearly underscores the obligation to take a purely "child-driven" approach to adoption issues.

It is widely agreed that three principles should guide decisions regarding long-term substitute care for children, once the need for ensuring such care has been established:

- family-based solutions are generally preferable to placements in residential facilities,
- permanent solutions are generally preferable to inherently temporary ones,
- national (domestic) solutions are generally preferable to those involving another country.

The reference to "generally" in this listing is important; decisions are to be made for each individual child according to his or her particular characteristics and circumstances.

The fact that intercountry adoption fulfils only the first two of these conditions means that it is to be considered "subsidiary" to any foreseeable solution that corresponds to all three, such as domestic adoption and other permanent forms of family-based alternative care in-country. The active and systematic implementation of this "subsidiarity rule" is key to ensuring respect for children's rights in this sphere, as are robust efforts to prevent abandonment and

relinquishment and to promote the reintegration of children into the care of their families under appropriate conditions.

It is important to note that international law specifies that intercountry adoption ***may*** be envisaged when no appropriate domestic solution exists for a child, but it does not say that ICA ***must*** be considered. Thus, countries such as Romania and Tajikistan are in no way acting counter to Convention on the Rights of the Child Art. 21 or the Hague Convention uniquely by virtue of their prohibition of ICA.

A.2. UNICEF and ICA

It was concerns about how ICA was developing in the CEE/CIS region that sparked UNICEF's very first initiatives on this issue – at the beginning of the 1990s, first in Romania and then in Albania. In both countries, moreover, UNICEF was instrumental in proposing and facilitating initial reforms designed to combat serious problems that had been identified in the way that adoptions were being carried out.

In the ensuing years, ICA slowly moved up the UNICEF agenda, at headquarters level and in certain countries. This evolution was helped by the reshaping and higher profile of UNICEF's "child protection" activities during the Nineties and by the approval and entry into force (1995) of the 1993 Hague Convention, whose ratification the Committee on the Rights of the Child has subsequently systematically urged for all countries that are not yet Contracting States.

Around the turn of the century, certain high-profile situations of illicit activity in the ICA sphere – such as in Cambodia, Guatemala, and the Indian State of Andhra Pradesh – almost inevitably led to substantial involvement on the part of the UNICEF offices concerned. However, at that time UNICEF still had no explicit corporate policy or approach on this question. Its first official "position on intercountry adoption" was made public only in January 2004.

Since then, several UNICEF country offices around the world have taken up the issue, notably by commissioning situation assessments and organising training for government partners. The original position paper was revised and further developed by UNICEF headquarters in late 2007 (see Annex 1).

Consistent with the aim of its overall mandate – bringing about conditions whereby all children can be properly cared for by their families or, where necessary, others in their country of origin – UNICEF does not promote intercountry adoption as a child protection measure. Because of this stance, UNICEF is often accused in certain industrialised countries of being "anti-ICA". In fact, and fully in line with the Convention on the Rights of the Child, it recognises the practice, and simply advocates for ensuring the rigorous application

of international standards when the intercountry adoption of a child is contemplated or takes place.

A.3. The development of ICA in CEE/CIS

From the very start of the "transition", intercountry adoption from the region has posed fundamental problems in terms of the protection of the civil and social human rights of children.

Overall, intercountry adoption of children from countries in the region had been rare under the Socialist regimes, with only Poland and, to a lesser extent, Hungary seemingly involved to any significant degree. Small numbers of children were also adopted from Bulgaria and Romania each year. In countries of the former Soviet Union the measure was virtually unknown and therefore not subject to specific legislation. The same applied, *inter alia*, to Albania.

However, within weeks of the December 1989 revolution in Romania, couples and "agencies" were flocking to the country in rapidly increasing waves to adopt the "orphans" from the country's suddenly much-publicised institutions. The existing legislation was inadequate, and structures and systems were overwhelmed. Illicit practices of many kinds burgeoned. In response, the Romanian Authorities finally declared a moratorium in July 1991, largely as a result of the recommendations of a UNICEF-supported expert mission. One apparent effect of this was to divert "demand" to alternative countries in the region – notably Albania and, a little later, Bulgaria, Russia and Ukraine. They were equally unable to cope, lacking appropriate legislation, procedures and experience in this sphere. Again abuses were legion.

Over the years, more and more countries in the region began to allow intercountry adoptions, although they have now been banned in Romania and Tajikistan. Even in recent times, additional countries have started to permit ICA programmes – Kyrgyzstan and Uzbekistan are notable examples.

In the majority of cases, newly-involved countries have found themselves needing to revise or enact relevant legislation and set up processes and structures almost on an emergency basis, not always taking due account of the spirit, standards and procedures set out in the Hague Convention (regardless of whether or not the country has ratified it). This has often resulted in a patchwork of insufficiently thought-out and implemented systems that themselves have been open to abuse of various kinds, and that have usually not formed part of a coherent approach to child welfare and protection. Consequently, many have had to resort to undesirable "stop-go" policies, including the imposition of moratoria (see table on page 8), in constant efforts to maintain control.

By the turn of the century, adoptions from the CEE/CIS region had become a very significant part of the global ICA picture, and they remain so today. In 2006, for example, three CEE/CIS countries were among the "top ten" countries of origin of adoptees to the USA and alone accounted for nearly 25% of all adoptions to that country in that year. In the same year, a third of all adoptions to Spain concerned children from the region, while the equivalent figure for Italy was over 40 per cent.

In view of this, it is all the more disturbing to note that initiatives to secure ratification of the Hague Convention have failed to date in many CEE/CIS countries, including the major countries of origin (see Annex 2), meaning that the great majority of intercountry adoptions from the region today are taking place without the full protections provided by this treaty.

A.4. Guidance on ICA in CEE/CIS

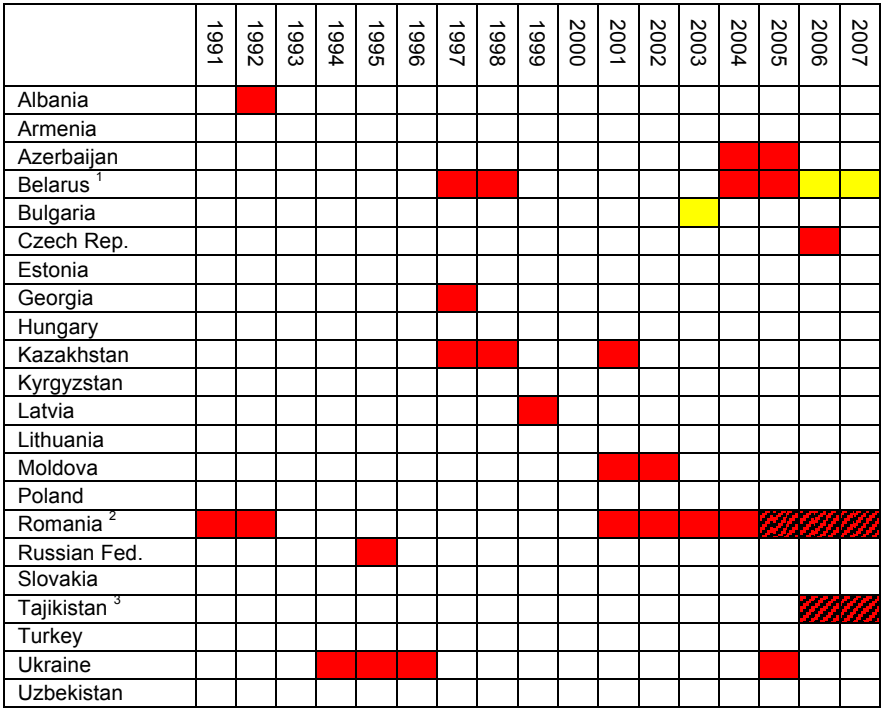
Given the significance of ICA in the region, the numerous children's rights problems encountered and the absence of an explicit UNICEF policy on the issue at that time, the UNICEF Regional Office for CEE/CIS and UNICEF's Innocenti Research Centre cooperated on drawing up a first Guidance Note in 2003. This was presented at a Regional Management Team meeting in Geneva and endorsed by the latter. It was then circulated within the region, as well as being made available on UNICEF's global website and the regional website.

