

**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.<sup>1</sup> 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](mailto: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](http://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.

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<sup>1</sup> 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").

<b>Name of State:</b>	- Please insert text here -
<b>Date of entry into force of 1993 Hague Convention in your State:</b>	- Please insert text here -
<b><u>Information for follow-up purposes</u></b>	
Name and title of contact person:	- Please insert text here -
Name of Authority / Office:	- Please insert text here -
Telephone number:	- Please insert text here -
E-mail address:	- Please insert text here -

## I. **ADOPTABLE CHILDREN, ADOPTEES AND PROSPECTIVE ADOPTIVE PARENTS**<sup>2</sup>

### 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*<sup>3</sup> 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;<sup>4</sup> and
- (b) approximate number of children in need of intercountry adoption in your State.

(a) - Children whose mothers relinquished to the State's care owing to having mental problem, using drugs, sexually physical abuse form to unmarried mothers who are teenagers, etc.

- Abandoned children after birth in hospitals, public place or with caregivers

(b) Number of Intercountry adoption

2001 : orphan 431 persons

Consent given by parent(s) 73 persons

Total : 504 persons

2002 : orphan 468 persons

Consent given by parent(s) 70 persons

Total : 538 persons

2003 : orphan 511 persons

Consent given by parent(s) 83 persons

Total : 594 persons

<sup>2</sup> 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](http://www.hcch.net)> under "Intercountry Adoption Section" then "Special Commissions".

<sup>3</sup> 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.

<sup>4</sup> 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.

**Number of Intercountry adoption**

2005 : orphan 429 persons

Consent given by parent(s) 75 persons

Total : 504 persons

2006 : orphan 391 persons

Consent given by parent(s) 89 persons

Court order 5 persons

Total : 485 persons

2007 : orphan 418 persons

Consent given by parent(s) 114 persons

Court order 8 persons

Total : 504 persons

**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;<sup>5</sup> 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").<sup>6</sup>

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.<sup>7</sup>

(a) The difficulty decision regarding an adaptability of a child in DCY's care

- The search for the birth family of an abandoned child

\* Proof of efforts to trace parents

- publication in local newspaper where a child was abandoned and in general newspaper or website

- locate to parents' address which mentioned in birth certificate and in population data base

- check with the Police Department if a child was claimed to be displaced, kidnapped, abandoned.

<sup>5</sup> 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".

<sup>6</sup> 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."

<sup>7</sup> See SC 2010 C&R No 1 b).

\* Record of notification to the police from a hospital/ person who found a child before referring a child to DSDW care

If parents are traceable and are not capable to bring up the child, they shall sign a letter of power entrusting DCY to give consent to the adoption. In case that parents are untraceable, DCY is the authority to give a consent for adoption.

- The search for birth family of a child whose parents entrusts him/her under DCY temporary care. If they lost contact with DCY, all efforts to search for his /her parents must be undertaken as an abandoned child as above. If parents are untraceable, a court consent on behalf of the parents' consent for adoption must be obtained.

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

The particular difficulties with adoptability decisions is the context of intra – family intercountry adoptions

The using of subsidiarity principle to declare a child adoptable for intercountry adoption. We came across from time to time few cases that a child, whose parents were separated, was living with her relatives. The situation of the child demand action to safeguard her well-being. However it appeared that the parents' motivation was given from economic point of view.

### ***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).<sup>8</sup> Please specify any particular difficulties encountered in the case of children with "special needs".<sup>9</sup>

The challenges has encountered in preparing reports, including medical reports

#### **4.1 Social reports**

- If was found out later on during the process that after the matching or sending the child's report to RS, the child's mother relinquishes another child (younger sibling of a child) to DCY care

- It rarely happened that during the adoption process, the child's relative came up and contact DCY

#### **4.2 Medical reports**

- The child adoptable for adoption will get medical checked up done in general. Therefore the Receiving States (RS) which the special medical check is compulsory requested shall not encounter any particular difficulties in medical reports where as those RS which does not request may face some difficulties.

#### **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?

- 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 -

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

<sup>9</sup> 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".

