

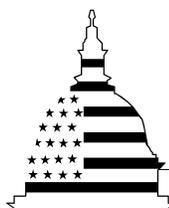
GAO

Report to the Chairman, Committee on
Foreign Relations, U.S. Senate

October 2005

FOREIGN AFFAIRS

Agencies Have Improved the Intercountry Adoption Process, but Further Enhancements Are Needed



G A O

Accountability * Integrity * Reliability



Highlights of [GAO-06-133](#), a report to the Chairman, Committee on Foreign Relations, U.S. Senate

Why GAO Did This Study

U.S. intercountry adoptions nearly tripled from more than 8,000 to more than 22,000 between fiscal years 1994 and 2004. While the Department of State (State) and U.S. Citizenship and Immigration Services (USCIS) manage the process, factors ranging from corruption to inadequate legal frameworks in foreign countries could lead to abuses such as the abduction of children. GAO (1) describes the U.S. intercountry adoption process, (2) assesses the U.S. government's efforts to manage the intercountry adoption process, (3) assesses U.S. efforts to strengthen safeguards and mitigate against the potential for fraudulent adoptions, and (4) describes the Hague Convention (Convention) and the statuses of U.S. and top sending countries' implementation of the Convention.

What GAO Recommends

To improve the management of the U.S. intercountry adoption process, GAO recommends that the Secretary of Homeland Security work with the Director of USCIS to formalize its quality assurance process so it can assess the quality of the adoption process over time and identify areas where training or guidance may be warranted, and to consider establishing a formal and systematic approach to document specific incidents of problems identified in foreign countries to retain institutional knowledge and analyze trends. DHS and State agreed with our findings and recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-06-133.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Jess Ford at (202) 512-4268 or fordj@gao.gov.

FOREIGN AFFAIRS

Agencies Have Improved the Intercountry Adoption Process, but Further Enhancements Are Needed

What GAO Found

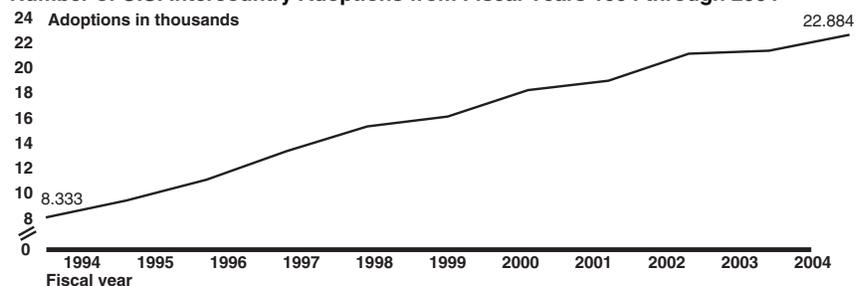
Adoptive parents must meet domestic and foreign government requirements to complete intercountry adoptions. However, factors such as foreign governments' procedures may contribute to varying time frames for adoptions. USCIS and State are the domestic agencies responsible for intercountry adoptions.

USCIS and State made efforts to enhance the process by improving interagency coordination and communication with parents and developing additional guidance on adoptions. In addition, USCIS streamlined the intercountry adoption process by eliminating the application and fees for parents to obtain U.S. citizenship certificates for eligible children. While USCIS has taken measures to review the quality of the adoptions process, GAO found that the agency does not have a formal quality assurance program in place where results are summarized and reported to senior agency officials so that an assessment of the quality of the intercountry adoption process can be made over time.

Factors in foreign countries' environments may allow for abuses in adoptions. To reduce the likelihood of such abuses, USCIS and State have taken such steps as holding diplomatic discussions with foreign governments and imposing additional U.S. procedural requirements. However, USCIS has not established a formal and systematic process for documenting specific incidents of problems in foreign countries. Such a process would allow for a systematic approach to analyze problematic trends and retain institutional knowledge.

The Hague Convention governing intercountry adoptions establishes minimum standards designed to help alleviate some of the risk associated with the adoption process. The United States has signed the Convention and taken several steps toward implementing the Convention; however, key steps remain, including formal ratification of the Convention. Since its creation, 66 countries (which represented about 39 percent of all U.S. intercountry adoptions in fiscal year 2004) have ratified the Convention.

Number of U.S. Intercountry Adoptions from Fiscal Years 1994 through 2004



Source: GAO analysis of State data.

Contents

Letter

Results in Brief	1
Background	2
USCIS and State Implement Law for U.S. Inter-country Adoptions, with Foreign Governments Playing a Role in the Process	6
U.S. Agencies Improved the U.S. Inter-country Adoption Process, but USCIS Lacks a Formal Quality Assurance Process	12
USCIS and State Have Taken Steps to Strengthen Safeguards to the Process in Foreign Environments, but USCIS Does Not Systematically Document Incidents of Potential Abuses	19
United States and Some U.S. Top Sending Countries Have Not Ratified Multilateral Convention That Establishes Minimum Inter-country Adoption Standards	24
Conclusions	28
Recommendations for Executive Action	33
Agency Comments and Our Evaluation	33

Appendixes

Appendix I: Scope and Methodology	36
Appendix II: Total Number of U.S. Inter-country Adoptions by Country, Fiscal Year 2004	39
Appendix III: List of USCIS Overseas District and Sub Offices	43
Appendix IV: Hague Ratification by Country and U.S. Inter-country Adoption Totals for Fiscal Year 2004	44
Appendix V: Comments from the Department of Homeland Security	46
Appendix VI: Comments from the Department of State	48
GAO Comments	60
Appendix VII: GAO Contact and Staff Acknowledgments	61

Tables

Table 1: Countries That Currently Have Restrictions on Inter-country Adoptions, as of September 30, 2005	12
Table 2: Approximate Length of Time for Completion of Adoption Overseas and Estimated Adoption Costs in Top Four Sending Countries (2005)	19

Figures

Figure 1: Number U.S. Intercountry Adoptions from Fiscal Years 1994 through 2004	8
Figure 2: Distribution of U.S. Intercountry Adoptions by Sending Countries from Fiscal Years 1994 through 2004	9
Figure 3: Number of Intercountry Adoptions from Top Four Sending Countries from Fiscal Years 1994 through 2004	10
Figure 4: U.S. Intercountry Adoption Process	17
Figure 5: Hague Implementation Time Line by Fiscal Year	31
Figure 6: World Map of Hague Ratification by Country and U.S. Intercountry Adoption Totals for Fiscal Year 2004	44

Abbreviations

DHS	Department of Homeland Security
IAA	Intercountry Adoption Act of 2000
INA	Immigration and Nationality Act
INS	Immigration and Naturalization Service
IR	immediate relative
IVO	Immigrant Visa Overseas System
PAS	Performance Analysis System
UNICEF	United Nations Children's Fund
USCIS	U.S. Citizenship and Immigration Services

This is a work of the U.S. government and is not subject to copyright protection in the United States. It may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.



United States Government Accountability Office
Washington, D.C. 20548

October 21, 2005

The Honorable Richard G. Lugar
Chairman
Committee on Foreign Relations
United States Senate

Dear Mr. Chairman:

More and more U.S. citizens are starting and expanding their families by adopting children from other countries. The number of children that entered the United States through intercountry adoptions increased from about 8,000 in fiscal year 1994 to about 22,000 in fiscal year 2004.¹ The U.S. intercountry adoption process is managed by the Department of Homeland Security's (DHS) U.S. Citizenship and Immigration Services (USCIS) and the Department of State (State) and is complicated by a number of domestic and foreign government requirements for adopting a child from another country. Prospective parents often use the services of an adoption agency to help guide them through this adoption process and identify orphans that need families. To adopt a foreign-born child that will live in the United States, the prospective parents must meet qualifications outlined by U.S. immigration law. Additionally, the child and the prospective parents must meet the legal requirements for adoption in the child's country of origin, and the child must meet requirements outlined by U.S. immigration law to enter the United States. Despite the existence of such U.S. and foreign government regulations, a number of factors in foreign countries, such as corruption, may lead to abuses in intercountry adoption procedures. In recent years, several countries have suspended their intercountry adoption programs in response to concerns over abuses in intercountry adoptions, as well as to review their intercountry adoption processes and improve safeguards. The 1993 Hague Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption (Convention) provides additional safeguards by establishing uniform standards for intercountry adoptions.

¹A U.S. intercountry adoption is defined as an adoption of a child who changed his or her habitual country of residence, the sending country, to the United States, the receiving country. This report measures the number of U.S. intercountry adoptions using the number of visas issued to these children to immigrate to the United States. Unless otherwise specified, the report uses the term "intercountry adoption" to refer to children coming into the United States.

In response to your interest in intercountry adoptions, this report (1) describes the U.S. intercountry adoption process, (2) assesses USCIS' and State's efforts to manage the intercountry adoption process, (3) assesses U.S. efforts to strengthen safeguards and mitigate against the potential for fraudulent adoptions, and (4) describes the Hague Convention and the statuses of U.S. and top sending countries' implementation of the Convention.

To address our objectives, in Washington, D.C., we interviewed USCIS and State officials responsible for intercountry adoptions and reviewed relevant agency documents on the U.S. intercountry adoption process. We also visited USCIS offices in New York and Los Angeles to see how USCIS implements domestic procedures related to intercountry adoptions. Both of these offices ranked in the top 20 percent of domestic offices for the number of intercountry adoption cases received in fiscal year 2004 and demonstrate geographic diversity. In addition, we contacted U.S. adoption organizations and agencies to understand their roles, as well as some adoptive parents who belonged to national adoptive parent support groups and were willing to respond to us, to hear about their experiences with the U.S. intercountry adoption process. To understand the intercountry adoption environment and U.S. processes and procedures in overseas locations, we visited Guatemala and Russia. These two countries were consistently ranked among the countries where the majority of children adopted into the United States originated from in fiscal years 1994 to 2004. In both countries, we met with USCIS and State Bureau of Consular Affairs officials managing the U.S. intercountry adoption process, foreign government officials, and private adoption facilitators, and visited orphanages to learn about their respective roles in the adoption process. We conducted research on the Convention by reviewing it, obtaining information on countries' current statuses, verifying that the Convention's Web site data was current through a discussion with a member of the Convention, and discussing the implementation statuses with Guatemalan and Russian government officials. Appendix I contains a more detailed description of our scope and methodology.

We performed our work from February to October 2005 in accordance with generally accepted government auditing standards.

Results in Brief

Adopting a child from a foreign country is a complex process with a variety of domestic and foreign government requirements that prospective parents must meet. The Immigration and Nationality Act (INA) establishes

requirements for prospective adoptive parents seeking to adopt children from foreign countries and criteria for the child's entry into the United States. USCIS and State are the two federal agencies responsible for implementing the INA's intercountry adoption requirements. In addition to domestic requirements, the parents and the child must also meet the requirements for adoption established by the national government where the child resides. USCIS is the principal federal focal point for receiving and processing intercountry adoption applications, determining the parent's eligibility and fitness to adopt, and determining whether the child meets the INA's definition of an orphan. In overseas locations where there is no USCIS office, USCIS has delegated its authority to determine orphan status to State.² In addition, State's overseas consular offices issue visas for entry into the United States. After the U.S. intercountry adoption requirements have been met and the child has immigrated to the United States, eligible children receive automatic U.S. citizenship. Due to various factors, including foreign country requirements, time frames and costs incurred for adopting children may vary.

We found that USCIS and State made efforts to improve the process by implementing many of the priorities that an interagency task force identified in 2002. To enhance the process, both agencies improved interagency coordination and communication with parents and developed additional guidance. In addition, USCIS made efforts to streamline the intercountry adoption process by eliminating the application and fees for parents to obtain U.S. citizenship certificates for eligible children. The task force identified problems with consistency in applying procedures among adoption adjudicators and a lack of centralized guidance from headquarters. To ensure better consistency among its adjudicators, USCIS developed standard operating procedures in 2003. However, the agency has not provided training on these new procedures. Although USCIS has taken measures to review the quality of the adoptions process, we found that the agency does not have a formal quality assurance program in place where results are summarized and formally reported to senior agency officials. To help ensure the accuracy and completeness of adoption documents, in early 2004, a USCIS district office began a document review of completed adoption files and addressed individual cases through e-mails sent to relevant officials at USCIS and State. However, a more structured approach would allow the agencies to assess the quality of the intercountry adoption

²One exception is Moscow, Russia, where USCIS has an office present, but State has this delegated authority. See appendix III for a list of USCIS Overseas District and Sub Offices.

process over time, ensure that senior officials from USCIS and State are aware of the results, and identify opportunities where additional training or guidance may be warranted.

Although USCIS and State have taken steps to strengthen safeguards to reduce the likelihood of fraudulent adoptions in foreign countries, USCIS has not established a procedure to systematically document problematic incidents that it has identified in its work so that these trends can be analyzed by its staff. Some factors in the foreign country, such as corruption and the lack of a legal framework over intercountry adoptions, may allow for inappropriate activities in adoptions to occur. To reduce the likelihood of abuses in intercountry adoptions, State and USCIS have taken such steps as holding diplomatic discussions with foreign governments and imposing additional U.S. procedural requirements. For instance, in Guatemala, concerns of illegally obtained children for adoption led to the U.S. requirement for DNA testing of mothers and children. Also, USCIS and State provide publicly available information on Web sites regarding country-specific requirements and any known problems with the countries' processes. Although agency officials are aware of general risk environments in foreign countries, USCIS has not established a formal and systematic process for analyzing and documenting specific incidents of potential abuses in the foreign environment. Such a process would include documenting USCIS staff's knowledge of unscrupulous facilitators and disreputable adoption agencies identified in their work on adoptions. Given the experience with past intercountry adoption concerns related to child selling and buying activities, documentation of problematic individuals and incidents in foreign countries would allow for a systematic approach to analyze problematic trends and retain institutional knowledge.