Many developments of different kinds have taken place since that time, however, and the original document clearly needed to be both up-dated and thoroughly reviewed to maximise its potential usefulness in the light of these changes. The present Guidance Note is the result of that exercise.

Moratoria and Suspensions of ICAs in CEE/CIS/Baltic Countries, 1991-2007

	Moratorium
	Law is so restrictive that there is a *de facto* moratorium
	Situation is unclear but appears to be a *de facto* moratorium

NB: The coloured units indicate a situation during the year but not necessarily for the entire year.



[1] According to the U.S. Department of State, all intercountry adoptions in Belarus have ceased since October 4, 2004, when Belarusian President Lukashenko asked his cabinet to look into international adoptions. The Government of Belarus changed its adoption procedures in 2005 but adoptions have yet to move forward. The Government of Belarus has not provided clear information on the possible duration of the apparent suspension or possible provisions for completing adoptions that were already in the pipeline before October 2004. According to available statistics, it seems that so far only Italy resumed adoption with Belarus.

[2] In 2005, Romania lifted the moratorium on intercountry adoption and passed a new adoption law. However, this law allows intercountry adoption only with the grandparents of the child.

[3] On 3 May 2006, Tajikistan changed its Family Code to prohibit intercountry adoption of Tajik orphans. While couples which consist of at least one Tajik citizen are still allowed to adopt, all other adoptions by non-Tajik citizens are expressly forbidden by Tajik law.
http://www.travel.state.gov/family/adoption/country/country_336.html

B. KEY ISSUES TO BE ADDRESSED IN THE REGION

In recent years, UNICEF has undertaken or supported in-depth assessments of the adoption system in an number of countries in the region, notably: Ukraine, Moldova, Azerbaijan, Kazakhstan and Kyrgyzstan. Their situations are of course very different, but whether or not a country has ratified the Hague Convention and whether or not there are currently few or many intercountry adoptions, these assessments have brought to light a number of issues that, at various points and to various degrees, are currently or potentially pertinent to many or most. This section analyses some of the main ones identified.

B.1. Dealing with demand, resisting pressure

After growing substantially since the Eighties, the total number of intercountry adoptions worldwide has fallen somewhat since 2004-2005. While some new countries have opened up to, or increased reliance on, ICA, many have placed limitations on the measure such as restricting it essentially to children with special needs or setting out stricter requirements for foreign adopters.

At the same time, the number of couples and individuals seeking to adopt from abroad and authorised to do so has continued to grow and is far greater than the number of children who are both declared legally "adoptable" and desired for adoption. Thus, for example, between 25,000 and 30,000 French applicants are now certified as "fit to adopt" but total ICAs to the country currently hover around the 4,000 mark each year.

This situation, amplified by the globalisation phenomenon, drove prospective adopters to explore new countries from where it might still be "possible to adopt". Almost every country has come under the scrutiny of adoption agencies and individuals looking for children to be adopted. Today, most countries in the CEE/CIS region are faced with a level of applications from foreigners to adopt their children that is objectively well above the numbers of their children who are available for ICA – or at least those who are younger and in relatively good health.

Many facilitators and agencies look for ways to ensure that these children are "reserved" for ICA, with the complicity of local actors. One of the tasks given to diplomatic representatives of some receiving countries is the promotion of adoption by their citizens; the authorities of some such countries send delegations to selected countries of origin specifically to "explore" the possibilities of increasing ICA numbers, or invite officials for "information sessions" in the receiving country itself.

Resisting this pressure is not easy, especially as some receiving countries may link openness to ICA with the provision of assistance or cooperation programmes.

Efforts to counter pressure, and the degree of success they have achieved, vary widely throughout the region, but they can also have the side-effect of displacing the pressure to countries where systems are still the weakest.

> ***UNICEF position:*** It is solely up to the country of origin to determine which individual children may need and be eligible to benefit, as an exceptional measure, from being adopted abroad, and by whom. The role of competent authorities and agencies in receiving countries is to propose suitable prospective adopters in response to the expression of any such need. Receiving countries should never be a party to transforming the desires of their citizens to adopt into requests or demands for children to be allocated to them. They should ensure that accurate information on adoption needs is given to prospective adopters, and that "fitness to adopt" certificates are not perceived as conferring a "right to adopt" and are not issued in numbers that create expectations which cannot be fulfilled for the majority.
>
> Receiving countries should devote more efforts to supporting countries of origin in settling up efficient and transparent ICA procedures.

B.2. Moratoria and other restrictions

As noted previously, at various points many countries in the region have resorted to declaring a moratorium on ICAs while they readjust their legislation, procedures and structures, or while they investigate allegations of malpractice. Often, the way that these moratoria have been implemented has caused confusion and has not taken account of the best interests of children. Clear information has not always been given to receiving countries and agencies as to the effect and planned duration of the measure, leading to inappropriate responses by some, and poor planning of the actions required has sometimes meant the continual postponement of resumption of adoptions. This can make it difficult or impossible to put in place a viable "care plan" for children who may need adoption (domestically or abroad) that is necessary to safeguard their sense of security and best interests. Most disturbingly, perhaps, moratoria decisions have not always taken account of the need to foresee an appropriate outcome for children whose adoption process was already well under way (so-called "pipeline cases").

Targeted restrictions on ICA to certain countries have been set in place – sometimes at a provincial rather than national level – on grounds such as failure to respect post-adoption reporting requirements. These too have often failed to address adequately the situation of children whose adoption process is well-advanced.

Temporary or long-term restrictions may also be put in place for the adoption abroad of certain groups of children – invariably defined by age and/or health status – for whom a sufficient number of domestic adopters exists.

> ***UNICEF position:*** When the Authorities deem it necessary to suspend or restrict ICAs, they should be encouraged to bear fully in mind the best interests of children directly or indirectly affected by the decision. As soon as the measure is decided, clear information on its scope and time-frame should be provided to the diplomatic representatives and Central Authorities of all receiving countries concerned and to accredited agencies. Planning should include determination of responsibilities and time-lines for all the steps required to redress the situation. An appropriate procedure should be set in place before the measure comes into force to ensure that adoption processes that have already progressed beyond a certain point – e.g. that bonding has begun – are duly and expeditiously dealt with in the best interests of the child.

B.3. Quotas

Certain countries within and outside the region have envisaged or implemented a quota system whereby each receiving country is allocated a maximum number of applications to adopt that can be submitted by its citizens in the course of a year. They do so in an attempt to maintain control over the number of ICAs carried out and to avoid being swamped pointlessly with applications and creating unrealistic expectations on the part of applicants. Often, "hard-to-place" children are excluded from those restrictive quotas, however.

