**COUNTRY PROFILE**

**1993 HAGUE INTERCOUNTRY ADOPTION CONVENTION**[[1]](#footnote-1)

**RECEIVING STATE**

**COUNTRY NAME:** Australia

**PROFILE UPDATED ON:** November 2014

**PART I: CENTRAL AUTHORITY**

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| 1. Contact details[[2]](#footnote-2) | |
| Name of office: | Australian Central Authority,  Australian Government Attorney-General's Department |
| Acronyms used: | ACA  AGD |
| Address: | Robert Garran Offices  3-5 National Circuit  BARTON ACT 2600  AUSTRALIA |
| Telephone: | +61 2 6141 3217 |
| Fax: | +61 2 6141 3248 |
| E-mail: | intercountry.adoption@ag.gov.au |
| Website: | http://www.ag.gov.au/FamiliesAndMarriage/IntercountryAdoption |
| Contact person(s) and direct contact details (please indicate language(s) of communication): | Ms Kelly Williams  Assistant Secretary, Marriage and Intercountry Adoption Branch, Australian Government Attoney-General's Department  +61 2 6141 3217  English |
| *If your State has designated more than one Central Authority, please provide contact details for the further Central Authorities below and specify the territorial extent of their functions.*  Contact details for the state and territory central authorities:  New South Wales  Adoption and Permanent Care Services  Department of Family and Community Services  Website: http://www.community.nsw.gov.au/ - Adoptions and Permanent Care Services page  Call: +61 2 9716 3000  Fax: +61 2 9716 3001  Email: intercountryadoption@facs.nsw.gov.au  Victoria  Family Records and Intercountry Services  Department of Human Services  Website: http://www.dhs.vic.gov.au/ - Intercountry Adoption page  Call: +61 3 8608 5700  Fax: +61 3 8608 5770  Email: ICAS@dhs.vic.gov.au  Queensland  Adoption Services  Department of Communities, Child Safety and Disability Services  Website: http://www.qld.gov.au/community/ - Adoption page  Call: +61 7 3224 7415  Fax: +61 7 3210 0350  Email: ads@communities.qld.gov.au  Western Australia  Fostering and Adoption Services  Department for Child Protection and Family Support  Website: http://www.dcp.wa.gov.au/ - Fostering and adoption page  Call: +61 8 9259 3420 or 1800 622 258 (Western Australia only)  Fax: +61 8 9385 1920  Email: asc\_adoptions@cpfs.wa.gov.au  South Australia  Adoption and Family Information Service  Department for Education and Child Development  Website: http://www.adoptions.sa.gov.au/ - Adoption and Family Information Service page  Call: +61 8 8207 0060  Fax: +61 8 8207 0066  Email: adoptions@sa.gov.au  Tasmania  Adoption and Permanency Services  Department of Health and Human Services  Website: http://www.dhhs.tas.gov.au/ - Adoption and Permanency Services page  Call: +61 3 6233 2273  Fax: +61 3 6223 1343  Email: adoption.service@dhhs.tas.gov.au  Australian Capital Territory  Adoptions and Permanent Care Unit  ACT Community Services Directorate  Website: http://www.communityservices.act.gov.au/ - Adoptions and Permanent Care page  Call: +61 2 6207 1335  Fax: +61 2 6207 1020  Email: adoptions@act.gov.au  Northern Territory  Adoption Unit  Department of Children and Families  Website: http://www.childrenandfamilies.nt.gov.au/ - Adoption page  Call: +61 8 8922 5519  Fax: +61 8 8922 7480  Email: adoptions.THS@nt.gov.au | |

**PART II: RELEVANT LEGISLATION**

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| 1. The 1993 Hague Intercountry Adoption Convention and domestic legislation | |
| 1. When did the 1993 Hague Intercountry Adoption Convention enter into force in your State?   *This information is available on the* [*Status Table*](http://www.hcch.net/index_en.php?act=conventions.status&cid=69) *for the 1993 Hague Intercountry Adoption Convention (accessible via the* [*Intercountry Adoption Section*](http://www.hcch.net/index_en.php?act=text.display&tid=45) *of the Hague Conference website <*[*www.hcch.net*](http://www.hcch.net)*>).* | 1 December 1998 |
| 1. Please identify the legislation / regulations / procedural rules which implement or assist with the effective operation of the 1993 Convention in your State. Please also provide the date of their entry into force.   *Please remember to indicate how the legislation / regulations / rules may be accessed:* e.g.*, provide a link to a website or attach a copy. Where applicable, please also provide a translation into English or French if possible.* | Commonwealth laws relevant to intercountry adoption:  • Family Law Act 1975  • Family Law (Hague Convention on Intercountry Adoption) Regulations 1998  • Family Law (Bilateral Arrangements – Intercountry Adoption) Regulations 1998  Commonwealth immigration laws relevant to intercountry adoption:  • Australian Citizenship Act 2007  • Immigration (Guardianship of Children) Act 1946  • Migration Act 1958  • Migration Regulations 1994  Australian Commonwealth legislation can be viewed at:  http://www.comlaw.gov.au/  State and Territory Legislation  Each state and territory has its own legislation governing domestic and intercountry adoption matters within that jurisdiction.  New South Wales  • Adoption Act 2000  • Adoption Regulation 2003  New South Wales legislation can be viewed at:  http://www.legislation.nsw.gov.au  Victoria  • Adoption Act 1984  • Adoption Regulations 2008  • Adoption (Intercountry Fees) Regulations 2002  Victorian legislation can be viewed at:  http://www.legislation.vic.gov.au  Queensland  • Adoption Act 2009  • Adoption Regulation 2009  Queensland legislation can be viewed at:  http://www.legislation.qld.gov.au/  Western Australia  • Adoption Act 1994  • Adoption Regulations 1995  • Adoption Rules 1995  Western Australian legislation can be viewed at:  http://www.slp.wa.gov.au/legislation/statutes.nsf/default.html  South Australia  • Adoption Act 1988  • Adoption Regulations 2004  South Australian legislation can be viewed at:  http://www.legislation.sa.gov.au/  Tasmania  • Adoption Act 1988  • Adoption Regulations 2006  Tasmanian legislation can be viewed at:  http://www.thelaw.tas.gov.au/  Australian Capital Territory  • Adoption Act 1993  • Adoption Regulation 1993  Australian Capital Territory legislation can be viewed at:  http://www.legislation.act.gov.au/  Northern Territory  • Adoption of Children Act 1994  • Adoption of Children Regulations 1994  Northern Territory legislation can be viewed at:  http://www.dcm.nt.gov.au/strong\_service\_delivery/supporting  \_government/current\_northern\_territory\_legislation\_database |

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| 1. Other international agreements on intercountry adoption[[3]](#footnote-3) | |
| Is your State party to any other international (cross-border) agreements concerning intercountry adoption?  *See Art. 39.* | Yes:  Regional agreements (please specify):  Bilateral agreements (please specify): Ethiopia: Although Australia closed its programme with Ethiopia in 2012, the bilateral agreement between Australia and Ethiopia was not terminated and provisions on post-adoption reporting remain relevant.  South Africa: The working agreement on intercountry adoption between the South African and Australian Central Authorities supplements the Convention.  Non-binding memoranda of understanding (please specify):  Other (please specify): Australia has bilateral arrangements with agencies in Taiwan and South Korea.  No |

**PART III: THE ROLE OF AUTHORITIES AND BODIES**

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| 1. Central Authority(ies) | |
| Please briefly describe the functions of the Central Authority(ies) designated under the 1993 Convention in your State.  *See Arts 6-9 and Arts 14-21 if accredited bodies are not used.* | The Secretary of the Australian Government Attorney-General's Department is the Commonwealth (or Australian) Central Authority for intercountry adoption.  Each Australian state and territory also has a central authority.  Australia's Commonwealth Government is responsible for establishing and managing intercountry adoption arrangements and related policy. The Australian Central Authority is responsible for ensuring that Australia, as a whole, meets its obligations under the Convention.  State and territory central authorities provide intercountry adoption services, including assessing the eligibility and suitability of people wanting to adopt a child from overseas against criteria outlined in their own legislation, and managing the adoption application process. |

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| 1. Public and competent authorities | |
| Please briefly describe the role of any public and / or competent authorities, including courts, in the intercountry adoption procedure in your State.  *See Arts 4, 5, 8, 9, 12, 22, 23 and 30.* | State and territory central authorities are competent authorities for Article 23 of the Convention. In certain circumstances, final adoption orders may be made by Australian state or territory courts. For example, children who enter Australia on an adoption visa where the adoption is to be finalised in Australia, or where the adoption is not recognised, fall under the guardianship of the Australian Minister for Immigration. This guardianship is delegated to the Australian state and territory central authorities and ceases upon the granting of an adoption order by an Australian court. |

