

ADOPTION

Projet d'ordre du jour détaillé
Detailed draft agenda

juin / June 2010



PROJET D'ORDRE DU JOUR DÉTAILLÉ

proposé par le Bureau Permanent

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DETAILED DRAFT AGENDA

proposed by the Permanent Bureau

*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*

*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*

PROJET D'ORDRE DU JOUR DETAILLÉ

proposé par le Bureau Permanent

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DETAILED DRAFT AGENDA

proposed by the Permanent Bureau

**Detailed draft agenda for the Special Commission of 17 to 25 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**

proposed by the Permanent Bureau

**Academy Building of the Peace Palace
Carnegieplein
The Hague**

Note

This agenda is a draft agenda. It will be treated with some flexibility and may need to be modified in the light of continuing discussions in the Special Commission. Furthermore, it does not contain a comprehensive list of issues arising under the Convention, but attempts to draw attention to those issues needing most discussion.

The objective of the Special Commission is to review the practical operation of the 1993 Convention and to achieve consensus on the main elements of a Guide to Good Practice on Accreditation and Adoption Accredited Bodies. The one day discussion on the abduction, sale and traffic in children in the context of intercountry adoption on the first day, 17 June 2010, does not, however, follow the usual format of a Special Commission review, as some independent experts have been invited to speak on this subject. There will be a period of discussion after the presentations, one aim being to find common ground in responding to such cases.

In relation to the draft Guide to Good Practice on Accreditation and Adoption Accredited Bodies, the discussion will take place on Friday and Saturday morning, 18-19 June. It is not intended that the Special Commission should engage in detailed drafting for the Guide but rather consider its contents from the point of view of Convention obligations, general principles and possible good practices and make suggestions for further improvements.

It is proposed that the sessions will last from **9.30 a.m. to 1.00 p.m.** and **2.30 to 6.00 p.m.**, with lunch breaks from 1.00 to 2.30 pm and breaks for coffee / tea normally from 11.00 to 11.15 a.m. and 4.00 to 4.15 p.m.

**THURSDAY 17 JUNE 2010 ABDUCTION, SALE AND TRAFFIC IN CHILDREN IN
THE CONTEXT OF INTERCOUNTRY ADOPTION**

- 8.30-9.30 a.m.** Registration of participants
- Morning session**
9.30 a.m. -
1.00 p.m
- Opening of the Special Commission by Mr Teun Struycken, President of the Netherlands Standing Government Committee on Private International Law
- Election of the Chair of the Special Commission
- Words of welcome by Mr Hans van Loon, Secretary General of the Hague Conference on Private International Law
- Introduction to draft agenda and documentation by Ms Jennifer Degeling, Secretary at the Permanent Bureau
- Adoption of the agenda
- A brief analysis of Questionnaire responses on abduction, sale and trafficking by the Permanent Bureau
- Presentation: A global perspective on trafficking: Professor David Smolin, United States of America (approx. 30 mins)
- Presentation: An African perspective on trafficking: Dr Benyam Mezmur, Ethiopia (approx. 20 mins)
- Plenary discussion
- 1.00-2.30 p.m.** **Lunch break**
- Afternoon session**
2.30-6.00 p.m.
- Documentary film: Paper orphans
- Introduction by Mr Joseph Aguetant, Terre des hommes Foundation in Nepal (approx. 20 mins)
- Showing of documentary
- Presentation: Investigating the grey zones of intercountry adoption: Mr Hervé Boéchat, International Social Service (approx. 20 mins)
- Plenary discussion and discussion of possible conclusions for this day
- 6.00-7.30 p.m.** **Welcome reception offered by the Permanent Bureau, to be held at the Academy Building**

FRIDAY 18 JUNE 2010

**DRAFT GUIDE TO GOOD PRACTICE ON
ACCREDITATION*****Morning session******9.30 a.m.-******1.00 p.m***

Introduction by the Permanent Bureau

General statements or comments by experts on the draft Guide as a whole

Chapter by chapter review of the draft Guide

1.00-2.30 p.m.***Lunch break******Afternoon session******2.30-6.00 p.m.***

Chapter by chapter review of the draft Guide (cont.)

SATURDAY 19 JUNE 2010

**DRAFT GUIDE TO GOOD PRACTICE ON
ACCREDITATION*****Morning session******only 9.30 a.m.-******1.00 p.m***

Chapter by chapter review of the draft Guide (cont.)

