

ADOPTION

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**PROFIL D'ÉTAT POUR L'ADOPTION INTERNATIONALE
ÉTAT D'ORIGINE**

établi par le Bureau Permanent

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**COUNTRY PROFILE FOR INTERCOUNTRY ADOPTION
STATE OF ORIGIN**

drawn up by the Permanent Bureau

*Document préliminaire No 3 A de mars 2010 à l'intention de la
Commission spéciale de juin 2010 sur le fonctionnement pratique de la
Convention de La Haye du 29 mai 1993 sur la protection des enfants et
la coopération en matière d'adoption internationale*

*Preliminary Document No 3 A of March 2010 for the attention of the
Special Commission of June 2010 on the practical operation of the
Hague Convention of 29 May 1993 on Protection of Children and
Co-operation in Respect of Intercountry Adoption*

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STATE OF ORIGIN

COUNTRY PROFILE FOR INTERCOUNTRY ADOPTION

[Name of State: South Africa]

LAST UPDATED:

The ***Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption:***

Date of ratification or accession: December 2003

Objections to accession made by:

Date of entry into force: 1 April 2010

Contact information of Central Authority:

Name of office: South African Central Authority
Department of Social Development
Address: P/ Bag X 901, Pretoria, 0001
Telephone: 012) 312 7396
Fax: 012) 323 3733
E-mail: KinseyR@dsd.gov.za
Website: www.dsd.gov.za
Contact Person(s): Ms Kinsey Rasebitse

If your State has appointed more than one Central Authority, please provide contact information for each of these Central Authorities:

Answer: There is only one Central Authority on Intercountry adoptions.

1. ROLE OF AUTHORITIES AND BODIES IN ADOPTION

1.1 Central Authority

Describe briefly the functions of the Central Authority(ies) (e.g., see Arts 6-9; and Arts 14-21 if accredited bodies are not used).

Answer: Accredited bodies are used and currently the Central Authority is busy with the accreditation process. Amongst others the following have applied to be accredited bodies Imiplo Pleace of Safety, Johannesburg Child Welfare, Cape Town Child Welfare, Ondersteuningsraad, AFM ABBA Adoptions etc.

Answer: The South African Central Authority performs the following:

- a) collect, preserve and exchange information with other Central Authorities about the situation of the child and the prospective adoptive parents, so far as is necessary to complete the adoption;
- b) facilitate, follow and expedite proceedings with a view to obtaining the adoption;
- c) promote the development of adoption counselling and post-adoption services and ;
- d) provide reports to other Central Authorities as requested.

1.2 Public authorities and competent authorities

Describe briefly the role of any public authorities and competent authorities including courts (e.g., see Arts 4, 5, 9 and 22).

Answer: Courts - Every magistrate's court is regarded as the children's court and have jurisdiction on any matter arising from the application of the Children's Act 38 of 2005Act

jurisdiction.

- Every magistrate is a presiding officer of a children's court.

- A children's court may adjudicate any matter, involving- (a) the protection and well-being of a child; (b) the care of, or contact with, a child; (c) paternity of a child;(d) support of a child; (e) the provision of the following:

- (i) early childhood development services; or
- (ii) prevention or early intervention services;
- (f) maltreatment, abuse, neglect, degradation or exploitation of a child, except criminal prosecutions in this regard;
- (g) the temporary safe care of a child;
- (h) alternative care of a child;
- (i) the adoption of a child including an intercountry adoption
- (j) a child and youth care centre, a partial care facility or a shelter or drop-in centre, or any other facility purporting to be a care facility for children;
- (k) any other matter relating to the care, protection or well-being of a child provided for in this Act.

- The Children's court may make the followin orders:

- (a) An alternative care order, which includes '5n order placing a child-
 - (i) in the care of a person designated by the court to be the foster parent of the child;
 - (ii) in the care of a child and youth care centre; or
 - (iii) in temporary safe care;
- (b) an order placing a child in a child-headed household in the care of the child heading the household under the supervision of an adult person designated by the court;
- © an adoption order, which includes an inter-country adoption order;
- (d) a partial care order instructing the parent or care-giver of the child to make 35 arrangements with a partial care facility to take care of the child during specific hours of the day or night or for a specific period;
- (e) a shared care order instructing different care-givers or child and youth care centres to take responsibility for the care of the child at different times or periods;
- (f) a supervision order, placing a child, or the parent or care-giver of a child, or both the child and the parent or care-giver, under the supervision of a social worker or other person designated by the court;
- (g) an order subjecting a child, a parent or care-giver of a child, or any person
 - (i) early intervention services;
 - (ii) a family preservation programme; or

