

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:	- the People's Republic of China-
Date of entry into force of 1993 Hague Convention in your State:	- Jan. 1, 2006 -
Information for follow-up purposes	
Name and title of contact person:	- Ms. Chu Xiaoying, Deputy Director-General Ms. Wang Xiaofeng, Director of International Cooperation Division -
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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.

- There are different categories of adoptable children in China, and for special needs children, their circumstances vary a lot. It is difficult to summarize the characteristics and needs of these children. The number of children available for inter-country adoption is difficult to estimate and predict because the majority of them are abandoned children.

Receiving States only

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

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.

- (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.

- Please insert text here -

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

- Please insert text here -

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

- Sometimes a family is placing the child for adoption by relatives due to the fact that the relative is childless and would like to have a child rather than the fact that the biological parents are unable to take care of the child, which is acceptable in Chinese law and practice but not acceptable by the receiving states. -

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

- Usually complete and accurate reports strictly under intercountry adoption conventions can be provided for adoptable Chinese children in a timely manner. However, difficulties do arise in practice when complete medical checkups or accurate diagnosis for special needs children are required, particularly for those whose special needs are complex, due to reasons of inconvenient traffic and limited medical resources in remote mountainous areas. -

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?

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).

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".

- Please insert text here -

- (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.

- Please insert text here -

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.
 - No. We always respect the decision and conclusion of the central authority of the receiving state on the type of child the PAPs are approved to adopt when matching a child for the PAPs. -

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.

-For children older than ten years old, our law requires that the consent and opinions of the child is sought before being adopted. We also developed tools and guidelines for welfare institutions for pre-adoption preparation of the older and special needs children. But given that different areas in China vary in resources and professional services, some welfare institutions may not be able to provide thorough counselling and information, and for older children, given that they have already lived in this culture of motherland for a long time and it takes more effort and time to counsel them on the culture of the receiving states.

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.

- We require the PAPs to provide information as much as possible through adoption agencies, and the quality of papers submitted by an adoption agencies is the index for their performance in China program. -

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?

- We would require the PAPs to provide information as much as possible through adoption agencies, and the quality of papers submitted by an adoption agencies is the index for their performance in China program -

- (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.

- We are satisfied with the overall quality of the reports on PAPs. If the reports could be more detailed and more focused on their resources to meet the different needs of children adopted, especially for older and special needs children.

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.

- For PAPs adopting special needs or older children, sometimes we found the pre-adoption training may not be targeted and specified for the specific special need the PAPs is adopting.

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

- Agencies should target the counselling and preparation of PAPs more on the specific needs of the child the PAPs will adopt. -

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.

- Please insert text here -

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?

- Please insert text here -

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

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.

¹¹ See SC 2010 C&R No 9.

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

C. Intercountry adoptions involving children with special needs¹⁴

Both States of origin and receiving States

14. (a) In your State's experience, what are the most common "special needs" of children adopted intercountry?
 - As mentioned earlier, the needs of adoptable children vary a lot. The most common "special needs" of children are physical disabilities or mental delays and older children.
 -
- (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)?
 - 90% -
- (c) What measures, if any, has your State taken to adapt intercountry adoption procedures in light of the needs of these children?
 - There is not much change in the adoption procedures. What we are improving is the preparation and counselling of children before adoption and the detailed reports of the children. -
- (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?
 - More and more children in welfare institutions are special needs children and many of them have complex and severe special needs. It is a big challenge for us to provide complete, accurate and up-to-date reports on the children, for reasons mentioned above. Now we have developed programs where the agencies can send doctors and social workers to welfare institutions to check up the children and have face-to-face interaction, so that they can provide more direct and up-to-date information to PAPs when advocating for these children.

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?
 - Please insert text here -
 - (b) any PAPs selected are suitably prepared for such adoptions and for the specific

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".

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

needs of each child?

- Please insert text here -

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

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

- Given that the majority of children adopted internationally are abandoned children, the police departments have already searched for their biological parents before declaring them abandoned, and the local registry office for adoption will have already publicized an announcement for 60 days to look for the biological parents before adoption registration, it is difficult and quite unlikely that the adoptees will find their biological parents. However, we do support adoptees in coming back to China for heritage tours and visits to their orphanages. -

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.

