

The Regulation of Intercountry Adoption

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Abstract

As of January 2006, the United States was the only major receiver of children through intercountry adoption that had not implemented the 1993 Hague Convention on Intercountry Adoption. The U.S. signed the Hague Convention in 1994, but did not pass implementing legislation until 2000. Regulations pursuant to the legislation were proposed in 2003, but final regulations did not go into effect until March 2006. The slow pace was partly the result of Congressional wrangling over designation of a regulator and partly the result of a prolonged conversation between the designated regulator and the adoption community over specific regulations.

Finalization of the regulation brings the Hague Convention into force in the United States, but the current system is inadequate to protect the rights of all children and families as the Hague Convention intends. Two parts of the regulations are problematic, especially in combination. First, only substantial, not strict, compliance is required of adoption providers. Second, the U.S. encourages competition between accreditors of adoption providers. We argue that the regulations will increase the costs of adoption services at the same time that quality, at best, will not improve. We conclude that regulation of adoption should be centralized in order to comply with the intent of the Hague Convention.

I. Introduction

The 1993 Hague Convention on Intercountry Adoption came into force in the United States in March 2006.¹ Before 2006, the United States was the only country that annually received more than 1,000 intercountry adoptees that had not implemented the Hague Convention.^{2,3} The slow pace of implementation of the Hague Convention in the U.S. was partly the result of Congressional wrangling over the designation of a domestic “Central Authority” to regulate intercountry adoption, and partly the result of a prolonged conversation between the designated Central Authority and the adoption community over the specifics of the regulations. Regulations were proposed in 2003, but progress towards finalization was halting.

While finalizing the regulations brings the Hague Convention into force in the United States, the full benefits of the Hague Convention will not be realized with the system as it is currently envisioned. We argue that the regulations will increase the costs of adoption services at the same time that quality, at best, will not improve. We conclude that regulation (specifically, the monitoring of providers and the enforcement of standards) of the market for adoption services should be centralized in order to be consistent with the intent (and letter) of the Hague Convention.

Two parts of the regulations are, in combination, problematic. The first part is the performance criterion for adoption service providers. Only substantial compliance is required; strict compliance is not required for accreditation.⁴ The second part is the law regarding the selection of the accreditors of adoption service providers. The U.S. Central Authority encourages

¹ The final regulations were published in the *Federal Register* 71(31), February 15, 2006. State Department 22 CFR Parts 96, 97, and 98.

² Belgium ratified in 2005. For ratification dates and country-specific details see HccH, “Status Table.” Available at http://www.hcch.net/index_en.php?act=conventions.status&cid=69 (accessed 9 May 2006).

³ Jeff D. Opdyke, ‘Adoption's New Geography,’ *Wall St. J.*, Oct. 14, 2003, D1. (“The U.S. adopts more foreign children than all other nations combined.”).

⁴ *Federal Register* 68(178), September 15, 2003, Subpart E, section 96.27 (a).

all interested parties to apply to become accreditors.⁵ The many accreditors will have overlapping jurisdictions and will compete for the business of the many adoption providers that seek accreditation. Together, these two parts of the regulations will prevent the regulations from providing the assurance of the rights of children and families that the Hague Convention intends.

We begin by addressing the question of why regulation of the market for adoption services is desirable, whether the regulation is on a local, national, or international level. Next, we present a brief history of the international movement to regulate intercountry adoption, as expressed in the Hague Convention on intercountry adoption. Following this brief account of the development of the Hague Convention, we discuss U.S. efforts to ratify the Convention, including the specific regulations finalized in 2006. Finally, we show that while, in general, the regulation of adoption has the potential to produce the desired results, the specific regulations are unlikely to do so.

II. Economic Rationale for Regulation of Adoption Services

Economists identify three main rationales for regulation: monopolistic abuse, imperfect information, and the existence of external effects or public goods.⁶ In these three kinds of market failure the unregulated outcome fails to produce the optimal quantity or quality of the good or service. Regulation can move the outcome towards the optimal quantity or quality in the cases. Parties to the Hague Convention agree to enact regulation to solve the problems of imperfect information and public goods aspects in the market for adoption services.

A. Public Good Aspect

⁵ *Federal Register* 68(178), September 15, 2003, Subpart B, section 96.4. Private accreditors must be non-profit.

⁶ For a thorough review of the literature on the political causes of regulatory policy see Roger G. Noll, "Economic Perspectives on the Politics of Regulation," in R. Schmalensee and R.D. Willig (eds.) *Handbook of Industrial Organization*, Volume II (Elsevier Science Publishers, 1989), 1254-1287.

Economic theory postulates that goods and services that produce satisfaction only for the people who consume and produce them are most efficiently produced by private firms in unregulated markets. Consumption of each of these “private” goods is limited to the individual consumer (or a well-defined group of consumers), and the production and consumption of private goods does not affect other people. Not so with adoption services. When an adoption takes place, the wider society—in both the sending and the receiving country—is affected. Parental rights are exchanged, the definition of family is transformed, and the sending society loses a potentially productive future worker while the receiving society gains one.

Moreover (as the cases of the moratoria on intercountry adoption from Romania and Cambodia demonstrate),⁷ the market for adoption services relies on a service it cannot provide itself—the protection of the rights of children and families involved in adoption. The protection of the rights of children and families has benefits to society that are greater than the benefits to any single individual. Further, the protection of rights is non-rival and non-excludable. That is, everyone benefits from the protection of rights, even those who do not adopt. Thus, the protection of rights in adoption is a public good. We know that public goods are under-provided by markets, which is why public goods are usually closely regulated, or even directly produced by governments.^{8,9} The protection of rights in adoption, if achieved through the regulation of adoption services, is therefore likely to increase the number of intercountry adoptions.

⁷ The State Department has information on the Romanian moratorium at http://travel.state.gov/family/adoption/notices/notices_2211.html (accessed 6 May 2006). Information about the investigation of adoption practice in Cambodia can be found at <http://www.adoptioninstitute.org/FactOverview/international.html> (accessed 10 May 2006).

⁸ The protection of rights in adoption also meets the definition of a *global* public good, similar to peace, distributive justice, and environmental integrity. See Inge Khaul, Isabelle Grunberg, and Marc A. Stern (eds.), *Global Public Goods: International Cooperation in the 21st Century*, published for The United Nations Development Programme by (New York: Oxford University Press 1999).

