



The Family Liaison Office

Inter-country Adoption Guidelines

for the

Foreign Service Family





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Disclaimer

This publication was written for use by U.S. Government employees and their family members at U.S. Missions abroad and is not intended for use by the general public. While every effort has been made to be accurate, relevant U.S. and foreign laws and regulations may change and it is up to the individual to seek current information.

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FOREWORD

This booklet was written specifically for Foreign Service families considering intercountry adoption. As you get started along the complicated, exciting road to adoption, we hope that the information and resources provided will be supportive and helpful. Our goal is to make the process more understandable.

We wish to thank the members of the Foreign Service family who have contributed comments to this booklet about their own experiences in adopting overseas. All of the quotations in the sidebars throughout the booklet are from individuals who have been through the process and were willing to share their learning experiences, insights, and bits of wisdom.

We also want to express our gratitude to the Adoption Unit Chief and the Adoption Officer, in the Department of State's Bureau of Consular Affairs' Office of Children's Issues for their outstanding support in helping us to update this publication. The contributions of an intern who worked in the FLO Office as part of the Aspiring Leadership Program and the ideas and guidance provided a Clinical Social Worker in the DOS's Employee Consultation Service were invaluable.

The information included here is not meant to be all-inclusive nor is it meant to endorse any agency or business. The Family Liaison Office of the Department of State is not responsible for the services rendered by these agencies. Foreign Service personnel need to understand that adoptions are fundamentally a private matter. The United States government cannot intervene on behalf of an American citizen in matters of judicial or legal process in a foreign country. Regardless of the contacts you may have in a U.S. Embassy or Consulate, all adoptions are conducted on a private basis.

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INTRODUCTION

Adoption is a complex process, fraught with the possibility of complications. For many in the Foreign Service, the process becomes even more complex when the decision is made to adopt a child from a foreign country. The focus of this booklet is the overseas adoption process. While families adopting in the U.S. may find some useful information here, there are endless resources on the market for domestic adoption. FLO's purpose here is to provide guidance and resources specific to overseas adoptions by Foreign Service families.

“Adoption (like giving birth) ultimately involves a leap of faith. After we have thought and considered and compared and planned, there still comes that point where we just have to trust our emotions.”

-The Barker Foundation

Prospective parents should carefully assess their personal reasons for adopting. Your adjustment to the adoption, your child's adjustment, and your long-term happiness will be enhanced by this self-exploration, and by addressing any issues that may affect the adoption. After this assessment, should you decide not to adopt, you should not feel that you have failed or demonstrated weakness. Intercountry adoption is about providing a family and a permanent home for a child in need, and if you conclude that intercountry adoption is not right for you and your family at a particular point in time, then you have made the right decision not only for you, but also for the potential adoptive child(ren). There are pre-adoptive classes available in the U.S., which many have found helpful when considering adoption.

Adopting parents seem to cope best when they understand from the beginning some of the general difficulties of adopting, taking them into account in their planning. Adoptions can be costly, ranging from several thousand to many thousands of dollars. The National Adoption Information Clearinghouse provides information on adoption costs on their Web site at <http://www.naic.acf.hhs.gov>.

Adoptions can be lengthy, taking anywhere from several months to several years to complete. “I wish I had known that the adoption process was going to be lengthy,” one adoptive Foreign Service parent writes. “It would have reduced the impatience and anxiety that problems caused. However, the length of time to adopt, the problem-solving and intense discussion between my husband and me brought us closer together and prepared us for the eventual arrival of our child.”



Foreign Service families adopting abroad need to do careful planning which takes into consideration factors particular to their situation. Keep in mind that you will need to make certain that you have adequate time to finish required paperwork before transferring from your current country of residence to another country, including back to the United States. Pay special attention to issues of timing and mobility:

- When can the child be officially adopted in a foreign country or when can you obtain legal guardianship of the child?
- When can the child be officially included on travel orders?
- When can the child be taken out of the country?
- When can the child enter the U.S. and on what type of visa?

Personal contingency planning is also critical for adoptive Foreign Service parents, since unforeseen events such as evacuations, TDYs, medevacs, and sudden transfers can interrupt well-planned adoption procedures.

If you decide to adopt, we wish you a wonderful experience and hope that the information and resources you find here will help you on your way.

The following are points to consider before you make the decision to adopt:

Have you considered the fact that virtually every aspect of your life will change in some way?

If you are part of a couple, are you both eager to adopt?

Is a primary motive to offer advantages to a child that you believe are unavailable in the country of origin? It is also very important that the intercountry adoption is child-focused and that you be able to fully love this child and make him or her part of your family.

In the States, it has become common for adoptees to seek out their biological parents at some point. What if your child adopted overseas wants to do the same some day? How will that affect you? Will you encourage or participate in the process?

There is always the possibility of unforeseen challenges – genetic, developmental, psychological, etc. Have you thought about your ability to face and handle unexpected difficulties, if these were to arise?

Think about the potential effects of removing a child permanently from his or her own culture and the possible future impact on his or her sense of identity.



Chapter 1

THE INTERCOUNTRY ADOPTION PROCESS

Those considering an intercountry adoption must deal with foreign governments and foreign adoption regulations, the U.S. Department of Homeland Security's U.S. Citizenship and Immigration Service (USCIS) regulations, U.S. state laws and colleagues within the Embassy or Consulate's Consular Section.

Understanding each part of the process, and the accompanying paperwork, is important to keeping your focus on the final goal – the arrival of a new family member.

“Be conscious from the beginning of the cultural differences between the parents’ country (USA) and the country from which you wish to adopt. Bureaucratic snarl-ups are a constant factor. Application of western reason does not necessarily succeed. Understanding the culture, as well as the administrative rules, in the country from which you wish to adopt will help you ride along the delays and setbacks that accompany the process.”

Understanding the Laws of the Country from Which You Intend to Adopt

The process of adopting a foreign child differs from country to country. The paperwork required in one country might be different in another country; a process that runs smoothly in one country might be fraught with delays in another. Since countries have been known to change their adoption regulations without notice, it is imperative that you understand the laws of the country in which you intend to adopt before initiating an adoption. Some countries require that the adopting parent(s) personally see the child before the foreign adoption decree is approved; other countries do not. Some countries allow or even require children to be placed in the adopting parent's care as a foster child while the adoption process carries forward; others do not. Some countries require that the prospective parents establish residency for a stated period of time in the country in which they intend to adopt.