## **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.

It is importantly related to the waiting time for child matching.

6.1 Once RSs issue the Permission /Declaration /Approval to adopt and by the time SO. (Thailand) receives adoption files and put on the waiting list for child matching.

6.2 It may takes 2 – 3 years for them to be matched with a child depending on number of children available for adoption, number of adoption applications locally and internationally.

6.3 At the matching panel , the age of PAPs may be not suited to the age the child available , to be matched for them (the available child's age is not suited to the age of the child given for permission by RSs) because PAPs getting older.

6.4 It is Thailand's policy that the maximum age's difference between PAPs and child shall not more than 45 years in comply with the age of natural parents. However, such consideration is on a case by case basis.

6.5 Dealing with such cases, RSs are requested to up dated the active adoption files and the age of the child permitted to adopt in months whether it is the age at the child matching date or it is the child's age before the child leaves SO (Thailand) for RSs.

## ***Preparation and counselling of children***

### Both States of origin and receiving States

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

(a) The challenges encountered : Preparation of children who are older than 4 years old

- Showing welcome album of PAPs, family to the child,
- Preparing the child to get acquainted with PAPs' lifestyle by foreign volunteers i.e. simple language, eating, showering, going to the airport

(b) Implementation of good practices

- Provide training and education for child care workers and foster families i.e. tell the child the truth that living with foster parents is a temporary period of time while waiting for permanent home.

- Prepare the child care workers or fester families for the entrustment of child to PAPs and also provide them with entrustment procedure in prevention of minimizing less grief and loss between them.

- PAPs are requested to stay in Thailand at least two weeks to get to know the child, social + cultural context and way of life in Thailand

- PAPs are also requested to make acquainted with the child before they pick up the child.

## **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.

The challenges we have encountered in relation to obtaining reports on PAPs :

- insufficiency of PAPs, health report i.e. PAPs is overweight but lack of information of weight and height on the report.

- Lack of information on mental health reports. (there was one case which one of PAPs committed suicide after receiving a child due to the stress during the pre-adoption placement period in PAPs' country.)

#### 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?

- To remedy the situation, a request for PAPs' weight and height information as well a health report must be obtained before an approval is given.

- (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.

- Only few receiving States provide PAPs' reports quite short.

- It would be appreciative in the case of intra – family intercountry adoptions, if the receiving States give any comments or point of view on the situation of the child whether he/she shall be adopted taken into consideration from PAPs' information on the child to be adopted during an assessment process. We came across from adoption files from some receiving Stats that PAPs want to adopt his/her niece or nephew in Thailand whom they give financial support to the child who was cared for by parents or either parent or with the relative. From our point of view, the receiving States are able to primarily judge beforehand that the subsidiary principle shall be interpreted in some level of such adoption application. We are willing full to make an assessment of a child adoptability but the decision shall not be left on the shoulder of the State of origin alone.

### ***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.

- PAPs have not well prepared enough in adopting an institutionalized child whose physical, mental development does not meet with their expectation from a child report they received. Some of PAPs have not tried or been patient enough to give the time to get to know and to understand the child for a transitionally adjusted period of time between them If PAPs refuse to adopt a child, the difficulty resulting from their withdrawal of adoption may mentally abuse a child who has been long prepared waiting for PAPs. especially an older child.

- To remedy the situation in these cases

- If a difficulty results from a child's physical or mental development, PAPs are allowed to have a child to get a medical check up

- The central authority of the receiving State will be contact and got involvement in this situation.

- (b) In your State's experience, what could be done to improve the counselling and preparation of PAPs in general?
- Provision of preparation sessions for PAPs which emphasizing on the institutionalized child before the home study/ Permission to adopt and also after being allocation of a child.
  - Thailand will also make an improvement of an accurate and up to date report on a child.

#### Receiving States only

11. What are the main challenges your State encounters when counselling and preparing PAPs for an intercountry adoption?<sup>10</sup> 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".<sup>11</sup> 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:
- (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?<sup>12</sup> (E.g., does your State routinely update the reports on PAPs in this period?<sup>13</sup> 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 needs<sup>14</sup>**

##### Both States of origin and receiving States

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<sup>10</sup> 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.

