

S. HRG. 106-257

**THE HAGUE CONVENTION ON PROTECTION OF
CHILDREN AND COOPERATION IN RESPECT
OF INTERCOUNTRY ADOPTION: TREATY DOC.
105-51 AND ITS IMPLEMENTING LEGISLATION
S. 682**

HEARING
BEFORE THE
COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE
ONE HUNDRED SIXTH CONGRESS
FIRST SESSION

OCTOBER 5, 1999

Printed for the use of the Committee on Foreign Relations



Available via the World Wide Web: <http://www.access.gpo.gov/congress/senate>

U.S. GOVERNMENT PRINTING OFFICE

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**CONVENTION ON PROTECTION OF CHILDREN
AND COOPERATION IN RESPECT OF INTER-
COUNTRY ADOPTION: TREATY DOC. 105-51
AND ITS IMPLEMENTING LEGISLATION S.
682**

TUESDAY, OCTOBER 5, 1999

**U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
*Washington, D.C.***

The committee met, pursuant to notice, at 10:33 a.m., in room SD-419, Dirksen Senate Office Building, Hon. Jesse Helms, chairman of the committee, presiding. Present: Senators Helms and Smith. Also Present: Senator Landrieu.

**OPENING STATEMENT OF HON. JESSE A. HELMS, U.S.
SENATOR FROM NORTH CAROLINA**

The CHAIRMAN. Ladies and gentlemen, first of all, let me personally welcome all of you who are attending this hearing this morning in addition to the witnesses who appear. It indicates an interest on your part, which I think is very, very significant. And I thank you for being here.

Today, the Committee on Foreign Relations will hear from a distinguished group of experts in the field of international adoption. The focus will be on the questions of whether the United States should ratify the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. And that is a long title for a significant proposed agreement now pending before our committee, along with legislation that I introduced, along with Senator Mary Landrieu, of Louisiana, I think it was last March, to implement the Treaty.

Now, I am pleased that Senator Landrieu cares about adoption and is participating in this important hearing. This distinguished lady Senator from Louisiana and I agree that this Treaty and legislation must remain linked as we consider intercountry adoption issues during this 106th Congress.

Recent statistics reveal that in 1998, almost 15,800—15,774 to be exact—children were adopted by Americans from abroad. The majority of the children were brought to the United States from Russia, China, Korea, and Central and South American countries. And, like many others, I strongly support adoption and believe international adoption represents a growing avenue for children without families, let alone adequate resources, to be given a home by parents who wish to live with, love, and adopt these children.

However, it is important to bear in mind that health-related problems from children adopted abroad are increasingly coming to light, raising questions about the adequacy of preparation for adoptive parents. And I am convinced that increased collection of data and analysis of international adoptions, as called for in S. 682, will surely improve our understanding of these problems.

Since States regulate domestic adoption, the oversight of international adoption has been lacking under United States law. Health problems, including psychological and emotional trauma, have led to a growing number of parents turning to health services of private agencies to take custody of their adopted children. And today's witnesses will address various aspects of those problems.

In some instances, parents are not adequately prepared for, or have not been informed of, the health and emotional issues of adopted children. Only after adoption do some parents learn that the children suffer from symptoms of illnesses, such as fetal alcohol syndrome, particularly in children from the Soviet Union as it once existed, and now from Russia and the former Soviet Union.

The Intercountry Adoption Implementation Act, S. 682, is intended to address some of these problems and bring accountability to agencies that provide intercountry adoption services in the United States. It will certainly strengthen the hand of the Secretary of State, by ensuring that U.S. adoption agencies operating abroad engage in efforts to find homes for children in an ethical manner.

Agencies must be accredited to operate under the Treaty, and will receive accreditation only if they provide health records to parents, basic instructions for dealing with previously institutionalized children, and the preparation of parents for potential health and emotional issues. A secondary rationale for ratification and implementation of the Treaty is the ability to preserve international adoption as an option for parents in the United States.

A number of countries are citing ratification of the Hague Convention and implementation of its requirements as a benchmark for permitting adoption agencies to continue operations in their countries. Some of today's witnesses will address the importance of Treaty ratification to ensure maintenance of their operations.

In any event, the Treaty's minimal requirements are intended to provide a framework for ethical operation by adoption agencies, including the creation of a competent authority in Treaty countries to oversee international adoption. Now the competent authority in Senator Landrieu's and my bill, S. 682, will be the State Department. Therefore, this Department will have the final say in the multitude of questions that surely will arise.

Under our bill, the States, not the Federal Government, the States, the 50 States, and not the bureaucrats in Washington, D.C., will continue to oversee domestic adoption. As a result, S. 682 puts the State Department in the lead, and does not concede the oversight of international adoption to the Department of Health and Human Services, as the administration has requested that we do.

So, State Department consular officials are on the ground, working with adoption agencies and parents on a daily basis. And I think they are best able to monitor the activities of those adoption agencies.

Let us ask the first panel member, the Hon. Mary A. Ryan, Assistant Secretary of State for the Bureau of Consular Affairs, to come and sit at the witness table. And you may proceed, ma'am. We are glad to have you, and appreciate your coming.

STATEMENT OF MARY A. RYAN, ASSISTANT SECRETARY OF STATE, BUREAU OF CONSULAR AFFAIRS; ACCOMPANIED BY JAMISON BOREK, DEPUTY LEGAL ADVISOR, DEPARTMENT OF STATE

Ms. RYAN. Thank you, Mr. Chairman.

Mr. Chairman, I am really delighted to be here today to have the opportunity to discuss international adoption and the 1993 Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption. With me today from the Department of State's Office of the Legal Advisor is Jamison Borek, the Deputy Legal Advisor, in case you should have questions that are better answered by an expert attorney.

I would like to thank you personally, Mr. Chairman, for the interest you have shown in the Convention and in its implementation. I would also like to commend all the staff who have worked so diligently on this effort. Both the implementing legislation you have introduced and the administration's proposed legislation were prepared with the best interest of children in mind. And while there are some difference, there are many similarities between our two proposals.

The welfare and protection of American citizens is the State Department's highest priority. This includes American parents building families through international adoption, and American children finding families abroad through international adoption. We want to ensure that our children are protected once overseas, and that those brought to our shores and their adoptive parents are equally protected. These are concerns that you, Mr. Chairman, and you, Senator Landrieu, have voiced, and that many Members of Congress share.

The United States, particularly since World War II, has opened its arms to orphaned and abandoned children around the world. And many Americans have looked to international adoption to build American families and to provide a better life for these children. These families are as diverse as America itself, including extended families, married couples, multicultural families, and single-parent households.

Since 1995, more than 98,000 children have been adopted from South Korea alone. In the 5-year period, 1976 to 1981, more than 5,000 South American children were adopted by Americans, almost 80 percent of them from Colombia. Since 1992, over 15,000 children have come from Russia, 3,900 from Guatemala, and 11,500 from China. We can only expect the numbers to increase.

Families throughout the United States have been enriched by these children who have grown up to become business leaders, doctors, lawyers, teachers, and community leaders. Some of these children have devoted their lives to giving children like themselves a chance to grow up in loving families.

Sadly, however, along with all the positive benefits of international adoption, I must acknowledge that there have been some

abuses. This fact ultimately prompted 66 countries to convene in The Hague to prepare a convention to provide standards for intercountry adoptions which would protect the children, their birth parents and their adoptive parents. Intergovernmental negotiations on what became the 1993 Hague Convention on Intercountry Adoption began in 1991.

The drafters of the Convention believe that a properly safeguarded international adoption offered a better alternative for the care of an orphaned or abandoned child than institutional care in the child's country of origin. The Convention was the first international stamp of approval for the concept of intercountry adoption. It is designed to ensure that adoptions will take place when they are in the child's best interest, and that the abduction and trafficking in children, and other abuses like that, will be prevented.

In the years before negotiations began, and throughout the lengthy deliberations, the United States delegation sought guidance from the adoption community, including adoption agencies, lawyers, social workers, and adoptive parents. Representatives from the U.S. adoption community were on our delegation through preparatory sessions. Following endorsement by U.S. adoption interests and the American Bar Association, the United States signed the Convention in 1994.

Since its adoption, 35 countries have either ratified or acceded to the Convention, and 12 others have signed. This makes it perhaps the most quickly and enthusiastically accepted Hague convention in more than the 100-year history of the Hague Conference.

The Convention requires that certain determinations, such as adoptability of the child, eligibility to emigrate, parent suitability and counseling, be made before adoption can proceed. Every country must establish a national government-level central authority. Every country must establish a national government-level process for uniform screening and authorization of adoption service providers. And certified Convention adoptions must be recognized in all other party countries.

The Convention also imposes requirements that protect the child's welfare throughout the adoption process. Under the Convention, a mechanism will be in place to track outgoing Hague adoption conventions, providing a level of protection previously unavailable to U.S. children taken abroad for adoption.

After we signed the Convention, State, the Immigration and Naturalization Service and the Department of Health and Human Services continued to consult with the private adoption community, with parents, with lawyers, and with other professionals on the general concepts of the proposed Federal implementing legislation. The resulting administration bill was sent to the Congress in June 1998, and submitted once again with very minor changes in May 1999.

I would like to thank those from the other government agencies and from the private sector who contributed to this cooperative effort to create legislation. Both the Helms-Landrieu bill, S. 682, and the proposed administration implementing legislation would place the central authority in the Department of State, where it would be located in the Bureau of Consular Affairs' Office of Children's Issues.

It would task the Department of State and the Immigration and Naturalization Service to develop a case tracking system for all adoptions of children coming to the United States and for all Hague adoptions of children leaving the United States. It would allow the use of private, nonprofit entities to do peer review and the actual accreditation and approval of U.S. adoption service providers for intercountry adoptions. And it would address the funding of the Department of State's functions, to ensure that adequate resources exist for the effective performance of its functions as the central authority.

There are of course differences in the two bills, one of which you mentioned, Mr. Chairman. And an important difference is the designation of the agency with responsibility to establish and to monitor these accreditation and approval of intercountry, or international, adoption service providers.

We are very grateful to you, Mr. Chairman, and to you, Senator Landrieu, for the confidence that you have placed in the State Department. But we really believe that the Department of Health and Human Services, the Federal Government agency with relevant experience in evaluating and working with domestic adoption programs and with social service providers, is better suited to handle this function than is the Department of State.

Just as we are concerned for our children who must leave, or who may leave the United States, in connection with their adoption, so have other sending countries expressed concern that their children will be properly protected by adoption service providers in receiving countries, including in the United States. In the vast majority of these countries, public social welfare authorities are responsible for issues regarding adoption. These authorities and their governments will be reassured to have the Department of Health and Human Services, a recognized player in the provision of social services, charged with the oversight for the accrediting of adoption service providers for intercountry adoptions.

The world will watch how the United States implements this Convention and how it protects its children, birth parents and adoptive parents. Several of the largest source countries have indicated to us that they are looking to us to ratify and to implement the Convention quickly, and that they plan to model their own programs after ours. This latter point is particularly important as it bears directly on the ability of American parents to adopt abroad.

