

# INTERNATIONAL ADOPTIONS: PROBLEMS AND SOLUTIONS

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## HEARING BEFORE THE COMMITTEE ON INTERNATIONAL RELATIONS HOUSE OF REPRESENTATIVES ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

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MAY 22, 2002  
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**Serial No. 107-90**  
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Printed for the use of the Committee on International Relations



Available via the World Wide Web: [http://www.house.gov/international\\_relations](http://www.house.gov/international_relations)

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U.S. GOVERNMENT PRINTING OFFICE

79-760PDF

WASHINGTON : 2002

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## **INTERNATIONAL ADOPTIONS: PROBLEMS AND SOLUTIONS**

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**WEDNESDAY, MAY 22, 2002**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON INTERNATIONAL RELATIONS,  
*Washington, DC.*

The Committee met, pursuant to call, at 10:21 a.m. in Room 2172, Rayburn House Office Building, Hon. Henry J. Hyde (Chairman of the Committee) presiding.

Chairman HYDE. The Committee will come to order. Today's hearing is on the important subject of international adoptions. This topic has long been of great interest not only to thousands of American families and to the children for whom they provide loving homes, but also for their representatives in the Congress, who have been called upon with alarming frequency to intervene on their behalf when problems come up in foreign countries' adoption systems—which are often complex and sometimes obscure—or in the subsequent process by which the U.S. Immigration and Naturalization Service and the State Department adjudicate visa applications on behalf of children adopted overseas.

During the last Congress, there were two important legislative developments that should go a long way toward ensuring clarity and integrity to the international adoption process and thus greatly reducing the number of heartbreaking occasions on which the process produces unpleasant surprises or breaks down altogether. One of these developments was the ratification by the United States Senate of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. The other was the enactment of the Intercountry Adoption Act of 2000, which will allow the United States to implement its obligations under the act.

The purposes of the Hague Convention and of the Intercountry Adoption Act are twofold. Their first purpose is to facilitate international adoptions whenever they are in the best interest of the child by eliminating unnecessary confusion, expense, and delay resulting from differences among the laws and practices of nations. The second and equally important purpose is to ensure transparent and fair regulation of international adoptions, so that adoptions that are not in the best interests of the child will be less likely to take place. This regulatory function applies to gross abuses such as kidnapping and baby-selling, as well as other abuses that may result in placing children in inappropriate settings.

The State Department, which is designated by the Intercountry Adoption Act as the U.S. "central authority" for Hague Convention adoptions, is still in the process of drafting the regulations that are

necessary in order to implement the Intercountry Adoption Act and allow the Hague Convention to come into effect in the United States. Eighteen months have passed since the act became law, and although we recognize this is a complex undertaking, Members of Congress who follow the international adoption issue are hopeful that the regulations will be issued soon.

Meanwhile, we continue to learn from our constituents about the serious difficulties they are encountering in the international adoption process. Indeed, we must recognize that implementation of the Hague Convention will not totally eliminate these difficulties, in part because some of the foreign countries whose systems are the most problematic are unlikely to ratify the Convention anytime soon.

For about 8 months now I have been following closely the cases of a number of U.S. citizens who have been attempting to adopt in one such troubled country. I was first made aware of the circumstances in Cambodia last October because two of the families caught up in this tragic situation were constituents of mine. One of the adoptive parents involved was Kimberly Edmonds-Woulfe, who is one of our witnesses today. Because State Department consular officers in Cambodia believed they had identified serious problems with several local adoption agencies, Mrs. Edmonds-Woulfe and other adoptive parents were forced to wait in Cambodia with their new babies for weeks on end—in some cases for months—incurring thousands of dollars in personal expenses and having to contemplate the possibility that their children would never be allowed to live with them.

The investigation of the Cambodian adoption agencies, which I understand is still ongoing, involves serious charges, ranging from corruption to the allegation that some of the babies might have been stolen. To my knowledge, however, no one ever claimed that the adoptive parents were anything but innocent victims.

In an effort to resolve the situation, I spoke personally with our U.S. Ambassador to Cambodia, Kent Wiedemann, and with the INS Commissioner, James Ziglar, who will also be one of our witnesses today. I urged them to arrive quickly at a solution that would penalize the criminals, if any, but not the babies and their adoptive parents.

I was very pleased by the decision of the Immigration and Naturalization Service in November to use its “parole” power to allow these children to live with their adoptive parents here in the United States pending further proceedings. At the same time, however, the INS and the State Department decided to suspend all further visa processing for adopted children in Cambodia. This suspension affected hundreds of families whose cases were in various stages of the adoption process, including some in which the Cambodian adoption decree was already final and others in which there was already a particular child waiting to be adopted by a family here in the United States. Although the INS and State ultimately announced a plan by which most of these applications are now being considered on a case-by-case basis, many of the children are still languishing in Cambodian orphanages.

I want to compliment Commissioner Ziglar for his prompt attention to this problem when we brought it to his attention. I strongly

support the INS and the State Department in their determination not to facilitate baby trafficking and similar abuses. But I also believe there is nothing to be gained by forcing innocent babies to spend the rest their childhood in orphanages instead of with loving parents in the United States.

What we need, therefore, is a new set of procedures that will spot these abuses early so that U.S. citizens who wish to adopt can be warned away from the countries or agencies involved before they begin the adoption process. Our procedures must also be reformed so that allegations can be quickly investigated and resolved. I understand that the INS and State are working on the development of just such a set of procedures, and I hope we will hear something today about the progress of this very important endeavor.

I look forward to the testimony of all our witnesses on how we can reform the international adoption system, both to minimize the pain and the anger the process can generate when it goes wrong and to maximize the happiness that comes when a child who might otherwise live out his or her whole childhood in an orphanage is placed with a loving family.

I am now pleased to yield to the distinguished Ranking Member, Mr. Lantos, for any statement he may wish to make.

[The prepared statement of Mr. Hyde follows:]

PREPARED STATEMENT OF THE HONORABLE HENRY J. HYDE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS, AND CHAIRMAN, COMMITTEE ON INTERNATIONAL RELATIONS

Today's hearing is on the important subject of international adoptions. This topic has long been of great interest not only to thousands of American families and to the children for whom they provide loving homes, but also for their representatives in Congress, who have been called upon with alarming frequency to intervene on their behalf when problems come up in foreign countries' adoption systems—which are often complex and sometimes obscure—or in the subsequent process by which the U.S. Immigration and Naturalization Service and the State Department adjudicate visa applications on behalf of children adopted overseas.

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I strongly support the INS and the State Department in their determination not to facilitate baby trafficking and similar abuses. But I also believe there is nothing to be gained by forcing innocent babies to spend the rest of their childhood in orphanages instead of with loving parents in the United States.

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I look forward to the testimony of all our witnesses on how we can reform the international adoption system, both to minimize the pain and anger the process can generate when it goes wrong and to maximize the happiness that comes when a child who might otherwise live out his or her whole childhood in an orphanage is placed with a loving family.

I am now pleased to yield to the distinguished Ranking Member, Mr. Lantos, for any statement he might wish to make.

Mr. LANTOS. Thank you very much, Mr. Chairman. Let me say publicly that yesterday you led the way in the House of Representatives in our adoption of a major and well-designed assistance program for Afghanistan, and here you are this morning dealing with one of the most heart wrenching issues that we on this Committee will be seized with, and I want to associate myself with your opening remarks, which are filled with the compassion and decency that you exemplify.

Mr. Chairman, over the last decade thousands of foreign children have been brought to the United States to find loving homes with our fellow citizens, often saved from miserable conditions in poorly funded institutions. In 1990, about 7,000 foreign children were adopted from abroad by U.S. citizens. By last year over 19,000 such



children were adopted by Americans. All of us know friends who have adopted internationally, including our esteemed colleague from Massachusetts, who adopted a child from Vietnam during Operation Baby Lift and who has grown up to be a wonderful young person of whom we are deeply proud.

Mr. DELAHUNT. Thanks very much.

Mr. LANTOS. Reaching across enormous distances to provide homes for these children represents the very best of the American spirit, and I commend all those who have opened their hearts and their lives and their homes to these needy orphans.

But along with the increase in heart warming stories of successful adoptions, we have learned that problems do exist with international adoption, including exorbitant fees, false medical information about the prospective adopted child and in some limited cases trafficking of children. In order to address these problems, our Committee passed an act, the Intercountry Adoption Act of 2000, during the last session of Congress which cleared the way for U.S. ratification of a multilateral treaty to try to end these abuses, the Hague Convention on Intercountry Adoption.

I deeply regret, Mr. Chairman, that it is over 18 months since we adopted this legislation and the Department of State has yet to issue the implementing rules for this act. I have also been disturbed by reports that a draft of these rules, including so much input from parents, adoption agencies and others involved in international adoption, is now being completely rewritten. I truly hope this is not the case because it would be a setback for the inclusive consultative process that has taken about a year and a half.

In the meantime, Mr. Chairman, we have learned that our work toward an international standard may not be a complete solution. Many countries, including the country we will hear about today, Cambodia, have professed an unwillingness to join the Hague Convention. There remain many problems that we need to address directly with our friends there on a bilateral basis. I am particularly concerned about how we deal with American parents who are trying to adopt needy children from these countries.

I think, Mr. Chairman, it is unconscionable that U.S. citizens travel to foreign countries, adopt children under local law, and only afterward are told that their child cannot return home with them because of concerns that the adoption may be fraudulent.

Madam Assistant Secretary, Ms. Commissioner, this needs to be fixed and it needs to be fixed fast. This patient Committee will be singularly impatient unless we get a very quick resolution to this issue. If there are problems with adoptions in a country, we need to identify them before U.S. parents travel abroad to adopt. The effort to adopt is difficult enough without putting the foreign children, the American parents, and our government in an impossible situation. I look forward to hearing what progress you are making in this regard.

Mr. Chairman, I look forward to hearing what the Administration is doing about these issues and how those who are most closely affected by this process will address the problems that they see.

Thank you very much.

Chairman HYDE. Thank you, Mr. Lantos. Before we entertain opening statements from the other Members, we have a visitor

from the other body, as we lovingly refer to the upper Chamber, Senator Mary Landrieu of Louisiana. The Senator would like to make a statement and we welcome her.

Senator LANDRIEU. Thank you very much, Mr. Chairman. It is indeed a pleasure to be with you.

Chairman HYDE. Would you push the button on your microphone?

**STATEMENT OF THE HONORABLE MARY L. LANDRIEU, A U.S.  
SENATOR FROM THE STATE OF LOUISIANA**

Senator LANDRIEU. Here we go. There we go. Thank you, Mr. Chairman. See, I have already learned something being over here before this august Committee. Let me begin, Mr. Chairman, by truly thanking you and the Ranking Member of this Committee for your leadership. Truly, without your leadership, working in such a cooperative fashion and giving a nod to all of the positive bills and treaties that have come before this Committee, we would not be making the kind of progress we are making in this area, not only in the United States but around the world. So truly a tremendous amount of credit goes to you and your Ranking Member as well as the distinguished Members of this Committee.

There are over 16 Members of this Committee, including Congressman Delahunt, who are also members of the Coalition on Adoption and who work very hard on adoption both on the domestic side and the international side. They give a tremendous amount of their time and their staff time to this important issue. So I want to begin by acknowledging them and thanking them for their work.

Secondly, I also want to say that it is so important for America to be a leader in the world in the area of adoption. Don't ever let us forget that there are not many countries, many parliaments, many individuals, many communities around the world that look to America for leadership in many areas, and adoption is one of them. Why? Because Americans adopt more children combined than any other Nation on Earth. We adopt more children domestically in our own communities, we adopt more children from abroad, more than all the other nations combined.

I think that is a wonderful thing about America, and I have more on this in my written testimony, but I want to just spend a minute of my 5 minutes on this point.

Mr. Chairman, ever since September 11, I think and hope that we have become as a country more convinced that the more we reach out and try to understand and build bridges between our countries, the more hope there is for this world. As an advocate of adoption and as an adoptive mother myself, having worked in domestic and international adoption, I have to tell you how impressed I am with the point that the 20,000 children adopted internationally are goodwill ambassadors from the many countries of the world. These children come from all over the world to be a part of families in the United States and help build peace in a way that I am not sure any school, church, or faith-based organization can, about the issues of humanity. They teach us that people can love each other across racial lines, despite physical and emotional barriers, and that the miracle of adoption is truly that, a miracle.

We have learned in America, not all countries know this yet, that governments do a good job in many things. One of them is not raising children. The children need to be raised in families with at least one responsible caring adult that can help that child to be everything God intended when He created that child. Adoption to me is an extension of that miracle. Adoption is a part of building families which is important and essential in American society.

That is why this issue is so important. It affects millions of people, hundreds of thousands of people have been adopted or adopted children over the years. It is a large constituency. It is all about the founding principles of America, about families raising children not governments, not institutions, not orphanages. It is about really putting faith in the thought that every child deserves a home and the belief that there is no child that is unwanted.

I really want to emphasize this last point. We believe in the Coalition of Adoption that no child is unwanted, we just have unfound families. Our goal as a government and community, large and small, is to try to match the millions and millions of children in this world who are in desperate need for parents, with families who can love them.

I am hard pressed to think how you provide opportunity for anyone if the first thing you don't try to do is provide a child with a family. I know good education is important, I know good health is important, but an opportunity to be all that they can be in my mind starts with at least pairing them with a nurturing loving adult that will say "I will commit."

Mr. Chairman, you know this and I am preaching to the choir to say this to you, but that's why I feel so strongly about this issue.

My final point is that we have to continue to do what we can to pass treaties and laws to reduce the barriers to adoption in our own country and abroad. We have to fix a broken foster care system that might have started with good intentions but has resulted in locking up children in ongoing long-term foster care, sort of delaying their opportunities for adoption both in our own country and abroad. More specifically, that is why we must do something in both the long- and short-term in Cambodia. I have said, with all due respect to Commissioner Ziglar, whom I have worked with for many years and have the highest respect as a person and as an administrator, that if there was a bank robbery in Duluth, Minnesota tomorrow, we would not close down the banking system, we would find the bank robber. We would prosecute the bank robber, we would put them in jail and then we would work vigorously, as you said in your opening statement, to use the system to clamp down on future fraud and abuse. Closing down or setting moratoria in countries only sets back the positive aspects of adoption that I have just described by light-years. People get afraid, parents get afraid. People who want to adopt say I could never put myself through that situation.

So you are right, Mr. Chairman, we have to truly fix this and find a better remedy than a complete and total suspension. I commit to work with you and the Members of the Senate and House Committees to try to lift the suspension, which I believe was an inappropriate remedy. Not an illegal remedy because the law was there to do it, but an inappropriate remedy. Let us work together

to find better remedies in the future so that we can promote adoption, not suppress it, and help to truly make the family dream of the family true for all the millions of children in our country and around the world. We need a system that supports adoptive families, many of whom already have biological children and are simply making a place in their home and their hearts for a child in desperate need.

I know that I am telling you, Mr. Chairman, everything you already know, but I so appreciate your giving your time to this hearing, and I look forward to working with you on implementing the Hague and in coming up with better remedies to how to address these issues in the future. I hope we are successful in getting these particular children from Cambodia into the arms of their wonderful families as soon as possible. I commit to you my support and the support of Members from both sides of the aisle for the good work you are doing over here.

Thank you.

[The prepared statement of Senator Landrieu follows:]

PREPARED STATEMENT OF THE HONORABLE MARY L. LANDRIEU, A U.S. SENATOR  
FROM THE STATE OF LOUISIANA

Thank you, Mr. Chairman. I often tell my staff that if I had my druthers, I would work on the issue of adoption 24 hours a day, seven days a week. As the Senate Democratic Co-Chair of the Congressional Coalition on Adoption and the mother of two beautiful children who were adopted, there is not a day that goes by that I am not reminded of the true miracle of adoption. I would like to commend you and members of this committee for having this hearing. It is a real privilege and honor to be here this morning and share my thoughts with you on this important issue.

Mr. Chairman, as you well know, 19,237 children were adopted by American citizens last year. 18,477 children the year before that, 16,363 in 1999 and 15,744 children in 1998. That is almost 100,000 children in four years. I think it is easy for us to understand the impact that these adoptions had on the adoptive families and the orphan children, but what I would like to focus on this morning is the impact that this has for the diplomatic relations between the United States and countries throughout the world. In sheer numbers alone, this is evident. 100,000 children, typically adopted by two parents. In real terms, these children are "mini-ambassadors" to 200,000 American citizen parents, 400,000 grandparents, conservatively 800,000 aunts and uncles, 300,000 siblings. Because of this magnificent process, communities all over the U.S. are deepening this understanding and affinity for the people of the world. September 11th reminded us of the importance of continuing to build bridges with the nation's of the world. International adoption is one very effective and lasting way to build these bridges.

Over this past year, I have had the privilege of meeting with the Presidents of China, Kazakstan, Romania and high ranking government official from each of the largest sending countries. Each time the message is the same. They want to do what they can to make the Hague more than just a piece of paper with 59 signatures on it. They are looking to the US to lead the way toward a system of international adoption and child welfare that is based on best practices. A system comprised of meaningful protections for the adoptive parents, the birth parents, and perhaps most importantly the children; a system that universally recognizes that a government institution is not and cannot be an adequate replacement for a family and works toward the shared mission of finding every child in this world a loving and nurturing, permanent family.

One and five American women of child bearing age are unable to conceive a child. Furthermore, adoption has become more socially acceptable. It is for these reasons that the number of international adoptions have quadrupled, and they will continue to do so. We need to revisit the way we handle international adoption at the federal level. The recent crisis in Cambodia highlights for us the need for this change. It is my hope that we can work together with the administration to redesign the way things are done now. To remove adoption from the "immigration procedure", to strengthen our proactive diplomatic relations with sending countries. As the largest beneficiary of the international adoption system, we have an obligation to do this.

Before closing, I would like to make some comments on the record about the current suspension in Cambodia. I have three concerns that I hope will be addressed in this hearing this morning. First, it is important to note that this suspension is unprecedented. Never before has the INS taken such action in response to allegations of baby trafficking. The lack of a process or guidelines governing the issuing of suspensions was evident in how things have been handled over the last few months. INS has done their best to address the problems in Cambodia in a fair and consistent manner, and I appreciate that, but it was clear to me, the adoptive parents, the government of Cambodia and the public at large that we were making up the laws and procedures as we went along. What's more, it is still not clear that the evidence was compelling or specific enough to warrant a complete suspension. This should not be. Suspending adoptions is a serious action, and should only be taken when all other remedies have been exhausted. In this case, it was the first official action, not the last. Carrying out a suspension requires forethought and planning so as to minimize the impact of innocent parents and the orphan children. None of that was done here.

Second, I am gravely concerned by the actions of the Department of State in this matter. From September until December of 2001, consular officials were exercising discretion they did not have the authority to exercise. What's more, they were often unprofessional, unresponsive and often rude when dealing the American citizens they are charged to serve. These actions not only go against the guidelines issued to them by the State Department, but are also contrary to the very mission of the Embassy itself. I hope that, if nothing more, we will take a hard look at these actions and do what is necessary to ensure that US citizens are never treated like this again.

Finally, I would like the committee to explore whether or not it was appropriate to issue this suspension in the first place. We have been told repeatedly that there is overwhelming evidence of child trafficking and yet none has been produced. If a bank was robbed in Duluth Minnesota tomorrow, we would not close down the international banking system. We should not react that way here either. Baby trafficking is wrong. It should be prosecuted. But the orphans of the world should not be held hostage by a suspension unless it is absolutely the only thing to do. I am not convinced that is the case here.

Thank you again.

Chairman HYDE. Thank you very much, Senator, for your very inspirational remarks. We appreciate them. If you have a written statement, it will be made a part of the record without objection.

Ms. LANDRIEU. Thank you.

Mr. LANTOS. May I just add a word, Mr. Chairman? Senator Landrieu, let me say I couldn't think of a more effective and more affectionate advocate, and the other body is indeed lucky to have you.

Ms. LANDRIEU. Thank you very much.

Chairman HYDE. Now we will entertain opening statements. I would admonish the Members that it is not mandatory, but we certainly welcome any opening statements you have and ask that you restrict them to 5 minutes and, without objection, any written statements you have will be made a part of the record.

And now Mr. Gilman.

Mr. GILMAN. Thank you, Mr. Chairman, and I will abide by your admonishment. I want to thank our distinguished Chairman for holding this important hearing today.

Few issues unite people of all cultures more than their belief in the future of children. However, there remain thousands of children throughout the world who day after day are longing for things that so many of us take for granted, and that is a loving family and a place to call home. All children deserve permanent loving homes.

Last year there were over 19,000 intercountry applications for adoption. That is a considerable number. However, there continue to be concerns about the system that adoptive parents must pro-

ceed through in order to adopt a child from another nation. We must make this adoption system more responsive to the needs of the families and the children and the governments involved. We must be more involved in helping foreign children in need and in preventing abuses such as child kidnapping and improper financial inducements for the relinquishment of parental rights. We should also better coordinate the international intergovernmental approval process of intercountry adoptions. We ought to have a rating system which are reputable adoption agencies.

Hopefully, today's hearing will shed some light on these and other issues and on possible strategies for dealing with future problems associated with international adoptions.

Mr. Chairman, I ask unanimous consent that this statement of Bill Pierce of the U.S.A. Committee for International Association of Voluntary Adoption Agencies and NGOs be inserted into the record at this hearing.

Chairman HYDE. Without objection, so ordered, and the Committee has received statements from other persons and organizations that wished to be recorded and we will, without objection, have them made a part of the record as well.

[The information referred to follows:]

PREPARED STATEMENT OF WILLIAM L. PIERCE, PH.D., EXECUTIVE DIRECTOR, U.S.A. COMMITTEE FOR INTERNATIONAL ASSOCIATION OF VOLUNTARY ADOPTION AGENCIES & NGOS (IAVAAN)

#### BACKGROUND OF THE ORGANIZATION

The U.S.A. Committee is the U.S. affiliate of the International Association of Voluntary Adoption Agencies & NGOs (IAVAAN), a nongovernmental organization with observer status at the Hague Conference on Private International Law. IAVAAN was represented at The Hague during the drafting sessions in 1991, 1992 and 1993 on the Hague Convention on Intercountry Adoption, as well as the working sessions held on that same Convention in 1994 and 2000.

Beginning in 1990 and through 1993, I had the honor to be part of the Delegation of the U.S. Department of State which participated in the drafting and diplomatic sessions at The Hague. At that time, I served as the President and CEO of the National Council For Adoption (NCFA), a private 501 (c) 3 charity with its offices in Washington, D.C. Simultaneously, I served IAVAAN.

In 2000, after 20 years with NCFA, I stepped down, serving as a Consultant to NCFA until mid-2001. I continued my work with IAVAAN and helped create the U.S.A. Committee for IAVAAN at its founding meeting in March, 2001.

Additional information about the U.S.A. Committee for IAVAAN is available by visiting our web site, [www.iavaan.org](http://www.iavaan.org) or by calling us at 202-299-0052.

#### QUESTIONS RAISED BY THE HEARING ON THE COMMITTEE'S NEWS ADVISORY

##### 1. *How widespread are abuses such as child kidnapping and baby selling for the purpose of international adoption?*

In recent weeks, allegations have been raised about child kidnapping and baby selling in Cambodia. Investigations are still under way and individual children are being cleared by U.S. officials so that they may travel to their new families in the U.S. My experience, which goes back to 1970, when I was the Director of the Washington Office of the Child Welfare League of America, and which continues to this day, is that such abuses are very rare. Certainly, there have been irregularities in various countries, and significant improvements have been put in place to guard against recurrence of problems. In a handful of countries, where political transitions have been characterized by continued changes in staffing of adoption offices, or by one "improvement plan" after another being suggested by well-meaning organizations working internationally, or by difficulties in implementing transparent economic systems, there have been continuing challenges. But those challenges cannot be accurately described as "baby-selling." Rather, one should term irregular arrangements as part of a pattern of corruption which impacts every level of activity

in a handful of countries, whether the activity is governmental or private. Allegations of widespread abuses such as child kidnapping and baby selling for the purpose of international adoption cannot be proved because they just do not exist, except in the fertile imaginations of some journalists seeking sensational stories, the misinterpreted understandings of some international observers who are not as familiar as they should be with international child welfare generally or international adoption specifically, or advocacy groups, whether in the U.S. or other countries, which have an antagonistic view toward all intercountry adoptions.