<sup>11</sup> See SC 2010 C&R No 9.

<sup>12</sup> 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.

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

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

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

Anti-HIV Positive, serious health problems, handicap, older children and group of sibling

(b) If possible, please specify approximately what percentage of children adopted intercountry from or to your State<sup>15</sup> have "special needs" (as defined by your State)?

- Anti-HIV Positive

2012 : -

2013 : 4

2014 : 5

- Serious Health Problems

2012 : 39

2013 : 32

2014 : 31

- Handicap

2012 : 3

2013 : -

2014 : 4

- Older Children and group of sibling

2012 : 51

2013 : 43

2014 : 46

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

- To expedite the search for the birth family of the abandoned child as well as to cooperate closely with the concern departments to issue documents certifying the child identity

- Due to, too having caseload of our social workers, the reports on PAPs shall be in Thai language favorable or in English together with the original language as well as the three report during the trial period of six months preferably done in Thai language

- To speed up the sending of the child report, if the receiving State accept the report in Thai language, it will take less time to prepare the report.

(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?

-To place children with special needs who are older than 6 years old, children with disabilities or serious health problem (see item 10)

The commitment and competence of some receiving States (both the competent authority or accredited body) to carry out properly the tasks of adoption of children with special needs

- The selection of PAPs suitably for the specific needs of each child with special needs

- The parenting abilities of PAPs and their ability to cope with the particular special needs

- The involvement of the government of the receiving States in providing or access with appropriate post – adoption support to PAPs

Such challenges are addressed by the Thai law requirement

- An examination on qualifications and suitability of PAPs must be undertaken i.e. criminal background check, psychological examination.

- PAPs shall pass through the compulsory preparation session

- PAPs are obligated to make acquaintance with a child at least two week when they

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<sup>15</sup> Depending upon whether your State is a State of origin or a receiving State.

come to receive the child

- The adoption order of the child under the receiving State' adoption law is requested. )

#### 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 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"?<sup>16</sup>

1. Forms of assistances and follow up of the child's development are The Follow – up Database Program Questionnaire for Thai adopted child, Guidelines for Post Adoption Service

2. The requirement for post adaption reports is every five years after the adoption until the child is 18.

##### Preparation for origin searches and reunions

3. Seeking information regarding the biological parents and family origin of the adopted child, the permission of the Department of Children and Youth of Thailand is required.

- A request for the access of information or contact must be first made addressed to. DCY

- DCY contact birth parents if traceable whether consent to give information or contact is given or not. In every case counseling is given if parent/parents is/are traceable as well as an adopted child who make such request.

- The consent of the adoption triad (adoptee) adoptive family and birth parents) must be given, then the access of information or contact shall be initially processed.

##### 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.<sup>17</sup> Please also share any good practices your State has developed to overcome these challenges.

- Please insert text here -

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<sup>16</sup> SC 2010 C&R No 29.

<sup>17</sup> 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.

## **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).

The PAPs parenting ability and their ability to cope with the specific needs of each child.

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

Close cooperation and quick correspondence / contact

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

- Do it best, a report should be prepared all information which is accurate and up-to-date including information about his or her identity, adoptability, background, social environment, family history, medical history (physical, emotional, mental development) and the specific needs of the child.

- PAPs shall be prepared continuously and have an awareness of appropriate expectation and reality.

## **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".

-The term "open adoption" does not exist in adoption registration of Thailand. It is understood as defined by the term "openness in adoption" in the Civil and Commercial Code, Section 1598/21 :

"If the person who is to be adopted is the minor, the adoption can take place only with the consent of his parents but if one of his parents died or has been deprived of his or her parental power, consent thereto has to be given by his father or mother who has parental power

- If there is no person to give consent under paragraph one or the father or mother, or parents cannot express his or her consent thereto or refuses to give his or her consent, and the refusal has been made unreasonably and has adversely affected the health, progress and welfare of the minor, the mother or father, the person intending to be the adoptor or the Public Prosecutor may apply to the Court for an order allowing the adoption in lieu of giving the consent thereto under paragraph one"