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| 1. National accredited bodies[[4]](#footnote-4) | |
| 1. Has your State accredited its own adoption bodies?   *See Arts 10-11.*  ***N.B.*** *the name(s) and address(es) of any national accredited bodies should be communicated by your State to the Permanent Bureau of the Hague Conference (see Art. 13).*[[5]](#footnote-5) | Yes  No – **go to Question 8** |
| 1. Please indicate the number of national accredited bodies in your State, including whether this number is limited and, if so, on what basis.[[6]](#footnote-6) | Australia does not have national accredited bodies. The Australian Central Authority cannot accredit bodies (nationally or otherwise). Each Australian state and territory is responsible for accrediting bodies to work in their jurisdiction.  One jurisdiction (New South Wales) (NSW) has provisionally accredited one body (Australian Families for Children) to provide intercountry adoption services in NSW. As at November 2014, the body was not authorised to act overseas.  Australia does not limit the number of bodies the states and territories can accredit. |
| 1. Please briefly describe the role of national accredited bodies in your State. | Australian states and territories can accredit bodies to undertake intercountry adoption services and activities. |
| **6.1 The accreditation procedure (Arts 10-11)** | |
| 1. Which authority / body is responsible for the accreditation of national adoption bodies in your State? | Australian states and territories are responsible for accrediting bodies to work in their jurisdiction. |
| 1. Please briefly describe the *procedure* for granting accreditation and the most important accreditation *criteria*. | The 'Commonwealth-State Agreement for the Continued Operation of Australia's Intercountry Adoption Programme' (between Australia's Commonwealth Government and state and territory governments) contains 'Guidelines in Relation to the Accreditation of Bodies under the Hague Convention' which include minimum 'Accreditation Criteria' that a body seeking accreditation must satisfy. The criteria are based on the 'Hague Model Criteria for Accreditation of Bodies in Receiving States for Performance of Functions and Duties under the 1993 Hague Convention'.  The Accreditation Criteria include that the body: provide services whose primary focus is the best interests of the child; be incorporated and not for profit; must not be or have been involved in negotiations or agreements for establishing an adoption agreement with an overseas country; and must be financially viable, employing professional and experienced staff. The Guidelines require the body's principal officer to have appropriate tertiary qualifications and experience in adoption, substitute care or family services, and the body to employ professional staff with appropriate qualifications.  Individual states and territories may impose additional accreditation criteria.  The accreditation criteria in NSW (the only Australian jurisdiction with an accredited body) are consistent with the Accreditation Criteria. The NSW Children's Guardian decides accreditation applications. Initially, a body will be provisionally accredited on the basis of policies and procedures (indirect evidence) only. |
| 1. For how long is accreditation granted in your State? | In NSW, a body may initially be provisionally accredited for three years. A body that was previously provisionally accredited may be granted full accreditation for one or three years. A body that was previously fully accredited, and applies for a renewal of its accreditation, may be fully accredited for one, three or five years. |
| 1. Please briefly describe the criteria and the procedure used to determine whether the accreditation of a national adoption body will be *renewed*. | In NSW, a body seeking renewal of its accreditation must submit policies and procedures setting out how it intends to provide adoption services. Assessors also conduct an on-site assessment of the body’s practice. This includes a review of any relevant material and interviews with relevant staff. The accreditation renewal process usually commences approximately six months before the body's accreditation expires. |
| **6.2 Monitoring of national accredited bodies**[[7]](#footnote-7) | |
| 1. Which authority is competent to monitor / supervise national accredited bodies in your State?   *See Art. 11* c)*.* | States and territories are responsible for monitoring and supervising accredited bodies in their jurisdiction. |

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| 1. Please briefly describe how national accredited bodies are monitored / supervised in your State (*e.g.*, if inspections are undertaken, how frequently). | In NSW (the only jurisdiction with an accredited body), bodies are initially provisionally accredited on the basis of policies and procedures (indirect evidence) only.  A provisionally accredited body must notify the NSW Children’s Guardian when it commences operations. The body must then participate in a programme to meet the accreditation criteria. This involves regular on-site visits (approximately every three to four months), and assessment of the body's practice against all relevant standards. The programme usually runs for the duration of the body’s provisional accreditation.  Fully accredited bodies may be monitored by the NSW Children’s Guardian at any time, using a range of monitoring approaches. These include file audits and on-site visits, which may include a review of particular areas of practice or the body’s management and governance arrangements.  Accredited bodies must provide the NSW Central Authority and the NSW Children's Guardian with reports at least annually about their provision of adoption services.  The NSW Children’s Guardian may also require an accredited body to participate in a risk management programme if there are concerns about its practice. |
| 1. Please briefly describe the circumstances in which the accreditation of bodies can be revoked (*i.e.*, withdrawn). | The NSW Children’s Guardian may revoke a body’s accreditation where:  • the body or its principal officer makes a statement or furnishes information in connection with relevant legislation that is known to be false or misleading  • the body or its principal officer fails to comply with any condition of accreditation or other obligation or restriction  • the body fails to comply with the accreditation criteria. |
| 1. If national accredited bodies do not comply with the 1993 Convention, is it possible for sanctions to be applied? | Yes, please specify possible sanctions (*e.g.*, fine, withdrawal of accreditation): Sanctions might include the body's accreditation being reviewed, suspended or revoked, depending on the nature and severity of its non‑compliance with the Convention.  No |

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| 1. Authorisation of national accredited bodies to work in other Contracting States (Art. 12)[[8]](#footnote-8) | | |
| **7.1 The authorisation procedure** | | |
| 1. Which authority / body in your State is responsible for the authorisation of national accredited bodies to work with, or in, other Contracting States? | | The Australian Attorney‑General and the Australian Central Authority. |
| 1. Is authorisation granted as part of the accreditation procedure or is a separate authorisation procedure undertaken? | Authorisation is granted as part of the accreditation procedure.  A separate procedure is undertaken for authorisation. |
| 1. Is authorisation granted to national accredited bodies to work in *all* States of origin or must national accredited bodies apply for authorisation to work in specific, pre-identified State(s) of origin? | Authorisation is granted generally: once authorised, national accredited bodies are able to work in *all* States of origin.  Authorisation is granted specifically: national accredited bodies must apply for authorisation to work in one or more pre-identified State(s) of origin. |
| 1. Please briefly describe the *procedure* for granting authorisation and the most important authorisation *criteria*.[[9]](#footnote-9)   If your State does not have authorisation criteria, please explain on what basis decisions concerning authorisation are made.  Please also explain whether your State has any criteria concerning how the national accredited body must establish itself in the State(s) of origin or whether this is left entirely to the requirements of the State of origin (*e.g.*, requirements that the body must have a local representative in the State of origin, or must establish a local office). | An accredited body applies for authorisation by submitting a written application to the Australian Central Authority.  The key authorisation criteria the body must address are: (1) whether the body meets the Convention's minimum standards for accredited bodies (Articles 10-11, 32; Part 2.2 of the Guide to Good Practice No.2); and (2) the model criteria for authorising bodies (model criterion 3.4) including, for each country the body wishes to work in, the need for the body's services in that country (Part 2.3.4.2 , in particular paragraph 89; and Parts 4.2.3-4.3 of the Guide to Good Practice No.2) and the body's knowledge of the laws and procedures in that country relating to intercountry adoption.  Australia expects an accredited body to meet a State of origin's requirements concerning how it must establish itself in that State. |

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| 1. For how long is authorisation granted? | There is no set time limit for authorisation. The Australian Central Authority is likely to grant an authorisation for the same period as a body's accreditation. |
| 1. Please briefly describe the criteria and procedure used to determine whether authorisation will be *renewed*. | The Australian Central Authority would expect the body to submit a written application addressing the same criteria used to decide its authorisation application, and any additional criteria set by the Australian Central Authority. The Australian Central Authority would also consider the body's performance during its period of authorisation. |
| **7.2 Monitoring the work of your authorised national accredited bodies in other Contracting States** | |
| 1. Please briefly describe how your State ensures that authorised national accredited bodies (including their representatives, co-workers and any other staff[[10]](#footnote-10) in the State of origin) are monitored / supervised by your State in relation to their work / activities *in the State of origin*. | Australia does not currently undertake this monitoring as there are no Australian authorised accredited bodies working in a State of origin. If required to undertake this monitoring, the Australian Central Authority would, at a minimum, liaise with the State(s) of origin in which the authorised accredited body works in. |
| 1. Please briefly describe the circumstances in which the authorisation of national accredited bodies can be revoked (*i.e.*, withdrawn). | The Australian Central Authority could revoke an accredited body's authorisation to work in other Contracting States if it found the body to be non-compliant with the standards and principles of the Convention, or the authorisation criteria the body addressed when it applied for authorisation. |

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| 1. Approved (non-accredited) persons (Art. 22(2))[[11]](#footnote-11) | |
| Is the involvement of approved (non-accredited) persons permitted in intercountry adoption procedures in your State?  ***N.B.*** *see Art. 22(2) and check whether your State has made a declaration according to this provision. You can verify this on the* [*Status Table*](http://www.hcch.net/index_en.php?act=conventions.status&cid=69) *for the 1993 Convention, available on the* [*Intercountry Adoption Section*](http://www.hcch.net/index_en.php?act=text.display&tid=45) *of the Hague Conference website.*  *If your State has made a declaration according to Art. 22(2), the Permanent Bureau of the Hague Conference should be informed of the names and addresses of these bodies and persons (Art. 22(3)).*[[12]](#footnote-12) | Yes, our State has made a declaration under Article 22(2) and the involvement of approved (non-accredited) persons is possible. Please specify their role:  No |

**PART IV: THE CHILDREN PROPOSED FOR INTERCOUNTRY ADOPTION**

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| 1. The adoptability of a child (Art. 4 *a)*) | |
| Does your State have its own criteria concerning the adoptability of a child (*e.g.*, maximum age) which must be applied *in addition to* the requirements of the State of origin? | Yes – please specify:  No, there are no additional criteria concerning adoptability – the requirements of the State of origin are determinative. |

