

**QUESTIONNAIRE ON THE PRACTICAL OPERATION
OF THE 1993 HAGUE INTERCOUNTRY ADOPTION CONVENTION**

drawn up by the Permanent Bureau

*Preliminary Document No 2 of October 2014 for the attention of the
Special Commission of June 2015 on the practical operation of the
Hague Convention of 29 May 1993 on Protection of Children and
Co-operation in Respect of Intercountry Adoption*

*Document préliminaire No 2 de octobre 2014 à l'intention de la
Commission spéciale de juin 2015 sur le fonctionnement pratique de la
Convention de La Haye du 29 mai 1993 sur la protection des enfants et
la coopération en matière d'adoption internationale*

INTRODUCTION

This Questionnaire is the second and last to be prepared for the purposes of the upcoming meeting of the Special Commission on the practical operation of the 1993 Hague Convention.¹ The first Questionnaire (Prel. Doc. No 1 of July 2014) requested information from Contracting States concerning the impact which implementation of the 1993 Convention has had on laws and practices relating to intercountry adoption and child protection systems more generally over the past 20 years. That information was sought in order to inform the first day of the Special Commission meeting which will be dedicated to "20 years of the 1993 Convention". This second Questionnaire is the more usual questionnaire on the practical operation of the 1993 Convention. It seeks to elicit information from States concerning their current practices and any problems and / or challenges they may have faced in relation to the implementation and operation of the Convention.

This Questionnaire is addressed to Contracting States to the 1993 Convention. As a result, non-Contracting States (whether Members of the Hague Conference on Private International Law or not) should not feel bound to respond but may provide a response or any comment should they so wish. In addition, please note that questions are addressed to both States of origin and receiving States, save where a heading expressly provides otherwise.

Please send your response to this Questionnaire to secretariat@hcch.net, for the attention of Laura Martínez-Mora (Principal Legal Officer) and Hannah Baker (Senior Legal Officer) **by no later than 22 December 2014**. The Permanent Bureau will place all replies to this Questionnaire on the Hague Conference website < www.hcch.net > unless expressly asked not to do so.

Please note: if information provided by your State in response to the first Questionnaire (Prel. Doc. No 1) or your State's Country Profile for the 1993 Hague Convention assists with your answer to any question herein, please cross-refer to these other responses. There is no need to repeat information.

Thank you for your kind co-operation as the Permanent Bureau prepares for the next Special Commission meeting in June 2015.

¹ This Fourth Meeting of the Special Commission will take place in June 2015. Full title: *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (hereinafter, "1993 Hague Intercountry Adoption Convention", "1993 Hague Convention", "1993 Convention" or simply "the Convention").

Name of State:	CANADA - Province of Ontario
	Canada is providing responses to the Questionnaire for the provinces of Ontario (Annex 1) and Quebec (Annex 2) to illustrate some of the adoption practices in Canada. Please note that the practices in the other 11 Canadian provinces and territories may be consistent with, or may differ from, those described for Ontario and Quebec.
Date of entry into force of 1993 Hague Convention in your State:	December 1, 1999
Information for follow-up purposes	
Name and title of contact person:	Gloria Varghese, Coordinator-
Name of Authority / Office:	Private and International Adoptions Unit
Telephone number:	Ministry of Children and Youth Services - 416 327 4736
E-mail address:	gloria.varghese@ontario.ca

I. ADOPTABLE CHILDREN, ADOPTEES AND PROSPECTIVE ADOPTIVE PARENTS²

A. Adoptable children and adoptees

The profile of children in need of intercountry adoption

States of origin only

1. Please explain any *challenges* your State has encountered, and any *good practices*³ it has developed, in relation to the compilation and provision of information to receiving States regarding the:
 - (a) characteristics and needs of adoptable children in your State;⁴ and
 - (b) approximate number of children in need of intercountry adoption in your State.

N/A

Receiving States only

2. Please explain any challenges your State has encountered in ensuring that:

² Part I of this Questionnaire has been prepared in light of Conclusion and Recommendation No 10 from the 2010 Special Commission meeting which states: "The Special Commission recommended that the Permanent Bureau, in consultation with Contracting States and non-governmental organisations, collect information on the selection, counselling and preparation of prospective adoptive parents, with a view to the possible development of the Guide to Good Practice No 3. This may include a discussion on good practices in dealing with failed adoptions and the period of validity of the 'home study' report." Please note: hereinafter, Conclusions and Recommendations from past Special Commission meetings are referred to as "SC 20XX C&R No X". All Conclusions and Recommendations are available on the Hague Conference website <www.hcch.net> under "Intercountry Adoption Section" then "Special Commissions".

³ In this Questionnaire, "good practices" should be given a broad meaning and should be taken to include any legislative reform, procedures or practices which your State might have implemented regarding the particular topic.

⁴ See SC 2005 C&R No 12 which states: "[t]he Special Commission recognises the importance of States of origin sending information to receiving States on the needs of children to better identify prospective adoptive parents". Please note that the Country Profile for States of origin requests that States of origin provide information concerning the profile of adoptable children (at question 9) and thus it may be that your State has encountered challenges in responding to this question which you wish to describe here.

- (a) the *nature and number* of applications for intercountry adoption which your State sends to States of origin appropriately match the profile of children in need of intercountry adoption in those States;⁵ and
- (b) the information provided by States of origin concerning the characteristics, needs and number of adoptable children is adequately taken into account in the counselling and preparation of prospective adoptive parents ("PAPs").⁶

Please also share any good practices your State has developed in this regard.

(a) The main challenge is where some States of origin are not clear about the number and the characteristics of children available for intercountry adoption, in particular the age ranges and special needs. This impacts on how long wait times for matching may be. Delays are caused because the characteristics of the children for whom PAPs are eligible and suitable to adopt may not match the characteristics of the available children.

(b) Only in cases where the information received from a foreign CA is limited and may lack specific and accurate detail regarding the special and unique needs of the children who are available. The Ontario Central Authority ("OCA") requires all PAPs to complete a mandatory adoptive parent training course, as well, many licensed agencies require their clients to complete country-specific adoption program training.

Adoptability

Both States of origin and receiving States

3. (a) Please briefly describe any difficulties your State has encountered in relation to the decision regarding a child's adoptability, including the transparency of any such decision and the independence of the body taking this decision.⁷

The State of origin is responsible for establishing a child's availability for adoption. As a receiving State, difficulties arise when we do not obtain clear and insufficient information from the State of origin. Such situations notably pose problems in regard to the application of article 17 c) of the Convention.

- (b) Has your State encountered any particular difficulties with adoptability decisions in the context of *intra-family* intercountry adoptions? If so, please explain.

A child's adoptability is not always clearly addressed by the foreign CA in cases of intra-family intercountry adoptions. The efforts of the foreign CA to verify this information is not always described, and if described, is often summarized in a brief statement.

Some States of origin have not established the legislative authority to process relative intercountry adoptions in the same manner as all other intercountry adoptions, as required by the Convention. As a result, in some Hague States, the CA is not involved in relative intercountry adoptions and applicants may instead be directed to complete a domestic adoption. This creates significant challenges for receiving States in enforcing and ensuring Hague compliance and may result

⁵ See para. 553 of *Guide to Good Practice No 2 "Accreditation and Adoption Accredited Bodies: General Principles and Guide to Good Practice"* ("GGP No 2") which states that receiving States should respect "the requirements of States of origin regarding the profile and number of adoptable children, as well as the desired profile of prospective adoptive parents".