-The type of adoption in Thailand have also adoption of abandoned children under DCY's care and adoption of children whose parents entrusted to DCY

These two type of adoption stipulated in section 1598/22 and Section 1598/23 which DCY are authorized by law to give consent for 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.<sup>18</sup>

According to Thai Adoption Law the intercountry adoption of a child who is not in DCY's care, by

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

his / her relative is permitted based on the subsidiarity principle on a case by case basis and based on the RS view's country by country. An application of PAPs who is not a child's relative is taken into consideration in depth and thoroughly based on the subsidiarity principle, view's on RS's country by country. The best interest of the child is taken into consideration seriously if it is likely that the child has been raising in inappropriate care and unsafe environment which is risky to cause the child suffer physical or mental harm

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?

**Number of Intercountry adoption**

2012 : Consent given by parent(s) 60 persons

Total : 60 persons

2013 : Consent given by parent(s) 64 persons

Court order 1 persons

Total : 65 persons

2014 : Consent given by parent(s) 52 persons

Total : 52 persons

-To place children with special needs who are older than 6 years old, children with disabilities or serious health problem (see item 10)

The commitment and competence of some receiving States (both the competent authority or accredited body) to carry out properly the tasks of adoption of children with special needs

- The selection of PAPs suitably for the specific needs of each child with special needs
- The parenting abilities of PAPs and their ability to cope with the particular special needs
- The involvement of the government of the receiving States in providing or access with appropriate post – adoption support to PAPs

Such challenges are addressed by the Thai law requirement

- An examination on qualifications and suitability of PAPs must be undertaken i.e. criminal background check, psychological examination.
- PAPs shall pass through the compulsory preparation session
- PAPs are obligated to make acquaintance with a child at least two week when they come to receive the child
- The adoption order of the child under the receiving State' adoption law is requested. )

## **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,<sup>19</sup> counselling and preparation of PAPs for intercountry adoption?

The most important topics to discuss in relation to the counseling and preparation of children are :

- (a) children separated from his/her orphanage or his/her foster home.
- (b) provide the children on knowledge of PAPs information as much as possible and tell the

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

children the truth that they going abroad to be adopted not for a vacation

The important topics to discuss in relation to the selection, counseling and preparation of PAPs are :

- (a) Expectation and reality
- (b) Understanding institutionalized child

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?<sup>20</sup> If so, which particular issues would your State wish to see addressed in such a Guide?

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## **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).<sup>21</sup>

No, however some States have not had a practice in relation to obtaining the agreements requisite in Article 17

### **B. Recognition of adoptions made in accordance with the Convention (Chapter V)<sup>22</sup>**

Both States of origin and receiving States

25. (a) Previous Special Commission meetings<sup>23</sup> 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;

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

<sup>21</sup> 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.

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

<sup>23</sup> 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.

- 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"<sup>24</sup> 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?<sup>25</sup> If so, please explain the difficulties encountered, including how your State has sought to remedy or ameliorate the situation.

According to the Thai adoption structure, the CAC has been designated as the Central Authority of Thailand. CAC's social workers handle adoption process under the supervision of the Child Adoption Board which the Director – General of the Department of Children and Youth (DCY) is a Chairperson.

The manpower is insufficient and unstable. They must be responsible for both the intercountry adoption cases and the Central Authority roles.

- (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?<sup>26</sup>

assigned the specific person being responsible for the issuance of certificates of conformity under Article 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?<sup>27</sup> 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?

No

The delays are related to our shortage and rotation of staffs. Not only the existing staff have caseload but also the new comers have less knowledge and understanding of the Hague Convention. The new comers need to be trained on both our domestic legislation and the Hague Convention. In addition to recruit the new comers who have English language competency are difficult.

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?

The delays resulting from the shortage and rotation of staffs as such night be minimized by having the translation of home study report and the pre adoption placement report in Thai language. And the child's report is sent to RS. is in Thai language. The cost of translation shall be incurred by PAPs.