Mr. Chairman, we are pleased that you and members of this committee and Senator Landrieu have taken such an interest in this Convention that will benefit children and their birth and adoptive parents. Americans adopt more children internationally than any other countries. Our citizens will benefit the most from the safeguards of this important Treaty.

We believe it is crucial now that the Senate provide advice and consent to the United States ratification of the Convention and that the Congress pass implementing legislation. We are eager to work with the Congress and the adoption community to safeguard and to facilitate intercountry adoptions for all of those qualified, and to bring children and parents together to bond as quickly as possible.

Mr. Chairman, this concludes my statement. Thank you for the opportunity to appear before you this morning.

The CHAIRMAN. And a very fine statement it is, Madam Secretary.

We have now been joined by the lady of the hour. And I can say frankly and honestly that there is nobody in the Senate whom I admire or respect greater than I do Mary Landrieu. I know you must have an opening statement, and you may proceed. By the way, Mary is not a member of this committee, but I insisted that she come here and act like one.

[Laughter.]

The CHAIRMAN. She is running this show, really. You may proceed.

**STATEMENT OF HON. MARY L. LANDRIEU,
U.S. SENATOR FROM LOUISIANA**

Senator LANDRIEU. Thank you, Mr. Chairman.

I want to begin by thanking you, Mr. Chairman, for all the treaties pending before this very important committee and you, our ranking member, and the members of this committee for taking time this morning to discuss this issue. I want to thank you for putting the needs of the children in our country and the world first, and giving us 2 hours this morning to try to move this process along.

And I want to thank you, Madam Secretary, for your testimony, and thank you for being so welcoming and generous when I first arrived to the Senate, in our meeting on this subject over 2 years ago.

I do have an opening statement; however, I wish to keep my remarks short, because I am very interested in hearing from the experts who have come to share their insights with us today. Mr. Chairman, I have read their testimony in advance of the meeting; and I would just like to make a few comments that I think are important in setting the stage for this morning's hearing.

To all those following this treaty and its progress, I want to say that the United States is as interested in our children being adopted, and recognize that we have many challenges here in the United States in our domestic adoption arena. This Congress and administration, have taken extraordinary steps in the last couple of years to make sure that in our own country, every child has a home, a loving home, parents to raise them. We acknowledge in the United States that a home is a much better setting, or a family, than an institution.

I have been questioned by people in the international community, asking why are we so focused on international adoption and not on domestic? I want to make clear that we are focused on both. In the United States, we not only believe that every child in the United States deserves a home but also every child in the world.

Of course, as outlined by The Hague, which is one of the most wonderful things about it, Mr. Chairman, the first place to try to find a home for a child would be in their country of origin. If that is not possible, for whatever reason, then that child should be allowed to be adopted outside of the country, as opposed to having them spend their life in a hospital or an institution. A hospital of

institution is not a very good setting in which to raise a child. No matter how wonderful the care can be, no matter how good it could be and how well it could be provided, it is no match to what a family could provide.

In addition, as the Secretary has mentioned, the other fundamental goal here is to establish a legal system for the international community, a system that can be trusted, a system that can have safeguards to prevent fraud and abuse and corruption, and exorbitant fees often associated with international adoption. Such factors are real psychological barriers and legal barriers to finding a home for every child.

And we have, as you know, Mr. Chairman, because you have provided a home for one of these children and I have provided homes for two, millions and millions of children without families. These barriers must come down in order for the good people in this room to do the work that I believe God has called them to do and which they are all doing so well.

And with that said, I am just anxious to hear the testimony of those who have joined us today. I will end with this. We know that the bill we have drafted is a good bill. We had a lot of input on it, and from that input we know it is not perfect. We hope this morning we will hear some ways that our bill can be perfected, it can be improved.

We recognize that is the political process, that we can hopefully improve on this work and come out at the end with the best document that we can come out with. A bill that will reduce the barriers, promote international adoption and provide the safeguards that we all want.

So I thank you very much. I thank you, Mr. Chairman. I have a more formal statement to submit at the end of the hearing this morning.

Thank you.

[The prepared statement of Senator Landrieu follows:]

PREPARED STATEMENT OF SENATOR MARY L. LANDRIEU

I would like to take this opportunity to thank the Chairman, the ranking member from Delaware and other members of the Foreign Relations Committee for making room in your busy schedule for this important hearing. In addition, I would like to personally thank each of the witnesses here today, who have come to share with us their personal stories and their expertise in international adoption. I am confident that their experiences and insights will help us to improve this piece of legislation. We know that it is not perfect as written, but it is our hope that we can work together to make it as close to perfect as we can.

In my office, next to my desk, I keep a copy of a print I am certain many of you have seen before, which is entitled "priorities." It depicts a small child playing in a bed of flowers. Its inscription reads "one hundred years from now, it will not matter what my clothes look like, what car I drive, or how much money is in my bank account, but the world may be a bit better because I made a difference in the life of a child." Today, this hearing is about making a significant difference in the life of not one child but in the lives of millions of children and families in the U.S. and around the world. It's about making sure that the welfare of children is an international priority.

Perhaps, the most significant aspect of the Hague Convention on Intercountry Adoption and its implementing legislation is that it ensures that a legal system exists in which the best interests of children are of the utmost priority. Furthermore, for the first time, the international community has formally acknowledged that a family can better serve the needs of a child than a hospital or institution.

In crafting Senate Bill 682 as he did, the chairman maintained the treaty's focus on the best interest of the child and adapted its requirements to work in the United

States. This was not an easy task. As many of you know, in the United States, issues of children and family are primarily dealt with by state law. Therefore, implementation of the Hague Convention involved more difficult legal political coordination questions for the United States than for other countries which have a more legal governmental system.

It is our responsibility, as the delegates at the convention did before us, to work honestly through our differences in how we believe each title would be written, and commit ourselves to ratifying this treaty. Too much time has passed already. The United States has always been a leader in the protection of human rights and dignity. Yet, twenty seven other countries have ratified the Hague and nine have acceded to it. It has been over five years since the U.S. signed the treaty. We cannot afford any more time to be lost. We must once again establish ourselves as a leader in this important process.

Our delay in ratifying this treaty has caused other countries to be concerned when allowing their children to be adopted by our citizens and understandably so. These countries are entrusting American families with their most precious resource—their children. As other countries continue to ratify the Convention, they agree to place children for adoption only with countries that offer the same protections. Further delay or failure to ratify and implement the treaty could result in thousands of American families without the opportunity to adopt from abroad.

The CHAIRMAN. Thank you very much.

Before we call the next panel, I want you to meet one of the attorneys of the Foreign Relations Committee. You stated the understanding on the time. Could you use the microphone and state that for the record?

Ms. MCNERNEY. Yes sir, when we get to the private panel we will allow each of the witnesses five minutes to provide testimony..

The CHAIRMAN. But you talked about the red light.

Ms. MCNERNEY. Yes, we will be turning on the light in front of the chairman. So when it hits red, your 5 minutes are up.

[Laughter.]

The CHAIRMAN. We have to do that because sometimes you run across people who will go 15 or 20 minutes over time. And that fractures whatever orders you have made of your agenda up to then. Thank you very much.

Do you have questions?

Senator LANDRIEU. No. I am fine.

The CHAIRMAN. Well, let me see if I do not have one.

The State Department, I believe you said, currently oversees intercountry adoptions and assigns caseworkers for this purpose. Does the Department of Health and Human Services currently have any responsibility for intercountry adoption? And I know the answer to that one.

Ms. RYAN. Yes, Mr. Chairman, you know the answer to that. That is no. But they have a network in the United States already in existence that does accreditation in the health field. And so they have the experience domestically which we do not have. We are not a domestic service agency. We are foreign affairs. And we do foreign affairs. We do not do accreditation of domestic organizations.

And my concern, Mr. Chairman, is that if this bill passes, your bill passes, and we get this responsibility, we will do the best we can to carry it out, but there are opportunity costs that come into play here. And that is the time it will take us to gear up to do it, to startup to do it, because we do not have the experience. So we would have to get people. We would have to have more staff. And we would have to develop the experience. And this is going to take time. And that is my concern—that the time spent doing this could be time that HHS would be already doing the accreditation, where-

as we are learning how to do it. And that is the problem that I have with it, sir.

The CHAIRMAN. Well, the point I wanted to emphasize, and if you will pardon the intrusion of the word "baby," this is the State Department's baby and not any other Federal agency—if the record will show that. At least that is the intent of this author of the bill.

Will the Convention prohibit improper payments to government officials anywhere?

Ms. RYAN. Yes, it does, sir.

The CHAIRMAN. Such payments, I think there were some under certain circumstances before, but they were clearly a violation of the Foreign Corrupt Practices Act.

As of August 26th of this year, 26 countries, I believe you said, had ratified the Convention and nine had acceded to it. Of the top 20 countries sending orphans to be adopted in the United States in 1998, only Romania, Colombia, the Philippines, Mexico, Brazil, and Poland are parties to the Convention; is that right?

Ms. RYAN. That is correct, sir.

The CHAIRMAN. The top five countries for adoption, Russia, China, South Korea, Guatemala, and Vietnam, they have not even signed the Convention yet, have they?

Ms. RYAN. They have not, sir. It is our belief that they are waiting to see what we do, and that they are going to pattern their own development of the mechanisms for the Convention based on what we are doing.

The CHAIRMAN. Well, I certainly hope that is the case. And as the Treaty takes effect, do you expect that adoptions will increase in countries that are party to the Convention?

Ms. RYAN. Yes, I believe they will, sir.

The CHAIRMAN. And will they decrease among the non-parties?

Ms. RYAN. That is hard to say. I do not know. I really do not know.

The CHAIRMAN. I do not know if there is any way to tell that except with a crystal ball. And I do not have mine with me this morning.

[Laughter.]

The CHAIRMAN. Do you believe parents adequately understand the risk when they travel to areas like the Caucasus?

Ms. RYAN. When they travel to areas like?

The CHAIRMAN. To the Caucasus?

Ms. RYAN. No, Mr. Chairman, I do not believe that they understand the risks. In some cases, we have had some parents, our Embassy in Moscow has reported to us, that some parents were actually going to try to go into Chechnya to look for children. Which is, as you know, there is a state of war between Russia and Chechnya. And we find that extremely dangerous.

But what it does show, I think, Mr. Chairman, is the generosity, the great heartedness of the American people in going into very risky areas to find children at risk. Every time that there is a crisis in the world, our Office of Children's Issues is inundated with calls from people who want to know how to adopt the children in that particular country, whatever country it is. And I can only stand in admiration of American people who do things like that. I mean it is just remarkable.

The CHAIRMAN. The U.S. Ambassador to Russia, Jim Collins, sent me a cable the other day. He warned that despite warnings from the Embassy and a policy to prohibit even State Department travel to the Chechnya, North Ossetia—I do not even know where these places are—Dagestan, and Ingushetia—where in the heck is that?