⁶ See SC 2005 C&R No 13: "[t]he Special Commission recognises that as a matter of good practice, authorities in receiving States should co-operate with authorities in States of origin in order to better understand the needs of children in States of origin", and SC 2010 C&R No 8: "States of origin may assist receiving States in establishing their criteria for the selection of prospective adoptive parents by providing information about the characteristics and needs of adoptable children. This information will also contribute to the development of preparation materials on intercountry adoption directed to prospective adoptive parents, and to the management of their expectations."

⁷ See SC 2010 C&R No 1 b).

in an inability on behalf of the adoptive applicants to complete an intercountry adoption, or for sending and receiving CAs to issue/receive Article 4 and 17(c) letters, as required.

Reports on children

Both States of origin and receiving States

4. Please explain any challenges your State has encountered in preparing (States of origin) or obtaining (receiving States) full, accurate and up-to-date reports, including medical reports, on adoptable children in accordance with Article 16(1) a).⁸ Please specify any particular difficulties encountered in the case of children with "special needs".⁹

The information contained in the child proposal can at times be limited and may lack specific and accurate detail regarding the special and unique needs of the child, the child's medical history and, as it relates to older children, the child's receipt of comprehensive counseling, mental and psycho-social history including, the child's readiness to be adopted and readiness to leave the State of origin.

Receiving States only

5. (a) If reports on children appear deficient or incomplete, what measures, if any, does your State take to remedy or ameliorate the situation?

In such cases, the OCA will direct the licensee to obtain any missing information required before the OCA may consider the proposal. If needed, the OCA may contact the foreign CA directly, where systemic or significant concerns are identified. The PAPs and the licensee will also consult with a doctor who is an expert in intercountry adoption to review the medical information contained in the child proposal and to provide an opinion as to the child's potential medical needs in future.

- (b) Please specify how, in your State's view, reports on children provided in accordance with Article 16(1) a) could be improved in general.

Better document the child history information (pregnancy history, birth history, in what environment the child lived and grew up in, etc.).

Ensure that persons involved have sufficient medical expertise.

Designate hospitals responsible for exams and reporting.

Ensure that pre-identified basic elements for a medical analysis are covered.

Photographs or videos of the child should also be included although these are not specifically required by Article 16, but are especially helpful to PAPs when considering a proposal.

Matching

Both States of origin and receiving States

6. Has your State had any experience of cases in which PAPs are declared eligible and suited to adopt a particular profile of child(ren) but are subsequently matched with a child or children with different needs? (E.g., PAPs are declared eligible and suited to adopt a child under the age of 5 but are subsequently matched with siblings aged 7 and 9.) If so, please explain, in your State's experience, the reasons for this and how your State has dealt with such cases.

Yes, in such cases, Ontario licensed agencies are not permitted to share the proposed match with the applicants until first, an updated assessment is completed by the Adoption Practitioner which assesses whether the applicants are suitable to adopt a child or children with additional

⁸ E.g., concerning children's physical and psychological health, identity or social situation.

⁹ You may wish to cross-refer to your State's Country Profile at question 13 (States of origin) and question 11 (receiving States) concerning your State's definition of children with "special needs".

characteristics. If the Adoption Practitioner has assessed that the applicants are suitable to adopt a child or children with such additional characteristics, an updated assessment report must be submitted to the OCA for its consideration. Only upon approval by the OCA as demonstrated by the issuance of its letter of approval, may the licensee work with the Adoption Practitioner to present the child proposal to the PAPs. This process is particularly important where the age and/or special needs of the child vary from the characteristics identified in the original letter of approval issued with respect to the suitability and eligibility of the PAPs.

These incidents occur from time to time, when the foreign CA has children who are available for adoption for whom they are exploring possible matches with foreign accredited agencies, to consider whether PAPs who are suitable to adopt may be willing to seek approval to adopt a child with additional characteristics.

Preparation and counselling of children

Both States of origin and receiving States

7. Please share (a) any *challenges* encountered in your State or in other Contracting States, and (b) any *good practices* implemented in your State or in other Contracting States, regarding the preparation of children for intercountry adoption, including counselling and informing children and ensuring that, having regard to their age and degree of maturity, their wishes and opinions have been adequately heard and taken into account.

(a) It is the responsibility of the State of origin to prepare, inform and counsel the child and to ensure that his or her wishes and opinions have been adequately heard and taken into account, having regard to his or her age and maturity. We understand that this is done as part of establishing the child's availability for an intercountry adoption and before the child proposal is sent. As a receiving State, we are not aware of cases where this was not done.

(b) In Ontario, domestic adoption legislation requires that a child must provide his or her consent to an adoption and be counselled if he or she is age 7 or older. Legislative requirements in addition to clinical social work practices established in Ontario ensure that children are informed, counselled and their wishes taken into account prior to making an adoption placement or permitting the finalization of an adoption. In Ontario, domestic legislative requirements also ensure that the child is visited a minimum of three times during the 6 months immediately following the adoption placement and prior to adoption finalization by an Adoption Practitioner wherein the child as well as the adoptive family's adjustment to the adoption placement is monitored and supports offered as needed.

B. Prospective adoptive parents ("PAPs")

Selection of PAPs: eligibility and suitability to adopt intercountry

Both States of origin and receiving States

8. Please explain any challenges your State has encountered, and any good practices it has developed, in relation to preparing (receiving States) or obtaining (States of origin) full, accurate and up-to-date reports on PAPs, as required by Article 15, including eligibility and suitability assessments of PAPs.

Challenges: If after 2 years, the PAPs have not received and accepted a child proposal, the PAPs must complete a homestudy update and continue to update their homestudy assessment every 2 years for as long as they may be waiting for a child proposal and successful match. This requires the PAPs to assume additional costs for the completion of the homestudy updates and to secure various police and child welfare clearances every 2 years.

Good Practices: The OCA requires all PAPs to be assessed using a standardized and mandatory assessment tool, which is a best practice that supports Adoption Practitioners who complete assessments, and the OCA who approves them, in ensuring that all PAPs are assessed using established criteria for application in all types of adoption cases. If approved, the assessment is valid for 2 years within which updated police clearances, child welfare checks are not required.

States of origin only

9. (a) If reports on PAPs appear deficient or incomplete, what measures if any does your State take to remedy or ameliorate the situation?

N/A

- (b) Please specify how, in your State's view, reports on PAPs provided by receiving States in accordance with Article 15 could be improved in general.

N/A

Counselling and preparation of PAPs

States of origin only

10. (a) Has your State encountered any difficulties resulting from inadequate counselling and preparation of PAPs by receiving States? If so, please provide examples and explain what measures your State takes to remedy or ameliorate the situation in these cases.

N/A

- (b) In your State's experience, what could be done to improve the counselling and preparation of PAPs in general?

N/A

Receiving States only

11. What are the main challenges your State encounters when counselling and preparing PAPs for an intercountry adoption?¹⁰ Please share any good practices your State has developed to address these challenges.