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<sup>24</sup> See GGP No 1, Annex 7.

<sup>25</sup> 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.

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

<sup>27</sup> 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".

- Thailand has not used the Hague medical form yet. The child's report is prepared in medical and development form using in Thailand covering with the blood test, the child's previous and present health record, the child's development emotionally, language and socially. Some of RSs have their own requirement for special medical check for the child's visa which such extra cost incurred by RSs.

#### **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,<sup>28</sup> prompt responses to enquiries and questions, openness to discussing problems and finding solutions)? Please specify any difficulties and concerns.

Yes, in general. However, sometime we are not able to handle the prompt responses to enquiries and questions due to our workload and the barrier of English language competency especially if the enquiries are related to legal issues.

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

Yes, we continue to encounter difficulties is the need for adequate resources and appropriately trained staff in Central Authorities.

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?

Yes, we ask the Central Authorities of RSs in relation to their views on PAPs' suitability to adopt a child divided in to two types of adoptions.

1) Orphan adoption : the questions mostly are about PAPs' health, record of criminal check and their capability to parenting a child.

2) Relative or non relative adoption : the questions are about the RSs' point of view primarily on why the child is in need for adoption or not following their information obtained from PAPs, as well as the Rss' points of view on the child's possibility to get entry visa. Therefore such point of view will help the SO. who take responsibility in fact finding whether the child is adoptable

### **III. SPECIFIC TOPICS FOR CONSIDERATION**

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<sup>28</sup> 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)?

<sup>29</sup> See SC 2000 C&R No 3.

**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.

It is stipulated in the child Protection Act 2003 in regard to providing assistance and welfare to the child and his/her family or any person providing care for the child so as to enable them to take care of the child appropriately.

If the biological family are incapable and inability to raise his/her child within a family owing to whatever reasons, They can entrust the child in the Department of Children and Youth (DCY) for temporary care with the condition that if the biological family did not come to visit the child and lost contact with DCY within one year. DCY was able to find an adoptive family for a child by signing a letter of power entrusting DCY to give consent to the adoption.

After the one year period of the child in DCY's care, If the birth parents keep contact with the child, the family may be able to be reunified with the child or the family may request DCY to continue looking after the child. However, if the parents lost contact with DCY after one year, DCY would search for the parents at their given address. If the parents were untraceable, the child would be considered available for adoption following the conditional agreement of the birth family's letter.

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 relative adoption and the non - relative adoption

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.

The Adoption law of Thailand classifies the child who can be adopted mainly in three categories:

- The child in the care of his/her birth parents, the adoption can take place only with the consent of his parents. If there is no parent to give consent for adoption or parents can not express his or her consent or refuses to give his or her consent, the court for an order allowing the adoption in lieu of giving the consent on behalf of the parents is needed for such case.

- The abandoned child in DCY's care whose parents were untraceable, the adoption can take place with DCY's consent.

- The child who has not been abandoned but has been under supervision of DCY's care, and his parents make a letter of power entrusting DCY to give consent to the adoption.

( i ) intra family intercountry adoption - cross refer to 3 ( b ), 9 ( b ) and 20 . As for the non relative adoption, the investigation is taken more carefully and thoroughly, how PAPs and the child to be adopted have met each other? who is the middle man ?, is the payment involved? And the opinion of RSs on such case must be obtained whether such case is against Article 29 or not.

( ii ) intercountry adoptions concerning children with special needs. The term of children with special need are used for children in DCY's care such as who are older 4 years old, serious health problem, group of siblings or handicapped children. The subsidiarity principle is applied : see 31. - Please insert text here -

Receiving States only

34. (a) In accordance with the principle of co-responsibility,<sup>30</sup> 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 systems<sup>31</sup> 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?

The domicile of a person is interpretation is the Civil and Commercial Code and the Civil Registration Act. In addition, the definition of the residence of a person is also stipulated in the Immigration Law. Therefore the legal classification of habitual residence of PAPs in Thailand is being clarified for the purpose of an adoptions.

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?

