



FACT SHEET

January 22, 2001

The Intercountry Adoption Act of 2000 *Approval of the Hague Convention Regarding Intercountry Adoptions*

On October 6, 2000, the United States enacted the Intercountry Adoption Act of 2000 to approve the provisions of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Convention). However, the United States has not yet implemented the Hague Convention provisions. Implementation will occur only after the Immigration and Naturalization Service (INS) and the Department of State publish implementing regulations in the *Federal Register*. That is expected within the next two years.

Objectives

The Hague Convention sets minimum international standards and procedures for adoptions that occur between implementing countries to ensure greater protection from exploitation of children, birth parents and adoptive parents alike. The Hague Convention's objectives are to:

- Prevent abuses such as the abduction or sale of, or the trafficking in, children,
- Ensure proper consent to the adoption,
- Allow for the child's transfer to the receiving country, and
- Establish the adopted child's status in the receiving country.

Hague Countries

The Hague Convention will apply only when the child to be adopted resides in a country that has implemented the Hague Convention—termed "Hague country." U.S. citizens may still adopt a child from any country that allows intercountry adoption. As of January 2001, the following countries have implemented the Hague Convention on intercountry adoption and thus are Hague countries:

Andorra, Australia, Austria, Brazil, Burkina Faso, Burundi, Canada, Chile, Colombia, Costa Rica, Czech Republic, Cyprus, Denmark, Ecuador, El Salvador, Finland, France, Georgia, Iceland, Israel, Italy, Lithuania, Mauritius, Mexico, Moldova, Monaco, Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Philippines, Poland, Romania, Spain, Sri Lanka, Sweden, and Venezuela.

Central Authority

Each country that is a party to the Hague Convention must designate a central authority to monitor requests for intercountry adoption. The Department of State has been designated the central authority for the United States. The central authority will coordinate matters between countries of origin and the United States. It will also control the accreditation of adoption agencies.

Changes in Current U.S. Immigration Law

The new law adds two new sections to the Immigration and Nationality Act (INA), Section 101(b)(1)(G) and Section 204(d)(2). These sections apply only when the child to be adopted resides in a Hague country. A child adopted from a country that has not implemented the Hague Convention will still need to qualify as an orphan or adopted child under Section 101(b)(1)(E) or (F) of the INA.

The new Section 101(b)(1)(G) will permit the adoption of some children who do not qualify as "orphans" under existing immigration law [Section 101(b)(1)(F) of the INA].

Under this new section of law, the adopted child's two living natural parents must be incapable of providing proper care for the child. In addition, they must freely give their written irrevocable consent to terminate their legal relationship with the child, and to allow the child to be adopted and to emigrate. The written irrevocable consent also may be given by a single parent when the child has one sole or surviving parent because of the death, disappearance, abandonment or desertion by the other parent, by previous adoptive parents, or by other persons or institutions that retain legal custody of the child.

Also, under the new Section 101(b)(1)(G), the Attorney General must be satisfied that the purpose of the adoption is to form a bona fide parent-child relationship, and the parent-child relationship of the child and the biological or previous adoptive parents has been terminated.

The other new section of the INA, Section 204(d)(2), requires, for children adopted from Hague countries, an adoption or custody certificate to be issued by the central authority. This certificate will be conclusive evidence of the relationship between the child being adopted and the adoptive parent(s) and will help streamline documentary requirements for Hague country adoptions.

As previously noted, these changes to immigration law will not be effective until INS and the Department of State publish implementing regulations in the *Federal Register*. INS will inform the public when regulations and procedures are finalized. In the meantime, the adoption procedures under Section 101(b)(1)(E) and (F) continue to govern intercountry adoptions.