To obtain a foreign adoption decree, the prospective adoptive parent(s) must follow the adoption procedures of the country in which the child resides. U.S. immigration law (particularly the Immigration and Nationality Act) establishes the criteria and definitions for an intercountry adoption to serve as the basis for a child to immigrate to the United States. Some foreign adoption decrees, while perfectly legal and final in the child's country of origin, may not meet these U.S. legal criteria. For this reason it is extremely important to research the laws of the country before proceeding with an adoption. The Bureau of Consular Affairs' Office of Children's Issues maintains country-specific adoption flyers with current information at <http://www.travel.state.gov/adopt.html>. A good place to start is by reviewing the adoption flyer of the country from which you wish to adopt.

"Learn from a mentor who has been through the process. Our mentor made it a full-time job to do all the paper shuffling herself, and follow-through the passage of each document. For each bottleneck, she methodically fixed the problem, making her own photocopies or driving people where they needed to go. It still took a year from start to finish."

Contact the Consular Section: Contact the Consular Section of the U.S. Embassy in the country in which you intend to adopt. A consular officer can provide you with the necessary country-specific information needed for adopting a child, as well as a realistic overview of the adoption process in that country. He or she can also provide a list of attorneys within the country who handle adoptions. Connecting early on in the process with the consular officer is important. The consular officer will become more involved when the prospective parents apply for an immigrant visa for their adopted child to enter the United States. Full knowledge of your situation may also allow him/her to suggest alternatives in case you face a sudden transfer or evacuation from post, or if you run into unexpected local hurdles. Although the consular officer provides useful information, he/she may not act as a personal advocate with the local government; this is the role of the attorney with the adoption agency or a facilitator.

"The keywords are patience and persistence. Despite having a lawyer, we still had to make phone calls to move things along, and get friends to make calls on our behalf."



“Finding a lawyer in-country to process your papers is a key element: seek recommendations, avoid seeking bargain legal services. This is the key person to move your papers through the local administrative agencies, and court system. You need full confidence in the chosen attorney. Become familiar with the local regulations on foreign adoptions, as well as use INS (sic) regulations, so that you can ask intelligent questions when communicating with your lawyer. Your relative knowledge indicates that you wish to be treated seriously.”

Assistance from the Office of Children’s Issues in the Bureau of Consular Affairs: The Department of State’s Office of Children’s Issues maintains current information on adoption procedures around the world (country-specific adoption flyers) and publishes an *International Adoptions* booklet. The office also coordinates policy and testifies to Congress on issues relating to intercountry adoption. The office provides general information about U.S. visa requirements for adoptive and prospective adoptive children, can make inquiries of the U.S. Consular Section in the foreign country where you are adopting regarding the status of your adoption case, and can clarify documentation requirements.

Country-specific adoption flyers, the *International Adoptions* booklet, and other important information can be found on the Department of State Bureau of Consular Affairs/Office of Children’s Issues Web sites or can be faxed or mailed directly to you.

For more information, contact:

The Office of Children’s Issues
U.S. Department of State
CA/OCS/CI
Washington, D.C. 20520-4818
Tel: 1-888-404-4747 (toll free)
Fax: (202) 736-9080
Intranet: <http://intranet.ca.state.gov/cainternet/adopt.html>
Internet: <http://www.travel.state.gov/adopt.html>

Understanding the Role of the Department of Homeland Security, U.S. Citizenship and Immigration Service, in Intercountry Adoption

Americans seeking to adopt a child from another country and bring that child to the United States must comply with both countries’ laws and regulations. The



Department of Homeland Security's U.S. Citizenship and Immigration Service (USCIS) plays a critical role in the U.S. side of the process, and prospective adoptive parents should read and follow closely the guidelines laid out in USCIS's publications and Web site <http://uscis.gov/graphics/services/index2.htm>.

Those regulations spell out, very specifically, the pre-adoption requirements for prospective adoptive parents, the categories of children eligible for intercountry adoption, and the procedures U.S. consular officers must follow in adjudicating immigrant visa applications for such children.

The information from USCIS complements that of the Department of State's Bureau of Consular Affairs, which can be found at <http://travel.state.gov/adopt.html>. It is very important to remember that each agency has a role in the intercountry adoption process, and that consular officers at our Foreign Service posts abroad cannot issue immigrant visas to internationally adopted children if the case fails to meet both agencies' criteria and regulations.

Prospective adoptive parents, including those in Foreign Service families serving abroad, need to understand that the U.S. officials working on their cases strive hard to balance the proper application of the relevant laws and regulations with a high level of customer service that acknowledges the very personal, human effect of an intercountry adoption on an American family as well as on the child. USCIS and consular officers will do everything they can to assist you as you work through this process, but they must still follow the basic rules and procedures outlined below:

There are two separate processes that may be followed when adopting children:

1. ORPHANS
 - a) Advance Processing (I-600-A) - when you intend to adopt and have not yet identified a child, followed by
 - b) Petition to Classify Orphan as an Immediate Relative (I-600) - when you have identified a child to adopt; and

2. ADOPTED CHILDREN
 - a) Petition for Alien Relative (I-130) - when the child has been in your legal and
 - b) physical custody for a period of at least two years. In this case, it is not necessary for the child to meet the definition of orphan as defined in the Immigration and Nationality Act.

To complete an intercountry adoption and bring a child to the United States, prospective adoptive parent(s) must fulfill the requirements set by the foreign



country in which the child resides, USCIS, and the state of residence of the adoptive parent(s). Since the documentary requirements are often similar, you should obtain several copies of each document in the event it is needed to meet the requirements of the foreign country, USCIS, and your home state.

