

ADOPTION

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**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*

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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:	Sweden
Date of entry into force of 1993	1997-09-01
Hague Convention in your State:	
<u>Information for follow-up purposes</u>	
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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.

- Please insert text here -

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
 - (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

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 "Inter-country 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.

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

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

a) There has not really been any challenges concerning the nature and number of applications that the Swedish adoption organizations send to the States of origin as the Swedish organizations have good knowledge about the requirements that the States of origin impose on prospective parents (PAPs) and as the organizations do not send more applications than the States of origin demand.

b) One challenge is to ensure that the information provided by the States of origin concerning the needs etc. of adoptable children is taken into account in the best way in the preparation of PAPs. The information concerning the needs etc. of adoptable children in general is taken into account in the preparation of PAPs but there is a challenge to keep the information vivid as there is often a long waiting period between the preparation of the prospective adoptive parents and their receiving of a child.

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 question of the child's adoptability is one of the most important questions when considering granting an adoption organization authorization to work with intercountry adoption intermediation in a foreign country. However it is sometimes difficult to get clear information about how the background of the child is investigated/how the child's adoptability has been established in the country of origin.

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

We have noticed that some children that the countries of origin have declared adoptable in the context of intra-family intercountry adoption seem to have functioning families in their countries of origin, a condition that makes it difficult to understand the reason for the decision about the child's adoptability.

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

Sometimes the reports contain minimal information and in those cases the Swedish accredited organizations ask the State of origin for more information. The reports can, on the other hand, sometimes contain a lot of information and many diagnosis that may prove not to be accurate. In some cases the reports are old and they can therefore be inaccurate. Sometimes the accredited

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".

organizations would need to make a supplementary examination in order for a family to be able to make an informed decision about whether they can take care of the specific child or not. As an accurate and up-to-date report is an important part in order to succeed in matching a child with a family the conditions concerning the reports are challenging.

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?

The accredited organizations sometimes ask for more information and supplementary medical reports. The PAPs are informed about the situation concerning inaccuracy of the reports/the risk that the report might not always be correct.

- (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.

Reports could be improved by being more up-to-date.

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, we have had experience of cases in which PAPs have had consents for adopting one child of a certain age but have been matched with two children of other ages. The reason for a matching, as in the example, could be that the country of origin has found the specific family to be the family best suited to adopt the siblings. The siblings might be siblings of an already adopted child in the particular family. However the family would need a new consent from the Swedish social welfare authorities in a case like this, as they have a consent for only one child. The difficulties concerning age and matching are not as great as earlier as most consents from Swedish social welfare authorities nowadays do not have an age limit.

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.

The challenge is big for the countries of origin to, in a good way, counsel and inform and make sure the child's opinion has been heard and taken into account as this is part of the trustbuilding between the child and the PAPs. Information and counselling need to be done in a competent way. It would be good if the PAPs could be meeting the child on a daily basis, regardless of age, enabling the child to adjust to the new situation before the child leaves the institution definitely.

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.

There have really not been any challenges concerning full, accurate and up-to-date reports. However, reports can differ in quality from different parts of the country due to the fact that Sweden has many municipalities and quite a few adoption cases which leads to a situation where social workers in some parts of the country have less experience as they prepare very few reports a year.

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?
- Please insert text here -
- (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.
- Please insert text here -

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

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.

In Sweden it is compulsory for all PAPs who adopt for the first time to participate in parental training. A challenge is ensuring preparation materials, trainers and courses that adequately prepare PAPs for the specific needs of an adoptable child. What seems to be a good practice in the parental

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.

courses is the use of film showing institution life from the perspective of a child in order to reflect the needs of an adoptable child. Value clarification exercises, books, radioprograms, articles, group discussions and homework are used to stimulate emotional processes.

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?

The PAPs are encouraged to learn about the country of origin from which the child will be coming. The PAPs are informed about the value of being able to communicate with the child in his or her first language.

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?

If the PAPs, while waiting, have questions concerning the adoption process they can contact the adoption organization to discuss their questions.