While the aim itself is perfectly sound, attempting to achieve it through a system of this nature has serious drawbacks. Among other things, it creates a situation where: individual receiving countries may exert influence or pressure to benefit from the highest possible quota; applicants within the quota may expect to be allocated a child corresponding to their wishes; and children may not be matched according to their best interests but according to the quota-determined availability of prospective adopters. In addition, this system sends out a message that the country of origin is "sharing out" a pre-determined number of children for international adoption, which is neither a constructive nor an ethical approach to ICA.

> ***UNICEF position:*** Possible initiatives to institute a country-by-country quota system or its equivalent should be strongly resisted. UNICEF instead promotes the "reversal of the flow of files", meaning that the files of potentially suitable prospective adopters are called up by the country of origin's Central Authority as and when needed, as opposed to all such files

being submitted to that Central Authority, which then has the task of matching the profiles of prospective adopters with children needing ICA. Thus, countries of origin should be encouraged to estimate the likely numbers and characteristics (sex, age, medical status, etc.) of children needing adoption abroad in the up-coming period and call for submission of suitable applications from selected countries on a case-by-case basis.

B.4. The "adoptability" of children with "special needs"

In June 2005, Ukraine alone had some 24,000 children on its national database of children legally available for adoption abroad. The vast majority of these children, however, were those who had not been adopted at a young age because they were diagnosed as having a serious illness or disability, were (and are) part of a sibling group, or for a variety of reasons had quite simply not been legally adoptable when younger. They are "hard-to-place" children with "special needs", and few have a realistic chance of being adopted[1].

It is understandable that most prospective adopters will be seeking to adopt younger children in relatively good health – and indeed their "fitness to adopt" may be contingent on such conditions. Thus, for example, children aged 0-2 years accounted for 637 out of the 724 intercountry adoptions to Norway in 2005, i.e. fully 88 per cent,[2] and 2006 figures for Spain put at 77 per cent the number of children adopted from abroad in the 0-2 years age-group.[3] All of the 16 Kazakh children adopted by Irish families in 2005 were under 2 years old.[4]

The combination of a large number of unrequited applications to adopt and a special focus on the youngest age-group can translate into more-or-less explicit pressure on "countries of origin" to make more children, especially of that age, available for adoption abroad.

However, some foreign adopters are both willing and authorised to envisage caring for a child with health or disability problems, especially one of the many conditions that are considered benign, correctable or treatable in the receiving country, such as hare-lip, cleft palate, mild epilepsy and mild Down's Syndrome. Others are prepared and authorised to offer a home to an older child or a sibling group. Such prospective adopters are a small minority, however, since they not only have to indicate their willingness but also need to demonstrate special

[1] Exactly the same situation applies in "receiving" countries, moreover. In Canada, for example, 20,000 children are available for adoption, but they too are generally older, "hard-to-place" children and each year some 2,000 Canadians prefer to adopt other children from abroad.
[2] Statistics Norway, 2006
[3] Secretaria de Estado de Servicios Sociales, Familias y Discapacidad, 18 July 2007
[4] Adoption Board of Ireland

qualities in order to be pronounced as suitable for adopting children with special needs.

At the same time, many countries of origin count more especially or even entirely on potential foreign adopters for placing children with special needs in an adoptive home. While, under current conditions, this may be a realistic approach in terms of the lack of alternatives in the country of origin, it clearly could never constitute a response to the care requirements of anything but a very small number of these children.

Moreover, in many countries in the region, the classification of a child as having "special needs" can be the result of a rather opaque process where the justification of the decision may be open to question. Criteria may include the very fact of being in a residential facility ("retarded development due to institutionalisation") and decisions may be made by a person or body on the basis of a file and without direct knowledge of the child concerned. The effect of the classification – in addition to the child being unduly allocated to a "special" facility – can be that nationals seeking to adopt will not consider him or her for adoption and that many foreign adopters may also declare a lack of interest on those grounds.

Of special concern is the fact that many prospective adopters are initially led to believe, especially by certain agencies, that many young and "healthy" children are available for adoption from a given country of origin. It is only much later – and often only after arrival in-country – that they realise that the great majority of children needing ICA have special needs of one form or another. In many instances, fearing they may otherwise not be allocated a child, this leads them to agree to the referral of a child whose characteristics they had not previously considered accepting. Clearly an adoption decision prefaced by a degree of disappointment or resignation constitutes a significant risk factor for the development of the adoptive relationship.

> ***UNICEF position:*** Competent authorities need to be assisted in moving towards a more individualised, holistic and nuanced assessment of children's characteristics, with a transparent and accountable decision-making process. To the extent that the essential aim is to secure ICA for children with special needs, they should also be enjoined to state this clearly and to ensure that only applicants with the appropriate authorisation be permitted to submit their dossiers. In addition, they should require adoption agencies working with or in their country to provide accurate information on ICA needs, and should monitor compliance with this requirement (e.g. through regular checks of agency websites).

B.5. Child's medical report

Particularly in countries where many or most children available for adoption abroad are classified as "special needs", the comprehensiveness and accuracy of a child's medical status (physical and psychological) give special cause for concern. Exaggerating the seriousness of a child's illness or disability is a ploy that seems to be used frequently to put him/her on the ICA track. This practice is confirmed by consular staff who, when delivering visas, more often than not see young and healthy children despite their designation as "special needs".

When the medical report is sketchy, out-of-date and/or incomplete, an otherwise foreseeable pathology may suddenly appear months or years after the adoption procedure (in particular, the foetal alcohol syndrome). This may have serious consequences for the adoptive relationship, and in extreme cases lead to its breakdown.

> ***UNICEF position*:** Medical reports should reflect the real health status of a child; double medical exams should be made systematic in cases of doubt. The reports should be comprehensive and cover both physical and psychological areas. They should include relevant information on the child's family background, personal history, circumstances of abandonment/relinquishment etc.. The "Model Form" developed by The Hague Conference is a very useful tool in this respect. Cross medical checks with doctors of the receiving countries should also be facilitated.

B.6. Adoption in the context of deinstitutionalisation plans

It is often argued that ICA – and indeed adoption more generally – can play a significant role in reducing the number of children in residential care, and that its development should therefore form part of a strategy for deinstitutionalisation in the context of child care reform processes.

There is no evidence to support this claim. Indeed, according to analysis by the UNICEF Innocenti Research Centre[5]: "Quite the reverse is true. Adoption has soared in those countries that have also seen growth in the size of their young institutional child populations. In Belarus, for example, a 160-percent rise in the number of adoptions per the population aged 0-3 has been accompanied by a 170-percent upswing in infant home placements calculated on the same basis." The same report also notes that "whenever adoption rates have shot up, this has been due to upturns in international adoptions."

[5] UNICEF (2001), "A Decade of Transition", Regional Monitoring Report, No. 8, Florence: UNICEF Innocenti Research Centre, p. 106.