The main challenges are: some foreign CAS may not provide adequate detail about the characteristics of the children who are available for adoption. This creates challenges for Ontario licensees and Adoption Practitioners in preparing PAPs for the specific challenges children who will be adopted intercountry may experience. Ontario requires all PAPs to complete a mandatory training course which is tailored to specifically teach PAPs about all the various needs and behaviours that children may display at any time following the adoption placement. This supports PAPs in being better prepared for the various needs of children whom they may adopt. PAPs are encouraged to complete additional training offered through licensed agencies and Adoption Practitioners to gain additional

¹⁰ You may wish to refer to your State's response to the Country Profile at question 15. E.g., managing their expectations concerning the profile of adoptable children or waiting times, ensuring preparation materials / courses adequately prepare PAPs for the specific needs of an adoptable child.

skills, awareness and understanding of a variety of child behaviours and needs, how to address them and who to contact if they need assistance after the child is placed in the home. In addition, PAPs work with their licensee to secure additional medical advice from doctors who are experts in international adoption, in cases where the medical information provided by the foreign CA is unclear or presents questions regarding the possible future needs of the child. The additional medical consultation provides added support to the PAPs in understanding what needs the child may have and what would be necessary to fully address those needs.

12. The Special Commission has previously emphasised "the need for country specific preparation and for prospective adoptive parents to have some knowledge of the culture of the child and his or her language in order to communicate with the child from the matching stage".¹¹ How does your State ensure that this recommendation is complied with? Does your State have any good practices to recommend in this regard?

Ontario's licensed agencies and Adoption Practitioners provide specialized training courses to support PAPs and adoptive families in their understanding of cultural and ethnic backgrounds specific to particular countries or regions. Generally, prior to the approval of applicants to adopt from a particular country, the PAPs existing knowledge of, or willingness to learn about the culture, race, language, religion and customs of the State of origin is explored and assessed.

13. How does your State deal with the waiting time between:

- (a) the eligibility and suitability assessment of PAPs and the transmission of their application to the State of origin?

Generally, delays in the submission of the dossier to the foreign CA following approval of the PAPs as eligible and suitable to adopt by the OCA are not experienced as both PAPs and licensees are motivated to move forward. Ontario licensed agencies are required to inform all PAPs of the general wait times affecting intercountry adoption process in advance of accepting the PAPs decision to proceed with an intercountry adoption.

and

- (b) the transmission of the PAPs' application to the State of origin and the receipt of the proposed match from the State of origin?¹² (E.g., does your State routinely update the reports on PAPs in this period?¹³ Does your State, or the relevant adoption accredited body, engage in regular communication with the State of origin on this issue?)

Ontario licensed agencies are responsible for monitoring the timelines associated with receipt of a child proposal following submission of the dossier. They are also responsible for ensuring the timely update and submission of reports to the foreign CA as may be required, as well as securing the continued approval of the PAPs as suitable and eligible to adopt from the OCA.

The main challenge continues to be the long wait time before receiving a child proposal. Ongoing coordination between the foreign CA, Ontario licensee, PAPs and the OCA are required to monitor wait times and manage expectations. The uncertainty of the wait times is difficult for licensed agencies and the OCA to measure and foreign CAs may also be unable to provide additional clarity on this issue.

C. **Intercountry adoptions involving children with special needs¹⁴**

Both States of origin and receiving States

¹¹ See SC 2010 C&R No 9.

¹² Your State may engage in a "reversal of the flow of files" with States of origin or other procedures such that waiting times are minimised: see further *Guide to Good Practice No 1 "The Implementation and Operation of the 1993 Intercountry Adoption Convention"* ("GGP No 1") at Chapter 7.3.3, para. 394.

¹³ You may wish to refer to your State's response to the Country Profile at question 17 d).

¹⁴ See note 9 above regarding your State's definition of "special needs".

14. (a) In your State's experience, what are the most common "special needs" of children adopted intercountry?

In our experience "special needs" as identified by States of origin vary significantly and may also vary from the understanding of receiving States. Generally, child proposals for "special needs" children include: older children, children with particular types of medical conditions such as hare lips, cleft palate, children with minor heart abnormalities, missing digits or limbs, developmental delays; children with medical diagnoses such as FASD, HIV, Hepatitis, etc.

- (b) If possible, please specify approximately what percentage of children adopted intercountry from or to your State¹⁵ have "special needs" (as defined by your State)?

Increasingly, the characteristics of children proposed include special needs. Few children are proposed where a special need is not presented. Statistics cannot be provided.

- (c) What measures, if any, has your State taken to adapt intercountry adoption procedures in light of the needs of these children?

The homestudy assessment must thoroughly address the PAPs suitability, skills and parenting capacity to meet the specific special needs of the child, including medical, emotional, mental and physical needs.

- (d) What are the main challenges which your State encounters in relation to the intercountry adoption of children with special needs? How does your State address those challenges?

In our view, there is a general understanding among States that all children who are placed for intercountry adoption present "special needs". For this response however, we are using this term to cover conditions, diagnoses or characteristics for which applicants would need to demonstrate specific parental skills beyond those that the Ontario Central Authority would generally look for when considering applicants for intercountry adoption. In this context, one of the main challenges is the different views States have on what constitutes a "special need". For example, some States of origin consider a cleft palate or other minor medical conditions as a "special need" even though, in our view, such conditions would not require specific parental skills. On the other hand, some States of origin do not recognize attachment disorder or the effects of institutionalisation as a "special need" even though these needs undoubtedly require specific parental skills.

Because of these different views or approaches, States may not always be "speaking the same language" when referring to special needs children. This miscommunication directly affects the matching of the child and the selection and preparation of PAPS. In the more difficult cases, it may also compromise, or significantly reduce, the chances of a successful adoption.

To address this particular challenge, States of origin must be more forthcoming and fully describe the child's circumstances, needs and/or diagnoses so that receiving States may have frank communications with PAPs and fully assess their parental skills – strengths and limitations.

Receiving States only

15. In relation to the intercountry adoption of children with special needs, how does your State ensure that:

- (a) the parenting abilities of PAPs and their ability to cope with the particular special needs are appropriately assessed?

The homestudy assessment must thoroughly address the PAPs suitability, skills and parenting capacity to meet the specific special needs of the child, including medical, emotional,

¹⁵ Depending upon whether your State is a State of origin or a receiving State.

mental and physical needs.

- (b) any PAPs selected are suitably prepared for such adoptions and for the specific needs of each child?

In addition to the homestudy assessment itself, Ontario requires all PAPs to complete a mandatory training course which is tailored to specifically teach PAPs about all the various needs and behaviours that children may display at any time following the adoption placement. This supports PAPs in being better prepared for the various needs of children whom they may adopt. PAPs are encouraged to complete additional training offered through licensed agencies and Adoption Practitioners to gain additional skills, awareness and understanding of a variety of child behaviours and needs, how to address them and who to contact if they need assistance after the child is placed in the home. PAPs are encouraged to seek out additional medical advice from medical experts regarding any medical needs of the child to understand what the child's future needs could be and what would be necessary to properly address those needs.

- (c) adoptive families are provided with appropriate post-adoption support in light of the child's special needs?

The available post adoption supports vary throughout Ontario. The OCA is not directly involved in the establishment of post-adoption services. However, various government agencies and private entities provide a variety of post-adoption supports to adoptive parents either for free or on a for-fee basis. During the homestudy assessment and mandatory training that all PAPs are required to complete, PAPs are referred to services that are available to assist them that are offered through the licensee, Adoption Practitioner and in the community, should they have questions or require support at any time after the child is placed in the home.