The Convention governs intercountry adoptions by establishing minimum standards designed to help alleviate some of the risk associated with intercountry adoption processes; however, since the United States and three out of its four top sending countries have not ratified it, the benefits of the Convention have not been fully realized. The Convention provides some safeguards by establishing international minimum standards in the intercountry adoption process. Under the Convention, countries are to designate a Central Authority to carry out the Convention, prohibit improper financial gains from intercountry adoptions, and accredit adoption service providers that perform certain functions specified by the Convention. The United States has signed the Convention, designating State as the Central Authority, and State has taken several steps toward implementing the Convention. However, key steps remain, which include

finalizing regulations and accrediting entities to carry out some of the functions in the adoption process. Once these steps are completed, the United States plans to ratify the Convention. Although State's target date for implementation is fiscal year 2007, agency officials stated that they could not predict how long it will take to complete implementation due to the reliance on other bodies to complete certain steps, such as adoption service providers applying for accreditation. Three of the top four sending countries of U.S. adoptions over the past 10 fiscal years—Guatemala, Russia, and South Korea—have not ratified the Convention. In September 2005, China, the top sending country of U.S. adoption, ratified the Convention. Since its creation, 66 countries (which represented about 39 percent of all U.S. intercountry adoptions in fiscal year 2004) have ratified the Convention.

To improve the management of the U.S. intercountry adoption process, we recommend that the Secretary of Homeland Security take the following actions working with the Director of USCIS to

- formalize its quality assurance mechanisms so that the agency can assess the quality of the intercountry adoption process over time, ensure that senior officials from USCIS and State are aware of the outcomes of the quality assurance process, and identify opportunities where additional training or guidance may be warranted; and
- consider establishing a formal and systematic approach to document specific incidents of problems in intercountry adoptions that it has identified in foreign countries to retain institutional knowledge and analyze trends of individuals or organizations involved in improper activities.

The Departments of Homeland Security and State provided written comments on a draft of this report, which we have reprinted in appendixes V and VI. DHS generally agreed with our findings, conclusions, and recommendations. State also agreed with our findings and conclusions and provided additional information regarding its outreach efforts to the adoption community. In addition, State provided supplementary information on its Actions on Intercountry Adoptions in Selected Countries in appendix VI.

Background

The INA³ defines U.S. parameters for intercountry adoptions. INA establishes criteria for children's entry into the United States and eligibility requirements for prospective adoptive parents of children from foreign countries. A child is eligible for an immediate relative (IR) classification under the INA if the child meets the definition of an "orphan," as stipulated in the act.⁴ In addition, adopting parents must meet certain requirements related to their age, financial status, and medical condition.

Over the past 5 years, there have been legislative developments in the U.S. intercountry adoption process, with further changes proposed. The Intercountry Adoption Act of 2000 (IAA)⁵ provides the domestic legislation to implement the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, hereinafter referred to as the Hague Convention or the Convention in this report. The IAA designates State to serve as the Central Authority of the United States to carry out most responsibilities of the Convention, including accreditation of adoption service providers.⁶ Also in 2000, the United States enacted the Child Citizenship Act⁷ to allow automatic citizenship for eligible adopted

³Codified at 8 U.S.C. 1101 et seq.

⁴The act includes in its definition of immediate relative children who have been orphaned by the death or disappearance of, or abandonment or desertion by, or separation or loss from, both parents. If one parent remains, that parent must be incapable of providing the proper care for the child and must, in writing, irrevocably release the child for adoption and emigration. Additionally, a child can qualify as an IR if the child has resided with and been in the legal custody of the adopting parent for at least 2 years, or, in some instances, where the child has not yet been adopted, but is traveling to the United States for purposes of adoption. Also, a child qualifies as an IR if he or she is the natural sibling of a child that has been adopted or is being adopted by the same family and meets all requirements above except that the child is under the age of 18.

⁵Pub. L. No. 106-279 (Oct. 6, 2000).

⁶The act assigns functions specified in Article 14 of the Convention (relating to the filing of applications of prospective adoptive parents) to the Attorney General.

⁷Pub. L. No. 106-395 (Oct. 30, 2000).

children.⁸ Furthermore, in 2005 congressional legislation was introduced regarding the U.S. intercountry adoption process.⁹

Intercountry Adoptions Have Steadily Increased

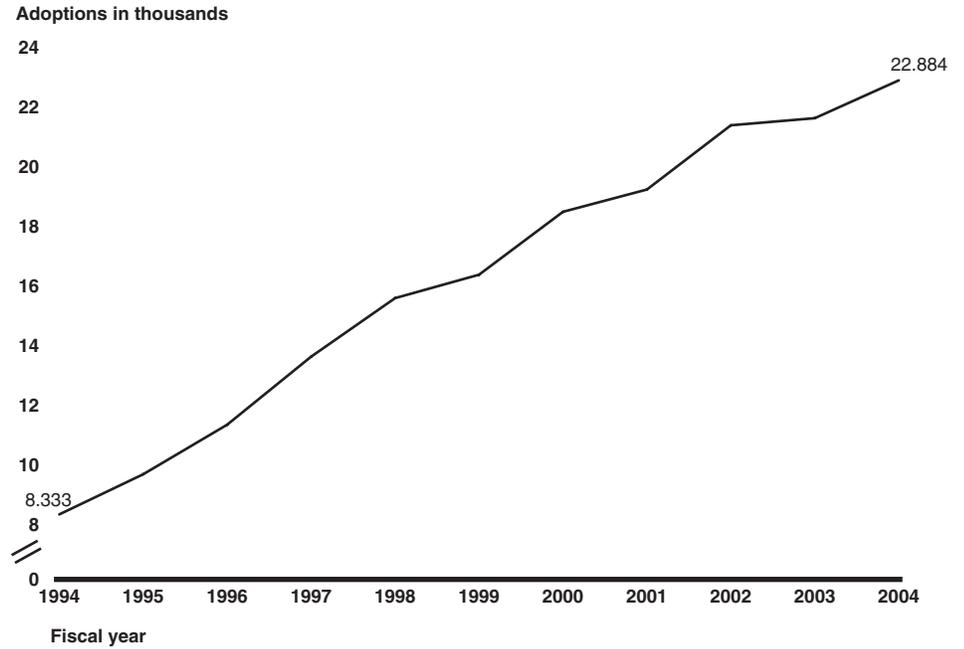
Intercountry adoptions may be a viable alternative to domestic adoptions for parents interested in adopting an infant, according to the National Adoption Information Clearinghouse. In fiscal years 2002 to 2004, DHS reported that at least 40 percent of children adopted by U.S. parents were under age 1, and at least 42 percent were between the ages of 1 and 4. In the past 10 years, the annual number of U.S. intercountry adoptions has consistently increased and nearly tripled, from more than 8,000 in fiscal year 1994 to more than 22,000 in fiscal year 2004 (see fig. 1).¹⁰

⁸To be eligible, a child must meet the following requirements: (1) has at least one U.S. citizen parent (by birth or naturalization), (2) is under 18 years of age, (3) resides permanently in the United States in the legal and physical custody of a U.S. citizen parent, and (4) meets the requirements applicable to adopted children under the INA.

⁹The legislation, known as the Intercountry Adoption Reform Act of 2005, proposes to establish an Office of Intercountry Adoptions within State and appoint an Ambassador at Large to head the office; transfer functions and resources related to intercountry adoptions currently performed by DHS to State; amend INA to grant automatic U.S. citizenship to some foreign-born adopted children; and require an annual report on intercountry adoption.

¹⁰To assess the reliability of the data we used from the State's Immigrant Visa Overseas System (IVO), we interviewed knowledgeable agency officials about the completeness and accuracy of the data. Based on the information and documentation we obtained, we concluded that the data were sufficiently reliable to use in this report.

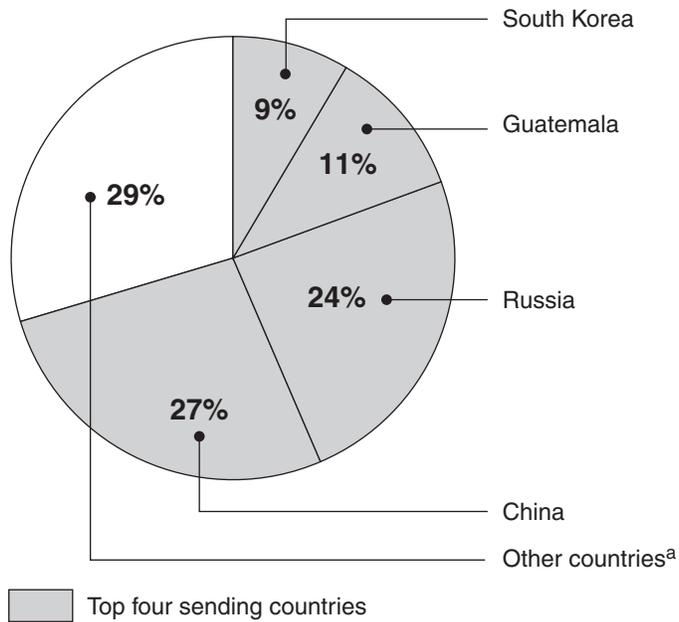
Figure 1: Number U.S. Intercountry Adoptions from Fiscal Years 1994 through 2004



Source: GAO analysis of State data.

The majority of children adopted into the United States between 1994 and 2004 have originated from four countries—China, Russia, South Korea, and Guatemala—which consistently ranked among the top five sending countries of children adopted by U.S. parents (see app. II for a listing of all intercountry adoptions by country in fiscal year 2004). In total, adoptions from these four countries accounted for over 70 percent of all U.S. intercountry adoptions in the past 10 years (see fig. 2).

Figure 2: Distribution of U.S. Intercountry Adoptions by Sending Countries from Fiscal Years 1994 through 2004

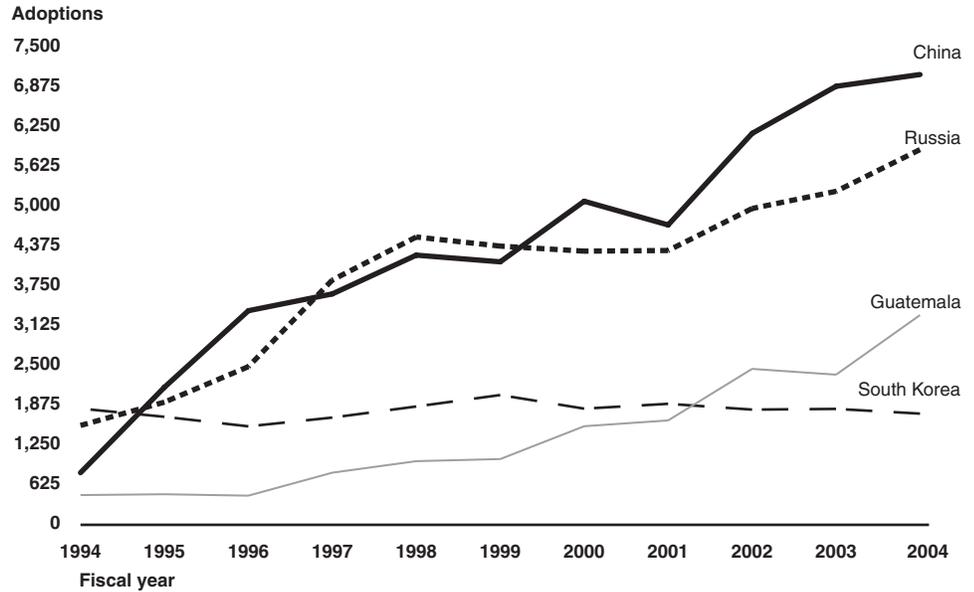


Source: GAO analysis of State data.

^aEach of the countries included in "other countries" makes up less than 3% of intercountry adoptions during this time.

Adoptions from China, Russia, and Guatemala increased significantly between fiscal years 1994 and 2004, accounting for the vast majority (92 percent) of the total increase (about 14,000) in U.S. intercountry adoptions during this time. The number of adoptions from South Korea has remained more consistent during this time (see fig. 3).

Figure 3: Number of Intercountry Adoptions from Top Four Sending Countries from Fiscal Years 1994 through 2004



Source: GAO analysis of State data.

Although the United States is one of the world’s leading receiving countries for intercountry adoptions, some U.S. children are adopted by foreigners. Statistics on the number of U.S. children adopted by foreigners are not currently collected on a national level,¹¹ however, Canada, for example, reports adoptions of over 700 U.S. children from 1993 to 2002.

Current Restrictions on Intercountry Adoptions

In recent years, several countries, including the United States, have restricted¹² intercountry adoptions from or to all or specified countries for various reasons, including concerns of fraud, medical concerns,

¹¹With U.S. implementation of the Hague Convention through IAA, State will be required to submit a report to Congress that includes the number of U.S. children emigrating from the United States for intercountry adoptions.

¹²The term restriction in this report may refer to suspensions, bans, or moratoriums.

natural disasters,¹³ and time allowed for a country to review safeguards in its intercountry adoption process. Although some of these restrictions have since been removed, such as those recently in China, Azerbaijan, and Vietnam,¹⁴ several remain in effect. Currently, the United States has a suspension on intercountry adoptions from Cambodia—the only U.S.-imposed suspension—which was issued in 2001 due to evidence of widespread corruption. Additionally, several foreign governments currently have restricted intercountry adoptions, in some cases because the countries are examining their adoption process (see table 1).

¹³For example, countries affected by the 2004 Tsunami, such as Indonesia and Sri Lanka, announced measures to prevent adoptions of children who lost their parents in the disaster until all reasonable efforts to reunite such children with immediate or close relatives had been concluded. According to State officials, this practice follows accepted international practice regarding intercountry adoptions rather than imposing restrictions on adoptions.