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?)

The PAPs are responsible for having a valid consent while waiting. After two years the PAPs initiate the process of having a new assessment made by the social welfare authorities in order to receive a new valid consent. The accredited organization sends the new consents to the State of origin.

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?

Both physical and psychological special needs.

- (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)?

The majority of the children adopted to Sweden through intercountry adoption has special needs.

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

MIA offers continuous training to social workers who carry out home studies. Ensuring preparation materials and courses that adequately prepare PAPs for the specific needs of an adoptable child is also an important measure. The handbook for the Swedish social services and the

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”.

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

study material for the parental training have recently been revised by the National Board of Health and Welfare in cooperation with MIA in order to help the PAPs get a realistic picture of the needs of adoptable 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?

The main challenges are how to prepare the PAPs in order for them to have realistic expectations concerning the needs of adoptable children and how to support the families in the best way after the completion of the adoption.

The challenges concerning preparation of PAPs are addressed by ensuring preparation materials, trainers and courses that adequately prepare PAPs for the specific needs of an adoptable child. When it comes to support, the new adoptive parents are not routinely offered support after completing the adoption, but the local social welfare authorities shall satisfy any special need for support and assistance that might exist after an adoption case or matter has been determined.

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?

All PAPs that, by the home study have been assessed and found suited to adopt a child from another country, have been assessed suited to adopt any child, which comprises also a child with special needs.

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

There is an obligatory parental course that prepare the PAPs in this respect.

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

All children in Sweden have the right to free healthcare according to their needs. The social welfare authorities shall satisfy any special need for support and assistance that might exist after an adoption case or matter has been determined.

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

The system in place is that the social welfare authorities shall satisfy any special need for support and assistance that might exist after an adoption case or matter has been determined. When it comes to preparation for origin searches questions can be posed to MIA but possibilities of individual help are limited. Some of the accredited organizations can give some individual support in origin searches and some of them also offer possibilities to make visits in countries of origin of the adoptees. The Swedish social services, in contacts with adoptees searching for origins, also have a responsibility to support adoptees in their search for origins.

Receiving States only

¹⁶ SC 2010 C&R No 29.

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.

A variety of support found in Stockholm. The variety of support varies more in the rest of the country.

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).

Yes, Sweden has experienced adoptions that have broken down, but the cases are rare. There is no obligation however to report to MIA in cases like these. The cases are handled by the social welfare authorities. The reasons for breakdowns have been e.g. deficient reports about the child, inadequate preparation of the PAPs or unrealistic expectation on the part of the PAPs.

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

In these situations the social welfare authorities have addressed the situation and arranged according to what has been found to be the best for the child.

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

One measure is to try to get as clear information as possible about the background of the children/ how the background is investigated and how the childrens adoptability is established in the country of origin and another measure is to make sure that the preparation of the PAPs is continuously improved by improving the obligatory parental course, the trainers and the course material. This material has been updated in 2014. Also the social welfare authorities shall satisfy any special need for support and assistance that might exist after an adoption case or matter has been determined. There are also local efforts made, e.g. in Stockholm where special units for support have been set up.

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”.

It would be understood as an adoption where the child would stay in contact with his or her biological parents although there has been an adoption made.

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.

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

There is no specific legislation regarding open adoption. However, adoptees have the right to access information regarding the biological parents in acts kept at the local social welfare authority. This is established in legislation and the National Board of Health and Welfare offer national guidelines in this area.

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?

MIA has no statistics concerning this.

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?

Children's possibilities to have their opinions heard and taken into account and their possibilities to have reasonable time to adjust to their new situation before they are to leave their current living situation are important issues. The selection and preparation of prospective adoptive parents, including the management of their expectations and the long waiting periods before the adoption takes place is also 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, 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. Such a guide would be a merit. The preparation and counselling of children is an important issue to address. Children's possibilities to have their opinions heard and taken into account and their possibilities to have reasonable time to adjust to their new situation before they are to leave their current living situations are important issues.