[Laughter.]

Senator LANDRIEU. Somebody should know.

The CHAIRMAN. Do you know?

Ms. RYAN. No, sir, I do not. I mean it is somewhere in the former Soviet Union, but I do not know where exactly it is.

The CHAIRMAN. The Ambassador indicated that in the last 4 years, four foreigners were kidnapped and decapitated in that region. And he said, you better watch out. And let me see, I am trying to cut down on this because I know you are a busy lady.

Do you believe that this Convention will eliminate unnecessary bureaucratic steps?

Ms. RYAN. I hope so, Mr. Chairman.

The CHAIRMAN. What can be done to facilitate customer service at the INS?

Ms. RYAN. Mr. Chairman, I am sorry, I am not going to touch that.

Senator LANDRIEU. That is a loaded question, Mr. Chairman.

[Laughter.]

The CHAIRMAN. I thought I would get a rise out of that.

[Laughter.]

The CHAIRMAN. You are mighty nice to come.

Do you have questions?

Senator LANDRIEU. Just a comment. As the chairman stated, he feels very strongly about the role of the State Department, and I was hoping that maybe you would have a suggestion about, given that, a way of a partnership arrangement perhaps between the State Department and Health and Human Services. Because both agencies, if either one were designated, would have to contract some of this work out anyway.

So perhaps while the time may be short this morning, the State Department could think about some sort of partnership. Because I think the chairman feels very strongly about this. And even if we have to provide some additional staffing, I think this committee is of a mind to do that, at least initially. So perhaps you could give some thought and maybe submit something back in writing or communicate.

Ms. RYAN. Thank you, Senator. We certainly will do that. Thank you very much.

The CHAIRMAN. Thank you so much, Madam Secretary. We would be glad for you to stick around if you have time. If you want, you could do it. I would invite you to come up here and pretend you are a Senator.

[Laughter.]

The CHAIRMAN. Seriously, thank you very much for coming.

All right, now panel two, Dr. Ronald S. Federici, Clinical Director, Psychiatric and Neuropsychological Associates, of Alexandria, Virginia; Ms. Barbara A. Holtan, Director of Adoption Services, Tressler Adoption Services, York, Pennsylvania; Mrs. Tomilee Har-

ding—this is a special lady from my home State—Tomilee Harding, Executive Director, Christian World Adoption, from Hendersonville, North Carolina, which is a beautiful part of our State; Mr. Mark T. McDermott, Legislative Chairman of the American Academy of Adoption Attorneys in Washington; and Ms. Susan Soon-Keum Cox, Vice President of Public Policy and External Affairs, Holt International Children's Services, Eugene, Oregon.

What a distinguished looking panel.

Senator LANDRIEU. A wonderful group.

The CHAIRMAN. And, Ms. Mary, before I forget it, I do not know about you, but I am so delighted to see all of these other people who are here this morning. That is a measurement, I think, of the interest and the desire to make sure that this kind of thing, which all of us are so much concerned with, is done right.

Senator LANDRIEU. Absolutely. I want to thank them, too.

The CHAIRMAN. Let me take the liberty of saying this lady is a mother who has adopted children, beautiful children. And that is one of the reasons I like her.

We will start on the left, which is the way the television cameras would see you, or the right. Anyway, we will start with you, Dr. Federici.

STATEMENT OF RONALD S. FEDERICI, PSY.D., CLINICAL DIRECTOR, PSYCHIATRIC AND NEUROPSYCHOLOGICAL ASSOCIATES, P.C., ALEXANDRIA, VIRGINIA

Dr. FEDERICI. Mr. Chairman, Senator Landrieu, it is a pleasure to be here. Committee members, thank you very much for allowing me the opportunity to testify.

My name is Dr. Ronald Federici. I am a developmental neuropsychologist, which basically means I specialize in evaluating children with neurodevelopmental and psychiatric difficulties. I am Professor of Pediatrics and Neuropsychology and Child Development. I lecture extensively throughout the United States and internationally. And I am also an honorary member of the remaining Department of Child Welfare, because my medical team works extensively in Romania, working on the institution projects.

I am also very proud to be the adoptive parent of four internationally adopted children, and have recently gained guardianship with two other children in Romania.

My professional colleagues in international adoption medicine have basically designated me as the one who has seen the most difficult children. My estimate is that I have seen over 1,500 to 1,600 internationally adopted children who are in their school age years for various evaluations for neurological or psychiatric difficulties.

Basically, I am speaking to the committee on behalf of my work and research, which I am also going to offer to the committee, as well as some other supportive documentation. And I am very proud to have many of the families and support groups here in the audience who I have worked alongside for many, many years, who would corroborate some of the difficulties that have surfaced regarding international adoptions and adoption practices.

While I am not an attorney, my job is to be an investigator and work with the families to help them provide the most detailed assessment of their child's special needs, and also to help develop the

most appropriate treatment plans to bring the child to their maximum potential.

If I may just say that I have probably, in my research sample, and it is included in my testimony which the committee has already, we are organizing a very detailed research sample, in conjunction with Dr. Dana Johnson and the University of Minnesota, and Dr. Pat Mason, of Emory University, which should solidify all the data on the long-term effects of institutionalization regarding thousands of cases.

In my one sample, which I have seen, which has been reported, of over 1,500 internationally adopted children, every one of them were informed by their adoption agency that they were healthy. All 1,500 of them were not healthy.

I broke down the statistics in terms of by numbers. But if we were to look at approximations, 50 to 60 percent of the children had long-term chronic problems; 20 to 30 percent had refractory or chronic difficulties that would require lifelong care and probably a lack of independence on the part of the child; and less than 20 percent of our sample, which is corroborated now with an additional sample that I have provided from Emory University, since they have also done recent data collections, show that the children were able to be resilient.

Again, sir, all of the children were advised by their agencies that they were healthy. The statements that were made consistently to me from the families, since I have had the opportunity to review a modicum of medical records, that to disregard the medical records, the children will be fine, they are slightly delayed, they need a loving home, they need care, health, hygiene, and everything would be fine.

This turned out to be absolutely incorrect, at least in our assessment now of the older children, since what we are finding out about the long-term effects of institutionalization, from nutritional, medical and psychological neglect, which I have supplied some of the most up-to-date research from researchers across the country who would corroborate the findings, is that children from internationally adopted settings, regardless of age, are deemed a very high-risk population and require very special families to handle these cases.

In my work with Romanian Secretary of State Tabacaru, he recommends that every child out of Romania receive a label as a handicapped child or a child at risk for delays.

Some of the other critical issues that seem to come about is that the families were grossly ill prepared, overwhelmed. I have dealt with families who divorced, went bankrupt. Many relinquished their children. The majority of the families were in states of despair and depression, where they did not know how to deal with the situation of a, quote, healthy child.

All families passed the home study. In my years, 20 years of practice, I have yet to see a family fail a home study. Several of the families that passed home studies were active alcoholics, drug addicts, out of prison, financially ill prepared, unemployed, and so forth and so on, where they were clearly not afforded a proper home study or psychological evaluation, which has, for the most part, been deleted as a critical part of the home study.

I have now been called upon to be a participant in numerous litigations against agencies. I have served as an expert witness several times, and right now I am involved in eight different litigations against 10 different agencies.

So, in summary, sir, there seems to be quality control over the preparation for the families. The families are very ill prepared. There seems to be some misinformation provided to the 1,500 families who had, quote, healthy children, when all were impaired at some level, with many of the families wondering why they would pay so much money for a handicapped child.

Thank you very much for allowing me the opportunity to testify.
[The prepared statement of Dr. Federici follows:]

PREPARED STATEMENT OF DR. FEDERICI

I, Dr. Ronald Steven Federici, am a Board Certified Developmental Neuropsychologist and expert in severely delayed children, particularly children from post-institutionalized settings. I have been in professional practice for 20 years and have evaluated approximately 1800 adopted and internationally adopted children. I am regarded as the Country's expert in the neuropsychological evaluation and treatment of the post-institutionalized child and lecture nationally and internationally on this topic. I am the author of "Help for the Hopeless Child: A Guide for Families (With Special Discussion for Assessing and Treating the Post-Institutionalized Child)". Also, I am the parent of six internationally adopted children; four of which reside with us in the United States and the other two I raise in their home country of Romania in which I maintain legal guardianship.

I have been evaluating internationally adopted children since early-mid 1980's to present. I have evaluated approximately 1800 post-institutionalized children and have collected extensive data which is now being reviewed and incorporated into a major research project with Dr. Dana Johnson at the University of Minnesota and Dr. Patrick Mason at Emory University. My preliminary data is referenced in my book and will be further outlined in my summary testimony.

Families come to see me from all over the United States and now England and Ireland in order to receive my expertise in developmental neuropsychological evaluations. Virtually every family who has come to see me was informed by their adoption agency that their child was either "healthy" or had "mild developmental delays which would improve with a loving and nurturing family". I have reviewed thousands of medical and psychiatric records on these post-institutionalized children and have also heard thousands of the exact same story from families who have adopted regarding their experience with their international adoption agency.

There is a very important point to be made here regarding the entire international adoption process, even prior to the child being placed. In my 20 years of practice and, most recently, the extensive work with internationally adopted children, I have yet to see a family fail a "home study" which was provided by the agency. For example, I have a family in which both parents were active alcoholics and in treatment, but were allowed to adopt two children. When I confronted them how they passed the home study, they openly informed me that their adoption agency told them "we just won't put that in the home study". I have many other cases in which it was clear one parent was mentally ill, or both had significant emotional and marital problems but yet passed the home study. I even have one case in which the father was out of jail for sexual offenses and passed the home study in order to adopt a child from Russia. Therefore, what is the purpose of a home study if it does not measure or adequately assess any psychological domains of the prospective parents or the agency will go as far as omitting important information.

Specifically, all of the families who have come to see me have felt at the end of their patience and totally overwhelmed and frustrated. By the time families make it to my office, they have seen multiple medical and psychiatric providers who still have not been able to reach a conclusion or consensus regarding the type of illness or damage to their child. The families have consistently told me that they have brought their concerns to their international adoption agency, but have rarely—if ever—received any type of support, encouragement or even proper referral to those of us who are designated experts in international adoption medicine. Actually, many of the families were told to avoid specialists such as myself or others across the country as "we would only find a problem with their child which was not true as the child just needed more time and love to adjust".

Most families sought out my services as well as specialty services from other international adoption specialists through the Parent Network for the Post-Institutionalized Child (PNPIC), Friends of Russian and Ukrainian Adoptions (FRUA), word of mouth or by reading various articles I have published or my recently published book. Additionally, families with damaged internationally adopted children flock to conferences sponsored by the Parent Network which have now totaled over 17 across the United States and in the United Kingdom. In these conferences which I have co-sponsored and lectured, rarely do we see international adoption agency personnel. Actually, agencies avoid these conferences and avoid dealing directly with the significant problems that many post-institutionalized children experience.