¹⁴China issued a suspension on intercountry adoptions due to medical reasons (SARS outbreak) that was lifted in 2003. Vietnam issued a decree in 2002 that required an agreement on intercountry adoptions between Vietnam and other countries. The United States and Vietnam did not have an agreement at the time the decree was issued and, therefore, intercountry adoptions were stopped. However, after the two countries signed an agreement in June 2005, adoptions have resumed. Azerbaijan issued a suspension in 2004 pending the implementation of new adoption procedures. Azerbaijan lifted the suspension in August 2005 when an Azerbaijani investigation into adoption practices was concluded.

Table 1: Countries That Currently Have Restrictions on Intercountry Adoptions, as of September 30, 2005

Country	Reason for restriction
Belarus	Adoptions are on hold while the government conducts an investigation of allegations of adoption irregularities; a new adoption law was signed in January 2005, but a new adoption procedure has not yet been finalized.
Costa Rica	Issued a moratorium in 2003 with countries that have not ratified the Hague Convention; however, Costa Rican law permits intercountry adoptions to be performed by attorneys, and maintains no restrictions on such adoptions.
Georgia	Banned directed adoptions, in which birth parents relinquish a child directly to adoptive parents, in 2003 (this was the most common method of adoption by U.S. citizens in Georgia); State notes that this is generally viewed in the adoption community as a positive development.
Romania	Limited intercountry adoptions to biological grandparents, effective in 2005, making permanent the moratorium it issued in 2001 because its adoption framework did not protect the best interest of the child.
Ukraine	Suspended acceptance of new adoption dossiers from U.S. citizens and citizens of several other countries; according to Ukraine, this decision was based in part on the past noncompliance of some families with post adoption reports required by Ukrainian law.

Source: GAO analysis of State information.

USCIS and State Implement Law for U.S. Intercountry Adoptions, with Foreign Governments Playing a Role in the Process

The U.S. intercountry adoption process, which is defined by the INA and primarily implemented by USCIS and State, is complicated by a number of domestic and foreign government requirements and can be separated into three phases.¹⁵ First, USCIS determines the parents' eligibility and fitness to adopt through its review of the prospective parents' application, home study reports, and background checks. Next, USCIS—or State, in countries where USCIS has no offices—determines the child's orphan status by examining documents and, when warranted, conducting overseas investigations. Finally, State's overseas consular officers verify the child's orphan status and eligibility for an immigrant visa. (Fig. 4 illustrates the three phases of the U.S. government's process for intercountry adoptions.) Depending on the type of visa issued, children admitted to the United States may qualify for automatic citizenship. Various factors, such as different foreign government's requirements, contribute to varying lengths

¹⁵Most parents who permanently reside in the United States and adopt overseas go through this three-step process.

of time required for the process and the varying costs incurred by adoptive parents.

Phase I—Prospective Parents’ Suitability to Adopt Is Determined

In the first phase of the U.S. intercountry adoption process, USCIS determines the potential parents’ suitability to adopt a child who resides outside of the United States. The INA defines qualifications for prospective adoptive parents.¹⁶ USCIS implements this requirement through its 68 domestic offices.¹⁷ Prospective parents submit to USCIS fingerprints; a filing fee; home study;¹⁸ proof of compliance with preadoption requirements of the prospective parent’s state of residence; other documents such as proof of citizenship, age, marriage license, and divorce decrees; and, in some cases, an Application for Advance Processing of Orphan Petition (Form I-600A).¹⁹ The home study is completed by a party approved under the laws of the prospective parent’s state of residence, such as an adoption agency, and includes interviews with the family and an assessment of the prospective parent’s suitability to adopt a child. After USCIS receives all required documents from parents, the agency reviews the documents, conducts background checks on all adult members living in the household, and makes its determination. If USCIS determines that the prospective parents are eligible to adopt and fit to provide the child with proper care, then it sends them a Notice of Favorable Determination

¹⁶Under the INA, the prospective parent of an orphan must be a U.S. citizen and, if married, apply for permission to adopt a foreign orphan jointly with his or her spouse or, if unmarried, be at least 25 years old at the time he or she files the orphan petition. Meeting preadoption requirements of the child’s proposed state of residence is applicable to cases in which parents are required to readopt the child in the United States.

¹⁷At USCIS domestic offices, staffing to handle intercountry adoptions is determined by each office. In offices with large caseloads, between one and two staff handle intercountry adoption cases. Intercountry adoption cases make up less than 1 percent of the agency’s overall workload, about 22,000 cases of approximately 6 to 7 million total cases.

¹⁸The laws of every state and the District of Columbia require all prospective parents (no matter where they intend to adopt) to participate in a home study. This process has two purposes for intercountry adoption: to educate and prepare the adoptive family for adoption and to evaluate the fitness of the adoptive family. Specific home study requirements vary greatly from agency to agency, state to state, and (in the case of intercountry adoption) by the child’s country of origin. USCIS includes requirements for the home study in its standard operating procedures.

¹⁹Filing of the Form I-600A is optional, and it enables parents who want to adopt, yet have not identified an orphan, to initiate the adoption process. Regardless of whether parents file a Form I-600A, they must file a Form I-600.

Concerning Applications for Advance Processing of Orphan Petition (Form I-171H or I-797C).

Phase II—Child’s Status as an Orphan Is Determined

The second phase in the process requires U.S. federal agencies to determine the orphan status of the child to be adopted, as defined by the INA. Depending upon the location of the child, either an USCIS officer or State consular officer determines whether the prospective adoptive child meets the U.S. immigration law definition of an orphan.²⁰

Once a child has been identified, adopting parents file a Petition to Classify the Orphan as an Immediate Relative (Form I-600), provide proof of the child’s age and identity, proof that the child is an orphan, and proof of a foreign government-issued adoption decree or guardianship. In order to obtain adoption decree or guardianship in the foreign country, parents must meet the foreign government’s laws and requirements. Foreign governments may place additional requirements on prospective parents, including those regarding the prospective parents’ age and residency in country, as well as the requirement for parents to agree to provide post adoption information. The Russian government, for example, requires an agreement from adoptive parents to provide periodic and on time postplacement reports. However, Russian government officials have noted that American adoptive parents have not always complied with this requirement.

USCIS or State officials review the documentation for Form I-600 and, depending on the specifics of the case, may also undertake a field investigation. Sometimes officers interview birth mothers or visit orphanages to verify the circumstances surrounding the child’s orphan status. Following the completed review, USCIS or State officials make a determination. If all documents are sufficient and the child has been determined an orphan, USCIS or State officials approve the I-600 petition and send parents a Notice of Approval of Relative Immigration Visa Petition (Form I-171).

²⁰In 30 overseas USCIS offices, USCIS adjudicates orphan cases. In countries where USCIS does not have an overseas office, State consular officers help determine the child’s orphan status and approve adoption cases; if cases are not approvable, consular officers send these to one of USCIS’ three district offices overseas in Bangkok, Mexico City, and Rome. See appendix III for a list of USCIS Overseas District and Sub Offices.

Phase III—Child’s Eligibility to Immigrate to the United States Is Determined

The third step of the process involves State’s issuance of an immigrant visa to the child for admission into the United States.²¹ With respect to state law, most states grant full recognition to a foreign adoption decree. In some instances, states require adoptive parents to validate the foreign decree.²²

After parents have an approved Form I-600, they submit a completed Immigrant Visa application (Form DS-230, Parts I and II) along with the application fee and required documentation. The consular officer then examines the documents, which include the following:²³

- child’s birth certificate and passport (or other valid travel document);
- evidence of adoption or legal custody for purposes of emigration and adoption, as well as evidence of whether the adopting parents saw the child prior to or during adoption proceedings (if applicable); and
- record of medical exam from the embassy’s panel physician (this exam is largely to ensure that children with communicable diseases do not enter the United States; parents are advised by State to consult with other professionals for complete physical or mental evaluations of the orphan’s health). If significant health problems are uncovered, parents may be asked to sign an affidavit acknowledging their desire to continue with the case given the medical condition of the child and, in some cases, parents may be requested to sign an affidavit regarding their intent to obtain necessary vaccinations for the child upon entry to the United States.

²¹In Guatemala, the U.S. embassy schedules specific immigrant visa appointment dates and times for all adoption cases.

²²According to the National Adoption Information Clearinghouse, states such as Colorado and Connecticut do not grant full recognition until that decree is validated by a state court. For more information, see <http://naic.acf.hhs.gov/general/legal/statutes/international.pdf>.

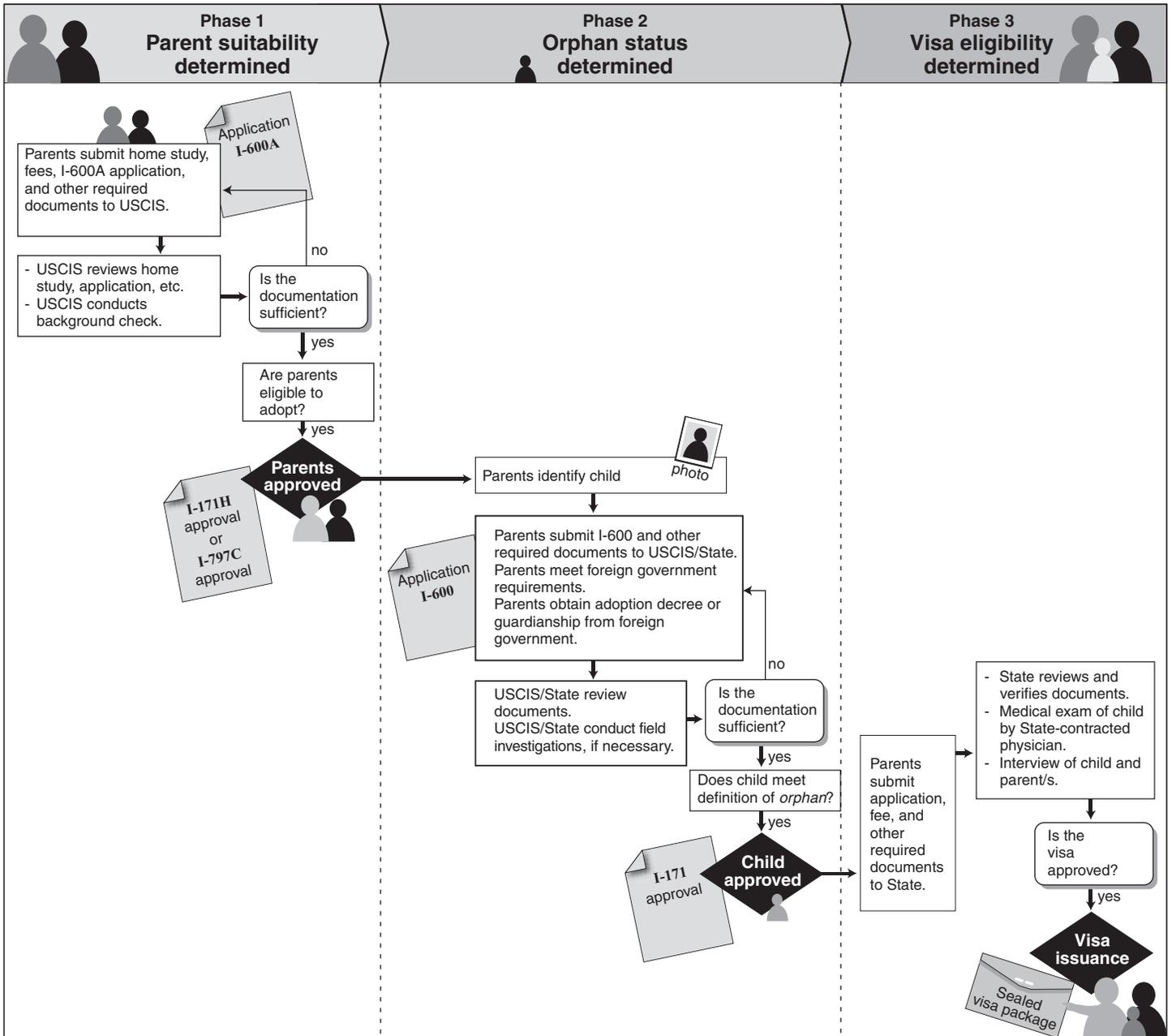
²³For children not yet adopted, not seen by both adopting parents, or who will reside in states requiring readoption, parents must also submit the Form I-864 (Affidavit of Support) with accompanying documentation.

State consular officers then approve the child for an IR-3 or IR-4 immigrant visa,²⁴ if all documentation for the orphan is in order. State provides an immigrant visa package²⁵ for the child to be presented to the Customs and Border Protection officer at the U.S. port of entry. According to State officials, the visa issuance process usually takes about 1 or 2 days.

²⁴IR-3 visas are issued for orphans who had a full and final adoption overseas by both adopting parents, when both parents physically saw the child prior to or during local adoption proceedings. IR-4 visas are issued when a full and final adoption has not been completed overseas, or when a full and final adoption has been completed but one or both parents(s) did not see the child prior to or during the adoption process.

²⁵The visa package includes the Application for Advance Processing of Orphan Petition, Petition to Classify the Orphan as an Immediate Relative, a USCIS or State official's Determination on Child for Adoption, court adoption decree, birth certificate, abandonment or relinquishment documents, DS-230, medical-panel physician report, immunizations or waiver, evidence of employment, and evidence of assets and liabilities. Additionally, the Affidavit of Support (Form I-864) and 3 years' income tax reports are included in the package for IR-4 visas.

Figure 4: U.S. Intercountry Adoption Process



Sources: GAO analysis of USCIS and State information.