D. Post-adoption services for adoptees and adoptive parents

Both States of origin and receiving States

16. How, if at all, has your State implemented the recommendation of the 2010 Special Commission meeting that States should "provide different forms of assistance and counselling for different stages of the child's development to adulthood, including preparation for origin searches and reunions of the adoptees with members of their biological families"?¹⁶

Generally, in Ontario different forms of post-adoption supports are available throughout an adoptive child's development as are offered to all Ontario children. With respect to preparation for origin searches and reunions of adoptees and their biological families following the completion of an intercountry adoption, the OCA is not directly involved. However, Ontario residents may opt to work with the Ontario licensed agency that facilitated the adoption, foreign authorities or their accredited bodies to request information about how to (or whether it is possible to) contact biological families. It should be noted that circumstances of the adoption as well as the laws in effect in the State of origin will affect the ability of a child to become aware of and contact his or her biological family.

Receiving States only

17. Please specify any challenges your State has encountered in ensuring that adequate support is in place for adoptive parents and adoptees following an intercountry adoption, including where parents have adopted a child with special needs.¹⁷ Please also share any good practices your State has developed to overcome these challenges.

The available post adoption supports vary throughout Ontario. The OCA is not directly involved

¹⁶ SC 2010 C&R No 29.

¹⁷ E.g., difficulties coping with an increased demand for post-adoption services or with a need for more specialised services, or difficulties in determining how services should be funded. You may wish to cross-refer to your State's response to the Country Profile at Part IX concerning the services and support which your State provides.

in the establishment of post-adoption services. However, various government agencies and private entities including licensed agencies and Adoption Practitioners provide a variety of post-adoption supports to adoptive parents.

E. Breakdown of intercountry adoptions

Both States of origin and receiving States

18. If your State has had experience of intercountry adoptions which have broken down subsequent to the adoption (sometimes referred to as "failed" or "disrupted" adoptions), please explain, in general terms:

- (a) what have been the main causes of the breakdowns in these cases (e.g., deficient reports on the child, including failure to identify specific physical or psychological health needs in the report, inadequate preparation of the child or PAPs, inadequate post-adoption support).

On rare occasions, the OCA has become aware of an adoption breakdown. The reasons for the breakdown are varied and may be the result of any combination of factors, including:

- information contained in the child proposal did not fully identify the extent or scope of the child's individual needs,
- PAPs were not able to address or meet the highly specialized needs of the child,
- despite the best efforts of the PAPs, it was determined to be in the child's best interest for new options for permanency for the child to be examined

- (b) how your State has *addressed* these situations. Does your State have any good practices to share in this regard?

A case by case assessment is required in such circumstances. Consultation between the child protection agency, the licensee, OCA, and Adoption professionals is required to identify steps that must be taken to support the best interests of the child in the immediate and long terms. Where the OCA is involved, the Foreign CA is made aware of the situation and consideration is given to its views. In addition, we review the particular case to see whether any steps should be taken to prevent similar adoption disruptions in the future.

- (c) what steps, if any, your State has taken to try to *prevent* these situations occurring in future.

The OCA places great emphasis on the assessment and screening of PAPs and continues to require fulsome information as part of the child proposal process to prevent an adoption breakdown to the degree that it is possible. Further, PAPs are encouraged to understand, identify and participate in post adoption services that may be available. Ontario licensed agencies and Adoption Practitioners are provided with follow up on a case by case basis in the case of an adoption disruption to determine what can be learned, what best practices can be adapted to support successful adoption placements and prevent adoption disruptions.

F. Open adoption

Both States of origin and receiving States

19. Does the term "open adoption" (or similar) exist in your State's domestic legislation or rules? If so, please explain how it is defined. If not, please explain what is understood in your State by the term "open adoption" or "openness in adoption".

In Ontario, openness is understood to be an agreement that permits the communication or maintenance of a relationship between the child and (a) a birth parent, birth sibling or birth relative of the child; (b) a person with whom the child has a significant relationship or emotional tie, or (c) if the child is a native or aboriginal person, a member of the child's band or native (aboriginal) community. Openness agreements can be made between the birth family (or other individuals with a relationship

to the child) if known and the adoptive family; such agreements may be formal or informal. Although openness is encouraged in Ontario, once an adoption is completed, if openness deteriorates between the parties, the adoption itself will not be re-opened or made vulnerable. Openness is not a required element of an adoption.

20. Please specify what type of openness in intercountry adoption is: (a) permitted according to your State's domestic *legislation or rules*; and (b) promoted *in practice* in your State.¹⁸

(a) Although openness is specifically described and authorized under Ontario's adoption legislation which applies to intercountry adoptions that are completed in Ontario, it is not specifically addressed under Ontario's Hague implementing legislation which applies to intercountry adoptions which are completed in the State of origin.

(b) Openness in all adoptions completed by residents of Ontario whether they are completed in the State of origin or in Ontario is promoted as a best practice. However, it is understood that the circumstances of the adoption as well as the cultural, socio-political and legislative requirements of the State of origin may not support openness.

21. If possible, please specify approximately what percentage of intercountry adoptions involving your State include some element of openness. Has this number increased in recent years and, if so, what, in your State's view, are the reasons for this? What challenges have arisen as a result and how has your State sought to address these challenges?

This value is not tracked by OCA.

G. Discussion at the upcoming Special Commission meeting

Both States of origin and receiving States

22. Which topics / issues does your State consider are the most important to discuss at the Special Commission in relation to the counselling and preparation of children and the selection,¹⁹ counselling and preparation of PAPs for intercountry adoption?

For Canada, issues surrounding costs/donations/contributions are the most important topics for discussion at the Special Commission. On the topic suggested here (selection of PAPs and counselling/preparation of children and PAPs), Canada proposes exploring how to better structure the initial bonding period to more adequately prepare the child and PAPs.

23. Does your State consider that there is any merit in developing a Guide to Good Practice on the selection, counselling and preparation of PAPs for intercountry adoption, as recommended by the last meeting of the Special Commission in 2010, and on the preparation and counselling of children?²⁰ If so, which particular issues would your State wish to see addressed in such a Guide?

Canada does not support the development of a guide to good practice on this topic. In our view, the Guide to Good Practice already provides helpful guidance regarding how to select, counsel and prepare PAPs. Further, the selection, preparation and counseling of PAPs primarily involve clinical considerations rather than administrative practices or legal norms. In this regard, a guide to good practice would not be an appropriate vehicle.

¹⁸ E.g., disclosure of identities of biological and adoptive families, post-adoption contact.

¹⁹ The "selection" of PAPs in this context is taken to mean the assessment of the PAPs' eligibility and suitability to adopt intercountry.

²⁰ See SC 2010 C&R No 10 (*op. cit.* note 2).

II. SOME SPECIFIC ISSUES ARISING IN THE INTERCOUNTRY ADOPTION PROCEDURE

A. Article 17 agreements

Both States of origin and receiving States

24. Please indicate any operational difficulties which your State has experienced, either in your State or in other Contracting States, in relation to obtaining the agreements required in Article 17 and, in particular, Article 17 c).²¹

The OCA has not experienced problems acquiring Article 17(c) letters from States of origin, unless the foreign CA involved did not have jurisdiction over relative adoptions. For more information about difficulties in the context of intra-family adoptions, please see the response to Question 3(b).