*2. Is there a system for tracking alleged abuses in a country?*

Based on several of the countries I have visited, and the consular officials I have talked with in person or otherwise communicated with, my view is that there is an informal system for tracking alleged abuses. The system varies from country to country and from consular official to consular official. Some consular officials are more keyed into potential abuses and can “flag” fraudulent behavior better than others. But there is a general awareness within our overseas posts that one is to have an eye out for abuses. In some instances, in all candor, such vigilance has not always been met with approval because early warnings of suspicious activities has led to complaints about overzealous consular officers. I can think of one country in particular where warnings were given years in advance of an actual incident which causes substantial harm to children who were to be adopted by U.S. families. And, of course, a good number of U.S. families were distraught when the problems came to the fore and drew official attention in the country they had hoped to adopt children from. In a word, the system could be better if those consular officials with experience and interest in an improved approach to detecting and preventing problems were allowed to create specialized training programs for inexperienced or less experienced consular officers.

*3. Are there procedures to warn potential American parents about newly imposed restrictions prior to beginning the process of locating a child?*

The web site of the U.S. Department of State has an excellent country-by-country listing that prospective adoptive parents can visit. In addition, State issues updates on specific countries where high profile difficulties are being experienced. But the scenario of international adoption does not lend itself to warning American parents prior to those American parents beginning the process of locating a child. In most instances, American parents begin the process by exploring intercountry adoption generally. They read books, talk to friends, surf the web, do their homework. Often, they attend seminars and meetings to decide which country or countries they may target for their explorations. And once the parents make a decision, what follows is a period of compiling a rather impressive dossier of documentation, going through a “home study,” and eventually being “matched” with a child or, in the case of some countries, making a trip to see children in orphanages who are in need of families. The entire process may easily take a year. It simply would not be practical for the Department of State to be able to anticipate, a year in advance, newly imposed restrictions which would impact families seeking to adopt from a certain country. The People’s Republic of China made certain changes to its policy regarding single individuals being able to adopt. Those changes could not have been anticipated a year in advance. The Russian Federation recently implemented a law which requires families to make two trips instead of one, a burden that not only causes psychological and other stresses but which, by our estimate, adds \$20 million per year to the fees and costs of Americans adopting from Russia. Those new restrictions could have been, and hopefully will be eased once certain changes are made in Russian adoption law that are consistent with Russia’s long-standing and positive view about intercountry adoptions. Such changes would be in line with Russia’s stated position of implementing the Hague Convention of Intercountry Adoption. But the sort of allegations that have been raised about adoption practices in certain parts of Cambodia could not, in my opinion, have been anticipated a year in advance. The fact is that the responsibility for tracking alleged abuses and warning potential American parents should be placed more directly on the agencies and others who hold themselves out, and collect fees from families, because they say they can assist in adopting from a certain country. I do not believe that many of the dozens of families caught in the situation in Cambodia came to the decision to adopt from that country without having received at least some sort of assurances of some sort from groups or individuals to whom they paid money for what they perceived was expert advice and counsel.

*4. How does a parent locate a reputable international adoption service?*

After more than 32 years in the field of child welfare, I must confess that this is a difficult task. I wish it were as simple as checking out one of the consumers’

magazines and looking up ratings, but it isn't. While there are a good many reputable international adoption providers, sadly even past performance is no guarantee of future competence. There was a time in everyone's memory when Montgomery Wards and K-Mart were viewed as very successful retailing enterprises. Today, Montgomery Wards is gone and last I knew K-Mart was in reorganization. Waves of bankruptcies and mergers in the commercial world are not precisely mirrored in the world of intercountry adoption services, but there are parallels. At present, to the best of my knowledge, there is no reliable way for a parent to locate a reputable international adoption service. While many of us have agencies we might recommend informally to a friend or relative, most of us would hesitate to publish, at least at present and with the current state of the art as applied to objective measures, a list of the "25 best intercountry adoption services" in America. There are at least three private organizations involved in providing information so that people can make up their own mind—one long-standing printed reference and two web sites. There is at least one well-known accrediting body that presently accredits agencies for intercountry adoption service. And, once the Hague Convention on Intercountry Adoption is fully implemented, there should be helpful information available from the U.S. Department of State. But at present, picking an agency is risky. One cannot, for instance, simply judge by a well-organized and well-presented web site: such marketing sizzle sometimes substitutes for real professionalism. Some international adoption agencies have quite outstanding programs in one country and less promising programs in other countries. And there is substantial variation between countries.

5. *Can INS and the State Department do a better job of warning Americans about potential problems with U.S. immigration procedures required to adopt a child overseas?*

In all candor, this question must be divided so that one can respond in respect to INS and the State Department separately. Well before the tragedy of Sept. 11, 2001, INS was overwhelmed. For years, and the last five years at least, whether I was wearing my NCFCA "hat" or my U.S.A. Committee for IAVAAN "hat," I have found INS to frankly be incapable of responding to most questions in a timely fashion. Even staff members of Senators and Representatives I have talked with have expressed a similar frustration. INS has simply had too much to do, had too many changed "signals" from Congress and has had too much internal disorganization to be able to do its job competently. The headlines of recent weeks in respect to individuals involved in the Sept. 11 attacks came as no surprise to most of us who had dealings with INS. Indeed, there was a clear signal from the U.S. Senate about which U.S. agency is the most competent to deal with intercountry adoption matters. That signal came from the then-Chairman of the Committee on Foreign Relations, Sen. Jesse Helms, who insisted, when he introduced legislation to ratify and implement the Hague Convention on Intercountry Adoption, that the Department of Health and Human Services be entirely excluded from the process and that INS be given the most junior role imaginable. The task of serving as "Central Authority" went to the U.S. Department of State. INS, in my opinion, should indeed be the subject of dramatic reorganization by the Congress, and that reorganization should be quite different than the proposal suggested by Senators Landrieu and Nickles, about which more later. My view is that the placement of the Central Authority in the U.S. Department of State offers the Congress a unique opportunity to transfer from INS to State each and every task now performed by INS that pertains to intercountry adoptions, whether under the Immigration and Nationality Act or under the implementing legislation for the Hague Convention on Intercountry Adoption. At least five functions of INS would be transferred, making implementation of the Hague Convention more administratively simple. Those would include activities related to the I600-A, the issuing of visas for IR-4 and IR-5s, issuing of non-objection letters that a child may be issued a visa and may be admitted to and received in the U.S., shifting permanently certain enforcement powers now exercised by consular officers and receiving and reviewing the home studies.

With INS' functions transferred to the State Department, communications difficulties which have sometimes resulted in INS acting without consulting with or informing State would be avoided. The consular officers would be able to do a better job of warning Americans about potential problems with U.S. immigration procedures because they would be in charge of those immigration procedures. Of course, it goes without saying that the budget and slots in INS, which are already inadequate to do the tasks related to intercountry adoption, should be transferred and augmented, lest the State Department become as unresponsive and disorganized bog as INS presently is.



A major challenge will be dealing with so-called "pipeline" cases, those situations where U.S. families have received approval to adopt in a certain country, and even have completed certain steps toward a formal adoption. At present, with INS retaining certain duties, it will be necessary for a very complicated collaboration to be mounted between INS and the State Department so that a new case-tracking system can be put in place, a system that requires communications and clearances between two agencies. A tracking system within one agency would be far simpler and less expensive to put in place. I still shudder at the memory of sitting in a conference room at the State Department some years ago, when the current implementing law was not yet introduced, hearing two of those at the table, one from INS and one from State, calmly discussing how much time and money would be required to put a complex tracking system into place. Many of us in the room came away with the clear impression that the first millions appropriated for the new Convention would be eaten up by years of INS-State bureaucratic wrangling.

#### LANDRIEU-NICKLES PROPOSAL

Finally, I wish to return to the proposal from Senators Landrieu and Nickles. At a press conference a while back, I heard the reference to a proposal when the Cambodia moratorium and its impact on children and families was being discussed. I question whether this is the proper solution to the questions raised by the Cambodian moratorium.

The moratorium was, in my view, the proper step to take, given the opinion of both U.S. and Cambodian officials on the ground that there were serious questions about child kidnapping and baby selling. In such an instance, I know of no other step that should be taken other than to immediately stop the movement of children outside of a country where such allegations have been raised. To do otherwise is to risk having children who are not legally free to be adopted transferred to another country, and then having those children removed from their families and returned to their countries of origin. As heart-breaking as it was and is for those children not to be able to go to the families who were waiting to receive them in America, it would have been worse for both the children and the parents if they had had to be torn away because of improprieties in the adoption process. The U.S. is a nation of laws and no law could possibly be more sacred than observing laws preventing child kidnapping or child selling. The humanitarian and foreign policy implications of any other approach are beyond discussion.

While the children in the "pipeline" were waiting, there were serious concerns about their health and welfare. That point was made vividly at the Landrieu-Nickles press conference. But there is another option other than circumventing proper procedures in order to provide children with care in the U.S. The other option, which I learned from officials in the Cambodian Embassy here in Washington, was to provide, through appropriate and transparent channels, either using governmental vehicles or nongovernmental organizations, humanitarian assistance, food, shelter, and medical care to children while they waited for the investigations to be completed. The officials in the Cambodian Embassy told me the cost would be \$100 per month per child. I cannot imagine a U.S. family—or U.S. adoption provider, for that matter—that would resist spending \$100 per month per child on average to assure decent care for the children caught in the moratorium. And if the financial stress were too great, certainly the budget of USAID could handle \$100 per month for many more children than were held up in Cambodia. What was and may still be required was the will to arrive at an alternative plan—something that protected the children while also recognizing that there were allegations that needed to be investigated.

As a practical matter, I believe that the result of enacting the Landrieu-Nickles proposal would be not just to require advance notice but to effectively bar INS and the State Department from ever being able to make a judgment, based on their knowledge, experience and the data at hand, that adoptions should be suspended or a moratorium put in place. I cannot imagine how many clearances and how much process would be required to implement the sort of requirements that would be put in place by Landrieu-Nickles, well-meaning as it most assuredly is.

On matters of foreign policy, each Administration defers in important ways to the Congress. On matters of implementing something like intercountry adoption policy, there should be deferral to the Administration.

#### A FINAL COMMENT ON THE CAMBODIAN DEBACLE

I realize that the Landrieu-Nickles proposal responds to the sense, expressed in the News Advisory for this Hearing, that "The moratorium created havoc for hundreds of American families in the process of adopting Cambodian children and

brought to the fore issues about the responsibilities of the INS and the Department of State." I believe that questions need to be asked of the agencies who held themselves out publicly as being prepared to assist Americans in adopting from Cambodia. The *Report on Intercountry Adoption 1999*, published by International Concerns for Children, listed seven agencies, with fees roughly averaging \$11,000, not including travel. By the time the 2001 edition of the *Report* was issued, notwithstanding a note to "Expect delays in processing that are already occurring because of investigation of serious irregularities," 32 agencies were listed with the highest posted fee being \$19,750, not including travel. In all this controversy, there needs to be greater concern expressed about the role of the agencies who ask for and receive substantial fees from American families, a concern which begins to be addressed by the question asked in the News Advisory: "How does a parent locate a reputable adoption service?"

We are extremely grateful to Chairman Hyde and his Committee for holding this important hearing and respectfully request that this Statement be placed in the Hearing Record.

We stand ready at any time to respond to any questions about this or any other aspect of the mission of the U.S.A. Committee for IAVAAN.

Mr. GILMAN. Thank you, Mr. Chairman.

Chairman HYDE. Mr. Delahunt.

Mr. DELAHUNT. Thank you, Mr. Chairman, and let me add my voice in expression of gratitude and appreciation for all you have done in this particular subject, particularly for holding this hearing, as you are well aware, that deals with something that is very dear to me as it is to all our colleagues who have adopted children from abroad.

When I wrote to you last December to request this hearing, we were just becoming aware of the dimensions of the problem that had arisen in regards to adoptions in Cambodia. And as others have said, at that time 13 American families seeking visas for their adopted children had been given appointments at the U.S. Consulate in Phnom Penh. Unfortunately, only after arriving there did they discover that serious questions were being raised by U.S. officials as to whether their children had been made available for adoption through improper means. That was truly the beginning of an ordeal that would engulf not only those families but hundreds more who had been approved by our government to adopt a Cambodian child and found themselves caught up in a suspension of adoptions from Cambodia by our government. This suspension was imposed on the 21st of December.

And as I am sure you are aware, over the course of these months congressional offices received disturbing accounts of families kept in the dark by U.S. Consular officials, treated with rudeness, insensitivity, disrespect and even warned not to contact their Members of Congress to complain about their treatment. We heard persistent allegations that these same officials were continuing to process applications for certain adoption facilitators who had been the subjects of investigations by both the United States and Cambodian governments. And we read reports and rebuttals that raised serious questions about the quality and thoroughness of the investigations that were conducted to determine whether the children in these cases were adoptable or not.

There is little doubt that serious abuses are taking place in Cambodia and many other sending countries. Birth parents are sometimes coerced or given improper inducements in exchange for their consent. Documents are forged and babies are bought and sold, and we must never condone these practices, and I fully support the ef-

forts of the INS and the Department of State to eliminate them. But our government also has a responsibility to carry out those efforts in a manner that is responsible, discriminate, and respectful to those who are caught in the crossfire.

I want to also commend Commissioner Ziglar for recognizing this and for taking steps to deal humanely with the situation he encountered. I still have many unanswered questions about the actions by U.S. officials that precipitated this crisis, and I still have concerns about a number of cases in which adoptive families have even now been left without relief, but I want to thank the Commissioner for all he has done to alleviate this crisis and to prevent its recurrence.

I know, Commissioner, you have made this something of a personal priority and it is deeply moving to all of us. The Cambodian experience has provided a vivid demonstration of the need to protect children and their families by bringing U.S. adoption practices into conformity with the international agreement known as the Hague Convention on Intercountry Adoption. Congress began this process in 2000 by enacting the Intercountry Adoption Act and as one of the authors of that legislation, I have been working closely with the State Department and INS since that time to implement the law.

The Hague Convention will do much to improve adoption practices at home and abroad. It will require among other things that agencies be properly accredited, audited and insured, that they keep careful records and file public reports on their activities and that they take full legal responsibility for the conduct of their overseas agents and facilitators. It will require that families have access to detailed disclosures before selecting an agency and to an effective system for resolving complaints that arise in the course of the adoption process, and it will require our government to maintain ongoing lines of communications with the child's country of origin.

Chairman HYDE. The gentleman's time has expired. Do you need additional time?

Mr. DELAHUNT. If I have another minute, I will conclude.

Chairman HYDE. Without objection, the gentleman is recognized for another minute.

Mr. DELAHUNT. Thank you for the additional time, and I will conclude by saying that even under the best of circumstances international adoption is a lengthy, expensive and an emotionally exhausting process, but our government should be doing all it can to ease these strings and not add to them for the 20,000 families who each year open their hearts and homes to children from overseas. I look forward to working with both the INS and the Department of State to achieve that goal.

I thank the Chair.

Chairman HYDE. We have some votes that have just been called. I am trying to find out what they are.

There are two votes, a vote on the rule on the bioterrorism bill and the Journal vote. So if the panel will exercise their patience we will hurry and vote and come right back. So we will stand in recess for a few moments.

[Recess.]

Chairman HYDE. The Committee will come to order. The gentleman from Lancaster County, Pennsylvania, Mr. Pitts.

Mr. PITTS. Thank you, Mr. Chairman, and I will submit my entire statement for the record but would like to make a few comments. First of all, thank you very much for convening this important hearing to address an issue that is of special interest to many of us.

Three of my own constituents have been directly impacted by the one aspect of the hearing today, the circumstances that have resulted from the moratorium issued on Cambodia adoptions. As a result of the adoption suspension issued last December, over 400 American families were trapped in the various stages of adoptions from Cambodia. Over 5 months have passed while families agonized over whether or not they would be able to bring their Cambodian child home.

Now, I understand that the adoption suspension was issued with the intent to prevent the trafficking of children, and I want to commend the commitment of the INS and the State Department to ensuring that babies are not being kidnapped or sold into adoption. However, I have been somewhat concerned that this suspension on adoptions was not issued with necessary care given the families involved.

It appears that this moratorium has brought to light the ambiguity of the division of responsibilities between the INS and the State Department in regard to international adoptions. The fiasco with Cambodian adoptions has focused new attention on procedures with the INS and the State Department and the joint role they play in facilitating international adoptions.

I hope we will address today where modifications are necessary to coordinate efforts and ensure that this kind of heartache does not happen again, and I hope it is clear to the INS that Congress will stand up for the families that are suffering as a result of this suspension and we will push to see a solution as quickly and as efficiently as possible. We must ensure that this situation does not repeat itself. We must address the problems within the system that allowed such havoc for so many families caught in the middle, and I am confident we can assess this situation, devise a way to protect the defenseless and ensure safe adoption procedures while also protecting the families from the pain endured in this situation.

So I look forward to hearing from our witnesses today, and I thank you, Mr. Chairman, for the opportunity to address this matter, and I yield back the balance of my time.

[The prepared statement of Mr. Pitts follows:]

PREPARED STATEMENT OF THE HONORABLE JOSEPH R. PITTS, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. Chairman, thank you for convening this important hearing to address an issue that is of special interest to me. Three of my own constituents have been directly impacted by the one aspect of the hearing today—the circumstances that have resulted from the moratorium issued on Cambodian adoptions.

As a result of the adoption suspension issued last December, over 400 American families were trapped in the various stages of adoptions from Cambodia. Over five months have passed while families' agonized over whether or not they would be able to bring their Cambodian child home. Three families in my district—Eileen and Jeffrey Christian, Michele Duvivier, and Michael and Dianne Papparo—have ached as they anxiously waited to bring their babies home.

This decision thrust many families, who were at various stages in the adoption process, into a painful chaos. These months have been agonizing for many families and still many cases have yet to be resolved, even six months later.

I understand that the adoption suspension was issued with the intent to prevent the trafficking of children. I want to commend the commitment of the INS and State Department to ensuring that babies are not being kidnapped or sold into adoption. During my time in Congress I have been absolutely committed to protecting the innocent and fighting against the trafficking of defenseless people. However, I have been somewhat concerned that this suspension on adoptions was not issued with necessary care, given the families involved.

I am committed to ensuring other countries have the legal and procedural framework in place to ensure mothers are protected from having their babies sold into adoption without their consent. I am committed to fighting against the trafficking of people. However, I am also deeply committed to protecting our American families, my constituents, from becoming the victims of bureaucracy, victims of careless decisions.

I have a number of questions to raise today. It seems that this moratorium may have brought to light the ambiguity of the division of responsibilities between the INS and State Department in regard to international adoptions. The fiasco with Cambodian adoptions has focused new attention on procedures of the INS and the State department and the joint role they play in facilitating international adoptions. I would also like to address today whether modifications are necessary to coordinate efforts and ensure that this kind of heartache does not happen again.

I want to make it clear to the INS that Congress will stand up for the families that are suffering as a result of this suspension and we will push to see a solution as quickly and efficiently as possible.

Just as important, however, we must ensure that this situation does not repeat itself. We must address the problems within the system that allowed such havoc for so many families caught in the middle. I am confident that we can assess this situation and devise a way to protect the defenseless and ensure safe adoption procedures, while also protecting the families from the pain endured in this situation.

I look forward to hearing from our witnesses today and thank you, Mr. Chairman, for the opportunity to address this matter.

Chairman HYDE. Thank you.

Mr. Issa.

Mr. ISSA. Thank you, Mr. Chairman. I will submit for the record. I look forward to hearing the testimony.

Chairman HYDE. Thank you.

Mr. Kerns.

Mr. KERNS. Thank you, Mr. Chairman, for having this important hearing. I would like to thank Mr. Ziglar and Ambassador Ryan for their participation today.

I, too, have been impacted and families in my congressional district, Dirk and Kathy Caldwell have been caught up in this very tragic, unfortunate and I hope not senseless delay in adoptions. I appreciate, Commissioner, that you have one of the most difficult jobs in government and I respect you for taking that on and it is very important to the country. It is very important to families.

When I came to Congress, it was my hope to make the Federal Government more family friendly and the Congress more family friendly, and I know we are all working toward that end. I look forward to hearing your testimony today and your observations of ways that we can work together to make this a better place for families and advocates for the adoption of children.

With that, Chairman, I yield back.

Chairman HYDE. Thank you, Mr. Kerns.

The gentlelady from Virginia has indicated that she has no opening statement at this time. So we will thank her and we will proceed to the witnesses.

I would like to welcome the Honorable James W. Ziglar, who was confirmed as Commissioner of the Immigration and Naturalization Service in July of 2001. He is chiefly responsible for enforcing laws regulating the admission to the United States of citizens of other countries and for administering various immigration benefits. Mr. Ziglar has worked in various capacities in both the private sector and the Federal Government. Prior to his appointment as Commissioner, he was the Sergeant at Arms and Doorkeeper of the United States Senate. I might add he did a wonderful job in that difficult position, keeping order in the other body. He also served as Assistant Secretary of the Interior and as a legislative and public affairs officer for the Department of Justice.

Welcome, Mr. Ziglar.

Our next distinguished witness is Mary A. Ryan. She assumed the duties of Assistant Secretary of State for Consular Affairs in May 1993. Ambassador Ryan entered the Foreign Service in 1966 and has served in various diplomatic positions in Naples, Mexico, Abidjan, and Khartoum and was assigned as Ambassador to Switzerland—I am sorry—Swaziland in 1988. Returning to Washington in 1990, Ambassador Ryan served as Principal Deputy Assistant Secretary in the Bureau of Consular Affairs. She was assigned as Director of the Kuwait Task Force following the Iraqi invasion of Kuwait and also served as Deputy Assistant Secretary in the Bureau of European and Canadian Affairs in the fall of 1991.

If you could summarize your statements in 5 or 10 minutes, give or take, your full statement will be placed in the hearing record. So we will start with you, Commissioner Ziglar.

**STATEMENT OF THE HONORABLE JAMES W. ZIGLAR, COMMISSIONER, U.S. IMMIGRATION AND NATURALIZATION SERVICE**

Mr. ZIGLAR. Thank you, Mr. Chairman and Members of the Committee. I welcome this opportunity to share with you our goals with respect to improving the Immigration and Naturalization Service's critical role in the international adoption arena. For those citizens who choose to open their hearts and their homes to children from abroad, as you know, the INS shares with the State Department the responsibility for adjudicating orphan petitions and enabling a child's immigration to the United States. Adjudicating orphan petitions, I have learned, is among the most sensitive adjudications that INS performs.

INS works and is working to ensure that our efforts in upholding the law complement the commendable spirit that drives people to adopt children from abroad. Along with the obvious pressing security concerns that we have in the country and at INS these days, I also have put international adoptions at the very top of the agenda.

I believe that Congressman Delahunt and Congressman Lantos especially mentioned the situation—I am going off my text here, as I always do—that Americans find themselves in in the adoption arena sometimes, particularly when adopting from countries where they don't have a regulated system. When I first got involved in this in, I guess, late September, early October and started trying to parse through how the system worked, just practically how it worked for an American citizen adopting abroad, I was absolutely

appalled at the way we do our business. The way we do our business is geared completely toward having a transparent, well-regulated system from the other side and, if their system isn't that way, our system is set up to cause a great deal of pain to American citizens.

So, if you notice in the announcement that we had on December 21 with respect to Cambodian adoptions, I think the last paragraph mentioned that we were going to try to review, revise, and fix a system that I think has been broken for a long time in terms of the way it works. So I share your concerns, Mr. Chairman and Mr. Delahunt and others who have mentioned this, about the system itself and the way it works and we are working very hard to fix that.

As you know, the circumstances that arose last year with respect to adoption of children from Cambodia and Vietnam obviously thrust me right in the middle of this problem very early in my tenure as Commissioner. Although I am the first Commissioner to suspend adoptions in that country, I am certainly not the first to have struggled with this very troublesome issue. The problems relating to baby buying, baby stealing and that sort of thing, as well as unregulated and unscrupulous agents and facilitators who prey on Americans, are an unfortunate part of the modern landscape in adoptions.

Indeed, the Hague Convention, which Assistant Secretary Ryan is going to talk about in much more detail than I am today, was in fact drafted to address the kinds of things and kinds of problems that we saw in Romania and elsewhere earlier and that we are still seeing today in Cambodia.