The U.S. Immigration and Nationality Act (INA) is the U.S. immigration law governing the issuance of visas to nationals of other countries, including children adopted abroad or coming to the United States for adoption. The basic statutory provision concerning adopted children may be found in INA Section 101(b)(1)(E), which provides immigrant classification for "a child adopted while under the age of sixteen years if the child has been in the legal custody of, and has resided with, the adopting parent or parents for at least two years." This so-called "two-year provision" is for individuals who are temporarily residing abroad and wish to adopt a child in accordance with the laws of the host country. Most adoptive parents, however, are not able to spend two years abroad living with the child. Therefore, they seek benefits under another provision of the INA, Section 101(b)(1)(F), which grants immigrant classification to orphans who have been adopted or will be adopted by U.S. citizens. Under this section of the law, both the child and the adoptive parents must satisfy a number of requirements established by the INA and related regulations, but the two-year physical custody requirement is eliminated. Only after it is demonstrated that both the parents and the child qualify, can the child be issued an immigrant visa.

For specific information about USCIS requirements, see the booklet M-249Y, *The Immigration of Adopted and Prospective Adoptive Children*. The USCIS also has a toll-free information number, from which you can obtain M-249Y booklets and the telephone numbers of local USCIS offices in the United States. The toll-free number is 1-800-375-5283 or on the Web at <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=5f6596981298d010VgnVCM10000048f3d6a1RCRD&vgnnextchannel=e53807b03d92b010VgnVCM10000045f3d6a1>.

Your adoption agency or attorney will require specific documents, as will your state of residence. These requirements may appear daunting. The chart available on the Office of Children's Issues website at http://travel.state.gov/family/adoption/notices/notices_473.html, in Appendix C, Section IV, serves as a checklist for many of the documents that you will be expected to provide. In general, all agencies, whether state or private, require proof of citizenship, your marriage license (if applicable), a medical exam, proof of financial stability and information about arrests or certification of a clean criminal record. In addition, the home study (a report on the family prepared by a licensed social worker or other person licensed to perform home studies) normally is required by both the foreign government and the USCIS. The government of the country from which you wish to adopt, foreign court, your



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chosen adoption agency, or attorney, may request additional documents. Please see the Office of Children's Issues website listed above for further details.

NOTES



USCIS Approval

Adoptive and prospective adoptive parent(s) must comply with U.S. immigration procedures, initiated through the USCIS in the United States in order to bring an adoptive child to the U.S. Simply locating a child in a foreign country and going to the U.S. Embassy to obtain a visa for the child will not meet these requirements. An orphan cannot be brought to the United States for the purpose of legal permanent residence without an immigrant visa, which is based upon a USCIS approved petition (form I-600). To facilitate the process, we suggest that you contact the USCIS office that has jurisdiction over your place of residence in the United States for information early in the pre-adoption process.

Understanding the Role of the Consular Officer

The Consular Officer is usually the person at post who can provide you with a realistic estimate of the time it will take for you to adopt a child in that country. The estimate may be different from that provided by a local lawyer. It is the U.S. Embassy or Consulate that issues the immigrant visa for your adopted child to legally enter the United States.

"We are part of the Foreign Service community, and have the great good fortune to have access to the people who know consular/adoption/immigrant visa issues inside and out. They can help make sure we get the application filled out right, they can help authenticate documents - in short, if we are only willing to ask, they can be our colleagues and friends and help us along through an arduous process."

Consular Officers verify that prospective parents have submitted all the required documents for issuance of an immigrant visa. For instance, one visa requirement is the medical exam (see Chapter 4, Supporting Paperwork). Another requirement is that the consular officer sees the child in person. Once the file is complete, a final visa interview will be scheduled.

The consular officer will review the USCIS I-600 petition, verify the child's status as an orphan under U.S. immigration law (see "orphan definition" on page 23), confirm that the prospective parents have legal custody as defined by that foreign



country's laws, review the child's passport or travel documents, and review the medical report.

These steps are required by law and may take several days to complete. While most cases go smoothly, complications do arise. The consular officer may need additional information to confirm the prospective adoptive child's orphan status. There have been cases where the Consular Officer questions the approval of the Orphan Petition (I-600 Form) and sends it back to the USCIS for reconsideration.

Understanding State Laws Governing Adoptions in Your U.S. State of Residency

Children adopted overseas by Foreign Service families will probably live in foreign countries for several years at a time. However, to bring your adopted child to the U.S. to live, adoptive parents must comply with U.S. immigration requirements.

Part of this process is that you meet the pre-adoption requirements of your state of legal residency in the United States. Pre-adoption requirements vary from state to state. You can obtain information on pre-adoption state residency requirements from state and local officials who have jurisdiction in adoption matters, from the USCIS office in your state of residency, or from a licensed public or private adoption agency.

The *National Adoption Directory*, published by the Child Welfare Information Gateway, contains adoption-related information specific to each state, the District of Columbia, Puerto Rico and the Virgin Islands. The directory lists state agencies on adoption, state adoption specialists, state foster care managers, state licensing specialists, social service agencies by county, and private and public adoption agencies in each state. A copy of the directory can be downloaded from their Web site at <http://www.childwelfare.gov/nad/index.cfm>. See Chapter 9 for contact information.



Chapter 2

USE OF A PRIVATE ADOPTION AGENCY IN THE UNITED STATES

When Would a Member of the Foreign Service, Living Overseas, Require a U.S.-Based Adoption Agency?

An established adoption organization can assist you if you wish to adopt a child domestically or internationally. However, before contacting an adoption agency, there are a number of factors you should consider. Some countries, such as Russia and Vietnam, require that you use a U.S. adoption agency accredited to that country. Other countries, however, do not permit foreign adoption agencies to operate locally, and prospective adoptive parents are required to deal directly with local officials. Therefore, it is important that you understand the laws of the foreign country in which you intend to adopt. In addition, a U.S.-based adoption agency may be able to help you in getting your required home study. Many Foreign Service personnel who do not have relatives or friends in their state of residency use an adoption agency to gather vital records, a faster method than trying to collect these documents from overseas.

“Make sure that the adoption agency has on file all the proper release signatures required for the adoption to take place under the laws of that country.”

Before seeking assistance from an adoption agency, do your homework. Talk with those in your support group, a lawyer, the Better Business Bureau, the state Attorney General’s Office, and state Social Services about the agency.