- (iii) both early intervention services and a family preservation programme;
- a child protection order, which includes an order-
- (i) that a child remains in, be released from, or returned to the care of a person, subject to conditions imposed by the court;
- (ii) giving consent to medical treatment of, or to an operation to be performed on, a child;
- (iii) instructing a parent or care-giver of a child to undergo professional counselling, or to participate in mediation, a family group conference, or other appropriate problem-solving forum;
- (iv) instructing a child or other person involved in the matter concerning the child to participate in a professional assessment;
- (v) instructing a hospital to retain a child who on reasonable grounds is suspected of having been subjected to abuse or deliberate neglect, pending further inquiry
- (vi) instructing a person to undergo a specified skills development, training, treatment or rehabilitation programme where this is necessary for the protection or well-being of a child;
- (vii) instructing a person who has failed to fulfil a statutory duty towards a child to appear before a court and to give reasons for the failure.
- (viii) instructing an organ of state to assist a child in obtaining access to a public service to which the child is entitled, failing which, to appear through its representative before the court and to give reasons for the failure;
- (i) a contribution order

Answer: Legal Aid: Legal Representation of children - Where a child involved in a matter before the children's court is not represented by a legal representative, and the court is of the opinion that it would be in the best interests of the child to have legal representation, the court must refer the matter to the Legal Aid South Africa.

Additional information from the Department of Justice and Constitutional Development:

As far as intercountry adoptions and our Children's Courts are concerned the following may be mentioned:

1. These adoptions are regarded as adoptions first and foremost.
2. The procedures specified in the Hague Convention provide protections so that children are not lost in the process.
3. South African legislation goes further and provides additional protections under its Constitutional and legislative provisions.
4. Each adoption is dealt with under the provisions in our Children's Act and in our Children's Courts.
5. The Hague Convention forms part of our law.
6. Reports in respect of the adoption have to be made available to the Central Authority of the RS.
7. Adoptions can also take place between member states and non-member states.

The Children's Act, 2005 (Act No 38 of 2005), came into operation on 1 April 2010. Chapter 16 of this Act provides for the regulation of Inter-country Adoptions. In terms of section 254 of the Act concerned, the purposes of this Chapter are-

- (a) to give effect to the Hague Convention on Inter-country Adoption;
- (b) to provide for the recognition of certain foreign adoptions;
- (c) to find fit and proper adoptive parents for an adoptable child; and
- (d) generally to regulate inter-country adoptions.

In terms of section 257 of the Children's Act, 2005, for the purposes of the Hague

- Convention on Inter-country Adoption, "Central Authority"-
- (a) in relation to the Republic of South Africa, means the Director-General of the Department of Social Development; or
 - (b) in relation to a convention country, means a person or office designated by such convention country under Article 6 of the Hague Convention on Inter-country Adoption.

The Director-General of Social Development, after consultation with the Director-General: Justice and Constitutional Development must perform the functions assigned by the Convention to Central Authorities.

Furthermore, section 24 of the Children's Act, 2005, provides that any person having an interest in the care, well-being and development of a child, may apply to the High Court for an order granting guardianship of the child to the applicant. When considering such an application, the court must take into account-

- (a) the best interests of the child;
- (b) the relationship between the applicant and the child, and any other relevant person and the child; and
- (c) any other fact that should, in the opinion of the court, be taken into account.

The section further provides that in the event of a person applying for guardianship of a child that already has a guardian; the applicant must submit reasons as to why the child's existing guardian is not suitable to have guardianship in respect of the child.

Section 25 of the Act further provides that when application is made in terms of section 24 by a non-South African citizen for guardianship of a child, the application must be regarded as an inter-country adoption for the purposes of the Hague Convention on Inter-country Adoption and Chapter 16 of this Act.

Chapter 4 of the Children's Act, 2005, provides for the establishment and jurisdiction of Children's Courts.

Section 42 of the Act provides that every magistrate's court, as defined in the Magistrates' Courts Act, 1944 (Act No 32 of 1944), shall be a children's court and shall have jurisdiction on any matter arising from the application of this Act for the area of its jurisdiction. The Act further provides that every magistrate shall be a presiding officer of a children's court and every additional magistrate shall be an assistant presiding officer of a children's court for the district of which he is Magistrate, additional magistrate or assistant magistrate. There are 384 Magistrates' Courts in 9 provinces in the RSA at this point in time.