B. Recognition of adoptions made in accordance with the Convention (Chapter V)²²

Both States of origin and receiving States

25. (a) Previous Special Commission meetings²³ have repeatedly emphasised the importance of:
- clearly designating the authorities competent to issue Article 23 certificates and keeping this information updated;
 - promptly issuing such certificates without delay following an adoption decision made in accordance with the Convention;
 - providing parents with a copy of the Article 23 certificate before they come to take the child;
 - providing a copy of the certificate to the Central Authority in the receiving State;
 - using the "Model Form for the Certificate of Conformity of Intercountry Adoption"²⁴ to promote consistent practice; and
 - where an Article 23 certificate is incomplete or defective, co-operating to regularise the situation.

Despite the above recommendations, has your State continued to experience difficulties with the issuance or receipt of certificates of conformity under Article 23?²⁵ If so, please explain the difficulties encountered, including how your State has sought to remedy or ameliorate the situation.

Receipt of Article 23 certificates is often delayed; they are usually received by the licensee/accredited agency rather than through the State of origin

²¹ E.g., lack of clarity concerning the body which should provide the Art. 17 c) agreement, breakdown of State-to-State communications concerning the agreement, lack of clarity concerning which State should provide its agreement first.

²² When answering this section, you may wish to cross-refer to your State's response to question 13 of Questionnaire No 1.

²³ E.g., see SC 2000 C&Rs Nos 17 to 19, SC 2005 C&R No 3 and SC 2010 C&Rs Nos 15 to 17.

²⁴ See GGP No 1, Annex 7.

²⁵ E.g., deficient or no certificates issued, delays in sending certificates, confusion concerning which authorities should issue the certificate, confusion concerning to whom the certificates should be sent.

- (b) Taking into account the previous recommendations made on this topic, does your State have any novel suggestions concerning how to improve practices regarding Article 23 certificates?²⁶

No

C. Delays in intercountry adoption procedures

Both States of origin and receiving States

26. Does your State have any comments on the speed with which Convention adoptions are processed?²⁷ If your State has experienced any unnecessary delays, what has caused these delays and are they at a particular stage of the intercountry adoption procedure?

Delays are experienced as observed by the many years that PAPs must often wait before a match can be made. It is unclear whether these delays are unnecessary, as the appropriate time to ensure that the subsidiary principle has been respected in each case and to ensure that the child is truly free for adoption varies from country to country.

27. Does your State have any good practices to share or recommendations as to how delays in the intercountry adoption procedure might be minimised, whilst still ensuring that the safeguards of the Convention are respected?

Imposing quotas (limited number of files that can be submitted in a State of origin) could be a potential solution for decreasing the undue delays between the submission of a file and the proposal of a child. That number would be determined by the number of adoptable children in the State of origin.

D. Co-operation issues

Both States of origin and receiving States

28. In your State's experience, is the day-to-day co-operation with other Contracting States working well (e.g., sending and receiving documents,²⁸ prompt responses to enquiries and questions, openness to discussing problems and finding solutions)? Please specify any difficulties and concerns.

Some foreign Central Authorities are not responsive.

29. At the meeting of the Special Commission in 2000, "[t]he need for adequate resources and appropriately trained staff in Central Authorities was accepted, as well as the importance of ensuring a reasonable level of continuity in their operations."²⁹ Has your State continued to encounter difficulties in this regard, whether in your State or in other Contracting States?

Yes, for some States of origin

²⁶ E.g., how to better promote the use of the Recommended Form, ensure designations under Art. 23.

²⁷ See SC 2005 C&R No 14: "[t]he Special Commission reminds States Parties to the Convention of their obligations under Article 35 to act expeditiously in the process of adoption, and notes in particular the need to avoid unnecessary delay in finding a permanent family for the child".

²⁸ E.g., has your State encountered any difficulties due to other Contracting States requesting documents / information which your State is not permitted to provide according to your domestic legislation, or due to your State requesting documents / information from other Contracting States which they are not permitted to provide (such as identities of biological parents, statements of consent, judgments regarding the withdrawal of parental rights, medical reports on PAPs)?

²⁹ See SC 2000 C&R No 3.

30. Has your State made or received from other Central Authorities any "general evaluation reports" about experiences with intercountry adoption as specified in Article 9 d)?

If so, have these reports proved useful? Please explain to what use they have been put and the follow up undertaken.

If not, does your State consider that the preparation of such reports should be encouraged as helpful in promoting the regular review of practices and co-operation between States?

No, the documents prepared by States for meetings of the Special Commission and the exchanges in the context of these meetings allow for a the regular review of practices and cooperation.

III. SPECIFIC TOPICS FOR CONSIDERATION

A. The subsidiarity principle (Art. 4 b))

Both States of origin and receiving States

31. Please describe the laws, procedures and practices in your State which seek to ensure that an appropriate balance is struck between providing sufficient support to biological families to enable the family to be preserved or reunified where possible, while at the same time preventing excessive delay in declaring a child adoptable and finding a suitable alternative permanent family for the child if necessary.

The Child and Family Services Act governs child welfare and adoption in Ontario. Ontario has established various standards for performance and application by child protection workers which reflects a desired level of achievement for Ontario's provision of child protection services.

One key standard emphasizes a continuous focus on goals, outcomes and the child's need for a safe, stable, reliable and permanent placement. The desired outcomes of the particular standard include:

1. The child and family receive services identified in the service plan.
2. The family makes progress toward achieving its goals/objectives.
3. Risk of child maltreatment is reduced.
4. The child's ties to family, culture, religion are maintained via involvement of extended family, relatives or members of his or her community.
5. The child who is in out-of-home care achieves permanency in a timely manner.

Despite the best practices established in Ontario to ensure that permanency for children and youth is given the utmost focus, timelines for declaring a child adoptable and for finding a suitable alternative permanent family for the child if necessary, may vary from case to case.

For more information please visit:

<http://www.children.gov.on.ca/htdocs/English/topics/childrensaid/childprotectionstandards.aspx#standard10>

States of origin only

32. What are the main challenges in implementing and applying the subsidiarity principle in intercountry adoption cases in your State?

N/A

33. In your State, is the subsidiarity principle applied in the same manner to:

- (i) *intra-family* intercountry adoptions; and
- (ii) intercountry adoptions concerning children with *special needs*?

If not, please describe any different procedures used and explain the reasons for the different procedures.

N/A

Receiving States only

34. (a) In accordance with the principle of co-responsibility,³⁰ what information, if any, does your State routinely request *in each intercountry adoption case* to ensure that the subsidiarity principle has been respected in the State of origin?

The responsibility for the application of article 4 rests with the State of origin. However, the Ontario Central Authority requests a statement of availability, including a description of the State of origin's application of the subsidiarity principle in each case.

- (b) Is it possible and / or common in your State for a proposed matching of child and PAPs to be rejected on the basis that the relevant competent authority / body is not satisfied that the subsidiarity principle has been respected in the particular case?

The Ontario Central authority may request additional clarification from the Central Authority of the State of origin regarding the child's availability for intercountry adoption.

35. In some States of origin, the child protection infrastructure necessary to implement the subsidiarity principle does not exist or is severely deficient, making proper implementation of the Convention in this respect challenging. Does your State undertake any programmes to assist States of origin with the development of their child protection systems³¹ in order for them to better implement the subsidiarity principle either:

- (a) at State level (e.g., in the form of development aid or technical assistance)?
No.

and / or

- (b) through other bodies such as non-governmental organisations (which are not adoption accredited bodies)?