Let me talk about Cambodia just for a minute. On December 21, after consultation with the State Department, I suspended processing in Cambodia because of the problems that were identified by the State Department and INS officers. Those problems were of such a nature that I could not really in good conscience allow operations to proceed as they were at that time. I remain convinced, based upon where we have been in those months, that it was the right thing to do and that we need to continue that suspension until Cambodia gets its legal adoptions framework into a way that is transparent and that is somewhat in conformity with international norms.

However, there were obviously humanitarian concerns, Mr. Chairman, you pointed them out and several Members have pointed them out, that were raised by individuals who were affected by that suspension and so Assistant Secretary Ryan and I took some extraordinary steps in early February. Actually it started in January, early in January, when I asked Phyllis Coven, who is heading our task force, to come back from a rather nice assignment in Johannesburg to take on this assignment and she did.

We started it in January, but in February Assistant Secretary Ryan and I created a special humanitarian initiative premised on the work of this task force that Phyllis is heading. I am pleased to report that through the task force case-by-case review more than 125 Cambodian children, whose official government paperwork had been completed prior to suspension, have been cleared for adoption. In fact, I think there are more now. Even some came in today.

However, notwithstanding these happy endings, the task force work has confirmed the foundation of our concerns. Basically, the task force has identified cases in which there are two major problems. The first are cases in which birth parents are misled about the realities of leaving their children in orphanages. Second, there are cases involving incomplete or blatantly fraudulent documentation regarding the origin of the child and the circumstances surrounding the abandonment. Unfortunately, these issues may prevent the task force from being able to clear some of the cases for adjudication consistent with U.S. law.

Based on the progress of the task force and the information that our agencies have gathered, with, I might add, the tremendous help from congressional offices, from the Congressional Coalition on Adoption Institute, and prospective adoptive parents, who have been very cooperative in working with us, Assistant Secretary Ryan and I proposed a further initiative last week. Specifically, we announced a proposed expanded initiative to include those cases where the reliance on the United States Government and a bond, although not a legal relationship, with a particular Cambodian child was established prior to the suspension. This is a matter of diplomatic discussion between the State Department and Phnom Penh with respect to how that processing will go forward, but we have had some discussions with the Cambodian officials and as soon as we have something to tell you about those, we will brief the Congress as soon as we have that information.

Beyond addressing the immediate needs related to the suspension, we have also been attempting to address the broader picture in international adoptions. As Assistant Secretary Ryan will describe, U.S. citizens will reap substantial benefits, we believe, from the implementation of the Hague Convention, which will be implemented in the U.S. through the Intercountry Adoption Act, which will be implemented through regulations by the State Department.

My goal, however, is to begin implementing some of the best principles contained in the Hague Convention as soon as possible. I take it as my mission to create better, more transparent and user-friendly operational procedures to govern adoptions as soon as possible, especially for those countries that are not signatories to the Hague Convention. To fulfill that mission, I appointed some time ago an INS task force which is comprised of our best, most experienced managers and field staff. We have already been consulting with government, nongovernmental stakeholders and others in trying to create a dialogue as to how we best can go through that.

I want to conclude by talking about the four main objectives of the task force. The first is to improve communication. We need clear guidance to prospective parents and adoption agencies and other stakeholders on how the process works, what to expect at each stage and the legal requirements that must be met. This is important. We must make sure that prospective adoptive parents understand that adoption and immigration are separate processes and that, for example, fulfilling the adoption requirements of a foreign sending country does not necessarily mean that American immigration requirements have been met.



Second, we want to improve operational performance. Our current procedures work fine for people who are adopting, as I said earlier, from countries where they have got a nice, regulated, transparent procedure. What we are trying to do is avoid the heartbreak of those people who get caught in the middle because there is a system over there that doesn't comport with the way we do our business here. This problem will be addressed largely by the Hague Convention with respect to those countries that have adopted the Hague Convention. However, it doesn't allow for those countries that have not. It won't affect them and what we need to do. Bottom line here is if there is a child out there to be adopted that the parents that are going to adopt that child, maybe even before the child is identified to them, know that that child can immigrate to the United States because they meet our definition of an orphan.

And let me tell you what we are trying to do here. We are trying to create—and I think we will have this thing created by July 1—a pilot program for prospective parents where a prospective parent from one of the nonregulating countries, a country where we have got a problem, and we have identified about six or seven that we want to open this pilot in, where a parent can petition us to make a determination with respect to a child that may be identified to them but they haven't bonded with them, they don't know them, go ahead and make that determination before they have to go through a formal adoption procedure and then file that so-called I-600 and get that approval so that we know and they know that when they go over to go through that final legal adoption procedure that they are going to get the visa for that child. This is a pilot project that we are working on and we hope to introduce it in early July. We call it Adjudicate Orphan Status First.

Third, we want to develop improved training and guidance. I won't go into all of what we are going to do, but it is clear to me that we have had throughout the world inconsistent ways of going about adjudicating, that we have not trained our people or provided them the right kind of guidance like we should have, and so we have had a lot of inconsistencies.

We are calling together, from June 17 to June 21, a training seminar, and we are bringing in people from literally all over the world who are involved in this from the INS to give them a week-long training on not only the pilot project and how that is going to operate, but how we go about doing our business. I think having clear guidance and better training will help us in how we do our business.

Chairman HYDE. Mr. Commissioner, one of the occupational hazards of holding hearings is voting on the floor. We have been advised there is a vote on the rule on the Customs Border Security Act. So we will stand in recess while we vote. We will return as soon as possible after this one vote.

Mr. ZIGLAR. Mr. Chairman, I am finished. It is just fluff talk from here on.

Chairman HYDE. We have some fluff questions for you when we return.

[Recess.]

Chairman HYDE. The Committee will come to order.

Commissioner, we abruptly terminated your statement. Were you finished?

Mr. ZIGLAR. I was, Mr. Chairman. I was just going to summarize what I had previously said. Thank you for the opportunity to testify.

Chairman HYDE. Your full statement will be made a part of the record. We will have some questions later.

[The prepared statement of Mr. Ziglar follows:]

PREPARED STATEMENT OF THE HONORABLE JAMES W. ZIGLAR, COMMISSIONER, U.S.  
IMMIGRATION AND NATURALIZATION SERVICE

Mr. Chairman and Members of the Committee:

I welcome this opportunity to share with you my experience and objectives with respect to improving the Immigration and Naturalization Service's (INS) critical role in the international adoption arena. For those United States citizens who choose to open their hearts and homes to children from abroad, the INS shares with the Department of State responsibility for adjudicating orphan petitions and enabling a child's immigration to America.

The circumstances that arose in connection with the adoption of children from Cambodia and Vietnam in recent months thrust the INS into this issue early on in my tenure. The experience brings into sharp focus the many aspects of INS' global responsibilities: the interaction between our domestic and overseas offices and the Department of State, the interaction between U.S. immigration laws and the laws of the foreign sending countries, and the direct impact our work has on the hopes and dreams of United States citizens.

I am committed to working with you to improve INS' contribution to international adoptions. Along with the pressing security concerns of the day, I have made international adoptions a top priority for the INS. One of my first initiatives was to create a special Adoptions Task Force with clear and immediate objectives that I will outline in detail later. The Task Force was created to undertake a special humanitarian initiative to review certain adoption cases in Cambodia. The Task Force has also undertaken a comprehensive review of the existing INS structure for dealing with international adoptions.

My purpose here today is to share with you the INS' role in international adoptions, and more importantly, what INS plans to do to improve the international adoption process. First, I will summarize the context in which international adoptions are currently taking place. Then I will discuss with you how the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoptions (the Hague Convention), and the Inter-country Adoptions Act of 2000 (IAA) are changing—for the better—how the United States Government processes international adoptions. Finally, because the IAA will not be implemented until 2004 and is not designed to change how we deal with countries which have not signed the Hague Convention, I will outline the additional measures I have asked the Adoptions Task Force to implement as soon as possible. These include both a special service to assist Americans adopting in certain more difficult countries, as well as short and long term process improvement measures.

LARGELY POSITIVE CONTEXT FOR INTERNATIONAL ADOPTIONS

The suspension of orphan visa processing in Cambodia was implemented for good reason: there are serious deficiencies in the Cambodian legal framework on adoptions, and there are very real human trafficking concerns. However, the controversies that have arisen recently in connection with Cambodia and Vietnam must not make us lose sight of the largely positive context in which we do our work. Although in need of improvement, the current procedures that are in place have worked for thousands of U.S. families each year. The majority of cases have happy endings.

INS' RESPONSIBILITIES

*To the child*

The INS' determination that a child is an orphan as defined under the Immigration and Nationality Act (INA), and is, therefore, eligible for immigration to the United States, is among the most sensitive adjudications we perform. In performing this task, the INS must bring to its work a core commitment to protect the interests of the child, which is at the heart of the process. Under the current statutory framework, we are obligated to make a determination as to whether or not this child is

indeed an orphan—that is, a child without parents, as defined under the INA, and to uphold the laws that have been created to protect children in this process.

*To the parents*

We also have a weighty responsibility to the American citizens—the prospective adoptive parents—who have invested their hearts, and often considerable resources, in this endeavor. The immigration process associated with adoption should not diminish the joys of providing a home to a child, but at the same time there are laws and procedures that must be honored. The INS must work to ensure that our efforts in upholding the law complement the commendable spirit that is at the core of the decision to open one's heart and home to a child.

INTERNATIONAL CONTEXT

Another factor that makes the international adoption process complex is that foreign countries in which parents seek to adopt are often characterized by extreme poverty and the accompanying societal uncertainties and pressures. These same countries may be struggling to establish the sound legal frameworks and well regulated adoption processes which would bring integrity to the intercountry adoption process and which make compliance with our immigration laws simpler. Also, even in relatively well-developed countries with strong legal systems, the legal adoption requirements can vary from country to country, even as they vary from state to state here, making the challenge of cooperation all the more complex and important.

INS' OTHER PARTNERS

Furthermore, INS' role in adjudicating international adoptions depends—perhaps more than in any other area—on extensive coordination between INS' domestic and overseas operations, and with the Department of State, as well as numerous state and private adoption agencies. The immigration and adoption process most often begins in the United States with INS' adjudication of the initial Form I-600A (Application for Advance Processing of Orphan Petition). However, the documentation supporting it—home studies and background checks—must come from domestic social service entities and law enforcement agencies.

Another unique facet of adoptions is that the INS shares its responsibilities for adjudicating cases overseas with the Department of State. INS officers stationed overseas are responsible for adjudicating petitions in the 37 countries in which they are present. In the remaining countries throughout the world, State Department officers have the same responsibility.<sup>1</sup> In those countries, INS only sees those petitions if the Department of State requests our assistance in cases which the Department of State finds are not “clearly approvable,” as was the case in Cambodia. United States law enforcement officers working in this field face many difficult challenges. When the INS or Department of State determines that an investigation is necessary, the investigation may involve working with one another, with foreign officials tasked with preventing child buying and human trafficking, and with other governmental and non-governmental organizations in the foreign sending state.

THE PROMISE OF THE IAA AND HAGUE CONVENTION

It may seem like a daunting task to improve the process. However, as Assistant Secretary Mary Ryan has just outlined to you today, the Hague Convention and Intercountry Adoptions Act will provide some clear guidance and direction. I will talk a bit about how elements of the Hague Convention will affect how INS processes international adoptions, and then tell you how the Adoptions Task Force is looking to borrow from the Hague Convention and from the best practices in the field to make important changes and improvements to our process in the shorter term, and in countries where the Hague Convention will not apply.

As Assistant Secretary Ryan explained, one of the most important improvements to international adoptions, implementation of the Hague Convention through the Inter-country Adoption Act, is already underway. The Hague Convention and the IAA were created in response to precisely the kinds of concerns that gave rise to the suspension of adoptions in Cambodia: concerns about exploitation and child buying, the insidious activities of criminal elements who exploit the adoption process for profit, and problems related to countries whose laws are vulnerable because of weak controls. Although the Hague Convention and the IAA will not, by their express terms, apply to orphan petitions filed for children from non-Hague Convention

<sup>1</sup> 8 CFR §204.3 (k)(1). “An I-604 investigation must be completed in every orphan case. The investigation must be completed by a consular officer except when the petition is properly filed at a Service office overseas, in which case it must be completed by a Service officer.”

countries, I believe that the Convention and the Act will provide models that can help improve the processing of non-Hague Convention orphan cases.

As Assistant Secretary Ryan has outlined for you, the process for implementing the IAA to integrate the mandates of the Hague Convention is on track and is in the Department of State's hands as they are the lead agency. INS will continue to support the Department of State in establishing its new role as the Hague-designated U.S. "Central Authority" in the intercountry adoption process.

The Hague Convention and the IAA will help us enormously. They will require that the child's eligibility to immigrate be determined before either adoption or placement for adoption may occur in countries party to the Hague. This will be a significant departure from the current regulatory process that allows a child to be adopted before eligibility to immigrate to the U.S. is established. The Hague Convention will also significantly expand the universe of children who are available for adoption and who can immigrate to the United States. It will not be necessary for each child adopted from a Hague Convention country to be an orphan, as currently defined in the law. In this respect, it will ease some of the difficulties inherent in our adjudications. In Hague Convention countries, the INS will also be able to rely on a Certificate of Final Adoption or Custody issued by the foreign country's designated "Central Authority" as evidence of relationship between the child and the adoptive parent(s). This certificate, together with the original adoption decree, is evidence that the child is eligible to immigrate to the United States.

The Hague Convention also provides for counseling for all prospective adoptive parents. The accreditation process for adoption service agencies will help ensure that prospective adoptive parents and our immigration officers know which agencies are committed to meeting certain professional standards. Requirements for transparency in fees charged by accredited agencies can help deter child-buying and inappropriately high fees. Changes like these will assist prospective adoptive parents and our adjudicators in making the most informed, balanced decisions possible.

The IAA does not, however, end our responsibilities to be diligent in protecting children, and to ensure that the availability of processes for overseas adoption do not lead to exploitation of children, birth parents, and adoptive parents. And we would be wrong not to anticipate that there will be new dilemmas and challenges that we must tackle creatively, particularly during the early stages of implementation. But it is fair to say that it is going to help.

However, these changes are not scheduled to take place until 2004, and some of the very poor and underdeveloped countries which do not have fully transparent processes and with which the INS and the Department of State are struggling to make fair determinations today are not signatory to the Hague Convention. For these reasons, I asked the Adoptions Task Force, in their review of our current policies and regulations, to recommend steps that could move us as quickly as we can towards processes for all countries that are more consistent with the Hague Convention. The final portion of my testimony today will outline the progress that the Adoptions Task Force has made so far, and where we are headed.

#### THE ADOPTIONS TASK FORCE—WORKING METHODS

The Task Force has been working to achieve two important goals. The first goal is to provide safeguards for American adoptive parents similar to the safeguards provided under the Hague Convention and the IAA. I will call this the "adjudicate orphan status first" initiative. The second goal is one of process improvement, including better communication, training, field guidance, and targeted regulatory changes. I think you will be as pleased as I am with the practical but high-yield changes and improvements we are in the process of implementing.

To make certain that the INS takes every possible measure to try and prevent another situation like the one in Cambodia and Vietnam that occurred in the past few months, I appointed a Task Force comprised of some of our best, most experienced managers and field staff to identify and address key challenges as quickly and thoroughly as possible. The Adoptions Task Force has already embarked on the first of a two-part consultative process with governmental, non-governmental, and community based stakeholders. This process will identify service and enforcement issues of concern and will ensure that stakeholders have the opportunity to raise questions, provide information, and propose solutions. Based on concerns raised by governmental and non-governmental stakeholders, the Adoptions Task Force conducted a series of intensive internal reviews with experienced INS and State Department officers to respond to each of the issues raised in the most appropriate way.

In addition to the general proposals which I will outline to you today, we will conduct another round of consultations with stakeholders to let them know what we are proposing, and outline our short and long term strategies for improving the

process. Finally, we will hold an “Adoptions Summit” during the week of June 17, 2002, bringing together key INS and State Department personnel from domestic and overseas posts to provide intensive training. The training will ensure that government officers involved in adjudicating adoption cases and investigations relating to potential problems with home studies and incidents of child-buying and trafficking, will be able to implement policies and guidance in a uniform and efficient manner. A final presentation of changes to the adoptions process will also be presented to congressional staff, NGOs, and community based stakeholders.

INTRODUCING “HAGUE-CONSISTENT” SAFEGUARDS FOR AMERICAN ADOPTIVE PARENTS:  
THE “ADJUDICATE ORPHAN STATUS FIRST” INITIATIVE

Of all the changes the Task Force will address, the single most important operational improvement will be to introduce safeguards similar to the Hague Convention process for American adoptive parents as quickly as possible in certain more problematic countries. We are calling this the “adjudicate orphan status first” initiative.

The most serious problem with international adoptions is that in many countries, the process by which governments decide that birth parents are no longer providing care for their child and that the child is available for intercountry adoption is not always transparent.

As a consequence, some American prospective adoptive parents have experienced the heartbreaking situation in which they have traveled abroad and adopted a child, only to discover that the child does not meet the orphan definition and cannot immediately immigrate to the United States. For example, sometimes a foreign country allows Americans to adopt a child who is not an orphan because their laws are different than ours. Sometimes, particularly in poor and underdeveloped countries, unregulated and unscrupulous agents and facilitators take advantage of inadequate infrastructure and safeguards to lead American prospective adoptive parents to believe a particular child is an orphan when a professional review of the paperwork reveals serious problems and irregularities.

As I mentioned before, under the Hague Convention, signatory governments will be responsible for certifying that a child is eligible to immigrate under the laws of the prospective adoptive parents’ country before they allow the adoption to take place. But prior to the Hague Convention being implemented and for non-signatory states, we are exploring ways to offer a voluntary service to prospective adoptive parents who are thinking about adopting in certain countries, in essence, to adjudicate orphan first. We are in the process of developing this process with the Department of State, and look forward to being in a position to share the details on this proposal shortly.

*Improving the Adoptions Process*

While exploring a voluntary “adjudicate orphan status first” service is the single most important initiative we have undertaken, the Task Force is also seeking to improve the process in three additional ways. The first has been to seek to improve communications with congressional staff and non-governmental stakeholders. The second is to improve internal processes, through documenting existing procedures, identifying best practices, and providing guidance in the form of field manuals, training materials, worksheets, and checklists. The third is to identify and begin working on longer-term goals, including centralized coordination within INS, and procedures and regulatory changes that require some time to implement.

*Communication*

We will do our best to ensure that clear guidance is provided to prospective parents, adoptions agencies, and other stakeholders on how the process works; what to expect at each stage in the adoption process; and the legal requirements that must be met for a child to immigrate to the United States in an international adoption. We continue to seek to explain to prospective parents that adoption and immigration are separate processes, and that, for example, fulfilling the adoption requirements of a foreign sending country does not necessarily mean that American immigration requirements have been met. We encourage other stakeholders, such as adoption agencies, to meet their own responsibilities in this regard. We will also continue to encourage domestic INS offices, and overseas posts, to communicate, openly and regularly with all the stakeholders in the adoptions process, including adoption agencies and prospective adoptive parents. As always, we seek to ensure that the latest information is available on the INS and State Department web-sites, so that everyone involved in the process has access to the best and most recent information available.

*Process Improvement—Short Term Initiatives*

The Adoptions Task Force, with assistance from the State Department, will be organizing a week-long training for new and experienced adoptions adjudicators working in domestic and overseas locations. A comprehensive range of updated and new materials will be introduced through this training, including policy guidance, training modules, worksheets, checklists, flow charts, and sample “best practices” standard letters and other communication techniques. The training will use real cases to walk our officers through the best techniques for working with prospective adoptive parents, evaluating evidence, and communicating their decisions. While much of the material developed for the training was obtained by identifying and documenting existing best practices, we have also developed some guidance in areas where policies needed to be developed and articulated, such as for conducting investigations involving possible child-buying, smuggling or trafficking.

This training, which encourages the use of standardized adjudication tools whenever possible, will provide more detailed guidance on the application of legal definitions and standards, and new guidance on when and how to conduct investigations, will improve the consistency and quality of our adjudications, and will provide our officers with a more consistent understanding on responsibilities under the regulations. We will also continue to encourage an open, constructive cooperation with prospective adoptive parents, which will help to ensure that the process is transparent and user-friendly.

*Process Improvement—Long Term Initiatives*

I recognize that the task we have set for ourselves—to introduce an important new pilot program to assist prospective adoptive parents, while at the same time improving our existing guidance and training tools and developing new ones—is very ambitious. But I believe that we can do it. The Adoptions Task Force has informed me that their initiative has been met with overwhelming support and enthusiasm from our field staff, who have been eager to donate their time to identifying best practices, developing guidance to improve quality and consistency, and even raising their own ideas about areas where they would like to receive additional guidance and suggested regulatory changes. This enthusiastic support has enabled the Adoptions Task Force to meet its ambitious goals.

Realistically, however, many of the processes begun by the Task Force will need to be shepherded through complicated clearance procedures, regulatory changes, automation updates and structural changes. For that reason, I am pleased to announce that we have identified a senior INS manager with extensive experience both in adjudications and overseas processes who will play a coordinating, policy development and oversight role for INS.

While these plans for longer-term changes will continue to develop, we have already identified some important priorities. The first, as we noted above, is to work closely with the State Department to introduce provisions consistent with the process envisioned in the Hague Convention and the IAA into our regulations for adoptions in non-signatory states, while encouraging all governments to sign the Convention or adopt comparable measures in their domestic law. The Adoptions Task Force is already in the process of drafting language for proposed regulatory changes for this and a number of other areas to bring our regulations into line with the IAA and anti-trafficking initiatives that were introduced after the regulations were last amended. Completion and clearance of standard operating procedures, an automated database to track and process cases, and a centralized authority within INS are among the other initial recommendations made by the Task Force for more careful consideration in the coming months. As was the case with the Adoptions Task Force, these longer-term initiatives will include extensive, open consultation with all governmental and non-governmental stakeholders in the process.

## CONCLUSION: CAUTION THAT THE PROCESS WILL NEVER BE SIMPLE

Improving the immigration determinations for which INS is responsible has been a matter of the highest priority for the Service since I have become Commissioner. I believe that we have a plan that will take us in the right direction. Yet I must introduce a note of caution. We cannot lose sight of the fact that many international adoptions take place in the context of some of the poorest and most unstable and underdeveloped nations in the world. Even with the significant improvements to our process that will be introduced by the Adoptions Task Force, the introduction of the IAA, and some of our longer-term regulatory and structural improvements, we will still face a complex and difficult situation in many of the countries from which Americans seek to adopt. Unregulated and unscrupulous agents and facilitators, including those that operate on the Internet, will continue, to try to insinuate them-

selves in the process, and to exploit the necessarily complex layers of interaction between agencies of different governments. We will need to continue to be vigilant that American citizens and the U.S. government do not unintentionally contribute to a situation where baby selling and buying can occur.

In conclusion, while I am realistic about the challenges we face, I am still confident that we can make considerable progress in a relatively short time in improving the adoptions process. By focusing on our main goals—a special initiative to “adjudicate orphan status first” to assist American prospective adoptive parents; better communication; clear field guidance and training; close coordination with all of our partners; and a longer-term, centrally coordinated regulatory structure to improve operations and introduce international standards—we can achieve something all of our stakeholders will appreciate and benefit from. This concludes my testimony and I look forward to responding to any questions that you may have.

Chairman HYDE. Ambassador Ryan.

**STATEMENT OF THE HONORABLE MARY RYAN, ASSISTANT SECRETARY FOR CONSULAR AFFAIRS, U.S. DEPARTMENT OF STATE**

Ms. RYAN. Mr. Chairman, and Members of the Committee, I am pleased to have the opportunity today to discuss international adoption and the role that the Hague Adoption Convention will play in helping to ensure transparency in the process, and provide protection to the child, the birth parents, and the adoptive parents.

I would like to outline the steps that we are taking to implement the Convention, and describe how the Convention and its implementing regulations will work to eliminate the current problems we see.

As we heard from Members of the Committee, the number of children adopted from abroad by U.S. citizens is increasing steadily. In fiscal year 2001, American citizens adopted 19,237 children from around the world, an increase of 18 percent from just 2 years ago.

I believe these adoptions have had a positive influence on the fabric of American life, and families throughout the United States have been enriched by the addition of these children. While intercountry adoption has had a positive impact on American families, the process is complex and can be very daunting. The paperwork involved, coupled with foreign laws and procedures, often make the process even more difficult.