- Please insert text here -

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).

Most of the time the breakdown of an intercountry adoption is due to inadequate preparation of the child or the PAPs. -

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

- We have already strengthened the pre-adoption preparation for adoptable children and have developed programs which will help adoption agencies to acquire more detailed and updated information of the child for PAPs, such as programs where the agencies can send doctors and social

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.

workers to welfare institutions to check up the children and have face-to-face interaction, so that they can provide more direct and up-to-date information to PAPs when advocating for these children. -

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

- As mentioned earlier, we have already strengthened the pre-adoption preparation for adoptable children and have developed programs which will help adoption agencies to acquire more detailed and updated information of the child for PAPs. -

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".

- No. We don't have such a term. We understand this term as an adoption where adoptive parents know the information of the biological parents of the adopted child and vice versa, and they have an option of the degree of contact which they will have after the 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

- In inter-country adoption from China, the majority of children adopted are abandoned whose biological parents cannot be located. As a result, most of the time, adoptive parents do not have the information of the biological parents. However, in recent years, there are children who have biological parents who are unable to care for them were adopted, therefore adoptive parents can have access to the information of biological parents and vice versa if both parties agreed. -

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?

- Very small percentage, as there are only a few cases of adoption of children who have biological parents who are unable to care for them. -

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?

- We think the issue of how to provide targeted training and counselling for both children and PAPs are the most important. -

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,

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.

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?

- Yes, we think a Guide to Good Practice is very recommendable. We would like to see the good practice of receiving states on the selection, counselling and preparation of PAPs, roles of social workers in these process and what materials they use to train PAPs. -

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

- Generally we don't have any operational difficulties in obtaining the agreements. However, we feel that the time that some central authorities take to issue such an agreement is long. We hope this time period can be shortened so that the children can be with their adoptive parents as soon as possible. -

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.

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

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.

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.

- No, we don't have difficulties in this aspect. -

- (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

- Please insert text here -

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?

- As mentioned before, we feel that the time that some central authorities take to issue such an agreement is long. We hope this time period can be shortened so that the children can be with their adoptive parents as soon as possible. -

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?

- Please insert text here -

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.

- Generally we are satisfied with the day-to-day cooperation with other receiving states. Sometimes the communication with the departments in some central authorities is a little bit delayed because there is constant change of persons in charge or lack of updates on contact information. -

29. At the meeting of the Special Commission in 2000, "[t]he need for adequate

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.

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)?

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?

-No. -

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?

- Some central authorities have sent us their general reports on intercountry adoption annually.. Such reports would be helpful in promoting the cooperation and regular review. Regular meeting or visits or discussions through emails or phones are also good ways to exchange views on 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.

- Our government provides support and resources to children in difficult circumstances and do our best to enable the biological families to be preserved. Meanwhile, our adoption law has always stucken to the subsidiary principle in regulations as well as in practice. -

States of origin only

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

- The main challenges lies in the balance of time. How long should we wait until we exhaust the possibilities of domestic placement before placing the child for inter-country adoption? Especially for special needs children, time is crucial for their treatment and rehabilitation in families.

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.

- Yes. We try our best to apply the subsidiarity principle in both occasions. -

²⁹ See SC 2000 C&R No 3.

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?
 - Please insert text here -
- (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?
 - Please insert text here -
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)?
 - Please insert text here -
 and / or
- (b) through other bodies such as non-governmental organisations (which are not adoption accredited bodies)?
 - Please insert text here -
- 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:
 - Please insert text here -

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?
 - In order to avoid the confusion brought by different standards and interpretation of habitual residence, we adopt the definition of nationality rather than habitual residence in inter-country adoption.
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 a child moves to live in the receiving state with his/her relatives for a period of time, and the relative would like to adopt the child, we find it difficult to determine the habitual residence

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...".

of the child.

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).

- We don't have restriction in this aspect. -

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?