In my preliminary research statistics, based on a sample of 1500 internationally adopted, post-institutionalized children, with an average age of 4.2 years and an average time in the institution from 24-through-84 months, of the adoption agencies informed the families that the children were "healthy or only mildly delayed which would improve with a loving family". The medical records clearly indicated that the child showed high risk pre- and post-natal factors such as fetal alcohol exposure, prematurity, nutritional neglect, low birth weight, or just the damaging effects of living in a deprived institution. Also, there are frequently uncertain "medical diagnoses" put on the child's records such as perinatal encephalopathy, hypoxia or various other unusual terms. While the medical experts consistently state that these Eastern European diagnoses might not mean anything, caution is still provided to the parents. International adoption agencies frequently tell the parents to "disregard the medical records from the country as they have to put something down in order for the child to be adopted out". We are now finding that many of the true medical records may lack clarity or sophistication in diagnostic nomenclature, but are in fact correct in defining a child who is at high risk or ill at some level.

The neuropsychological outcome factors of these 1500 children yields the following:

1. 450 or approximately 30% of the sample had severe neuropsychiatric disorders such as mental retardation, autism, fetal alcohol syndrome, or chronic and long-term disabilities.
2. 750 or approximately 50% of the sample displayed mild-to-moderate learning disabilities and developmental disorders which required life-long special education, medical and psychiatric interventions.
3. 375 or approximately 20% of the sample displayed relatively "clean" or benign neuropsychological and psychological difficulties which would continue to improve over the course of time and with the appropriate medical, psychological and educational interventions along with routine acculturation.

Therefore, 80% of the children I have evaluated whose families were told by their agency that they were "healthy" were, in fact neurologically impaired and would pose a financial and emotional burden to the family for life. I fully realize that families come to me for evaluation of problems, but if one provider such as myself has seen so many impaired internationally adopted children, there must be definite problems in the entire international adoption process beginning at the time of the child being identified in their home country (grossly inaccurate medical and psychiatric assessments). Additionally, it is absolutely inappropriate for international adoption agencies to tell families who are adopting children from such high risk countries such as Russia, Romania, Bulgaria, other Eastern European countries, India as well as Central and South America is that "all children need is a loving and stable home and time to adjust".

Many of the agencies have recently published their "research and surveys" regarding internationally adopted children. In the most recent one completed by a Washington, D.C. agency, they touted that only "less than 10% of the children had problems and that most were doing well". Professional researchers and critics have totally disregarded these surveys as they are no more than "content surveys". Most families are happy they have a child which is the target of these surveys, but there is no real mention or assessment regarding the level of disabilities. Emory University International Child Clinic and the Parent Network for the Post-Institutionalized Child are now conducting a more professional national survey and finding completely contrary results from the Washington, D.C. based survey. It is very clear that proper professional evaluation of the internationally adopted child indicates that these children are a "very high risk population". Just for the Senate hearing records, I offered a modicum of professional input and proper neurological and psychiatric assessment surveys to the Washington, D.C. adoption agency who published the recent "contentment survey" that I am sure the agencies will discuss. I spent ample time in helping them formulate a proper research survey, but was informed

by the Director (following a presentation regarding neuropsychological work with post-institutionalized children) that if "she were to tell families everything that I have presented or given to their agency, that no one would adopt". This sums up the issue and clearly shows that financial gain and increasing adoption numbers took priority over quality assurance and protection of the prospective adoptive family.

The agencies maintain a "wait and see philosophy" and have rarely recommended to my families immediate and aggressive evaluation and treatment. Even when families take my neuropsychological or other medical data back to the agency in an effort to point out that their child is severely impaired or delayed, many agencies which I can specifically name and identify, have told families to disregard my evaluation and keep getting additional opinions with the hope of finding the child healthy and discredit my findings or those of my professional colleagues. It should be emphasized that by the time families come to me, I am, in fact, the last opinion or the one they count on the most based on my expertise and extensive experience with the post-institutionalized child.

I am an Honorary member of the Romanian Department of Child Protective Services and President of the Romanian Challenge Appeal which is an international humanitarian aid organization. I have over 30 medical specialists from all disciplines who have worked in Romania evaluating children in institutional settings. I have visited institutions all over the world, particularly Romania, and it is very clear that any child residing in such a deprived environment can and must be labeled "high risk" due to the multitude of environmental, medical, nutritional and deprivation risk factors which international adoption agencies grossly minimize when the families are in the initial stages of international adoption.

A vast amount of my families have informed me that, when they went to the country to pick up the child, it was very clear that the child was sick and nowhere near the "statement of health" provided by the international adoption agency. Many families have also informed me that their child was switched at the last minute, or that their child was so sick that they doubted he or she would make it home. Furthermore, many of the families who adopted older children found the child to be completely out of control and were completely ill-prepared to deal with a violent and out of control child for the trip home.

I have served as expert witness on several high profile cases such as the murder case in Colorado where the mother murdered her internationally adopted toddler (Polreis case) in addition to the Thorn case where the parents were arrested in New York for allegedly abusing their two Russian toddlers who were out of control on the plane. I have been asked to serve as an expert witness multiple times by families filing suit against their international adoption agencies. In the cases I have participated in, international adoption agencies withheld or fabricated records, blatantly lied to the families regarding the health status of the child, or were involved in some type of scandal between the U.S. agency and the overseas NGO. I have personally witnessed lawyers obtaining the true medical records on the children in which the international adoption agency and NGO deliberately withheld. I have seen cases settle for millions of dollars. I have seen families being given a child who has Delta-D Hepatitis which is a terminal condition when they were told the child was perfectly healthy and passed the "exit medical examination" in their home country in which the hepatitis would have been picked up immediately if it were a legitimate examination. In many of the cases, it was exceedingly clear that the agency withheld valuable information from the families which would have potentially changed their decision to adopt or prepare properly for adopting a special needs child.

I have seen a multitude of families disrupt their adoption because they were no longer able to care for the child's financial and emotional needs. I have seen families separate and divorce, or engage in abuse of their child because the child exhibited grossly out of control and aggressive behaviors. I have evaluated children who have severe attachment disorders, neuropsychiatric conditions, sexual offenders, killers of animals within the home, and several children who have attempted to murder their siblings, parents or commit suicide. I have consistently watched families feel devastated and enraged with their international adoption agency who had promised them a "healthy child".

There are few, if any, international adoption agencies who have provided adequate training for the high risk factors of the post-institutionalized child. Follow up counseling or support from international adoption agencies is virtually non-existent.

It has been my professional and personal experience that, when confronted, international adoption agencies maintain strong denial, deceit and manipulation when they are forced to deal with a family that has a damaged child. This is not an isolated occurrence, but a situation which has occurred thousands of times. I urge the

Committee to consult with the Parent Network for the Post-Institutionalized Child (Thais Tepper and Lois Hannon, Directors), in addition to various other support groups around the country for families with internationally adopted children. It would also be worthwhile for the Committee to review the statistics of Tressler Lutheran Services in Pennsylvania as directed by Barbara Holtan. This program has handled many disrupted international adoptions and specialized in placing these very difficult children.

In summary, and as stated in my book, international adoption agencies do a very poor job in preparing families for the high-risk post-institutionalized child. They maintain a position of denial and minimization regarding the damaging effects of institutional care and sell families the fantasy that a "good loving home and time will cure all". Yes, there are definitely many children who do well, but there is a very large percentage of families with damaged children. If I, myself, have seen nearly 2000 and the Parent Network for the Post-Institutionalized Child has almost 6000 families having damaged children, and other organizations having thousands of their own damaged children and families, then there clearly is a need for better quality control on the part of the international adoption agencies.

Furthermore, all of the families who have come to me have spent a minimum of \$15,000-\$20,000 to adopt their child which turned out to be special needs. As stated by the Romanian Secretary of State, Dr. Cristian Tabacarn, a Romanian adoption should cost no more than \$4,000-\$5,000. Families are instructed to carry over large volumes of cash in "new bills" by their adoption agency to hand to the overseas coordinator. This statement I can verify personally as I am the parent of six internationally adopted children and was instructed by my agency to carry over large sums of money in new bills and with specific denominations. There is no accounting for this money that is sent overseas and it is very clear that United States international adoption agencies are making vast sums of money on adoptions, even the ones who turned out to be handicapped.

Agencies continue to resist working collaboratively with adoption medicine specialists, families, parent support groups, post-placement supportive programs. The problem continues in volumes as the number of internationally adopted children rises each year. There is no quality control or accountability that the agencies must be held to. There is no standard of care, operation, financial accountability or, most importantly, securing the most accurate, detailed and honest information provided to the families. Families adopting are very vulnerable and impressionable, and tend to believe the fantasy as opposed to a painful reality which is often the case.

Despite numerous attempts on my part to educate and offer free training to any and all international adoption agencies, I have been discounted and under utilized. JCICS recently sponsored the first "International Medicine Adoption Conference", but their practices continue as it was very clear that many of the agencies in the audience did not want to listen to the potential risk factors as this would limit their adoption numbers and profit. They asked for training and guidance, but turn around and do the same unethical and insensitive practices time and time again.

Several agencies are under lawsuit at this time for fraudulent practice. I would be pleased to provide documentation of pending legal cases ranging from Oregon to Ohio to New York to Washington, D.C. to Florida to Texas to Arizona involving more than 10 different agencies. I continue to provide expert testimony and life planning for many of the children that I have evaluated that are severely impaired and for families that are in the process of suing their international adoption agency for fraudulent adoption practices. I have seen many cases settle before the court hearing, but the settlement is "sealed" per the request of the adoption agency, but I am aware of the settlement amounts and the legal document which were so clear in defining fraud and negligence. Currently, I have received requests from literally hundreds of families who wish they had the opportunity to tell their story to any governmental agency or regulatory body who may invoke some type of quality assurance or control over international adoptions. This is not just one or two angry families, but a very large cross-sectional group of well informed families. Many of these families were hoping their concerns would be heard at this type of Senate hearing.

Without some form of governmental controls and monitoring, the problem will continue. International adoption agencies seem to have a difficult time in agreeing on how to ratify the Hague Convention as it is clear they do not want accountability or monitoring.

Any area of medicine would be held accountable for their action. This is why we maintain a license which is subject to scrutiny by our State Boards. International adoption agencies have a license, but are not subject to any scrutiny or disciplinary action aside from the times they wind up in court—which is on the increase. The more handicapped or special needs internationally adopted children coming into the country will continue to provide a challenge to the ill-prepared family, their edu-

cational system, and to the medical and psychiatric specialists trying their best to deal with the problems. Most importantly, the financial strain on the families can and will result in more disrupted adoptions or the child receiving less than optimal services.

With all of these factors in mind, it seems imperative that a strong governmental position be taken regarding international adoption agencies. Oversight, regulation, control regarding adoption practices and financial accountability is of paramount importance.

The CHAIRMAN. Thank you, sir.
Ms. Holtan.

