

# Protocols & Procedures for the Development of Programs for Intercountry Adoption with New Countries

## **PREAMBLE**

Development of new intercountry programs in countries where there is currently no working arrangement is undertaken, in the spirit of the National Guidelines on Intercountry Adoption (1986), through a co-operative approach by all States and Territories, with the assistance of the Commonwealth Departments of DILGEA (Department of Immigration Local Government and Ethnic Affairs) and DFAT (Department of Foreign Affairs and Trade).

### **Stage 1: Initiation**

Proposals may be received from any individual, organisation or source country by the relevant State Minister. A proposal may also be initiated by the relevant State Minister.

Development of a new program is preferably seen as a National Initiative which is supported by all States and Territories because of the international liaison required and the associated costs. A proposal should be accompanied by detailed information regarding the country's attitude to intercountry adoption if known, availability of children, the legislative framework, and administrative procedures in the proposed overseas country as set out in Appendix I. Subject to ratification of the Hague country by Australia, overseas countries will be expected to have ratified the Convention.

A response should be made to the proposer within 3 months of receipt of the proposal.

### **Stage 2: Proposal**

A proposal will be considered by the relevant State Minister who will have regard to:

- 1) whether the proposal is likely to meet the standards incorporated in the 1986 National Guidelines on Intercountry Adoption,
- 2) advice from DILGEA and DFAT
- 3) a financial impact statement prepared by the relevant State Government Department and
- 4) the relinquishing country's attitude to intercountry adoption.

In considering a proposal, particular consideration must be given to ensure that Australian State and Commonwealth Governments "only deal with overseas adoption agencies that have been recognised or registered by the government or appointed adoption authority in that country" and "that children are not being procured for the program by force, duress or financial incentive", (National Guidelines 1986). If accepted, the proposal will be referred to members of the Sub-Committee on Intercountry Adoption, and the proposal with accompanying advice, will be tabled for consideration of formal investigation at the next Council of Social Welfare Ministers.

### **Stage 3: Investigation**

A commitment to formally investigate the appropriateness of developing a new program is preferably a joint Welfare Minister's decision, taking into account the advice from DILGEA and DFAT. Each proposal will usually be investigated directly in the country of origin by a State Officer after consultation with DILGEA and DFAT about the assistance available from the relevant Australian mission. The costs of the Commonwealth and States will be met respectively by the Commonwealth and States. Costs incurred by the States will be shared through a pre-determined States cost sharing arrangement. The investigation will consider amongst other matters"

- 1) the attitude of the relinquishing central government to intercountry adoption.
- 2) the legal policy and the administrative provisions relating to intercountry adoption in the proposed source country,
- 3) the nature, if any, of financial or other inducements in adoption arrangements,
- 4) the existence of licensed or approved agencies who conduct intercountry adoption
- 5) consistency with the 1986 National Guidelines, and
- 6) compliance with the Hague Convention when and if applicable.

### **Stage 4: Decision Making**

Resolutions whether to implement or not implement new programs will be made by the Council of Social Welfare Ministers, following consideration of:

- 1) all relevant material including the investigation report
- 2) financial impact statement, and
- 3) advice from DILGEA and DFAT.

### **Stage 5: Formalising Arrangements**

An arrangement with the appropriate authorities of the relinquishing country will be drawn up and signed by:

- 1) a representative of the relinquishing country, and
- 2) State Ministers (or their representatives) who wish to be a party to the arrangement.

Guardianship responsibilities under the arrangement will be assumed by the Federal Immigration, State or Territory Welfare Minister according to the powers held by the relevant Minister at the time the arrangement is concluded.

DFAT will arrange for the exchange of diplomatic notes to conclude the arrangement.

### **Stage 6: Coordination, Monitoring and Review**

Regular monitoring of all arrangements is undertaken by the States.

Coordination is required to ensure an appropriate aggregate number of files is sent to the overseas country and that a reasonable balance is maintained between the States and the Territories which have implemented the program.

Decisions to suspend arrangements are made by the Ministers who were parties to the decision to implement the program.

## **Appendix I**

### **Proposals for Intercountry Adoption Programs with New Countries**

A proposal to develop a new program for intercountry adoption should include the following information:

1. Name, address and key staffing details of responsible government or approved adoption authority in source country.
2. A certified translation of legislation of source country which provides for either regulation of intercountry adoption or in-country adoption and/or guardianship.
3. Statement of source country's current policy and views on intercountry adoption.
4. Details of source country's intercountry adoption requirements and procedures:
  - full details about relinquishment and other procedures which result in child's legal availability for adoption
  - information provided to relinquishing parents at various stages of the process
  - legal mechanisms for adoption process in source country
  - anticipated size and nature of program
  - eligibility criteria for prospective adoptive parents
  - details of the age range and numbers of children for whom family placement is sought
  - approximate waiting times for allocation and placement of children
  - amount and type of information on child which will be provided at allocation and placement
  - records kept in source country of child's birth, parentage and care
  - role of government/approved adoption agency.
5. Details of the requirements and procedures of each adoption agency which are participating in the proposal (repeat relevant information from item 4)
6. Details of documentation which receiving country is required to supply for each application.
7. List of other receiving countries the government and the approved adoption agency works with.