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| 1. The best interests of the child and subsidiarity (Art. 4 *b)*) | |
| Does your State request information / evidence from the State of origin to satisfy itself that the State of origin has respected the principle of subsidiarity (*i.e.*, proof that family reunification was attempted, or that the possibility of in-country permanent family placements has been explored)? | Yes – please specify: Australia expects information on the adoptability of the child, and compliance with the subsidiarity principle, to be included in the report on the child which accompanies a placement proposal.  No |

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| 1. Children with special needs | |
| Does your State have its own definition of the term “special needs children” which is applied in intercountry adoption cases? | Yes – please provide the definition used in your State:  No – the definition used in the State(s) of origin is determinative. |

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| 1. The nationality of children who are adopted intercountry[[13]](#footnote-13) | |
| Do children who are adopted intercountry to your State acquire the nationality of your State? | Yes, always. Please specify:   1. At what stage nationality is acquired by the child: This depends on whether the child is adopted from a Convention country, and, in the case of an adoption from a Convention country, whether the child’s State of origin issues a full and final adoption order, simple adoption order or guardianship order.   A full and final adoption order made in a Convention country is automatically recognised in Australia. The child is eligible to apply for Australian citizenship by adoption in the State of origin and can travel to Australia on an Australian passport.   A simple adoption order made in a Convention country is automatically recognised in Australia, but must be converted to a full adoption by an Australian court. Upon a conversion order being made the child is eligible to apply for Australian citizenship by adoption.   A child adopted from a Convention country who arrives in Australia under a guardianship order, on the understanding that an adoption order will be issued in Australia, automatically acquires citizenship once the adoption order is issued by an Australian court.   A child from a non-Convention country, with which Australia has a bilateral arrangement, is eligible to apply for citizenship by conferral once they arrive in Australia. If passed, the Citizenship (Intercountry Adoption) Amendment Bill 2014 currently before the Australian Parliament will enable children from prescribed non-Convention countries (those with which Australia has a bilateral arrangement) to apply for Australian citizenship by adoption once the adoption process is complete in the State of origin, allowing the child to travel to Australia as an Australian citizen on an Australian passport; and 2. The procedure which must be undertaken (or whether acquisition of nationality is *automatic* upon the occurrence of a particular event, *e.g.*, the making of the final adoption decision): In all cases, other than where an adoption order is issued by an Australian court, the child must apply for Australian citizenship using the appropriate form. The applicant must provide a the adoption compliance certificate, or, for non-Convention countries, a copy of the adoption order, as evidence of the adoption and pay the appropriate fee ($130 for a child from a non-Convention country and $120 for a child from a Convention country).   It depends – please specify which factors are taken into consideration (*e.g.*, the nationality of the prospective adoptive parents (“PAPs”), whether the child loses his / her nationality of the State of origin):  No, the child will never acquire this nationality. |

**PART V: PROSPECTIVE ADOPTIVE PARENTS (“PAPs”)**

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| 1. Limits on the acceptance of files | |
| 1. Does your State place any limit on the total number of applications for intercountry adoption which are accepted at any one time? | Yes, please specify the limit applied and the basis on which it is determined:  No |
| 1. Does your State allow PAPs to apply to adopt from more than one State of origin at the same time? | Yes, please specify whether any limits are applied:  No – PAPs may only apply to adopt from one State of origin at any one time. |

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| 1. Determination of the eligibility and suitability of PAPs wishing to undertake an intercountry adoption[[14]](#footnote-14) (Art. 5 *a)*) | | |
| **14.1 Eligibility criteria** | | |
| 1. Do PAPs wishing to undertake an intercountry adoption have to fulfil any criteria in your State concerning their relationship status(es)?   *Please tick any / all boxes which apply and indicate in the space provided whether any further conditions are imposed (*e.g.*, duration of marriage / partnership / relationship, cohabitation).* | | Yes, the following person(s) may apply in our State for an intercountry adoption:  Married, heterosexual couples:  Married, same-sex couples: N/A  Heterosexual couples in a legally registered partnership:  Same-sex couples in a legally registered partnership: Eligible in New South Wales, Western Australia, Tasmania and the Australian Capital Territory.  Not eligible in Victoria, Queensland, South Australia and the Northern Territory.  Heterosexual couples that have not legally formalised their relationship: Eligible in all jurisdictions except the Northern Territory.  Same-sex couples that have not legally formalised their relationship: Eligible in New South Wales, Western Australia, Tasmania and the Australian Captial Territory.  Not eligible in Victoria, Queensland, South Australia and the Northern Territory.  Single men:  Single women:  Other (please specify):  No, there are no relationship status criteria for PAPs. |
| 1. Are there any age requirements in your State for PAPs wishing to undertake an intercountry adoption? | | Yes, please specify:  Minimum age requirements: Three jurisdictions have minimum age requirements in their adoption legislation:  New South Wales - 21 years  Queensland - 18 years  Northern Territory - 25 years  Maximum age requirements:  Difference in years required between the PAPs and the child: Four jurisdictions require a specific age gap:  New South Wales - minimum 18 years between PAP and child.  Western Australia - maximum of 45 years age gap between younger applicant and child, unless PAPs have parental responsibility, when the gap between the younger applicant and child can be 50 years.  Tasmania - minimum 18 years between PAP and child.  Northern Territory - maximum of 40 years age gap between younger applicant and child, unless PAPs have parental responsibility, when the gap between the younger applicant and child can be 45 years.  Other (please specify):  No |
| 1. Are there any *other* eligibility criteria which your State requires PAPs to fulfil? | Yes, please specify:  Additional / differing criteria must be met for PAPs wishing to adopt a child with special needs (please specify):  Couples must supply evidence of infertility:  For persons with children already (biological or adopted), there are additional criteria (please specify):  Other (please specify):  Fertility treatment:  Queensland: PAPs must not be undergoing fertility treatment and not have undergone fertility treatment in previous six months.  Western Australia: PAPs must not be undergoing fertility treatment.  South Australia: Decision maker is to have regard to whether the PAPs are infertile and the PAPS' attitudes to infertility.  Tasmania: Applicant must not be undergoing fertility treatment.  Restrictions on age between existing children:  Queensland: PAPs must not have custody of child under 12 months.  South Australia: PAPs must not have custody of a child under 12 months, or likely to have another child residing with them for two years after selection as applicant (unless special circumstances demonstrated).  Pregnancy status:  NSW: Placement cannot proceed if female PAP is pregnant.  Queensland: Placement cannot proceed if female PAP is pregnant.  Tasmania: Placement cannot proceed if female PAP is pregnant. Must not be pregnant at time of application.  No | |
| **14.2 Suitability assessment**[[15]](#footnote-15) | | |
| 1. Which body(ies) / expert(s) perform the assessment of whether the PAPs are suitable persons to undertake an intercountry adoption? | The central authority of the state or territory where the PAPs reside. | |
| 1. Please briefly describe the procedure which is used to assess the PAPs and determine their suitability to undertake an intercountry adoption. | State and territory central authorities approve adoption applications, based on the information PAPs provide, and in accordance with their legislation.  An adoption assessment is undertaken to consider the PAPs suitability to parent an adopted child and to meet the child’s specific needs. Assessments usually involve a number of interviews with an adoption assessor (a social worker or psychologist). Adoption assessments consider many factors including:  • parenting capacity  • physical and psychological health  • motivations and expectations  • current and past relationships  • criminal background checks  • an understanding of and ability to meet the specific needs of adopted children.  After the assessment, the assessor completes a report, with a recommendation regarding the suitability of the PAPs to adopt a child. | |
| **14.3 Final approval** | | |
| Which body / person gives the final approval that the PAPs are eligible and suited to undertake an intercountry adoption? | The central authority of the state or territory where the PAPs reside. | |

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| 1. Preparation and counselling of PAPs (Art. 5 *b)*) | |
| 1. In your State, are courses provided to prepare PAPs for intercountry adoption? | Yes, please specify the following:   * Whether the courses are mandatory: Yes * At what stage of the adoption procedure they are offered: Generally, education takes place after an intial expression of interest, but before a full assessment has been completed. * Who provides the courses: State and territory central authorities. * Whether they are provided to PAPs individually or collectively (*i.e.*, in a group): In a group. * Whether they are provided “in person” or electronically: In person. * How many hours the courses last: Differs across jurisdictions, but in general the education seminars last two or three days. * The content of the courses: All PAPs are expected to complete nine compulsory units included in the Nationally Consistent Core Curriculum for parents considering intercountry adoption: Unit One - Intercountry Adoption Framework Unit Two - Realities of Intercountry Adoption Unit Three - Preparation Unit Four - Adopting Children with Special Needs Unit Five - Child Development Unit Six - Attachment Issues Unit Seven - Adjusting to Family Life in Australia Unit Eight - Identity and Culture Unit Nine - If Things Go Wrong.  More information on the Nationally Consistent Core Curriculum for parents considering intercountry adoption can be found on the Australian Central Authority's website: www.ag.gov.au/intercountryadoption.  Some jurisdictions offer additional training on other topics, but the above units are completed by all PAPs. * Whether there are specific courses for PAPs wishing to adopt a child with special needs: Yes. Unit Four of the Nationally Consistent Core Curriculum for parents considering intercountry adoption deals with adopting children with special needs. * Whether the courses are (or can be) targeted at preparing PAPs for the adoption of a child from specific States of origin: The Nationally Consistent Core Curriculum is not country specific. It is designed to be broad and general. However, there is scope to tailor the information to a particular country of origin if a state or territory wishes to provide country specific education seminars.   No |
| 1. Aside from any courses provided, what, if any, (other) counselling or preparation is provided to individual PAPs (*e.g.*, meeting with adoptive parents, language and culture courses)?   Please specify, in each case:   1. If it is mandatory for PAPs to use the service; 2. Who provides the service; and 3. At what stage in the adoption procedure the service is provided. | State or territory central authorities may provide (or refer PAPs to) other counselling, preparation or support services depending factors such as the stage of the adoption, the needs of the PAPs and the needs of the child.  The content of any additional support, training or preperation will vary between jursidictions and will likely be voluntary. |