**STATEMENT OF BARBARA HOLTAN, M.A., M.S.W., DIRECTOR OF
ADOPTION SERVICES, TRESSLER LUTHERAN SERVICES,
YORK, PENNSYLVANIA**

Ms. HOLTAN. Thank you. I am speaking to you today as an adoptive parent also. Our three children by adoption are now grown up and, I am happy to say, knocking on wood, they are doing fine.

I am also an adoption professional for the last 20 years. And I have been working predominantly in the placement of special needs American-born children into families here in the United States. Our agency, Tressler Lutheran Services, works to find families for the kids waiting in foster care right now.

We all know in this room, I hope, that adoption is a win-win situation. No one is even suggesting that adoption is something that should happen or not happen. It just is, and it needs to continue.

In our profession, however, as in I think every profession, sometimes folks get into it with less than stellar motivation. We have seen this in the last recent years in international adoption in particular, where people are doing this without the education and knowledge they should have. As a result, as Ron has mentioned, children are being placed into families who are ill prepared to receive them.

In February 1994, Tressler Lutheran started receiving phone calls from families around the United States who had adopted Eastern European children, came home, and now felt they could not continue the adoption. They contacted Tressler because we have a national reputation for finding homes for difficult children.

When these calls started, Senator, we were astonished at the numbers that started to come in. Since February 1994, our agency has been asked to find second families for 82 Eastern European children. Now, that may seem like a small number. But I went back in our statistics and, in the 10 years previous, we were asked to replace 18 internationally born children. And in the last 5 years, it has been 82. That is way too high.

The three things that we would like to offer to you as ways to avoid the majority of these disruptions—there will always be some; as long as we are dealing with human beings, that is going to happen—but we can get the numbers down. And the first way to do it is good, solid preparation for the pre-adoptive families. Every agency that is placing adoptive children should be preparing their families. Tell them the negative as well as the positive. Nudge them along to think long term, as opposed to just the getting of the child.

We must have people understand that the raising of them is equally as important as the getting. So family preparation, any-

thing that can have agencies understand the importance of that we are for it. And this bill does address this.

The second thing is that families must receive full disclosure on the children they are considering. That means material in English. It also means that they should be given sufficient time to consider the referral materials, to read about the child and make a lifetime commitment to him. We are told that some agencies give families 24 hours to make a decision of whether they want to adopt this child. That is totally beyond the pale.

So, first, it is family preparation. Second is the full disclosure. And the third part is post-placement services. And that means that after the family comes home from Russia, Romania, wherever, the agency that was there in the beginning to help them form a family will be there for them after the fact, to help them as needed.

At Tressler, we receive about 13 to 15 calls a month from old families who adopted from us 5 years ago, 10 years ago, needing something from us, needing some help. We respond to every single one of those calls. I believe that any agency, facilitator or attorney who is dealing with adoption must be available after the fact to be there for these families.

Somehow we got the idea that internationally born kids would not have problems and difficulties. I do not know how we did that. We know that children in the foster care system have many, many long-term problems. What I would like to suggest, as did Ron, and I think others will as well, any child in a Russian orphanage is a special needs child. And the families who adopt him must be prepared for that.

Thank you very much.

[The prepared statement of Ms. Holtan follows:]

PREPARED STATEMENT OF BARBARA HOLTAN

I speak to you as an adoptive parent and from the perspective of a twenty-year career as an adoption professional. Three of our 5 now grown children, Seth, Kimberly and Timothy, joined us by adoption from Vietnam and Korea. They are wonderful, functional adults now who have given and continue to give my husband and me great joy.

My message to you is that adoption works. In the vast majority of cases, it is successful and provides a win-win situation for parents and children. We all benefit when a child finds a parent or two of his own to stand between him and the darkness of belonging to no one. As such, adoption should be encouraged and celebrated. There are excellent adoption agencies and professionals in the US working diligently to serve waiting children and they too should be celebrated and encouraged.

Unfortunately, however, the adoption field, like all professions, can attract those with less than altruistic motivations and others who are enthusiastic but naive. International adoption, in particular, seems to have attracted more than its share of such individuals in recent years. Whether or not international adoption should continue is not the issue. How we can work together to improve it and bring all those engaged in it to Best Practice Standards is the issue.

I am the Director of Adoption for Tressler Lutheran Services providing service to families in PA, DE and MD. Our primary mission and mandate for the 27 years of our program has been to find loving permanent families for children with Special Needs—predominantly children from the foster care system in the U.S. We have also participated in international adoptions throughout our history through partnership with other reputable and knowledgeable U.S. based agencies.

Our history is long. Our knowledge base is significant. Our expertise is in preparing families for adoption and supporting and nurturing those adoptive families over time.

In February of 1994, we began receiving calls from adoptive families around the country—families we did not know—had not worked with—who were strangers to us. They were desperate, angry, sad, frightened. They were asking TLS to find an-

other family for their child by adoption since they felt they could not continue. They were turning to TLS due to our national reputation of finding families for hurt and emotionally fragile children. Since February of 1994, we have received calls such as this steadily. As of now, we have been asked to re-place 82 children—all adopted from Eastern Europe by American families. Disruption is the term used to describe adoptions which are not working out resulting in the child needing to leave the family and hopefully enter into a second adoption. While 82 disruption requests in five years may seem small considering the thousands of children entering the U.S. via international adoption, it is important to note the following:

- (1) This is only a TLS number—There is no tracking mechanism for disruptions nationally.
- (2) During the ten-year period previous at TLS we received 18 such requests—18 in ten years vs. 82 in five years.
- (3) All of the requests came from parents of Eastern European born children—predominantly Russia, second Romania.

These numbers are alarming to us. If TLS or another agency is unable to find a second family for these children, many will—and perhaps already have—enter the U.S. Child Welfare System. What have we accomplished in bringing the child from institutional care in Russia to end up in U.S. foster care system? The emotional toll on the parents and the children is enormous.

As long as adoptions occur, there will be adoption disruptions. Every one is heart-breaking, but they are a reality since we are dealing with human beings. However, the numbers of disruptions can be lessened if all those involved in the placement of children for adoption do the following:

- (1) Provide good, solid, pre-adoption parent preparation and education. This is vital in order for the adoptive applicant to make good choices regarding his motivation, ability and desire to adopt a child. Give both the positive and the negative. Nudge the adopters to take the long view. Work to move them from naive enthusiasm to educated and wise individuals who, when they make the lifelong commitment to a child, they understand as fully as possible, the depth of this commitment.

TLS has been providing such education to our adopting families for the past 27 years. It is the cornerstone and strength of our program.

- (2) Provide to the adopters full disclosure—in English—of everything that can possibly be found on the child's current status, health, developmental level, social history and family background. Give the adopter sufficient time to read, digest and consider this information before pushing them for a commitment to the child.

- (3) Provide post placement services to the family. Be there for them after they return home for whatever they need in terms of support, information, education in order to nurture the placements over time.

Adoption is not an act; it is a process. Far too many adoption agencies and facilitators see it only as the act of getting the child. Far more attention must be paid to the long view: the process of raising that child to adulthood. If we are privileged to be a part of creating this family by adoption, we must be available to that family over time.

U.S. Agencies who place Special Needs children into adoptive homes already know the importance of this three-fold approach: Education—Full Disclosure—Post Placement Services. We provide full service to our families. How is it that we think that those adopting overseas should receive any less? Standards of good practice must apply to all adopters equally. Surely, a child in a Russian orphanage who is receiving little or no individual attention, stimulation and nurturing is as much a Special Needs child as one in the foster care system of the United States. Surely the American considering adopting that child deserves to receive the same amount of preparation before the adoption and the same amount of assistance after they return home.

Thank you for the opportunity to address you today.

The CHAIRMAN. What a fine statement.

Please forgive me. The distinguished Senator from Oregon, an able member of this committee, has left another committee meeting to come here to pay his respects and make some comments. And if you will forgive me, I am going to call on Gordon Smith. And we welcome you, sir, and appreciate your coming.

Senator SMITH. Thank you, Mr. Chairman. I am honored by your courtesy. I am here out of a great interest in this issue. I appreciate your holding this hearing.

I specifically want to welcome Susan Cox, of Holt International, who is one of your witnesses and a resident of my State. Holt International is an agency that is headquartered in Eugene, Oregon.

I would also like to pay tribute to my wife Sharon, who is behind me, who is here, from Oregon today. And she and I are the parents of three adopted children and, like Senator Landrieu, take this issue very seriously, very personally, and are anxious to see adoption work as a remedy to lots of other very cruel solutions.

Thank you, sir.

The CHAIRMAN. Do you have any comment, Mary?

Senator LANDRIEU. No. I am just so happy that they are both here. We can use all the help we can get.

The CHAIRMAN. Well, Mrs. Smith, now that I have seen you, I know why we call him lucky around here.

[Laughter.]

The CHAIRMAN. While we are interrupting, I want to pay my respects to a valued member of our Senate family. I do not have a staff; I have a Senate family of young people. And her name is Michelle DeKonty. And I want Michelle to stand up and say hello to you, too.

Ms. DEKONTY. I am very honored to work on this issue with Senator Helms. I am very much for adoption. And this issue has enlightened me. And I have come in contact with some wonderful people who really know their stuff, and they have been a great deal of assistance to us. And I look forward to working with you further.

Thank you.

The CHAIRMAN. Now, then, you brag about having somebody from your home State, I can do the same.

Senator SMITH. Great.

The CHAIRMAN. Mrs. Harding, welcome, from Hendersonville, North Carolina.

**STATEMENT OF TOMILEE HARDING, EXECUTIVE DIRECTOR,
CHRISTIAN WORLD ADOPTION AND PRESIDENT, JOINT
COUNCIL ON INTERNATIONAL CHILDREN'S SERVICES**

Ms. HARDING. Thank you, Senator Helms and Senator Landrieu. Thank you for the opportunity to speak.

My name is Tomilee Harding. I am the Founder and the Executive Director of Christian World Adoption. We have offices in Hendersonville, North Carolina, and Charleston, South Carolina. I am also the President of the Joint Council on International Children's Services. And this is the oldest and largest affiliation of not-for-profit child welfare agencies in the United States that deal with children in international adoption. The Joint Council has 130-plus members. And I am not speaking as a witness for the Joint Council, but they have submitted their comments to the committee.

Finally, and most proudly, I am the stepmother of two grown sons, an adopted daughter from South America, who is 10, and my husband and I are now in the process of adopting an 11-year-old girl from Russia. And she has spent most of her life in a Russian orphanage. So this matter is very dear to my heart, as it is to most

people who work in agencies, and of course the people who care so much that are on this committee.

As a witness, I believe very, very much that The Hague is necessary. And this is not just my belief, it is also the belief of The Hague Alliance. The Hague Alliance calls very strongly for the ratification of The Hague by the U.S. The Convention provides a framework for cooperation and safeguards for children, birth families and adoptive families that we think is very critical.