⁹ Economic Growth and Tax Reconciliation Act of 2001, Pub. L. No. 107-16, 202, 115 Stat. 38, 47 (codified at I.R.C. 23, 137 (2000)).

B. Imperfect Information Aspect

In some markets, producers have more knowledge than consumers about the quality of the product or service provided. When the information about the quality of a product or service is complex and expensive to collect, consumers may not, despite their best efforts, be able to discover all they need to know in order to make well-informed decisions. The imperfect information rationale has been the historical motivation for regulation of consumer products, workplaces, and occupations.¹⁰

The imperfect information problem in adoption arises because it is difficult for prospective adoptive parents to know whether an adoption service provider has high ethical standards.¹¹ Specifically, prospective adoptive parents may be concerned that (1) an adoption service provider only places children who are truly legally available for adoption, (2) that the adoption service providers are interested primarily in finding the best “match” of family for a child, and (3) that the adoption service providers are not charging or condoning the payment of fees beyond the cost of providing adoption services.

Regulation can improve the outcome of markets with imperfect information,¹² such as the market for adoption services, in two ways. First, the government can set minimum standards, which protects consumers from the hazards of consuming low-quality products or services. In the case of adoption, the minimum standards are stated in terms of ethical social work practice. Second, government can compel producers to disclose information about the quality of their products and services, thus increasing the amount of information available to consumers and

¹⁰ Howard K. Gruenspecht and Lester B. Lave, “The Economics of Health, Safety, and Environmental Regulation, in R. Schmalensee and R.D. Willig (eds.) *Handbook of Industrial Organization*, Volume II (Elsevier Science Publishers, 1989), 1508- 1550.

¹¹ See Schweitzer, Harvey, and Daniel Pollack, Ethical and Legal Dilemmas in Adoption Social Work, 44 Family Court Review 2, 258-269.

¹² See e.g., Helen M. Alvare, The Case for Regulating Collaborative Reproduction: A Children's Right's Perspective, 40 Harv. J. on Legis. 1 (2003).

decreasing the cost to consumers of obtaining the information. In the case of adoption, the regulatory remedy is a required audit of adoption service providers that explicitly accounts for the legality of placements, the internal matching criteria, and the disbursement of all fees collected and donations accepted.

III. History of International Regulation of Intercountry Adoption

Prior to 1989, there existed only regional agreements regarding intercountry adoption, which were enacted by countries in the Americas and western and northern Europe.¹³ But because many adoption service providers operate in many countries at the same time, and because many intercountry adoptions involve several jurisdictions, regional agreements did not suffice.¹⁴ In the late 1980s, the United Nations began an effort to establish an international basis for the regulation of intercountry adoption.^{15,16}

A. Involvement of the Hague

The 1989 United Nations Convention on the Rights of the Child (UNCRC) explicitly acknowledges the importance of intercountry adoption to children and families.¹⁷ The preamble

¹³ See Daniel Pollack, Moshe Bleich, Charles J. Reid, Jr. & Mohammad H. Fadel, “Classical Religious Perspectives of Adoption Law”, 79 *Notre Dame L. Rev.* 693, 718 (2004).

¹⁴ See Joanne Selinske et al., “Ensuring the Best Interest of the Child in Intercountry Adoption Practice: Case Studies from the United Kingdom and the United States”, 80 *Child Welfare* 656 (2001).

¹⁵ For a discussion of the need for international cooperation, see Ethan Kapstein, “The Baby Trade,” 82 *Foreign Affairs* 6 (November/December) 2003, 115-125.

¹⁶ See E. Wayne Carp, *Family Matters: Secrecy and Disclosure in the History of Adoption* (Harvard University Press, 1998); Joan Heifetz Hollinger, “Introduction to Adoption Law and Practice,” in 1 *Adoption Law and Practice* 1-19 (Joan Heifetz Hollinger ed., 2000). See generally Berend Hovius, *Family Law: Cases, Notes and Materials* 915-78 (3d ed. 1992) (discussing Canadian adoption law); Elizabeth Bartholet, “International Adoption: Propriety, Prospects and Pragmatics”, 13 *J. Am. Acad. Matrimonial Law*. 181 (1996) (describing the problems with international adoptions and how international law attempts to balance the interests of those countries that demand adoption and those countries that supply the children to be adopted).

¹⁷ For a complete discussion of the UNCRC as the foundation for the Hague Convention, see William Duncan (1994), “The protection of children’s rights in intercountry adoption,” in L. Hefferman (ed), *Human Rights—A European Perspective* (The Round Hall Press/Irish Centre for European Law) and G. Parra-Aranguren (1998), “La tarea complementaria de le Convencion de las Naciones Unidas sobre los Derechos del Nino realizada por las Convenciones de la Conferencia de Law Haya de Derecho Internacional Privado,” in *Revista de la Facultad de Ciencias Juridicas y Politicas* (106).

to the UNCRC expresses the right of the child to grow up “in a family environment, in an atmosphere of happiness, love and understanding.” Article 20 of the UNCRC recognizes that when birth families are unable to provide a suitable environment, alternative care—including adoption—should be sought. The UNCRC also explicitly acknowledges the importance of national and international regulation of adoption in order to protect the rights of children and families. Article 21 requires states that allow adoption to take steps to be certain that adoption serves the best interests of the child. Moreover, the UNCRC posits that children involved in intercountry adoption are entitled to protections “equivalent to those existing in the case of national adoption.”¹⁸

The Hague Conference on Private International Law began to consider what was to become its thirty-third Convention in January 1988. The representatives of Hague-member countries believed that the problems in intercountry adoption went beyond the problems addressed by the 1965 Hague Convention on adoption which addressed the *Jurisdiction, Applicable Law and Recognition of Decrees Relating to Adoptions*. The work of drafting the Convention began in October 1988. Both Hague member states and non-member states participated in drafting the Convention. The Convention was unanimously approved on 28 May 1993.¹⁹

Worldwide acceptance and ratification of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry has been extraordinary swift by historical

¹⁸ Hague Conference on Private International Law, Convention #33, Convention on the Protection of Children and Co-Operation in Respect of Intercountry Adoption, Article 21(c) < http://www.hcch.net/index_en.php?act=conventions.text&cid=69> (last accessed 9 May 2006).