It is becoming more and more common that the adoption organizations, to the countries of origin, suggest a specific family to be matched with a specific child. A guide concerning counselling and preparation of PAPs would be a merit/help in the work of choosing the family that best suits the needs of the adoptable child.

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

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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.

Sometimes the certificate is filled out with wrong authority/or wrongly with the name of the accredited organization instead of the right authority, delays in sending certificates, confusion to whom the certificates should be sent. MIA has tried to get in contact with the concerned central authorities in order to solve the problems but have so far not succeeded in this.

- (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

A new discussion about the certificates and their importance would be of value.

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.

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

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 have sometimes had administrative reasons (e.g. only certain officials are, according to the administrative rules, allowed to bring papers from one authority to another and this can cause a delay). It is important to handle adoption cases without delay. Therefore it is important that the countries of origin have administrative regulations that make sure that the child will have an adoptive family through a process without unnecessary delays.

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?

Important, in work with adoptions, is to always keep in mind that adoption cases should be handled both correctly and promptly, without unnecessary delays.

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.

In most cases it works well, but sometimes there is no response to specific questions concerning adoptions of specific children where problems have arisen. This is worrisome and not in the best interest of the child.

Another thing is the rise of difficult questions concerning agreements as it has become more common that countries of origin request that receiving countries should enter into bilateral agreements, and that more receiving countries have accepted such agreements. States of origin wish to regulate for example details regarding follow up-reports, procedures regarding possible replacement of the child in the receiving country after adoption, the information about the child that presumptive adoptive parents obtain, and who is responsible for the homestudy. A bilateral agreement can include rules that ensure the child stronger legal rights in the process of intercountry adoption. There are, however, also examples on relatively far-reaching demands from the country of origin regarding the follow-up after an adoption, demands that might jeopardize the child's right to integrity. If a system with bilateral agreement develops alongside the Hague-system, it must, in addition, be organized and administrated in an effective and transparent manner, above all to ensure the legal rights for the child in the process.

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

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?

Yes, in other contracting states. It happens e.g. that all or almost all personnel is changed at the same time which hampers the continuity in the operations.

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, we have not made or received reports of this kind, but yes, such reports could be helpful.

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.

Sweden is a receiving country only.

States of origin only

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

- Please insert text here -

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.

- Please insert text here -

Receiving States only

²⁹ See SC 2000 C&R No 3.

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 question of subsidiarity is an important question to address in e.g. the process of granting authorization to the Swedish adoption organizations to work with intercountry adoption in another country. In the granting process information is gathered about how the question of subsidiarity is regulated in the country of origin and how it is met in practice.

- (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?

It has happened in countries of origin that the accredited organizations work with.

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)?
No

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?

Sweden does not have a legal definition of "habitual residence" for the purposes of the Convention. However, when the authorities determine a person's "habitual residence", they consider if the settlement, having regard to the duration of the stay and other circumstances, must be considered to be permanent. The assessment must be made in each case and be based on all the facts.

37. What are the most common scenarios in which your State has encountered

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...".

difficulties in determining the "habitual residence" of PAPs and / or a child?

When PAPs live in another country for only a shorter period of time. The difficulty is in determining at what point the "habitual residence" changes.

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).

Sweden does not have any restrictions on individuals' ability to adopt intercountry based on their nationality or immigration status. However, you have to either be a Swedish citizen or have your "habitual residence" in Sweden to be able to go through with an intercountry adoption from another country to Sweden.

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?

We try to inform the PAPs on an early stage that moving in the middle of an adoption process can bring about difficulties. We inform them that it is not recommended when a child is to be adopted. Sweden has so far not had any such adoption cases.

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)?

Sweden does not have any experience in such situations.

or

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

Sweden does not have any experience in 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.*

-

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)?

In situations as the ones suggested PAPs must initiate the process of adoption in the country of their "habitual residence". Sweden is not involved in this process.

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.