The Hague Alliance includes most of the child welfare organizations in the United States, the Joint Council on International Children's Services, the Child Welfare League, American Bar Association, National Association of Social Workers, American Public Human Services Association, Catholic Charities, Association of Jewish Family and Children's Agencies, Council on Accreditation of Services for Families and Children, National Council for Adoption, American Academy of Adoption Attorneys, and North American Council on Adopted Children. So if you wonder why our audience is full, there are a lot of people that are very, very concerned about this issue and care very much about what is happening.

I really am here because I consider myself a trench soldier. I have spent most of the last 10 years traveling extensively overseas. I spent a lot of time meeting with officials, training personnel and touring orphanages. This has been exhausting emotionally, physically and spiritually. But I feel it is critical in order to supervise the activities of our associates overseas and to understand the needs of the officials and the children there.

In 1994, I headed a project to build an orphanage in north Vietnam, and spent the next 4 years traveling back and forth to hire and train care givers and to reunite children with their birth families and to find adoptive homes if that was the solution. I have travelled throughout Russia. Last June was my 14th trip, spending weeks at a time there. I have met with the Russian Duma about their new law. And this September, Alla Dzugaeva, the Chief Legal Specialist of the Federal Ministry of Education, in Moscow, which oversees intercountry adoption, expressed to me the Ministry's hope that the Russian Duma would ratify The Hague Treaty soon.

Currently, American adoptions, as you said, Senator, from Russia are growing. It is the largest sending country. They have established a Federal data bank to put their children in, to fulfill the mandates of the central authority. Oftentimes, there is confusion amongst countries about laws. I feel strongly that there is a need to have a Federal body, like the State Department—in fact, the State Department—to help intercede with issues when adoptive parents have problems, when the children have needs, and when the agencies do.

Recently, on a trip—in fact, last week—one of the protectors for children's rights from Irkutsk told Congressman Taylor that the Russian area there is not doing adoptions to Americans as much as the French because they have ratified The Hague. Dr. Guo, the head of the China Center for Adoption, has met with me on numerous occasions to discuss the U.S. and China laws. They have increased their adoptions there and continue to do so. Next year, they anticipate there will be 5,000 adoptions from China. I have

been told recently that China is seriously considering ratifying The Hague and is studying it now.

I tell you these details of my work just to tell you the amount of contact that I have had with people overseas and that I feel that most of these countries are looking, as our Secretary said, to see the U.S. ratify The Hague, as we were one of the main players at the beginning and were an original signatory.

As far as accreditation is concerned, I think it is an important process to deliver high-quality adoption services. The Joint Council, 130 agencies, has voluntarily agreed to go along with this accreditation and feel that it is very important.

Thank you, Senator.

The CHAIRMAN. I am proud of you.

Ms. HARDING. Thank you.

The CHAIRMAN. Mr. McDermott.

STATEMENT OF MARK T. McDERMOTT, ESQ., LEGISLATIVE CHAIRMAN, ACCCOMPANIED BY GOLDA ZIMMERMAN, TRUSTEE, AMERICAN ACADEMY OF ADOPTION ATTORNEYS

Mr. McDERMOTT. Thank you, Mr. Chairman.

Mr. Chairman, Senator Landrieu and Senator Smith, I am Mark McDermott, and I am Legislative Chair for the American Academy of Adoption Attorneys. I am honored to have been asked to speak to you about this important subject.

With me today is Golda Zimmerman also, who is a Trustee of the American Academy. And she is also the Attorney for New Life Adoption Agency, a licensed nonprofit agency in the State of New York that specializes in Chinese adoption.

In the event that the committee has questions within her area of expertise, she is also available.

And I would also note that two other members of our Academy are here in the audience today.

The CHAIRMAN. Would you have them stand, please. And we will not count that against your time.

Mr. McDERMOTT. This is Ms. Zimmerman.

The CHAIRMAN. All right.

Mr. McDERMOTT. And Joel Tenenbaum is also here, and Irene Steffas.

The CHAIRMAN. Thank you.

Mr. McDERMOTT. Implementing legislation for The Hague Convention has been a long time coming. Countless children have waited too long for the protections that it is going to provide. Thank you, Mr. Chairman and Senator Landrieu, for your sponsorship of this legislation.

Our Academy is a nonprofit organization, consisting of judges, attorneys and law professors from around the country and Canada. Like many of our members, both Ms. Zimmerman and I are adoptive parents. One of our organization's highest priorities is to have this Convention ratified so it can be put into effect.

We were involved early on in the process, as a member of the U.S. official delegation to The Hague, and thus we participated in the drafting and negotiation of the Treaty. Thereafter, we were asked by the Department of State to formulate some criteria for the approval of attorneys and others involved in the process. And we

did that. And I have with me today a copy of those criteria, which I would like to submit at an appropriate time for the record.

The Convention is much needed. We have all been exposed to abuses in places like Romania. Only through a treaty can there be any guarantee against these abuses in the future.

One country must be assured that uniform provisions are in place in the other countries so that abuses can be prevented. These protections that exist in the Convention are enhanced by your bill, S. 682, and I applaud that. The stakes are high, and those involved in the process are very vulnerable.

Some of the protections that you have put in your legislation that I would like to focus on have to do with the requirement that medical records on the children be translated into English and that those records be provided to the adoptive parents in advance of the adoption. Also, I applaud the provision that requires preparation for adoptive families. The speakers before me have noted the importance of that.

And also very importantly, there is a provision that requires that service providers be compensated on a fee-for-service basis. This is important, because presently we are plagued by situations where facilitators in other countries are compensated on a contingent fee basis, which causes many abuses, as evidenced by the rising tide of wrongful adoptions.

With all these protections, the only thing that dampens our enthusiasm for the legislation are some provisions which we have some problems with, which I think can be rectified. They fall into two areas, the first of which has to do with the restrictions on children who leave the United States for adoption by citizens in other countries.

Those restrictions will have adverse effects, in our view, in a number of areas—one of which has to do with the supersession of State law. Adoption is an important subject which has, to date, been left to the province of the individual States. And if we make Federal law, telling them who they can approve for adoption, that is a superceding of State law.

Second, these restrictions will cause children to remain longer in nonpermanent situations, such as foster care. That is not good social policy and it hurts children. So I am hoping we can rectify that.

Third, it will precipitate retaliation by other countries against our citizens who are trying to adopt children from those countries.

The next area of concern has to do with the exclusion of service providers for intercountry adoption service other than accredited agencies. This, I understand, was an oversight—I have been told is an oversight in the drafting process, because the Treaty itself specifically provides for bodies and other persons, other than accredited agencies, to be approved for the provision of intercountry adoption services.

In closing, I would like to say that we are grateful for your leadership, Mr. Chairman and Senator Landrieu. We applaud the protections that you have put in S. 682. They enhance the Treaty. And with the exceptions that I have mentioned, we urge you to pass this important and historic legislation.

[The prepared statement and information of Mr. McDermott follows:]

PREPARED STATEMENT OF THE AMERICAN ACADEMY OF ADOPTION ATTORNEYS

Mr. Chairman and members of the committee, my name is Mark McDermott. I am the Legislative Chairman for the American Academy of Adoption Attorneys. I am honored to have been asked to speak to you on behalf of the Academy. Implementing legislation for the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption has been a long time coming. Countless children have waited too long for the protections the Convention will afford. Thank you, Mr. Chairman, for your attention to this historic Convention and to the legislation needed to carry it out.

The Academy is a non-profit association of attorneys, judges, and law school professors from around the country and Canada. The mission of the Academy is to encourage the study and improvement of adoption law and practice standards. Our members represent adoptive parents, birth parents, adoption agencies and others involved in adoptions, including intercountry adoptions. Like many of the members of the Academy, I am an adoptive parent. Thus, I have a personal interest in adoption issues. One of the Academy's highest priorities is to do what we can to encourage and assist in the ratification of the Convention and in the passage of legislation to bring it into successful operation in the United States.

The Academy has been involved in the Hague Convention since the early stages. We participated in the drafting of the Convention in our capacity as a member of the official United States delegation in 1992. We also participated in the negotiations which led to adoption of the Convention on May 29, 1993. Thereafter, the United States Department of State asked the Academy to draft standards for the approval of individual attorneys as intercountry adoption service providers under the Convention. I have with me a copy of the approval standards drafted by the Academy which I would like to submit for the record.

[The information referred to by Mr. McDermott follows his prepared statement.]

Obviously, the Academy feels strongly that there is a need for the Convention and the protections it provides. We have all been exposed to the reports of adoption abuses in Romania and some other countries. These abuses were the impetus for the drafting of the Convention. There is no guarantee that the increased vigilance caused by the scandals and the additional protections provided by new laws in individual countries will prevent abuses in the future. Only through a treaty like this Convention can one country be assured that uniform protections are in place in other countries.

The centerpiece of the protections provided by the Convention is a prohibition against agencies or others providing intercountry adoption services unless, in the case of agencies, they have been accredited or, in the case of others like attorneys, they have been approved. Due to what has been described as a drafting error which will be corrected, S. 682 has no provision for the approval of any intercountry service providers other than non-profit agencies. I will return to this problem later in our statement.

The need for the type of protections and the oversight provided by S. 682 is great. Most of the agencies and most of the individuals who currently provide intercountry adoption services are competent and ethical. Like any other area of human endeavor, however, there are some who are not competent or not ethical. Since adoptions most often involve young children, the risks are great and the stakes are high. The adoption of a child is the most important legal transaction in which a person can engage. It is a lifelong relationship and it forever changes the life of those involved.

Adoptive parents who pursue intercountry adoption are vulnerable. They have often gone through years of agonizing and expensive efforts to succeed in having a biologic child. They have been exposed to reports of how difficult it is to adopt. The situation causes prospective adoptive parents to become desperate. Those unethical adoption service providers who would seek to take advantage of these people may find easy victims. Thus, protections are essential.

A major area of concern involves the use of facilitators. As the number of children available for adoption in foreign countries increases, more and more individuals are forming small agencies to facilitate these placements. Unfortunately, their resources are not great enough to adequately staff their foreign counterparts. Therefore, the agencies use facilitators who are not trained in adoption, but rather are selected solely to obtain children. It is not uncommon for agencies to select business men or women who have "connections" to get children out of orphanages. They have no experience or background in adoption, medical or social issues. These facilitators are

relied upon to provide the medical information for the United States agencies. In most situations, the facilitators are paid only if the adoption is completed. By virtue of the way in which they are compensated, the facilitators have a built-in incentive to divulge only the positive medical information, and to hide or change the negative aspects of the medical records, to insure that the adoption is completed. This happens more and more, as evidenced by the rising tide of wrongful adoption litigation in this country. More control over foreign facilitators is needed with any legislation proposed for foreign placements.

S. 682 contains a provision which would improve intercountry adoption practice in this area. Section 203(b)(1)(A) (iii) requires agencies to employ personnel only on a fee-for-service basis rather than on a contingent-arrangement basis. This is a good provision but it could be made stronger. Language should be added to make it clear that the restriction also applies to facilitators and others employed to perform services in the foreign country.