¹⁹ G. Parra-Aranguern, Hague Conference on Private International Law, “Explanatory Report on the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption,” < http://www.hcch.net/index_en.php?act=publications.details&pid=2279&dtid=3> (last accessed 9 May 2006).

standards.²⁰ By September 2000, 41 countries had become contracting states. As of February 2006, 65 states had ratified or acceded to the Convention.²¹ The states included a wide variety of sending and receiving countries; a partial list is given in Table 1.

B. Goals of the Convention

The specific provisions of the Convention are intended to encourage a more child-centered practice in intercountry adoption.²² The intent is to focus adoption practitioners on finding an appropriate placement for each waiting child and to limit the extent to which the practice of intercountry adoption focuses upon the quest of prospective adopters to find a child.

During the 1980s and 1990s, a number of cases of trafficking in children were revealed in the international press. These cases included the sale of children by parents and orphanages, as well as the abduction of children for the purpose of adoption.²³ Arguably the most important goal of the Hague Convention is the prevention of such abuses.²⁴ Establishing a system of international cooperation for the prevention of abuse is a responsibility of countries under the UNCRC.²⁵ Pursuant to this goal, the Hague Convention delegates the responsibility for ensuring proper consent to the adoption to the country of origin.²⁶

The Hague Convention also seeks to remove incentive for parent-centered practice on intercountry adoption by prohibiting financial gain from adoption, including payments to birth

²⁰ William Duncan, "The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption", in Peter Selman (ed.), *Intercountry adoption: developments, trends, and perspectives*. (London: British Agencies for Adoption and Fostering), 40-52.

²¹ The Hague Conference regularly updates its list of contracting states on its website: <http://www.hcch.net/index_en.php?act=conventions.status&cid=69> (accessed 9 May 2006).

²² Duncan, see above n 20, 46-47.

²³ The scandals are summarized in Ethan B. Kapstein, "The Baby Trade" 82 *Foreign Affairs* 6, see especially p. 119.

²⁴ Article 1 and Article 21(c).

²⁵ UNCRC Articles 20-21. Text available at <http://www.unhcr.ch/html/menu3/b/k2crc.htm> (last accessed 10 May 2006).

²⁶ Article 4(c): "persons, institutions and authorities have given their consent freely, in the required legal form, and expressed or evidenced in writing. Article 4(d) expresses a similar requirement for consent of the child, when appropriate.

parents and institutions beyond actual costs incurred, such as provision of social services, travel, and child support for the pre-adoption period.^{27, 28}

At the same time that prohibiting financial gain from adoption protects the rights of adopted children, the measure also protects the rights of adoptive parents. Congressman Benjamin Gilman expressed it this way: “These standards will provide parents with the confidence that this emotional undertaking will not leave them open to fraud or abuse.”²⁹

Accreditation of adoption agencies under the Hague Convention is intended to require full financial disclosure, so that practices such as outright extortion and mandatory “donations” can be curbed.³⁰

Finally, in addition to the ethical goals of preventing abduction, trafficking and improper financial gain, it is hoped that the provisions of the Hague Convention will reduce “delays, complications and [the] considerable costs” of intercountry adoption.³¹ Domestic law under the Hague Convention is required to clarify the status of the adopted child in the receiving country to “streamline documentary requirements” for immigration of the adopted child.³²

To achieve its goals, the Hague Convention requires each contracting state to designate a Central Authority. The division of responsibilities between Central Authorities in the sending and receiving states is given is clearly articulated. It is the responsibility of the sending state to “ensure that the child is adoptable, that due consideration has been given to the possibilities for

²⁷ Article 4(c): the consents [of parents, institutions and authorities] have not been induced by payment or compensation of any kind...” Article 4(d) similarly requires that, when the consent of the child is appropriate, the consent not be induced by payment. Article 8 requires Central Authorities to “prevent improper financial or other gain. Article 28 is more specific, confining the exchange of monies to costs and expenses (including reasonable professional fees) and limiting the earnings of adoption service providers.

²⁸ Ethan B. Kapstein, “The Baby Trade”, 82 Foreign Affairs 6 (2003): 115-125.

²⁹ Benjamin A. Gilman at US Congress Hearing October 20 1999. U.S. Congress, House of Representatives (2000). Implementation of the Hague Convention on Intercountry Adoption. Hearing before the Committee on International Relations. Wednesday, October 20, 1999. Serial No. 106-110. Available: <http://www.house.gov/internationalrelations> [accessed March 4, 2004].

³⁰ Hague Convention, Article 11

³¹ Duncan, see above n. 20, 47.

³² IAA section 302 amends the Immigration and Nationality Act section 204(d)(2)..

placement of the child in that state, that an intercountry adoption is in the child's best interests, and that the relevant consents have been freely given."³³ It is the responsibility of the receiving state to "determine that the prospective adopters are eligible and suitable to adopt, that they have been appropriately counseled, and that the child will be authorized to enter and reside permanently in that state."^{34, 35}

IV. History of U.S. Regulation of Intercountry Adoption Services

In the United States, the regulation of adoption services, including intercountry adoption services, has not been directly regulated by the federal government. Federal involvement in adoption has been limited to the financing of adoptions of children in foster care who cannot return to their birth families and to tax deductions and credits for adoptive families.³⁶ Like most family law, law concerning the regulation of providers of adoption services has been left to the states. Each state licenses agencies and social workers using its own guidelines;³⁷ each state has its own rules regarding relinquishment and parental consent; each state has its own rules regarding what payments adoptive parents may make to birth parents.³⁸

³³ Article 28. Duncan, see above n 20, 44.

³⁴ Article 28. Duncan, see above n 20, 44.

³⁵ National Adoption Information Clearinghouse, *The Adoption Home Study Process*, at http://naic.acf.hhs.gov/pubs/f_homstu.cfm (last accessed 2 May 2006).

³⁶ Federal laws financing adoption from foster care include: Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (P.L. 95-266 Section 203), The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272), Adoption and Safe Families Act of 1997 (P.L. 105-89). Federal tax law regarding adoption includes: Economic Recovery Tax Act of 1981 (P.L. 97-34 Section 125), Tax Reform Act of 1986 (P.L. 99-514), Minimum Wage Increase Act of 1996 (P.L. 104-188 Section 1807), Tax Relief Act (P.L. 107-16, Title II, Section 202).

³⁷ Best practice guidelines are updated and published by the Child Welfare League of America, *CWLA Standards of Excellence for adoption services* (Rev. ed.) (Washington, DC: CWLA, 2000).