Section 45 of the Act further provides that a children's court may adjudicate any matter, involving, amongst others, the adoption of a child, including an inter-country adoption.

A children's court may further try and convict a person for non-compliance with an order of a children's court or contempt of such a court; but may not try or convict a person in respect of a criminal charge except for non-compliance with a children's court order or contempt of such a court; and is bound by the law as applicable to magistrate's courts when exercising criminal jurisdiction in terms of the above.

However, nothing in the Act shall be construed as limiting the inherent jurisdiction of the High Court as upper guardian of all children. This therefore means that matters relating to Inter-country Adoptions will also be able to be heard in the

High Courts.

In terms of section 46 of the Children's Act, 2005, a children's court may make the following orders, including, amongst others an adoption order, which includes an inter-country adoption order.

1.3 Bodies / Persons involved in the adoption process

a) Under Article 13 (national accredited bodies):

If your State has accredited its own adoption bodies, please indicate the number and describe their role.

Answer: Currenly busy with the process of accreditation which will be complete mid 2010. Amongst others the following have applied to be accredited bodies Imiplo Pleace of Safety, Johannesburg Child Welfare, Cape Town Child Welfare, Ondersteuningsraad, AFM ABBA Adoptions etc.

b) Under Article 12 (authorised foreign accredited bodies):

i. If your State has authorised any foreign accredited bodies to work with, or work in, your State please indicate the number and describe their role.

Answer: Currenly busy with the process of accreditation which will be complete mid 2010

ii. Is the Permanent Bureau informed of the names and contact details of the foreign accredited bodies authorised to work with, or work in, your State?

Answer: Not yet, refer to "b" above

c) Under Article 22(2) (approved (non-accredited) persons):

Please indicate if your State permits the activity of approved (non-accredited) persons or whether your State has made a declaration against the involvement in your intercountry adoptions of such persons (as mentioned in Art. 22(4)).

Answer: All intercountry adoptions will be handled by Accredited persons

1.4 Accreditation and authorisation

Did your State complete the Questionnaire of 2009 on accredited bodies? If so, the Permanent Bureau will provide the link to your response on its website.

Answer: Yes

1.4.1 Accreditation (Arts 10-11)¹

If your State has accredited its own adoption bodies:

a) Are they involved with national adoptions or intercountry adoptions or both?

Answer: They will either be involved in national or intercountry adoptions or both programmes.

b) What is the name of the authority / body responsible for accreditation of national adoption bodies?

National Department of Social Development

c) Describe briefly the process of granting accreditation to national bodies and the most important accreditation criteria. Provide a link to more detailed information.

Answer: The Regulations 108 of the Children's Act articulates the process of

¹ "Accreditation" is the procedure to license adoption agencies according to the standards in the Convention so they may assist in arranging Convention adoptions. Adoption agencies with accreditation are "accredited bodies".

granting accreditation . Any adoption social worker who has registered a speciality in adoption services in terms of the Social Service Professions Act, 1978 (Act no. 110 of 1978) and any organisation designated as a child protection organisation in terms of section 107 of the Act may apply for accreditation in terms of section 251(1) of the Act.

A child protection organisation seeking accreditation to provide national and Intercountry adoption services must:

- be designated as a child protection organization in terms of Section 107 of the Regulations of the Children's Act
- pursue only non-profit making objectives and have sound financial standing to enable them to render adoption services;
- have a clearly-delineated organisational structure and resources to make adoption arrangements, a written policy and working procedures regulating the adoption work of the organisation;
- have experience in providing child care and protection services;
- be staffed by social workers experienced and registered in accordance with the South African Social Service Professions Act, to undertake adoption services;
- have a board set up by the management of the agency to monitor adoption work of the organization;
- have a good track record in providing adoption services or other child care and protection services;
- not have any member of the board, management or staff with criminal record/s or conviction for offences against children (check Child Protection Register and Sexual Offences Register);
- adhere to all the requirements of the child care legislation in making adoption arrangements;
- have a mechanism in place to handle complaints arising from adoption service provided;
- submit latest audited financial statements and progress report annually to the DSD National;
- not have any member of the board, management and staff with criminal record or conviction for financial offences (Police clearance);
- declare any known pending criminal cases and convictions against any member attached to the organisation;
- submit one application for accreditation including all branches of the organisation rendering adoption services; and
- meet any other requirements deemed necessary by DSD.
- In case of emerging organizations that have not rendered adoption services before, the accreditation panel will use its discretion to evaluate and make recommendation;

1.4.2 Authorisation (Art. 12)²

- a) Provide details of the authority / body responsible for authorisation of foreign accredited bodies to work with, or work in, your State.