**PART VI: THE INTERCOUNTRY ADOPTION PROCEDURE**

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| 1. Applications | |
| 1. To which authority / body should PAPs apply for an intercountry adoption? | The central authority of the state or territory in which the PAPs reside. |

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| 1. Please indicate which documents your State requires to be included within the PAPs’ file for transmission to the State of origin:[[16]](#footnote-16)   *Please tick all which apply.* | An application form for adoption completed by the PAPs  A statement of “approval to adopt” issued by a competent authority  A report on the PAPs including the “home study” and other personal assessments (see Art. 15)  Copies of the PAPs’ passports or other personal identification documents  Copies of the PAPs’ birth certificates  Copies of the birth certificates of any children living with the PAPs  Copies of marriage, divorce or death certificates, as applicable (please specify in which circumstances): If the PAPs are married, a marriage certificate will be included. If one or both parties has been divorced, evidence of the dissolution of the marriage will be included.  Information concerning the health of the PAPs (please specify in which circumstances and what type of information is required): General information about the health of the PAPs is included in the home study report, and if there are any health or medical issues, there will be information on the condition and how it may affect parenting.  Evidence of the financial circumstances of the family (please specify in which circumstances and what type of information is required): Information on the financial situation of the PAPs, and their ability to provide for the child is referred to in the home study report.  Information concerning the employment status of the PAPs (please specify in which circumstances and what type of information is required): The PAPs' employment status is included in the home study report.  Proof of no criminal record  Other(s): please explain | |
| 1. Is it compulsory in your State for an accredited body to be involved in an intercountry adoption procedure?[[17]](#footnote-17) | | Yes, please specify at which stage(s) of the procedure an accredited body must be involved (*e.g.*, for the preparation of the home study, for the submission of the adoption file to the State of origin, for all stages of the procedure):  No. Please specify who assists PAPs if no accredited body is involved in the adoption procedure: The central authority of the state or territory in which the PAPs reside. |
| 1. Are any *additional* documents required if PAPs apply through an accredited body?   *Please tick all which apply.* | | Yes  A power of attorney issued by the PAPs to the accredited body (*i.e.*, a written document provided by the PAPs to the accredited body in which the PAPs formally appoint the accredited body to act on their behalf in relation to the intercountry adoption):  A contract signed by the accredited body and the PAPs:  A document issued by a competent authority of the receiving State certifying that the accredited body may undertake intercountry adoptions:  Other (please specify):  No |

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| 1. The report on the PAPs (Arts 5 *a)* and 15(1)) | | |
| 1. Which body(ies) / expert(s) prepare the report on the PAPs?   Please include all those involved with the preparation of any of the documents which are included within such a report. | | The central authority of the state or territory in which the PAPs reside organises the home study report.  The report is prepared by an appropriately qualified social worker who, depending on the jursidction, is either an employee of the state or territory government department responsible for adoptions, or a contracter hired by the department.  The home study report may include evidence or opinions of other experts if necessary (eg, a medical or pyschological expert). |
| 1. Is a “standard form” used for the report on the PAPs in your State? | Yes, please provide a link to the form or attach a copy:  No. Please indicate whether your State has any requirements concerning the information which must be included in the report on the PAPs and / or the documentation which must be attached to it: Each state or territory has its own standard form for home study reports. | |
| 1. For how long is the report on the PAPs valid in your State? | This varies between jursidctions (see below). PAPs are approved for a certain period of time. At the end of this period, they are reassessed to ensure they are still suitable to adopt. If required, an updated home study report will be sent to the country of origin.  New South Wales - three years  Victoria - two years  Queensland - two years  Western Australia - two years  South Australia - three years  Tasmania - three years  Australian Capital Territory - two years  Northern Territory - two years  If there are any major changes to the cicumstances of the PAPs at any stage of the process (such as moving house) an updated home study report will be provided to the country or origin, regardless of whether the previous report is still valid. | |
| 1. Who is responsible in your State for renewing the report on the PAPs if the period of validity expires before the intercountry adoption is completed and what is the procedure for renewal? | The central authority of the state or territory in which the PAPs reside. | |

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| 1. Transmission of the PAPs’ file to the State of origin | |
| 1. Who sends the finalised application file of the PAPs to the State of origin? | The central authority of the state or territory in which the PAPs reside. |
| 1. If no accredited body is involved with the intercountry adoption application (see Question above), who assists the PAPs with compiling and transmitting their application file? | The central authority of the state or territory in which the PAPs reside.  Not applicable – an accredited body will always be involved (see response to Question above). |

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| 1. Receipt of the report on the child (Art. 16(2)) and acceptance of the match (Art. 17 *a)* and *b)*) | |
| * 1. **Receipt of the report on the child (Art. 16(2))** | |
| Which authority / body in your State receives the report on the child from the State of origin? | The central authority of the state or territory in which the PAPs reside. |
| * 1. **Acceptance of the match** | |
| 1. Does your State require that the matching be accepted by a competent authority in your State? | Yes, please provide the following details:   * Which authority determines whether to accept the match (*e.g.*, the Central Authority or another competent authority): The central authority of the state or territory in which the PAPs reside; and * The procedure which is followed (*e.g.*, the report on the child is transmitted first to the competent authority to determine whether the match is accepted and only if this authority accepts the match is the report sent to the PAPs): The procedure is set out above (see question 17).The placement proposal is first sent to the state or territory central authority. It may seek advice from a health professional if the placement proposal refers to the child having special needs. If the state or territory central authority agrees the match is appropriate for the PAPs, it will present the placement proposal to them.   **Go to Question 19.2 b)**  No. Please explain the procedure which is followed once the authority / body referred to in Question 19.1 has received the report on the child from the State of origin:  **Go to Question 19.2 c)** |
| 1. Which criteria must be fulfilled for the relevant authority in your State to accept the match? | The state or territory central authority must agree the PAPs are capable of caring for the child, taking into account the child's age and any special needs.  In some cases, a child may not match the approval range of the PAPs. If the state or territory central authority agrees the PAPs may be capable of caring for the child, they may present the proposal and ask the PAPs if they are willing to be re-assessed to ensure they can meet the child's needs. |
| 1. Does your State impose any requirements on PAPs concerning the length of time they are given to decide whether to accept a match? | Yes, in addition to any requirements of the State of origin, our State has a time-limit – please specify:  No, the requirements of the State of origin are determinative in this regard. |
| 1. Do PAPs receive any kind of assistance from your State when deciding whether to accept a match? | Yes – please specify what type of assistance is provided (*e.g.*, counselling): The PAPs have a case worker who will discuss the match with them, and assist in obtaining more information about the child if required (eg, seek further information on any medical condition the child has). It is not the role of the case worker to advocate accepting or declining the proposal - the decision must be made by the PAPs.  The case worker cannot provide counselling, but they may be able to direct the PAPs to appropriate services if they are needed or requested.  No |

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| 1. Agreement under Article 17 *c)* | |
| 1. Which competent authority / body agrees that the adoption may proceed in accordance with Article 17 *c)*? | The central authority of the state or territory in which the PAPs reside. |
| 1. At what point in the adoption procedure is the Article 17 *c)* agreement given in your State? | Our State waits for the State of origin to provide its agreement first **OR**  Our State sends its agreement to the State of origin with a notice that the match has been accepted **OR**  Other (please specify): |

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| 1. Travel of the PAPs to the State of origin[[18]](#footnote-18) | |
| 1. Does your State impose any travel requirements / restrictions on PAPs in addition to those imposed by the State of origin? | Yes, please specify the additional requirements / restrictions:  No |
| 1. Does your State permit an escort to be used to bring the child to the adoptive parents in your State in any circumstances? | Yes, please specify in which circumstances:  No |

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| 1. Authorisation for the child to enter and reside permanently (Arts 5 *c)* and 18) | | |
| 1. Please specify the procedure to obtain authorisation for the child to enter and reside permanently in your State. | | There are two pathways by which authorisation may be obtained for the child to enter and permanently reside in Australia, depending on whether the child is adopted from a Convention country, and, in the case of an adoption from a Convention country, whether the child’s State of origin issues a full and final adoption order, simple adoption order or guardianship order.  A child adopted from a Convention country where a full and final adoption order was issued may apply for Australian citizenship prior to departing their State of origin, thus acquiring rights to enter and reside permanently in Australia. For more information, see answer to question 12.  In all other situations, the child would apply for and travel to Australia on an Adoption (subclass 102) visa, which grants the child the right to enter and permanently reside in Australia. To obtain the visa, the child must apply using the appropriate form, provide the required evidence (such as an adoption compliance certificate, or copy of an adoption or guardianship order), and pay the appropriate fee ($2,370). |
| 1. Which documents are necessary for a child to be able to enter and reside permanently in your State (*e.g.*, passport, visa)? | | They will either need:  - an Australian passport, or  - a passport issued by their country of origin and a subclass 102 visa. |
| 1. Which of the documents listed in response to Question 0 above must be issued by your State?   Please indicate which public / competent authority is responsible for issuing each document. | | Both.  The Department of Foreign Affairs and Trade is responsible for issuing Australian passports, which may be issued by Australian embassies overseas.  The Department of Immigration and Border Protection is responsible for issuing visas. |
| 1. Once the child has arrived in your State, what is the procedure, if any, to notify the Central Authority or accredited body of his / her arrival? | Families are expected to notify their state or territory central authority of the child's arrival in Australia. | |