The vast majority of children in residential care are either not legally adoptable or have "special needs" (see B.4 above). This is, moreover, why prospective adopters going to Romania in the early Nineties increasingly turned to intermediaries who obtained children directly from families despite the much-publicised figures of "tens of thousands of orphans" then in the country's institutions. It follows that the impact of increased adoption rates on institutionalisation can only be extremely limited. This explains the parallel initiative envisaged in some countries to make it easier to deprive parents of their rights definitively, thereby increasing the number of adoptable children. Such an approach carries clear dangers of unjustified termination of parental rights. Similarly, attempts to promote domestic adoption have often led to less strict criteria and vetting in the selection of prospective adopters, with consequently higher risks of breakdown in the adoptive relationship.

> ***UNICEF position***: Deinstitutionalisation is a policy requiring progressive implementation and grounded more especially in preventing separation from and promoting reintegration with biological families, wherever possible. The promotion of adoption should never be linked to achieving targets set in the framework of a deinstitutionalisation strategy.

B.7. Domestic adoption and children needing ICA

Countries in the region have very different experiences in terms of the relationship between ICA and domestic adoption. In Ukraine, for example, the number of both forms of adoption declined significantly and in linear fashion in the years following the turn of the century. Reduced numbers of ICAs from Kazakhstan (2004-2006), in contrast, were accompanied by a rise in domestic adoptions over that period. Growth in ICAs from Kyrgyzstan (2004-2007) has been accompanied by a 50% reduction in domestic adoptions. In Moldova and Azerbaijan, both ICAs and domestic adoptions have fluctuated but without any decipherable "cause and effect" linkage between the two.

It appears that domestic adoption in the region can in general be foreseen at present for babies and very young children (2 years and under) who are healthy and of the same ethnicity as the adopters – and for them alone. This is invariably attributed to the fact that adoption is not as yet an accepted practice in the societies concerned, and adopters may therefore go to great lengths to camouflage it – sometimes even relocating to an area where they are not known. This climate of "secrecy" (as opposed to confidentiality in the process) is often reflected in legislation that allows birth certificates to be modified (name, date and place of birth, etc.) upon adoption, with all trace of the biological family being obliterated. This means in addition that the children themselves will rarely be told later that they were adopted. In the many countries where it exists, "secrecy" seems likely to remain a significant factor limiting the expansion of domestic adoptions in the foreseeable future, despite awareness campaigns or assistance to adopting parents.

Worryingly, significant numbers of children are being adopted abroad from many countries in the region even though their age, health status and other characteristics put them well within the range of children considered to be "adoptable" by nationals, and despite there reportedly being waiting lists of national adopters. This may occur for a variety of reasons, according to the country in question: little or no effort to match children with suitable nationals who have registered their interest in adopting; attempts to discourage national adopters by falsely categorising the child as suffering from a serious illness or disability; privileged direct "links" between maternity units or other facilities and ICA facilitators or agencies; etc.

> ***UNICEF position:*** Strict procedures must be in place to ensure application of the "subsidiarity rule", i.e. that intercountry adoption is never carried out at the expense of appropriate domestic adoption opportunities, or indeed as a result of inadequate efforts to secure the return of a relinquished child to the birth parent(s). Any indication that this may be occurring must be investigated and followed up immediately. Long-term initiatives to promote domestic adoptions must be undertaken. Services specialised in assisting mothers to retain care of their children and in securing the latters' family reintegration under appropriate conditions must be in place.
>
> The characteristics of children needing adoption abroad must be made known by the competent authorities and relayed faithfully to prospective adopters by agencies and by the authorities of receiving countries.

B.8. Matching and bonding processes

Matching an adoptable child with potentially suitable adopters is key to a successful and appropriate adoption procedure. However it is frequently carried out in ways and/or by entities or persons that cannot guarantee that its essential function is properly fulfilled.

A wide range of practices is noted in the region, ranging from selection in baby-homes by prospective adopters themselves to specific "referrals" that may or may not have been decided by specially-trained persons and in an independent manner.

The matching of a child with a family must be a professional decision based on full information about all adoptable children and all prospective adoptive parents. It should be made preferably by an interdisciplinary team that determines the potentially most appropriate family for a child, taking into account the latter's needs and characteristics. A proposal to establish an adoptive relationship between a particular child and a particular family is then to be drawn up, based on the compatibility of the specific characteristics of both as set out in their files. With

regards to point B4 above, matching of "special needs" children is even more crucial.

Once a matching proposal has been agreed, the child and the prospective adopters concerned are to be prepared for their first contact, which should take place under appropriate conditions and be monitored unobtrusively by specially-trained staff. If this first contact is positive, a supervised in-country bonding period of at least two weeks should be required to ensure as far as possible that an adoptive relationship between them can be envisaged in the child's best interests.

> ***UNICEF position:*** Prospective adopters must never be placed in a position where they are able or expected to select one child from among several for adoption, either in person or on the basis of dossiers, photos, etc. Matching should never be carried out by accredited adoption bodies, which might then simply "match" the child with their own applicants. A proposed match should be professionally and objectively determined and then tested during an obligatory and appropriate bonding period. If this is unsuccessful, a further specific match may be proposed to the extent that the prospective adopters are deemed potentially suited to adopt another child currently needing that measure.

B.9. Adoption Accredited Bodies (AAB)

Public bodies are rarely in a position to take on directly all the tasks that appropriate ICA procedures involve, although they are of course responsible for ensuring that those requirements are being met. Not-for-profit professional and specialised adoption bodies can play a crucial role in assisting and supporting prospective adopters. However, these actors are also source of great concerns, in particular in countries were they are not subject to rigorous control procedures.

- *Role:* AABs provide several key services that help to promote and protect the rights of children, including: necessary information for, and selection and preparation of, the prospective adoptive parents; post-adoption services and follow-up of the adoption in the receiving country. These bodies may also provide, if requested by the Authorities, support in spheres such as the preparation of the child to be adopted, accompanying the prospective adoptive parents in the country of origin, participation in monitoring the first meeting between the child and the adoptive parents and the probationary pre-adoption contact period, and post-adoption reporting.

- *Suitability and "authorisation":* In many countries of the region, however, the precise roles, responsibilities and legal status of agencies running adoption programmes remain unclear. The experience and qualifications of accredited agencies do not always correspond to the specialist knowledge that may be

required for handling the adoption of children with special needs, which also carries the danger of such agencies actively seeking easier-to-place children. Many agencies display poor knowledge of the situation and procedures of the countries of origin with which they work. The information they provide (especially on their web-sites) is often inaccurate, out-of-date, incomplete or, in some cases, deliberately misleading (e.g. as to the ages and characteristics of children available for ICA). This not only demonstrates lack of professionalism but also can result in unrealistic expectations on the part of prospective adopters which may translate into pressure on the country of origin to meet those expectations. Various forms of "authorisation" exist, including certificates issued almost arbitrarily and without due investigation, as opposed to proper accreditation on the basis of stringent and wide-ranging criteria accompanied by on-going oversight on the part of the competent authorities.

- *Number:* It is also often the case that too many agencies have been carrying out ICA programmes in a given country in comparison to the number of children likely to need adoption abroad (and who are likely to be adopted). Such a situation can create a climate of competition among the agencies for the limited number of children "available" and lead them to resort to questionable methods to secure adoptable children for their clients and/or to pressure for more children to be freed for adoption.

- *Facilitators:* In many countries of the region, a number of individuals provide services to foreign prospective adopters, as facilitators, interpreters, "representatives" or under other designations. They are often in a position to play key roles – if not ***the*** key role – in securing an adoption for their clients through their contacts, knowledge and ability to converse in the local language, and can influence, or even trump the role of, professionals responsible for the adoption process. In the majority of cases, however, these individuals are not registered, approved or monitored.