³⁸ Naomi R. Cahn and Joan Heifetz Hollinger (eds.), *Families by Law* (New York: New York University Press, 2004); Richard Leiter (ed.) *National Survey of State Laws* (Detroit: Thompson Gale, 2003); Stephen Macedo and Iris Marion Young (eds.), *Child, Family and State* (New York: New York Univ. Press, 2003); Sarah H. Ramsey and Douglas E. Abrams, *Children and the Law in a Nutshell* (St. Paul, MN: Thomson/West, 2003); Barbara R. Hauser and Julie A. Tigges, *Women's Legal Guide* (Golden, CO: Fulcrum Publ, 1996); Joan H. Hollinger, *Adoption Law and Practice* (New York: M. Bender, 1988). For a less academic approach, see American Bar Association, *The American Bar Association Guide to Family Law: The complete and easy guide to all the laws of marriage, parenthood, separation and divorce* (New York: Times Books/Random House, 1996). Also see, Madelyn Freundlich and Lisa Peterson, *Wrongful Adoption: Law, Policy and Practice* (Washington DC: CWLA Press 1998).

A. Designating a Regulator

Given the limited role of the federal government in adoption law, it is perhaps not surprising that the United States took so long to bring the Hague Convention into force. The U.S. signed the Hague Convention on Intercountry Adoption in 1993. After seven years and extensive Congressional hearings, the International Adoption Act (IAA) of 2000 was signed by President Clinton. A primary stumbling block for passage of implementing legislation was the designation of a Central Authority. The IAA designated the Department of State (as opposed to the Department of Health and Human Services) as the Central Authority for the U.S. in matters of intercountry adoption. The Department of Health and Human Services has direct experience with social work best practice, including adoption practice. Further, the Department of Health and Human Services has experience with the regulation and accreditation of health care facilities. While the both Departments supported the designation of DHHS as Central Authority,³⁹ Congress chose the Department of State because of its experience “on the ground” in sending countries.⁴⁰ State Department personnel process orphan visas for the travel of the adoptees of U.S. citizens, and the State Department has been involved in evidence gathering and prosecution of cases of intercountry child abduction and trafficking.

³⁹ In fact, a representative of the State Department testified before Congress that the Department has no experience in child welfare or human services and has no first-hand knowledge of the myriad ways in which intercountry adoptions are facilitated (US Congress Hearing October 20, 1999).

⁴⁰ The Senate and the House versions of the bill originally designated different Central Authorities. S 682 (wanted State), HR 2342 (wanted State), and HR 2909 (wanted HHS). Some members of Congress felt very strongly that HHS would not be able to incorporate the duties of Central Authority. See comments of Richard Burr (NC), US Congress Markup March 22 2000 and US Congress Hearing October 20, 1999. However, the policy question here is one of *public perception* of the relative ability (in other words, the credibility) of the two departments. See also the testimony of Mary A. Ryan, Assistant Secretary for Consular Affairs, US Dept of State at US Congress Hearing October 20, 1999: “The Administration strongly believes that the accrediting function should rest with the Department of Health and Human Services...as the only Federal Government agency with relevant experience in evaluating and working with domestic adoption programs and social service providers, is better suited to handle this function than the Department of State...It has the experience, it has the knowledge, and it best for the children.”

Once it was designated Central Authority, the State Department set about the task of writing the specific regulations to fulfill its responsibilities.⁴¹ Because of its lack of experience in the fields of social work and accreditation, the State Department required a significant amount of time for information gathering. Information gathering was conducted under contract with the private consulting firm Acton-Burnell. Acton-Burnell was well known to the State Department but was not well-versed in adoption. The input of researchers, adoption agencies, adoptive parents and adoptees was gathered, and public meetings were held during the process of drafting the regulations.⁴² After three years the State Department published its draft of proposed specific regulations.⁴³

Some observers of adoption policy have been frustrated by the regulations by what they believed to be misinterpretations of the IAA and the Hague Convention in the proposed regulation.⁴⁴ Furthermore, at a public meeting at the State Department on 10 November 2003, a number of small agencies expressed frustration with the State Department for not reaching out more visibly to the entirety of the adoption community. The State Department responded to the

⁴¹ Almost all of the Central Authorities designated by states contracting to the Hague Convention are human services agencies or adoption-specific agencies. See HccH, "Authorities", http://www.hcch.net/index_en.php?act=conventions.authorities&cid=69 (last accessed 10 May 2006).

⁴² Summaries of the meetings and some documents are available at the Hague Adoption Standards Project Website at <http://www.hagueregs.org/> (last accessed 10 May 2006).

⁴³ Department of State, 22 CFR Parts 96 and 98, "Hague Convention on Intercountry Adoption; Intercountry Adoption Act of 2000; Accreditation of Agencies; Approval of Persons; Preservation of Convention Records; Proposed Rules," *Federal Register*, September 15, 2003.

⁴⁴ For example, Hogan, M. , Gibbs, P., Greenman, F., Hoard, C., Margolies, L. & Wei, A., "Comments to the Department of State on Proposed Regulations: Intercountry Adoption," Center for Adoption Research, <http://www.centerforadoptionresearch.org/> (last accessed 11 January 2005); Maureen Hogan, "The Struggle Between Families and Adoption Providers Over the Hague Convention, Center for Adoption Research, <http://www.centerforadoptionresearch.org/default.asp?action=article&ID=39&CategoryID=26&CategoryName=Federal> (last accessed 11 January 2005); various authors and documents on the website of the Evan B. Donaldson Adoption Institute at <http://www.adoptioninstitute.org/policy/hagueregs.html> (last accessed 11 January 2005).

frustration of these parties by extending the public comment period from three months to four months. In January 2005, the State Department issued its responses to the comments.⁴⁵

B. Specifics of the Regulation

Some aspects of the implementation of the Intercountry Adoption Act have been uncontroversial. For example, while the Hague Convention makes verification of the consent of birth families the responsibility of the Central Authority in the sending country, the U.S. plans to double-check sending country efforts; to wit, the Intercountry Adoption Act adds two sections to the Immigration and Nationality Act.⁴⁶ The U.S. Attorney General will review intercountry adoption cases to confirm that the purpose of the adoption is to “form a bona fide parent-child relationship.” Further, provisional upon U.S. Attorney General review of consents, the Intercountry Adoption Act allows for the immigration of children who are not technically orphans.