-

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 use the internet to search for information generally and we post general information on our website. We use e-mail most of the time when communicating generally concerning adoptions and we also use e-mail when communicating in individual adoption cases. In some of the individual cases we correspond via e-mail with the country of origin all the way through the adoption process.

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.

One of the benefits is quicker communication. One of the risks is the spreading of personal information in an unwanted way by mistake. As a precaution we ask permission of the PAPs or the ones to receive the information when we send personal information by mail. The internet can be used to search for origins also, but can be a risk as it is impossible to foresee the implications and effects both for the biological parents and the adoptee that is searching.

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

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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.

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

-

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, but we also receive them in the original.

If so:

- (a) Please specify which documents are sent or accepted in scanned format:
E.g. Art. 17 c agreements and Art 23 certificates.
- (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)?
They are accepted in addition.
- (c) Is any authentication of the scanned document required (*e.g.*, legalisation or apostillisation)?⁴⁰
No
- (d) How are scanned documents stored and how is the security of the information guaranteed?
We print them and keep them in a locked archive.

If not, please explain the reasons for this:

- Please insert text here -

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?

The question of "photo-listings" is currently discussed in Sweden. In MIA:s opinion it is not appropriate to use "photo-listings" as there is a risk of damaging the integrity of the children in the "photo-listings" of adoptable children.

When the photos are combined with health status of the children an added risk of damaging the integrity of children is brought along. The photos can easily be spread and used in an offensive way, although only members have access to the "photo-listings". There is also a risk that, as all

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.

members of the organization can take part of the photos and the information of the children, a specific child, adopted by a Swedish family, will be identified by other families. This means that these other families also will have very private information about the child, something that is negative for the child. The children have no possibilities to have their opinions heard in this question. The photos often evoke strong emotions as most of the children have special needs that are visible on the photos. It is ethically highly questionable that an interest for adopting a specific child is brought about in this way and may, based on the child's perspective, be directly inappropriate. A child who is adopted internationally has the right to have a new family based on qualified assessments of which family is best suited to receive the specific child for adoption, not based on being seen in a photo that evokes strong emotions.

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):

The current listings include only children with 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?):

Currently the accredited organizations have online listings.

- (c) who is permitted to access the listings:

Only members of the specific accredited organization have access to the organization's listing by means of a code.

- (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):

Any such listings are placed on pages which requires specific login details and are therefore not open to the public.

- (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 accredited organizations suggest, to the country of origin, a specific family for a specific child. The country of origin decides about the matching.

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. It happens but we do not have any details.

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

Sweden has not experienced such illicit practices since 2010.

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.

There has been no such cases.

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?

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)."

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 >.

Yes, if the Swedish court finds that the adoption is beneficial to the child.

If so, please explain:

(a) the reasons for this:

When a placement of a child into the care of a family is made in another country the placement is generally not legally valid in Sweden automatically. Therefore a legal decision has to be made in Sweden in order to secure the child's situation.

(b) the procedure, including any involvement of the State of origin:

The legal procedure is a matter for the Swedish court. PAPs residing in Sweden have the right to apply for adoption in the regional court where they live in Sweden. Important here are the consents from the legal guardians of the child in the country of origin. The consents will be needed in the legal process in Sweden. The adoption has to be beneficial for the child which means there has to be some information about the child and his or her situation etc. Both the social welfare authorities and the Migration authorities will assist with their reports as part of the basis for decision about adoption.

and

(c) whether this would be a "simple" or a "full" adoption:
It would be 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):

Sweden is not involved in such programmes.

(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:

-

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

-

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

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.

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.

MIA has not experienced cases like these.

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, but they could be used even more.
 - (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"*:

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".

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

They could be used to a greater extent.

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:

Relevant authorities/organizations are made aware of these tools when recommendations/guidelines/documents are presented and/or changed.

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?

-

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

In light of the increasing number of requests for bilateral agreements it is important to draw the attention to what impact bilateral agreements alongside the Convention will have on the co-operation under the Convention, this as entering into bilateral agreements can bring along a risk of eroding the foundation of the 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".