U.S. Citizenship Requirements Differ Depending on Visa Classification

The INA establishes the criteria by which foreign-born children adopted by U.S. parents become U.S. citizens. Foreign-born children under the age of 18 admitted to the United States and residing permanently in the United States based on an issued IR-3 visa automatically acquire U.S. citizenship as of the date of admission to the United States. USCIS reviews IR-3 visa packages and sends Certificates of Citizenship to eligible children without requiring any additional forms or fees. In most cases, children that receive IR-4 visas may automatically acquire U.S. citizenship at entry if there was a final adoption abroad by a U.S. citizen parent and the state where the child resides does not require readoption. Other children that receive IR-4 visas acquire U.S. citizenship upon full and final adoption in the United States.

A Range of Factors Contribute to Varying Adoption Completion Times and Costs

Various factors make it difficult to generalize the length of time required and exact costs incurred by adoptive parents for intercountry adoptions. Country-specific adoption requirements, particularly in the top sending countries of U.S. intercountry adoptions, may contribute to the different time frames it may take to adopt a child. For example, the Russian government requires adoptive parents to travel to Russia to meet the prospective adoptive child. Since Russia also requires that the child remain in Russia before the court hearing, adoptive parents may travel a second time to Russia to attend the court hearing and adopt the child. In addition, procedural requirements in the foreign country may be difficult to meet. For instance, in Guatemala, birth certificates of the adopted child and documents proving the identity of birth mothers may be difficult and time-consuming to locate. Other factors, such as the prospective parents' ability to provide adequate and timely information to meet U.S. intercountry adoption requirements, may also contribute to the length of time it takes for U.S. government officials to approve adoptions. For example, prospective parents may file application forms for intercountry adoptions to USCIS, which allows prospective parents up to 12 months to submit supportive documentation, such as the home study. Estimated total adoption costs incurred by adoptive parents may also vary depending on the foreign country.²⁶ Table 2 shows the variations on the estimated length of time that foreign governments take to approve typical U.S. intercountry

²⁶These costs include U.S. government fees, such as the USCIS application fee of \$525, State's visa fee of \$335, and Federal Bureau of Investigation fingerprint fee of \$70 per adoptive family member. The remainder of the costs to adoptive parents includes adoption agency, facilitator, and attorney fees; fees charged for the home study; travel expenses; and fees charged by foreign governments.

adoption cases in country and estimated cost of an adoption incurred by adoptive parents among the top sending countries of U.S. intercountry adoptions.

Table 2: Approximate Length of Time for Completion of Adoption Overseas and Estimated Adoption Costs in Top Four Sending Countries (2005)

Country	Approximate length of time foreign governments take to approve adoption in country ^a	Estimated adoption costs for adoptive parents (per adoption)
China	10 to 12 months	\$15,000 to \$20,000
Russia	5 months	\$40,000
Guatemala	6 to 7 months	\$20,000 to \$25,000
South Korea	1 year	\$18,000 to \$24,000

Source: Data provided by State.

Note: Data is based on testimonial information obtained by State Consular Affairs officials reviewing intercountry adoption cases in foreign countries. This data provides estimated information on typical U.S. intercountry adoption cases.

^aAccording to State officials, this length of time is the approximate time spent on U.S. intercountry adoption cases by the foreign government and does not include time spent by the U.S. government for approval.

U.S. Agencies Improved the U.S. Intercountry Adoption Process, but USCIS Lacks a Formal Quality Assurance Process

In 2002, an interagency task force on intercountry adoptions was created to examine ways to improve the U.S. intercountry adoption process, and USCIS and State implemented most of the priorities that the task force identified as necessary for improving the adoption process. USCIS has taken measures to review the quality of the adoptions process but lacks a structured quality assurance program where results are summarized and communicated to senior agency officials.

USCIS and State Improved the Intercountry Adoption Process

USCIS and State have taken several measures to improve the intercountry adoptions process. The Commissioner of the Immigration and Naturalization Service (INS)²⁷ made intercountry adoptions a priority for the agency in March 2002, after the Commissioner suspended orphan visa

²⁷On March 1, 2003, U.S. Citizenship and Immigration Services became one of three INS components to join DHS.

processing for Cambodia.²⁸ The INS created an adoptions task force with State to comprehensively review the existing INS structure for handling intercountry adoptions. The task force identified several priorities to improve the intercountry adoption process, and the agencies have, over the past 3 years, addressed many of the priorities by taking the following actions:

- **Improved interagency coordination:** The task force suggested that coordination needed to continue and that USCIS consider how adoption work should be distributed and coordinated between USCIS and State. USCIS and State's Bureau of Consular Affairs have established a relationship to work together to address and resolve adoption issues. For instance, the agencies hold quarterly meetings to coordinate implementing changes to regulations, discuss challenges to the process, and improve the forms used by officials in the process. In particular, USCIS and State officials regularly discuss specific adoption cases and issues that arise in overseas posts, as well as regulatory, administrative, and policy matters related to intercountry adoptions. Moreover, in April 2005, USCIS and State's Bureau of Consular Affairs officials met at a USCIS field office to establish a mechanism for sharing information on visa processing.
- **Improved efforts to communicate with parents:** The adoptions task force identified the need for USCIS and State to provide advisory notices for prospective adoptive parents. The task force suggested that emphasis should be placed on ensuring that parents were consistently informed about procedures, as well as prohibitions related to child buying in the process, and that parents receive the most current and complete information available on issues identified in countries where adoptions occur. To improve communications with parents, USCIS and State's Office of Children's Issues in the Bureau of Consular Affairs provide information on their Web sites,²⁹ USCIS and State officials meet with adoption organizations and parents to discuss various issues and USCIS field offices have taken steps to provide customer service to parents. For example, USCIS and State Web sites provide information on the process in the United States and overseas, and the roles of both

²⁸The Cambodia situation is discussed later in this report.

²⁹USCIS' Web site is <http://uscis.gov/graphics/services/index2.htm>. State's Web site is http://travel.state.gov/family/adoption/adoption_485.html.

agencies, and alert parents to potential concerns through advisory notices about adoption procedures in other countries. USCIS and State's Office of Children's Issues provide outreach to parents and the adoption community by presenting information at regional and national conferences. In the two domestic USCIS field offices we visited, we found that officials had taken several actions to communicate with prospective adoptive parents, such as establishing procedures to meet prospective parents and providing telephone numbers for parents to directly contact the Adoption Adjudication Officer.

- Developed standard operating procedures: Another priority of the adoptions task force was for USCIS to provide consistent guidance for its field officers adjudicating orphan petitions by developing standard operating procedures on how to determine parents' suitability to adopt and a child's orphan status. The task force pointed out that, in some cases, an adjudicator may be the only person in the field office that handles adoptions and may have a supervisor reviewing their work who does not have expertise in adoptions. The task force also reported that, even among the best adjudicators, there was little procedural consistency in adjudicating adoptions and no centralized guidance from headquarters. To address this priority, in 2003, USCIS developed standard operating procedures on adoption adjudications and made them available to their staff electronically. We reviewed the standard operating procedures and found that they described in a very detailed manner the process for adjudicating orphan petitions. Furthermore, State provides guidance to consular officers on how to process orphan visa cases in its *Foreign Affairs Manual*.
- Conducted agency training: The task force noted that both USCIS and State officials sometimes lacked the training necessary to determine orphan status. In response, USCIS developed training materials for its domestic and overseas field adjudicators for determining orphan status and conducted an intercountry adoptions training course in 2002, which some State officials attended. We reviewed the training materials and found that they re-emphasized INA statutes for defining orphan status, defined the agency's role and responsibilities for adjudicating orphan petitions, and provided details for conducting orphan investigations. In addition, to assist consular officers in their orphan investigations, State offers fraud training to help its officers ascertain whether information in documents for determining orphan status, such as birth certificates, is false or whether documents have been altered or falsified. According to

a State official, State increased the frequency of the course from twice a year to 8 to 10 times per year in 2005.

- Streamlined the intercountry adoption process: The task force emphasized that the agency continue to demonstrate its commitment to maintaining the intercountry adoption process as a priority. USCIS streamlined some of its intercountry adoption procedures as a result. A USCIS official acknowledged that the agency is challenged to balance the prospective parents' interest in creating their new family as quickly as possible with the need to review and process each application and the required documents in accordance with U.S. law. To address issues relating to timeliness, the agency has instituted a policy requiring completion of all immigration related applications within 6 months. Between October 2003 and July 2005, the agency has processed adoption applications in less than 4 months, on average.³⁰ According to USCIS officials, many petitioners file an incomplete Advanced Orphan Petition (Form I-600A) or Orphan Petition (Form I-600) while they are in the process of completing their home study. Regulations allow the petitioner(s) up to 12 months to submit supportive documentation. The agency strives to process completed applications within 30 days of receiving all required documentation, according to USCIS officials.

In addition, in November 2003, USCIS made efforts to eliminate its backlog of U.S. citizenship certificates by centralizing the process. USCIS advised its field offices that, if they needed assistance with their backlog, to send these cases to a central location for processing. According to a USCIS official, from November through December 2003, this central office processed 671 of the 700 backlogged cases—the remaining cases were either denied or returned to the field office for additional follow-up. In addition, to streamline and simplify the issuance of Certificates of Citizenship for adopted children who receive IR-3 visas and have their adoption finalized overseas, USCIS created the IR-3 Entrant Program in January 2004. The program eliminates the application and fee for citizenship certificates for about 70 percent of children adopted by U.S. citizens. A USCIS official noted that the

³⁰Since USCIS allows parents up to 1 year to file their home study after USCIS has received the parents' application and fee, USCIS determines the application processing time from when USCIS receives the parents' application and fees to when USCIS completes adjudication of the application including the submitted home study.

agency has consistently met its goal to provide certificates within 45 days after the family has entered the United States.

Further, in the intercountry adoption process, a system of checks and balances has developed that allows State, in the visa issuance phase, to review USCIS paperwork before issuing the visa to the child. Additionally, as a part of the streamlined process for issuing the citizenship certificates to adopted children, USCIS reviews IR-3 immigrant visa packages to verify that the child acquired automatic U.S. citizenship upon admission to the United States as required under the INA. Since April 2005, USCIS and State have established procedures to specifically address issues in visa classification decisions.

USCIS Has Taken Measures to Review the Quality of the Adoptions Process, but a Structured Quality Assurance Program Is Not in Place

The adoptions task force reported that USCIS should adopt a quality assurance program for orphan adjudications. Although USCIS has taken measures to review the quality of the adoptions process, we found that USCIS has not developed a formal quality assurance process, similar to the programs used in other areas of the agency. The activities of the quality assurance program could include such procedures as the review of random cases adjudicated by field officers to determine whether they are following agency guidance and procedures, as well as the evaluation of statistics to determine average processing times of orphan petitions by field offices.

The task force reported that, even among the best officers, there was little procedural or substantive consistency in approach or a centralized source of guidance from headquarters. In 2003, USCIS developed standard operating procedures that detailed a step by step approach for adjudicating orphan petitions with the goal of improved consistency among its adjudications, but the agency has not provided training to adjudicating officers on these new procedures. The task force also reported that problems in adjudicating orphan petitions can be traced to the fact that individuals train their successors as best as they can, but there is no routine mechanism for obtaining feedback on written work from someone with specialized adoption expertise. In the field offices we visited, we found that the adjudicators had learned the process for adjudicating adoption petitions mostly through on-the-job training and mentoring. USCIS held intercountry adoptions training in 2002 as a result of the task force's suggestion; however, not all adjudicators who process adoption cases attended the training. A USCIS official stated that the agency plans to hold similar training in fiscal year 2006, but no dates have been set.

In January 2004, as part of the Child Citizenship Act Program, the USCIS Buffalo office began its review of adoption documents for children who received IR-3 visas to help ensure the accuracy and completeness of the information relating to the adoption process. This review process accounts for about 70 percent of the adoption cases, with the remaining 30 percent not included. The USCIS Buffalo office has an informal process for addressing individual cases by sending e-mails to relevant officials at USCIS and State. We reviewed several of the e-mails sent by the USCIS Buffalo office, which identified issues such as insufficient documentation, misclassifications of visas, and inconsistent interpretation of INA regulations. While USCIS Buffalo's review process has merits, the results of the review are not summarized and formally reported to either senior USCIS or State officials. Moreover, USCIS does not have a structured approach that would allow the agencies to assess the quality of the intercountry adoption process over time, ensure that senior officials from USCIS and State are aware of the results, and identify opportunities where additional training or guidance may be warranted.

USCIS and State Have Taken Steps to Strengthen Safeguards to the Process in Foreign Environments, but USCIS Does Not Systematically Document Incidents of Potential Abuses

The conditions in foreign environments can contribute to potential abuses in the intercountry adoptions process. USCIS and State have taken steps to increase safeguards and mitigate the potential for fraudulent adoptions, though USCIS has not formally and systematically documented specific problematic incidents to help USCIS adjudicators better understand the potential pitfalls in some intercountry adoptions.

Factors in Some Foreign Countries May Contribute to Abuses in U.S. Intercountry Adoptions

While the U.S. immigration law covering intercountry adoptions is designed to ensure that adopting parents are suitable and fit to provide proper care of the child and that the foreign-born child is an orphan, conditions in some countries—such as corruption and the lack of a legal framework over intercountry adoptions—may lead to abuses in the intercountry adoption

process. According to the United Nations Children’s Fund (UNICEF),³¹ such abuses are more likely to occur in countries where legislative provisions are nonexistent, inadequate, or plagued with gaps and loopholes. UNICEF research also identified that risk for abuses significantly increased when government entities that oversee the adoption process are absent, insufficient, or when the prospective parents act through intermediaries that may not be licensed. For example, State has received a growing number of complaints concerning adoption facilitators operating in various countries. Licensing of agents and facilitators is done in accordance with local law. However, not all foreign governments require that agents and facilitators be licensed. Accordingly, it can be difficult to hold facilitators accountable for fraud, malfeasance, or other bad practices in general.