For a listing of licensed adoption agencies by state, contact the Child Welfare Information Gateway and access their *National Adoption Directory* at <http://www.childwelfare.gov/nad/index.cfm>. Their e-mail address is info@childwelfare.gov; phone numbers are (800) 394-3366 or (703) 385-7565.



Chapter 3

IDENTIFYING A CHILD

Foreign Service personnel can be confronted with a situation where a child needs a home and their hearts go out to a child in dire need of a family. The domestic employee of a Foreign Service family says: *“Please, take my child and give her a better life.”* The poor family living on the street pleads: *“Rescue my child. We cannot feed him.”* A relative recognizing the pain you have been through trying unsuccessfully to conceive a child says: *“I have several children, why not raise our youngest? We know you would make great parents.”* Determining whether this child might be adoptable under U.S. law is quite another story.

Determining if the Child Meets the U.S. Legal Criteria to Emigrate

The fact that the mother says *“I give you my child”* does not necessarily make that child eligible under U.S. immigration law to be brought to the U.S. as an “orphan.” USCIS rules are very clear on this point. A person considering adoption must understand these criteria when adopting a child, since local country laws may be less stringent than USCIS regulations. *Misunderstanding the definition of “orphan” is the problem that **most often** accounts for delays or denials of an immigrant visa for the child.*

“People have to be ready to adopt a real child — not some imagined perfect child, but a real child who could very easily have learning disabilities, emotional problems, medical problems. Even if you adopt your children as infants, there is no guarantee that you have any real control or even knowledge about these issues — or that these issues will even be noticeable until your children are at least old enough to begin school. The bottom line is that adoption and then parenting is about letting go of that need to control. To accept the child that God gives you — no matter how that gift comes to you — and then to adjust your life — and your career, if necessary — accordingly.”

The local laws might allow you to proceed with the adoption of a child. For example, you may take the child into your home and become emotionally attached, with that child becoming very much a member of your family, only to



receive the devastating news that the child fails to meet the U.S. definition of “orphan.” In other words, you are now the child’s parents under the laws of his/her birth country, but you are legally prohibited under U.S. law from taking him/her with you to the United States.

To prevent this traumatic situation you must understand the definition of “orphan” as stated in the Immigration and Nationality Act (INA).

The definition of “orphan” is:

“...a child under the age of sixteen who is an orphan because of the death or disappearance of, abandonment or desertion by, or separation or loss from, both parents, or for whom the sole surviving parent is incapable of providing the proper care (according to the standards of adoptee’s country) and has, in writing, irrevocably released the child for immigration and adoption.”

Note: Children aged 16 or 17 may be adopted provided that they are adopted at the same time or later, and by the same adoptive parents, as a biological sibling under the age of 16.

- A child is not normally considered “abandoned or deserted” if he or she lives with his or her birth parent(s) prior to the adoption, or if the birth parent(s) has any control over who will adopt their child. *This is a crucial point.* You might have a very difficult time convincing USCIS or the consular officer at your post that the child was truly abandoned. *Abandoned* to you may mean that the parent has chosen to give up the child. Giving that child up to you does not meet the U.S. legal criteria. In order to protect children, and protect children from being sold to an adoptive parent, the rules stringently state that the child be irrevocably released. That means released without condition. If someone hands you a child and says “take this child” you will have a tough time proving that the child is abandoned. Local law may support your efforts if they have a method for determining abandonment. In some countries, there is a system for seeking the parent of a child and if no one claims the child after a certain period of time they can then be considered abandoned by the laws of that country.
- A release by the birth parent(s) to a prospective adoptive parent(s) for adoption does not constitute abandonment. Also note that a birth parent(s) releasing a child to a third party for custodial care in preparation for adoption does not constitute abandonment.
- Release by one birth parent does not mean that in the laws of that country the other birth parent has no parental rights. There may be occasion where the other parent can legally reclaim that child at any point.



- A child is not considered abandoned if he or she is placed in an orphanage for a temporary period where the parent(s) has expressed the intention to retrieve the child or is contributing or attempting to contribute to the support of the child or who shows ongoing interest in the child.
- The child **is** considered abandoned if given unconditionally by the birth parent(s) to a governmental agency, a court, an adoption agency or orphanage which is authorized under child welfare laws of that country to act in such a capacity.

“We had the option to care for our children first as foster parents leading to adoption. The advantage of this system is that we got our children younger and more quickly. The disadvantage of this foster-parent-to adoption route is that it adds another wrinkle. This is because two agencies are involved — the agency that qualifies the child to be eligible for adoption and the Attorney General’s Office that qualifies us as ‘fit’ parents.”

If the Child You Have Identified does Not Qualify as an Orphan

If USCIS or the consular officer determines that the child you wish to adopt is not legally classifiable as an orphan, you may still have another option. Rather than petitioning for a child to obtain an orphan immigrant visa, you may instead petition him/her to be classified as an immediate family member as outlined in the “petition for alien relative” at <http://www.uscis.gov/files/form/i-130.pdf>.

This method, though it is perfectly legal and can work, leaves the family vulnerable to time constraints and travel inconveniences until the process is completed. The child could visit the United States on a visitor’s visa before those two years of overseas residency accumulated, but then would have to acquire a local country passport and a U.S. visa. Parents would be required to cover all the travel expenses until the child could be included on the parent’s travel orders - which could not occur until the child’s adoption was completed in the United States. The child would also not be covered by the Department of State medical program. Insurance companies might cover the child from the time the child lives with the parent, but that would need to be clarified with the individual insurance provider.



Chapter 4

SUPPORTING PAPERWORK

“The most important advice I can give is, in a word, persevere. Throughout any adoption process, there will be a series of (sometimes apparently insurmountable) roadblocks. There will always be ‘just one more document,’ ‘one more update,’ ‘one more apostille.’ Don’t give up, persevere. The trick — and caught up in the midst of an emotional process, it is a trick — is to view it as a game, or a piece of a complex puzzle, or just one more challenge. Today’s world of e-mail, faxes, FedEx, phones and friends gives us the tools to overcome these roadblocks and allow us to keep our eye on the goal — bringing a child into our home and family.”