  UNICEF position: Authorities should draw up detailed criteria and conditions for the initial, time-limited accreditation of adoption agencies and their periodic re-accreditation, in numbers and of a nature appropriate to meeting the needs of children adoptable abroad in the period under consideration. The legal conditions for authorisation of foreign accredited bodies should include the definition of tasks permitted and required, ethical requirements (including accuracy and completeness of information provided), staff qualifications, non-profit status, admissible fees, possible reasons for withdrawal of the authorisation and the conditions of identification and monitoring of their representative(s) in the country of origin.

  It is vital that the number of accredited agencies be kept to a minimum. No country of origin is obliged to authorise the operation of every applicant

agency accredited in its home country, even if it otherwise meets the established criteria and conditions. As a rule of thumb, one accredited agency should suffice to cater to at least 20 children needing, and likely, to be adopted abroad during one year.

Every individual providing services to prospective adopters directly related to their adoption process must be registered, authorised and monitored by the competent authority.

B.10. Agency involvement in child care

Within the region as elsewhere, there have been initiatives designed to ensure that agencies accredited to undertake ICA programmes also necessarily support child welfare services in the country from which they are to organise adoptions. The reasoning is, of course, that such agencies should be demonstrating solidarity with efforts to improve in-country care options as well as organising placements abroad, and some agencies take pride in highlighting the fact that they do so.

Serious problems have sometimes arisen with the different systems set up to put this policy into effect. Probably the most egregious example was the "points system" in Romania, whereby the number of adoptable children allocated to a given agency depended on the amounts that the latter contributed. Other documented problems include lack of clarity as to the real use to which the contributions have been put, and "conflict of interest" in view of the relationships and influence that certain agencies have secured with services and/or facilities receiving their support.

UNICEF position: The involvement of accredited agencies in intercountry adoptions is justified only by their professionalism and specialist experience in that sphere. Given past problems, it is debatable whether or not requiring that such agencies simultaneously fulfil other roles is a wise approach. Rather, on a case-by-case basis, selected agencies might be invited to provide or support specific services according to their broader child welfare expertise and the form of assistance involved.

In this respect, the Contracting States to the 1993 Hague Convention agreed, in a December 2000 Special Commission, that receiving countries should support the development of family or child protection services in the country of origin but that:

"… this support should not be offered or sought in a manner which compromises the integrity of the intercountry adoption process, or creates a dependency on income deriving from intercountry adoption. In addition, decisions concerning the placement of children for intercountry adoption

should not be influenced by levels of payment or contribution. These should have no bearing on the possibility of a child being made available, nor on the age, health or any characteristic of the child to be adopted."

B.11. "Independent" adoptions

Some receiving countries prohibit their citizens from adopting abroad without engaging the services of an accredited adoption agency, and some countries of origin also require prospective adopters to use such a recognised agency[6]. However, most still allow "independent" adoptions (in principle from non-Hague countries only) whereby couples seeking to adopt make all their own arrangements, including identifying a facilitator in-country. In so doing, their aim is generally both to retain the greatest possible direct influence over the adoption at all stages, and to reduce costs by eliminating agency fees.

> ***UNICEF position:*** There are many reasons for which independent adoptions are a cause of serious concern. The first is that they are at variance with the provisions and procedures of the Hague Convention.[7] Second, independent processes are far more difficult to monitor than those that are agency-managed. Third, it has been clearly demonstrated that they are far more likely to involve illicit payments, false documentation and other illegal or questionable acts than processes organised by duly accredited agencies. Fourth, prospective adopters taking the independent route will probably not benefit from adequate preparation, guidance, and/or post-adoption services.
>
> From a child rights standpoint, there are no valid arguments whatsoever in favour of independent adoptions. Where they still exist, every effort should be made to ensure that they are outlawed by countries of origin and receiving countries alike.

B.12. Fees, payments and donations

Problems related to the financial aspects of ICA have been shown to be widespread and serious in their implications for the protection of children's rights. Depending on how the adoption process works in the country concerned, a

[6] Among the countries of origin with this requirement are Bolivia, China, Ethiopia and India; and among the receiving countries are Denmark, Finland, Italy, Norway and Sweden.

[7] According to the Draft Guide to Good Practice under the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption: Implementation (chapter 4.2.6): "The practice of allowing independent adoptions is inconsistent with the system of safeguards established under the Convention. (…) Independent adoptions undermine the system of safeguards put in place by the Convention. They create many problems for officials in both the State of origin and the Receiving country, usually when procedures have not been followed correctly."

potentially wide range of actors – from adoption agencies, facilitators, staff and directors of care facilities to doctors, lawyers, judges, civil servants, and in some cases birth families – too often take advantage of the determination and relative wealth of those wishing to adopt in order to procure financial gain.

Two main types of activity are involved: securing young and healthy children corresponding best to the wishes of prospective adopters, and ensuring speedy and positive processing of the case.

- *securing young and healthy children:* this may involve contacts with staff at maternity units or baby-homes who notify the presence of a potentially adoptable child directly to the agent, by-passing normal procedure; facility staff may agree to "reserve" a young child for adoption abroad by discouraging interest on the part of nationals; doctors may provide false information on medical records showing health problems or disabilities, similarly to discourage nationals or to enable the child to be placed on a "special needs" register making him/her available for adoption abroad; matching and/or certification staff may agree to hold back allocation of a young child for specific adopters…

- *ensuring speedy processing of the case:* according to the country concerned, many steps in the process may be "expedited" through additional unofficial payments to individuals, including registration and issuance of various documents, certificate of bonding, dates for court hearings, the waiver of waiting periods or procedures that are subject to the discretion of a judge, issuance of child's passport…

There have also been alleged instances of forms of blackmail. One reported ploy, when the prospective adopters are reaching the end of the bonding period, is that the supposed birth mother or other relative suddenly arrives at the child care facility indicating a desire to take the child back, while the facilitator suggests to the adopters that a financial consideration would undoubtedly resolve the matter.

Official fees for the processing of adoptions by state entities in the country of origin invariably total less than US$ 1,000 – sometimes far less – and are very low in relation to the charges that agencies typically make to cover in-country services (these may run as high as US$ 15,000 out of a total agency fee of US$ 21,000). Sometimes agencies even require the prospective adopters to make full or part payment of these sums in cash once they arrive in the country. In such cases, it is particularly difficult or impossible to obtain information on the exact uses to which these in-country monies are put.

Furthermore, prospective adopters are often requested or required to make donations to the facility caring for the child they eventually adopt.

UNICEF position: While payments to individuals to secure given children and/or to expedite procedures (excluding official expediting fees paid to the entity) are often difficult to identify, efforts need to be strengthened to pinpoint and punish such practices since they not only contravene international standards but also, in particular, can result in wholly inappropriate adoptions abroad.

Fees charged by any body or person at any stage of the adoption process must correspond to those charged for similar kinds of services in the country concerned, taking account of remuneration levels there, and thus not result in "undue financial gain". The Contracting States to the 1993 Hague Convention agreed, in a December 2000 Special Commission, that prospective adoptive parents should be provided in advance with an itemised list of all costs and expenses that the process would likely involve, and that information on the costs, expenses and agency fees should be made available to the public and to the receiving States. Prospective adopters should receive receipts for all expenditures made.