While the majority of intercountry adoptions by American citizens are completed without difficulty, unforeseen problems and serious irregularities have led to heart-wrenching situations for some. One means of dealing with and avoiding these difficult situations is the Hague Intercountry Adoption Convention. We appreciate this Committee’s hard work on the Intercountry Adoption Act of 2000, and that will ensure the full and uniform implementation of the Convention throughout the United States.

The Convention establishes standards for protection for all parties involved in adoptions, and should help to streamline the process and protect its integrity. This will enable more children around the world to be part of a loving, supportive family, a goal we all share, and one every child deserves. Since enactment of the Intercountry Adoption Act on October 6, 2000, the State Department has worked closely with the INS and the Department of Health and Human Services to prepare Federal regulations to implement the Convention and the act in the United States.

During this process and consistent with congressional intent, we have repeatedly sought and included the input of the adoption community in the United States and qualified experts in intercountry adoption. The draft regulations are currently under internal review within the State Department, and we hope to submit them to OMB this summer and then publish the proposed rule in the Federal Register for public comment.

Simultaneously, we hope to enter into an agreement with one or more entities to accredited agencies and individuals wishing to provide adoption services under the Convention. Our goal is to complete the initial phase of accreditation by the end of 2003 and have a convention entered into force in the United States in 2004.

We see a number of major problem areas in international adoptions that we believe will be ameliorated by the Hague Adoption Convention. First, there are instances when the child has been adopted in his or her country of origin by U.S. citizen parents, yet is unable to immigrate to the United States with them. This occurs when a child comes to the U.S. Embassy for a visa and upon review of the adoption papers, the visa officer determines that the child is not an orphan under the definition in the Immigration and Nationality Act, and therefore is ineligible to immigrate.

The Convention and our implementing legislation require that a child be determined eligible to immigrate to the United States before the actual adoption or custody proceeding occurs. This will prevent parents from finding themselves in the traumatic situation of having a child for whom they are legally responsible under the laws of the sending country, but who cannot legally immigrate to the United States.

Another major problem in the United States is the lack of uniformity of State licensing. Most States do not have specific standards covering intercountry adoption. In fact, it is possible for agencies and individuals to provide international adoption services without being licensed in any State. Under these circumstances, it is extremely difficult to hold adoption agencies and individuals accountable if problems arise. Likewise, agencies currently cannot be held accountable for the actions of their agents or facilitators abroad, many of whom are untrained or unlicensed to provide adoption services. The Convention and implementing legislation will establish for the first time minimal Federal standards for the accreditation of adoption service providers. As part of the standards, agencies will also be held responsible for the actions of their facilitators abroad. A third problem is that some adoptive parents have not been adequately counseled prior to completing the international adoption, and may not be able to handle the special needs of the newly adopted child. The Convention will not solve this problem, but will help to limit its occurrence by requiring that all prospective adoptive parents receive adequate preadoption counseling provided or arranged by their adoption service provider.

In addition, adoption service providers will be required to supply follow-up services to these families. The last major problem is the absence of a single authoritative source of international adoption information in the United States. Many different organizations and government agencies provide information on adoption issues. Sometimes the information is inconsistent, and sometimes it is incorrect.



Under the Convention, the new U.S. Central Authority, which will be located in the Department of State, will become the central source of official and correct information for prospective parents, adoption service providers, and foreign governments.

We believe that the Convention will eliminate many of the problems that can occur in intercountry adoptions, and it will do so only for adoptions subject to the Convention. Right now, only about 10 percent of the intercountry adoptions of children coming to the United States come from convention countries. This will increase to over 50 percent when China and Russia, both signatories to the Convention and the two major source countries for adoption by American citizens, bring the treaty into force, we hope, in the not-too-distant future.

Even before the Convention enters into force in the United States, we will realize that there is a compelling need to address many of the problems I have described. The urgency of this need has been clearly and sadly demonstrated by the recent problems some American parents have encountered in adopting from Cambodia, and, to a lesser extent, Vietnam. Of particular concern is the fact that our current process allows for a child to be adopted whom might not later qualify as an orphan under the Immigration and Nationality Act; and, therefore, would be denied a visa to enter the United States. To address these and other needed reforms, the Department of State has joined with the INS in an initiative to evaluate the current process, and to recommend procedural and regulatory changes that will bring about a greater degree of transparency and surety to the adoption process. The goal is to extend to all adoptions, Hague and non-Hague, the safeguards provided by the Convention.

In closing, I thank the Committee for its interest in intercountry adoption and the support that the Congress has given the Department of State in our efforts to implement the Hague Adoption Convention. I am happy to answer any questions you might have.

Chairman HYDE. Thank you very much, Ambassador.

[The prepared statement of Ms. Ryan follows:]

PREPARED STATEMENT OF THE HONORABLE MARY RYAN, ASSISTANT SECRETARY FOR  
CONSULAR AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. Chairman and members of the Committee, I am pleased to have the opportunity to discuss international adoption and the role the Hague Adoption Convention will play in helping to ensure transparency in the process, and provide protection to the child, the birth parents, and the adoptive parents. I will focus my remarks today on the current situation in international adoption from the Department of State's perspective. I would like to outline the steps we are taking to implement the Hague Adoption Convention, its benefits, and how the Convention and its implementing regulations will work to remedy current problems we see.

I am pleased to be testifying today with Immigration and Naturalization Service Commissioner James Ziglar. Mr. Ziglar will discuss the joint efforts of the Immigration and Naturalization Service (INS) and the State Department to improve the overall intercountry adoption process. I should note here that the vast majority of intercountry adoption cases processed by the INS and the Department of State pose no difficulties and are handled expeditiously. For the majority of prospective adoptive parents the current process works well. Nevertheless, the current process does not prevent those relatively few cases in which a family has started the adoption process for a particular child only to find that the child does not meet the U.S. legal definition of an orphan, and cannot, therefore, be issued an immigrant visa. As you know, many of the issues associated with intercountry adoption generate intense concern, as recent problems in Cambodia and Vietnam demonstrate all too clearly.

Measures such as the implementation of the Hague Convention will help , as will the steps we are taking with the INS.

The number of children adopted from abroad by U.S. citizens is increasing yearly; in fact, we believe that U.S. citizens adopt more children from abroad than the citizens of all other countries combined. In fiscal year 2001, American citizens adopted 19,237 children from abroad. That is an increase of almost 18% in two years. The numbers are astounding, compared to just ten years ago, when international adoptions by U.S. citizens totaled 6,472. We can only expect the numbers to increase, as intercountry adoption becomes an increasingly viable option for many. These adoptions have also had a positive impact on the fabric of American life. Families throughout the United States have been enriched by the addition of these children.

Of course, family law in the United States, including adoption, rests with the individual States. Currently, the Federal Government's role is limited primarily to immigration processing, providing information, and working with foreign governments to ensure Americans are not discriminated against when adopting from abroad. The Department of State's Office of Children's Issues provides country-specific information about international adoption, general information about U.S. visa requirements, and other important information about travel situations, attorneys abroad, and how to authenticate documents for use abroad. The INS receives and processes applications for international adoption, screens prospective adoptive parents to determine that they are capable of providing proper care, determines, when appropriate, whether birth parents have consented to an intercountry adoption, ensures that a child meets the statutory definition of an orphan, determines whether a child has, in fact, been legally adopted or legal custody of the child has transferred, and processes the immigration and subsequent naturalization of adopted children. The Department of Health and Human Services (HHS) works with the states on adoption agency licensing issues and has extensive experience working with the states on special needs adoption issues.

While intercountry adoption has had a positive impact on American families , the process is complex and can be daunting. The paperwork involved, coupled with foreign laws and procedures, often makes this process even more difficult. While the majority of intercountry adoptions by American citizens are completed without difficulty, unforeseen problems and serious irregularities have led to heart-wrenching situations for some. One means of dealing with and avoiding these difficult situations is the Hague Intercountry Adoption Convention. We appreciate this Committee's hard work on the Intercountry Adoption Act of 2000 that will ensure the full and uniform implementation of the Convention throughout the United States. Today I would like to note just how important we believe the Convention will become. It represents the first multinational effort to safeguard children, birth parents, and adopting parents in the conduct of international adoption. Moreover, it establishes standards of protection for all parties involved and should help streamline the process and protect the integrity of intercountry adoption. This will enable more children around the world to be part of a loving, supportive family, a goal we all share and one that every child deserves.

The United States, as the world's major receiving country for children in intercountry adoption, naturally played an active role in the negotiations to develop this Convention and included in its delegation representatives from the U.S. adoption community and U.S. based NGO's. We believe that the United States' interests helped ensure that the Convention's requirements are realistic, can effectively protect the interests of children, the birth parents, and the adopting parents, and help prevent child trafficking, abductions, and fraud. Care was taken to ensure that the Convention imposes no requirement that would be unconstitutional in the United States or that would further complicate the already daunting process of adopting a child from abroad.

There was awareness by the drafters that for children who cannot expeditiously be placed for adoption in their country of origin, a properly safeguarded adoption that would place them into a permanent family residing in another country offered the child the otherwise unavailable opportunity to grow up in a family. This opportunity is generally recognized as essential for the "full and harmonious development of the child's personality," in the words of the Convention. In addition to legitimizing once and for all such intercountry adoption as a legal institution that is good for children, the aim of the Convention and its negotiators was to ensure that such adoptions take place when they are in the child's best interests and that the abduction or trafficking of children and other abuses are prevented.

Let me summarize the major provisions of the Convention. It requires that:

- Determinations, such as adoptability of the child, eligibility to immigrate, parent suitability and counseling, are made *before* the adoption can proceed.

- Every country must establish a national-government-level Central Authority to carry out certain functions that include cooperating with other Central Authorities, overseeing the implementation of the Convention in its country, and providing information on the laws of its country.
- Every country must establish a national process for uniform screening of adoption service providers.
- Adoptions certified as made in compliance with the Convention are entitled to recognition in all other party countries.
- Every party country is able to establish further conditions and restrictions beyond those specified in the Convention. And the Convention leaves many details of implementation up to party countries.

Since the enactment of the Intercountry Adoption Act on October 6, 2000, the Department of State has worked closely with the INS and HHS to prepare federal regulations to implement the Convention and the Act in the United States. During this process, and consistent with Congressional intent, we have sought and incorporated the input of the U.S. adoption community and qualified experts in intercountry adoption. The regulations will focus on the procedures and standards for accrediting adoption agencies wishing to provide international adoption services under the Convention. They also deal with the procedures for incoming and outgoing Hague Convention adoptions. The draft regulations are currently under internal review within the Department, and we hope to submit them to OMB this summer and then publish the proposed rule in the Federal Register for public comment. Simultaneously, we hope to enter into an agreement with one or more entities to accredit agencies and individuals wishing to provide adoption services under the Convention. Our goal is to complete the initial phase of accreditation by the end of 2003 and to have the Convention enter into force in the United States in 2004.

Despite the thousands of adoptions that go smoothly, there are those that are problematic, and we are certainly contacted about them. Some of them have implications that could shut off future adoptions for Americans. We walk a fine line in trying to assist the individual American citizen adoptive families, while at the same time working to keep the adoption process open for all families. Many of the problems I am about to discuss will be ameliorated by the Hague Adoption Convention. Let me briefly explain what the problems are and how the Convention and its implementation will help.

We see a number of major problem areas in international adoption. First, there are instances when the child has been adopted in his or her country of origin by U.S. citizen parents yet is unable to immigrate to the U.S. with them. For example, this can occur when the child comes to the U.S. Embassy for a visa, and upon review of the adoption papers, the visa officer determines that the child is not an orphan under the Immigration and Nationality Act, and thus ineligible to immigrate. The Convention and our implementing legislation require that a child be determined eligible to immigrate to the United States before the actual adoption or custody proceeding occurs. This will prevent parents from finding themselves in the traumatic position of having a child for whom they are legally responsible under the laws of the sending country, but who cannot legally immigrate to the United States.

Another major problem area we see in intercountry adoption is that there is no uniformity in state licensing of adoption agencies. Most States do not have specific standards covering intercountry adoptions. In fact, it is possible for agencies and individuals to provide international adoption services without being licensed in any State. In addition, prospective adoptive parents often work with providers in a State other than where they reside. Under these circumstances it is extremely difficult to hold adoption agencies and individuals accountable if problems arise. Likewise, agencies cannot be held accountable for the actions of their agents and facilitators abroad, many of whom are untrained and unlicensed to provide adoption services. The Convention and implementing legislation will address the lack of uniformity in licensing, establishing for the first time minimal federal standards for accreditation of adoption service providers, for those adoption agencies operating in countries that are party to the Convention. One or more accrediting entities will be designated to review applications from providers who wish to do adoption work in Hague countries. In addition, as part of the standards, agencies will be held responsible for the actions of their facilitators abroad.

A third problem is that some adoptive parents have not been adequately counseled prior to completing their adoption and may not be able to handle the special needs of their newly adopted child. As all parents have experienced, having a new child in the home can be stressful. Adding the different language and cultural factors or, as in many international adoptions, the special needs factor, makes the situation so difficult for some parents that they may seek to place the child for re-adop-

tion, relinquish custody to state child welfare authorities, or, in some cases, return the child to the country of origin. The Convention will not solve this problem, but it will help limit its occurrence by requiring that all prospective adoptive parents receive adequate pre-adoption counseling, provided or arranged by their adoption service provider. Pre-adoption counseling will certainly make the prospective adoptive parent aware of what an international adoption entails and better prepare them for life with their new child. In addition, the Convention and regulations will require the adoption service provider placing the child to be responsible for follow-up services, and in the rare instance when a placement disrupts before the adoption is final, they will have an obligation to seek a new adoptive home for the child.

The last problem area we see is that no one authoritative source of international adoption information exists in the United States. Many different organizations and government agencies provide information on adoption issues. Sometimes the information is inconsistent or incorrect. Under the Convention, the new U.S. Central Authority, which will be located in the Department of State, will provide a variety of information, including country-specific information on procedures. Prospective adoptive parents and adoption service providers, as well as foreign governments will be able to contact the U.S. Central Authority and be confident that the information received is official and correct.

While we believe the Convention will eliminate many of the problems that can occur in intercountry adoption, it will only do so in adoptions subject to the Convention. Currently, only about 10% of intercountry adoptions of children coming to the United States are from Convention countries. This will increase to over 50% when China and Russia, both signatories of the Convention and the two major source countries for adoptions by American citizens, bring the treaty into force in, we hope, the not too distant future. But even before the Convention enters into force in the United States, we realize that there is a compelling need to address many of the problems I have described. The urgency of this need has been clearly, and sadly, demonstrated by the recent problems some American families have encountered in adopting from Cambodia, and to a lesser extent from Vietnam. Of particular concern is the fact that our current process allows for a child to be adopted who might not later qualify as an orphan under the Immigration and Nationality Act and would be denied a visa to enter the United States. To address this and other needed reforms, the Department has joined the INS in an initiative to evaluate the current process and to recommend procedural and regulatory changes that will eliminate many of the current problems and bring a greater degree of transparency and surety to the adoption process. The goal is to extend to all adoptions, Hague and non-Hague, the safeguards provided by the Convention.

In closing, I would like to thank the Committee for its interest in intercountry adoption and the support the Congress has given the Department in our efforts to implement the Hague Adoption Convention. I would be glad to take your questions.

Chairman HYDE. Mr. Delahunt, do you have any questions.

Mr. DELAHUNT. Thank you, Mr. Chairman.

Again, let me applaud you for your efforts. The task force you have described really has taken some—initiated some major reforms. My concern is that as time passes, do you have the necessary resources to institutionalize these particular efforts? Don't be shy.

Mr. ZIGLAR. There is a three-letter answer, and a two-letter answer; and the two-letter answer is the more appropriate one. No, I don't have enough resources to do it as effectively as I would like to do it.

Mr. DELAHUNT. Thank you. That is very important information for this Committee. I am sure as I look down here I see Mr. Smith and Gilman, and obviously the Chair.

Chairman HYDE. And Mrs. Davis.

Mr. DELAHUNT. And Mrs. Davis. I am sure that you will find advocates to see that you do have the necessary resources.

Mr. ZIGLAR. One of the initiatives is to cross-train some other people in INS that do refugee processing and interviews and that sort of thing. One of the things that I want to do at the INS is to create a core of people that are cross-trained in doing a lot of

things so I can move people to different problem areas. This is not a static business, let me tell you. I am hoping I will be able to build these cores that can move and better leverage the resources we have. That is not a substitute for my answer.

Mr. DELAHUNT. I understand. Thank you.

One final question. Mr. Ziglar, the Child Citizenship Act that was also passed contemporaneously with the IAA provided for automatic citizenship for 150,000 young Americans by an action on February 28. Unfortunately, at that point in time, the INS was not prepared to issue certificates of citizenship when the act went into effect and continues to require these families to apply for certificates as though they still must seek naturalization for their children, which obviously is not the intent of the act.

It was done automatically, but parents want those certificates. Myself and Senator Nickles have been working with your staff to redesign the process so these families can obtain a document recognizing their status as United States citizens. I was wondering, do you have any information how close we are? Are we moving in the right direction?

Mr. ZIGLAR. Congressman, as I understand, it was a pretty confusing process for people. We had this form that was one form, and it tried to make distinctions. There are different kinds of citizenship issues. There are the biological parents, one parent is the biological parent, maybe a USC and then other situations where it was clearly adoptions, and the statute does require that certain things have to have occurred in order for that child to be qualified. In order to give the certificate, we had to have some information and it was pretty confusing about the way it was.

In early May, we proposed a revised set of forms that are much simpler and easier to identify what you have. That is out for comment now. The 30 days is running. It tries to fix what was done in June of 2001 in terms of the regs. Yes, we are trying to fix this issue, and we appreciate the help, frankly, that we have gotten from both sides of the Capitol.

Mr. DELAHUNT. That is good news. Thank you, Mr. Chairman.

Chairman HYDE. Mr. Gilman of New York.

Mr. GILMAN. Ms. Ryan, first we want to commend you for the wonderful work you do in the Consular Affairs Bureau.

As you know, the Intercountry Adoption Act was enacted about 18 months ago. The draft regulations posed on the Department's Web site some months ago have been generally well received, and it is expected that they be finalized by early this year. Can you tell us about the reasons for any delay and when the regulations will be issued?

Ms. RYAN. We hope to have them to OMB by this summer. We have consulted with the stakeholders, with all of the adoption providers that wanted to give us any information. Right now, sir, they are with our legal advisers' office. You know how it is when things get into the hands of lawyers. They want to make sure everything is legal. We are doing this in 190 countries, so we have to make sure that what we are doing is legal everywhere.

I hope by this summer we can give it to OMB and put it into the Federal Register for more comment. We are moving as fast as we can.

Mr. GILMAN. How long after the regulations go into force will it take for the Hague Convention to go into effect?

Ms. RYAN. We think by 2004 we can have the Hague Convention in effect here.

Mr. GILMAN. Is there any way of expediting that?

Ms. RYAN. We understand the urgency, and we are moving as quickly as possible. We certainly want to avoid repetition of what we are seeing in Cambodia.

Mr. GILMAN. Commissioner Ziglar, you testified about the Adjudicate Orphan Status First Initiative by your department. That will try to spot problems before a foreign adoption is completed, but many of our citizens who are planning to adopt overseas are typically being matched to a particular child whereby they receive the child's picture and information, and then they invest their resources and their hopes in that child well before the adoption process is complete.

Will your Adjudicate Orphan Status First Initiative result in adjudications early enough to prevent that from happening?

Mr. ZIGLAR. Congressman, it is a voluntary program and a prospective adoptive parent will sign up, if you will, for this program. They understand that they want to adopt in a country, and what happens is that a child may be identified to them, but they have not gone down the road at all. At that point we would do a preliminary investigation to make sure that there is nothing in that record, with respect to that child, that would make that child ineligible to come into the United States.

If the determination is that they are eligible, and obviously some may not be eligible, that parent can go forward with the adoption with good assurance that when we get to the immigration side of the process, that they are not going to have this difficult problem that an awful lot of Americans have encountered.

Mr. GILMAN. So your Adjudicate Orphan Status First will help in that respect?

Mr. ZIGLAR. Absolutely.

Mr. GILMAN. And it will prevent a misfit up the road?

Mr. ZIGLAR. That is the way that it is designed, Congressman.

Mr. GILMAN. It has been charged that the State Department Consular Office and INS officials have been unresponsive, uninformative and sometimes discourteous to prospective adoptive parents in Cambodia and elsewhere. Some adoptive parents have also suggested that consular officials might have shown some favoritism toward some adoption facilitators and bias against others. Have you looked into those kinds of charges?

Ms. RYAN. Yes, Mr. Gilman, I have looked into them. Let me say there is no excuse for unprofessional behavior by consular officers. We try very hard to be responsive. We think that the most important work that we do is with American citizens and protecting and advising American citizens abroad. I have always thought government has no more responsibility than the protection of its citizens abroad. If consular officers under my general supervision have been impolite or unresponsive or rude or callous in their treatment of American citizens, I apologize to you and to this Committee for that behavior. I think there is no excuse for unprofessional behavior.

We have looked into the allegations of favoritism. We have not found that they are substantiated. What we have found is that some, and this is particularly in Cambodia, some of the orphanages and/or facilitators routinely seem to us to have taken children who are not really adoptable, and other agencies, other facilitators at other orphanages have not done that. So we have more often dealt with the ones that have not been guilty of this practice.

What we have seen in Cambodia and the reason why the Commissioner, in my judgment, made a very wise and sound decision to put a moratorium in place is that parents, Cambodian parents who, in many cases, are really uneducated and unsophisticated, have placed children that they can't really care for appropriately in orphanages, in their own minds only temporarily, until their own situation improves. And then have gone back to the orphanage to see their child or to recover their child, only to be told that the child is no longer there, that the child has been adopted abroad. So we have a situation where Cambodian parents really do not want to give up a child for adoption, but unscrupulous people in the Cambodian government and Cambodian orphanages and other facilitators have done this in an effort to get money.

It is something that cried out for reform, and the Commissioner did exactly the right thing in my judgment in putting a moratorium in place until we can sort out this problem and make sure for everybody's sake, but especially for the sake of American parents, that they are not getting a child whose own mother and father really did not want to give them up.

Mr. GILMAN. Thank you, Mr. Chairman.

Chairman HYDE. The gentleman from New Jersey.

Mr. SMITH. I appreciate Mr. Gilman raising the question about Cambodia. I, too, like many other Members of the House and Senate have constituents who have tried and been frustrated, largely. We know it is a major problem, and we do not want baby selling and a repeat of what happened in Romania and other countries when those kinds of allegations which, unfortunately at times proved to be true, manifest themselves.

You mentioned in your testimony, and again in response to a question that the goal is to complete the initial phase of accreditation by the end of 2003 and have the Convention entered into force by 2004, is that the normal time line for a convention of this kind? Or is there some kind of delay that is involved here, other delay?

Ms. RYAN. Quite honestly, it is my first experience of doing. My bureau is going to be the central authority. I don't have a lot of experience in how long it takes to get conventions into force.

What we want to be sure of is that all of the adoption agencies and stakeholders in this country who want to participate in helping us draft the regulations have the opportunity to do that. We want to make sure that all of them have the opportunity to gain accreditation in this field in intercountry adoption before we implement. I can assure you, sir, that we are not delaying for the sake of delay. We are trying to get it right. I think that we are moving as quickly as we can right now in ensuring that we are going to get it right.

Mr. SMITH. Evan Donaldson, in their testimony for the Adoption Institute, points out that the final draft regulations do not set clear and enforceable service quality standards that will improve pro-

vider performance. For example, the final draft regulations fail to adequately delineate the legal, financial and fiduciary relationship between adoptive families that contract for services and the United States agencies and persons that provide them. It goes on with some additional criticism.

Ms. RYAN. That is something that we absolutely have to look at. I wasn't aware that people were objecting to that. Let me go back and take your question and give you a more thorough answer.