Other aspects of the Intercountry Adoption Act have generated more heat. For example, one of the issues that has bothered adoption services providers the most is the requirement that accredited providers prove that they are adequately insured for liability.⁴⁷ However, in terms of achieving the goals of the Convention, the regulatory structure matters more than the performance requirements for individual adoption service providers.

⁴⁵ U.S. Department of State, “Announcement of Publication on Department's Website Of Public Comments Received on Proposed Hague Regulations” at http://travel.state.gov/family/adoption/implementation/implementation_1519.html (last accessed 11 January 2005).

⁴⁶ IIA sections 103 and 302, modifying the Immigration and Nationality Act section 101(b)(1)(G). See U.S. Department of Justice (2001). Immigration and Naturalization Service. Fact Sheet. The Intercountry Adoption Act of 2000: Approval of the Hague Convention regarding intercountry adoptions. Available: <http://www.immigrationlinks.com/news/news980.htm> [accessed May 13, 2004]. for a summary of these changes.

⁴⁷ Proposed regulations §96.45 and 96.46; IAA §203 (b)(1)(E) require liability coverage of \$1 million per occurrence. The final regulations §96.33(h) set liability requirements at \$1 million per firm.

The regulations rely on the IAA: “The Secretary [of State] may authorize public or private entities to perform appropriate central authority functions...”⁴⁸ The responsibilities of the Central Authority, as well as public authorities and adoption service providers, are defined in Articles 7, 8 and 9 of the Hague Convention. Article 7 gives Central Authorities the non-delegable job of coordination with the sending state. Article 9 lists the jobs of day-to-day placement and reporting, which the Central Authority may undertake itself or delegate to either public authorities or “other bodies duly accredited [that is, adoption service providers].” Sandwiched between, Article 8 states, “Central Authorities shall take, directly or through public authorities, all appropriate measures to prevent improper financial or other gain in connection with an adoption and to deter all practices contrary to the objects of the Convention.” Article 8 does not, therefore, appear on its face to allow the Central Authority to delegate the job of detection and deterrence of financial impropriety to a private firm. But that is exactly what the IAA and the State Department regulations do.⁴⁹ The regulations put the State Department at arm’s length from providers, as it delegates the job of front-line detection and prevention of abuses in intercountry adoption to (as yet to be named) accreditors, which may be public authorities such as state departments of child welfare services, but which may also include private firms such as the Council on Accreditation.

1. Accreditation vs. Licensure

Adoption service providers are currently regulated through licensure by the states, through the state departments of child welfare and protective services. However, the majority of licensing

⁴⁸ Section 102 (f) “Methods of Performing Responsibilities.”

⁴⁹ The State Department acknowledged these objections in Federal Register 71(31) on February 15, 2006. II.A. and II.B.

standards in the states concern domestic adoption, or are limited to activities within the state.⁵⁰ Moreover, licensing standards vary widely, so that state licensing cannot be used as a meaningful national standard. At a Congressional hearing in 1999, Hague Coordinator of the Joint Council on International Children's Services Susan Freivalds testified that, "Although it would be convenient and easier for Joint Council agencies to rely only on State licensure, after six years of deliberation we have determined that State licensure does not rise to the level of quality standard that is needed for high quality intercountry adoption services."⁵¹

In the regulations, the system of accreditation of adoption service providers that would facilitate intercountry adoptions in Hague contracting countries is separate and fundamentally different from the system of state licensure. In fact, the system provided for by the IAA⁵² and fleshed out the State Department regulations⁵³ is not a system of licensure at all, but a system of accreditation. Accreditation, in the American sense of the word, is a method of industry self-regulation.⁵⁴

Under licensure, rules must be clearly stated and well-understood. In theory, at least, there is little room for the licensor's discretion in evaluating compliance. Accreditation, on the other hand, specifically allows for a level of compliance that is indeterminate rather than fixed. In some cases, indeterminacy is an asset. For example, in state corporate law, it is widely agreed

⁵⁰ See testimony of Patricia Montoya, Commissioner for Children, Youth, and Families, Department of Health and Human Services at US Congress Hearing October 20, 1999. U.S. Congress, House of Representatives (2000). Implementation of the Hague Convention on Intercountry Adoption. Hearing before the Committee on International Relations. Wednesday, October 20, 1999. Serial No. 106-110. Available: <http://www.house.gov/internationalrelations> [accessed March 4, 2004].

⁵¹ Testimony of Susan Freivalds, Hague Coordinator, Joint Council on International Children's Services at US Congress Hearing October 20, 1999. U.S. Congress, House of Representatives (2000). Implementation of the Hague Convention on Intercountry Adoption. Hearing before the Committee on International Relations. Wednesday, October 20, 1999. Serial No. 106-110. Available: <http://www.house.gov/internationalrelations> [accessed March 4, 2004].

⁵² Title II.

⁵³ Subparts C through H.

⁵⁴ Daniel Pollack, "Does accreditation lead to best practice? Maybe", 63 *Policy & Practice* 1 (2005), 26.

that it is the indeterminacy of Delaware's law regarding the fiduciary duties of corporations give the state an advantage in attracting corporations.⁵⁵ The indeterminacy of the Delaware corporate rules allows judges to be sensitive to corporate needs, possibly at the expense of creditors and consumers. Indeterminacy in adoption rules will allow accrediting agencies to be similarly sensitive to the needs of adoption service providers, possibly at the expense of children and prospective adoptive families.

There is some question as to whether regulation by accreditation in the American sense is what the framers of the Convention had in mind. While "accreditation" is the vocabulary used in the English text of the Convention, the following excerpt from Article 10 of the Hague Convention defines regulation in terms of "competence," a concept more akin to licensure: "*accreditation shall only be granted to...bodies demonstrating their competence to carry out properly the tasks with which they may be entrusted (emphasis added).*"^{56,57}

2. Substantial Compliance

The regulations⁵⁸ require only that accredited bodies demonstrate substantial compliance with the standards of performance laid out in the document.⁵⁹ The status of "accredited" will not, therefore, mean that an adoption service provider clearly has met all of the standards.

"Accredited" will mean only that an adoption service provider has met *most* of the standards.

Moreover, the definition of *most* may differ from accreditor to accreditor, and it is possible that accreditors may base their evaluations on whether an adoption service provider is moving

⁵⁵ Kamar, Ehud (1998). A regulatory competition theory of indeterminacy in corporate law. 98 Colum. L. Rev 1908 (December).

⁵⁶ The State Department recognized this objection to the IAA and the regulations in Federal Register 71(31) on February 15, 2006, II.B.