The OCA is not aware; in addition, it does not have authority or oversight over non-accredited adoption bodies.

³⁰ See, e.g., Chapter 12 of GGP No 2.

³¹ See SC 2000 C&R No 10, which stated that “[r]eceiving countries are encouraged to support efforts in countries of origin to improve national child protection services... However, this support should not be offered or sought in a manner which compromises the integrity of the intercountry adoption process”, as well as SC 2010 C&R No 6. See also para. 553 of GGP No 2 which states that receiving States have “an additional responsibility to assist States of origin to improve their child protection and adoption systems. This is essential if all of the Convention’s safeguards are to be applied...”.

If so, please specify how it is ensured that any such programmes do not compromise the integrity of intercountry adoption procedures and / or result in a dependence upon these forms of assistance:

B. Mobility and globalisation

Both States of origin and receiving States

36. How, if at all, does your State define "habitual residence" for the purposes of the Convention? What factors are considered when determining where persons are habitually resident for Convention purposes?

Ontario's legislation contains no formal definition of "habitual residency." However, the OCA considers many factors when considering habitual residency, such as but not limited to, the following:

- Does the applicant reside, work, own property in Ontario, and if so, for how long?
- What is the applicant's immigration status?
- Where does the applicant intend to reside and rear the child or children?
- Is the applicant eligible to sponsor the child for permanent immigration into Canada

37. What are the most common scenarios in which your State has encountered difficulties in determining the "habitual residence" of PAPs and / or a child?

- When there are two applicants and one is resident in Ontario and the other is not
- When the applicants are resident in more than one country
- In regard to the child's habitual residency, when the child has entered Canada as a visitor

38. Please describe any restriction that your State places on individuals' ability to adopt intercountry based on their:

- (a) nationality; and / or
 - (b) immigration status (*i.e.*, permission to reside in your State).
- (a) Adoption legislation in Ontario does not specify nationality requirements.
 (b) In order to comply with Article 17(d), PAPs must have citizenship or permanent residency status in order to sponsor a child's entry into Canada.

39. How does your State deal with situations in which PAPs, habitually resident in one State, move to another Contracting State after initiating intercountry adoption proceedings (in accordance with Art. 14) but *while the adoption process is ongoing*? Does your State's response vary if the move is instead to a non-Contracting State?

PAPs who have initiated an adoption in a foreign country, whether domestic or intercountry, and who have not completed the adoption prior to emigrating to Ontario are required to meet with Ontario's intercountry adoption requirements once they become habitually resident in Ontario.

40. How does your State deal with situations in which PAPs are either non-nationals living in your State, or nationals of your State living in another State, and:

- (a) your State does not consider the PAPs to be habitually resident in your State and the other State also does not consider them to be habitually resident in their State (*i.e.*, the PAPs are in a situation where they cannot make an application to adopt intercountry)?

In cases where former residents of Ontario are living abroad and are not habitually resident in Ontario, the OCA has no authority to be involved. In this case, the PAPs may wish to establish habitual residency in Ontario if they wish to complete the intercountry adoption in accordance with Ontario's intercountry adoption requirements (because they do not wish to, or are unable to, properly complete the adoption because they are not considered to be habitually resident

in the other State).

or

- (b) both your State and the other State consider the PAPs to be habitually resident in their State?

PAPs who are habitually resident in Ontario (regardless of whether they are considered to be habitually resident in another State by the CA of that State) are required to comply with Ontario's intercountry adoption requirements. If the PAPs advises the OCA that they are required to comply with the requirements of another State in addition to the Province of Ontario, the OCA will consult with the other State before the OCA considers the matter further.

Example: PAPs are nationals of State A but, due to the nature of their work, have to move regularly to live in other countries for varying periods. Recently, they moved to State B for a one-year work contract. They now wish to adopt a child from State C.

- (a) *State A says these PAPs are not habitually resident in State A as they are not currently living there. State B also determines that they are not habitually resident in State B since they will leave the State at the end of one year.*

OR

- (b) *State A says the PAPs are habitually resident in State A as they are abroad for a limited, finite period and State A is the only country in which they have the intention to reside long-term. State B also determines that these PAPs are habitually resident in State B as they are currently living in State B.*

41. How does your State deal with situations in which PAPs are nationals of your State, are habitually resident in another State and wish to adopt a child from a third State? What role, if any, does your State play in the intercountry adoption in this scenario (e.g., is your State involved in securing the nationality of your State for the child, any other role)?

The OCA does not and cannot play a role, unless PAPs establish habitual residence in Ontario.

C. Use of modern technologies³² in intercountry adoption³³

In general

Both States of origin and receiving States

42. Please briefly describe any laws, regulations or policy guidelines which exist in your State concerning the use of modern technologies in the field of adoption.³⁴ Where possible, please provide a hyperlink to these laws, regulations or guidelines or provide a copy, with a translation into English or French.

Legislation specific to the use of modern technologies in the field of adoption does not exist. However, government use, collection and protection of private information such as information submitted in relation to an adoption application is subject to legislative restrictions.

³² In this document "modern technologies" is taken to mean the Internet and modern communication methods, such as e-mail, video-conferencing and social media.

³³ If your State responded to the 2013 ISS/IRC Questionnaire on new technologies and adoption (ISS/IRC Circular No 118), you may wish to refer to this response in your answers to this section.

³⁴ E.g., legislation might concern data protection and rules concerning the online storage of data in adoption cases, the use of photo-listings, the use of the Internet in searching for origins or the use of DNA testing in adoption cases.

43. Does your State regularly use modern technologies in the field of intercountry adoption, both generally, as well as in individual intercountry adoption cases?³⁵

If so, please describe which technologies are used, at what stage(s) of the intercountry adoption procedure and how the use of these technologies affects your daily work.

If not, please explain the reasons for this (e.g., no access to modern technologies due to resource constraints, infrastructure problems or an absence of training).

Yes, the OCA regularly uses email to communicate with foreign Central Authorities, licensed agencies, Adoption Practitioners and PAPs throughout the various stages of the adoption process. This ensures efficiency in processing of documents wherever original certified documents are unnecessary, or are necessary but are scanned and forwarded to the OCA before they are mailed.

44. In your State's experience, what (a) benefits³⁶ and (b) risks have modern technologies brought to the field of intercountry adoption? Please describe how your State attempts to manage any perceived risks.

(a) Benefits with respect to email: speed, efficiency, direct contact with adoption professionals, foreign CAs, foreign representatives, etc., is easily facilitated.

(b) Risks: there are inherent risks related to email security which Ontario mitigates through use of a secure email system.

45. Please briefly explain any specific courses, training or information which is / are provided on the use of modern technologies in the adoption process to:

(a) the authorities and bodies involved in intercountry adoption in your State.³⁷ Protection of personal information and privacy is a topic that is covered during annual training and is covered in particular detail with newly licensed adoption agencies or newly authorized Adoption Practitioners.

and / or

(b) PAPs, biological families and adoptable children (or adoptees, if the information is provided subsequent to the adoption)³⁸ – e.g., are the risks of the use of these technologies part of the programmes of counselling and preparation of PAPs, adoptable children or biological families and is any post-adoption support provided in relation to these issues?³⁹

Licensed agencies and Adoption Practitioners using modern technologies are responsible for explaining all risks inherent to the adoption facilitation and management process.