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| 1. Final adoption decision and the Article 23 certificate | |
| 1. If the final adoption decision is made in your State, which competent authority: 2. Makes the final adoption decision; and 3. Issues the certificate under Article 23?   ***N.B.*** *According to Art. 23(2), the authority responsible for issuing the Art. 23 certificate should be formally designated at the time of ratification of / accession to the 1993 Convention. The designation (or any modification to a designation) should be notified to the depositary of the Convention.*  *The answer to (ii) above should therefore be available on the* [*Status Table*](http://www.hcch.net/index_en.php?act=conventions.status&cid=69) *for the 1993 Convention (under “Authorities”), available on the* [*Intercountry Adoption Section*](http://www.hcch.net/index_en.php?act=text.display&tid=45) *of the Hague Conference website.* | (i) If the adoption is finalised in Australia, the decision will be made by the relevant court of the state or territory in which the family resides.  (ii) The central authority of the state or territory in which the family resides is responsible for issuing the Article 23 certificate. |
| 1. Does your State use the *“Recommended model form – Certificate of conformity of intercountry adoption”*?   *See GGP No 1 – Annex 7.* | Yes  No |
| 1. Please briefly describe the procedure for issuing the Article 23 certificate.   *E.g.*, how long does it take to issue the certificate? Is a copy of the certificate always given to the PAPs? Is a copy sent to the Central Authority in the State of origin? | Only one of Australia's partner countries (the Philippines) requires the adoption to be finalised in Australia. The child travels to Australia under a guardianship order issued by the overseas authorities. The overseas central authority provides written approval and consent for the adoption to be finalised in an Australian court, and in return requires proof the adoption has been finalised and proof of the child's citizenship. It does not request an Article 23 certificate.  As a result, Australian state and territory central authorities do not routinely issue Article 23 certificates. When Article 23 certificates are issued, copies are sent to the Central Authority in the State of origin. |

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| 1. In cases in which the Article 23 certificate is issued in the State of origin, which authority or body in your State should receive a copy of this certificate? | The central authority of the state or territory in which the family resides. |

**PART VII: INTRA-FAMILY INTERCOUNTRY ADOPTIONS**

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| 1. Procedure for the intercountry adoption of a child who is a relative of the PAPs (“intra-family intercountry adoption”) | | |
| 1. Please explain the circumstances in which an intercountry adoption will be classified as an “*intra*-*family* intercountry adoption” in your State.   Please include an explanation of the degree of relationship which a child must have with PAPs to be considered a “relative” of those PAPs. | | In Australia, 'relative adoption' refers to the adoption of a child resident overseas by the child’s relatives resident in Australia. State and territory adoption legislation and policy determines individuals’ eligibility to adopt an overseas relative child, and whether a state or territory is able to facilitate such an adoption.  Requests from overseas central authorities to facilitate the intercountry adoption of a relative child are considered by state and territory central authorities on a case-by-case basis, and only if the country of origin has determined that the child is legally able to be placed for intercountry adoption and that the adoption would be in the best interests of the child.  The process for intercountry relative adoptions is as follows:  1. The relevant overseas authority determines whether the child is legally adoptable.  2. The relevant overseas authority determines whether intercountry adoption is in the child’s best interests, after giving due consideration to possibilities for placement of the child within the country of origin.  3. If satisfied the child is adoptable and intercountry adoption is in the child’s best interests, the relevant overseas authority provides the relevant Australian state or territory central authority with a report on the circumstances of the child.  4. The relevant state or territory central authority may consult the Australian Central Authority to assist in determining if the request to facilitate the intercountry relative adoption complies with the standards and principles of the Convention.  5. Should an adoption placement be contemplated for the child, an assessment report for the PAPs to determine their eligibility and suitability to adopt under state or territory law will be completed by the relevant state or territory central authority. If approved, the assessment report will be transmitted to the overseas authority.  6. The relevant overseas authority will determine whether the proposed adoption placement is in the child’s best interests.  7. If it is decided that the adoption would be in the child’s best interests, the relevant overseas authority and the relevent state or territory central authority agree to facilitate the adoption.  8. The adoption is progressed as a usual intercountry adoption. |
| 1. Does your State apply the procedures of the 1993 Convention to intra-family intercountry adoptions?   ***N.B.*** *If the child and PAPs are habitually resident in* different *Contracting States to the 1993 Convention,* ***the******Convention is applicable****, irrespective of the fact that the child and PAPs are related: see further GGP No 1 at para. 8.6.4.* | Yes – **go to Question 25**  Yes, in general, although there are some differences in the procedures for intra-family intercountry adoptions – please specify:       **Go to Question 25**  No – **go to Question 24 c)** | |
| 1. If your State does not apply the Convention procedures to intra-family intercountry adoptions, please explain the laws / rules / procedures which are used in relation to: 2. The counselling and preparations which PAPs must undergo in your State; 3. The preparation of the child for the adoption; 4. The report on the PAPs; and 5. The report on the child. |  | |

**PART VIII: SIMPLE AND FULL ADOPTION**[[19]](#footnote-19)

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| 1. Simple and full adoption | |
| 1. Is “full” adoption permitted in your State?   *See GGP No 1 at Chapter 8.8.8 and note 19 below.* | Yes  No  In certain circumstances only – please specify:  Other (please explain): |
| 1. Is “simple” adoption permitted in your State?   *See GGP No 1 at Chapter 8.8.8 and note 19 below.* | Yes  No  In certain circumstances only (*e.g.*, for intra-family adoptions only) – please specify:  Other (please explain): |
| 1. Does the law in your State permit “simple” adoptions to be converted into “full” adoptions in accordance with Article 27 of the 1993 Convention?   *See Art. 27(1)* a)*.* | Yes – please provide details of how this is undertaken and please specify whether this is done on a regular basis when a State of origin grants a “simple” adoption or only in specific cases: Only one of Australia's partner countries undertakes simple adoptions.  The simple adoption is finalised in the country of origin and the Article 23 certificate issued to the relevant state or territory central authority.  Conversion is provided for under regulation 20 of the Family Law (Hague Convention on Intercountry Adoption) Regulations 1998 (Cth) which establishes a process by which, on application, a court may issue an order terminating the legal relationship between the child and the pre-adoption parents.  No – **go to Question 26** |
| 1. If conversion of a “simple” adoption into a “full” adoption is sought in your State following an intercountry adoption, how does your State ensure that the consents referred to in Article 4 *c)* and *d)* of the 1993 Convention have been given in the State of origin to a “*full*” adoption (as required by Art. 27(1) *b)*)?   *See Art. 27(1)* b) *and Art. 4* c) *and* d). | Under regulation 20(3) of the Family Law (Hague Convention on Intercountry Adoption) Regulations 1998 (Cth), a court may only convert a simple adoption to a full adoption if an Article 23 certificate has been issued by the country of origin. |
| 1. Following a conversion in your State, please explain which authority is responsible for issuing the Article 23 certificate in relation to the conversion decision. Please also explain the procedure which is followed. | The competent authority and the procedure is the same as stated in response to Question 23 above.  Other (please specify): Not applicable. The Article 23 certificate is issued by the overseas central authority prior to the simple adoption being converted to a full adoption in Australia. There is no need to provide a second Article 23 certificate following the conversion. |

**PART IX: POST-ADOPTION MATTERS**

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| 1. Preservation of, and access to, information concerning the child’s origins (Art. 30) and the adoption of the child | |
| 1. Which authority in your State is responsible for preserving information concerning the child’s origins, as required by Article 30? | The central authority of the state or territory in which the family resides. |
| 1. For how long is the information concerning the child’s origins preserved? | In perpetuity. |
| 1. Does your State permit the following persons to have access to information concerning the child’s origins and / or information concerning the adoption of the child: 2. the adoptee and / or his / her representative(s); 3. the adoptive parent(s); 4. the birth family; and / or 5. any other person(s)?   If so, are there any criteria which must be met for access to be granted (*e.g.*, age of the adopted child, consent of the birth family to the release of information concerning the child’s origins, consent of the adoptive parents to the release of information concerning the adoption)?  *See Art. 9* a) *and* c) *and Art. 30.* | (i)  Yes – please explain any criteria: If the adoptee is under the age of 18, he or she must have the permission of the adoptive parents to access the records.  No  (ii)  Yes – please explain any criteria: Some jursidictions require that if the adoptee is over the age of 18, their consent must be given.  No  (iii)  Yes – please explain any criteria: The information that birth parents can access varies between jurisdictions and also differs based on the age of the adoptee and when the adoption took place.  No  (iv)  Yes – please explain any criteria:  No |
| 1. Where access to such information is provided, is any counselling or other guidance / support given in your State? | Yes – please specify: State and territory central authorities provide support to adoptees who are searching for their origins.  Adoptees will generally have a case worker (often a qualified social worker) to assist them during the process, and who can refer them to appropriate services as required.  No |
| 1. Once access to such information has been provided, is any *further* assistance offered to the adoptee and / or others (*e.g.*, regarding making contact with his / her biological family, tracing extended family)? | Yes – please specify: See above.  No |