According to USCIS, State, and UNICEF, there have been some known cases of abuse in intercountry adoptions, which include

- abducting children;
- exchanging a child for financial or material rewards to the birth family, or “child buying”;
- deliberately providing misleading information to birth parents to obtain their consent;
- providing false information to prospective adopters;
- falsifying documents; and
- obtaining favorable adoption decisions from corrupt local or central government officials.

Past difficulties with intercountry adoptions in foreign countries, most notably in Cambodia, illustrate the potential effect of high-risk adoption environments. The United States issued a suspension on intercountry adoptions from Cambodia in December 2001 after receiving complaints from nongovernmental organizations in Cambodia that criminals were involved in “baby buying” for adoptions. From 1997 to 2001, the conspirators operated a scheme to defraud U.S. citizens who adopted some

³¹Innocenti Digest, *Intercountry Adoption* (Florence, Italy: December 1998).

700 children from Cambodia. The conspirators received approximately \$8 million dollars from adoptive parents in the United States. The conspiracy involved assorted crimes, including alien smuggling, visa fraud, and money laundering, and included schemes such as the use of baby buyers obtaining children from birth parents by informing the birth parents that they may have their child back at any time, then obtaining false Cambodian passports to enable the children to leave the country. In 2004, after a DHS investigation, a U.S. adoption facilitator pled guilty to conspiracy to commit visa fraud and conspiracy to launder money.

The United States has also noted ongoing concerns with intercountry adoptions in certain countries, as of the date of this report. These countries include Guatemala, where a large number of U.S. adopted children originate from, as well as Nepal, Nigeria, and Sierra Leone. In Guatemala, USCIS and State noted on their Web sites that the use of a false birth mother to release her child is the usual method chosen by unscrupulous operators to create a paper trail for an illegally obtained child. USCIS and State officials acknowledged the known problems in Guatemala of birth mothers who are paid by private adoption attorneys to relinquish their children for adoption. According to State, problematic cases may further be complicated by high incidence of corruption and civil document fraud in Guatemala. In Nepal, visa fraud is a significant problem facing potential adoptive parents, according to State's Web site. State also emphasized that document and identity fraud related to adoptions are serious concerns in Nigeria, and a high rate of adoption fraud has been uncovered in Sierra Leone.

Both Agencies Have Taken Steps to Strengthen Intercountry Adoption Safeguards in Foreign Countries, but USCIS Has Not Formally and Systematically Documented Incidents of Potential Abuses

USCIS and State have taken various steps to strengthen safeguards against abuses associated with adoptions from foreign countries. USCIS and State's Office of Children's Issues coordinate to provide publicly available information to alert prospective adoptive parents to country-specific adoption processes and serious problems that may develop or already exist in foreign adoption processes. State officials also hold diplomatic discussions with foreign countries regarding intercountry adoptions. Through discussions between the United States and Vietnam, for example, intercountry adoptions, which had been suspended, resumed after the two countries signed an agreement of cooperation in June 2005. In addition, USCIS has established written guidance for ways to identify fraud in intercountry adoption cases. The guidance provides that USCIS officers consider specific fraud indicators, such as documentary deficiencies and delays in registering birth certificates. Furthermore, State has provided

fraud prevention management training to State consular officers, and USCIS officials said that all USCIS officers receive training, which includes an antifraud segment, when hired.

USCIS and State have established procedures for determining the orphan status of the child based on the conditions that exist in the country relating to the intercountry adoption process. These procedures may add to the length of time for the adoption process. For example, in countries where the adoption process is clear and transparent, and when officers deal with adoption agencies with high standards, USCIS allows the field investigation to be completed through a documentary review. In some instances, however, deficiencies or inconsistencies in the documentation presented will require in-depth field investigations. In certain countries, these investigations can include additional steps, such as interviews with the birth mother, DNA testing when necessary and feasible, and interviews with adoption entities such as facilitators, orphanage directors, and local officials. In Guatemala, for example, USCIS requires DNA testing in all cases where the child is released by an identified birth mother due to concerns over the use of false birth mothers to release illegally obtained children. In Nigeria, where document and identity fraud related to adoptions are serious concerns, all adoptions are required to undergo full field investigations to verify the authenticity of the information provided in the adoption decrees and U.S. orphan petitions. These added steps in the process may contribute to a lengthier completion time for intercountry adoptions, but may also help the U.S. government in ensuring the legitimacy of information provided on the adopted child and in detecting fraud.

Both USCIS and State publicize general knowledge of the risk environment in foreign countries. However, while State has documented specific concerns via cable communication, USCIS has not established a procedure to systematically document instances of individual problematic situations identified through its intercountry adoption work in foreign countries, including its staff's knowledge of unscrupulous adoption attorneys and facilitators, as well as disreputable orphanages and adoption agencies. Although USCIS officials informed us that they discuss the risk environment in foreign countries with overseas staff on a periodic and informal basis, agency officials' knowledge of specific incidents of concern may be better captured in a systematically documented method. In Guatemala, for example, USCIS staff informed us of instances where facilitators may have provided substantial funds to birth mothers who have relinquished their children for adoption. A USCIS official had also banned

specific adoption attorneys in Guatemala from submitting intercountry adoption cases due to the USCIS official's suspicions of the attorneys' fraudulent practices. This information, however, is communicated anecdotally to other USCIS officials without being specifically and systematically documented. In addition, while USCIS provides information for State's publicly available notices documenting country conditions, individual and detailed accounts of concern are not systematically captured. USCIS officials also noted that they have access to cables prepared by State officials that discuss concerns with intercountry adoptions in foreign countries. Contents in State's documented cables range from documentation of general risks to intercountry adoptions in foreign countries to findings during orphan investigations in specific adoption cases.

GAO internal control standards specify that agencies consider adequate mechanisms to identify risks arising from external factors, including careful considerations of the risks resulting from interactions with other federal entities and parties outside the government. Our standards also note that agency management should establish a formal process to analyze these risks. Documentation by USCIS staff of specific problematic incidents would provide a systematic method to retain institutional knowledge, analyze trends in the occurrence of these problems, and share critical information.

United States and Some U.S. Top Sending Countries Have Not Ratified Multilateral Convention That Establishes Minimum Intercountry Adoption Standards

The Hague Convention, which governs intercountry adoptions, establishes minimum standards designed to help alleviate some of the risk associated with foreign governments' adoption processes. The United States has signed the Convention and taken key steps toward implementation but has not yet formally ratified it, while some U.S. top sending countries have also not ratified the Convention.³²

³²In order to become a party to the Convention, states must either ratify or accede to the Convention. Member states to the Hague Conference typically sign and then subsequently ratify the Convention. Nonmember states, including, for example, Guatemala, do not sign the Convention, but can accede to it.

Hague Convention Establishes Minimum Standards for Intercountry Adoptions

The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoptions is designed to help alleviate some of the risks associated with the adoption process by establishing international minimum standards that sending and receiving countries must abide by.³³ In particular, the objectives of the Convention are (1) to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights as recognized in international law; (2) to establish a system of cooperation among Contracting States to ensure that those safeguards are respected and thereby prevent the abduction, the sale of, or traffic in children; and (3) to secure the recognition in Contracting States of adoptions made in accordance with the Convention. Standards of the Convention will only be applicable for intercountry adoptions in which both the sending and receiving country have ratified the Convention.

More specifically, the Convention's safeguards include the required designation of a Central Authority in each country to implement Convention procedures, as well as requirements regarding prospective parents, adoptable children, and other involved entities. These Central Authorities must coordinate with each other, provide evaluation reports on their country's adoption experiences to other countries, and take the appropriate measures to prevent improper financial gain from an intercountry adoption, among other responsibilities. Additionally, under a Hague adoption, a prospective adoptive parent must apply for an adoption through the sending country's Central Authority. To meet these requirements, the sending country must establish that a child is eligible for adoption by ensuring that adoption is in the best interest of the child and that appropriate counseling and consents, not induced by payment, have been provided, while the receiving country must determine that the prospective parents are eligible and suitable to adopt. Moreover, the Convention requires the receiving country to ensure that the child will be authorized to enter and permanently reside in the country before the adoption takes place, though this is not a prerequisite to parent-child contact. Under the Convention, the Central Authority may delegate certain functions to a public authority or an accredited body, as long as this body pursues only nonprofit objectives, is staffed by qualified persons, and is

³³The Convention also allows countries that have implemented the Convention to enter into agreements to improve the function of the Convention procedures.

subject to supervision. The Convention also permits many Central Authority functions to be performed by other bodies or persons who meet certain ethical, training, and experience standards.³⁴

Although the Convention establishes minimum standards, it does not establish formal means to determine whether countries are complying with them. The United States has monitoring mechanisms, outlined in the IAA,³⁵ to ensure it adheres to the standards of the Convention. However, the Convention does not include mechanisms to determine whether other countries are doing so as well. For example, although the Convention requires the sending countries to prepare a report for each child, it is up to the sending country to ensure that its report is factual.

United States and Some Top Sending Countries Have Yet to Ratify the Convention

Although State has taken some key steps to implement the Convention, several remain. The United States signed the Convention in 1994. In 2000, the Senate gave its advice and consent, but the United States will not formally ratify the Convention until it is able to carry out the obligations required of it by the Convention. That same year, the United States passed the implementing legislation, the IAA, which established State as the U.S. Central Authority for intercountry adoptions. Following passage of the legislation, State has taken several steps to prepare for implementation, including drafting and issuing regulations for comment as required by IAA,³⁶ hiring staff to carry out some of the responsibilities of the Convention, and requesting applications for accrediting entities, which under IAA are responsible for accrediting adoption service providers. However, some key steps remain, which include finalizing regulations, deploying case registry software to track adoption cases,³⁷ and signing agreements with accredited entities. Implementation of the Convention is

³⁴Central Authorities from other countries have the right to not accept nonaccredited entities involvement in the process. The Central Authority is required to provide the names of accredited and nonaccredited bodies involved in the process.

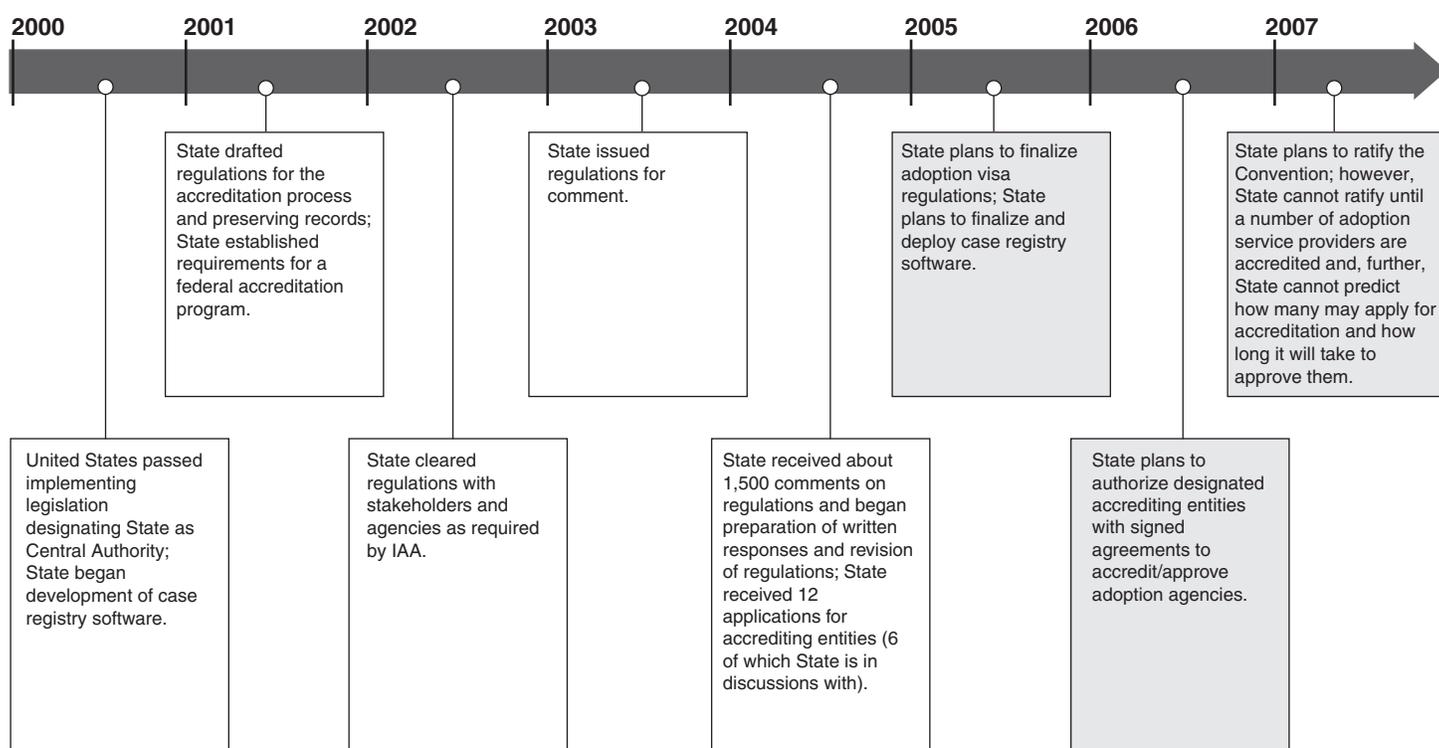
³⁵Pub. L. No. 106-279 (Oct. 6, 2000), 42 USC4901 et seq.

³⁶IAA requires the issuance of new regulations for the accreditation process for adoption service providers and preservation of Convention records. In addition, regulations will need to be drafted to account for the changes made to the visa issuance process.

³⁷IAA requires State to submit a report to Congress that includes the number of intercountry adoptions that involve a child immigrating to and emigrating from the United States for both Hague and non-Hague adoption cases.

one of State's highest priorities, according to State officials. Figure 5 provides a detailed time line of the United States' implementation of the Convention.

Figure 5: Hague Implementation Time Line by Fiscal Year



Source: GAO analysis of State documents.