² "Authorisation" is the procedure required by the Convention when an accredited body (usually in a receiving State) wishes to work in or with another country (the State of origin). Both States must give their authorisation.

Answer: South African Central Authority on Intercountry Adoptions
Department of Social Development
P/Bag X 901
Pretoria 0001

- b) Does your State use any special criteria or conditions to decide on a request for authorisation? Please provide a copy of the criteria or a link to more detailed information

Answer: Yes, the foreign organisation must first be accredited in its country of origin.

- c) If your State does not use special criteria to make a decision, on what basis are decisions of authorisation made?

Answer: N/a

- d) Describe briefly the process of authorisation of foreign accredited bodies.

The foreign organisation must first be accredited in its country of origin must provide the South African Central Authority with the proof thereof and their profile.

- e) Describe the tasks entrusted to the foreign accredited bodies.

Answer: The Central Authority of South Africa will not enter into an adoption working agreement with a foreign country that supports any of the following:

- individuals approved by their government or Central/Competent Authority, as suitable adoptive parents visiting Child and Youth Care Centres to find adoptable children;
- Pre- identification of children in Child and Youth Care Centres
- interest in adopting children from all countries.
- institutional instability e.g. institutions that are not credible
- corruption, child trafficking, and abduction
- inconsistency of ethical standards.
- advertisement of adoptable children on the internet
- discrimination of children
- privately arranged adoption by unauthorized individuals and organisations
- making business out of inter-country adoption and
- inter-country adoption to and from countries experiencing crises such as war, natural disaster, economic and political instability

- f) Is it mandatory for the foreign accredited bodies to have a "representative"? What functions does that person perform?

Answer: No

2. CHILDREN PROPOSED FOR ADOPTION

- a) In your State, what is the average profile of the child in need of intercountry adoption (*e.g.*, age, sex, state of health)?

Answer: Age- 5 years

Sex - both males and females

State of health - healthy and including children with special needs.

- b) If your State places any limits on the number of Prospective Adoptive Parents files accepted from receiving States, on what basis are those limits decided?

Answer: There are no limits.

2.1 Adoptability of a child (Art. 4 a))

- a) Which authority is responsible for establishing that a child is adoptable?

Answer: South African Central Authority

b) What are the conditions or criteria to establish that a child is adoptable?

Answer: A child is adoptable if

- (a) the child is an orphan and has no guardian or caregiver who is willing to adopt the child;
- (b) the whereabouts of the child's parent or guardian cannot be established;
- (c) the child has been abandoned;
- (d) the child's parent or guardian has abused or deliberately neglected the child, or has allowed the child to be abused or deliberately neglected; or
- (e) the child is in need of a permanent alternative placement.

c) Describe any procedures directed at establishing whether or not a child is adoptable, such as the search for the birth family and use of a central register of adoptable children.

Answer: The Department will keep and maintain a register to be called the Register on Adoptable Children and Prospective Adoptive Parents for the purpose of keeping a record of adoptable children. This is in line with Section 232. (1) of the Children's Act which states that " The Director-General must keep and maintain a register to be called the Register on Adoptable Children and Prospective Adoptive Parents for the purpose of-

- (a) keeping a record of adoptable children; and
- (b) keeping a record of fit and proper adoptive parents.

2.2 Best interests and subsidiarity principles (Art. 4 b))

Which authority determines, after considering the subsidiarity principle, that an intercountry adoption is in the child's best interests? How is that decision reached (e.g., by using certain legal criteria) and at what stage of the procedure?

Answer: South African Central Authority determines after considering the subsidiarity principle that an intercountry adoption is in the best interest of the child, after trying to place the child locally.

2.3 Counselling and consent (Art. 4 c) and d))

a) Describe the procedure for counselling and informing the birth mother / family about the consequences of the adoption and obtaining their consent.

Answer: Counselling sessions are being held with the birth mothers about the consequences of the adoption and getting consent to give the child for adoption

b) Describe the circumstances in which the child's consent to the adoption is required.

Answer: A child may be adopted only if consent for the adoption has been given by-the child, if the child is- (i) 10 years of age or older; or

(ii) under the age of 10 years, but is of an age, maturity and stage of development to understand the implications of such consent. This is in line with Section 233 of the Children's Act.

2.4 Children with special needs

a) Describe what is meant by "children with special needs" in your State.