The same Special Commission recommended that "Donations by prospective adopters to bodies concerned in the adoption process must not be sought, offered or made."

B.13. Post-adoption guarantees

There are two, very different forms of follow-up to an intercountry adoption: reporting and offering post-adoption services.

Requirements set by countries of origin in the region for the submission of reports following adoption vary widely. Most authorities in these countries, however, feel that long-term and frequent reporting is necessary to ensure that the child is not exploited or otherwise harmed by the adopters.

It is increasingly common – and generally accepted as the most appropriate solution – for countries of origin to require accredited agencies to ensure that such reports are submitted, as one of the criteria for their accreditation and re-accreditation. Many require registration of the child with their diplomatic representation in the receiving country within a short period of the child's arrival there, and some demand that consular staff have access to the children in their adoptive homes.

Post-adoption services in the form of advice and support are to be made available by accredited agencies and/or the statutory child protection service in the receiving country. They may be "on request" or, in the initial period at least, automatically

provided. Child protection services are responsible for the welfare of adopted children on the same basis as for any other child within their geographical area.

> ***UNICEF position:*** The Hague Convention contains no explicit provision on the obligation to provide follow-up reports, but it is well-recognised that countries of origin should be able to access information as to the welfare and development of children adopted abroad at reasonable intervals and for a reasonable period. The 2005 Special Commission "recommends to States of origin to limit the period in which they require post-adoption reporting in recognition of the mutual confidence which provides the framework for co-operation under the Convention."[8] Such reports should be prepared, or at least authenticated, by a public service provider.
>
> The reports may be useful, taken together, as indicating the degree to which adoptions to the country in question appear to be beneficial to children, highlighting any issues of general concern and, in principle, reassuring the general public as to the *bona fide* nature of foreign adoptions undertaken. They do not constitute, however, an effective preventive or protective tool for ensuring the well-being of the individual child concerned. Receiving States alone are responsible for ensuring the welfare and protection of children within their jurisdiction.

B.14. Child's access to information on origins

It is increasingly common for adoptees to seek information about their origins when they reach adolescence or adulthood. For many, this constitutes a vital step in constructing their identity.

There is now general – though not unanimous – acceptance of the need (and obligation, under the Hague Convention) to respond positively to such requests, but subject to a number of conditions. At the same time, States take somewhat different approaches to this matter, in part due to national variations in the degree of anonymity legally afforded to the birth parents under certain circumstances, as well as to perceptions surrounding the "secrecy" of adoption.

It is important to distinguish between a level of information that provides details of the age, health and social circumstances of the birth parents, and that which might involve their identification and, consequently, could jeopardise their right to privacy. In some countries, a system is in place whereby, if the adoptee wishes to find out the current situation of, or to have contact with, his/her birth parents, an

[8] Conclusions and Recommendations of the Second Meeting of the Special Commission on the Practical Operation of the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (17-23 September 2005), Recommendation 18.

intermediary takes on the task of approaching the latter to determine whether or not they would consent, whether or not such contact would be in the interests of all parties and under what conditions (counselling, follow-up, etc.).

> ***UNICEF position:*** Adoptees should be able to access basic information on their birth parents (which, moreover, can be of great importance in regard to health issues) that does not enable the latter to be identified. This information would normally be contained in the report on the child prepared prior to the authorisation of the adoption. Such access must be accompanied by appropriate counselling and guidance. The obvious implication of this is that adequate records be preserved for a long period (at least 50 years, according to the 2008 European Convention on the Adoption of Children which is yet to enter into force).
>
> To the extent that both parties freely consent to identification and that this is deemed to be in conformity with the interests of all concerned, UNICEF encourages the establishment of procedures that will enable this to happen under appropriate conditions. UNICEF does not believe, however, that such initiatives can be justified by reference to CRC Art 7 (right to know one's parents) given the nature of adoption, its consequences in terms of family ties, and the fact that the child's parents are therefore those who adopted him or her.

B.15 Roles of the Central Authority and of local bodies

Whether or not it has ratified the Hague Convention, each country in the region from where adoptions take place has designated a body with oversight of intercountry adoptions that corresponds more or less closely to the Hague concept of Central Authority.

Many countries in the region have experienced difficulties, however, in determining the precise roles to be played by this body, with the result that in some cases it is directly involved with each step of every ICA case, while in others it confines its activities to verification of procedures prior to transmission of the adoption application to the court, and in yet others a level of confusion remains such that the proper functioning of the adoption system is severely jeopardised. This is not helped by the fact that several Ministries and other bodies (commissions, State Committees, etc.) often have responsibilities in the sphere of alternative care for children, making coherent division of labour and cooperation difficult in practice.

At local level, services are sometimes so vastly over-stretched, and staff so inadequately prepared, that it is impossible for them to carry out the various duties

involved in ensuring a correct decisional process regarding the care of a child, including implementation of the "subsidiarity rule".

> ***UNICEF position:*** Ideally, the "nuts-and-bolts" of ICA work will be delegated to the local level, where professionals will consequently need the training and resources required to carry out their essential functions on the ground.
>
> The body serving as central authority will therefore have oversight and awareness of the adoption system as a whole (domestic and intercountry). This body needs a legally-defined status and powers to obtain from Ministries and other official sources all the information and statistical data it requires to carry out its task, as well as a level of financial and human resources that enable it to analyse these data and act effectively on its findings. It should also be responsible for verifying the justification of children coming into public care and/or being registered for adoption, and then of being declared available for intercountry adoption, in order to ensure respect for the "subsidiarity rule". Its remit should also cover verification that there have been no indications of malpractice, including undue financial gain, at any stage in the adoption process. Accreditation and re-accreditation of agencies according to clear criteria should also be among its responsibilities. Its functions in relation to the care and adoption systems must therefore be of a monitoring nature, meaning by definition that it cannot be a direct "service provider" in these spheres.
>
> Consolidation of child care responsibilities should be fostered at national level.

B.16. Countries that are not Hague Contracting States[9]

The authorities of the 11 countries in the region that have not yet ratified the Hague Convention differ in their appreciation of the treaty and therefore in the degree to which they have taken steps towards ratification. Opposition or concerns expressed (by the authorities or by others) about the possible effects of ratification reflect a wide variety of issues – and, more particularly, of misunderstandings.

Unfounded allegations include the beliefs that ratification signifies: an obligation to carry out ICAs and to do so with all other Contracting States; allowing any agency accredited by the receiving country to operate in the country of origin; and condoning profit-making from ICA.

> ***UNICEF position:*** UNICEF is of the opinion that it is vital for all countries from which and to which intercountry adoption may take place be

[9] See Annex 2.

Contracting States to the Hague Convention. Ratification of this Convention has always been systematically and strongly urged by the Committee on the Rights of the Child in its Concluding Observations on States Parties' reports. The procedures and international cooperation that the Hague Convention foresees are key elements in every country's ability to ensure that intercountry adoptions take place in a way that safeguards the rights and best interests of the children involved and that combats questionable practices and illegal acts at all points in the process. While problems may occur in the implementation of the Convention, by far the most serious and frequent children's rights concerns related to intercountry adoption have so far arisen in regard to countries not bound by the treaty.