State officials said the implementation of the Convention is a long-term project and attributed its lengthiness to several challenges. First, IAA required that State consider the standards or procedures developed or proposed by the adoption community before issuing regulations.³⁸ Once regulations were issued to the public for comment, State received about 1,500 comments from more than 200 entities expressing a wide range of views, some calling for more stringent standards and others for less

³⁸42 U.S.C. 14923 (b).

stringent. State revised the regulations, including responses to comments, and sent them to Office of Management and Budget. Second, State is further challenged in drafting agreements with accrediting entities because such entities could be either state licensing bodies or nonprofits, both of which entail a variety of different restrictions, such as state laws. Finally, State must complete some steps in sequential order. For example, agreements with accrediting entities can not be signed until the regulations are finalized. Further, although State's target date for implementation is fiscal year 2007, agency officials stated that they could not predict how long it will take accrediting entities to approve adoption service agencies. According to officials, State will have completed its work needed to implement the Convention by the end of 2005, at which time the adoption service providers will have to apply for accreditation. In addition, USCIS must revise regulations to implement the Convention, and, according to USCIS, they are currently in the process of making the revisions.

Since its creation, 66 countries (which represented about 39 percent of all U.S. intercountry adoptions in fiscal year 2004) have ratified the Convention.³⁹ Three out of four top sending countries for U.S. intercountry adoptions—Guatemala, Russia, and South Korea—have not ratified the Convention. In September 2005, China, the top sending country of U.S. adoptions, ratified the Convention. State officials said that Russia is working toward ratification of the Convention. Guatemala acceded to the Convention in 2002, but, in 2003, the Guatemalan court ruled the accession to be unconstitutional based on technicalities. South Korea has not signed the Convention. See appendix IV for the countries that have implemented the Convention, as well as the total number of U.S. intercountry adoptions in fiscal year 2004 from these countries, as well as the top four sending countries.

Following implementation of the Convention, the United States plans to continue adoptions with non-Hague Convention countries, according to State officials. However, State officials told us that prior to U.S. implementation of the Convention, other Hague Convention countries could potentially suspend adoptions with the United States. For example, Costa Rica announced the suspension of non-Hague adoptions in 2003, though the country has continued to allow some adoptions by U.S. citizens, according to State officials.

³⁹For a full list, see http://www.hcch.net/index_en.php?act=conventions.statusprint&cid=69.

Conclusions

With more and more U.S. citizens expanding their families by adopting children who live in other countries, it is important for the U.S. government to have procedures in place that provide prospective parents with transparent and accessible information on adoptions, coordination between the two primary agencies responsible for implementing U.S. immigration law on intercountry adoptions, and mechanisms to evaluate the suitability of prospective parents and to determine the child's status as an orphan and eligibility to immigrate to the United States. The United States has such procedures in place, and the designated agencies have worked to improve them. While U.S. adoptive parents desire a smooth and expedited adoption process, agency officials are challenged to balance the importance of prioritizing and expediting intercountry adoption cases with the need to conduct thorough investigations to ensure the legitimacy of each adoption.

In recent years, State and USCIS have taken measures to enhance the intercountry adoption process. However, the development of an intercountry adoptions quality assurance program would help to ensure that U.S. intercountry adoption procedures are consistently followed domestically and worldwide. Moreover, because foreign governments play a prominent role in U.S. intercountry adoptions, the U.S. government is limited in its ability to mitigate against abuses that take place abroad. Although the U.S. government has taken measures to address some risks to intercountry adoptions, a systematic documentation of such incidents in foreign countries would allow for a formal mechanism for retaining and sharing specific information among staff working on adoption cases.

Recommendations for Executive Action

To improve the management of the U.S. intercountry adoption process, we recommend that the Secretary of Homeland Security take the following actions working with the Director of USCIS to

- formalize its quality assurance mechanisms so that the agency can assess the quality of the intercountry adoption process over time, ensure that senior officials from USCIS and State are aware of the outcomes of the quality assurance process, and identify opportunities where additional training or guidance may be warranted; and
- consider establishing a formal and systematic approach to document specific incidents of problems in intercountry adoptions that it has identified in foreign countries to retain institutional knowledge and

analyze trends of individuals or organizations involved in improper activities.

Agency Comments and Our Evaluation

The Departments of Homeland Security and State provided written comments on a draft of this report (see apps. V and VI). GAO incorporated technical comments from both agencies as appropriate. Both DHS and State generally agreed with the report draft's observations and conclusions. DHS agreed with our two recommendations for USCIS to formalize its quality assurance mechanisms and for USCIS to consider establishing a formal and systematic approach to document specific incidents of problems in intercountry adoptions identified in foreign countries. DHS also commented that the report accurately describes the process and responsibilities of both agencies in the intercountry adoption process. DHS noted that both agencies have improved interagency coordination and efforts to communicate with parents, developed standard operations procedures, conducted training, and streamlined the process.

State commented that the department and USCIS have established procedures that provide prospective adoptive parents with transparent and accessible information, ensure coordination between their distinct supportive roles, and meet the requirements of U.S. law. State also noted that the report outlines the separate responsibilities of each agency and recognizes the steps that both agencies have taken to ensure that intercountry adoptions take place within the context of strong safeguards. State replied that it is deeply concerned about the welfare of children around the world and regards the Hague Convention as an important means of promoting strong safeguards and ensuring that intercountry adoption remains a viable option for children around the world who seek permanent family placements. The department also discussed its action on implementing the Hague Convention and indicated that it plans to complete the tasks necessary to ratify the Convention in 2005 and to enable adoption service providers to be accredited in time for the United States to be able to ratify the Convention in 2007. Also, State provided additional information regarding its outreach efforts to the adoption community that we added to the report and provided supplementary information on Department of State Actions on Intercountry Adoptions in Selected Countries.

We will send copies of this report to appropriate Members of Congress, the Secretaries of the Departments of Homeland Security and State, and the Director of U.S. Citizenship and Immigration Services. We also will make copies available to others upon request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-4128 or fordj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix VII.

Sincerely yours,

A handwritten signature in black ink that reads "Jess T. Ford". The signature is written in a cursive style with a large, looping initial "J".

Jess T. Ford
Director, International Affairs and Trade

Scope and Methodology

To describe the U.S. intercountry adoption process, we met with Department of Homeland Security (DHS) U.S. Citizenship and Immigration Services (USCIS) and Department of State (State) officials in Washington, D.C., with responsibilities for managing intercountry adoptions cases. Specifically, we met with officials in USCIS' Offices of Field Operations and International Operations, and State's Bureau of Consular Affairs' Offices of Children's Issues and Visa Services. We reviewed documents on U.S. intercountry adoptions, including information on USCIS and State Web sites, which outlined specific procedures for prospective adoptive parents to complete during the intercountry adoption process, as well as information on the child's eligibility for citizenship. Furthermore, we reported on the varying intercountry adoption completion times and costs incurred by adoptive parents in the top four sending countries based on discussions with officials from State's Office of Children's Issues, who obtained this information from State's Bureau of Consular Affairs officers handling intercountry adoption cases in the four overseas locations. These Bureau of Consular Affairs officers provided approximate time frames based on their experiences in reviewing intercountry adoption cases. We did not test the reliability of this data.

To assess the U.S. government agencies' efforts to manage the intercountry adoption process, we interviewed USCIS and State officials in Washington, D.C. We reviewed a USCIS task force report from June 2002, which assessed the U.S. intercountry adoption process and identified areas for improvements. We discussed actions taken to address these issues with USCIS officials. We further reviewed USCIS and State documents to understand their procedures for handling intercountry adoptions cases and their management of the process. These documents include USCIS *Standard Operating Procedures* and *Adjudicator's Field Manual*, as well as State's *Foreign Affairs Manual*. Additionally, we reviewed USCIS and State's caseload data, documentation of communication and coordination between the two agencies, as well as training materials provided to USCIS and State officials related to intercountry adoptions. The estimate of the time that USCIS officials took to process intercountry adoption applications relies on their Performance Analysis System (PAS). GAO tested the reliability of the PAS data and found that it was sufficiently reliable at the aggregate level to identify overall trends. We also visited USCIS offices in New York and Los Angeles to see how USCIS implements domestic procedures related to intercountry adoptions. Both of these offices ranked in the top 20 percent of domestic offices for the number of adoption cases received in fiscal year 2004 and demonstrate geographic diversity. Additionally, we visited Guatemala City, Guatemala, and Moscow,

Russia, to see how USCIS and State implement intercountry adoption procedures overseas. Our reasons for selecting those two countries are discussed below. Furthermore, we contacted U.S. adoption organizations and agencies to understand their roles, as well as some adoptive parents who belonged to national adoptive parent support groups and were willing to respond to us, to hear about their experiences with the U.S. intercountry adoption process.

To understand the intercountry adoption process and the adoption environment in overseas locations, we visited Guatemala City and Moscow; we selected these locations for various reasons. Both countries were consistently ranked among the top five sending countries for U.S. intercountry adoptions from fiscal year 1994 to fiscal year 2004. In Guatemala City, USCIS officials adjudicate all orphan petitions to determine the eligibility of the adopted children while State officials issue visas to the adopted children. In contrast, State officials with designated responsibility in Moscow approve the eligibility of the adopted children and issue their visas. In addition, USCIS and State officials noted concerns with intercountry adoptions abuses in Guatemala, which research conducted for United Nations Children's Fund (UNICEF) corroborated. In both countries, we interviewed USCIS and State Bureau of Consular Affairs officials managing the U.S. intercountry adoption process. We also met with foreign government officials and private adoption facilitators and visited orphanages to learn about their respective roles in the adoption process and their views on the risks associated with intercountry adoptions in Guatemala and Russia. The information on foreign law in this report does not reflect our independent legal analysis, but is based on interviews and secondary sources.

To describe the Hague Convention and the statuses of U.S. and top sending countries' implementation of the Convention, we analyzed the text of the Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption to identify the purpose and standards of the Convention. We also analyzed the U.S. Intercountry Adoption Act of 2000, which provides for the implementation of the Convention by the United States. We also reviewed State's Web sites and documents regarding the status of its implementation of the Convention, including comments on draft regulations and State's Fiscal Year 2006 Performance Summary. In addition, we interviewed USCIS and State officials to determine the status of the U.S. implementation of the Convention. Finally, we obtained data on other countries' ratification of the Convention from the Web site of The Hague Conference on Private International Law, which tracks the statuses

of countries that have signed and ratified the Convention. To verify that this data on the Web site was current, we interviewed an official from the member of the permanent bureau of the Convention. Furthermore, we discussed the implementation statuses of the Convention in their own countries with Guatemalan and Russian government officials.

We performed our work from February to October 2005 in accordance with generally accepted government auditing standards.

Total Number of U.S. Intercountry Adoptions by Country, Fiscal Year 2004

Sending country	Number of adoptions
Afghanistan	1
Albania	9
Algeria	1
Armenia	31
Azerbaijan	26
Bangladesh	9
Barbados	1
Belarus	202
Belize	13
Benin	1
Bolivia	5
Bosnia-Herzegovina	1
Brazil	69
Bulgaria	110
Burma	2
Burundi	3
Cameroon	6
Canada	6
Cape Verde	1
Central African Republic	1
Chile	4
China—mainland born	7,044
China—Taiwan born	109
Colombia	287
Congo, Democratic Republic of the	1
Costa Rica	10
Croatia	1
Czech Republic	2
Djibouti	3
Dominica	2
Dominican Republic	18
Ecuador	28
El Salvador	16
Eritrea	6
Estonia	13

Appendix II
Total Number of U.S. Intercountry Adoptions
by Country, Fiscal Year 2004

(Continued From Previous Page)

Sending country	Number of adoptions
Ethiopia	289
Fiji	2
Georgia	24
Germany	2
Ghana	13
Great Britain and Northern Ireland	1
Greece	2
Guatemala	3,264
Guyana	36
Haiti	356
Honduras	8
Hong Kong S.A.R.	15
Hungary	8
India	406
Indonesia	2
Iran	6
Ireland	3
Jamaica	51
Japan	45
Jordan	4
Kazakhstan	826
Kenya	21
Korea, South	1,716
Kyrgyzstan	2
Laos	4
Latvia	15
Lebanon	14
Lesotho	1
Liberia	86
Lithuania	29
Macedonia, The Former Yugoslav Rep. of	1
Madagascar	4
Malaysia	1
Mali	1
Marshall Islands, Republic of the	8
Mexico	89
Moldova	32

Appendix II
Total Number of U.S. Intercountry Adoptions
by Country, Fiscal Year 2004

(Continued From Previous Page)

Sending country	Number of adoptions
Mongolia	23
Morocco	7
Mozambique	3
Nepal	73
Nicaragua	11
Nigeria	71
Pakistan	32
Panama	6
Peru	21
Philippines	196
Poland	102
Portugal	4
Romania	57
Russia	5,865
Rwanda	3
Saint Lucia	2
Saint Vincent and the Grenadines	2
Samoa	34
Senegal	2
Serbia and Montenegro	2
Seychelles	1
Sierra Leone	36
Singapore	1
Slovakia	1
Somalia	4
South Africa	8
Sri Lanka	13
Swaziland	1
Syria	3
Tajikistan	6
Tanzania	4
Thailand	69
Togo	1
Tonga	4
Trinidad and Tobago	8
Turkey	5
Uganda	17

Appendix II
Total Number of U.S. Intercountry Adoptions
by Country, Fiscal Year 2004

(Continued From Previous Page)

Sending country	Number of adoptions
Ukraine	723
Uzbekistan	3
Vietnam	21
Zambia	10
Total	22,884

Source: State.