[The information referred to follows:]

RESPONSE SUBMITTED TO THE COMMITTEE BY MS. RYAN AFTER THE HEARING TO QUESTION ASKED BY THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

First, I think it is important to clarify that the "final draft regulations" referred to are the final product prepared by Acton Burnell and published on the Acton Burnell Web site. This document does not reflect the extensive revisions that we have made to the draft regulations that were submitted to us last fall. We have consulted extensively with the adoption experts that helped prepare the Acton Burnell draft and with the State Department's Legal Advisor as we have worked to prepare proposed regulations that we will submit to OMB and then publish in the Federal Register for public comment. It is our goal, as it is clearly the goal of the Congress, to provide a regime that improves the quality of service provided in intercountry adoptions and that leads to improved performance and accountability by adoption service providers. This includes a clear legal and financial contractual relationship between adopting parents and the service providers. The standards that must be met to qualify for accreditation or approval and the accreditation procedures we will establish in the proposed regulations will address the issues raised by the Adoption Institute. We will, of course, pay close attention to the public comments we receive and will consider appropriate revisions before we publish the final rule.

Ms. RYAN. We want people to be held accountable, particularly if they are not doing their work appropriately or properly. We certainly do not want American citizen parents who are among—I would have to say Americans are the most unselfish people in the world. Every time there is a crisis somewhere in the world, our office is inundated with calls from people wanting to know how they could adopt a child from that country and finding out how to get that child out of that situation. We want to ensure that that works. That American parents who are matched with a child abroad are able to take that baby and bring that baby here and raise that baby in their homes, to give that child all of the blessings of a family life and love of a mother and father. That is what we are trying to do and that is what we want. We never want to see a repeat of what we are going through in Cambodia.

Mr. SMITH. There are many recommendations that will be made at this hearing, and I am sure that this is not the first time that they have been tendered. Has there been any reaction by your shop to these recommendations?

Ms. RYAN. We have been in this consultative process for quite some time now trying to get from the adoption community in the United States their best recommendations on how we might go about to implement the Intercountry Adoption Act and the Hague Adoption Convention. I think we are in a sort of a constant dialogue with the stakeholders who are advising us and giving us very good counsel. We want to continue that process.

Mr. SMITH. One of the recommendations is to create an ombudsman or similar body that enables families engaged in the international adoption process to report and resolve complaints involv-



ing accredited agencies, approved persons, regulatory noncompliance, and to provide the service quality and outcome data generated by the accreditation process to be used to educate prospective adoptive parents, and there are a number of bullets of additional recommendations.

Ms. RYAN. We do not have a final decision on that. We are still looking at that.

Mr. SMITH. Okay.

Ms. RYAN. I will take your question and get you a more thorough answer.

[The information referred to follows:]

RESPONSE SUBMITTED TO THE COMMITTEE BY MS. RYAN AFTER THE HEARING TO QUESTION ASKED BY THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

As we revise the draft regulations we are considering the creation, independent of the accrediting entities, of a complaint registry that would review all complaints that are not resolved through the accredited agency's or approved person's own complaint mechanism, which the regulations will require as one of the standards of accreditation. The registry would record and screen unresolved complaints and, when appropriate, refer complaints to pertinent bodies, such as the accrediting entities or law enforcement agencies, for investigation and possible action. The registry also would look for patterns of complaints against a particular agency or person and make regular reports to the U.S. Central Authority. These reports would include the nature, number, disposition, and discernible patterns of complaints categorized by agency, types of allegations, response of the accrediting entity to referrals, and other criteria. We also are considering how and under what authority we could make available to the public information regarding the performance of accredited agencies and approved persons. Such disclosures would have to be consistent with the Inter-country Adoption Act and other applicable laws.

Mr. SMITH. Thank you, Mr. Chairman, for yielding to me.

Chairman HYDE. Thank you, Mr. Smith.

Mrs. Davis.

Mrs. JO ANN DAVIS OF VIRGINIA. Mr. Ziglar, you said in your testimony that since the suspension of the adoptions in Cambodia, about 125 have succeeded to be adopted. How many total were put on hold, do you know; and of those total that are on hold, how many are ineligible for adoption?

Mr. ZIGLAR. That number was about 240 or so, I believe, that were impacted. That is a rough—I used to know it. I am getting old.

Mrs. JO ANN DAVIS OF VIRGINIA. Me, too.

Mr. ZIGLAR. There has been a phase sort of situation. At the time of the adoption suspension, what we did was paroled in a few cases that were really critical at that point, and they have gone through the process to complete their process here, which is an unusual, extraordinary initiative to do, and something that we do not do lightly.

At the same time we also went ahead with the processing of those cases that already had their interviews, if you will, at the embassy there. Then the new initiative that we put into place which affected people who had their I-600A, which had been approved, and who also had a so-called final adoption decree from Cambodia, which is not actually a final adoption, but they had gone through that legal process at least that far, we put them into the first initiative, if you will. Those folks constituted about 147 or 148 children. The number I actually think that had been approved was

about 127 children. There are 10 cases that we have sent back for an advertisement period.

Under Cambodian law, they have to advertise for 90 days to make sure that the parents have an opportunity to come forward and claim their children. There are nine cases that are still in the investigation stage. Let me just say something I said in my testimony, not every case is going to get approved because we have found some things that are not so good.

The second initiative that we just announced last week, how people that were not further down in the process, and those were people who did not have their I-600A's sent to the Cambodian government who had been identified to a child, or matched, as it were, but only had what is referred to as the "picture on the refrigerator," but had not gone through any other legal procedures. Those are "but-for" cases. We are processing those. I believe there are 95 potential cases.

Then there are a number of cases out there that clearly had no match to any child, may have had I-600A's that had not even been sent to the embassy, and an indication of an interest in adopting in Cambodia. In those cases, they are not in this new initiative. Of those cases, something like 60 of those people have already withdrawn from Cambodia and reapplied elsewhere. Forty-something of those cases we cannot even get a response back, so they have lost interest.

Mrs. JO ANN DAVIS OF VIRGINIA. The real question I have is that the 600A form necessary for international adoption is currently valid for only 18 months. For some adopting families, including some of my constituents, this has created a hardship because of the length of time and delays with the foreign countries. Would the INS consider waiving the fee for renewal of the 600A form or would you consider administratively extending the time from 18 months to 24 months?

Mr. ZIGLAR. We have told every family, if you want to switch to another country, you can switch to that country without any fee or anything which is not the normal process. We have waived that fee change to a different country.

Mrs. JO ANN DAVIS OF VIRGINIA. Does it go to another 18 months when it is sent to another country? Does it start all over again?

Mr. ZIGLAR. I apologize. Some of these questions I don't know the answer to. I try to learn them.

If they go to another country, the 18 month expires and they have to have another home study, and I am told that we will waive the fee. But they do have to have the home study.

Mrs. JO ANN DAVIS OF VIRGINIA. So you would not be in favor of administratively extending it to a 24-month period? Would you look at that?

Mr. ZIGLAR. Of course.

Mrs. JO ANN DAVIS OF VIRGINIA. Thank you, Mr. Chairman.

Chairman HYDE. One last question. We have heard some Members of Congress are considering legislation that would require INS and the State Department to notify Congress 30 days before suspending visa processing for adopted children in a particular country. Do you have any comments or thoughts about this proposal?

Mr. ZIGLAR. Mr. Chairman, as you know, I am a creature of the Congress. I like Congress, and I like to talk to Congress. We do not always agree on everything, but I think a 30-day public notice requirement would probably be somewhat ill-advised. The reason I say that is because I think you would have a rush to the courthouse and create very untoward situations in some of the countries.

If the problem is such that we would get to a suspension, it is probably not a good idea to do it that way. I have to tell you one of the things that I am trying to do, and Assistant Secretary Ryan is trying to do, is create a process, so if we had a long time to talk about this, the lessons learned from what we did in Cambodia are huge. Knowing what you have in front of you in terms of who is there, communicating, doing the investigations early on with respect to adoptions, all that sort of thing, suspension ought to be the last resort in any situation that we have.

I would suggest that certainly the process we are trying to put in place would be one in which a suspension, I hope, you will never see again. It will be pretty bad if we have to do it. We will have failed at every point on the road. We are trying to correct the problem before we get there.

Chairman HYDE. I agree. I am not enthralled with the idea. I thought I would give you a chance to talk about it. I don't see what good it would do.

Mr. ZIGLAR. I am glad to hear that. That way I will not have to change my position.

Chairman HYDE. Thank you for your patience, and for your illuminating answers.

Mr. ZIGLAR. Mr. Chairman, one last comment. Something that bothered me, I heard a while back that there are allegations that babies had died because of our delay in Cambodian orphanages. When I heard that, I obviously was disturbed about it, and I asked for a review of whether that was, in fact, the case. Our people did review it.

What we found was that in some of the orphanages where some of the kids were subject to our review, babies had died. But what I did and this does not make it any better, but what I did ascertain was that none of those children were children that had been matched to Americans. I don't know that I felt better. I did feel better that it wasn't because of our process, although I didn't feel better about babies dying.

There were rumors about that, but our investigation revealed that none of those children were matched to U.S. citizens and the visa process. I wanted to put that on record because it concerned me greatly.

Chairman HYDE. Thank you.

I would like to extend a warm welcome to our second panel of witnesses. Ms. Susan Cox is the Vice President of Public Policy and External Affairs for Holt International Children's Services, the oldest and largest adoption agency in the world.

Adopted from Korea in 1956, Ms. Cox has served as an adviser to the Congressional Coalition on Adoption and the Office of Overseas Citizens Services of the U.S. Department of State. Ms. Cox was also appointed to the first White House Commission on Asian

Americans and Pacific Islanders and serves on the Advisory Committee for Voluntary Foreign Aid for the U.S. Agency for International Development. Welcome, Ms. Cox.

Next we have Cindy Freidmutter, the Executive Director of the Evan B. Donaldson Adoption Institute. She is re-engineering the organization to take a leadership role in national law reform and policy development. Trained as a lawyer, Ms. Freidmutter has served as President and CEO of Managed Care Innovations, Inc., as a director of housing development at the New York State Office of Mental Health and as the deputy policy director at the Office of the New York City Council President.

Ms. Freidmutter is the mother of a 4-year old son, Daniel adopted in 1998 from Russia. Welcome.

Next we have Ms. Kimberly Edmonds-Woulfe. Ms. Edmonds-Woulfe has served in the U.S. Army as a nurse and later became an occupational therapist. Ms. Edmonds-Woulfe and her husband, Tom, adopted their daughter from Cambodia in 2001. We welcome Ms. Edmonds-Woulfe and all of the witnesses. We ask that you confine your statements to 5 minutes. We will not ring a gong or anything if you go beyond that, but that gives you a target. The rest of your statements, if you have written ones will be included in the record, and then we will have time for questions.

I am going to ask Ms. Edmonds-Woulfe to testify first. Ms. Edmonds-Woulfe, if you will proceed.

**STATEMENT OF KIMBERLY EDMONDS-WOULFE, AN ADOPTIVE PARENT**

Ms. EDMONDS-WOULFE. A lot of points in my written testimony have already been addressed here, so I am going to leave a lot of that out and just summarize and just give a little bit of information about my particular experience in the Cambodian adoption process.

In April 2001, my husband and I began the process of international adoption and chose the country of Cambodia. We went through all of the paperwork and everything was done appropriately according to our knowledge. We got to Cambodia after receiving an invitation to come to the embassy for a visa appointment and we were told on several occasions that our appointment was going to be cancelled but were never told why. On October 17, 2 weeks later, we met with one of the embassy counselors who asked us to pay our fee for our child's visa, and then we would go back into a room and discuss the child's visa. She told us there was an investigation in place, and that we would not be issued visas for our children.

I posed several questions: What was being investigated and what the actual charges were. Her answer was she could not tell us that because that would tip their hand in the investigation. We asked why were we not told of this investigation prior to departing the U.S., and she said she had tried to notify as many agencies as possible by e-mail or fax. I asked her to produce some of those notifications, and she said she could not do that. When asked how long the investigation was going to last, her answer was it was 1½ weeks at best, to 4 weeks at most. Remember, this was October 17. We asked why we were issued embassy appointments if they had known all along there was going to be an investigation underway,

and her answer was we were not really sure until all of your paperwork was here, and we were able to review these cases and indeed there was going to be an investigation.

We asked why the Web site did not contain some warning because we had checked it before leaving the United States. We had talked to the intercountry adoption coordinator in the State of Illinois. There were no warnings that there were any problem going on in Cambodia. She said it takes a long time to update a Web site. However, 2 days after our question, the Web site was updated about warnings about Cambodia.

I said to her to my understanding all of the paperwork is intact. I am not understanding what the problem is here. The adoption is completed. I have the adoption paperwork according to the Cambodian law. I have been to the giving and receiving ceremony. She looked at me and said anything can be bought for a price in Cambodia.

We asked if there was paperwork missing, what paperwork was needed, and she said our facilitator would know that, and we should ask him.

So from October 17 to November 6, I, along with several other American families, went to the embassy on numerous occasions. We were denied access to speak to any of the counselors. We were hung up on. We were told to take our children back to an orphanage with absolutely no explanation, told to go back to the United States ourselves because Cambodia was no longer safe, but never really given reasons why we were being told all of these comments.

We were told all along during the 6-week process you will know something in 2 weeks. It wasn't until around the November 6 time frame that we finally heard the word "baby trafficking." This was all over the papers in Cambodia. We were getting calls from our families in the United States wanting to know if our children were bought and sold in Cambodia. Families have headlines that children are bought and sold in Cambodia. These are things that our children are going to have to look back on in 17 years, yet we have never been given any proof that that was really the case.

I think that what appalls me the most is how we were treated by the embassy officials in Cambodia. We were seen as part of the problem instead of being treated with compassion and dignity. We were hung up on. We were lied to, told there was an investigation going on, and not until we met with Ambassador Weiderman did we find out that there wasn't an investigation going on, that there was one in the works.

When we finally met with the Ambassador thinking that we were going to get answers to our problems, it was apparent to all of us that he had absolutely no clue what was going on. He was more concerned with his toothache, which he brought to our attention several times, than he was with our heartache regarding the situation that was going on.

I guess my concern through all of this is that as Americans we were doing what we were told was the right thing to do. We had all of our paperwork in order, and we were invited to come to a foreign country 2 days after September 11, and for no reason whatsoever were strung along. To this date, none of the children in our 13 families has there been any evidence that has come forward to

really substantiate the fact that our children were part of any baby trafficking ring.

According to Mary Ryan's comment earlier that there was no substantiation that there was preferential treatment given to certain facilitators in Cambodia, I sat there for 6 weeks and watched our families who were dealing with one facilitator be on hold while all other families who dealt with any other facilitator came through Cambodia, were gotten to the embassy, and got their visa, and took their baby out of the country.

How can she say that there was no substantiation of any preferential treatment given to any facilitators in Cambodia when it was obvious that we were the only ones being held up at that particular time?

And I think it is time that the Department of State be held accountable for the way they treated us and the effect that they had on our lives and continue to have on our lives today, with no substantiation whatsoever that we have seen of the alleged baby trafficking. Thank you.

Chairman HYDE. Thank you.

[The prepared statement of Ms. Edmonds-Woulfe follows:]

PREPARED STATEMENT OF KIMBERLY EDMONDS-WOULFE, AN ADOPTIVE PARENT

Dear Members of the International Relations Committee,

In April, 2001 my husband and I set out to adopt a child from Cambodia. On September 10 a release letter was sent from the US embassy, Phnom Penh, to the Cambodian ministry of foreign affairs stating that we had successfully met all pre-adoption requirements. We arrived in Cambodia on September 30, 2001, with a scheduled embassy appointment for October 9. The appointment was changed to the 15th and then again to the 17th. My husband returned to the United States while I stayed in Cambodia with our daughter.

On October 17, two other American families and I met with a US embassy official and were told we would not receive a visa for our children as an investigation was underway. At that time I posed the following questions:

- What is being investigated?
- What are the actual charges?  
Answer: "We cannot tell you as that would tip our hand".
- Why were we not told of this investigation before departing the US?  
Answer: "We tried to notify as many agencies as possible by email or fax".  
When asked to produce copies of these notices, none were produced.
- How long will the investigation last?  
Answer: One and a half weeks at best, four weeks at most.
- Why were we issued embassy appointments if they knew this investigation was underway?  
Answer: "We don't know if your paperwork is in order until you arrive here and we review each case".
- Why does your website not contain a warning of the investigation?  
Answer: It takes weeks for the website to be updated. Oddly enough, two days later the website contained a warning.
- To our understanding we have completed all the Cambodian paperwork and have officially adopted our children.  
Reply: "Anything can be bought for a price in Cambodia". It was implied we were missing needed documents, but were not told which ones or what the process was to obtain them. We were told our facilitator knew which documents were missing.

From October 17 to November 6, many attempts were made to obtain information from the embassy, both in person and via phone calls. We received no assistance from them. In fact, we were treated rudely. For example they hung up on us, coldly told us to take our children back to the orphanage, told us to stop calling our senators and congressman, as they would be no help to us, told us to go back to the

United States as it was not safe in Cambodia, accused us of threatening them, etc. We kept being told we would know something in "two weeks".

It was during this time that we first heard the words "baby trafficking". We noticed other adoptive parents leaving with their children. We compared paperwork and found we had all the paperwork they did. So what were we missing? We noticed only families from our facilitator were being denied visas. We had been told he was not the only one being investigated.

On November 6 we had a meeting with Ambassador Wiedeman. It was apparent at that time he did not have a clue what was going on. He claimed there was evidence of baby trafficking. He told us he would get information from the INS and get back to us within a week. He told us he would arrange childcare for our children if we elected to return to the United States, so we would not have to return our children to the orphanage. He never did arrange childcare.

We then heard that an official from Bangkok would be arriving in Phnom Penh to begin the investigation. Begin the investigation? We were told the investigation was underway weeks before!!

On November 13 we were called to a meeting with the INS. We were told we would receive information about our cases. Instead, it felt like an interrogation. I was sworn in and videotaped while asked question after question. How much money have you paid? To whom have you paid it? Have you paid money to anyone in country? Have you been to the orphanage? How many times? How do you get to the orphanage? Describe the orphanage? In return I received no information. Again I was told I would be notified in two weeks regarding the investigation.

On November 30 we received a "Notice of Intent to Deny" from the INS. Half of which went to the wrong hotel. The NOID for my daughter contained information pertaining to two of the other adopted children. That is, the INS cited particulars from their cases as reasons for denying my child's visa. In the course of their investigation, they did not speak to anyone who had ultimate authority in the case. They went to an official's house and when he wasn't home, they spoke to his wife. They went to speak to another official, but spoke to someone passing by on a motorcycle instead. They presumed documents weren't filed with the Cambodian government without checking with the Cambodian government. What kind of investigation is that?

Two weeks later we responded to the NOID, disputing all allegations.

On December 19, ABC News aired a program on 20/20 that demonstrated the poor investigative efforts of the INS, and disputed many of their allegations. The backlash was quick and harsh. The public outcry was so intense, the INS informed us on December 21 that we could bring our children home on parole. Imagine that, my six month old child is on parole even though she has done nothing wrong.

The thing that really upsets me is that this nightmare continues. Some families are coming home, while others continue to wait. The INS throws out terms like "transparent adoption system". What is that?

Why was a blanket suspension issued by the INS when their guidelines clearly state, each case will be evaluated on a case by case basis?

There have been repeated requests for proof of adoption abuse from Congress and the private sector. To date, none has been provided. The INS and DOS continue to throw around the verbiage of "baby trafficking". Show me the proof!

Families have had their Cable 37's in Cambodia since October (Mark and Rhonda Benz), but DOS has not forwarded this to the Cambodian Ministry. Why? Is it inept staff at the embassy or discrimination against certain facilitators?

John and Laurie Bend received a referral for their daughter not long after I received mine. They should have gotten their daughter about the same time I did. They just brought her home two weeks ago. They missed many developmental milestones and she missed bonding with her mother and father. Again I say, show me the proof. Show me the evidence that allows a country to be completely shut down rather than having each case decided on its own merits.

Members of the Committee, it is time to hold the INS/DOS accountable for their actions. It is vital that you understand what their misconduct has caused. Children have died and suffered serious medical consequences as a result of malnutrition and illness. These children could be alive and in loving homes in America. Other children are reaching the age of eight, when Cambodia no longer allows them to be adopted.

The statistics for infant and child mortality in Cambodia are devastating. Many children, if not adopted, have futures of begging or prostitution to look forward to.

Therefore, we must demand INS show us the proof of adoption abuse or open Cambodia and allow American families to bring their children home. Legislation should be passed that would require INS to give congress 30 days notice before suspending any international adoption procedures.

We cannot let this travesty continue. Please put an end to this nightmare.  
Thank you.

Chairman HYDE. Ms. Freidmutter.

**STATEMENT OF CINDY FREIDMUTTER, EXECUTIVE DIRECTOR,  
EVAN B. DONALDSON ADOPTION INSTITUTE**

Ms. FREIDMUTTER. Mr. Chairman, Members of the Committee, thank you for allowing me to testify today. It has been a very high priority for the Evan B. Donaldson Adoption Institute to ensure that the Hague Treaty and the Intercountry Adoption Act (IAA) are implemented effectively, and we have been working with the State Department for the last year to urge them to tailor the regulations to address the most serious problems in international adoption. The last draft that has been published we think simply does not do what the primary purpose of the IAA was designed to do: protect the rights and prevent abuses against children, adoptive families, and birth families.

International adoption, as you have all heard, there are a lot more international adoptions than there were 10 years ago, and it is evolving into a potentially lucrative but a largely unregulated business. We estimated that close to \$200 million is being spent on international adoption services in this country, conservatively. And one of the things that most concerns the Institute is the effect of market forces and what that does to international adoption in terms of the threat to the welfare of children, birth parents, and prospective adoptive parents.

There are many recommendations we have made and I have submitted detailed recommendations for the record, but there are three critical issues I want to address with you today. And the first I think is the one that most directly bears on the kinds of issues that are being raised about Cambodia and Vietnam. I think potentially the kind of issue that might be raised broadly internationally is that right now U.S. providers are requiring American citizens to carry substantial amounts of money abroad to pay for adoption fees, and we believe that these new regulations need to prohibit that practice.

The Adoption Institute did a survey of families who adopted internationally. There has been no kind of systemic effort to gather information from American families as these regulations are being drafted. So we tried to gather more information and we found that 75 percent out the 1,600 families who responded to our questionnaire, 75 percent were required to carry cash abroad to pay adoption fees, and three quarters of those people paid more than \$3,000.

American businesses do business in the countries that are the major sending countries all the time, and they don't take suitcases and truckloads of cash abroad in order to do business. The fact that American families are carrying so much cash, that how that money is used is not documented, we have to believe, raises an enormous potential problem in terms of creating incentives for dangerous and sometimes illegal practices.

I just want to say that I was one of those parents that was required—told a week before I was going overseas to adopt my son, that I would have to take the last \$10,000 payment overseas strapped to my body in \$100 bills, and when I went to Citibank to



take out that money, I had never had that amount of cash on my person before and I was trying to explain I wasn't a drug dealer. They said,

“Oh, no, we know you are adopting overseas. We get loads of people like you all the time.”

It is a part of my son's adoption story that I never want to have to tell him, but I am telling it today because I am not alone; and it is both embarrassing, scary and totally unnecessary. And if we care about ethical adoption, we need to set standards in our country and overseas where this kind of practice simply cannot happen again, and we need to place responsibility on U.S. providers to be accountable to the families that they contract with for the fees they charge and how those fees are paid.

We also want to raise a second issue, which is adoption service contracts that families in this country sign with U.S. agencies. When you sign a contract with an agency in the United States, you expect that agency to be responsible for the agents overseas; you expect that contract to tell you what services are provided, how much you have to pay, who is legally responsible, and how you resolve complaints. And so far, the regulations as we have seen them have simply not addressed that issue in any kind of clear way. In most of the States, if you use a home repair contractor, there are more strict requirements than right now for adoption services, and I think it is simply unacceptable to American families.

We have given some very detailed and specific recommendations about what we think those contracts should include, but when we surveyed Americans we found that 15 percent reported that their agencies withheld information or told them inaccurate information about the child. Another 15 percent said they received inaccurate information about the process, and 14 percent said the adoptions cost more than their agency said it would cost. That is not acceptable as a business practice. And if we think if we are going to be accrediting agencies in country, we need to create a business-like relationship between the families and the agencies.

And just as a third issue, what I think is really critical that Congress and the Administration address is educating adoptive parents. Right now there is no way to get objective information about the hundreds of international adoption service providers in this country and the hundreds that I expect will be accredited. There should be, just the way there is in other areas, a way to provide objective information based upon the accreditation process: How are these agencies adhering to the standards that are being set by this government; what is their performance like?