⁵⁷ For an extended critique see Hogan, M., Gibbs, P., Greenman, F., Hoard, C., Margolies, L. & Wei, A., "Comments to the Department of State on Proposed Regulations: Intercountry Adoption," Center for Adoption Research, <http://www.centerforadoptionresearch.org/> (last accessed 11 January 2005).

⁵⁸ Subpart E, section 96.27(a).

⁵⁹ Subpart F.

towards compliance with standards, rather than actually complying with standards. That accreditation is to be based upon substantial compliance, rather than strict compliance, with the stated standards is one of the key flaws in the regulations, and is discussed in additional detail below.

3. Overlapping Jurisdictions and Competition between Accreditors

State departments of child welfare services, which, again, already license some adoption service providers in their states, may apply to the State Department to become accreditors.⁶⁰ Under the regulations, the State Department may also authorize private firms to be accreditors. There is no upper limit upon the number of accreditors that the State Department may authorize. And there is no geographic limit to the “jurisdiction” of a private accreditor (although state departments of child welfare services may not compete with each other in jurisdiction.⁶¹ An adoption service provider will be able to choose its own accreditor from among many on the authorized list, and may even choose to switch accreditors when a re-accreditation is required at a later time if it desires. In other words, there is not an assignment of accreditors to adoption service providers, but the “jurisdictions” of accreditors overlap, creating the potential for competition between accreditors.

First, the State Department will face the logistical challenge and cost of maintaining and communicating with multiple accreditors. The cost will be borne either by prospective adoptive families or by the taxpayers. However, the cost of providing for competition between multiple accreditors will not be offset by the benefits of consistent quality in adoption services that can be trusted by sending countries and prospective adoptive parents.

⁶⁰ Subpart B.

⁶¹ Section 96.4.

The overlapping jurisdiction of accreditors provides incentive for competition. Usually competition is beneficial to society because competition, all other things equal, leads to an efficient outcome. In this case, adoption service providers will seek the services of an accreditor that maximizes the profits of the provider, or equivalently, that minimizes its cost of accreditation. Standard microeconomic theory predicts that only the lowest cost accreditors would survive, so that adoptive families would pay the lowest possible amount for the assurance that adoption providers are on the up-and-up. Recent work on the market for auditing services indicates that, at least in theory, industry self-regulation (accreditation) can lead to efficient outcomes.⁶² This is, most likely, what the authors of the regulations had in mind.

However, the even if the competitive, efficient, lowest-cost outcome does obtain, the outcome will not also meet the goals of the Hague Convention. It will not meet the goals because there is no reason to expect all accreditors to provide exactly identical services. In fact, the accreditors would have an incentive to be a little bit different from one other. The “substantial compliance” requirement opens the door for this product differentiation.⁶³

To simplify, imagine that accreditors come in two varieties: high-cost, high-quality, and low-cost, low-quality. Perhaps the high-quality accreditors have experience in accreditation in other industries, so people believe that they can do a more thorough job. A high-quality

⁶² Paul V. Dunmore and Haim Falk . “Economic competition between professional bodies: The case of auditing.” 3 *American Law and Economics Review* 2 (2001), 302-319.

⁶³ Roberto Romano advocates this sort of “product differentiation” in regulation. Romano advocates the substitution of a system of competing state regulations to supplant the federal monopoly on regulation of corporate securities issuance. The idea is that with competition, states will develop laws that are in line with investor interests, which will lower the cost of capital, increase share value, and attract firms to the regulatory jurisdiction. This will work only if investor interests are not subverted and asymmetric information problems are not persistent. It will not work in regulation of intercountry adoption because of the severity of the asymmetric information problem and the pressure on agencies to control the price of adoption services. Further financial capital is very mobile; provision of adoption services is less so, insofar as the same agency usually performs a home study, provides placement services, and post-placement services. Provision of competent adoption services from afar would increase the cost significantly, offsetting any gains from increased confidence obtained from rule-shopping in a regime of competitive federalist adoption regulation. Romano, Roberta, "The Need for Competition in International Securities Regulation" (July 2001). Yale ICF Working Paper No. 00-49; Yale Law & Economics Research Paper No. 258. Available at SSRN: <http://ssrn.com/abstract=278728> or DOI: [10.2139/ssrn.278728](https://doi.org/10.2139/ssrn.278728).

accreditor will be able to charge more for its services, as compared to a less reputable, lower-quality accreditor. Providers that use high-quality accreditors will, in turn, have an incentive to advertise that fact to families because the demand for quality in accreditation is a derived demand; that is, the willingness of an adoption provider to pay for accreditation will depend on how families value accreditation. Some families are willing and able to pay more for adoption services that use high-quality accreditation. Some families will not be able to pay more for high quality. This subverts the intent of the Hague Convention, which is to ensure that *all* adoption service providers meet high standards so that the rights of all families and children are protected equally.⁶⁴

It seems unlikely that the regulations will prevent the low-quality accreditors from accrediting low-quality providers. First, again, the law only requires substantial compliance. Second, low quality accreditors and providers will persist because the standards to which providers will be held will be partly generated by the providers themselves; this is the American understanding of “accreditation” that is reflected in the fact that the regulations allow accreditors to have standards that differ from one another. Third, the law enforcement role of the State Department is one-step removed from the accreditation process.⁶⁵ If there is little threat of enforcement, some accreditors and providers will have little incentive to form strict standards and stick to them. Fourth, providers that specialize in limited services, such as conducting only the home study or providing only the legal services, do not have to be independently

⁶⁴ “Accreditation standards must be consistent in order to assure other nations that we have a uniform standard of quality that they may rely on when they entrust their children to a U.S. agency and the prospective adoptive parents that they represent.” Testimony of Patricia Montoya, Commissioner for Children, Youth, and Families, Department of Health and Human Services at US Congress Hearing October 20, 1999. In Europe, variation in adherence to the principle of subsidiarity has led to the establishment of Euradopt (Kerstin Sterky, “Maintaining standards: The role of EurAdopt”, in Peter Selman, editor, *Intercountry adoption: developments, trends, and perspectives* (London: British Agencies for Adoption and Fostering), 389-391. The text of the EurAdopt guidelines for adoption practice are available at <http://www.euradopt.org/ethical-rules.htm> (accessed 10 May 2006).