Answer: Children with special needs are children with physical and mental disabilities, HIV positive children and children with chronic illnesses

b) What, if any, procedures do you have to expedite the adoption of children with special needs?

Answer: There is no procedure to expedite the adoption of children with special needs, the procedure is the same with other children.

2.5 Preparation of the child

a) If there is a procedure for the preparation of the child for the adoption, please provide details.

Answer: Age appropriate counselling is provided to the child regarding the adoption intention

b) At what stage(s) is the preparation done? Who does it?

Answer: This depend on the age of the child and this is done during the assessment of the adoptability of the child.

3. PROSPECTIVE ADOPTIVE PARENTS (PAPs)

3.1 Eligibility criteria for foreign PAPs

a) Profile of PAPs

Married couples		Yes	If yes, are any conditions imposed (e.g., length of marriage)? No conditions are imposed
Unmarried couples or registered partnership		Yes	If yes, are any conditions imposed (e.g., length of the relationship)? Length of relationship is considered
Single person	Woman	Yes	If yes, are any conditions imposed? Should have a strong support system and a stable lifestyle
	Man	Yes	If yes, are any conditions imposed? Should have a strong support system and a stable lifestyle. This is not a priority target group.
Same sex couples		Yes	If yes, are any conditions imposed? Length and stability in the relationship is considered. This is not a priority target group.

b) Age requirements

Minimum age	Yes	If yes, please specify above 18 years of age
Maximum age	No	If yes, please specify
Difference (in years) required between the PAPs and the child:	No	If yes, please specify

c) Other criteria

Couples with children (biological or	Yes	If yes, are any conditions
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adopted)	imposed? No
Infertility certificate	No
Other	Yes / If yes, please specify Police clearance certificate Proof of citizenship/residency

3.2 Preparation and counselling of PAPs

Does your State require that PAPs in the receiving State have preparation and / or counselling about intercountry adoption?

Answer: Yes, the Central Authority require that PAPs in the receiving state to have been prepared and counselled on intercountry adoption.

4. DOCUMENTS REQUIRED TO SUBMIT AN APPLICATION TO ADOPT

a) To which authority / body is the PAPs adoption file submitted?
Central Authority of the Country of origin

b) Please indicate whether the following documents are required:

- An application form for adoption completed by the PAPs
- A statement of "approval to adopt" issued by a competent authority
- Report on the PAPs including the "Home study" and other personal evaluations (Art. 15)
- Copies of passports of PAPs or other personal identification documents
- Copies of birth certificates of PAPs and of other children residing with them
- A copy of the marriage certificate (if married couple), divorce certificate (if either or both of the PAPs is divorced) or death certificate of the spouse (if one of the PAPs is widowed)
- Health certificates
- Evidence of the financial circumstances of the family
- Employment certificate
- Proof of no criminal record

Please specify any other documents that are required:

c) If applicants apply through an accredited body, are the following documents required?

- Power of attorney issued by the family to the accredited body (e.g., a contract signed by an accredited body and the PAPs)
- A document issued by a competent authority of the receiving State and certifying that the accredited body may engage in intercountry adoption

4.1 Language(s) in which the documents must be submitted

Please specify.

Answer: English

4.2 Legalisation / Authentication

- a) Which documents need to be legalised?
Answer: South Africa is using the Children's Act 38 of 2005 as amended.
- b) Is your State a party to the *Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents* (Hague Apostille Convention)?
Answer: No.

According to the RSA Department of International Relations and Co-operation, the RSA has not signed this Convention as yet.

5. THE ADOPTION PROCEDURE

5.1 Report on the child (Art. 16(1) a))

- a) Who prepares it?
Answer: Adoption social worker.
- b) What information is or should be included?
Answer: The adoption social worker prepares a report including information about child's identity, adoptability, background, social environment, family history, medical history including that of the child's family, and any special needs of the child;
- c) What documents does it contain?
Answer: A child study report with the following information shall be prepared by a professional social worker or experienced personnel who are supervised by such qualified workers of a Competent Authority:
- Identifying particulars
 - Historical background
 - Medical history
 - Family relations
 - Police report
 - Affidavit
- d) Is there a standard form used by your State for the report?
Answer: No
- e) Does your State use the "Model Form – Medical Report on the Child" and the "Supplement to the general medical report on the child" (see Guide to Good Practice No 1 – Annex 7, available on Hague Conference website)?
Answer: Yes
- f) After the matching is accepted, do the PAPs receive regular information about the child and his / her development during the adoption procedure? If yes, who is responsible for providing the information?
Answer: Yes, adoption social worker.