MONDAY 21 JUNE TO
FRIDAY 25 JUNE 2010**REVIEW OF THE PRACTICAL OPERATION OF THE
CONVENTION**

MONDAY 21 JUNE 2010

**GENERAL INTRODUCTION; APPLYING THE
SAFEGUARDS OF THE CONVENTION*****Morning session******9.30 a.m.-******1.00 p.m***

Opening statements by experts on developments of particular interest in their States

Presentation: Setting the scene – current trends and statistics in intercountry adoption: Professor Peter Selman, United Kingdom

Applying the safeguards of the Convention**1. Subsidiarity (Art. 4 b))**

- a) the experience of States of origin with limited solutions for children in need of families
- b) adoption of babies – should there be a minimum age?
- c) the role of birth mothers in the selection of prospective adoptive parents

2. Establishing whether a child is adoptable (Art. 4 a))

- a) clear criteria
- b) a transparent procedure
- c) decision taken by an independent and professional person or body

3. Consents to the adoption (Art. 4 c) and 4 d))

- a) informed consents
- b) counselling of birth parents
- c) abuses regarding consents

1.00-2.30 p.m. Lunch break

**Afternoon session
2.30-6.00 p.m.**

4. Selection, counselling and preparation of the prospective adoptive parents (Arts 5 a), 5 b), 9 c), 15(1), 16(1) d), 17 d))

- a) issues arising from responses to Preliminary Document No 3: Country Profiles
- b) responding to State of origin requirements for the selection and approval of the prospective adoptive parents
- c) managing the expectations of prospective adoptive parents

5. Agreements given under Article 17

- a) the importance of this requirement
- b) importance of Article 17 c) and its connection with Article 23
- c) importance of ensuring child's right of entry into receiving State before entrustment of child to adoptive parents

6. Financial aspects of intercountry adoption: issues not covered in discussion of draft Guide to Good Practice on Accreditation (days 2 and 3)

TUESDAY 22 JUNE 2010 CO-OPERATION ISSUES

**Morning session
9.30 a.m. -
1.00 p.m.**

7. Co-operation, communication and networking between Central Authorities

- a) obstacles to good communication and co-operation
- b) resource problems for some Central Authorities
- c) communication problems for countries which have multiple Central Authorities
- d) problems when proposals for child placement are sent directly to the adoption applicants
- e) responding to State of origin requirements for the family reports and the follow-up reports
- f) good practices to be followed in case of failed adoptions
- g) sharing of responsibilities between receiving States and States of origin

1.00-2.30 p.m. Lunch break

Afternoon session
2.30-6.00 p.m.

8. Intercountry adoption in the context of globalisation and international mobility

- a) Article 2 and the scope of the Convention, and the meaning of habitual residence
- b) application of the Convention to “intra-family” or “relative” adoptions
- c) adoption by persons who are nationals of the State of origin but habitually resident in another Convention State
- d) adoption by persons who are temporarily resident in a State of origin
- e) adoption by persons who are resident in, but not nationals of, the receiving State, and the nationality of the receiving State is a requirement to adopt
- f) adoption by persons who are habitually resident in, but not nationals of, the State of origin
- g) adoption by persons who are nationals of a third State (neither the State of origin nor the receiving State); what role does the State of nationality play?
- h) cases when the prospective adoptive parents change their place of residence during the adoption procedure

9. Co-operation (development aid) projects: setting the limits of ethical activity (issues not covered in discussion of draft Guide to Good Practice on Accreditation (days 2 and 3))

8.00 p.m.

Dinner at the Kurhaus Hotel, Scheveningen, offered by the Commissione per le Adozioni Internazionali to celebrate the tenth anniversary of the establishment of the Commissione

WEDNESDAY 23 JUNE 2010 ISSUES CONCERNING CONVENTION PROCEDURES

Morning session
9.30 a.m.-
1.00 p.m.

10. Certificate of conformity under Article 23

- a) the Article 23 certificate is essential to allow automatic recognition of adoptions made in accordance with the Convention
- b) some Contracting States have not designated an authority pursuant to Article 23(2) of the 1993 Hague Intercountry Adoption Convention
- c) sometimes an Article 23 certificate is difficult or impossible to obtain
- d) some certificates are not in conformity with the Convention, and are incomplete or incorrect
- e) Article 23 certificates have been issued for adoptions which were not made in accordance with the Convention
- f) in some countries the legislation does not refer to an Article 23 certificate and no certificate is issued
- g) how can the use of the recommended form be improved?