UNICEF notes that all receiving countries in North America, Australasia and Europe, as well as Israel, are now parties to the Hague Convention except Ireland.[10] Contracting States have been enjoined to "as far as practicable, apply the standards and safeguards of the Convention to the arrangements for intercountry adoption which they make in respect of non-Contracting States" and to "encourage such States without delay to take all necessary steps […] so as to enable them to accede to or ratify the Convention." (Special Commission, 2000, para 11).

B.17. Bilateral agreements

Some countries in the region have envisaged drawing up agreements with selected receiving countries regarding ICA conditions and procedures, more especially as an alternative to ratifying the Hague Convention. In these cases, two main arguments have been advanced: that such agreements will help to improve the regulation of ICAs while conditions do not yet exist for ratification; and that the specificities of the country of origin concerned can best be taken into account through agreements of this type.

There are several such bilateral agreements in force elsewhere (e.g. USA-Vietnam, France-Cambodia), with differing degrees of appropriateness and success.

> ***UNICEF position:*** Bilateral agreements should not be drawn up as a substitute for ratification of the Hague Convention or as a means of taking account of national systems that are not in compliance with that treaty. Great care needs to be taken to ensure that their scope and terms do not create conditions whereby the country of origin takes on undue obligations concerning the availability of children for adoption to the receiving country in question.

[10] Ireland is a signatory and is expected to ratify the treaty in 2009 or 2010.

For Hague countries, establishing these agreements with non-Hague or other Hague countries is not prohibited, providing they do not run counter to the letter and spirit of the treaty and are designed to refine procedures for its optimal implementation between the countries concerned. However, such agreements are not encouraged.

B.18. Trafficking and ICA

In many countries in this region – and indeed elsewhere – allegations or insinuations continue to be made by officials and others that ICA is used as a means of trafficking children for exploitation abroad, notably for sexual purposes and removal of organs.

Rumours of this nature have existed since the mid-1980s and their origins have often been politically motivated. They are fuelled in particular by four factors:

- **lack of follow-up information** about the circumstances of children adopted abroad. In the absence of news or reports concerning the welfare of adoptees, speculation flourishes as to the possibility that they may have fallen victim to criminal acts.

- an unfounded and misleading **"amalgam"** made between, on the one hand, deliberate trafficking for exploitation and, on the other, documented cases of foreign adopters abusing a child physically, psychologically or sexually, sometimes with fatal consequences, or rejecting the child and either placing him/her in State care in the host country or seeking to return him/her to the country of origin. These acts constitute abuse and neglect, not "exploitation", and they are in no way linked to cross-border trafficking. Moreover, there are no indications that, when applying, the adopters concerned intended to commit these acts. However, their propensity to do so might have been identified by proper screening at the "home study" stage.

- certain groups actively keep these rumours alive because their interests are furthered by **diverting attention away from rights violations at the pre-adoption phase** in the country of origin and putting the spotlight on actors outside that country and at the post-adoption phase.

- **credence lent to the rumours** by their being reflected uncritically in studies and other documents published by recognised and credible bodies and individuals, both national and international. Unfortunately, UNICEF itself has sometimes fallen into this trap. Thus, for example, a sentence in its first (January 2004) public position-paper on intercountry adoption read: "Abuses [of ICA] include… trafficking to individuals whose intentions are to exploit rather than care for children." This inaccurate statement has been removed

from the 2007 revised version, but its wide dissemination for some four years gave undue and counter-productive credibility to this thesis.

In contrast, it is clear that trafficking and activities tantamount to trafficking occur within countries of origin in order to make children available for intercountry adoption.

> ***UNICEF position:*** During the two decades since the rumours began, there has never been concrete evidence, in regard to any country, of cases where children have been trafficked abroad for adoption by couples or individuals intending to exploit them. It is hard to imagine why anyone would take on both the costs and risks involved in using a public judicial process like intercountry adoption to try to "traffic" children – rather than kidnapping or smuggling them, for example – in order to exploit them in some way.

C. BASIC INFORMATION FOR ICA RISK DETERMINATION

C.1. Assessment and monitoring of the significance and nature of ICA

ISSUE	INDICATION OF RISK
Annual absolute figures for intercountry adoption since 1990	Sudden substantial increases in numbers adopted abroad; lack of the relevant centralised data
Breakdown of intercountry adoptions by age of the child	High proportion in the 0-1 year and 1-2 year age-groups; significant changes in these rates over time
Breakdown of intercountry adoptions by place of birth or residence	Concentration of intercountry adoptions from certain areas of the country
Ratio of intercountry adoptions to domestic family-based substitute care measures: fostering, adoption	High ratio; increase in ratio over time, especially between intercountry and domestic adoptions
Breakdown of numbers by receiving country	Significant changes in destinations over time

C.2. Assessment and monitoring of the role of government

ISSUE	INDICATION OF RISK
Has legislation on intercountry adoption been reviewed to comply with the Hague Convention?	No, or evidence of provisions that do not comply with the Hague Convention
Has governmental policy and approach regarding intercountry adoption changed over time?	Sudden "u-turns" or significant re-orientation of attitude
Is there a designated and specialised public body in charge of intercountry adoptions?	No such body
Is this body vested with adequate powers and resources?	Lack of authority; inadequate quality/quantity of staffing, inadequate material resources
Is there an established mechanism for co-operation between the authorities and those of receiving countries?	No such mechanism
Are there bilateral agreements on intercountry adoption with certain receiving countries?	Reliance on such agreements instead of, or in addition to, ratification of Hague Convention; terms not compatible with international standards
Is there a criteria-based system for accrediting or otherwise authorising agencies and persons involved in the intercountry adoption process?	No such system; incomplete coverage, inadequate or inappropriate criteria
Have the authorities ratified the 1993 Hague Convention and, if not, how do they view this Convention?	Non-ratification; refusal of Convention's principles; no concrete steps to achieve ratification; failed attempts to secure parliamentary approval
Are there reliable, centralised disaggregated data on intercountry adoption?	Lack of comprehensive data at central government level

C.3. Assessment and monitoring of the role of other actors

ISSUE	INDICATION OF RISK
What functions are authorised/accredited non-State bodies and individuals allowed to carry out in the intercountry adoption process?	Involvement in identifying and matching potential adoptees and adoptive parents, and/or decisions on solutions for a given child; contact with potential relinquishing parents
How many such bodies are authorised/ accredited?	Large number in relation to number of adoptees
Are non-accredited/unsupervised bodies/individuals involved at any stage in the intercountry adoption process?	Existence of such involvement
Are there any limitations set on fees, costs and/or contributions and donations required or solicited by State or non-State bodies, institutions and/or individuals for intercountry adoption services?	No limitations; amounts set abnormally high in relation to actual expenditures or services rendered; donations required as a condition for adopting a child

C.4. Other relevant factors

ISSUE	INDICATION OF RISK
Have the media, professionals or others, within or outside the country, reported on alleged abuses of intercountry adoption?	Existence of such reports; no investigation/action as a result
Has the Committee on the Rights of the Child expressed concern on the issue?	Concern expressed; Committee's recommendations not acted upon
Are external bodies – agencies, foreign government representatives – suggesting or pressuring for increased intercountry adoption from the country?	Existence of such pressures

ANNEX 1 - UNICEF's position on Inter-country adoption (2007)

UNICEF has received many enquiries from families hoping to adopt children from countries other than their own. UNICEF believes that all decisions relating to children, including adoptions, should be made with the best interests of the child as the primary consideration. The Hague Convention on Intercountry Adoption is an important development, for both adopting families and adopted children, because it promotes ethical and transparent processes, undertaken in the best interests of the child. UNICEF urges national authorities to ensure that, during the transition to full implementation of the Hague Convention, the best interests of each individual child are protected.