- (a) Thailand has encountered difficulties in determining the "habitual residence" of PAPs - cross refer to 36

<sup>30</sup> See, e.g., Chapter 12 of GGP No 2.

<sup>31</sup> 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...".

(b) The difficulties in determining the “habitual residence” of a child is a case that a child travels to reside with his/her relative in RS with a visitor visa. Then the child was adopted by the couple (one is his/her relative under the adoption law of RS. The adoption proceedings were initiated while which the child was in RS on a visitor visa. Neither The Thai Central Authority was involved in the adoption nor after the Thai CA gave approval for the adoption proceeding of a probationary placement in RS. The fact that Thailand were requested by the Immigration Services of RS to submit a copy of documentation as follows:

i The Thai Central authority was aware of the child is presence in RS and of the proposed adoption

ii The Thai Central authority determined that the adopted child was no longer habitually resident in Thailand

In such a case above, we do not issue such two documentation upon requested because we are carefully considered that it is a domestic adoption case which does not follow or comply with the Hague Convention’s process.

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).

nationality from a foreign country which has diplomatic relations with Thailand and immigration status.

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?

If the move is instead to a non – Contracting State, the adoption would not be ongoing processed as a Hague case. Once the adoption is finalized under Thai Adoption Law, the adopted child needs to be readopted under the adoptive parents’ law.

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)?

If PAPs are nationals of State A which has diplomatic relations with Thailand but has residence in State B which also has diplomatic relations with Thailand and will have a period for probationary placement of not less than six month in State B. PAPs can make an application to adopt a Thai child with documents to be required shall also contain a letter certifying PAPs’ residence from State B. However, in reality from our experience, State B whose PAPs has residence either a Contracting State or a non Contracting State, would refuse to make an application. Theodore such practice is depending on a country’s policy basis.

or

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

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 have not even had such a case

### C. Use of modern technologies<sup>32</sup> in intercountry adoption<sup>33</sup>

#### *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.<sup>34</sup> 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?<sup>35</sup>

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

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

Yes; internet and website, e-mail have been used:

- guideline information
  - correspondence in any stages of the intercountry adoption procedure.
  - Q + A in adoption legislation
- The use of modern technologies help a lot in daily work.

44. In your State's experience, what (a) benefits<sup>36</sup> and (b) risks have modern technologies brought to the field of intercountry adoption? Please describe how your State attempts to manage any perceived risks.

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

<sup>33</sup> 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.

<sup>34</sup> 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.

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

It's quick correspondence

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.<sup>37</sup>  
No.

and / or

- (b) PAPs, biological families and adoptable children (or adoptees, if the information is provided subsequent to the adoption)<sup>38</sup> – 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?<sup>39</sup>

The use of e-mail is protected by the government electronic system.

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

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

Yes.

If so:

- (a) Please specify which documents are sent or accepted in scanned format:  
Art. 17c, Art. 23, child's report, child study.
- (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)?

The original documents follow later by post. The scanned documents will get copies after the receiving.

- (c) Is any authentication of the scanned document required (e.g., legalisation or apostillisation)?<sup>40</sup>  
No
- (d) How are scanned documents stored and how is the security of the information guaranteed?  
kept in individual PAPs' adoption file in the office

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

<sup>36</sup> 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.

<sup>37</sup> 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.

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

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

<sup>40</sup> See the *Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents* (the "Apostille Convention", concluded 5 October 1961).

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

No

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):
  - Please insert text here -
- (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?):
  - Please insert text here -
- (c) who is permitted to access the listings:
  - Please insert text here -
- (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):
  - Please insert text here -
- (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):
  - Please insert text here -

#### ***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.

No

#### **D. Illicit practices<sup>42</sup>**

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<sup>41</sup> 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.

<sup>42</sup> 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).”