List of USCIS Overseas District and Sub Offices

City	Country	Office type
Bangkok	Thailand	District Office
Beijing	China	Sub Office under Bangkok District Office
Guangzhou	China	Sub Office under Bangkok District Office
Ho Chi Minh City	Vietnam	Sub Office under Bangkok District Office
Hong Kong	China	Sub Office under Bangkok District Office
Manila	Philippines	Sub Office under Bangkok District Office
Seoul	Korea	Sub Office under Bangkok District Office
Mexico City	Mexico	District Office
Ciudad Juarez	Mexico	Sub Office under Mexico City District Office
Guatemala City	Guatemala	Sub Office under Mexico City District Office
Havana	Cuba	Sub Office under Mexico City District Office
Kingston	Jamaica	Sub Office under Mexico City District Office
Lima	Peru	Sub Office under Mexico City District Office
Monterrey	Mexico	Sub Office under Mexico City District Office
Panama City	Panama	Sub Office under Mexico City District Office
Port-au-Prince	Haiti	Sub Office under Mexico City District Office
San Salvador	El Salvador	Sub Office under Mexico City District Office
Santo Domingo	Dominican Republic	Sub Office under Mexico City District Office
Tegucigalpa	Honduras	Sub Office under Mexico City District Office
Tijuana	Mexico	Sub Office under Mexico City District Office
Rome	Italy	District Office
Accra	Ghana	Sub Office under Rome District Office
Athens	Greece	Sub Office under Rome District Office
Frankfurt	Germany	Sub Office under Rome District Office
Islamabad	Pakistan	Sub Office under Rome District Office
Johannesburg	South Africa	Sub Office under Rome District Office
London	England	Sub Office under Rome District Office
Moscow ^a	Russia	Sub Office under Rome District Office
Nairobi	Kenya	Sub Office under Rome District Office
New Delhi	India	Sub Office under Rome District Office

Source: USCIS data.

^aAlthough USCIS has a Sub Office in Moscow, Russia, USCIS officials in Moscow do not handle U.S. intercountry adoption cases. Instead, State's consular officers approve these cases in Moscow.

Hague Ratification by Country and U.S. Intercountry Adoption Totals for Fiscal Year 2004

Figure 6: World Map of Hague Ratification by Country and U.S. Intercountry Adoption Totals for Fiscal Year 2004



Hague countries	Number of adoptions	Hague countries	Number of adoptions	Hague countries	Number of adoptions
Albania	9	Brazil	69	Costa Rica	10
Andorra	0	Bulgaria	110	Cyprus	0
Australia	0	Burkina Faso	0	Czech Republic	2
Austria	0	Burundi	3	Denmark	0
Azerbaijan	26	Canada	6	Ecuador	28
Belarus	202	Chile	4	El Salvador	16
Belgium	0	China	7,044	Estonia	13
Bolivia	5	Colombia	287	Finland	0

Appendix IV
Hague Ratification by Country and U.S.
Intercountry Adoption Totals for Fiscal Year
2004



Hague countries	Number of adoptions	Hague countries	Number of adoptions	Hague countries	Number of adoptions	Hague countries	Number of adoptions	Hague countries	Number of adoptions	Hague countries	Number of adoptions
France	0	India	406	Mauritius	0	Panama	6	Slovakia	1	Turkey	5
Georgia	24	Israel	0	Mexico	89	Paraguay	0	Slovenia	0	Uruguay	0
Germany	2	Italy	0	Moldova	32	Peru	21	South Africa	8	Venezuela	0
Great Britain and Northern Ireland	1	Latvia	15	Monaco	0	Philippines	196	Spain	0		
Guinea	0	Lithuania	29	Mongolia	23	Poland	102	Sri Lanka	13		
Hungary	8	Luxembourg	0	Netherlands	0	Portugal	4	Sweden	0		
Iceland	0	Madagascar	4	New Zealand	0	Romania	57	Switzerland	0		
		Malta	0	Norway	0	San Marino	0	Thailand	69		

Sources: GAO analysis of Hague Conference and State data; MapArt (illustration).

Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

October 14, 2005

Mr. Jess T. Ford
Director, International Affairs and Trade
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Ford:

RE: Draft Report GAO-05-996, Foreign Affairs: Agencies Have Improved the Inter-Country Adoption Process But Further Enhancements Are Needed (GAO Job Code 320335)

The Department of Homeland Security appreciates the opportunity to review and comment on the Government Accountability Office's (GAO) draft report. The report accurately describes the process and the responsibilities of both the United States Citizenship and Immigration Services (USCIS) and Department of State. We appreciate the acknowledgement of the improvements both agencies have made in the inter-country adoption process. As the report states, both agencies have improved interagency coordination, improved efforts to communicate with parents, developed standard operating procedures, conducted agency training and streamlined the process. We believe these efforts have made the process more transparent to adoptive parents and agencies involved in adoption processing, and at the same time have improved the integrity of the inter-country adoption process.

We generally agree with the two recommendations made in the report. To enhance the process the GAO recommended that USCIS formalize its quality assurance mechanisms so that the agency can assess the quality of the inter-country adoption process over time, ensure that senior officials from USCIS and State are aware of the outcomes of the quality assurance process, and identify opportunities where additional training or guidance may be warranted.

Quality assurance mechanisms are in place but could be more formalized. USCIS established the Certificate of Citizenship Act Project located at its Buffalo District as a result of the Child Citizenship Act of 2000. Once a child with a full and complete adoption overseas has been admitted to the United States, all documentation presented at the port-of-entry is forwarded to the Buffalo District. The purpose of this project is to produce documentation identifying the adopted child as a United States citizen. In addition to providing this documentation, the project staff also conduct a post adoption audit. USCIS officers review all documentation prepared by both USCIS and State for accuracy and completeness of the information relating to the adoption. If questions arise

www.dhs.gov

GAO-06-133.

regarding the documentation presented, those questions are routed to the approving office through USCIS headquarters. If questions arise concerning the issuance of the immigrant visa, those questions are routed to the Embassy through State. After review of over 20,000 cases, this post-adoption audit reported that errors occurred in less than 1 percent of all reviewed cases. Follow up is conducted by e-mail between the Buffalo Office, USCIS Headquarters and State.

USCIS will work with State to develop a process that will allow both agencies to comprehensively look at the results of this post audit quality assurance program. USCIS will also work with State to become more familiar with any quality assurance program it administers.

The GAO also recommended that USCIS consider establishing a formal and systematic approach to document specific incidents of problems in inter-country adoptions that it has identified in foreign countries to retain institutional knowledge and analyze trends of individuals involved in improper activities. The report indicates that State currently documents these incidents through the cable process. USCIS officers will be reminded of their ability to raise issues of importance by using the State Department cable system. This process is not limited to State employees, but is used by USCIS employees also. USCIS officers overseas will be advised of the opportunity to document specific incidents of problems by utilizing the State Department cabling system. That way, there will be one source of information for both State Department and USCIS officers.

The report also explains the time frames it takes to complete the inter-country adoption process. In the section titled "Phase II- Child's Status as an Orphan is Determined," the draft report says "According to USCIS, it is the agency's goal to process the I-600 Form [Petition to Classify the Orphan as an Immediate Relative] within 6 months." This statement comes from the USCIS backlog reduction plan, which indicates it is the agency's goal to process all forms within a maximum of six months. Forms I-600 are generally processed in a shorter timeframe. Although the GAO explains the factors that contribute to the time frames involved in the process, in order to fully appreciate the timeframe of inter-country adoptions, it is important to place them in the context of the timeframe for domestic adoptions, which generally take as long as or longer than inter-country adoptions. On average, intrastate adoptions take 36 months to complete and interstate adoptions take an average of 43 months. Similar to inter-country adoption timeframes, the length of time that a domestic adoption may take varies depending on the program, the State, and the criteria that the prospective adopting parent(s) choose.

We are providing technical comments to your office under separate cover.

Sincerely,



Steven Pecinovsky

Director

Departmental GAO/OIG Liaison Office

Comments from the Department of State

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



United States Department of State
Assistant Secretary and Chief Financial Officer
Washington, D.C. 20520

OCT 12 2005

Ms. Jacquelyn Williams-Bridgers
Managing Director
International Affairs and Trade
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548-0001

Dear Ms. Williams-Bridgers:

We appreciate the opportunity to review your draft report, "FOREIGN AFFAIRS: Agencies Have Improved the Intercountry Adoption Process But Further Enhancements are Needed," GAO Job Code 320335.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact Scott Boswell, Citizen Services Specialist, Bureau of Consular Affairs, at (202) 736-9098.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Kaplan".

Sid Kaplan (Acting)

cc: GAO – Victoria Lin
CA – Maura Harty
State/OIG – Mark Duda

Department of State Comments on GAO Draft Report

**Agencies Have Improved the Intercountry Adoption Process
but Further Enhancements are Needed**
(GAO-05-996, Job Code 320335)

GAO-06-133.

General

The Department welcomes the General Accounting Office's draft report on intercountry adoptions. We appreciate the effort GAO made to consult widely with Department officials both in Washington and at posts abroad, as well as with U.S. Citizenship and Immigration Service (USCIS) officials, about agency procedures and conditions in countries of origin affecting intercountry adoptions.

The Department welcomes the report's conclusion that the Department and USCIS have established procedures that provide prospective adoptive parents with transparent and accessible information, ensure coordination between their distinct, mutually supportive roles, and meet the requirements of U.S. laws. We appreciate that the report outlines clearly the separate responsibilities of each agency, and its recognition of the steps both agencies have taken to ensure that intercountry adoptions take place within the context of strong safeguards for the interests of children, birth parents and adoptive parents. We note that the report does not recommend a fundamental restructuring of these arrangements.

The Department of State is deeply concerned about the welfare of children around the world. Towards that end, the Bureau of Consular Affairs established the Office of Children's Issues in 1994 to handle international parental child abductions and intercountry adoptions. Department officials at all levels work extensively with prospective adoptive parents, the U.S. adoption community, our Embassies and Consulates abroad, Congress, other Federal agencies, and officials in countries of origin and other receiving countries to preserve the option of intercountry adoption for children in need of permanent family placements, and to ensure that intercountry adoptions are transparent and conform to internationally accepted standards.

The Department appreciates that GAO highlighted the importance that local factors in countries of origin have on intercountry adoptions, and that therefore U.S. Government agencies have taken a flexible approach in adopting procedures aimed at responding to particular conditions in a given country, rather than adopting a "one size fits all" approach. The Bureau of Consular Affairs, and

consular officers at our Embassies and Consulates overseas, closely monitor trends and circumstances that could impact adoptions. The overwhelming majority of the more than 20,000 annual intercountry adoptions to the U.S. proceed without incident. It is problematic situations – whether caused by a moratorium on intercountry adoptions, changes in a country’s procedures or a high incidence of fraud – which naturally attract attention. When the Department learns of changes on the horizon in a given country, we alert Congress, the adoption community, and prospective adoptive parents, and provide authoritative and up-to-date information on developments. We also work with the country concerned to clarify information and where possible identify solutions to problems that may arise. We have attached at Tab 1 a synopsis of the Department’s efforts in some of the more high profile and high volume countries of origin.

We also appreciate the report’s acknowledgment of the Department’s efforts to implement the Hague Convention on Intercountry Adoption (the Convention), which the Department regards as an important means of promoting strong safeguards and ensuring that intercountry adoption remains a viable option for children around the world who seek permanent family placements. The Department is proceeding simultaneously with several tasks required to implement the Convention. We plan to complete these tasks in 2005, to enable adoption service providers to be accredited in time for the U.S. to be able to ratify the Convention in 2007.

The following are the Department’s comments on the draft report, arranged by section.

Results in Brief

Senior level officials in the Department, including the Assistant Secretary for Consular Affairs and Ambassadors posted around the world, regularly raise intercountry adoptions in diplomatic discussions with many countries; for example, adoptions has figured prominently in talks with Vietnam, Russia, Azerbaijan and Cambodia. The Assistant Secretary has traveled to countries as diverse as Vietnam, Romania and Russia to discuss adoptions, and the Department raises this issue wherever appropriate in bilateral discussions in Washington with foreign governments. (Page 3)

The draft report notes that additional legislation regarding the U.S. intercountry adoption process was introduced in 2005. The legislation would seek to change the current structure and responsibilities of the Department in this area.

The Department notes, as does the report, that under current organization and procedures the Department is successfully and efficiently assisting U.S. citizens interested in intercountry adoptions. The Department has significant resources to carry out these tasks. A total of 11 staff in the Bureau of Consular Affairs are devoted full-time to adoption issues. In addition, as noted above, high-level Department officials – including the Assistant Secretary for Consular Affairs and the Secretary of State – engage counterparts to support intercountry adoption for children in need and to overcome obstacles that arise. (Page 5)

Background

The draft report's table of countries that currently maintain moratoria or restrictions on intercountry adoptions includes countries affected by the 2004 South Asian tsunami. The Department believes that it is inappropriate to include this entry in this table. The other entries identify countries that have limited intercountry adoptions through national law or regulation. The situation in the aftermath of the tsunami was considerably different. The standard child protection and welfare practice accepted by international organizations and governments is that intercountry adoption should not be the first solution following natural disasters, civil strife or other calamities, but that agencies and governments should first attempt to reunite children with birth parents if possible; then seek to place the child with relatives or domestically if possible; and only after such attempts have failed should intercountry adoption be considered. Thus, in this case the countries in the region were following accepted international practice regarding intercountry adoption, not imposing additional restrictions. The Department itself articulated this position in a notice placed on its website shortly after the tsunami struck. Further, we note that this position was supported by UNICEF, other countries of origin, as well as the U.S. adoption community, many of whom issued similar statements or posted links to the Department's statement on their websites. (Page 9)

USCIS and State Implement Law for U.S. Intercountry Adoptions, with Foreign Governments Playing a Role in the Process

Phase III – Child's Eligibility to Immigrate to the United States is Determined

The Department recognizes the importance of the immigrant visa process to prospective adoptive parents, and gives priority to adoption immigrant visa applicants at all steps in the process, including:

Now on p. 12.
See comment 1.