In either case, where possible, please provide hyperlinks to or copies of any information or training material provided (e.g., publications, leaflets, websites), along with a translation into English or French.

46. Does your State use and / or accept from other States scanned documents in intercountry adoption cases (e.g., scanned and e-mailed Art. 17 c) agreements, Art. 23 certificates)?

Yes.

If so:

³⁵ E.g., Internet and websites, e-mail, video-conferencing facilities such as Skype, online posting of informational videos, social media, etc.

³⁶ E.g., websites for provision of information, fast sending of applications and reports, facilitation of contact between accredited bodies and PAPs during their stay abroad, facilitation of contact with representatives of accredited bodies, video-conferences to provide information concerning the health of children.

³⁷ E.g., in relation to its use by adoptees or families to search for origins, or in relation to the use of online databases of adoptable children.

³⁸ Depending upon whether your State is a receiving State or a State of origin (or both).

³⁹ E.g., concerning making contact via the Internet, posting confidential information on social media websites or using social media to search for origins.

- (a) Please specify which documents are sent or accepted in scanned format:

Generally, all documents so long as a relationship and understanding of the legitimacy of such communications has been established.

- (b) Are these scanned versions used or accepted *instead of* the original documents or *in addition to* the original versions (*i.e.*, the original documents follow later by post)?

Usually the OCA receives the scanned document followed by the original, but in some cases the original may not be sent or received. When the OCA sends documents, documents are scanned and emailed and the original is sent by mail or courier.

- (c) Is any authentication of the scanned document required (*e.g.*, legalisation or apostillisation)?⁴⁰

It must originate from a foreign CA or accredited agency and be sent directly to the OCA through established processes.

- (d) How are scanned documents stored and how is the security of the information guaranteed?

They are printed and placed in the adoption file record. Emails are maintained in a secure system.

If not, please explain the reasons for this:

N/A

Using modern technologies to assist with finding a suitable family for a child

Both States of origin and receiving States

47. Does your State use, or permit others to create and use, online “photo-listings”⁴¹ of adoptable children?

Yes, for domestic adoption, this tool is primarily used to promote interest and awareness of children and youth who are wards of the state and are available for adoption.

With respect to intercountry adoption, some countries may have websites that use a photolist to identify children and youth available for adoption, which may be accessed by prospective adoptive parents in Ontario; however, residents of Ontario must comply with the requirements for intercountry adoption in advance of leaving the province for the purpose of adoption, and may only be given access to such photolist, after initiating the intercountry adoption through a licensed Ontario agency and securing approval from the OCA to adopt.

If so, please explain:

- (a) whether these listings include profiles of *all* adoptable children in your State or only certain categories of children (*e.g.*, children with special needs):

Ontario's photo-listing site profiles children and youth who are wards of the state (Crown wards). Not all wards of the state are profiled online - the site focuses on profiling children and youth that are older, part of a sibling group, and/or have special needs.

- (b) which authorities or bodies create / operate these online listings in your State (*i.e.*, is this under State control or the control of other adoption actors?):

A third-party is authorized to receive government funding from the State to provide this service to PAPs on behalf of state-funded child welfare organizations who provide care for children and youth who may be free for adoption.

⁴⁰ See the *Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents* (the “Apostille Convention”, concluded 5 October 1961).

⁴¹ In this document, “photo-listings” means databases which include photographs and descriptions of the background and characteristics of adoptable children. They often have limited, protected access (*e.g.*, for Central Authorities and accredited bodies only) and may be used to search for families for children who are hard to place.

- (c) who is permitted to access the listings:
 - PAPs who have successfully completed both a homestudy assessment and a mandatory adoptive parent training course.
 - Child welfare authorities
 - Adoption Professional are given access and may also view the listings in order to find potential matches for available children and youth.

- (d) what safeguards have been implemented to protect the privacy of the children concerned (*e.g.* restricted access for Central Authorities and accredited bodies only):

Only prospective adoptive families who can demonstrate that they have completed a homestudy assessment, as well as a mandatory parent training course, may access the information. A pseudonym is used to identify each child and youth profiled, and no identifying information such as the child's location or care provider is identified in the profile. Additionally, measures are taken to ensure that information specific to the child's special needs, such as medical diagnoses, is not available in the profile.

- (e) how it is ensured that the use of such listings is in conformity with the matching process set forth in the Convention (*i.e.*, matching by the competent authority in the State of origin after the suitability and eligibility of the PAPs has been determined):

Ontario's photolistings service is used only for domestic adoptions. The use of photolistings for the purpose of intercountry adoption is permitted for use by PAPs following approval of the PAPs as suitable and eligible to adopt, as determined by the OCA, and where the State of origin uses a photolistings to propose/match PAPs with children in their care.

Using modern technologies to search for origins

Both States of origin and receiving States

48. Do the relevant competent authorities in your State use social media (*e.g.*, Facebook, Twitter) to help adoptees search for their origins? If so, are there any guidelines or good practices regarding the use of social media by authorities / bodies for this purpose?

No.

49. Has your State had any cases in which PAPs / adoptees and birth families have contacted each other via social media or other modern methods of communication after an adoption and without the involvement of professionals? If so, please specify the situations which have arisen, the challenges faced and how these challenges have been overcome.

Yes, this is possible, however, the OCA would not be aware of specific cases.

D. Illicit practices⁴²

In general

⁴² In this Questionnaire, the term "illicit practices" is used in the same sense as in the "Discussion Paper Co-operation between Central Authorities to develop a common approach to preventing and addressing illicit practices in intercountry adoption cases" (October 2012), available on the specialised "Intercountry Adoption Section" of the Hague Conference website: *i.e.*, it "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)."

Both States of origin and receiving States

50. Please describe the practices relating to the abduction, sale of or traffic in children or other illicit practices which your State has experienced most frequently in the context of intercountry adoption since the last Special Commission meeting (2010), regardless of whether these practices have taken place in your State or in another Contracting State.

The nature and the amount of fees and contributions requested during the adoption process in some States of origin raise important concerns

51. Please provide details of any specific examples in which your State has worked either alone or in co-operation with other Contracting States in order to prevent and / or address practices relating to the abduction, sale of or traffic in children or other illicit practices in the context of intercountry adoption. Was Article 33 ever relied upon in such cases? If so, please describe what measures were taken and the outcome.

Ontario has put into place measures to supervise its licensed adoption agencies that allow for closer monitoring and control over the amounts related to the adoption process (fees or contributions) requested or authorized by States of origin generally.

Cooperation with States of origin whose practices raise specific concerns is difficult to put into place despite efforts to raise awareness about our concerns and to bring them to significantly modify certain practices.

Finally establishing real collaboration and mobilisation between Receiving States leading to common actions that could have a positive impact generally on practices related to costs is also difficult.

52. Has your State ever suspended or restricted its intercountry adoption programme (e.g., introducing a moratorium, refusing to work with a particular Contracting State) because of concerns about the risk of abduction, sale of or traffic in children or other illicit practices? If so, did the suspension or restriction assist with efforts to combat these practices? What challenges did your State encounter in seeking to resume intercountry adoptions or lift any restrictions once practices had been improved?