It may take a mountain of paperwork to complete the adoption process. In addition to preparing documents for the home study or for USCIS, there may be other paper chases to meet the requirements of the country from which you are adopting. All documents should be translated into the language of the country where they will be used. For example, if you are adopting from Russia, your U.S. documents should be translated into Russian for presentation to the Russian authorities. If, on the other hand, your own birth or marriage certificate is in a language other than English, you will need to get it translated into English to provide to USCIS. Each document needs to be an original or certified copy and must often be duly authenticated. Countries may also require that documents be authenticated by their embassy or consulate. All in all, it can be a lengthy, frustrating, and expensive process.

“When I was adopting my first two children, several parents-to-be were staying in the same hotel and we chanted this as a mantra each day with our morning coffee in the plaza — ‘Keep your eye on the goal. Don’t get sidetracked by the small details. Don’t get excited or angry, just get it done.’”

Arranging a Home Study

A home study, or “pre-placement family and home evaluation”, is required as part of USCIS’s I-600A process, which is the early step when USCIS is considering



your eligibility to petition an adoptive child. Many countries of origin have similar requirements, but they may or may not accept the USCIS home study as sufficient for their purposes. The Bureau of Consular Affairs' country-specific adoption flyers cover this issue country-by-country. You should also verify whether your U.S. state of residence also requires a home study. Even if you are currently assigned abroad, your home state still has an interest in ensuring that a child who will eventually reside there is being placed with an appropriate family. Whether it is USCIS only, or the child's home country, and/or your state of residence requiring a home study, the process of getting one is, of course, more complicated when you are living abroad. Some Foreign Service families have done home studies at relatives' homes in the U.S.; others have paid to have a licensed U.S. social worker fly to their country of assignment and do the home study based on their U.S. Government housing. Generally, that choice will be yours. In all cases, however, you need to ensure that whoever conducts your home study is appropriately licensed and that the home study will be in a form that will be accepted by the end-user.

Countries in which international adoptions are common may have agencies which are authorized to complete home studies; others may have few or none. The best source for information on foreign government requirements is almost always that government. However, in many cases the requirements may not be available in English and there may not be English speaking personnel at the country's national adoption authority.

For more information on home studies you can visit the following resources.

International Social Service – USA Branch

(For information on how to obtain certification of a home study report for use by USCIS)

207 East Redwood Street, Suite 300

Baltimore, MD 21202

Tel: 443 451-1200

Fax: 443 451-1220

Email: iss-usa@iss-usa.org

Web site: http://www.iss-usa.org/what/intercountry_certifying.htm

National Council for Adoption

1930 17th Street, NW

Washington, DC 20009_6207

Tel: 202-328-1200

Web site: <http://www.NCFA-usa.org>



Joint Council on International Children's Services

117 South Saint Asaph Street

Alexandria, VA 22314

Tel: 703-535-8045

Fax: 703-535-8049

Web site: <http://www.jcics.org>

USCIS will not accept a home study that is more than six months old unless it is accompanied by an update that is less than six months old. Once the home study has been submitted, an amendment must be submitted if there are any significant changes in the family including, but not limited to, residence, financial resources, criminal history and/or addition of child(ren)/other dependents/adult household members to the family prior to the orphan's immigration into the United States. The Child Welfare Information Gateway, part of HHS's Administration for Children and Families, has home study information on their Web site at <http://www.childwelfare.gov/adoption/adoptive/homestudy.cfm>.

The Medical Examination/Vaccinations

To obtain a visa for entry into the United States, the adoptive child must have a physical examination performed by a medical doctor approved by the U.S. Embassy or Consulate. The required medical examination is very basic; it serves to screen for diseases that carry public health consequences and require treatment. Its purpose is to verify that the immigration of the child is admissible under U.S. public health law. Physicians authorized to perform the examination are "panel" physicians who have been trained or reviewed by the Centers for Disease Control as being capable of screening for the required diseases. The Consular Section of the U.S. Embassy or Consulate will have a list of qualified "panel" physicians. In countries where Americans adopt in large numbers, there may even be a specific doctor who handles all of the adoption cases. The physical screens for seven diseases or conditions, including tuberculosis and HIV/AIDS. If the child tests positive for either of these two conditions, it does not necessarily preclude the child from entering the United States. The visa may be initially denied based on the examination, but if the parents can show that they are financially able to care for the child's medical needs, the visa denial may be waived. Prospective adoptive parents may therefore wish to have the child undergo testing by a private physician prior to finalizing an adoption or obtaining an immigrant visa to enter the U.S.

As indicated above, the required examination is not meant to be a thorough health screening. Many conditions, even serious ones, will not be checked. Do not rely on the panel physician's exam to alert you to developmental or other problems your child may have. It is strongly recommended that you arrange for a



thorough medical examination for the child as early in the adoption process as possible so that you can have a full understanding of the child's medical status. If that physical is performed in one country while you are residing in another, the report should be translated into English, and when possible an American pediatrician should be asked to review it. Including photos or a video of the child is most useful.

While the physician conducts the medical examination, the consular officer must complete the I-604 Report on Overseas Orphan Investigation. This report consists of a review of the facts and documents to verify that the child qualifies as an orphan as defined in U.S. immigration law. In addition, the consular officer ensures that the adoptive parents are aware of any medical problems which the medical examination may have uncovered. Only when this report is completed can the consular officer finally approve the I-600 petition in those cases where the USCIS has not already done so.

The child must also have the required and medically appropriate vaccinations. If this is not possible, an affidavit concerning Exemption from Immigrant Vaccination Requirements for a Foreign Adopted Child can be obtained from the Consular Section. The adoptive parent must agree to vaccinate the child within 30 days after admission into the United States, or at least at the earliest time that it is medically appropriate. If parents object to vaccinations on religious or other grounds, a waiver can be filed.

See the Child Welfare Information Gateway Web site at <http://www.childwelfare.gov/adoption/index.cfm> for a listing of U.S.-based physicians specializing in health issues related to intercountry adoptees. These doctors will, at your request, review medical information, including videos or pictures of the child, for prospective adoptive parents interested in a developmental evaluation of the child. Please remember, however, that this is a separate medical assessment than the one conducted by the "panel physician".