⁶⁵ Subpart J.

accredited.⁶⁶ They can act as supervised subcontractors to accredited providers, and subcontractors will have little incentive to maintain high standards.⁶⁷ Finally, providers are not required to provide all of their adoption-related information to accreditors, but are only required to provide the information regarding Hague Convention-covered adoptions.⁶⁸ Under these regulations “mistakes” will be easily hidden.

The existence of both high-quality and low-quality accreditors will lead to one of two outcomes. The first possibility is that low-cost, low-quality accreditors will supplant high-cost, high-quality accreditors. This “race to the bottom” is common in circumstances in which the quality of a good or service is unknown to the consumer before a transaction.⁶⁹

Fortunately, the unsavory race-to-the-bottom outcome is unlikely. So long as high-quality accreditors can signal their quality directly to providers and at least indirectly to families—for example through reputation—both high quality accreditors and low quality accreditors will persist. Families who are not willing or able to pay the higher cost of adoption services from a provider that uses a high-quality accreditor will be left with the services of providers that meet only the lower standards of the low-quality accreditors. *Caveat emptor*.

But, of course, a *caveat emptor* system is what is in place today; it is the *caveat emptor* system that has spawned the abuses in intercountry adoption that the Hague Convention and the IAA seek to eliminate. Therefore, the regulations impose costs (the cost of the accreditation

⁶⁶ Subpart C.

⁶⁷ The UN Convention on the Rights of the Child Article 22(e) requires that “the placement of the child in another country is carried out by competent authorities or organs.” This would seem to rule out the role of the independent person in ICA. The inclusion in the Hague Convention of the provision to allow independent persons to operate with supervision was a compromise included to obtain US agreement to the Convention. William Duncan, “The Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption”, 17 *Adoption and Fostering* 3 (1993), 11-12.

⁶⁸ Section 96.42.

⁶⁹ Counterfeit currency is the staple example of a “race to the bottom”. If enough counterfeit currency is available, people hold onto their “good” money and soon only counterfeit money will be in circulation. The only way that good money stays in circulation is through extensive “central authority” efforts to detect and deter counterfeiting.

process itself and supervision of accreditors by the State Department) that will be passed on to adoptive families and taxpayers, but provide only limited benefits to the adopted families, the adoptees, and society.

V. Effective Regulation of ICA

The current regulations are unlikely to be effective in meeting the goals of Hague Convention. Before advocating an alternative to the current regulations, it seems advisable to ask whether effective regulation of intercountry adoption is an attainable goal at all. In this section, we use a recently developed political economy framework to show that effective regulation of adoption services is possible.

In their book on the success and failure of government policy, Amihai Glazer and Lawrence Rothenberg present a compelling case that the ability of government to achieve the objectives of policy depends upon four interrelated factors, which they term “economic constraints.”⁷⁰ Economic constraints include the credibility of the government’s commitment to the policy objectives and whether there is the possibility of multiple equilibria in the outcomes of the behavior being regulated.⁷¹

The existence of multiple, self-sustaining equilibria is an important precondition for success of policy because then policy “can be viewed as an attempt to nudge behavior toward a particular equilibrium (p. 6).” The current equilibrium in the market for intercountry (and also private domestic) adoption services is characterized by low quality providers operating side-by

⁷⁰ Amihai Glazer and Lawrence S. Rothenberg, *Why Government Succeeds and Why It Fails* (Cambridge: Harvard university Press, 2001). See especially the examples in chapter 3.

⁷¹ Glazer and Rothenberg, see above n 70, also include as economic constraints the rational responses of the regulated and the public the possibility of crowding in and crowding out effects. In our view, these two constraints are less important to the success of regulation of intercountry adoption services. There is, however, a possibility for a crowding in effect and that deserves mention. If the experiences of parents are more positive at agencies accredited to facilitate adoptions between Hague-ratifying countries than at non-accredited agencies that facilitate intercountry adoptions with non-Hague Convention countries, accredited agencies will attract more clients.

side with high quality providers. “Low quality” in this context refers to providers that violate the rights of adoptees or adoptive parents. The goal of the Hague Convention and its implementing legislation and regulations is to push the equilibrium in the market for intercountry adoption services in the direction of consistent “high quality,” an equilibrium in which the rights of all participants in an adoption are protected.

Credible commitment refers to the ability of lawmakers and officials to convince others that the regulation will be taken seriously and that violations will be redressed. To the extent that lawmakers and officials are subject to the influences of special interests and public opinion, government credibility can be questioned. Credibility is important because it factors into the rational response of people to the policy. When people weigh the costs and benefits of compliance with the policy, credibility affects the calculation by figuring into the probability that compliance will be worthwhile and the probability that non-compliance will be detected and punished.

Key to the success of regulation of intercountry adoption services is the credibility of the government’s commitment to the protection of the rights of children and parents in adoption. However, the commitment of the government to the protection of rights in adoption is not communicated clearly in the IAA or in the regulations. The credibility of the government’s commitment to the goals of the Hague Convention is questionable on three grounds, which have already been discussed. First is the decision to delegate regulatory authority to the Department of State rather than to the Department of Health and Human Services. The second is the decision for US-style accreditation with a substantial compliance standard rather than a stricter licensing procedure. The third is the decision for multiple accreditors with overlapping jurisdictions. The first issue, choice of Central Authority, is less critical than the second two. The Department of

State could attain credibility by adopting a model of centralized regulation of intercountry adoption services.

VI. Conclusion

Because both high-quality and low-quality accreditation exists in the market under the regulations, the rights of children and families (in the U.S. and in sending countries) will not be equally protected. Equal protection is likely to require centralized accreditation standards and procedures. In fact, centralization has been the norm when we seek to protect the human rights (like the right of workers to unionize or the civil rights of all citizens). In these cases, regulation is held close, detection and enforcement occurs within a government department or commission. Similarly, when the public gains from compelling information disclosure, regulation tends to be centralized.