An example of the risks faced by adoptive parents involved in intercountry adoption is provided by the following case. Adoptive parents in the United States attempted to adopt a child from Estonia through an agency in Maryland. The Maryland agency used a facilitator in Estonia who was described as a "business man." He was selected solely because he knew the right individuals who could obtain children from an orphanage. This facilitator, unknown to the adoptive parents, had the adoption finalized in Estonia before the adoptive parents arrived. When the adoptive parents arrived in Estonia, not only did they discover that the child that had been selected for them was totally paralyzed from the waist down, but that the adoption had been finalized in their absence and without their knowledge. They were confronted with either attempting to void the adoption through the Estonian courts, or to take home with them a special needs child whom they could not parent. The adoptive parents hired an attorney in Estonia who successfully overturned the adoption based upon fraud, but only at great financial and psychological cost.

We applaud provisions in S. 682 which would help combat the risks presented by this case example. The requirement in Section 203(b)(1)(A)(i) that adoptive parents be provided medical records translated into English before the adoption would make adoptive parents better able to assess medical risks. The provision would be even better if it were amended to require that the adoptive parents also be given a copy of the original medical records in the language of the child's country of origin. This would enable the adoptive parents to verify the accuracy of the translation. The requirement in Section 203 (b)(1)(A)(ii) that adoptive parents be provided at least six weeks of counseling and guidance may serve to prevent adoption disruption. At the very least, this requirement will make adoptive parents better able to function in their new role as parents in a multi-cultural family.

While S. 682 would do much to improve intercountry adoption, it has some undesirable provisions. A number of these relate to provisions applicable to children leaving the United States for adoption by citizens of other countries. We fear that the ramifications of the restrictions on outgoing children in Section 303 have not been considered. One of the most significant problems with these restrictions is that they supercede state law in an area which has always been free from Federal encroachment.

When a child from the United States is adopted by an adoptive parent from another country, the adoption is virtually always granted by the courts of, and pursuant to the laws of, the state of the child's origin. Likewise, the adoption of a child from another country by citizens of the United States will be controlled by the law of the child's country of origin. Hence, restrictions in Section 303, like the restriction on who is qualified to adopt United States' children, would serve to abrogate the law of any state which does not happen to have laws which contain restrictions matching those in Section 303.

The restrictions in Section 303 also cause other concerns. Section 303 would require children to stay longer in non-permanent situations like foster care while efforts are made to find United States citizens to adopt them instead of adoptive parents from other countries. This is not good social policy since it harms children. Congress has made great strides recently to promote the early placement of children in permanent homes. The delays mandated by Section 303 would be a step backwards.

It is only logical to assume that, if the United States imposes restrictions like those in Section 303 on prospective adoptive parents from other countries, then other countries will retaliate by imposing similar restrictions on prospective adoptive parents from the United States. This is not compatible with the cooperative spirit envisioned by the Convention and it will harm the interests of prospective adoptive parents and prospective adoptees who are citizens of the United States.

As mentioned earlier, we are very concerned about the failure of S. 682 to provide for the approval of any intercountry service providers other than non-profit agencies. Because of the Academy's involvement in the drafting of the Convention, we are aware of the deliberations which led to the Convention's language on this point. The Convention specifically provides for two categories of service providers. In accordance with Article 22(1) of the Convention, the first category consists of agencies which go through an accreditation process. Article 22(2) of the Convention describes a second category of authorized service providers. That category consists of bodies or persons other than agencies accredited under the Convention. These others would include individuals such as attorneys. As far as attorneys are concerned, we envision an approval process using criteria like the ones drafted by the Academy.¹ It is critical that the pool of service providers from which adoptive parents must choose not be too small. There should be no artificial restrictions on who is eligible to be a service provider. Restrictions should only relate in a meaningful way to the qualifications of the provider. It is essential that this aspect of S. 682 be changed before the legislation proceeds further.

We are grateful for your leadership, Mr. Chairman, in moving the United States toward ratification of the Convention. We also applaud the provisions of S. 682 which would provide protections to those whose families are affected by intercountry adoption. Subject to the changes we have suggested, we urge this committee to pass this historic and much needed legislation.

THE HAGUE CONVENTION

CRITERIA FOR RECOGNITION AS AN ATTORNEY QUALIFIED TO CONDUCT INTERCOUNTRY ADOPTIONS UNDER THE TERMS OF THE HAGUE CONVENTION

1. ORGANIZATION

1.A. The American Academy of Adoption Attorneys (the Recommending Authority, or its designee, is the entity which is designated by the Central Authority to recommend for approval or disapproval attorneys at law to practice in the area of intercountry adoptions, as that term is defined in the Hague Convention, and as set forth herein.

1.B. The Recommending Authority is the designated authority to review, process and recommend or not recommend attorneys to the Central Authority. The Central Authority retains the ultimate jurisdiction to approve or disapprove attorneys for recommendation hereunder.

1.C. Recommendation or disapproval will be consistent with the regulations promulgated by the Central Authority in compliance with the terms of the Convention.

1.D. Definitions.

i. Capitalized terms used herein, unless otherwise defined herein, shall have the definitions ascribed in the Convention.

ii. The "Hague Convention" and the "Convention," as those terms are used herein, is known in full as THE HAGUE CONVENTION OF MAY 29, 1993, ON THE PROTECTION OF CHILDREN AND COOPERATION IN RESPECT OF INTERCOUNTRY ADOPTION, as may be amended from time to time (the "Convention").

iii. The Central Authority is the United States Department of State, or its designee.

2. APPLICATION

These Criteria shall apply only to attorneys involved in placement of children for adoption between Member States to the Convention, where the intercountry adoption is not conducted under the supervision of certified adoption agency.

3. TERM OF CERTIFICATION

3.A. Recommendation of attorneys under the Convention shall be for a period of three (3) years, commencing on the date on which certification is granted by the Central Authority. Periods of extension of certification shall also be for three (3) years.

¹The Academy's criteria were drafted before S. 682 was introduced and, therefore, do not include some of the standards set out in S. 682.

4. APPLICATIONS FOR RECOMMENDATION

4.A. Form and Content.

Applications shall be typewritten on forms provided by the Recommending Authority. All applications and the information contained therein shall be sworn to by the applicant as being true and complete. All applications shall become the property of the Recommending Authority.

4.B. Criteria For Recommendation.

i. Education and/or Experience.

Each applicant shall have completed the following requirements:

1. Verified attendance at and completion of appropriate courses in law school relating to adoption and/or immigration law; and/or
2. Verified attendance at and completion of appropriate seminars, recognized by the Recommending Authority and/or the Central Authority, in the areas of adoption and/or immigration law; and/or
3. Authored publication(s) in the areas of adoption and/or immigration law; and/or
4. Taught classes and/or led seminars in the areas of adoption and/or immigration law; and/or
5. Demonstrated broad experience in the field of adoptions, by evidence of his or her involvement in:
 - a. adoption finalizations (domestic or international);
 - b. intercountry adoptions involving a licensed agency; or
 - c. intercountry adoptions not involving a licensed agency; and/or
6. Other factors demonstrating proficiency in intercountry adoptions.

ii. Licensed to Practice/Good Standing.

Each applicant shall be an attorney at law, in good standing, licensed to practice in every state/territory in which said applicant practices law. Each applicant shall provide documentation from the appropriate licensing body in every such state/territory attesting to his or her good standing.

iii. Ethical Considerations.

Each applicant shall represent and warrant that he or she has fully complied with the Ethical Rules, Disciplinary Rules, Ethical Canons, and other rules of professional and ethical conduct in effect in each state in which the applicant practices law or conducts business for other purposes, and shall maintain the highest standards of professional and ethical conduct. The applicant, and the applicant's law practice, shall be reputed and continue to be of the highest standards of ethics, competence and professionalism, and complies with the Code of Ethics, which is incorporated into these Criteria. An applicant shall not have engaged in activities which might tend to bring discredit upon the profession of law, upon the Central Authority or the Recommending Authority.

iv. Record of Professional Ethics and Competence.

Each applicant hereunder shall submit detailed information of the following, including the resolution thereof:

1. All instances of professional sanction or discipline involving the applicant during the course of his or her legal practice;
2. All disciplinary and/or professional complaints currently pending against the applicant;
3. All malpractice claims made against the applicant, or against the applicant's firm that resulted in a lawsuit being filed, settlement being paid, or the appointment of an attorney by the applicant's malpractice insurance carrier to defend the applicant or the applicant's firm; and
4. Criminal charges, spousal abuse, and/or child maltreatment and/or indicated or founded child abuse charges filed against the applicant while the applicant is or was a member of any bar (the applicant shall submit an original or certified copy of the results of an inquiry made with all relevant bodies in the applicant's home state/territory concerning said child abuse and maltreatment charges).

v. Conformity With State and Federal Laws, Rules and Regulations.

The applicant shall at all times have conducted his or her legal and adoption practice in full compliance with all laws, rules and regulations which apply

to such practitioner, including specifically at ethical obligations and requirements in each of the jurisdictions in which the Applicant is licensed.

vi. Interview.

Each applicant shall complete a personal interview, at a time and place to be set by the Recommending Authority, the subject of which shall include, but not be limited to, the substantive knowledge of the applicant with regard to adoption in general and the intercountry adoption process in particular.

vii. Additional Documentation.

Each applicant shall submit a written statement describing his or her practice and procedures as they relate to intercountry adoption. The statement shall include, but not necessarily be limited to, the following areas:

1. A sample of the written agreement which the attorney intends to employ between the applicant and his or her clients (the prospective adoptive parents or birth parents), setting forth all of the understandings between the attorney and the client, which agreement shall include the following:

a. A statement of the client's rights and responsibilities;

b. An explicit submission on the part of the applicant to the jurisdiction of the Central Authority and compliance with the Convention, and notice to the client that the client may file any complaints against the applicant with the Central Authority;

c. A clear itemized statement of estimated and/or actual expenses to be incurred by the client in connection with the adoption, including legal fees and disbursements;

d. A statement certifying that the applicant is in good standing with the applicable bar association(s) and state licensing board(s);

e. A statement certifying that the applicant has applied for certification by the Central Authority;

f. An explanation of the applicant's system for providing pre- and post-adoption services to the client and the adoptive child; and

g. A statement detailing whether the applicant will derive a fee, other consideration or thing of value in connection with the adoption from any source other than, or in addition to, the client.

2. A statement detailing of the applicant's procedures to deal with the disruption of an adoption placement (both before and after the physical placement actually occurs), whether occurring in the country of origin or in the country where the adoptive parents reside.

3. A statement detailing the policies and procedures for disclosure by the attorney to the client of all known medical and social history of the adoptive child (if the client is the adoptive parent) and of any background information concerning the adoptive parents (if the client is the biological parent and such disclosure is permitted by all applicable laws and rules and is authorized by the adoptive parent).

4. Policies and procedures for financial accounting and record keeping, including an escrow account for client retainers, both for fees and costs advanced, prompt itemization by the applicant to the client of all costs and fees incurred, and prompt return to the client of all funds to which the client is then entitled.