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| 1. Post-adoption reports | | |
| 1. Absent specific requirements of the State of origin in this regard, who is responsible in your State for *writing* post-adoption reports and *sending* such reports to the State of origin? | | The central authority of the state or territory in which the family resides. |
| 1. Absent any specific requirements of the State of origin in this regard, is there a model form which is used by your State for post-adoption reports? | Yes – please specify whether use of the form is mandatory and indicate where it may be accessed *(e.g.,* provide a link or attach a copy*)*: A copy of the template Australian state and territory central authorities use is attached.  No – in which case, please specify the content expected by *your* State in a post-adoption report (*e.g.*, medical information, information about the child’s development, schooling): | |
| 1. How does your State ensure that the requirements of the State of origin in relation to post-adoption reporting are fulfilled? | State and territory central authorities work with adoptive parents to encourage and support them to meet post adoption reporting requirements. | |

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| 1. Post-adoption services and support (Art. 9 *c)*) | |
| Apart from the matters raised in Question 26 above, what, if any, post-adoption services and support is / are provided by your State to the child and / or PAPs following completion of an intercountry adoption (*e.g.*, counselling, support to preserve cultural links)?  In particular, please state whether any specific post-adoption services or support are provided in your State in the case of special needs children. | Each state and territory central authority provides specialised post adoption support services. These services vary between jursidctions, but all aim to provide ongoing support, information and referral services to adoptees and their families.  The support services are often provided by the states and territories in partnership with non‑government organisations. |

**PART X: THE FINANCIAL ASPECTS OF INTERCOUNTRY ADOPTION**[[20]](#footnote-20)

***Receiving States are also kindly requested to complete the “Tables on the costs associated with intercountry adoption”, available on the*** [***Intercountry Adoption Section***](http://www.hcch.net/index_en.php?act=text.display&tid=45) ***of the Hague Conference website.***

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| 1. The costs[[21]](#footnote-21) of intercountry adoption | |
| 1. Are the costs of intercountry adoption regulated by law in your State? | Yes – please specify any relevant legislation / regulations / rules and indicate how they may be accessed (*e.g.*, link to a website or attach a copy). Please also briefly explain the legal framework: State and territory laws regulate the costs of intercountry adoption to PAPs. The power to charge fees, or the power to make regulations in relation to fees, is set out in the following adoption legislation of each jurisdiction:  New South Wales - section 200 of the Adoption Act 2000 and regulation 76 of the Adoption Regulations 2003.  NSW legislation can be found here: http://www.legislation.nsw.gov.au  Victoria - section 112 of the Adoption Act 1984 and the Adoption (Fees) Regulations 2005.  Victorian legislation can be found here:  http://www.legislation.vic.gov.au  Queensland - section 112 of the Adoption Act 2009 and Schedule 2 of the Adoption Regulations 2009.  Queensland legislation can be found here:  http://www.legislation.qld.gov.au/  Western Australia - section 141 of the Adoption Act 1994 and regulations 86B and 87 of the Adoption Regulations 2004.  Western Australian legislation can be found here:  http://www.slp.wa.gov.au/legislation/statutes.nsf/default.html.  South Australia - section 42 of the Adoption Act 1988 and regulation 23 and Schedule 1 of the Adoption Regulations 2004.  South Australian legislation can be found here:  http://www.legislation.sa.gov.au/  Tasmania - section 97 of the Adoption Act 1988, regulation 40 and Part 1 of Schedule 2 of the Adoption Regulations 2006.  Tasmanian legislation can be found here:  http://www.thelaw.tas.gov.au/  Australian Capital Territory - section 118 of the Adoption Act 1993 and Ministerial determinations.  ACT legislation can be found here:  http://www.legislation.act.gov.au/  Northern Territory - section 84 of the Adoption of Children Act 1994 and Ministerial notices published in the Gazette.  NT legislation can be found here:  http://www.dcm.nt.gov.au/strong\_service\_delivery/ supporting\_government /current\_northern\_territory\_ legislation\_database  No |
| 1. Does your State monitor the payment of the costs of intercountry adoption? | Yes – please briefly describe how this monitoring is undertaken: The Australian Central Authority does not formally monitor the costs of intercountry adoption in Australia, but measures are in place to ensure fees are open and transparent.  For example, the fees charged by Australian state and territory central authorities are either specified in regulations or published (in a Ministerial determination or a government gazette). This ensures information about costs is publicly available and accessible.  In all jurisdictions there is a clear link between the fees charged and the services to be performed. This ensures transparency and certainty for PAPs.  In addition, during the education process, PAPs are given as much information as possible about the costs associated with the country from which they have chosen to adopt. The Australian Central Authority works with Australia's partner countries to ensure the information provided to PAPs in relation to the costs to be paid in the country of origin is accurate and up to date.  No |
| 1. Are the costs of intercountry adoption which must be paid in your State paid through the accredited body involved in the particular intercountry adoption (if applicable – see Question 16 above) or directly by the PAPs themselves?   *See the “Note on the financial aspects of intercountry adoption”* *at para. 86.* | Through the accredited body:  Directly by the PAPs:  Other (please explain): |
| 1. Are the costs of intercountry adoption which must be paid in your State paid in cash or only by bank transfer?   *See the “Note on the financial aspects of intercountry adoption” at para. 85.* | Only by bank transfer:  In cash:  Other (please explain): A range of payment options is available for PAPs when they pay fees to their state or territory central authority, including cash, cheque or electronic funds transfer. |
| 1. Which body / authority in your State receives the payments? | The central authority of the state or territory in which the PAPs reside. |
| 1. Does your State provide PAPs (and other interested persons) with information about the costs of intercountry adoption (*e.g.*, in a brochure or on a website)?   ***N.B.*** *Please also ensure that your State has completed the “Tables on the costs associated with intercountry adoption” (see above).* | Yes – please indicate how this information may be accessed:  The Australian Government Attorney-General's Department's website publishes information on the costs of each country programme, and the fees charged by each state and territory central authority for intercountry adoption services (as at 2012).  Information on fees charged by partner countries can be found here: http://www.ag.gov.au/FamiliesAndMarriage/ IntercountryAdoption/CountryPrograms /Pages/default.aspx  Information on fees charged by state and territory central authorities can be found here: www.ag.gov.au/FamiliesAndMarriage/  IntercountryAdoption/Consultationandengagement/  Pages/CompletedHarmonisationWorkingGroupprojects.aspx  This information is also provided to PAPs during information sessions. The fees charged by each state or territory central authority are also publically available, either on the website of the state or territory central authority, or in the jursidiction's legislation.  No |

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| 1. Contributions, co-operation projects and donations[[22]](#footnote-22) | |
| 1. Does your State permit contributions[[23]](#footnote-23) to be paid (either through your State’s Central Authority or a national accredited body) to a State of origin in order to engage in intercountry adoption with that State?   *For good practices relating to contributions, see the “Note on the financial aspects of intercountry adoption” at Chapter 6.* | Yes – please explain:   * What type of contribution is permitted by your State: * Who is permitted to pay it (*i.e.*, the Central Authority or a national accredited body): * How it is ensured that contributions do not influence or otherwise compromise the integrity of the intercountry adoption process:   No |
| 1. Does your State undertake (either through the Central Authority or national accredited bodies) co-operation projects in any States of origin? | Yes - please explain:   * What type of co-operation projects are permitted by your State: * Who undertakes such projects (*i.e.*, the Central Authority and / or national accredited bodies): * Whether such projects are mandatory according to the law of your State: * Whether such projects are monitored by an authority / body in your State: * How it is ensured that co-operation projects do not influence or otherwise compromise the integrity of the intercountry adoption process:   No |
| 1. If permitted in the State of origin, does your State permit PAPs or accredited bodies to make donations to orphanages, institutions or birth families in the State of origin?   ***N.B.******This is not recommended as a good practice****: see further* *the “Note on the financial aspects of intercountry adoption” at Chapter 6 (in particular, Chapter 6.4).* | Yes – please explain:   * To whom donations may be made (*e.g.*, to orphanages, other institutions and / or birth families): PAPs are not permitted to make donations to orphanages, birth families or other institutions during the adoption process. After an adoption is finalised families may choose to make donations to the institution that cared for their child. * What donations are intended to be used for: Care of children remaining in the institution. * Who is permitted to pay donations (*e.g.*, only accredited bodies or also PAPs): In strict circumstances, after the adoption has been finalised, some adoptive parents will provide a donation. * At what stage of the intercountry adoption procedure donations are permitted to be paid: Only after the adoption is finalised and complete. * How it is ensured that donations do not influence or otherwise compromise the integrity of the intercountry adoption procedure: Donations may only made after the adoption is finalised and complete.   No |