And, again, when we surveyed Americans, 13 percent of the families who adopted said they were not satisfied with the services they received from their agencies, and 14 percent wouldn't recommend them to other families.

We want Americans to have a good experience with adoption, and the way we can do that very inexpensively and I think very effectively is to publish a consumer's handbook so consumers know what their rights are. If we are setting some standards, do we expect adoptive parents like us to be combing the Federal Register? I certainly wasn't prepared to do that when I adopted. We should

be able to look at a consumer report card and look at the basic information about agencies that is known by the Federal Government. We also want to be able to compare services, quality of services, cost of services, the time frames that it is taking agencies to process adoptions. That kind of information would make a big difference in the experience Americans have.

We also feel the regulations are much too imprecise right now, at least the draft that we have been able to review, about the liability that providers have for their agents overseas and the kind of liability insurance they have to cover problems. When you contract with an agency in New York or Chicago or California, you don't want to be told that the person who is really doing most of the work for you is not their employee, and they are not responsible, and you are on your own when you are in Moscow or any other city in the world. What do you do at that point when you are an American citizen?

We need to make sure, if we want to have ethical and legal adoptions, that whoever these agencies are using overseas are folks that they know and can rely on and that they are responsible for, and I think that would make a huge difference in the quality of services that people are receiving.

And the final point that I want to make is on the issue of health information for children. One of the big gaps in the draft regulations that have been published is that they don't really mandate that agencies provide all the information that is known, that can be known about the child's health status. And it is really important for American families to know the issues that are affecting the children that they are agreeing to parent, and there is a lot that is not going to be known about the health issues of children who are in Third World countries with very little access to health care. But a lot of things are known. We should be setting a standard for the kind of information to be gathered about these children's health status and their health histories before they come to this country, and that information may never be retrievable.

Access to genetic information, to be able to get some information from their biological families if that is possible, and in many countries that is possible; to have a clear, clean health record that is understandable to the American doctor, we should be aiming for that. That may not be possible in every country for every child, but we should be setting a standard; and so far the regulations we have seen have not addressed that issue in any kind of detail that would be acceptable to the American sort of medical standard.

The Institute would like very much to work with Congress and the Administration to make sure that the adoptive families and children overseas and their biological parents are treated ethically. And we want to see an independent entity, not just accrediting agencies, but also providing a resource to families in this country and to families overseas, if that becomes necessary, so that complaints can be worked out, information is clear and concise; and that Congress and the Administration get briefings on problems that go to the systemic problems that we uncover in accreditation, not just the individual processing of paper for hundreds of agencies.

We can fix and have a better system in this country. And I agree with Senator Landrieu it can be a model, it should be a model for the world. But I think that we are still, at least from the last draft we saw, we have a long way to go to reach that in the regulatory process.

Mr. SMITH OF NEW JERSEY. [Presiding.] Thank you very much for your testimony.

[The prepared statement of Ms. Freidmutter follows:]

PREPARED STATEMENT OF CINDY FREIDMUTTER, EXECUTIVE DIRECTOR, EVAN B. DONALDSON ADOPTION INSTITUTE

Thank you for inviting me to testify about how the federal government can effectively implement the Hague Convention and the Intercountry Adoption Act (IAA) to improve international adoption services for adoptive families, birth parents and adopted children and ensure a more ethical adoption environment internationally. I represent the Evan B. Donaldson Adoption Institute (Adoption Institute), a not-for-profit national policy and research organization devoted to improving the quality of adoption policy and practice, and the public's perception of adoption. Throughout the regulatory drafting process, the Adoption Institute has advocated that the State Department tailor the regulations to address the most serious problems with international adoption. Unfortunately, the current draft regulations will not fulfill a primary purpose of the IAA—"protect[ing] the rights of, and prevent[ing] abuses against children, birth families, and adoptive parents involved in adoption."<sup>1</sup>

International adoption has evolved into a potentially lucrative and largely unregulated business. Over the last decade, the number of international adoptions by Americans has increased threefold from about 6,500 in 1992 to over 19,000 in 2001. Accurate information is not currently compiled by any reliable source about the aggregate fees charged for international adoption services. One can reasonably estimate, however, that U.S. adoptive parents spent close to \$200 million in 2001 for international adoption services.<sup>2</sup> As the number of international adoptions has grown, there has been a corresponding sharp escalation in the number of individuals and agencies, here and abroad, involved in facilitating the adoption process. In 1989, only a handful of adoptions took place in Russia and China, but by 2001, these two countries accounted for nearly half of all international adoptions by Americans. By the end of the 1990s, there were 80 U.S. agencies active in Russia and 150 active in China.<sup>3</sup> The market forces inherent in international adoption pose a potential threat to the welfare of children, as well as their birth parents and prospective adoptive parents.

Evidence and experience highlight three critical issues with international adoption services provided in the United States, which the Adoption Institute urges the State Department to address in the IAA regulations.

*First, U.S. providers should be directly responsible for all financial transactions with and payments to their contractors and agents in other countries, and should be accountable to families who rely on their representations about fees.*

U.S. families who adopt internationally are generally told by their agencies to carry substantial amounts of cash abroad to pay fees, a dangerous and sometimes illegal practice. A recent Adoption Institute survey of over 1,600 American families who adopted internationally through U.S. agencies found that three out of four families were required by their agencies to carry cash to their adoptive child's country of origin to pay adoption service fees, with most directed to bring \$3,000 or more. And 11% of all respondents stated that when they were overseas, agency facilitators asked them to pay additional fees that were not disclosed by the agencies.

It is logical to presume that undocumented cash transactions by American adoptive families are a major factor in fostering unethical practices overseas. The current draft regulations, however, will not curb this practice by only requiring "an official and recorded means of fund transfer, *whenever possible*."<sup>4</sup> In order to reduce financial incentives that may lead to illegal and unethical practices, financial transactions must be transparent and recorded. IAA regulations should require providers

<sup>1</sup> Intercountry Adoption Act P.L. 106-279 § 2(b)(2).

<sup>2</sup> The estimate conservatively assumes an average of \$10,000 per finalized adoption for services provided domestically and overseas (not including orphanage "contributions", travel costs and home studies).

<sup>3</sup> Freundlich, M. *Adoption and Ethics, The Market Forces in Adoption*, An Evan B. Donaldson Adoption Institute Report published by CWLA Press (2000), 43.

<sup>4</sup> Acton Burnell Final Draft Regulations Part 96.13 I.3.

to develop an official and recorded means of fund transfer, unless the State Department issues a written determination that it is not possible to do so in a specific country.

*Second, adoption service contracts between providers and prospective adoptive families should create a clear and predictable business relationship by enumerating in plain language the services to be provided, the fees to be paid, the legal responsibility of the adoption agencies for staff, agents and subcontractors, the complaint resolution processes and other critical information.*

Currently, U.S. families adopting internationally are not afforded basic consumer legal protections. While many parents who adopt internationally sign a contract with their adoption agencies, these “contracts” too often fail to create a fair and clear business relationship with respect to services, fees and legal responsibility. Consequently, families have no recourse when agencies do not provide promised services, give them inaccurate information, or increase the fees while the adoption is in process, problems which happen to a significant minority of families.

Of the 1,600 families who responded to the Adoption Institute’s survey,

- 15% reported that their agency withheld information or told them inaccurate information about the child,
- Another 15% said their agency withheld information or told them inaccurate information about the adoption process, and
- 14% said their adoption cost more than the agency told them it would cost.

The regulations should specify the type of information that must be included in adoption service contracts. Contracts protect parents and providers alike, providing clarity about the parties’ respective roles and responsibilities, and guidance to courts in the event of disputes. While the draft regulations require providers to disclose “fully and in writing” their policies and practices, inexplicably they do not mandate that providers include that information in adoption service contracts.<sup>5</sup> Similarly, the draft regulations require that some, but not all, fee information be disclosed in contracts.<sup>6</sup> The bottom line is that prospective adoptive parents should not have to comb through the Code of Federal Regulations to insure that their agencies are providing legally required information and services at agreed-upon fees.

*Third, prospective adoptive parents should have access to objective information to guide their choice of international adoption service providers.*

One of the simplest and most effective ways of accomplishing a primary purpose of the IAA—“prevent[ing] abuses against . . . adoptive parents”<sup>7</sup>—is to provide them with the information they need to make informed choices about providers. Information about service quality and provider performance would likely enhance prospective adoptive parents’ ability to make educated decisions, thereby improving their satisfaction rates. Currently, a significant minority of parents who responded to the Adoption Institute survey were not happy with their agencies performance:

- 13% were not satisfied with the services they received from adoption agencies.
- 14% would not recommend their agency to other families.

The draft regulations do not address consumer education in an effective manner. There is no requirement that an independent entity publish comparable performance information that would help prospective adoptive families make informed choices. Publication of such information would also create a strong incentive for “weaker” providers to improve service quality and performance. The regulations should mandate that service quality and outcome data generated by the accreditation process be used to educate prospective adoptive families about provider performance in the following ways:

- Publication of a consumer handbook explaining the regulation of providers, and accreditation and complaint processes,
- Creation of an annual consumer report card, available on the Internet and in print, that evaluates providers’ compliance with the regulations and key quality indicators, and
- Providing access on the Internet and in print to provider-specific comparable service quality, performance and cost information.

The Adoption Institute has also recommended that the State Department adopt the following additional strategies to fundamentally improve the quality of inter-

<sup>5</sup> Regulations Part 96.13 H.1.

<sup>6</sup> Regulations Part 96.13 I.

<sup>7</sup> IAA § 2(b)(2).

national adoption practice. By incorporating these proposals into the regulations, the Adoption Institute believes that the federal government will dramatically improve actual experience with and public perception of international adoption.

- Identify poor quality providers in a timely manner, and create a regulatory enforcement climate where they either meet standards or lose accreditation.
- Require providers to be legally responsible to the families who contract with them for acts of their agents and contractors in the United States and abroad.
- Mandate that providers carry liability insurance that reflects the risk of work conducted by all its agents and contractors.
- Ensure prospective adoptive families receive access to the best available information about referred children.
- Guarantee adopted persons and their families access to their adoption records to the fullest extent permitted by the Hague Convention and IAA.
- Create an Ombudsman or similar independent entity that enables families engaged in international adoption to report and resolve complaints involving providers' regulatory noncompliance. An Ombudsman would also:
  - Provide consumer education about the complaint process.
  - Facilitate timely resolution of consumer complaints.
  - Routinely analyze complaint patterns and outcome data to identify providers that are in violation of regulatory standards.
  - Advise Congress and the State Department about ongoing problems, and the impact of the regulations and accreditation process on improving service quality.

I appreciate the opportunity to share the Adoption Institute's perspective on improving international adoption services. I hope you will allow me to submit for the record the Adoption Institute's recent more detailed recommendations to the State Department on the IAA regulations.

Mr. SMITH OF NEW JERSEY. And I just would note for the record that Chairman Hyde is a conferee on the Bankruptcy Protection Act which is in conference with the Senate, and he had to leave for that work. I, too, have to leave momentarily. I am going to be over on the Senate side. I am making a presentation over there. Jo Ann Davis will take the chair, but I would like you to answer a question after Ms. Cox presents her testimony, and I am sorry I won't get to hear it but I have read it.

Let me ask you, you heard Ambassador Ryan's—Secretary Ryan's response to me and to others. But when I raised the issue of not only the time line but the input that is being made or provided, her specific recommendations, she in a sense took a pass, and wanted to get back and provide us with more detailed information. But it did concern me a bit that there wasn't an immediate response to some of these issues that you raised.

What kind of interface do you have and does the community have with those who are writing these regulations? Do you just submit something and hope that somehow somebody will grab it out of your recommendations and incorporate it? Or is there a dynamic process whereby there is a lot of give and take, not unlike what you are doing here?

Ms. Woulfe, I have a constituent, two constituents who have tried to adopt, one who is actually in the country right now, and have run into the same buzz saw, as well as some of the impoliteness that you have experienced. And that is totally, absolutely unacceptable. We all serve you the people, whether it be Executive Branch, people who work in the bureaucracy, or Members of Congress, and to me that is a very, very important issue. At least you

deserve respect and not being shown the door or being told about a toothache.

But at the appropriate time after Ms. Cox, if you wouldn't mind responding to that, because this information shows there is still time, 2003, with final regs in 2004, which seems to be an inordinate amount of time from my point of view. There could be a hurry-up offense when we want to, when there is a political will to get from here to there, sooner rather than later. So if you could do that, I would like to turn the Chair over to the distinguished gentlelady from Virginia, Ms. Davis.

And please, Ms. Cox, if you could proceed.

**STATEMENT OF SUSAN SOON-KEUM COX, VICE PRESIDENT OF PUBLIC POLICY AND EXTERNAL SERVICES, HOLT INTERNATIONAL CHILDREN'S SERVICES**

Ms. COX. Thank you. Madam Chair and Members of the Committee, I am honored to appear today to testify about international adoption. My name is Susan Soon-keum Cox, I am Vice President of Holt International Children's Services in Eugene, Oregon. Since 1956, Holt has placed approximately 50,000 children from 20 countries with adoptive families. I have been an adoption professional for more than 25 years, and I have had the privilege of seeing adoption programs in many countries, and I have witnessed tremendous changes in intercountry adoption. But, sadly, what has not changed is that the number of homeless children has not diminished but increased.

Worldwide, 200,000 children have been adopted internationally and more than half those children have come to the United States. There are now two generations of international adoptees who are living in this country, and the larger the numbers become, the greater the critical mass, the more diligent we must be in setting ethical standards that protect and ensure that birth families, adoptive parents, and especially the children, be protected and safe. This diligence is also necessary to protect the institution of intercountry adoption and the hope that it represents for generations of children into the future.

This hearing today demonstrates the degree to which international adoption has come front and center onto the public stage, and all of us must be committed to the big-picture, long-term process of international adoption over the short-term immediate result for a particular child.

An unfaltering commitment of international adoption must be that it is intended as a means to find families for children, rather than to find children for families.

Holt International believes that the single most important solution to the concerns and issues regarding international adoption is the Hague Convention, and that process must move forward with urgency.

There are some other immediate solutions that would also remove some barriers. Because of the extended length of time that adoptions are taking overseas we would like to recommend that the I-600A application expiration be extended from 18 months to 2 years. It will not compromise the ethical practice of adoption but it will greatly relieve the burden to families.

Thanks to the leadership of Representative Delahunt and others, the Child Citizenship Act of 2000 represented equity and citizenship for international adoptees that never was possible before; however, there is still no streamlined procedure to require a certificate of citizenship, and it is eagerly awaited by adoptive families.

Further, we would like to request that automatic citizenship be retroactive to adoptees who are over the age of 18.

Without minimizing the serious issues that must be addressed regarding international adoption, it is also critical not to overlook the fact that ethical adoptions do happen every day. Although recent history in Cambodia has had a chilling effect on the international adoption community, it was not the first time to happen. Irregularities whenever they occur really demonstrate how fragile the balance of intercountry adoption. There is no room to disregard or circumvent the process. Proper documentation is not just a nice idea, it is absolutely necessary. The consequences are too devastating and too painful.

When we see and hear the stories of shattered lives and hopes and dreams of someone who is longing to become a family, to love a child that is already a son or daughter to them because they are so dear, it is natural and right to react to that terrible moment in someone's life, but it is not the only immediate circumstance that has to be considered and that hangs in the balance; it is the thousands of children of the future, whose only hope for a family is adoption. That must be considered and protected as well. Thank you.

Mrs. DAVIS OF VIRGINIA. [Presiding.] Thank you, Mrs. Cox, and thank you panel members and Mr. Delahunt.

[The prepared statement of Ms. Cox follows:]

PREPARED STATEMENT OF SUSAN SOON-KEUM COX, VICE PRESIDENT OF PUBLIC POLICY AND EXTERNAL SERVICES, HOLT INTERNATIONAL CHILDREN'S SERVICES

INTERNATIONAL ADOPTION: PROBLEMS AND SOLUTIONS

I am honored to appear before the House Committee on International Relations to testify about international adoption. My name is Susan Soon-keum Cox, I am Vice President of Public Policy and External Affairs for Holt International Children's Services in Eugene, Oregon.

Holt pioneered intercountry adoptions from Korea in 1956, and has placed approximately 50,000 children from 20 countries with adoptive families in the United States. I have been an adoption professional for more than 25 years and I have had the privilege of visiting adoption and child welfare programs in many countries. I have witnessed tremendous changes in intercountry adoption practice. Some of these changes have moved the practice forward—some have not. Sadly, what has not changed is that the number of homeless children has not diminished, but increased. That reality requires a critical examination of the problems associated with international adoption and a determination to find solutions.

In 1956 when mixed raced Korean children were sent to adoptive families in the U.S. and Europe it was considered an outrageous notion that children of one race, culture and nationality could be successfully transplanted from one country to another. Particularly since these were generally white families adopting Korean children. Many considered it a crazy social experiment. But in spite of the skeptics—it worked.

Worldwide, approximately 200,000 children have come to their families through international adoption, more than half of those children have come to families in the United States. In 2001, nearly 20,000 children were adopted internationally by U.S. citizens. The numbers are expected to increase as the practice of international adoption becomes more accepted by both the countries sending children abroad for adoption, and the countries receiving them.

International adoption should never be the first line of defense for homeless children. It is not meant to be a solution to world poverty, civil unrest, or urban migration. However, for literally thousands of children throughout the world intercountry adoption is the only viable possibility for them to have a permanent loving family. Whenever there is a disaster, whether from natural causes, armed conflict or human atrocities, the predictable consequence is that children are the most vulnerable. Their survival, both immediate and long-term, is the most fragile.

There is nothing that elicits deeper passion than issues regarding children. International adoption has always been controversial and often misunderstood. It is a life long process, one that is generational even beyond the generation that the child comes into the family. The more ordinary international adoption becomes, the larger the numbers, the greater the critical mass, the more diligent we must be in setting ethical standards that protect and assures that birth parents, adoptive parents and especially the children be protected and safe. This diligence is also necessary to protect the institution of intercountry adoption and the hope it represents for generations of children in the future.

This hearing today demonstrates the degree to which international adoption has come front and center onto the public stage. It is also a significant step in facing up to the challenges. More importantly, caring enough to do whatever is necessary to examine the problems and committed enough to discover solutions.

International adoption is complex and complicated. That is unavoidable when you consider how multi layered the process. It extends between different cultures, languages, time zones, laws, currencies and the bureaucracies of at least two governments. Providing ethical adoption services requires more than learning the laws, procedures and nuances unique to a particular country and program.

Adoption agencies, facilitators, adoptive parents, and adoption advocates must be committed to the big-picture, long-term process of international adoption over the short-term immediate result for a particular child. Policies and practices must be established recognizing the greater good for children that will be served.

*An unfaltering commitment of adoption should be that it is intended as a means to provide families for children, rather than children for families.* This is especially critical in international adoption where it is the children of one country being taken to another. The simplistic assumption that a poor child in a developing country will have a preferred life with a family in a 'rich' country is misguided, imperialistic and overlooks the sacrifice and loss, not only to the sending country, but to the child.

#### INTERNATIONAL ADOPTION—THE PROBLEMS:

##### *Issues of cost, accountability and regulation of international adoption:*

One of the greatest concerns in international adoption is the expense of adopting a child. Costs can vary from a few thousand dollars, to \$30,000 or more. It is appropriate to charge fees for services. However, there is not always a direct relationship between the two activities and little consistency regarding fees and services delivered.

In the 1970's there were only a few countries placing their children for adoption overseas, and a handful of agencies placing them. As the number of countries with international adoption programs increased, so have the number of agencies and individuals placing them. According the National Adoption Information Clearing House, those numbers have bloated to nearly 500. For perspective adoptive families, there is little to guide them in determining the quality and the agency they are considering.

Ethical adoption practice is not determined by the size of a program or agency. There are large and small agencies that provide sound ethical adoption services. The philosophy and commitment to strong professional child welfare principles is the measurement of a good program. International adoption is not simply a legal process; it is a life long process, which requires consistent social work practices.

To ensure ethical adoptions there must be transparency and full disclosure when it comes to identifying and explaining costs related to adoption activity. This includes disclosure of expenses directly related to overseas program activity. Many international adoptions are provided by non-profit organizations that must comply with U.S. regulations. However, non-profit status does not necessarily ensure ethical practice or standards regarding costs.

International adoption is undeniably a business, and there are legitimate expenses associated with managing and operating legitimate program activity. Adoption practitioners are required to know the complex adoption requirements in the U.S. as well as the ever-changing international requirements. It is not the standard cost of providing services that is problematic; it is the inflated expenses passed on to families that create ethical land mines. The appearance of 'buying and selling'



of children is unavoidable when the cost of an international adoption far exceeds the local yearly income of a family. It is in the best interest of adoption agencies and practitioners to set the ethical standards that avoid even the appearance of profiting at the expense of children and families.

*The impact of institutionalization on children: health, development and attachment implications:*

A majority of children adopted internationally will have spent some or all of their childhood in an orphanage or institution. The quality and condition of orphanages vary greatly and are affected by resources, staff and the overall commitment to abandoned children in general. In the last decade, an increased understanding of the medical and psychological affects of institutionalization has emerged. It is recognized that there is a direct relationship between the length of time a child is institutionalized and the anticipated consequences in their physical and emotional development. According to some medical experts, children who have spent time in an institution must be considered high-risk placements or potentially children with special needs. These are critical issues that have lifelong implications for children and the families who adopt them.

*The issues of race, culture and national origin:*

As intercountry adoption has evolved and matured, there is less fear and anxiety about the necessity of proving its appropriateness. More attention and concern needs to focus on educating and preparing adoptive families to embrace the child's birth country and ethnicity as valued and necessary to assure the well being of the adopted child.

The majority of international adoptees are a different race than their adoptive parents and other family members. Most are children of color. This defining reality must be acknowledged and accepted by adoptive parents. They should not consider themselves a Caucasian family with a child of color; they must accept that they are an interracial family. International adoptees are a unique population. As a different race from their adoptive parents, they are consistently called upon to validate (often to strangers) that they are a "real" family.

*Access to background information and informed decision-making by prospective adoptive parents:*

International adoption presents unique challenges in securing accurate and truthful background information and history on individual children. Differences in culture, language, terminology, and the competence of medical resources all profoundly affect this process. The access to information and the quality and reliability of information varies widely country by country. From countries where programs are well established and sophisticated, child information can be very complete and available. Routinely this information is held by orphanages, institutions or hospitals that are under the authority of government ministries. The range of cooperation on the part of these authorities is often irregular and inconsistent.

While it is often difficult to obtain reliable child background information, it is the highest priority to make every effort to secure as much information as possible and provide documentation of the efforts undertaken. It is further the responsibility of adoption providers to consistently inform, educate and pursue reform and understanding on the part of overseas officials who hold authority over both the information and the process. Difficulty in securing information is not an excuse for failing to make diligent attempts.

In establishing working relationships with overseas partners, child information must be a shared priority. If deliberate or falsified information is suspected, the relationship should be terminated immediately. Wishfully assuming that the end justifies the means is irresponsible. Perspective adoptive parents are entitled to information they can trust. Conversely, if no information exists, families should be confident that is indeed true. Adoptees are entitled to know with certainty that the story of their personal history was preserved as it actually happened. Whether or not an adoptee chooses to search for birth family, this information must never be corrupted or falsified or deleted.

In addition to preserving the information, care should be taken to preserve and protect original documents. Transferring the data through modern technology should not eliminate the notes handwritten in the margins, the perhaps soiled original paperwork that has been touched by fingerprints no longer seen, but whose essence stays forever on the paper. These are undeniably precious to adoptive families, particularly to adoptees.

Following the presentation of child information, perspective adoptive parents should have a reasonable period of time to allow a thoughtful and unprepared response. Subtle or overt coercion is a violation of ethical practice. To alter truth to

more positively present a child cannot be condoned or excused. It risks the future not only for individual children, but the future of international adoption. Realistically, even the most responsible efforts sometimes fall short of perfection. It is the commitment made to doing all that can be done within the limits of authority and circumstances that affect positive change.

#### INTERCOUNTRY ADOPTION—THE SOLUTIONS:

##### *The Hague Convention:*

In the past few years there have been some exciting and positive advancement in international adoption. The Hague Convention is the most significant and will establish a worldwide process of institutionalizing, standardizing and improving international adoption practice. It will also make the process more accountable and eliminate the opportunity for exploitation and those who refuse to comply to agreed-upon international standards.