Authentication of Documents

Most countries do not simply accept copies or even original civil documents at face value. Almost every country requires that such documents be authenticated (officially verified). The procedures for authentication vary from country to country. For more information contact the State Department's Authentication Office:

U.S. Department of State Authentications Office (A/OPR/GSM/AUTH)
518 23rd Street, N.W.
State Annex 1



Washington, DC 20520
Tel: (202) 647-5002, 1 800 688-9889
TDD: (202) 663-3468
Fax: (202) 663-3636
Email: AOPRGSMAUTH@state.gov
Web site: <http://www.state.gov/m/a/auth>

Necessary documents at various points in the intercountry adoption process may include the following:

Birth certificate	Marriage/divorce papers
Child abuse clearance	Home study report
Financial statement	Letters of recommendation
Fingerprints	Physician's report
Foreign adoption/custody decree	Police certificate
Proof of petitioner's citizenship	Power of attorney
	Verification of employment.

It is advisable to have multiple certified/authenticated copies of these documents, especially your adopted child's foreign birth certificate and adoption decree or guardianship order. You will need these and other relevant documents for immigration and U.S. re-adoption procedures. Often foreign documents are difficult to obtain once you have left that foreign country.

Note: U.S. embassies and consulates are not authorized to keep files on adoption visas once they have been issued. Documents submitted to the U.S. Embassy are not returned to you. They ultimately go into the child's file, which is forwarded to the USCIS records storage facility. Keep copies of all certified/authenticated documents!



Chapter 5

BRINGING YOUR CHILD HOME TO THE UNITED STATES

Documentation at the Port of Entry

When entering the United States for the first time with an adopted child, you should be prepared to leave certified copies of all adoption documents at the airport with the U.S. immigration officers. Remember to keep additional copies of everything turned over to the port of entry USCIS officer.

Immigrant Visas for Children Adopted Abroad

A child adopted in a foreign country or coming to the United States for adoption must have an immigrant visa. There are three different types of immigrant visas for adopted children, and the kind your child will need depends on the adoption situation. For any of these visas, the child must be under 16 years of age (siblings adopted at the same time may be over 16 years of age):

IR-2 Immigrant Visa

An IR-2 visa is issued when the child is adopted overseas and has resided abroad with the U.S. citizen parent(s) for at least two years, with the parent having full legal and physical custody. It is important to be able to show evidence of “physical and legal custody” of the child. Keep records of when the child entered into your family under your care. Definitions for proving physical and legal custody are outlined on the Web site at <http://www.immigration.gov/graphics/services/oproc.htm>. With IR-2 visas, a home study is not required, and the child does not need to meet the “orphan” definition found in the U.S. Immigration and Nationality Act.

IR-3 Immigrant Visa

The child who is fully adopted overseas but has not resided with the adopting parents may enter the U.S. on this visa. For the child to be considered “fully adopted” abroad, both adoptive parent(s) must have seen the child overseas prior to or during the foreign adoption process.



To qualify for an IR-3 immigrant visa, the following requirements must be met:

- The child must meet the U.S. immigration definition of an orphan.
- The prospective parents must have met all pre-adoption U.S. state requirements (including having conducted a home study if applicable).
- The parents must have seen the child at least once, either before or during the adoption process in the foreign country where the child resides.

Consular officers cannot approve and issue an immigrant visa for an adoptive child without an approved I-600 (Orphan Petition Request form).

IR-4 Immigrant Visa

The IR-4 visa is issued in cases where the child is to be adopted in the United States. There are several reasons why an IR-4 visa could be issued:

- The prospective parents were given only guardianship or legal custody or the country does not issue full adoption decrees.
- At least one parent did not see the child prior to or during adoption.
- The home state in the U.S. does not recognize adoption in a foreign country as a full and final adoption.

IR-4 visas are issued only after verification that the pre-adoption requirements for the state where the child will be adopted and domiciled have been met. A home study is required. Re-adoption is necessary in the U.S. state of residency where the child will reside.

Should I Re-Adopt My Child Once I Return to the United States?

If the child is fully adopted overseas and has received an IR-2 or IR-3 visa, there is no federal requirement for re-adoption in the United States. Even though re-adoption may not be required, the adopting parents may choose to re-adopt the child for specific reasons, such as to re-name the child, if the foreign adoption decree or revised foreign birth certificate did not reflect the name change, or to obtain a state-issued birth certificate. It is important to review the requirements of one's state of residence on these issues; state laws differ, and often counties within a state will have varying regulations as well. Many adoption practitioners recommend that the child adopted overseas be re-adopted in a court of the family's state of residence in the United States. Conversely, some states recognize full/final foreign adoption decrees and will not permit re-adoption since the state already views the child as a full member of your family.



Adoption of a child in the United States is required when the child enters the U.S. on an IR-4 immigrant visa, as the prospective adoptive parents are granted guardianship of the child with the expectation that s/he will be adopted in the U.S. The foreign government will often require adoptive parents to furnish proof that the child has been legally adopted.

If you are seeking information regarding re-adoption practices in your state of residency, contact the state's agency that oversees adoption issues, an adoption lawyer licensed to practice law in that state, or a state-licensed private adoption agency in that state. A listing of state resources, web sites and telephone numbers is available from the Department of Health and Human Services' (HHS's) Child Welfare Information Gateway in their *National Adoption Directory*, published annually (see Chapter 9, Resources, for contact information).



Chapter 6

U.S. CITIZENSHIP FOR YOUR ADOPTED CHILD

Under the Child Citizenship Act of 2000, an adopted child who has been issued an IR 2 or IR-3 immigrant visa (“orphan adopted abroad by a U.S. citizen”) automatically becomes a U.S. citizen immediately upon his/her admission into the United States in the legal and physical custody of his/her U.S. citizen adoptive parent. A child who is admitted into the United States on an IR-4 immigrant visa (“orphan to be adopted in the United States by a U.S. citizen”) becomes a U.S. citizen only when the adoption has been finalized in the United States and a legal parent-child relationship has thereby been created.}

More information on the Child Citizenship Act of 2000 can be found on the Bureau of Consular Affairs Web site at http://travel.state.gov/family/family_1732.html and on the Department of Homeland Security’s Web site at <http://www.dhs.gov/ximgtn/>.