- It depends on which country the child to be adopted will reside and acquire the nationality. If he nationality state recognizes the on-going adoption, we would only require an updated homestudy regarding the move and the new circumstances of the PAPs. If not, a new approval should be issued by the new receiving state, on the condition that this state has bilateral cooperation with us.

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)?

-For non-nationals living in China, we consider their adoption here as non-Hague adoption under the condition that the adoption completed here in China will be recognized by their nationality state and the rights of the adopted child will be guaranteed.

Nationals of China in another state who would like to adopt from China is considered as domestic adoption at present, though the policy is under amendment.

or

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

- We have never encountered such situations. -

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.

- Please insert text here -

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)?

- We haven't encountered such situation. -

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.

- We don't have such laws or regulations yet concerning the use of modern technologies in adoption. -

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).

- We have developed an information system for the placement of children in inter-country adoption, where adoption agencies in receiving states, local authorities in China and welfare institutions all have access to and information of the children is posted onto the system for effective and timely placement. Information can be exchanged very conveniently through this system and the whole adoption process is transparent to parties and authorities involved. Every user of the system must have a USBKey to access the system to ensure the safety of the system.-

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.

- Information can be exchanged very conveniently using technologies and the whole adoption process is transparent to parties and authorities involved, taking our system for example. For possible risks of safety of the system, every user (agency) of the system must have a USBKey to access the 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

- We held training for adoption agencies, local authorities and welfare institutions on how to use the system before it's put into use. We also provide guidebooks for every user for

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.

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.

the system.

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
 - N/A -

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)?

- No. -

If so:

- (a) Please specify which documents are sent or accepted in scanned format:
 - Please insert text here -
- (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)?
 - Please insert text here -
- (c) Is any authentication of the scanned document required (e.g., legalisation or apostillisation)?⁴⁰
 - Please insert text here -
- (d) How are scanned documents stored and how is the security of the information guaranteed?
 - Please insert text here -

If not, please explain the reasons for this:

- We only accept the original copies to ensure the authenticity of the documents. -

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. Our information system has the information, including medical information and photos of children to be placed and is only accessible by central authorities and adoption agencies under our approval. -

If so, please explain:

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.

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.

- (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):
 - All adoptable children for inter-country adoption. -
- (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?):
 - CCCWA, the central authority for inter-country adoption. -
- (c) who is permitted to access the listings:
 - Central authorities, embassies and consultes of receiving states, and adoption agencies -
- (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):
 - Every user (agency) of the system must have a USBKey to access the system. -
- (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):
 - The match done through the information is only a pre-match and CCCWA will review the match to ensure that the PAPs are eligible to adopt and the match is a good one. -

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.
 - Not that we know of. -

D. Illicit practices⁴²

In general

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),

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)."

regardless of whether these practices have taken place in your State or in another Contracting State.

- Please insert text here -

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.

- Please insert text here -

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?

-No. -

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

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?

- No. -

If so, please explain:

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

***Respite care abroad resulting in adoption*⁴⁴**

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 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](http://www.hcch.net) available on the Hague Conference website <www.hcch.net>.

⁴⁴ See GGP No 1 at paras 561 to 563.

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:
- Yes. 70%. -
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
- Our program is mainly to help the older children living in institutions understand foreign culture, not to improve their mental or physical well-being. Host families must be examined before taking part in the program to ensure the safety of the children, and requirements for hosting families is the same as PAPs just in case that the host families wish to adopt the child. Welfare institutions still act as the guardians of the children taking part in the program and will send chaperons to accompany the children and be responsible for every major decision concerning the child during his/her stay in the hosting country. -

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

- In the past, we were aware of such cases where foreign citizens residing in China applies to foster a child from a welfare institutions and then apply to adopt this child. Usually the child was a special needs child that needed intense care and rehabilitation programs. But now we have a new regulation on foster care, and only Chinese nationals can provide foster care to children in welfare institutions.

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

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.

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

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.-
 - (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. -

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".

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".

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:

- We have improved our work in inter-country adoption in light of these tools to make our practice more Hague-compliant. Some documents have been modified and reports of children have been improved to ensure the best interests of the children adopted internationally. -

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?

-No. -

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

- No. Thank you. -