For example, the regulators of intercountry adoption have a charge originating from the Hague Convention and the Intercountry Adoption Act that is similar to the charge of the Equal Employment Opportunity Commission because regulation of both adoption and employment are primarily concerned with the protection of rights. The charge to regulate adoption also has similarities to the charge of the Securities and Exchange Commission because the regulation of intercountry adoption is concerned with the ethical behavior and full financial disclosure. Both the EEOC and the SEC are centralized systems that, despite recent problems, historically have demanded a high level of compliance.⁷²

⁷² On the history of the EEOC and SEC see United States Equal Employment Opportunity Commission, *The Story of the United States Equal Employment Opportunity Commission: Ensuring the promise of opportunity for 35 years, 1965-2000* (Washington DC: GPO 2000); Clinton L. Doggett and Lois T. Doggett, *The Equal Employment Opportunity Commission* (New York: Chelsea House, 1990); Anne M. Khademian, *The SEC and Capital Market Regulation: The Politics of Expertise* (Pittsburgh: Univ. of Pittsburgh Press, 1992); Susan Shapiro, *Wayward Capitalists: Target of the Securities and Exchange Commission* (New Haven: Yale University Press, 1984); Bernard Schwartz, *The Economic Regulation of Business and Industry: A Legislative History of U.S. Regulatory Agencies* (New York: Chelsea House, 1973). For analysis see Richard Sylla, "The Rise of Securities Markets: What Can

Other countries have moved towards centralization in the regulation of adoption. In the Netherlands, the Intercountry Child Welfare Organisation (now Worldchildren) was established under the Ministry of Justice in 1975. It was hoped that the Child Welfare Organisation would have responsibility for all intercountry adoptions, but competition emerged. During the 1980s there was an increase in concerns about the variability of standards between agencies. In response, the Act on Intercountry Adoptions of 1988 set up centralized licensing requirements enforced by the Ministry of Justice.⁷³

In the United Kingdom, the Adoption (Intercountry Aspects) Act of 1999 “can be seen as attempting to use regulation to promote good practice in ICA” with a view towards controlling “thwarted adopters some of whom engage in abuses of various kinds.”⁷⁴ The 1999 Act promotes centralization and limits competition in the provision of intercountry adoption services by prohibiting private home studies, and it reduces the temptations facing prospective adoptive parents by restraining the ability of judges to circumvent social work guidelines.⁷⁵

A centralized regulator of intercountry adoption services would be able to compel strict compliance with uniform standards of adoption practice and would prevent competition from undermining the goals of the Hague Convention.⁷⁶ Hopefully, a more centralized system of accreditation may yet emerge.

Governments Do?” The World Bank, Policy Research Working Paper Series # 1539, 1999; Sarah Wilhelm “The Impact of Equal Employment Opportunity Commission Enforcement on the Wages of Black and White Women, 1988-1996, 30 *Review of Black Political Economy* 2 (Fall 2009), 25-51; Cecile Carpenter and Jean-Marc Suret, “The Canadian and American Financial Systems: Competition and Regulation,” 29 *Canadian Public Policy* 4 (2003), 431-47;

⁷³ Peter Selman and Jill White. “Mediation and the role of ‘accredited bodies’ in intercountry adoption”. 18 *Adoption and Fostering* 2 (1994), 8.

⁷⁴ Derek Kirton, “Intercountry adoption in the UK: Towards an ethical foreign policy?” in Peter Selman (ed,) *Intercountry adoption: developments, trends, and perspectives* (London: British Agencies for Adoption and Fostering 2000), 71-72.

⁷⁵ Kirton, see above n 74, 77.

⁷⁶ Kirton see above n. 74, 80-81. Kirton argues that ethical foreign policy on adoption must include strict standards for authorization of prospective adoptive parents, especially with regard to their sensitivity to the ethnic and cultural heritage of the adoptee. Additionally, he argues that an ethical foreign policy in a country that actively supports ICA

Table 1: Parties to the Hague Convention

Highlighted: Major Receiving Countries

Not Highlighted: Major Sending Countries

Member States

Country	Signed	Ratification	Entry into Force	Central Authority
Belgium	27 Jan 99	26 May 05	1 Sept 05	Service de l'Adoption internationale within the Service Public Fédéral Justice, additional authorities designated for each language community
Brazil	29 May 93	10 Mar 99	1 July 99	State Secretariat for Human Rights, Program for Cooperation on International Adoption and State Agencies
Bulgaria	27 Feb 01	15 May 02	1 Sept 02	Ministry of Justice
Canada	12 Apr 94	19 Dec 96	1 Apr 97 (varies by Territory)	Human Resources Development & Territorial Ministries of Social Service
Denmark	2 Jul 97	2 Jul 97	1 Nov 97	Minister of Justice
Finland	19 Apr 94	27 Mar 97	1 July 97	Finnish Board of Intercountry Adoption Affairs
France	5 Apr 95	20 June 98	1 Oct 98	Central Authority for Intercountry Adoption, whose secretariat is provided by the Mission de l'adoption internationale
Italy	11 Dec 95	18 Jan 00	1 May 00	National Board for Intercountry Adoptions
Mexico	29 May 93	14 Sep 94	1 May 95	Systems for Integral Family Development
Netherlands	5 Dec 93	26 Jun 98	1 Oct 98	Ministry of Justice Prevention, Youth and Sanction Policy Department
Poland	12 June 95	12 June 95	1 Oct 95	Ministry of Labor and Social Policy
Romania	29 May 93	28 Dec 94	1 May 95	Romanian Committee for Adoption
Sweden	10 Oct 96	28 May 97	1 Sept 97	Public Authorities or Bodies Accredited
Switzerland	16 Jan 95	24 Sept 02	1 Jan 03	Federal Office of Justice, Office for the International Protection of Children

must include foreign aid directed at reducing the poverty and conflict that makes children available for ICA in the first place.

UK	12 Jan 94	27 Feb 03	1 June 03	Department of Health, Adoption and Permanence Team (Intercountry Section)
USA	31 Mar 94	n/a	n/a	n/a

Non-Member States

Columbia	1 Sept 93	13 July 98	1 Nov 98	Instituto Columbiano de Beinestar Familiar
Guatemala	Accession	26 Nov 02	1 Mar 03	Procuraduria General de a Nacional
India	9 Jan 03	6 Jun 03	1 Oct 03	Central Adoption Resource Agency
Phillipines	17 Jul 95	2 Jul 96	1 Nov 96	Intercountry Adoption Board

As of 10 May 2006, the Russian Federation has signed but not yet ratified. Major sending countries that are **not** signatories include Cambodia, Haiti, Kazakhstan, South Korea, Ukraine, Vietnam.

Sources: Hcch, "Status Table." Available at

http://www.hcch.net/index_en.php?act=conventions.status&cid=69 (accessed 9 May 2006).

Hcch, "Authorities." Available at

http://www.hcch.net/index_en.php?act=conventions.authorities&cid=69 (accessed 9 May 2006).