- Expedited immigrant visa appointments and interviews;
- Assistance with expedited fingerprint renewal, if these have expired;
- Immigrant visa issuance in one or two days, as noted in the report.

The Department seeks to maintain adoption immigrant visa processing even when circumstances force the suspension of other consular services. For example, in February 2004 civil unrest prompted the evacuation of the Embassy in Port-au-Prince, Haiti and the suspension of all but emergency U.S. citizen services. Even before all Embassy staff had returned, the first visa services to resume were immigrant visa appointments for U.S. citizens completing adoptions in Haiti. (Pages 12-13)

USCIS and State Improved the Intercountry Adoption Process

The Department requests that the draft report acknowledge the Department's, as well as USCIS', outreach to the U.S. adoption community. Such outreach has always been an important activity of the Bureau of Consular Affairs. The Department provides extensive outreach to parents and the adoption community by presenting information at regional and national conferences. In FY 2005, for example, Department officers addressed national conferences of the Child Welfare League of America (CWLA), Joint Council on International Children's Services (JCICS), and the National Council for Adoption (NCFA), as well as a meeting of adoption agencies from Indiana. The Department, jointly with USCIS, conducts quarterly briefings for the JCICS Board of Directors on intercountry adoption issues; the Department generally hosts these briefings. The Department regularly provides intercountry adoption updates upon request to members of CWLA, JCICS, NCFA and other groups when they are in Washington. Department officials also regularly brief Congressional members and staff on adoption issues. The most recent of these briefings was conducted on September 12, 2005. (Page 16)

The Department understands that GAO reviewed a USCIS task force report from 2002 that indicated that USCIS and State officials "sometimes lacked the training necessary to determine orphan status." The Department notes that all officers who will perform consular functions at a post overseas receive extensive training, to include instruction in U.S. immigration law, interviewing techniques and consular procedures. This training, which has been provided since before 2002, provides consular officers with the skills and resources to enable them to determine the orphan status of a child adopted overseas. The Department would be pleased to provide GAO with further details on this training. (Page 16)

Now on p. 21.
See comment 2.

Hague Implementation Timeline

The Department has completed revision of the proposed rule on the accreditation/approval of adoption service providers based on the public comments received, including the preparation of written responses to the comments. The revised text of the rule, including a preamble incorporating the written responses to the comments, was received by the Office of Management and Budget (OMB) on August 31, 2005. OMB has 90 days to review the rule and circulate it for interagency comments. The Department briefed OMB on the content of the proposed rule in July 2005, and requested expedited clearance. (Page 24)

UNCLASSIFIED

Tab 1

**Department of State Actions on Intercountry Adoptions
Selected Countries**

Belarus –

The Government of Belarus suspended adoptions in early 2005, renegeing on promises made to four U.S. and several other foreign families that their adoptions would be finalized under old procedures. Another 114 cases involving U.S. families are also pending. In June 2005, Assistant Secretary Maura Harty met with the Belarusian Ambassador to discuss these cases and how we can move forward on intercountry adoptions from Belarus. In August 2005, A/S Harty sent a follow-up letter to the Ambassador to suggest next steps. The Belarusian Government has invited a high-level delegation to Minsk to discuss the issue; we recently counter-proposed a working-level delegation, and Embassy Minsk is trying to clarify Government of Belarus plans to seek from these potential meetings.

Cambodia –

Then-INS suspended adoptions from Cambodia in December 2001 due to the rampant fraud and reports of widespread baby selling. This is currently the only moratorium or suspension on adoptions that was initiated by the U.S. In the fall of 2004, A/S Harty held two days of talks with Cambodian officials in Phnom Penh concerning the possibility of our lifting the suspension on intercountry adoptions. After their meeting, we hired Holt International (a major adoption service provider based in Eugene, OR) to conduct a nationwide study that surveyed children in institutions in Cambodia during the summer. Holt has completed the survey and this database of children will be turned over to the Cambodian government shortly and used as the baseline for a staged plan for the reinstatement of adoptions from Cambodia.

China –

UNCLASSIFIED

UNCLASSIFIED

A/S Harty has traveled to China to observe in person our efforts on international adoptions. In August 2005, A/S Harty met with a Chinese delegation headed by the Vice Minister for Civil Affairs, which oversees adoptions, and discussed China's upcoming accession to the Hague Convention and its effect on intercountry adoptions to the U.S. China deposited its instrument of ratification of the Hague Intercountry Adoption Convention in The Hague on September 16, 2005. Post and the Chinese Central Authority report that this should not affect the over 7,000 intercountry adoptions from China by American families each year. We are watching this closely.

Guatemala –

A/S Harty has traveled twice to Guatemala, holding meetings with appropriate officials at the Foreign Ministry and at Guatemala's Central Authority. In addition, Embassy Guatemala is monitoring closely discussions within the Government of Guatemala and the Guatemalan legislature concerning possible revision to the country's adoption code, which is now going through a legislative hearing process. Guatemala is party to the Hague Convention but has never succeeded in implementing Hague-consistent adoption legislation.

Kazakhstan –

Embassy Almaty reported during the last days of August that they are beginning to hear rumors that some regions within Kazakhstan are considering moratoria on adoptions to the United States, perhaps because of past failures of U.S. adoptive families to comply with post-adoption reporting requirements. Post is continuing to monitor the situation and is seeking official clarification from Kazakh authorities.

Romania –

In early 2001, the Government of Romania formalized a *de facto* moratorium that had been in effect since the previous year. During the moratorium, which lasted until June 2004, the GOR continued to register prospective adoptive parents, including U.S. citizens. Legislation that was passed in June 2004 and went into effect in January 2005 effectively bans all intercountry adoptions, the only exception being when the prospective adoptive parents are the child's biological grandparents. This law was in

UNCLASSIFIED

UNCLASSIFIED

large part a response to external pressure from the then-EU rapporteur for Romania, Baroness Emma Nicholson, who opposes intercountry adoption.

There are approximately 200 U.S. families who had registered with the Romanian authorities either prior to the formal imposition of the moratorium or during the moratorium; these families are seeking to adopt about 250 Romanian children. U.S. officials at all levels, up to and including President Bush, have raised with Romanian officials the need to resolve these pending cases. A/S Harty met with President Basescu in Bucharest in June 2005 and he committed himself to resolving the cases, but nothing has happened. Romanian officials have wavered on a proposal first raised in late 2004 to create an international commission to review the pending cases.

In September 2005, A/S Harty appeared before the Helsinki Commission and publicly criticized Romania for its inaction on the part of these pending cases, as well as its new more restrictive adoption law. Immediately following her appearance before the Commission, A/S Harty attended a U.S./EU Troika meeting in London, where she again voiced concern about Romania and sought assistance from EU member states to encourage a lifting of the moratorium in Romania. As of September 2005, we have redirected our focus to the EU and European Commission; a demarche cable has just gone out requesting support from selected capitals to convince the Romanians that they do not need such a draconian adoption law in order to accede to the European Union in 2007.

Russia –

The U.S.-Russian relationship on intercountry adoption has been dominated in recent months by the reports of three adopted Russian children murdered by their American adoptive parents. Some Duma members have suggested a moratorium on intercountry adoptions, at least to the United States. In mid-August, the Federation Council (the higher chamber of parliament) recommended such a moratorium to the General Prosecutor. The primary Russian concerns are that (a) American adoptive parents are not undergoing sufficient pre-adoption background checks and counseling, and (b) a failure of U.S. families and adoption service providers to follow through on post-adoption reporting requirements leaves the Russian Government with little information about how the children do post-placement. Much of the focus has been on so-called “independent” adoptions – i.e., those adoptions facilitated by other than fully accredited agencies.

UNCLASSIFIED

UNCLASSIFIED

In addition to a possible moratorium, some Russian officials have also suggested a bilateral adoption agreement with the U.S. along the lines of what we have with Vietnam, but it is the U.S. position that a sufficient international mechanism (the Hague Adoption Convention, which Russia has signed but not ratified) already exists to provide safeguards for intercountry adoptions. Major U.S. adoption organizations, including both the National Council for Adoption (NCFA) and the Joint Council on International Children's Services (JCICS) have agreed to advocate for better counseling and training of prospective adoptive parents, and for 100% compliance with post adoption reporting.

The issue of adoptions is always on the agenda when A/S Harty or her PDAS meet with their Russian counterparts. PDAS Smith traveled to Moscow in February 2004; A/S Harty went in February 2005. A/S Harty has twice hosted the Russians here in Washington, most recently in September 2005. During the September 21 bilateral consular talks with the Russians, A/S Harty expressed her condolences for the murdered Russian children and repudiated these actions. She then stressed the need for both sides to commit themselves to procedures that will protect the children, birth parents and prospective adoptive parents. She urged the Russians to ratify the Hague Adoption Convention, which will help ensure better safeguards in the process. Separately, on September 14, DAS Catherine Barry and officers from the Office of Children's Issues met with the members of a two-week International Visitor Program (IVP) on intercountry adoptions. We are hopeful that exposure to many aspects of the U.S. adoption system (including the meeting in the Department) will allow participants to take back a positive view of the safeguards the U.S. has in place.

Sierra Leone –

Embassy Dakar (which conducts informal reviews prior to I-600 filings at request of parents) and Embassy Freetown have had to conduct many field investigations due to the unreliability of Sierra Leonean documentation and allegations of rampant fraud. In August 2005, A/S Harty approved the creation and funding of a new local investigator position in Freetown to help deal with the caseload. Acting A/S for Legislative Affairs Matthew Reynolds recently responded to a letter from 15 Senators and House Members on the situation in Sierra Leone; the letter emphasized the inherent

UNCLASSIFIED

UNCLASSIFIED

problems of operating in a country in which so many families are living in internally displaced person (IDP) camps.

Ukraine –

A/S Harty traveled to Ukraine in May 2005 and raised concerns about a rumor regarding the possible suspension of adoptions. On September 21, Embassy Kiev, informed us that Ukraine had suddenly suspended intercountry adoptions from the United States, citing problems with post-adoption reporting by American families during 1996-2003. On September 23, A/S Harty contacted the Deputy Foreign Minister in Kiev to express our displeasure with this abrupt decision and to ask how we might assist in solving this problem. On September 27, A/S Harty met with the Ukrainian Charge d' Affaires and Consul to again press the issue and look for a solution. Our Embassy in Kiev is also working with various parts of the Ukrainian Government to see if this decision can be reversed. As we understand it, the suspension should not affect cases already in the pipeline. In addition, new legislation is on the horizon that would transfer authority for adoptions to the Ministry of Family, Youth and Sports and add other safeguards.

Vietnam –

The U.S.-Vietnam bilateral agreement on adoptions, signed by A/S Harty and the Vietnamese Minister of Justice on June 21 in Washington, entered into force on September 1, 2005. This followed years of negotiations and personal involvement by A/S Harty to bring this to fruition. The agreement allowed the Ministry of Justice (and specifically the Department of International Adoptions, DIA) to centralize many of the powers and authority that had previously been left to the provinces, but made no changes to U.S. laws or requirements on adopting from Vietnam. With the entry-into-force of the agreement, the DIA began accepting applications for licenses from U.S. adoption service providers. DIA chief Dr. Long has told Embassy Hanoi that he expects the licensing process to take from two to two-and-a-half months, meaning post should be seeing the first cases under the new system by mid-November. Separately, the Visa Office has been working with Citizenship and Immigration Services (DHS/CIS) on a proposal to transfer adoption visa processing from Ho Chi Minh City to Hanoi; this is still under discussion and a final decision has not yet been taken.

UNCLASSIFIED

UNCLASSIFIED

UNCLASSIFIED

The following are GAO's comments on the letter from the Department of State dated October 12, 2005.

GAO Comments

1. State commented that the draft report's table of countries that currently maintain restrictions on intercountry adoptions included countries affected by the 2004 South Asian tsunami. The department did not believe that it was appropriate to do so because the region was following accepted international practices rather than imposing restrictions on intercountry adoptions in contrast to the other countries included in the table. We removed this listing from the table.
2. State provided additional information regarding its outreach efforts to the adoption community, which we added to the report.

GAO Contact and Staff Acknowledgments

GAO Contact

Jess Ford (202) 512-4268 or fordj@gao.gov

Staff Acknowledgments

In addition to the individual named above, Phyllis Anderson, Assistant Director; Joe Carney; Tracey Cross; Mark Dowling; Joel Grossman; Rhonda Horried; and Victoria Lin made key contributions to this report.

GAO's Mission

The Government Accountability Office, the audit, evaluation and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's Web site (www.gao.gov). Each weekday, GAO posts newly released reports, testimony, and correspondence on its Web site. To have GAO e-mail you a list of newly posted products every afternoon, go to www.gao.gov and select "Subscribe to Updates."

Order by Mail or Phone

The first copy of each printed report is free. Additional copies are \$2 each. A check or money order should be made out to the Superintendent of Documents. GAO also accepts VISA and Mastercard. Orders for 100 or more copies mailed to a single address are discounted 25 percent. Orders should be sent to:

U.S. Government Accountability Office
441 G Street NW, Room LM
Washington, D.C. 20548

To order by Phone: Voice: (202) 512-6000
TDD: (202) 512-2537
Fax: (202) 512-6061

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Web site: www.gao.gov/fraudnet/fraudnet.htm

E-mail: fraudnet@gao.gov

Automated answering system: (800) 424-5454 or (202) 512-7470

Congressional Relations

Gloria Jarmon, Managing Director, JarmonG@gao.gov (202) 512-4400
U.S. Government Accountability Office, 441 G Street NW, Room 7125
Washington, D.C. 20548

Public Affairs

Paul Anderson, Managing Director, AndersonP1@gao.gov (202) 512-4800
U.S. Government Accountability Office, 441 G Street NW, Room 7149
Washington, D.C. 20548