The Child Citizenship Act of 2000 (Public Law 106-395) took effect on February 27, 2001. Among other provisions, the law confers United States citizenship automatically on children adopted from other countries by United States citizens if certain criteria are met. Specifically, the law amends sections 320 and 322 of the Immigration and Nationality Act to provide foreign-born adopted children with automatic citizenship when the following criteria has been met:

- The child is under 18 years of age.
- The child has been adopted pursuant to a full, final, and complete adoption.
- At least one adopting parent is a U.S. citizen.
- The child is residing in the U.S. in the legal and physical custody of the U.S. citizen parent(s) pursuant to lawful admission for permanent residence.

Upon entry into the U.S., the child’s foreign passport is stamped with DHS stamp I-551.

To apply for a U.S. passport, the parent(s) should have the following:

- DSP-11, Application for a Passport



- Two (2) identical photographs (2X2 inch in size)
- Parent's valid identification
- Certified adoption decree (with English translation, if necessary)
- The child's foreign passport with DHS stamp I-551 or the child's resident Alien Card ("green card")
- The applicable fees

For more information about the Child Citizenship Act of 2000, visit the Department of State's Bureau of Consular Affairs Web site at http://travel.state.gov/family/adoption/info/info_457.html.

Evidence of U.S. Citizenship

Having a U.S. passport is not the only way to show evidence of U.S. citizenship. Having a U.S. birth certificate is another standard proof of citizenship. However, by nature, foreign-born children lack a U.S. birth certificate unless the adoption was finalized in a U.S. state. In cases where a child does not have a U.S. birth certificate, parents have two options:

- use the U.S. passport as proof of citizenship;
- apply for a Certificate of Citizenship for your child, through USCIS.

For information on how to apply for a U.S. passport, please see http://travel.state.gov/passport/passport_1738.html

For more information on obtaining a Certificate of Citizenship for a foreign-born adopted child, contact USCIS or review the information on the USCIS Web site at

<http://www.immigration.gov/graphics/publicaffairs/factsheets/chowto.htm> .

Applicants must complete Form N-643 and pay the associated fee.

Obtaining a Social Security Number for your Adopted Child

To apply for a social security number for your adopted child while living in the United States, you will need to complete Form SS-5. You can obtain either of these forms by calling the Social Security Administration at 1-800-772-1213, by visiting your local social security office, or by downloading the forms off the Social Security Administration web site at <http://www.ssa.gov>. You must submit certain documents with the form. Contact the Social Security Administration to verify which supporting documents are needed.



Chapter 7

TAX CREDITS AND WILLS

Tax Credits

You will need to apply for a social security number on behalf of your adopted child if you wish to declare the child as a dependent with exemption status and receive tax credits and payments when completing Individual Income Tax Return form IRS 1040A. (Complete Form 2441, Child and Dependent Care Expenses, and Form IRS 8839, Qualified Adoption Expenses. Attach them to your IRS 1040A tax form for submission.) For information on applying for a social security number, see Chapter 6.

Federal dependency exemptions can be requested for adopted children even when the adopted child has been placed in the home but the adoption has not been finalized. Please note that the adoption of your spouse's child does not fall in this category of Qualified Adoption Expenses.

Additional information can be found in IRS Publication 968 *Tax Benefits for Adoption; For Adoptive Parents* and in Tax Topic 607, *Adoption Tax Credits*. For assistance regarding adoption claims, contact the IRS at:

Internal Revenue Service
500 North Capitol St., NW
Washington, D.C. 20221
Tel: (202) 622-5000 / (800) 829-1040
For forms and publications, Tel: (800) 829-3676
Web site: <http://www.irs.treas.gov>

Wills

To ensure that your wishes regarding inheritance are carried out, it is recommended that adoptive parent(s) clearly state in wills and life insurance policies that the adopted child is to be treated as an heir by stating:

“When I use the term ‘child,’ ‘issue’ or ‘lineal descendent,’ it is meant to include adopted persons or persons adopted before the age of twenty-one.”

Include also the name of the person who you wish to act as guardian over the child if anything happens to you.



Chapter 8

HUMAN RESOURCES PROCEDURES

The Office of Personnel Management (OPM) provides information on adoption benefits in their publication, *Adoption Benefits Guide for Federal Employees*. You can access the publication on the OPM Web site at <http://www.opm.gov/wrkfam/html/adoption.htm>.

Adoption-Related Leave

Can I take time off to be with my newly adopted child?

The Family and Medical Leave Act of 1993 provides for eligible employees to have up to twelve weeks of unpaid, job-protected leave for certain family and medical reasons. Included in this provision is the care of a child after an adoptive placement.

Under the provisions of Public Law 103-329, and 5 CFR 630, employees are permitted to use sick leave in connection with the adoption of a child. The granting of sick leave for adoption of a child includes: appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary in the adoption process. Application for reasons of adoption should be submitted in advance.

Travel Orders

When can the child be put on my orders?

An adopted child cannot be added to your orders until the adoption is finalized. If the country grants legal guardianship pending a formal adoption, then the child can be added to your orders at that time. To add the child to your orders, you must send a translated copy of the adoption papers, along with a copy of your residency and dependency report (OF126), to the Human Resources Office of your USG agency. (For instance, Department of State employees send this information to their Career Development Officer in HR.)



Can a layette shipment be requested?

The adoptive parent(s) can request a separate and distinct layette shipment no later than 60 days after the child has been adopted, to be included in the travel orders. Airfreight shipment weight may not exceed 250 pounds gross. If post has determined suitable layettes are not available locally, request an amendment to your travel orders to include a layette shipment. The layette shipment can be authorized for a newly adopted child, infancy to 5 years of age.

What happens if we transfer before the adoption is final?

If the adoption is not finalized and you are due for transfer, the travel expense of the child will have to be carried by the prospective adoptive parent(s), or you can request a pay agreement whereby you agree to reimburse the government for the child's travel.

Who pays for travel if the child is adopted from a third country?

If the child is born in and adopted in the host country, departure travel will be issued only after the child is officially included in the orders. If, on the other hand, the child is born in a third country and is adopted from that country, travel orders can only be issued for the child to join the family members at post. Travel to pick-up and to return with the child to the residence of the family, if the family is at post, is at the expense of the adoptive parents.