5.2 PAPs report (Art. 15(2))

- a) For how long is the report valid in your State?
Answer: There is no time frame regarding the validity of the Prospective Adoptive Parents report.
- b) Who receives the PAPs request (including "home study", report and other documents)?
Answer: South African Central Authority receives.

5.3 Matching of the child and the PAPs (Art. 16(1) d) and (2))

- a) Who is responsible for the matching of the child and the PAPs?
Answer: Child Protection Organisations.
- b) Is preference given to PAPs who have a close connection with your State (e.g., citizens who have migrated to a receiving State)?
Answer: No preference is not given to PAP who have a close connection with South Arica, rather preference is made on the needs of the child and the availability of the PAP.
- c) Who notifies the receiving State of the matching?
Answer: Child Protection Organisations.

5.4 Acceptance of the match (Arts 17 a) and b))

- a) How much time is allowed for the PAPs to decide to accept the match?
Answer: There is no time frame
- b) Does your State require the matching to be approved by the Central Authority of the receiving State and on what conditions?
Answer: No

5.5 Agreement under Article 17 c)

- a) Which is the competent authority / body that agrees whether the adoption may proceed?
Answer: South African Central Authority is the competent authority that agrees whether the adoption may proceed.
- b) When is this agreement given? For example, when the referral is sent? When the PAPs notify their acceptance?
Answer: After the background report of the child has been sent to the South African Central Authority, assessed the report and recommendation accepted for approval of Section 17.

5.6 Travel of the PAPs

- a) What, if any, requirements are imposed on the travel of PAPs to your State? If there are no restrictions, how does your State ensure that the prohibition on contact in Article 29 is respected?
Answer: The adoption social workers are ensuring the implementation of Article 29.
- b) Is it mandatory for one or both the PAPs to travel in person to your State to complete the adoption?
Answer: Yes.
- c) In what circumstances does your State permit an escort to be used to take the child to the adoptive parents in the receiving State?
Answer: Escorts are not allowed and used.
- d) When PAPs have to travel to your State, please specify:
- i. Number of trips required to complete the adoption procedure:
Answer: There are no limits regarding trips required to complete adoption procedure.
 - ii. How long they should stay for each trip?
Answer: There are no time frames with regards to the length of trips for the Prospective adoptive parents

- iii. At what stage(s) in the adoption process?
Answer: Finalisation of the adoption
- iv. Other conditions:
N/a

5.7 Entrustment of child to PAPs (Art. 17) and adoption decree / order

- a) Please describe the procedure, if any, to prepare the child for the first meeting with the adoptive parents?
Answer: The child protection organisations are the ones that prepare the children for the first meeting with adoptive parents.
- b) After the procedures in Article 17 are completed, what are the arrangements for the physical entrustment of the child to the PAPs?
Answer: The child protection organisations are responsible for these arrangements.
- c) Is the adoption order / decree made in your State or in the receiving State?
Answer: The adoption order is made in South Africa.
- d) If made in your State, for how long is the child placed in the care of the PAPs before the final adoption order / decree is made? Is it permanent or temporary care, full-time or part time care?
Answer: Temporary care as this is depended on the date the matter will be finalised.
- e) If made in the receiving State, what procedures does your State require for the entrustment of the child and the completion of the adoption?
N/a

5.8 Transfer of child to receiving State (Arts 5 c) and 18)

Are there any procedures in your State concerning the transfer of the child?
Answer: After the Registrar of Adoption has registered the adoption, the parents are being sent to the Department of Home Affairs to make name changes. Thereafter they will be approaching the Department of International Relations for visa applications and permit application to the receiving state.

This is in line with Section 245 which states that after an adoption order has been made by a children's court in respect of a child whose birth has been registered in the Republic, the adoptive parent of the child must apply in terms of the applicable law to the Director-General: Home Affairs to record the adoption and any change of surname of the child in the births register.

5.9 Certificate under Article 23

- a) What is the competent authority for issuing the certificate under Article 23 in cases where the adoption order / decree is issued in your State?
Answer: The South African Central Authority
- b) Have the details of the competent authority been sent to the Convention's depositary³ (as required by Art. 23(2)) or to the Permanent Bureau?
Answer: Yes

³ The depositary of the Convention is the Ministry of Foreign Affairs of the Kingdom of the Netherlands (Art. 43(2)).