The OCA has suspended and restricted intercountry adoption programmes, including the introduction of moratoria, regardless of whether the State of origin is a Hague signatory. It has done so whenever risks regarding the legitimacy of documents, reliability of the adoption process and government oversight is lacking, and where the availability of children to be adopted intercountry is difficult to verify. Once any such restriction or moratorium is issued, prevention of illicit practices cannot be tracked by the OCA. Subsequent resumption of intercountry programmes after concerns have been fully addressed may be time consuming to effect, however, once resumed, the programme will run depending on the interest of PAPs to adopt from the country and the availability of children to be placed for adoption.

E. Other international placements of children which result in adoption

Kafala resulting in adoption

Receiving States only

53. Are persons, habitually resident in your State who have a child placed into their care under kafala in another State, permitted to subsequently adopt the child in your State?⁴³

⁴³ N.B. the provision of care by *kafala* falls within the scope of the *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children* (the "1996 Convention") (Art. 3 e) of the 1996 Convention) and thus kafala placements benefit from its unified rules on jurisdiction, applicable law and the recognition and enforcement of measures between Contracting States. In addition, the 1996

Example: a child, habitually resident in State A, is placed into the care of a couple under the regime of kafala by the court in State A. The couple habitually resides in State B (your State) and the understanding is that they will return immediately to State B to live with the child. Under your State's laws, are the couple permitted to subsequently adopt the child in your State, State B?

If so, please explain:

- (a) the reasons for this:
- (b) the procedure, including any involvement of the State of origin:
and
- (c) whether this would be a "simple" or a "full" adoption:

Respite care abroad resulting in adoption⁴⁴

Both States of origin and receiving States

54. If your State is involved in respite care programmes⁴⁵ for children, please explain:
- (a) whether such programmes specifically aim to be a precursor to adoption for some children (e.g., for children with special needs):
No.
 - (b) whether such programmes have, in fact, resulted in the adoption of children and, if so, approximately what percentage of children involved in the programmes are adopted:
N/A
and
 - (c) where a child is adopted following such a programme, how it is ensured that the safeguards of the Convention have been respected (bearing in mind that it is likely that the child remains "habitually resident" in his / her State of origin and thus the adoption falls within the scope of the Convention according to Art. 2):⁴⁶
N/A

Foster care resulting in adoption

Both States of origin and receiving States

55. Is your State aware of cases in which a domestic foster care placement has been used in order to circumvent Convention intercountry adoption procedures? If so, please provide details, including the challenges which these cases have presented and any good practices your State has developed to deal with such cases.

Example: a couple, usually resident in State A, travels to State B and applies to foster a child. They intend

Convention contains mandatory co-operation provisions with which Contracting States must comply when a cross-border kafala placement is contemplated between them (Art. 33 of the 1996 Convention). For further information concerning kafala and the 1996 Convention, see the Practical Handbook on the 1996 Convention available on the Hague Conference website < www.hcch.net >.

⁴⁴ See GGP No 1 at paras 561 to 563.

⁴⁵ I.e., programmes in which children from certain States of origin, often children living in institutional or other non-family based alternative care, are hosted temporarily by families in other States for "holidays" to improve the child's mental and physical well-being.

⁴⁶ E.g., how it is ensured that: the child is legally and psycho-socially adoptable; the subsidiarity principle is respected; the eligibility and suitability of the PAPs is appropriately assessed; the Convention requirements concerning professional "matching" are met; and the child and parents are appropriately prepared, informed and counselled for the adoption.

to apply to adopt this child in State B and to return shortly thereafter to live in State A.

No.

F. **Triangular adoptions⁴⁷**

Both States of origin and receiving States

56. Does your State allow PAPs wishing to adopt intercountry to use an accredited body located in a *third* State to mediate the adoption (*i.e.*, an accredited body *not* located in the State of origin or in the receiving State)? If so, please briefly describe any conditions imposed by your State,⁴⁸ the procedure used and any challenges encountered. Please also share any good practices your State has developed in relation to such cases.

No.

G. **International surrogacy arrangements⁴⁹ and intercountry adoption⁵⁰**

Both States of origin and receiving States

57. Following the recommendations of the 2010 Special Commission meeting,⁵¹ has your State experienced any cases of international surrogacy arrangements in which use of the 1993 Hague Convention has been sought in order to remedy the situation of the legal status of the child? If so, please explain the circumstances in which this occurred, how it was ensured that the safeguards of the Convention were respected, and the outcome for the child and family.

No.

IV. SERVICES AND SUPPORT PROVIDED BY THE HAGUE CONFERENCE

Both States of origin and receiving States

58. Are the following documents used in your State as tools to assist with the operation of the Convention and / or to periodically review your State's intercountry adoption system and processes:

(a) the Conclusions and Recommendations of previous Special Commission meetings:

Yes.

(b) Guide to Good Practice No 1 "*The Implementation and Operation of the 1993 Intercountry Adoption Convention*":

Yes.

(c) Guide to Good Practice No 2 "*Accreditation and Adoption Accredited Bodies*":

Yes.

⁴⁷ For a definition of "triangular adoption", please see GGP No 1 at Chapter 8.8.7.

⁴⁸ See the good practices recommended at para. 555 of GGP No 1.

⁴⁹ The term "international surrogacy arrangement" is used in this Questionnaire to mean "a surrogacy arrangement entered into by intending parent(s) resident in one State and a surrogate resident (or sometimes merely present) in a different State". (See further the Glossary attached to the "Report on the desirability and feasibility of further work on the Parentage / Surrogacy Project" (Prel. Doc. No 3B of March 2014).)

⁵⁰ Please note that the issue of international surrogacy arrangements is being studied separately by the Hague Conference in the context of its "Parentage / Surrogacy Project": for further information on this Project, please see the specialised section of the Hague Conference website, under "Parentage / Surrogacy Project". These questions therefore only relate to the use of the 1993 Convention and related bodies / authorities in these cases.

⁵¹ See SC 2010 C&R Nos 25 to 26 in which it was stated that the Special Commission "viewed as inappropriate the use of the Convention in cases of international surrogacy".

- (d) the tools⁵² developed by the Experts' Group on the Financial Aspects of Intercountry Adoption:

Yes.

- (e) the "Discussion Paper on Co-operation between Central Authorities to develop a common approach to preventing and addressing illicit practices in intercountry adoption cases":⁵³

Yes.

Please explain how these tools are currently promoted in your State and how they could, in your State's view, be more effectively promoted at the regional and / or international level:

These tools are valuable and are used by the OCA and its licensees.

59. In light of the fact that the importance of ICATAP (the "Intercountry Adoption Technical Assistance Programme" of the Hague Conference) to the proper implementation and operation of the 1993 Convention has been reiterated by Special Commission meetings and by meetings of the Council on General Affairs and Policy for many years, does your State have any suggestions as to how to secure more regular and consistent funding for this work at the Permanent Bureau, including for the key position of the ICATAP Co-ordinator?

This issue does not fall within the mandate of the Special Commission.

Is there any other comment your State wishes to make concerning the implementation and / or operation of the 1993 Convention?

⁵² See the tools developed by the "Experts' Group on the Financial Aspects of Intercountry Adoption", available on the Intercountry Adoption Section of the Hague Conference website, under "Expert and Working Groups": i.e., the harmonised Terminology adopted by the Experts' Group on the financial aspects of intercountry adoption, the Note on the financial aspects of intercountry adoption, the Summary list of good practices on the financial aspects of intercountry adoption and the Tables on the costs associated with intercountry adoption.

⁵³ Available on the Intercountry Adoption Section of the Hague Conference website, under "Expert and Working Groups".