The adoption community has welcomed the opportunity to provide input and respond to draft regulations. Given the recent concerns about international adoption activity in a variety of countries in the last few months, and moratoriums or threatened adoption moratorium from some countries, it is more critical than ever that The Hague Convention process move forward quickly. We urge the Department of State and the Administration to give thoughtful but swift review and approval to proceed toward finalized regulations and implementation. The Hague Convention is the is the most viable opportunity to elevate the ethical practice of intercountry adoption globally.

To assure The Hague can be implemented effectively, the necessary and appropriate investment in funding support must be made up front to establish a system that is adequate. Anything less will undermine from the potential of The Hague.

##### *The Child Citizenship Act:*

There have been actions to simplify and streamline the complicated adoption process. Thanks to the leadership of Representative Bill Delahunt and others, for adoptive families, the Child Citizen Act was the most tangible evidence of what could be done to eliminate duplication and barriers to adoption. This action was enthusiastically welcomed by everyone in the international adoption community, including the countries sending children to the U.S. for adoption. For the first time it provided a new level of equity for children adopted internationally.

Hundreds of adoptive families celebrated this historic milestone at Faneuil in Boston when the law went into effect in February of 2001. Thousands of adoptive families around the country anticipated automatic citizenship for their internationally adopted children. However, what was expected as the elimination of an expensive and time-consuming procedure has not been realized.

Proof of citizenship has not been 'streamlined' as allowed by this new law; instead it has been replaced with confusion as families attempt to comply on behalf of their children. The INS could positively and directly affect thousands of adoptive families by developing a simple procedure for documentation of citizenship that would not require families securing a U.S. passport for their child. This is considered long overdue and we request this be given highest priority by the Immigration and Naturalization Service.

#### CONCLUSION:

Without minimizing the serious issues that must be addressed regarding international adoption, it is critical not to overlook the fact that ethical adoptions do happen every day. Those committed to a high standard of ethics are the most concerned that the process be reviewed and strengthened by removing those who do not intend to follow the regulations that will be established by The Hague Convention.

Although recent history in Cambodia has had a chilling affect on the international adoption community, it was not the first time to happen. Irregularities, wherever they occur reminds us again how fragile the balance can be that holds international adoption together. There is no room to disregard or circumvent the process, for carelessness, inattention or lack of commitment. Proper documentation isn't just a nice idea; it is absolutely necessity.

The consequences are too devastating and painful. When we see and hear stories of the shattered lives and hopes and dreams of someone longing to become a family, of loving a child that is already a son or daughter because they feel it so deeply—it is natural and right to react to that terrible moment in someone's life.

But it is not only the immediate circumstance that hangs in the balance. It is the thousands of children of the future whose only hope will be adoption that must be considered and protected as well.

Mr. DELAHUNT. Thank you for your testimony, it has been very enlightening.

And Ms. Edmonds-Woulfe, your story is particularly poignant. I think we can empathize and know what your experience was. I would suggest that out of the pain that you have experienced personally, and others similarly situated whom I note here today, we have learned a lot. We have learned a lot. And I daresay it shall never happen again.

Ms. Freidmutter, your observations I think are insightful. I see Ms. Coleman busily writing there. As you indicated, these are draft regulations. I am sure that the right people are listening, particularly on the issue of cash. I was unaware, to be very candid, that that was an issue. I just can't imagine walking around in some—in any nation, but particularly a Third World nation, carrying a lot of cash. I mean, first of all, in terms of the process itself, it is an invitation to corruption. I mean, that is rather obvious. But, again, let me compliment you in your testimony.

And, Susan, your recommendation in terms of the amendment to the Citizenship Act is fascinating and interesting. I think as some on the panel know, maybe that the Chairlady doesn't know, that my daughter came via Holt, and I have a particular affection for anyone associated with Holt. So I will conclude there and I won't ask any questions.

Mrs. DAVIS OF VIRGINIA. Thank you, Mr. Delahunt. I believe we have some votes on right now, but I think I probably have time to ask a question if you are not going to have any more.

My question is probably more to you, Ms. Freidmutter. You mentioned health. And my question is: What are the most common medical problems that we find that occur with the international adoption, if you know, and how can we best address those problems?

Ms. FREIDMUTTER. Depending on the country, the problems sometimes vary. Fetal alcohol syndrome, clearly in Eastern Europe, has been a prevalent problem. Hepatitis has been a problem in China. I am not the expert on this sort of thing—there are a number of infectious diseases, a number of prenatal conditions, fetal alcohol syndrome being one. The effects of malnutrition, environmental problems in various countries, the issues of neglect, sometimes not intentional neglect in orphanages, are huge. My own son, who is biologically extremely healthy and had none of those more serious illnesses was a 10th percentile in weight when I got him, practically starving to death just from lack of attention, in a well-heated building, an orphanage that was doing their best in Russia to care for him. On a scale of orphanages internationally, he was getting fairly good care. But children who stay for long periods of time, without adults who can love and nurture them, just fail to thrive. It is one prevalent—on top of very serious illnesses that children suffer, that is a prevalent one. And just a lack of good nutrition, lack of stimulation, can cause lifelong problems for children.

Mrs. DAVIS OF VIRGINIA. Were you prepared for that?

Ms. FREIDMUTTER. I was prepared for it, because I have a background in health and I research it very much. I think I wasn't prepared for the several years it took to help my son achieve nor-

malcy. I think that one of the good points of the regulations—I raised some issues I thought were deficient in the regulations.

One of the best things, one enormously positive thing about the regulations, it mandates six services, which is something that is not provided at this point. One of them is preadoptive service, education about children in the process. These children who come out of orphanages and foster care from other countries may need several years or more of remedial help from families. They may have a set of illnesses that we don't see often. My son had intestinal parasites. I caught them. Not life-threatening, but very unpleasant. We were not prepared for all of the issues.

A lot of children receive early intervention services and should. There are things we can do in this country that are not available in other countries because of our incredible health system and incredible education system, but I think parents are often not prepared for what they need to look for and do.

Mrs. DAVIS OF VIRGINIA. Ms. Cox.

Ms. COX. Madam Chair, if I could just add to that, I think we don't acknowledge enough the process of adoption includes very often that children have been in institutions and the effect that that has on children. But more than that, it is the ability of families to be able to rely upon the information that they receive from their provider, and the diligence that there is to securing information that is dependable, and that there is a commitment to the quality of that information, and that families be prepared to know all of the range of things that could be possible and then to be able to make decisions upon parenting children with that information in hand.

Mrs. DAVIS OF VIRGINIA. I would like to say, Ms. Cox, I was glad to hear you say you are recommending the I-600A—

Ms. COX. I was glad to hear you say that earlier as well.

Mrs. DAVIS OF VIRGINIA. And I would hope you will continue to push that. I have constituents that have called, and that is a big problem for them.

Ms. COX. Yes.

Mrs. DAVIS OF VIRGINIA. If you will just bear with me 1 second.

Rather than keep the panelists, we do have three votes on and I don't see anyone else here that has questions, so I am going to adjourn the Committee, and just really appreciate you all being here and keep up the good fight and work to get the proper regulations in there. Thank you so much.

[Whereupon, at 1:21 p.m., the Committee was adjourned.]

## A P P E N D I X

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### MATERIAL SUBMITTED FOR THE HEARING RECORD

QUESTIONS FOR THE RECORD SUBMITTED AFTER THE HEARING BY THE HONORABLE HENRY J. HYDE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS, AND CHAIRMAN, COMMITTEE ON INTERNATIONAL RELATIONS TO ASSISTANT SECRETARY RYAN AND COMMISSIONER ZIGLAR AND THEIR RESPONSES

Question for the Record submitted to:  
 Ambassador Mary Ryan  
 House International Relations Committee  
 May 22, 2002

4. Please provide the number of orphan visas issued to adopted children in Cambodia and the dates they were issued from September 15, 2002, until December 21, 2002. Please provide the names of the orphanage from which these children came.

Following is a list of visas issued broken down by date of issuance and orphanage. Note: (1) This list does not include cases granted humanitarian parole by INS in December 2001. (2) Department of State regulations do not require immigrant visa files to be retained by posts after issuance. Embassy Phnom Penh did retain some information, but it does not always contain the orphanage name.

September 26, 2001	Name of orphanage not available	1 Child
September 27, 2001	Name of orphanage not available	3 Children
October 2, 2001	Women and Orphan Vocational Training Center, Sihanoukville	2 Children
October 2, 2001	Orphan Center, Kampong Speu	1 Child
October 3, 2001	Cambodia Orphan Services, Phum Rotean Kiensvay District	3 Children
October 4, 2001	Cambodia Orphan Services, Phum Rotean Kiensvay District	1 Child
October 10, 2001	Kampong Cham Orphanage Center	2 Children
October 16, 2001	Name of orphanage not available	1 Child

October 16, 2001	Kien Klaing Orphanage, Phnom Penh	2 Children
October 17, 2001	Kien Klaing Orphanage, Phnom Penh	2 Children
October 17, 2001	Orphanage of Pursat	4 Children
October 18, 2001	Name of orphanage not available	1 Child
October 24, 2001	Name of orphanage not available	1 Child
October 24, 2001	Orphanage of Pursat	1 Child
October 24, 2001	Kien Klaing Orphanage, Phnom Penh	1 Child
October 25, 2001	Name of orphanage not available	3 Children
October 25, 2001	Orphanage of Pursat	1 Child
October 29, 2001	Name of orphanage not available	1 Child
November 19, 2001	Name of orphanage not available	2 Children
December 4, 2001	Kien Klaing Orphanage, Phnom Penh	2 Children
December 12, 2001	Orphanage of Pursat	2 Children
December 12, 2001	Name of orphanage not available	1 Child
December 12, 2001	Kampong Thom Orphanage	1 Child
December 14, 2001	Cambodia Orphan Services, Phum Rotean Kiensvay District	1 Child

Question for the Record submitted to:  
Ambassador Mary Ryan  
House International Relations Committee  
May 22, 2002

5. Please provide the number of "release letters" that were sent to the Cambodian Minister of Foreign Affairs from September 15, 2002, until December 21, 2002, on behalf of U.S. citizens seeking to adopt in Cambodia and the dates these letters were issued.

Following is a list of "release letters" sent to the Cambodian Ministry of Foreign Affairs broken down by date.

September 19, 2001	2 letters
September 20, 2001	9 letters
September 21, 2001	2 letters
September 24, 2001	5 letters
October 2, 2001	18 letters
October 5, 2001	4 letters
October 10, 2001	1 letter
October 16, 2001	23 letters
October 17, 2001	6 letters
October 18, 2001	11 letters
October 19, 2001	9 letters
October 20, 2001	1 letter
October 29, 2001	1 letter
November 21, 2001	1 letter
November 27, 2001	9 letters



November 29, 2001	6 letters
December 5, 2001	10 letters
December 7, 2001	6 letters
December 18, 2001	54 letters
December 21, 2001	4 letters

Question for the Record submitted to:  
Ambassador Mary Ryan  
House International Relations Committee  
May 22, 2002

6. Is it the usual practice at U.S. diplomatic and consular posts overseas to date stamp official documents (such as "cable 37s") sent by the U.S. Immigration and Naturalization Service to notify the overseas post that a U.S. family has been approved to adopt in the country in which the post is located?

While it is usual practice to record the date that required documents are received at post in connection with an immigrant visa case, Visas 37 are not date stamped because the cable itself contains a record of when it was received at post.

Let me note that processing orphan cases chronologically based on the date that a Visas 37 or approved I-600A is received at post is not recommended practice. The approval of an Application for Advanced Processing of an Orphan Petition is not sufficient to approve an I-600 Petition to Classify an Orphan as an Immediate Relative, as documents such as the host country adoption or custody decree, a birth certificate, and the like are also required.

Question for the Record submitted to:  
Ambassador Mary Ryan  
House International Relations Committee  
May 22, 2002

7. What discretion, if any, are consular officers authorized to exercise when issuing documents to verify facts that United States citizens may be required to establish in the course of foreign countries' adoption processes? For example, I am informed that Cambodian law requires a U.S. citizen to present a "release letter" from the U.S. government to verify that the U.S. citizen has been approved by INS to adopt overseas. This is a question of fact and would appear to be easily ascertainable by a consular officer. Are consular officers required to provide such documentation upon request, or are they authorized to refuse such requests? Please provide whatever information you can about the source and scope of the discretion, if any, exercised by consular officers in such cases.

There is no provision under State Department regulations or procedures for consular officers to provide "additional information" in adoption cases. Some posts, however, have used their discretion and issued additional documentation, such as the "release letter" in Cambodia, as a courtesy to the prospective adoptive parents. The Immigration and Naturalization Service approves individuals to adopt overseas and provides them with documentation to that effect. Some countries have, at times, requested written confirmation from the U.S. Embassy or Consulate that U.S. citizens have been approved to adopt. It is the Department's position that the documentation issued by the INS is sufficient to establish an individual's approval to

adopt, making such additional documentation redundant and unnecessary. The Department is generally able to discourage host governments from requiring such documents on this basis. Since adoption is a private legal matter between the adopting parents and the government of the to-be-adopted child's country, it is the responsibility of the adopting parents to provide all the necessary documentation to the appropriate authorities. Our embassies and consulates have no official role in the transmission of this documentation, other than notarial services that may be required.

Question for the Record submitted to:  
Ambassador Mary Ryan  
House International Relations Committee  
May 22, 2002

8. In a March 11, 2002, letter to Members of Congress,  
Commissioner Ziglar stated:

The Department of State (DOS) and INS have uncovered significant evidence of widespread fraud since the Cambodian Government lifted its own moratorium on international adoptions in March 2001. There are substantiated concerns about the exploitation of innocent children who may have been separated from their biological families through fraud, trafficking, coercion, or other criminal activity?

Please provide a detailed summary of the evidence the Department of State has uncovered of widespread fraud in the adoption process in Cambodia, as well as of evidence that children were separated from their families through fraud, trafficking, coercion, or other criminal activity.

We have received acknowledgements of fraud by Cambodian officials. We have observed local court cases implicating certain orphanages and facilitators in baby trafficking.

We have read media investigative reports, and possess reams and reams of fraudulent paperwork. Not a single U.S. government official, DOS or INS, who has looked closely at how orphans in Cambodia are handled doubts that endemic and pervasive fraud is imbedded in this adoption system.

Thus far, we have uncovered two egregious cases where we have proof that facilitators have attempted to secure intercountry adoptions for children who are not orphans.

In August 2001, Embassy Phnom Penh received notification that a particular American couple had received INS approval to adopt a Cambodian child. As is common, that couple signed a Power of Attorney giving their Cambodian facilitator the right to represent them in the adoption process. Separately, on September 9<sup>th</sup>, Cambodian police raided the orphanage of another Cambodian facilitator, and arrested orphanage staff members. Two mothers whose children had been taken from them with the understanding that they could visit their children and retrieve them when their situations improved, but in fact were prevented from either visiting or retrieving their children, recognized newspaper photos of one of the arrestees. These two mothers enlisted the help of a local NGO to retrieve their children. On October 2<sup>nd</sup>, a government orphanage certified to the Cambodian Ministry of Social Welfare that the American couple wished to adopt an infant described in the orphanage records as abandoned by an unnamed person on June 15<sup>th</sup> at that orphanage. Within 24 hours, the Ministry determined that it had no objection to the adoption of this infant, given the name Rath Borin, and on October 19<sup>th</sup> a certificate of adoption was signed, officially matching Rath Borin to this couple. In the meantime, a Cambodian court investigation into the raided orphanage discovered

the two infants being sought by their mothers at the first facilitator's orphanage. Shortly after this discovery, the NGO assisting the women gave the U.S. Embassy in Phnom Penh photographs of the two missing infants. Embassy officers matched one of the photos to the infant known as Rath Borin in the American couple's adoption file, which was awaiting processing. On December 4<sup>th</sup>, the first facilitator was forced to return the two babies, including Rath Borin, to their natural mothers. An INS field investigation determined that Rath Borin had never been in the custody of the government orphanage.

Another example of the type of document fraud rife in Cambodia is demonstrated in the orphan cases of two sisters. The children were coached to tell Embassy officials false ages (we know because they were able to tell us their birth years) and their paperwork listed their ages as eight and five years old. The Task Force eventually established their true ages as eleven and six years old. Based on information provided by the children, the Joint Task Force tracked down the parents of these children to a town 600 kilometers from Phnom Penh. The parents gave their children to an orphanage for temporary

care and were desperately trying to locate the child when the Task Force team visited their village.

Another common feature of the endemic fraud in the Cambodian adoption process is the paperwork routinely submitted as "proof" of orphan status. An example of such paperwork includes cases of 33 different children, all supposedly abandoned at or near the houses of two village chiefs over the course of a year (22 at one chief's house and 11 at another's). None of the abandonment documents had vital information about the children, such as date or place of birth, but in each case the parents were listed as deceased. The odds that this many orphans, each abandoned in the same pattern, would be found in just two villages are too long to calculate or to believe. In one particularly dubious case, the paperwork indicates that two different children were abandoned on the same day in front of the same village chief's house. This type of pattern has been repeated at other orphanages as well.

These examples make it clear to us that facilitators are simply using the same documentation over and over, regardless of the facts of an individual child's case. With documents of such dubious credibility, determining



whether a child truly is an orphan is virtually impossible unless the birth mother is identified. Birth mothers have not been identified in the overwhelming majority of the cases presented to the Embassy, despite the best efforts of U.S. government officials to find them.

Nevertheless, the Cambodian Ministry of Social Affairs hasn't questioned the eligibility of any of these children for overseas adoption. Until such practices are arrested and reformed by the Cambodian government, USG officials can't in good conscience place any confidence in the information Cambodian officials give us regarding the orphan status of the children referred for adoption. The investigations of the Task Force have allowed us to independently check the current orphan status of those cases investigated, but these investigations are not demonstrating how these children became orphaned in the first place.

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QUESTIONS SUBMITTED AFTER THE HEARING BY THE HONORABLE DARRELL E. ISSA, A  
REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA TO THE HONOR-  
ABLE MARY RYAN

DARRELL E. ISSA  
48TH DISTRICT, CALIFORNIA  
COMMITTEES:  
INTERNATIONAL RELATIONS  
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May 29, 2002

Honorable Henry J. Hyde, Chairman  
Committee on International Relations  
2170 Rayburn HOB  
Washington, DC 20515

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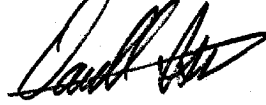
Dear Chairman Hyde:

Last Wednesday's hearing on International Adoptions: Problems and Solutions sparked some questions that I was unable to ask Assistant Secretary for Consular Affairs Mary Ryan. I would like to submit three questions for the record for Assistant Secretary Ryan in the hopes that she will be able to answer them and forward her responses to the International Relations Committee. The questions are as follows:

1. When INS suspended adoptions in Cambodia on December 21, 2001, they announced that this suspension would not affect the 32 families scheduled for visa appointments in January. Please provide the names of the orphanages, and the number of children from each orphanage, that received visas in January.
2. In your verbal testimony before the Committee you addressed an issue that has been raised concerning actions by Consular Officials in the U.S. Embassy in Cambodia. Specifically, families who have adopted from Cambodia, or who are in the process of adopting from Cambodia, claim that Consular Officials were, for the most part, only issuing documents to certain adoption facilitators and not others. These families have claimed that the Consular Officials also were only granting visa interviews to families who used certain adoption facilitators and not others. In your testimony you stated that such claims of "favoritism" are unsubstantiated. How did you investigate these claims of "favoritism" and what were the findings upon which you determined that the alleged actions of the Consular Officials did not constitute "favoritism"?
3. How long does it usually take between the time a family receives an adoption decree and requests a visa interview for such an interview to be scheduled? Does a Consular Official have the discretion to refuse to grant such an interview when requested by an American citizen or their representative? If so, what are the grounds upon which a Consular Official can exercise such discretion?

Mr. Chairman, thank you very much for considering my request. I look forward to reading the responses.

Sincerely,

A handwritten signature in black ink, appearing to read "Darrell Issa", written in a cursive style.

Darrell Issa  
Member of Congress

DEI:mja

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ANSWERS BY THE HONORABLE MARY RYAN TO QUESTIONS SUBMITTED AFTER THE HEARING BY THE HONORABLE DARRELL E. ISSA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Question for the Record submitted to:  
Ambassador Mary Ryan  
House International Relations Committee  
May 22, 2002

1. When INS suspended adoptions in Cambodia on December 21, 2001, they announced that this suspension would not affect the 32 families scheduled for visa appointments in January. Please provide the names of the orphanages, and the number of children from each orphanage, that received visas in January.

Following is a list of visas issued during January 2002, broken down by orphanage. Notes: (1) There were actually 36 children processed during January for 33 families. (2) Immigrant visa files are not normally retained by posts after issuance. Embassy Phnom Penh did retain some information, but it does not always contain the orphanage name.

Cambodian Orphan Services Center, Phum Rotean Kiensvay	8 Children
Kampong Chhang Orphanage Phnom Penh	7 Children
Krong Kep Orphanage	1 Child
Orphan Center, Kampong Speu	2 Children
Orphanage of Pursat	4 Children
Rotaing Kandal	3 Children
Women and Orphan Vocational Training	6 Children

Center, Sihanoukville

Name of orphanage not available

1 Child

Question for the Record submitted to:  
Ambassador Mary Ryan  
House International Relations Committee  
May 22, 2002

2. In your verbal testimony before the Committee you addressed an issue that has been raised concerning action by Consular Officials in the U.S. Embassy in Cambodia. Specifically, families who have adopted from Cambodia, or who are in the process of adopting from Cambodia, claim that Consular Officials were, for the most part, only issuing documents to certain adoption facilitators and not others. These families have claimed that the Consular Officials also were only granting visa interviews to families who used certain adoption facilitators and not others. In your testimony you stated that such claims of "favoritism" are unsubstantiated. How did you investigate these claims of "favoritism" and what were the findings upon which you determined that the alleged actions of the Consular Officials did not constitute "favoritism."

During the period between the discovery of irregularities and the suspension imposed by Commissioner Ziglar, the Embassy was working with INS to determine the scope and nature of the adoption fraud problem, even as the paperwork for additional parents continued to arrive at post. Given a burgeoning workload and evidence of widespread child trafficking, the Embassy prioritized those cases where prospective parents could be assisted to complete processing of their cases in a timely fashion.

The Embassy attempted to help as many parents as possible within the constraints of the law and sound judgement.

Those cases which required time and resource-consuming field investigations were put to the side until the post possessed the staff to address them. To help reach decisions regarding which cases to prioritize, I sent our Consul General in Bangkok, a senior consular officer, to work with consular staff in Phnom Penh. Information regarding particular facilitators developed at post and in reports from INS Bangkok did play a role in determining which cases could and should be prioritized. Based on our Bangkok Consul General's reports back to Consular Affairs at the time, I am convinced that the claims of favoritism are unsubstantiated.

Question for the Record submitted to:  
Ambassador Mary Ryan  
House International Relations Committee  
May 22, 2002

3. How long does it usually take between the time that a family receives an adoption decree and requests a visa interview for such an interview to be scheduled? Does a Consular Official have the discretion to refuse to grant such an interview when requested by an American citizen or their representative? If so, what are the grounds upon which a Consular Official can exercise such discretion?

The length of time it takes to schedule an interview varies by post, depending on workload considerations. However, the Visa Office prioritizes adoption processing, and requests for orphan processing appointments are usually given the first available opening, often within a few days or less of the petitioners reporting themselves documentarily qualified. There is no statutory or regulatory authority specifically governing the scheduling of interviews in orphan immigrant visa cases. As stated in the Foreign Affairs Manual (9 FAM 42.21 N11), it is the general policy of the Department that consular sections should provide expeditious assistance to U.S. citizens and should schedule orphan interviews promptly. We also note that it is the Department's general policy to schedule immigrant visa interviews in immediate relative cases within 30 days of the applicant reporting that he/she has all necessary documents. Notwithstanding our longstanding



policy of expeditious processing of orphan cases, there are constraints that could preclude setting an appointment. INS regulations at 8 CFR 204.3(k)(2), for example, prohibit a consular officer from processing an orphan immigrant visa case unless INS has already approved the I-600A advanced processing application. INA section 222(b) requires an immigrant visa applicant to collect certain required documents, and under standard Department practice, an immigrant visa interview is not scheduled unless the applicant has gathered all the necessary documents. Even in cases where all the required documentation is in place, there may be instances where prompt scheduling is not possible or appropriate due to factors such as a temporary staffing shortage or where it is necessary to resolve certain legal, procedural, or factual issues before the holding of an interview would be fruitful.