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| 1. Improper financial or other gain (Arts 8 and 32) | |
| 1. Which authority is responsible for preventing improper financial or other gain in your State as required by the Convention? | The Australian Central Authority, working with the Australian state and territory central authorities. |
| 1. What measures have been taken in your State to prevent improper financial or other gain? | The Australian, state and central authorities have a policy paper on financial contributions and donations in the context of intercountry adoption. This provides families with best practice guidelines, and emphasises the importance of payments made in the course of intercountry adoption being appropriate, transparent, accountable and not for improper purposes. Australian state and territory central authorities educate PAPs about what reasonable expenses they can expect to incur in the country of origin. In so doing, Australia intends that PAPs will be able to identify potential issues and seek advice from their state or territory central authority (even when in-country) if they are unsure about a financial transaction. |
| 1. Please explain the sanctions which may be applied if Articles 8 and / or 32 are breached. | Where cases of concern arise, including concerns about improper financial gain, Australia would consider a number of options to address any improper practice, such as: formally reviewing the relevant program, notifying relevant overseas authorities, suspending or closing the relevant program, and investigating whether any offences have been committed under Australian law. |

**PART XI: ILLICIT PRACTICES**[[24]](#footnote-24)

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| 1. Response to illicit practices in general | |
| Please explain how your Central Authority and / or other competent authorities respond to intercountry adoption cases involving alleged or actual illicit practices.[[25]](#footnote-25) | Australia has a 'Protocol for Responding to Allegations of Child Trafficking in Intercountry Adoption' (the Protocol). It provides information about assistance and support available to adoptive parents and adoptees where there are allegations or concerns about child trafficking in a country of origin, or when specific concerns are raised in an individual case. To assist when cases of concern arise, Australia has developed 'Guidelines for Raising Cases of Concern'. These provide guidance about information sharing between Australian central authorities.  Where cases of concern arise, including concerns about improper financial gain, Australia would consider a number of options to address any improper practice, such as: formally reviewing the relevant program, notifying relevant overseas authorities, suspending or closing the relevant program, and investigating whether any offences have been committed under Australian law. |

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| 1. The abduction, sale of and traffic in children | |
| 1. Please indicate which laws in your State seek to prevent the abduction, sale of and traffic in children in the context of your intercountry adoption programmes.   Please also specify which bodies / persons the laws target (*e.g.*, accredited bodies (national or foreign), PAPs, directors of children’s institutions). | Offences relating to procuring a child for adoption are contained in the following state and territory legislation:  New South Wales - section 177 of the Adoption Act 2000  Victoria - section 119 of the Adoption Act 1984  Queensland - section 303 of the Adoption Act 2009  Western Australia - section 122 of the Adoption Act 1994  South Australia - section 28 of the Adoption Act 1988  Tasmania - sections 107 and 116 of the Adoption Act 1988  Australian Captial Territory - section 94 of the Adoption Act 1993  Northern Territory - section 69 of the Adoption of Children Act 1994  These offences mainly target individuals present in Australia who procure children for adoption. When evidence or potential evidence of acts committed overseas involving the abduction, sale and traffic of children comes to the attention of Australian authorities, the Australian Federal Police will share this information with the overseas jurisdiction's law enforcement body. Concerns about potential trafficking raised with the Australian Central Authority will also be raised with the overseas central authority. |
| 1. Please explain how your State monitors respect for the above laws. | The Australian Central Authority has a monitoring role for any abduction, sale of and traffic in children issues that arise in any of Australia's intercountry adoption programmes. State and territory law enforcement bodies decide whether to prosecute offences committed under the above laws. |
| 1. If these laws are breached, what sanctions may be applied? (*e.g.*, imprisonment, fine, withdrawal of accreditation.) | New South Wales - maximum penalty of $2,750 or 12 months imprisonment  Victoria - maximum penalty is $14,400 or two years imprisonment or both  Queensland - maximum penalty is $16,500 or 18 months imprisonment. For a corporation, the maximum penalty is $110,000.  Western Australia - the penalty is $25,000 and two years imprisonment  South Australia - maximum penalty is $10,000 or two years imprisonment  Tasmania - maximum penalty is $3,500 or six months imprisonment  Australian Captial Territory - maximum penalty is $70,000, imprisonment for five years, or both  Northern Territory - maxiumum penalty is $5,960  (This information is current as at October 2014) |

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| 1. Private and / or independent adoptions | |
| Are private and / or independent adoptions permitted in your State?  ***N.B.*** *“Independent” and “private” adoptions are not consistent with the system of safeguards established under the 1993 Convention: see further GGP No 1 at Chapters 4.2.6 and 8.6.6.*  *Please tick all which apply.* | Private adoptions are permitted – please explain how this term is defined in your State:  Independent adoptions are permitted - please explain how this term is defined in your State:  Neither private nor independent adoptions are permitted. |

**PART XII: INTERNATIONAL MOBILITY**

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| 1. The scope of the 1993 Convention (Art. 2) | | |
| 1. If foreign national PAPs, habitually resident in your State, wish to adopt a child habitually resident in another Contracting State to the 1993 Convention, are they permitted to do so under the law of your State?   *Example: Indian PAPs are habitually resident in the USA and wish to adopt a child habitually resident in India.* | Yes – please explain whether this would be treated as an *intercountry* or *domestic* adoption in your State[[26]](#footnote-26) and please briefly explain the procedure which would be followed, as well as any specific criteria / conditions which would apply: Technically, such an adoption could take place, and would be treated as an intercountry adoption because the parents and the child live in different countries. If the PAPs were not permanent residents, the child would enter as a dependent on the parent's visa (assuming their visa class permitted dependents). However, all of Australia's partner countries currently require at least one of the PAPs to be an Australian citizen, so it is unlikely such an adoption would take place in practice.  No | |
| 1. If foreign national PAPs, habitually resident in your State, wish to adopt a child also habitually resident in your State, are they permitted to do so under the law of your State?   *Example: Indian PAPs are habitually resident in the USA and wish to adopt a child also habitually resident in the USA.* | Yes – please explain whether this would be treated as an *intercountry* or *domestic* adoption in your State[[27]](#footnote-27) and please briefly explain the procedure which would be followed, as well as any specific criteria / conditions which would apply: Such an adoption would be considered a domestic adoption, because the parents and the child live in the same country. At least one of the applicants would be required to hold Australian permanent residency.  No | |
| 1. If a State of origin treats an adoption by PAPs habitually resident in your State as a *domestic* adoption when, in fact, it should be processed as an intercountry adoption under the 1993 Convention, how does your State deal with this situation?   *Example: PAPs who are nationals of State X habitually reside in your State. They wish to adopt a child from State X. Due to their nationality, the PAPs are able to adopt a child in State X in a domestic adoption procedure (in breach of the 1993 Convention). They then seek to bring the child back to your State.* | | There have been a few cases where Australian PAPs have travelled overseas and completed a domestic adoption through the local courts of that country. The adoption then comes to the attention of the overseas central authority when the PAPs, as required by law, notify them and seek the permission of the central authority to leave the country with the child. In these situations, Australia and the overseas central authority, as set out in the Guide to Good Practice, have worked to heal the defects in the adoption process. Usually, the Australian PAPs will have to be assessed by their state or territory central authority to confirm they are eligible and suitable to parent the child, and a home study report prepared and sent to the overseas authority. The overseas central authority will consider the report and approve the adoption if they believe the placement continues to be in the child's best interests. Additionally, Australia would work with the overseas authority to ensure that both Australian PAPs and relevant bodies involved in domestic adoptions (such as district courts) are aware the process for an adoption, where the parents are not reisdent in the country, is subject to a different process. |

**PART XIII: SELECTION OF PARTNERS FOR INTERCOUNTRY ADOPTION**[[28]](#footnote-28)

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| 1. Selection of partners | |
| 1. With which States of origin does your State currently partner on intercountry adoption? | • Bolivia (on hold)  • Chile  • China  • Colombia  • Fiji (only accepts applications for relative adoptions)  • Hong Kong  • India (on hold)  • Lithuania  • Philippines  • South Africa  • South Korea  • Sri Lanka  • Taiwan  • Thailand. |
| 1. How does your State determine with which States of origin it will partner?   In particular, please specify whether your State only partners with other *Contracting States* to the 1993 Convention.  *To see which States are Contracting States to the 1993 Convention, please refer to the* [*Status Table*](http://www.hcch.net/index_en.php?act=conventions.status&cid=69) *for the 1993 Convention (accessible via the* [*Intercountry Adoption Section*](http://www.hcch.net/index_en.php?act=text.display&tid=45) *of the Hague Conference website <*[*www.hcch.net*](http://www.hcch.net)*>).* | Australia assesses a country’s intercountry adoption legislation and infrastructure for compliance with the Hague Convention, and also assesses practical compliance. Australia only has programmes with countries that meet these standards; this is not dependent on whether they are parties to the Convention (although the majority of Australia's programmes are with Contracting States - only two are with non-Contracting States). |
| 1. If your State also partners with *non*-Contracting States, please explain how it is ensured that the safeguards of the 1993 Convention are complied with in these cases.[[29]](#footnote-29) | All Australia’s intercountry adoption partner countries, regardless of whether they are a Contracting State, have safeguards and frameworks in place to support practical compliance with the standards and principles in the Hague Convention, including that:  o adoptions take place in the best interests of the child with respect to his or her fundamental rights  o a child should be raised by his or her birth family or suitable permanent care should be found in the country of origin wherever possible  o safeguards are in place to prevent the abduction, sale and trafficking in children for adoption.  Australia assesses and monitors its intercountry adoption programmes using a range of measures including:  o ongoing review of relevant legislation, guidelines and infrastructure in the overseas country for practical compliance with the Convention  o monitoring of the practical operation of programmes in the overseas country  o regular dialogue with authorities in the overseas country, including central authorities, government departments, adoption agencies, liaison with the Australian embassy in-country and visits in-country  o reports from International Social Services, UNICEF and other international organisations on child protection issues in the overseas country  o exchanging information with other countries (including as required under Article 9)  o participation Special Commission meetings, and  o maintaining relationships with other relevant stakeholders.  Not applicable: our State only partners with other *Con*t*racting* States to the 1993 Convention. |
| 1. Are any formalities required in order to commence intercountry adoptions with a particular State of origin (*e.g.*, the conclusion of a formal agreement[[30]](#footnote-30) with that State of origin)? | Yes – please explain the content of any agreements or other formalities:[[31]](#footnote-31) The Australian Government decides whether to commence a new intercountry adoption programme with a State of origin. Australia does not generally require a formal agreement with that State of origin, but will enter into one if requested to do so.  No |