11. Recognition and effects of adoption (Arts 23 and 24)

- a) "recognition by operation of law" (Art. 23) means automatic recognition, therefore no additional procedure is required in a Convention country
- b) if a certificate is not issued in a State of origin, or is defective, what do receiving States do about it?
- c) some adoptions are commenced between two Convention States, but there is a defect in the procedure and the adoptions are finalised as non-Convention adoptions
- d) issues of citizenship for the adopted child in the receiving State

1.00-2.30 p.m. Lunch break

*Afternoon session
2.30-6.00 p.m.*

12. Private and independent adoptions

- a) what is allowed under the Convention and what is not?
- b) in what circumstances are these types of adoptions occurring?
- c) lack of awareness by some judges, lawyers and officials of the Convention rules and of basic principles and procedures of the child protection system
- d) in some Convention countries, private adoptions are still permitted under domestic law and are part of the daily practice

13. International surrogacy and intercountry adoption: connection and concerns

- a) examples of situations which have caused problems
- b) surrogate mother and intending parents living in different countries; uncertainty on the status of the child
- c) the relevance of the 1993 Hague Intercountry Adoption Convention

THURSDAY 24 JUNE 2010 LEARNING FROM EXPERIENCE

*Morning session
9.30 a.m. -
1.00 p.m*

14. Post-adoption issues

- a) how the views of adult adoptees might assist with improvements to procedures
- b) how the views of birth mothers might assist with improvements to procedures
- c) post-adoption support for adoptive parents – helping to prevent the breakdown of the adoption
- d) access to and preservation of adoption records; origin searching

15. Statistics: the role of the Permanent Bureau in their collection

- a) report on responses to Preliminary Document No 5 from States
- b) challenges for a centralised collection of statistics
- c) alternative approaches

16. Monitoring of the Convention

- a) the role of the Permanent Bureau
- b) responses to problem situations

1.00-2.30 p.m.

Lunch break

**Afternoon session
2.30-6.00 p.m.**

17. Technical assistance programme and other training programmes

- a) countries join the Convention without the necessary preparation: essential safeguards and Convention procedures are not in place
- b) examples of assistance provided and improvements achieved
- c) more training needed for all actors in the adoption procedure (including judges, police, diplomatic staff in Embassies)
- d) insufficient knowledge of the Convention in non-Contracting States

18. Dealing with non-Convention countries (*i.e.*, States of origin): a co-ordinated approach by Convention States; the role of bilateral agreements

- a) Recommendation No 11 of the 2000 Special Commission and No 19 of the 2005 Special Commission
- b) examples of a co-ordinated approach taken by receiving States
- c) current challenges with bilateral agreements
- d) minimum standards for bilateral agreements
- e) good practices for transition or pipeline cases (cases pending prior to the entry into force of the convention, or cases pending prior to a suspension of adoptions)

19. Response to disaster situations: a common approach

- a) the example of Haiti and the Asian tsunami
- b) different responses from States, organisations, or groups
- c) the measures to be taken for children in situations of natural disaster
- d) the 1994 Recommendations on Refugee Children (see also Hague Conference statements on Haiti and the tsunami)

20. The 1996 Convention on Protection of Children

- a) the relevance of the 1996 Child Protection Convention for situations not covered by the 1993 Hague Intercountry Adoption Convention
- b) international foster care, international institutional care or kafala

21. Any other matters

22. Future work priorities

- a) future parts of the Guide to Good Practice (see Recommendation No 2 of the 2005 Special Commission)
- b) Model or Recommended Forms: completion of work on model forms for Article 4 consent of child; Article 15 report on prospective adoptive parents; Article 16 report on the child (following Recommendation No 7 of the 2005 Special Commission, the Permanent Bureau has not had the resources to develop these forms)

FRIDAY 25 JUNE 2010

CONCLUSIONS AND RECOMMENDATIONS

***Morning session
only 9.30 a.m.-
1.00 p.m***

Conclusions and Recommendations of the Special Commission: discussion and agreement

1.00 p.m.

End of meeting

Note on procedures

Delegations to the Special Commission may, before or during the course of the meeting, wish to submit for circulation short written proposals, comments or documents containing information relevant to the proceedings. This may be done by providing the Permanent Bureau with a typed or clearly written copy of the proposal **as a Working Document or Information Document** in English or French (preferably both). Translations into Spanish are also welcome. This should clearly indicate which delegations are associated with the proposal / document. The Permanent Bureau staff will give assistance by setting up the documents in a standard form and distributing them as working documents or informational notes. The Permanent Bureau is unfortunately not in a position to provide translation of documents into English, French or Spanish.