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PREPARED STATEMENT OF THE HONORABLE EARL BLUMENAUER, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF OREGON

Mr. Chairman and Ranking Member Lantos, thank you for holding this hearing today on the important issue of international adoptions. I want to especially welcome Susan Cox from Eugene, Oregon to the committee today. Ms. Cox is the Vice-President of Public Policy and External Affairs at Holt International Children's Services.

Holt International is located in Eugene. It was founded by Harry and Bertha Holt in 1956 when they adopted 8 Korean children who had been orphaned during the Korean War. All these children were under the age of two and the Hols already had six biological children. From their little farm in Creswell, they established an adoption program in Korea and since then, the organization has placed about 50,000 children from more than 20 countries with adoptive families in the United States.

Holt International continues to be a leader in international adoption, placing about 1,000 children a year for adoption. Holt programs overseas serve about 40,000 children and families annually and they are committed to establishing programs in other countries that will help children stay with their biological family, or be adopted by a family in their birth country.

In Oregon and indeed, throughout the international adoption world, Holt is a highly-regarded institution and we are proud to be the state that helped establish intercountry adoption to help children and families come together.

Mr. Chairman, last year, 112 Oregon families adopted internationally. Of that number, 57 adoptions were through Holt International. Improving international adoptions is a very important to my state, and I'm thankful this Committee is addressing this subject today.

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PREPARED STATEMENT OF DR. KEK GALABRU, PRESIDENT, CAMBODIAN LEAGUE FOR  
THE PROMOTION AND DEFENSE OF HUMAN RIGHTS

Honorable Chairman and Members of the Committee,

On behalf of LICADHO and as a member of Cambodian civil society, I am pleased to submit testimony to this hearing. In accordance with LICADHO's mandate, I will confine my testimony to the issue of adoptions of Cambodian children to the United States, and to human rights abuses related to this process.

Established in 1992, LICADHO is a non-governmental organization (NGO) based in Cambodia's capitol, Phnom Penh, with field offices in 14 provinces and municipalities. One of the largest NGOs in Cambodia, it is funded by a range of respected international donor organizations. LICADHO's mandate includes investigating alleged human rights violations and assisting victims to make complaints to the authorities, conducting research and advocacy on human rights issues, and providing human rights education to members of the authorities and the general public. LICADHO's mandate includes the elimination of all forms of human trafficking. LICADHO has no policy or view on international adoption; it is only interested in this issue insofar as it involves child trafficking and related human rights abuses and crimes in Cambodia.

GENERAL INFORMATION: ORPHANAGES & ADOPTION FACILITATORS

There are 21 government orphanages/children's centers in Cambodia, as well as 23 other ones run by private, non-government organizations registered with the Ministry of Social Affairs, and an unknown number of others not registered, according to information given to LICADHO by the Ministry. It is unclear how many of these orphanages provide children for adoption overseas, but LICADHO is aware of approximately 15 private and government orphanages actively involved with adoptions. In at least some cases, orphanages appear to be function solely to conduct adoptions overseas; they do not accept children who are HIV-positive, for example, to live in the orphanage, because such children generally cannot be adopted abroad.

In practice, orphanages operate with minimal regulation or supervision by state agencies; one Ministry of Social Affairs official, asked by LICADHO to explain the degree of supervision of orphanages, replied that the ministry aims to inspect each orphanage once a year.

People acting as adoption facilitators in Cambodia include Cambodians and foreign nationals, including Americans. LICADHO is not aware of any law that requires the registration or supervision by statutory bodies of adoption facilitators.

While some facilitators conduct independent adoptions, in most cases facilitators act on behalf of foreign adoption agencies; each agency has a facilitator who assists

its clients through the adoption process. The US is the largest receiver of Cambodian children, so therefore many of these agencies are based in the US.

It is not uncommon for facilitators to have exclusive arrangements with particular (private or government) orphanages; other facilitators cannot arrange adoptions of children from these orphanages. It is unclear by what statutory process, if any, such arrangements are made. In some cases—such as with at least three orphanages in Phnom Penh—adoption facilitators have established their own private orphanages; the same person acts as both a facilitator and chief of the orphanage.

At times, the lines may be blurred between government and non-government orphanages. For example, a government orphanage may transfer children in its care to a private orphanage, and from there they are adopted overseas. It is unclear by what official process such transfers occur.

In addition to orphanages, in the past year LICADHO has become aware of a number of private houses used to accommodate children waiting for adoptions. It appears that these children are registered in orphanages but are accommodated in private houses, which is a violation of Cambodian regulations. These houses may range from “foster homes” with a few children, to larger establishments with many children staying there. Several of these larger houses have in recent months, since adoptions have come under increased scrutiny in Cambodia, had signs placed outside of them which identify them as “branch offices” of orphanages.

#### BABY-BUYING AND CHILD TRAFFICKING FOR ADOPTION

LICADHO investigations of actual cases have revealed clear patterns and networks in the process of buying babies or children for the purposes of adoption. This process typically begins with recruiters who prey on poor women (especially divorcees or widows) who are pregnant and about to give birth, or who already have young children. The recruiter approaches women (sometimes the approach is made in hospital just after a mother has given birth, a time when she is most vulnerable physically, emotionally and mentally) and offers to place their baby or toddler in a “children’s center” where the child will be well cared for. The women may be coerced to give up their children permanently or are told that their children can live in a center temporarily, until such time as the mothers find or return to work and are able to look after the children themselves again. The infants are given blood tests for HIV and are only accepted by the recruiter if they test negative (because there is no market for adoptions of HIV-positive children). The mothers are usually offered a ‘donation’ of between US\$30 and \$100. They may be promised that they can visit their children at the center. If the mothers subsequently ask to visit their children, they are refused. If they demand their children back, they are told that they must pay several times the amount of the ‘donation’ they originally received from the recruiter; unable to pay this ransom, the mothers do not get their children back. From the recruiters, the children are sent to orphanages that are run by, or linked to, people who work as adoption facilitators. The only logical explanation for the work of recruiters is that orphanages or facilitators pay them to find children.

Sometimes, a mother who has been coerced into giving up her child in the manner described above, is then offered more money if she is able to locate other children (by persuading her neighbors, etc, to give up their own children) for the recruiter. In this way, victims are encouraged to become perpetrators.

It is unclear to what lengths baby traffickers may be prepared to go in order to procure children. LICADHO is aware of cases of babies or toddlers being abducted in circumstances—the absence of a ransom demand, and the poverty of the children’s families—which would not appear to be ‘normal’ kidnappings. However, lack of information about the perpetrators and whereabouts of the victims has made it impossible to prove the reason for the abductions.

#### CORRUPTION AND FRAUDULENT PAPERWORK

The process of official Cambodian paperwork to certify that a child is an orphan (abandoned child or lawfully relinquished by guardians) begins at the orphanage level and extends to senior levels of the government.

For children who have been dishonestly procured from their parents, the official paperwork will typically state that the infant or child concerned is an abandoned child whose parents are unknown. Orphanage officials write a birth certificate or biography of each child, which states that the child is abandoned, and this is counter-signed by low-level government officials (such as village chiefs). The local officials certify these false documents either because they are bribed to do so or they are unaware of the real origins of the child. The orphanage documents, as such, contain little if any information about the history of the child that could later be traced. LICADHO has documented cases, for example, of children being procured from their

families in Phnom Penh but the official paperwork, signed by orphanage directors and local officials, falsely states that the children were found abandoned in provinces outside of Phnom Penh.

Children are matched to prospective adoptive parents by adoption facilitators and agencies. Facilitators are primarily responsible for obtaining official Cambodian government approval for the children to be adopted abroad. This process, which involves obtaining the permission of two ministries and the government Cabinet, is widely believed to involve the bribery of officials, including at senior levels. This corruption, although difficult to prove for obvious reasons, is common knowledge in adoption circles. A telling fact is that although officially there are no fees charged by the Cambodian government for processing adoption applications, adoptive parents pay thousands of dollars to facilitators to manage the process and obtain the necessary official signatures on adoption paperwork. (Foreign fees of US\$5,000–10,000 are commonly paid to facilitators through adoption agencies.)

It is no coincidence that Cambodia, until the recent action by the US against adoption-related trafficking of children, was touted as having the fastest adoption approval process (3–4 months) of anywhere in the world.

#### A CASE EXAMPLE OF TRAFFICKING FOR THE PURPOSE OF ADOPTION

An example of trafficking and false documentation is the case of two impoverished and divorced Cambodian mothers in Phnom Penh who were coerced into giving up their babies (one baby was aged 6-months and the other was just 4-days old) by a baby trafficker in June 2001. The mothers were promised that the babies would be taken to live at a children's center in Phnom Penh, where the mothers could visit them regularly. The mothers' subsequent attempts to visit the infants were refused. In September, the mothers complained to LICADHO, and after two months of pressuring the Cambodian police and courts, the two infants were eventually found to be in the custody of the Khmer American Orphan Association (KAOA), a private orphanage established and run by an adoption facilitator who caters to the US market. In December, some six months after the infants had been taken from their mothers, they were returned to them by the adoption facilitator after court intervention.

LICADHO alerted the US Embassy in Phnom Penh to this case, and the Embassy subsequently confirmed that at least one of these two infants (the one aged 4-days-old when taken from its mother) had been the subject of a pending application for adoption to the US. The baby's official documents—signed by an orphanage director and local officials—falsely stated that the baby had been born and abandoned in Kompong Cham province, and was found and taken to a government orphanage there by “a kind person”. In fact, the baby was born and taken from its mother in Phnom Penh, and was in the custody of the private KAOA orphanage in Phnom Penh.

#### EXTENT OF THE ABUSE

It is impossible to precisely estimate the scope of abuses related to the adoption process, for various reasons. The majority of abuses are almost certainly not reported to the authorities or to NGOs such as LICADHO: victims may not know about the law or their rights; they may not have money to travel to make complaints; and they may be afraid of reprisals from the perpetrators if they complain. Even if complaints are made to the police or courts, action is generally not taken. Influential or armed people may be involved in the trafficking (police and military personnel are among child traffickers identified by LICADHO).

The limited information obtained by LICADHO, however, is enough to raise serious concerns about the adoption system:

- In the past two years, LICADHO investigations have found direct, credible evidence of child trafficking by people associated with four orphanages which provide children for adoption to the US. In addition, LICADHO has received information alleging other improprieties, such as the preparation of fraudulent paperwork for ‘orphans’, by a number of other orphanages and adoption facilitators.
- Based on complaints by birth parents seeking the return of their children, LICADHO has investigated cases of alleged trafficking involving a total of at least 15 identified children. Of these children, 10 were eventually returned to their birth parent/s after LICADHO intervention to the authorities, 3 were reportedly adopted to the US, and the whereabouts of 2 are unknown. In addition to these cases, LICADHO has received information about a number of

other alleged trafficking cases but was unable to identify the children involved and their biological families.

- LICADHO has interviewed several foreign adoptive parents, and is aware of others, who adopted older children on the basis of official paperwork stating that the children were abandoned or their parents were dead and they had no siblings. Subsequent to the adoption, the adopters were told by the children that they did indeed have surviving parents or siblings. In one recent case, an adoptive couple returned to Cambodia and, assisted by LICADHO and with minimal effort, located the birth family of their adopted children; it was confirmed that the children had been sold by one of their birth parents (without the other parent's consent) to child traffickers and had ended up in the hands of an adoption facilitator.
- LICADHO has interviewed many people acquainted with the adoption system—including government officials, NGO staff, and adoptive parents—and concluded that unscrupulous practices by orphanages and facilitators, and related bribery and fraudulent paperwork, are common knowledge in adoption circles. While few if any people are prepared to speak publicly on these issues, privately they acknowledge widespread problems. Detailed information such as amounts of bribes that need to be paid, and the names of corrupt officials and others who profit from the adoption business, is widely known.

#### LEGAL RECOURSE/PROSECUTION OF PERPETRATORS

As noted previously, the perpetrators of child-buying target poor, vulnerable birth mothers, who have little legal recourse. Cambodia's notoriously weak and corrupt police and judiciary cannot be depended upon to protect victims and prosecute perpetrators. This applies to a host of human rights abuses, including murder, torture, rape, and trafficking of women and children for sexual exploitation, for which perpetrators are often not brought to justice. The extent of impunity and lack of rule of law—which may not be fully understood by foreigners living in developed countries with professional, functioning law enforcement systems—is one of the many legacies of decades of war, genocide and crippling poverty in Cambodia.

In LICADHO's experience, the police, courts and government officials generally fail to properly investigate crimes, including trafficking, corruption and fraud, related to adoptions. This is not surprising, given Cambodia's endemic corruption, low government salaries, lack of rule of law, and the profitable nature of the adoption business. Law enforcement officials are easily bribed to turn a blind eye to crimes, and investigations into unscrupulous adoption practices are too politically sensitive given the involvement of senior government officials. The lack of prosecution of perpetrators means that there is no real deterrent to committing adoption-related crimes.

In late 2001, in two separate cases, a total of 7 people connected to orphanages were formally charged with human trafficking under Cambodian law by a Phnom Penh court. All were staff or associates of either the Asian Orphans Association (AOA) or the Khmer American Orphans Association (KAOA), which are both private orphanages in Phnom Penh run by adoption facilitators who cater to the US market for Cambodian children through US adoption agencies. The charging of these people only occurred after considerable pressure from LICADHO and others, including a few select officials within the Cambodian government who are concerned about baby-buying, and media publicity.

The court recently dropped the charges in the first case, involving AOA, because the victim (a mother whose two children had been procured by a recruiter and ended up in AOA) had withdrawn her court complaint. In a subsequent interview with LICADHO, the mother stated that she had been approached by two men, while she was seriously ill in hospital, and offered money to sign a document withdrawing her complaint.

Nearly six months after charges were laid in the second case, which involves KAOA—the same case as previously referred to in this testimony—the court is still investigating and there is no decision on whether the prosecution will continue. At one point in this case, court officials unsuccessfully tried to pressure the birth mothers of the two babies involved into withdrawing their court complaints against KAOA. One court official implicitly threatened the mothers by warning them that something bad might happen to their babies.

In such circumstances, LICADHO remains deeply concerned that attempts to investigate or prosecute the perpetrators of adoption-related abuses can lead to the re-victimization of the victims.

## PREVIOUS ALLEGATIONS OF ADOPTION ABUSES

Allegations of child-buying, corruption and fraudulent paperwork have surrounded Cambodian adoptions for years. These concerns have led some organizations directly involved in providing support for Cambodian orphans to implement policies of not participating in international adoptions. In response to publicity about adoption abuses, the Cambodian government has several times in the past imposed a moratorium on foreign adoptions. The last such moratorium ended in March 2001, following the passing of a new Cambodian government subdecree supposed to address the improprieties in the adoption system. Unfortunately, the new subdecree has done little if anything to clean up the adoption system, according to the conclusions of LICADHO and foreign governments such as the US. Other organizations that have expressed concern about adoptions include the United Nations Children Fund (UNICEF), which has pledged its willingness to work with the Cambodian government to establish a better legal framework for the regulation of adoptions.

## NEED FOR US TO TAKE ACTION

LICADHO firmly supports the December 21, 2001 decision by US Immigration and Naturalization Service (INS) to suspend adoptions of Cambodian children to the US. We are sympathetic to the distress this has caused to prospective adoptive parents in the US who were in the process of adopting. We believe responsibility for this distress lies with the child traffickers who have sought to exploit both vulnerable Cambodian families and unsuspecting American adopters.

It is appropriate and indeed essential that the US take a leading role in combating adoption-related child trafficking in Cambodia. There are obvious legal and moral obligations to ensure that US citizens and the US Government are not unwittingly complicit in the international trafficking of children. We are pleased that the INS, the Department of State (DOS) and the staff of the US Embassy in Phnom Penh have understood these obligations and taken action to meet them. The imperative for the US to take action is even greater given that the Cambodian authorities have proved unable or unwilling to eradicate adoption-related abuses, and given that the US is the largest market for Cambodian 'orphans'.

There has been a phenomenal increase in Cambodian children being adopted to the US in recent years. In 1997, there were 66 visas issued for such adoptions, according to published DOS statistics, compared to 402 in the year 2000. In 2001, up until the recent INS suspension, the US Embassy was processing close to 100 visa applications a month for adopted children, according to Embassy statements to the media; this figure, extrapolated over a one-year period, would see nearly 1,200 adoptions to the US annually. Not coincidentally, there has been a significant increase in recent years in the number of adoption facilitators operating in Cambodia to serve US adoption agencies and their clients. Interestingly, US adopters pay far higher adoption fees for Cambodian children than do adopters from other countries. Given the profits that can be made, and the growing demand from US adopters, the potential is enormous for dishonest and criminal practices to supply children for this market. It is in the best interests of all who are truly concerned for the plight of Cambodian orphans, and for the rights of Cambodian families and US adopters, for these practices to be eradicated now, before the problem grows even bigger.

## CONCLUSIONS &amp; RECOMMENDATIONS

In a country that suffers crippling poverty and where government salaries are as low as US\$20 a month, the hundreds of thousands of dollars poured into Cambodian adoptions has created a hugely profitable "industry" which in documented cases has employed fraudulent means to procure Cambodian children for unknowing US citizens. Urgent action is needed to clean up the system to ensure that adoptions are not placed in the same category as other lucrative 'industries'—such as the trafficking of weapons, narcotics and women—for which Cambodia has attracted international concern, including from the US.

LICADHO considers it a tragedy that the adoption system should be misused by certain greedy and deceitful individuals who exploit the miseries of Cambodia's poor while taking advantage of the good intentions of US couples wishing to provide loving homes for orphans truly in need. This occurs as millions of US tax dollars are dispersed to Cambodia each year (via USAID funds) to assist the nation's recovery from three decades of war and genocide, reduce the widespread poverty, and rebuild a democratic climate of human rights and rule of law.

We are also deeply concerned that unscrupulous practices should be committed by people associated with orphanages and adoption facilitators who are in turn linked to US-based adoption agencies. We believe that adoption agencies should take some

legal and moral responsibility for the actions of the facilitators, and their associates, whose services they utilize.

The problems of the Cambodian adoption system are deeply entrenched; there is no quick-fix solution, as clearly shown by the failure of previous attempts to clean up the system. Comprehensive changes are necessary, including legal reforms, strict enforcement of the law, prosecution of offenders as a deterrence, and effective monitoring of the adoption process. To this end, we recommend:

1. The continued INS suspension of visa processing for Cambodian orphans until a transparent and regulated adoption system is established in Cambodia.
2. Continued investigations by the INS and other relevant federal agencies into alleged adoption-related trafficking, fraud and corruption, and prosecutions of perpetrators in any case where there is evidence of the commission of offences that are prosecutable under US law.
3. Urging of the Cambodian government and judiciary to ensure proper, transparent criminal investigations into allegations of trafficking, fraud, corruption or other crimes related to adoptions, and to ensure adequate punishment of perpetrators according to Cambodian law.
4. The active cooperation of the US Embassy in Phnom Penh, the Department of State and the INS, including the sharing of information and documents, with adoption-related criminal investigations by Cambodian law enforcement authorities.
5. Fulfillment of the INS' stated intentions to enter into discussions, in conjunction with the DOS, with the Cambodian government to establish an adoption process that will protect the interests of the Cambodian people and prospective adoptive parents; and to initiate a general review of international adoption procedures and work with the DOS to identify weaknesses in the process and implement the principles of the Hague Convention on Inter-Country Adoptions.
6. Efforts to encourage the Cambodian government to ratify the Hague convention on Inter-Country Adoptions and pass domestic adoption legislation in accordance with the convention.
7. Steps to ensure that the INS and the DOS have adequate resources to thoroughly screen all orphan visa applications (in particular, an INS office in Cambodia to conduct field investigations) in place prior to any resumption of adoptions from Cambodia.

Measures such as these are in the best interests of all concerned—US adopters, Cambodian families and genuine orphans in need—by ensuring a respectable and credible adoption system in which those who are involved with legitimate adoptions are no longer tarnished by the greed and dishonesty of others.

Thank you for the opportunity to submit testimony to this Committee.

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PREPARED STATEMENT OF NATIONAL COUNCIL FOR ADOPTION

Chairman Hyde, the National Council For Adoption (NCFA) thanks the House Committee on International Relations for the opportunity to submit written testimony regarding the important topic of "International Adoptions: Problems and Solutions." NCFA has been very involved in serving American families' rapidly growing interest in intercountry adoption, both through our policy work on the Hague Convention and the Intercountry Adoption Act and through the excellent social services of our agency members who have been placing needy children from other countries with American families for many years. We greatly appreciate the Committee's leadership in looking for new ways to make the intercountry adoption process more efficient and reliable.

There are four areas we would like to emphasize at this time. We would also be very pleased to follow up with the Committee, at your convenience, on these and any other related matters.

*Pre-qualification of children identified for adoption:* Currently, the determination of an orphan's status, as specified by the Immigration and Nationality Act (INA), is done as the last step in the adoption process. Thus, if there are any problems—and Cambodia is a prime example—they do not show up until the American family has legal custody of the child, which places the family in a terrible situation. When the legal process of the sending country, prior to the orphan-determination process, has named the family the legal parents, the family is caught in the middle, if the INS's orphan determination finds problems with the child's paperwork. In other

words, the sending country now says this is the family's child but the INS will not allow the child to immigrate to the US. This is the worst nightmare possible.

Pre-qualifying the foreign orphan for adoption would prevent this problem. In all countries, there is sufficient time for INS to examine the preliminary documents—relinquishment documents, abandonment documents, orphanage records, etc.—prior to the family presenting for the visa interview. Aside from the benefit of not placing the family in the situation of not being able to bring the child home, this policy change would also shorten the visa interview. The only documents that would need to be reviewed for the visa interview would be those issued to the family during their stay in the country of origin. These documents are usually either court documents or government-issued documents placing the child in the families' custody (adoption). If this procedure were to be properly implemented, it would not slow down the adoption process.

*Office of Children's Issues as precursor of the U.S. Central Authority:* As we prepare for the implementation of the IAA we should appoint the Department of State's Office of Children's Issues as the precursor of our Central Authority for administering intercountry adoptions. When problems do arise (such as in Cambodia) there is currently no governmental authority to appeal to for help. The Cambodian situation showed how necessary it is to have such an office. Families are currently at the mercy of INS when appealing for help and INS, with some notable exceptions, has been less than customer-friendly in many of its dealings with adoptive parents and agencies. The Office of Children's Issues (OCI), under this scenario, could begin the interaction with other countries' Central Authorities in ensuring that the adoption process is as smooth as possible for our families. OCI would also have the authority and expertise to present the U.S. point of view regarding changes of law or procedure by sending countries. For example, the Russian government has required some agencies that want to work in the Russian Federation to become accredited under its laws, while continuing to work with other unaccredited agencies. Also, Russia's accreditation certificate is currently good only for one year. It would be easier for everyone, agencies and the accrediting bodies in Russia, to make the certificate good for at least two years.

*Standardization of approval procedures by local INS offices:* Many local INS offices have established procedures or implemented policies that reflect their own ideas and preferences and not the INA. For example, some local offices require face-to-face interviews with families before they approve them for adoption. Some offices require additional specific wording in home studies that other offices do not. Some offices are unavailable to agencies (i.e., will not return phone calls or answer correspondence). Other offices will only speak to adoptive parents. One of our agency members has had several issues with the Guatemalan Embassy in Guatemala City, such as lost or missing adoption files that the agency was required to recreate, lost IR-4 cables that the agency was required to have the District office re-cable, lack of agent availability, and conflicting information from different agents in the same office.

*Reduction in paperwork necessary for visa issuance in the foreign country:* When the family has already been pre-approved by the local INS office under the INA, parents should not have to re-submit documents such as the home study and the 3 years of tax returns for re-approval. For example, the Guatemala City Embassy still requires the filing of an I-864 at the visa interview. The meeting with the Embassy is for verification that the child is eligible for a visa. The family has already been approved.

Mr. Chairman, if implemented, these policies would make it easier and more predictable for U.S. parents to adopt foreign orphans. They would protect American families from some of the more serious problems that can occur in intercountry adoption. We appreciate the Committee's consideration of these ideas and stand ready to assist in any way possible. Thank you very much.