***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.

We experienced the practices relating to the illicit practices:

The child to be adopted was brought to a foreign country by presenting the immigration offices documents of the birth mother's consent for adoption at the Embassy of the applicants' country in Thailand together with the birth mother's document giving the applicants' permission to escort the child out of the Kingdom of Thailand. The permission document as such is done at the district office before the registrar. Subsequently. The applicants send their adoption file to Thailand but the Child Adoption Board of Thailand gave disapproval because such adoption case was against Section 18 of the Child Adoption Act BE 2522 (1979) of Thailand and would get a punishment by section 34:

"Section 18. No person shall take or send any child out of the kingdom for the purpose of arranging its adoption, directly or indirectly, unless with a permit from the Minister in accordance with the principle, procedures and conditions stipulated in Ministerial Regulations."

"Section 34. Any persons who violates Section 6 or Section 18 shall be punished by imprisonment for a term of not more than three years or by a fine of not more than Baht thirty thousand or by both such imprisonment and fine"

In prevention of this illicit practices, DCY not only have informed regularly the Immigration Bureau of the name list of PAPs who have permission to escort children to be adopted going abroad as previously, but also inform them to get much more awareness if a foreigner escort a child with an unaccompanied of the mother

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.
- 

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?<sup>43</sup>

*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?*

- Please insert text here -

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<sup>44</sup>***

##### Both States of origin and receiving States

54. If your State is involved in respite care programmes<sup>45</sup> 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:  
- Please insert text here -  
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):<sup>46</sup>  
- Please insert text here -

#### ***Foster care resulting in adoption***

<sup>43</sup> 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 available on the Hague Conference website < [www.hcch.net](http://www.hcch.net) >.

<sup>44</sup> See GGP No 1 at paras 561 to 563.

<sup>45</sup> 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.

<sup>46</sup> 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.

### 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.*

Yes. We experienced a couple who traded from a country where they could not apply to adopt a Thai child because their country has a quota from Thailand. We were aware of their intention. However, the couple move back to their country because they could not reside and want for the child-matching for more than one year in Thailand. They were not allowed to foster a child.

The challenges that should have awareness is the foreigners apply to foster a handicapped child in the orphanage while they residing in Thailand and working as a volunteer in the orphanage. They apply to adopt the handicap child afterward.

### **F. Triangular adoptions<sup>47</sup>**

#### 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,<sup>48</sup> the procedure used and any challenges encountered. Please also share any good practices your State has developed in relation to such cases.

Yes, but it is a non Contracting State and we allow if it is Infamily adoption. PAPs would be allowed to use the International Social Service.

### **G. International surrogacy arrangements<sup>49</sup> and intercountry adoption<sup>50</sup>**

#### Both States of origin and receiving States

57. Following the recommendations of the 2010 Special Commission meeting,<sup>51</sup> 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.

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## **IV. SERVICES AND SUPPORT PROVIDED BY THE HAGUE CONFERENCE**

#### Both States of origin and receiving States

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<sup>47</sup> For a definition of “triangular adoption”, please see GGP No 1 at Chapter 8.8.7.

<sup>48</sup> See the good practices recommended at para. 555 of GGP No 1.

<sup>49</sup> 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).)

<sup>50</sup> 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.

<sup>51</sup> 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”.

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 tools<sup>52</sup> developed by the Experts' Group on the Financial Aspects of Intercountry Adoption:  
- Please insert text here -
- (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":<sup>53</sup>  
- Please insert text here -

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:

- Please insert text here -

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?

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

1.Occasionally, we received an adoption application of a relative case from a Contracting State. But such application was not sent from either the Central Authority or the Competent Authority of that Contracting State which further correspondence need to done whether an adoption process went through the right competent authority adoption in RS.

2.The intra – family intercountry adoption create difficulties as follows

- (a) The child has travelled to reside with PAPs in RS with step child visa or visitor visa etc.
- (b) The child was adopted under domestic adoption law in RS
- (c) Then Rs send an application to process the intra-family intercountry adoption to SO (Thailand) in order to comply with the Hague Convention

The fact that Thailand has the sixth month probationary period in RS before such adoption can be finalized. And the required of the sixth month period was initiated in agreement with RS in sending

<sup>52</sup> 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.

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

Thailand the follow – up reports. The difficulty creates owing to the fact that Thailand have not received the reports. Therefore, this adoption case can not be legalized under Thai law.