- c) Does your State use the "Recommended model form – Certificate of conformity of intercountry adoption" (see Guide to Good Practice No 1 – Annex 7, available on the Hague Conference website)?

Answer: Yes

- d) Describe the procedure for issuing the certificate. For example, is a copy given automatically to the PAPs? Is a copy sent to the Central Authority of the receiving State? How long does it take to issue the certificate?

Answer: A copy is given to the Prospective adoptive parents for submission to the Central Authorities of the receiving states.

5.10 Duration of adoption procedure

Indicate the average time taken for the different stages of the procedure, beginning with the decision that the child is adoptable.

Answer: 12 months.

6. ADOPTION OF A RELATIVE CHILD (INTRA-FAMILY ADOPTION)

- a) Explain what is meant by "relative child" in your State.

Answer: Family adoption or related adoption involving the child with a related person.

- b) In what circumstances does your State allow the adoption of a child by relatives of the child who are habitually resident in another State?

Answer: There are no restrictions.

- c) Does your State apply procedures of the Convention to such adoptions?

Answer: No

7. POST-ADOPTION MATTERS

7.1 Post-adoption reports

- a) Describe the requirements of your State for post-adoption reports:

- i. Frequency (how many per year?):

Answer: Annually

- ii. Period (until what age of child?):

Answer: The post adoption reports are expected for a period of 5 yrs not according to the age of the child.

- iii. Language:

Answer: Reports must be written in English

- iv. Who should write it?

Answer: The child protection organisation of the receiving state.

- v. Other requirements:

N/a

- b) Is your State satisfied with the response of receiving States to your requirements for post-adoption reports? Please provide comments.

Yes, the receiving states are satisfied with the requirements of the post adoption reports and we also do country visits if possible to ensure post adoption placements.

7.2 Preservation and availability of information (Art. 30)

- a) Which authority is responsible for preserving the information concerning the

child's origins (Art. 30(1))?

Answer: South African Central Authority. This is in line with 247 which states that a person designated by the Director-General as the adoption registrar must, in the prescribed manner, record information pertaining to and keep a register of-

- (a) the registration numbers allocated to records of adoption cases;
- (b) the personal details of adopted children, of their biological parents and of their 3 adoptive parents;
- (c) particulars of successful appeals against and rescissions of adoption orders; and
- (d) all other prescribed information in connection with adoptions.

b) Where are the records kept and for how long?

Answer: Records are kept in the Adoption Register of the Department of Social Development.

c) In your State, does the law permit the adopted person to have access to this information? If yes, is there any age or other restriction?

Answer: Yes, when the child is above the age of 18 years as according to Section 248(1) b.

d) Are the biological parents or the adoptive parents permitted to have access to information about the adoption (see Art. 9 a) and c))?

Answer: Access is given to the adoptive parent of an adopted child after the child has reached the age of 18 years and to biological parent or a previous adoptive parent of an adopted child after the child has reached the age of 18 years, but only if the adoptive parent give their consent in writing.

e) What, if any, assistance does the Central Authority or another body give to the adopted person or the biological or adoptive parents to obtain access to that information? Is there a special procedure for accessing this information?

Answer: Counselling is provided in terms of Section 248 (2) where it state that the Director-General may require a person to receive counselling before disclosing any information contained in the adoption register to that person

f) What, if any, assistance is given to adopted persons to search for their origins?

Answer: Counselling is provided in terms of Section 248 (2) where it state that the Director-General may require a person to receive counselling before disclosing any information contained in the adoption register to that person

8. COSTS OF INTERCOUNTRY ADOPTION IN YOUR STATE

a) Are adoption costs or fees controlled by law and / or regulated by a public authority in your State? If yes, please provide a link to this information.

Answer: They are controlled by the Regulations of the Childre's Act 38 of 2005.

b) Is there a standard or fixed fee charged by the Central Authority or accredited body for the adoption? What services are covered by this fee?

Answer: The following fees, which must be reviewed annually, must be paid to an accredited child protection organisation in respect of an inter-country adoption:

SERVICE	MAXIMUM AMOUNT
(a) Group orientation	R250, 00 per session;
(b) Interview/counselling	R250, 00 per hour;
(c) Home visits	R400, 00 per hour;
(d) Home study report	R500, 00 per report;
(e) Court processes	R500, 00 per day;
(f) Birth registration	R170, 00 per hour;
(g) Administration costs	R170, 00 per hour;
(h) After-care services	R500, 00 once-off payment; and
(i) Origin enquiry/tracing	R200, 00 per hour.