Health Insurance

- Make certain (in writing) that your health insurance company will Provide coverage for your adopted child.
- Inquire whether the policy will cover the pre-existing conditions of your adopted child.
- Verify whether the health coverage will begin with placement or with the finalization of the adoption process
- If coverage begins only at the time of finalization of the adoption, investigate whether you can purchase an interim policy that covers the child from the time of placement.
- Check the "length of waiting period" required before coverage for the child is effective.
- Inquire about the procedures and paperwork necessary to include the adopted child on your health care policy.



- Check when coverage under MED overseas begins and if the child is eligible for Medevac status.

NOTES



Chapter 9

RESOURCES

Department of State Offices

Office of Children's Issues (CA/OCS/CI)

The Office of Children's Issues provides information about intercountry adoption, general information about U.S. visa requirements for intercountry adoption, makes inquiries of the U.S. consular section abroad regarding the status of a specific adoption case and clarifies documentation or other requirements, and ensures that U.S. citizens are not discriminated against by foreign authorities or courts.

Office of Children's Issues

Overseas Citizens Services, Bureau of Consular Affairs

U.S. Department of State

2201 C Street, N.W., SA-29, 4th Floor

Washington, DC 20520-2818

Public Inquiries: 888-407-4747

FAX: 202-736-9080

Internet Web site: <http://www.travel.state.gov/adopt.html>

Intranet Web site: <http://intranet.ca.state.gov/cainternet/adopt.html>

U.S. Embassies and Consulates

<http://usembassy.state.gov/>

Family Liaison Office (M/DGHR/FLO)

The Family Liaison Office provides resource information for Foreign Service employees and families wishing to adopt.

Room 1239

Department of State

Washington, DC 20520_7512

Tel: 202-647-1076, 1-800-440-0397

FAX: 202-647-1670

Email: flo@state.gov

Internet Web site: <http://www.state.gov/m/dghr/flo>

Intranet Web site: <http://hrweb.hr.state.gov/flo/index.html>



Employee Consultation Service (ECS)

The Employee Consultation Service offers free, confidential counseling with professional clinical social workers. Counselors are available to clearly define problems and consider options to solve and better cope with them.

Room H246, SA-1
2401 E Street, N.W.
Washington, DC 20037
Tel: 202-663-1815
FAX: 202-663-1454
Email: MEDECS@state.gov

LifeCare Services

Several federal agencies have purchased the services of LifeCare, a resource and referral service for employees. LifeCare can provide adoption resource information in the United States for employees whose agencies have bought into the program. Check with your agency to see if the LifeCare service is part of your benefit package. Department of State employees have the services of LifeCare through IQ: Information Quest. DOS employees can access IQ: Information Quest at <http://www.worklife4you.com>.

LifeCare, Inc
PO Box 2783
Westport, CT 06880
Tel: 1-800-873-4636
Email: specialist@lifecare.com
Web site: <http://www.lifecare.com>

Department of Homeland Security

U.S. Citizenship and Immigration Services (USCIS)

Public Inquiries/Ask Immigration: 1-800-375-5289

USCIS Forms: 1-800-870-FORM (3676)

Web: www.USCIS.gov

USCIS Overseas Offices

https://egov.immigration.gov/crisgwi/go?action=offices.type&OfficeLocator.office_type=OS



USCIS Domestic Office

https://egov.immigration.gov/crisgwi/go?action=offices.type&OfficeLocator.office_type=LO

County Government Offices

Montgomery County Department of Social Services

Child Welfare Services Division
1301 Piccard Drive
4th Floor
Rockville, MD 20850
Tel: 240 777 3500

Fairfax County Family Services

12011 Government Center Parkway
Suite 200
Fairfax, VA 22035
Tel: 703 324 7639

District of Columbia Child and Family Service Administration

400 6th Street, S.W.
Washington, DC 20024
Tel: 202-671-5683

Adoption Resource Organizations

Adoption resource organizations can provide assistance with pre-decision counseling and post-adoptive seminars. While not adoption agencies, they offer support service information and help at each stage of the adoption process.

International Social Service-United States of America Branch, Inc.

(For information on how to obtain certification of a home study report for use by USCIS)

207 East Redwood Street, Suite 300
Baltimore, MD 21202
Tel: 443 451.1200
Fax: 443 451-1220
Email: iss-usa@iss-usa.org



Adoption Resource Center of Connecticut, Inc.

78 Eastern Boulevard
Glastonbury, CT 06033
Tel: 860 657-2626
Web site: www.arcct.org

Joint Council on International Children's Services

1320 19th Street, N.W.
Suite 200
Washington, DC 20036
Tel: (202) 429-0499
Fax: (202) 429-0410
Web: www.jcics.org

National Council for Adoption

225 N. Washington, Street
Alexandria, VA 22314-2571
Tel: 703 299-6633
Fax: 703 299-6004
Web: www.adoptioncouncil.org

The Center for Adoption Support and Education (CASE)

A resource center for children and families. CASE programs, designed to help adoptive parents and children, include the Adoptive Parent Connection, weekend seminars, conferences, individual and family counseling, and consultation regarding school programs.

Maryland Office

4000 Blackburn Lane
Suite 260
Burtonsville, MD 20866
Tel: 301 476- 8525
Email: caseadopt@adoptionssupport.org
Web: www.adoptionssupport.org

Virginia Office

8996 Burke Lake Road
Suite 201
Burke, VA 22015
Tel: 703 425 3703
Email: caseadopt@adoptionssupport.org
Web: www.adoptionssupport.org



Child Welfare Information Gateway

(formerly the National Adoption Information Clearinghouse)

A comprehensive information clearinghouse covering all aspects of adoption.

Child Welfare Information Gateway is a service of the Children's Bureau, Administration on Children, Youth and Families, Administration for Children and Families, and the Department of Health and Human Services.

1250 Maryland Avenue, S.W.

8th Floor

Washington, DC 20024

Tel: 1-800-394-3366

Fax: 703-385-3206

Email: info@childwelfare.gov

Web site: <http://www.childwelfare.gov>



The Family Liaison Office

Intercountry Adoption Guidelines for the Foreign Service Family

Notes