1. Full title: the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (referred to as the “1993 Hague Intercountry Adoption Convention” or the “1993 Convention” in this Country Profile). Please note that any reference to “Articles” (or Art. / Arts for short) in this Country Profile refers to Articles of the 1993 Hague Intercountry Adoption Convention. [↑](#footnote-ref-1)
2. Please verify whether the contact details on the Hague Conference website < [www.hcch.net](file:///C:\Users\sh\AppData\Local\Microsoft\Documents%20and%20Settings\sh\Local%20Settings\Temporary%20Internet%20Files\OLK12F\www.hcch.net) > under “Intercountry Adoption Section” then “Central Authorities” are up to date. If not, please e-mail the updated contact information to < [secretariat@hcch.net](mailto:secretariat@hcch.net) >. [↑](#footnote-ref-2)
3. See Art. 39(2) which states: “Any Contracting State may enter into agreements with one or more other Contracting States, with a view to improving the application of the Convention in their mutual relations. These agreements may derogate only from the provisions of Articles 14 to 16 and 18 to 21. The States which have concluded such an agreement shall transmit a copy to the depositary of the Convention” (emphasis added). [↑](#footnote-ref-3)
4. “National accredited bodies” in this Country Profile means adoption bodies based within your State (receiving State) which have been accredited under the 1993 Convention by the competent authorities in your State. See further *Guide to Good Practice No 2 on Accreditation and Adoption Accredited Bodies* (hereinafter “GGP No 2”), available on the [Intercountry Adoption Section](http://www.hcch.net/index_en.php?act=text.display&tid=45) of the Hague Conference website < [www.hcch.net](http://www.hcch.net) > at Chapters 3.1 *et seq*. [↑](#footnote-ref-4)
5. See GGP No 2, *ibid.,* Chapter 3.2.1 (para. 111). [↑](#footnote-ref-5)
6. See GGP No 2, *supra*, note 4, Chapter 3.4. [↑](#footnote-ref-6)
7. See GGP No 2, *supra*, note 4, Chapter 7.4. [↑](#footnote-ref-7)
8. In relation to authorisation of accredited bodies, see further GGP No 2, *supra*, note 4, Chapter 4.2. [↑](#footnote-ref-8)
9. In relation to authorisation criteria, please see GGP No 2, *supra*, note 4, Chapters 2.3.4.2 and 4.2.4. [↑](#footnote-ref-9)
10. For an explanation of the terminology used concerning the staff of the national accredited body working in the State of origin, see the GGP No 2, *supra*, note 4, Chapters 6.3 and 6.4. [↑](#footnote-ref-10)
11. See GGP No 2, *supra*, note 4, Chapter 13. [↑](#footnote-ref-11)
12. See GGP No 2, *supra*, note 4, Chapter 13.2.2.5. [↑](#footnote-ref-12)
13. Regarding nationality, see further the *Guide to Good Practice No 1 on the implementation and operation of the 1993 Hague Intercountry Adoption Convention* (hereinafter, “GGP No 1”), available on the [Intercountry Adoption Section](http://www.hcch.net/index_en.php?act=text.display&tid=45) of the Hague Conference website < [www.hcch.net](http://www.hcch.net) >, at Chapter 8.4.5. [↑](#footnote-ref-13)
14. *I.e.*, this section refers to the eligibility criteria applied, and suitability assessment undertaken, in relation to PAPs who are habitually resident in your State and who wish to adopt a child who is habitually resident in another Contracting State to the 1993 Convention: see further Art. 2 of the 1993 Convention. [↑](#footnote-ref-14)
15. This suitability assessment will usually form one part of the report on the PAPs (Art. 15): as to which, see GGP No 1, *supra*, note 13, Chapter 7.4.3 and Question below. [↑](#footnote-ref-15)
16. Please remember that a specific State of origin may have other / additional requirements concerning the documentation that must be submitted to it. A list of documents required by the specific State of origin can be found in the State of origin’s Country Profile. [↑](#footnote-ref-16)
17. See GGP No 1, *supra*, note 13, paras 4.2.6 and 8.6.6: “independent” and “private” adoptions are not consistent with the system of safeguards established under the 1993 Convention. [↑](#footnote-ref-17)
18. See GGP No 1, *supra*, note 13, Chapter 7.4.10. [↑](#footnote-ref-18)
19. According to the 1993 Convention, a **simple** adoption is one in which the legal parent-child relationship which existed before the adoption is not terminated but a new legal parent-child relationship between the child and his / her adoptive parents is established. A **full** adoption is one in which the pre-existing legal parent-child relationship is terminated. See further Arts 26 and 27 and GGP No 1, *supra*, note 13, Chapter 8.8.8. [↑](#footnote-ref-19)
20. See the tools developed by the “Experts’ Group on the Financial Aspects of Intercountry Adoption”, available on the [Intercountry Adoption Section](http://www.hcch.net/index_en.php?act=text.display&tid=45) of the Hague Conference website: *i.e.*, the *Terminology adopted by the Experts’ Group on the financial aspects of intercountry adoption* (“Terminology”), the *Note on the financial aspects of intercountry adoption* (“Note”), the *Summary* *list of good practices on the financial aspects of intercountry adoption* and the *Tables on the costs associated with intercountry adoption*. [↑](#footnote-ref-20)
21. See the definition of “costs” provided in the harmonised Terminology, *ibid.*  [↑](#footnote-ref-21)
22. See the definitions of these terms provided in the harmonised Terminology. In addition, on contributions and donations, see Chapter 6 of the Note, *supra,* note 20. [↑](#footnote-ref-22)
23. See further the harmonised Terminology, *supra,* note 20, which states that there are two types of contributions: (1) contributions demanded by the State of origin, which are mandatory and meant to improve either the adoption system or the child protection system. The amount is set by the State of origin. These contributions are managed by the authorities or others appropriately authorised in the State of origin which decide how the funds will be used; (2) contributions demanded by the accredited body from PAPs. These contributions may be for particular children’s institutions (*e.g.*, for maintenance costs for the child) or for the co-operation projects of the accredited body in the State of origin. The co-operation projects may be a condition of the authorisation of that body to work in the State of origin. The amount is set by the accredited body or its partners. The payment may not be a statutory obligation and accredited bodies may present the demand in terms of “highly recommended contribution”, but in practice it is “mandatory” for the PAPs in the sense that their application will not proceed if the payment is not made. [↑](#footnote-ref-23)
24. “Illicit practices” in this Country Profile refers to “situations where a child has been adopted without respect for the rights of the child or for the safeguards of the Hague Convention. Such situations may arise where an individual or body has, directly or indirectly, misrepresented information to the biological parents, falsified documents about the child’s origins, engaged in the abduction, sale or trafficking of a child for the purpose of intercountry adoption, or otherwise used fraudulent methods to facilitate an adoption, regardless of the benefit obtained (financial gain or other)” (from p. 1 of the *Discussion Paper: Co-operation between Central Authorities to develop a common approach to preventing and addressing illicit practices in intercountry adoption cases,* available on the [Intercountry Adoption Section](http://www.hcch.net/index_en.php?act=text.display&tid=45) of the Hague Conference website < [www.hcch.net](http://www.hcch.net) >). [↑](#footnote-ref-24)
25. *Ibid.* [↑](#footnote-ref-25)
26. According to the 1993 Convention (see Art. 2), this is an *intercountry* adoption due to the differing habitual residences of the PAPs and the child. The Convention procedures, standards and safeguards should therefore be applied to such adoptions: see further, GGP No 1, *supra*, note 13, Chapter 8.4. [↑](#footnote-ref-26)
27. According to the 1993 Convention (see Art. 2), this is a *domestic* adoption due to the fact that the habitual residence of the PAPs and the child is in the same Contracting State: see further, GGP No 1, *supra*, note 13, Chapter 8.4. [↑](#footnote-ref-27)
28. In relation to the choice of foreign States as partners in intercountry adoption arrangements, see further GGP No 2, *supra*, note 4, Chapter 3.5. [↑](#footnote-ref-28)
29. See GGP No 1, *supra*, note 13, Chapter 10.3 regarding the fact that “[i]t is generally accepted that States Party to the Convention should extend the application of its principles to non-Convention adoptions”. [↑](#footnote-ref-29)
30. See note above concerning Art. 39(2) and the requirement to transmit a copy of any such agreements to the depositary for the 1993 Convention. [↑](#footnote-ref-30)
31. *Ibid.* [↑](#footnote-ref-31)