- c) Is there a fixed amount required for a mandatory contribution? What is this contribution used for? Who receives it?
 Answer: No there is no mandatory contribution.
- d) Is it mandatory for the receiving State (Central Authority or accredited bodies) to undertake humanitarian projects in your State as a condition of engaging in intercountry adoption? Do you supervise these projects?
 Answer: No, receiving states are not expected to undertake humanitarian projects as condition of engaging in intercountry adoption.
- e) Does your State impose any other type of fee or cost on the foreign accredited bodies to work with, or work in, your State? Please provide details.
 Answer: No, nothing is expected from the foreign accredited bodies.
- f) What is the normal range of costs for an adoption (*i.e.*, the minimum to the maximum cost)?
 Answer: Depending on the number of sessions please refer to "B" above.
- g) Does your State permit PAPs to make donations to an orphanage or institution? If yes, at what stage of the adoption procedure?
 Answer: No
- h) Other costs: Please complete the Table of Costs at Annex 1.⁴

9. IMPROPER FINANCIAL GAIN (ARTS 8 AND 32)

- a) Which authority is responsible for preventing improper financial gain as required by the Convention?
 Answer: South African Central Authority
- b) What measures are taken to prevent improper financial gain?
 Answer: Audited financial statements of accredited organisations must be submitted to the Central Authority for control and monitoring purposes.
- c) Have there been any prosecutions for improper financial gain related to adoption? If so, were the prosecutions successful?
 Answer: No.

10. NATIONAL LEGISLATION

Identify the legislation in your State on international adoption and provide (if available) a link to the text of the legislation.
 Answer: Children's Act 38 of 2005, Chapter 16 on Intercountry Adoptions.
 The purposes of this Chapter are to give effect to the Hague Convention on Intercountry Adoption; provide for the recognition of certain foreign adoptions; to find proper adoptive parents for an adoptable child; and generally to regulate intercountry adoptions

11. OTHER HAGUE CONVENTIONS

If your State is involved in international foster care placements or placements by *kafala*, the *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children* may be used. Is your State a party to this Convention?
 Answer: No

⁴ The Table of Costs is taken from the Guide to Good Practice No 2: Accreditation and Accredited Bodies, Chapter 8.

12. SELECTION OF PARTNERS IN INTERCOUNTRY ADOPTION

a) On what basis does your State select a receiving State as a partner in intercountry adoption?

Answer: This is depended on the previous relations and requests of the receiving

b) Are there any formalities required to confirm a partnership?

Answer: Yes

13. OTHER QUESTIONS

a) What measures does your State provide to protect children without parental protection (e.g., institutional care, kinship care or care by the extended family, foster home, *kafala*, national and international adoption)?

Answer: The state provide the following:

- (i) early childhood development services; or
- (ii) prevention or early intervention services;
- (iii) maltreatment, abuse, neglect, degradation or exploitation of a child
- (iv) the temporary safe care of a child;
- (v) alternative care of a child;

a child and youth care centre, a partial care facility or a shelter or drop-in centre, or any other facility purporting to be a care facility for children; or

(vi) adoption of a child, including an inter-country adoption

b) Statistics:

- Does your State collect statistical data relating to adoption (national or international)?

Answer: Yes

- Are your statistics on a publicly available website? If yes, please provide the link. If not, how can you provide access to your statistics?

Answer: The statistics is not publicly available it is provided on request to the Central Authority.

- Please complete the "Annual adoption statistics for States of origin" form (Prel. Doc. No 5) for the last five years. In the future, States will be asked to complete this form on an annual basis.

14. USEFUL ELECTRONIC LINKS

Provide electronic links to important and useful information about adoption and intercountry adoption in your State.

www.dsd.gov.za

Annex 1

States of origin costs in the field of intercountry adoption

Please provide details of following:

1. Expenses incurred in the State of origin

This category includes all the expenses incurred in the State of origin except the PAPs' accommodation and transport costs. These are:

- Administration and co-ordination costs;
- Legal costs (notary, lawyer, court and motion costs);
- Doctor's fees for the child's medical record;
- Translation costs;
- Costs of the child's maintenance;
- Costs for updating of records;
- Other costs:
please specify.

2. Contributions to humanitarian aid projects or donations

- Contribution may be made for humanitarian-aid projects and / or donations to orphanages or other public or private institutions connected with child protection. They may also be imposed by the accredited bodies themselves;
- Mandatory contribution to government / Central Authority;
- Mandatory contribution to child welfare home / public or private institution;
- Other contribution:
please specify;
- Donation.