The Convention on the Rights of the Child, which guides UNICEF's work, clearly states that every child has the right to know and be cared for by his or her own parents, whenever possible. Recognising this, and the value and importance of families in children's lives, UNICEF believes that families needing support to care for their children should receive it, and that alternative means of caring for a child should only be considered when, despite this assistance, a child's family is unavailable, unable or unwilling to care for him or her.

For children who cannot be raised by their own families, an appropriate alternative family environment should be sought in preference to institutional care which should be used only as a last resort and as a temporary measure. Intercountry adoption is one of a range of care options which may be open to children, and for individual children who cannot be placed in a permanent family setting in their countries of origin, it may indeed be the best solution. In each case, the best interests of the individual child must be the guiding principle in making a decision regarding adoption.

Over the past 30 years, the number of families from wealthy countries wanting to adopt children from other countries has grown substantially. At the same time, lack of regulation and oversight, particularly in the countries of origin, coupled with the potential for financial gain, has spurred the growth of an industry around adoption, where profit, rather than the best interests of children, takes centre stage. Abuses include the sale and abduction of children, coercion of parents, and bribery.

Many countries around the world have recognised these risks, and have ratified the Hague Convention on Intercountry Adoption. UNICEF strongly supports this international legislation, which is designed to put into action the principles regarding intercountry adoption which are contained in the Convention on the Rights of the Child. These include ensuring that adoption is authorised only by competent authorities, that intercountry adoption enjoys the same safeguards and standards which apply in national adoptions, and that inter-country adoption does not result in improper financial gain for those involved in it. These provisions are meant first and foremost to protect children, but also have the positive effect of

providing assurance to prospective adoptive parents that their child has not been the subject of illegal and detrimental practices.

The case of children separated from their parents and communities during war or natural disasters merits special mention. It cannot be assumed that such children have neither living parents nor relatives. Even if both their parents are dead, the chances of finding living relatives, a community and home to return to after the conflict subsides exist. Thus, such children should not be considered for intercountry adoption, and family tracing should be the priority. This position is shared by UNICEF, UNHCR, the International Committee of the Red Cross, and international NGOs such as the Save the Children Alliance.

ANNEX 2 – CEE/CIS Contracting States to the 1993 Hague Convention, as at 30 September 2009

		Contracting State to HC-1993		Date of ratification/ Accession	Date of entry into force
1.	**Albania**	Yes		12-09-2000 (R)	01-01-2001
2.	**Armenia**	Yes		01-03-2007 (A)	01-06-2007
3.	**Azerbaijan**	Yes		22-06-2004 (A)	01-10-2004
4.	**Belarus**	Yes		17-08-2003 (R)	01-11-2003
5.	**Bosnia & Herzegovina**		No	-	-
6.	**Bulgaria**	Yes		15-05-2002 (R)	01-09-2002
7.	**Croatia**		No	-	-
8.	**Czech Republic**	Yes		11-02-2000 (R)	01-06-2000
9.	**Georgia**	Yes		09-04-1999 (A)	01-08-1999
10.	**Hungary**	Yes		06-04-2005 (R)	01-08-2005
11.	**Kazakhstan**		No		
12.	**Kyrgyzstan**		No		
13.	**Macedonia (FYR)**	Yes		23-12-2008 (A)	01-04-2009
14.	**Moldova**	Yes		10-04-1998 (A)	01-08-1998
15.	**Montenegro**		No		
16.	**Poland**	Yes		12-06-1995 (R)	01-10-1995
17.	**Romania**	Yes		28-12-1994 (R)	01-05-1995
18.	**Russian Fed.**		No*		
19.	**Serbia**		No		
20.	**Slovakia**	Yes		06-06-2001 (R)	01-10-2001
21.	**Slovenia**	Yes		24-01-2002 (R)	01-05-2002
22.	**Tajikistan**		No		
23.	**Turkey**	Yes		27-05-2004 (R)	01-09-2004
24.	**Turkmenistan**		No		
25.	**Ukraine**		No		
26.	**Uzbekistan**		No		
	Totals	15	11		

*The Russian Federation signed this Convention in 2000 but has so far not proceeded to ratification.

ANNEX 3 – Technical resources

Hague Conference Technical Resources

- Convention of 29 May 1993 on Protection of Children and Cooperation in respect of Intercountry Adoption:
www.hcch.net/index_en.php?act=conventions.text&cid=69

- Explanatory Report on the 1993 Hague Intercountry Adoption Convention, G. Parra-Aranguren, 1994: http://hcch.e-vision.nl/upload/expl33e.pdf

- Report of the 2005 Special Commission to review to practical operation of the 1993 Hague Convention, 2006:
www.hcch.net/index_en.php?act=publications.details&pid=3835&dtid=2

- Conclusions and Recommendations of the second meeting of the Special Commission on the practical operation of the Hague Convention of 29 May 1993 on protection of children and cooperation in respect of intercountry adoption (17-23 September 2005), HCCH, 2005: www.hcch.net/upload/wop/concl33sc05_e.pdf

- Guide to Good Practice under the Hague Convention of 29 May 1993 on Protection of Children and Cooperation in respect of Intercountry Adoption, HCCH, 2008: www.hcch.net/upload/wop/ado_pd02e.pdf

- Recommendation concerning the application to refugee children and other internationally displaced children of the Adoption Convention, HCCH, 1994:
www.hcch.net/index_en.php?act=publications.details&pid=934&dtid=2

ISS Technical Resources

- Ethical Guide: The Rights of the Child in Internal and Intercountry Adoption - Ethical Principles - Guidelines for Practice - ISS/IRC - 1999/2004
www.iss-ssi.org/Resource_Centre/Tronc_DI/documents/EthicalGuide04ENG.pdf

- Series of Thematic Fact Sheets on Children Deprived of Parental Care:
www.iss-ssi.org/Resource_Centre/Tronc_DI/tronc_di_fic.html
Each fact sheet is devoted to a specific issue linked to the provision of care for children deprived of family or at risk of so being and for those in need of adoption

or who have already been adopted. They are sorted under four main categories: 1) A global policy for children and the family; 2) Adoption; 3) Intercountry adoption; 4) Specific cases of adoption.
These fact sheets are meant to be multidisciplinary, considering the questions under review from a joint juridical and psychological point of view and offering, as appropriate, ethical considerations. They aim to respond as well to the needs of practice and are intended to stimulate an exchange of experience between protagonists from different countries. Each one may propose changes and evoke personal experiences. Examples of good practice are in this way exchanged across borders.

UNICEF Resources

- Innocenti Digest No, 4: Intercountry Adoption
- UNICEF, Data on children in Central and Eastern Europe and the Commonwealth of Independent States: The TransMONEE database http://www.unicef-irc.org/databases/transmonee/#TransMONEE

UNICEF

Regional Office for CEE/CIS
Palais des Nations
CH 1211 Geneva 10
Switzerland

www.unicef.org/ceecis