5. Policies and procedures for retaining the records relating to intercountry adoptions in accordance with state law.

viii. Other Memberships.

Each applicant shall disclose the names of the professional organizations of which the applicant is a member.

ix. References.

Each applicant shall provide three (3) letters of reference from persons with whom the applicant does not have a familial, partnership or other business relationship, attesting to the applicant's good moral character and fitness, and the applicant's expertise in the area of domestic and/or intercountry adoption.

x. Malpractice Insurance.

Each applicant shall provide evidence that the applicant is covered by professional malpractice insurance, provided by a recognized professional malpractice insurance carrier, with coverage that includes the applicant's role as

an intercountry adoption attorney, in an amount of not less than \$250,000 per incident or occurrence.

xi. Bankruptcy.

Each applicant shall certify that he/she has not petitioned for, been declared or been adjudicated a bankrupt within five years prior to the date of application.

xii. Release of Information/Indemnification.

1. Each applicant shall execute a general authorization to obtain information about the applicant.

2. Each applicant shall certify that he/she understands that the application contains an agreement indemnifying the Central Authority and the Recommending Authority from any claims arising from the certification process or otherwise.

xiii. Academy Membership.

An applicant's present or past membership in the American Academy of Adoption Attorneys shall not be a criterion for recommendation hereunder.

4.C. Review of Application.

i. The Recommending Authority or its designee shall review each application and submit its recommendation to the Central Authority.

ii. Each application shall be given a preliminary procedural review prior to substantive review.

iii. Applications shall be complete when submitted. Incomplete applications shall be returned to the applicant.

iv. Incomplete applications which are returned shall be accompanied by a written explanation of the deficiency.

v. An application complete on its face shall be substantively reviewed.

vi. The applicant shall receive written notification of the action of the Recommending Authority. In the event of the disapproval of the application, the written notification shall state the reasons that approval was not recommended, and shall be sent by registered mail, return receipt requested.

vii. If approval is not recommended, the applicant shall have thirty (30) days from the date of the notice to submit a written request for re-evaluation. Said re-evaluation shall be limited to supplementation, clarification or correction of erroneous or incomplete information upon which the Recommending Authority is believed to have relied in reaching its determination. If the decision is not changed, the applicant may not again apply for recommendation for a period of one (1) year from the date of the most recent disapproval.

4.D. Application Fees.

A non-refundable application fee as determined by the Recommending Authority shall accompany each application submitted.

5. EXTENSION OF RECOMMENDATION

5.A. An Approved Attorney may apply for an extension of his or her recommendation not earlier than six (6) months prior to the expiration of their recommendation term, according to the regulations set forth herein.

5.B. Applications for Extension of Recommendation.

Applications shall be typewritten on forms provided by the Recommending Authority. All applications and the information contained therein shall be sworn to by the applicant as being true and complete.

5.C. Criteria For Extension of Certification.

i. During their most recent approval term, approved attorney seeking extension of his or her certification shall have completed the following requirements:

Continuing Legal Education.

1. Verified attendance at, and completion of, courses or seminars, recognized by the Recommending Authority and/or the Central Authority, in the areas of adoption and/or immigration law.

2. Authored publication(s) in the areas of adoption and/or immigration law; and/or

3. Taught classes and/or led seminars in the areas of adoption and/or immigration law; and/or

4. Demonstrated broad experience in the field of adoptions, by evidence of his or her involvement in:

- a. adoption finalizations (domestic or international);
- b. intercountry adoptions involving a licensed agency; or
- c. intercountry adoptions not involving a licensed agency; and/or

5. Other factors demonstrating proficiency in intercountry adoptions.

ii. *Verification of Other Matters.*

Each approved attorney shall verify that he or she continues to be an attorney at law, in good standing, licensed to practice in his or her state/territory, that there have been no instances of professional sanction or discipline, claims of malpractice, criminal, spousal abuse, maltreatment and/or indicated or founded child abuse, charges involving the approved attorney during the course of his or her legal practice and other business activities since the time of the original application for certification (the approved attorney shall submit an original or certified copy of the result of an inquiry made with all relevant bodies in the applicant's home state/territory concerning reports of child maltreatment and/or abuse in which the approved attorney has been an indicated party).

iii. *Additional Documentation.*

Each approved attorney shall submit his or her current written documentation as required under Section 4.B.vii. hereof.

iv. *Malpractice Insurance.*

Each approved attorney shall provide evidence that the applicant continues to be covered by professional at malpractice insurance as required under Section 4.B.x. hereof.

v. *Bankruptcy.*

Each approved attorney shall provide evidence as required under Section 4.B.xi. hereof.

vi. *Licensed to Practice/Good Standing.*

Each approved attorney shall continue be an attorney at law, in good standing, licensed to practice in every state/territory in which said applicant practices law, and shall provide documentation from the appropriate licensing body in every such state/territory attesting to his or her good standing status.

vii. *Ethical Consideration.*

The approved attorney, and the approved attorney's law practice, shall be reputed and continue to be of the highest standards of ethics, competence and professionalism, and complies with the code of Ethics, which is incorporated into these Criteria. An approved attorney shall not have engaged in activities which might tend to bring discredit upon the profession of law, upon the Central Authority or the Recommending Authority.

viii. *Other Memberships.*

Each approved attorney shall disclose the names of the professional organizations of which the applicant is then a member.

ix. *Release of Information/Indemnification.*

a. Each approved attorney shall execute an authorization for release of information as required under Section 4.B.xii. hereof.

b. Each approved attorney shall certify that he/she releases and indemnifies the Central Authority and the Recommending Authority from any claims arising from the certification process or otherwise.

x. *Other Verification.*

The Recommending Authority and/or the Central Authority may request any other verification, substantiation or information which it deems reasonably necessary to review the application for continued certification of the approved attorney.

5.E. *Application Fees.*

i. A non-refundable application fee as determined by the Recommending Authority shall accompany each application for extension of certification submitted.

ii. In the event that an application for extension of recommendation is received less than three months prior to the expiration of the recommendation term, the attorney assumes the risk that the extension may not be received prior to the expiration of the recommendation term. In that event, the attorney

may be precluded from participating in intercountry adoptions until his or her recommendation is reinstated.

5.F. Denial of Application for Extension.

If extension of approval is not recommended, the applicant shall have thirty (30) days from the date of the notice to submit a written request for re-evaluation. Said re-evaluation shall be limited to supplementation, clarification or correction of erroneous or incomplete information upon which the recommending Authority is believed to have relied in reaching its determination. If the decision is not changed, the applicant may not again apply for recommendation for a period of one (1) year from the date of the most recent disapproval.

5.G. Conformity with State and Federal Laws, Rules and Regulations.

The approved attorney shall represent and warrant that he or she has conducted his or her legal and adoption practice, at all times, in full compliance with all laws, rules and regulations, and Ethical Rules, Disciplinary Rules, Ethical Canons which apply to such practitioner, including specifically all ethical obligations and requirements.

6. REVOCATION OF RECOMMENDATION

6.A. The Recommending Authority may recommend that a recommendation be revoked if it is determined after a hearing, held on notice of not less than ten (10) days to the attorney, that:

- i. The attorney was ineligible to receive certification, either at the time of the original certification or at the time of any extension thereof;
- ii. The recommendation was issued to the attorney based upon false or materially incorrect representations, misstatements or omissions made by the attorney;
- iii. The approved attorney failed to abide by all the rules and regulations governing the attorney imposed by the Convention and/or the Central Authority, and all applicable local, state and federal laws, rules and regulations imposed upon attorneys and/or adoption professionals, including any requirements for continuing education and proficiency;
- iv. The attorney failed to pay any fee or charge required hereunder;
- v. The attorney has been the subject to professional sanction or discipline, claims of malpractice, criminal, maltreatment and/or indicated or founded child abuse charges involving the approved attorney during the course of his or her legal practice since the time of the original application for certification; or
- vi. The attorney no longer meets the qualifications established by the Central Authority for such recommendation.

7. NOTICE OF VIOLATIONS

7.A. The Recommending Authority shall inform the appropriate state and local authorities of any material breach by the attorney of the ethical and practice requirements set forth herein.

8. APPEALS

8.A. In the event that the Recommending Authority shall not recommend an applicant for status as an approved attorney, or shall deny an approved attorney an extension of his or her approval term, the individual so denied may request a review of the determination of the Recommending Authority by the Board of Directors of the American Academy of Adoption Attorneys. The request for said review shall be made in writing not more than thirty days from the date of the postmark of the notice informing the applicant of the determination of the Recommending Authority. The request for review shall be submitted with all relevant attachments and exhibits; fifteen complete copies shall be submitted. The request shall be accompanied by the filing fee then established by the Recommending Authority. The individual requesting said review shall be responsible for all costs and expenses which he or she may incur in connection with said review. The decisions of the Board of Directors of the American Academy of Adoption Attorneys and the Central Authority shall be final.

CODE OF ETHICS

In order to further the cause of the ethical intercountry adoptions, each applicant and Approved Attorney agrees to comply will the this Code of Ethics:

1. An Approved Attorney shall be duly licensed to practice law in each state in which the Approved Attorney maintains a law office, shall fully comply with the Ethical Rules, Disciplinary Rules, Ethical Canons, or other rules of professional and ethical conduct in effect in each state in which the approved Attorney maintains an office, and shall maintain the highest standards of professional and ethical conduct. An Approved Attorney shall not engage in activities which bring discredit upon the profession of law, the Central Authority or the Recommending Authority.

2. An Approved Attorney shall assure that the Approved Attorney's clients are aware of their legal rights and obligations.

3. An Approved Attorney may inform a client as to the Approved Attorney's understanding of the laws of a foreign state in which the Approved Attorney is not licensed, provided that the Approved Attorney disclosed that the Approved Attorney is not licensed to practice in that jurisdiction,

4. An Approved Attorney shall not purport to represent both the prospective adopting parent(s) and one or both birth parents. Where practicable and where required by state law, the Approved Attorney shall encourage independent representation of all parties to the adoption.

5. An Approved Attorney shall actively discourage adoption fraud and misrepresentation and shall not engage in such conduct, and shall take all reasonable measures not inconsistent with the confidentiality of the attorney/client relationship to prevent adoption fraud or misrepresentation, withdrawing from representation where necessary to avoid participation in any such conduct.

6. An Approved Attorney shall assure that clients to an adoption are aware of any laws which govern permissible financial assistance to a birth parents.

7. An Approved Attorney shall not assist or cooperate in any adoption in which the Approved Attorney knows that the birth parent or parents are being paid or given anything of value to induce the adoption placement, or for the consent or relinquishment for adoption.

8. An Approved Attorney shall not enter into an agreement for, charge, or collect an illegal or unconscionable fee. Fees shall be commensurate with the services that have been provided by the Approved Attorney. An Approved Attorney shall not, directly or indirectly, charge a finder's fee for locating a birth parent or adoptive child. In determining whether a fee is unconscionable, the factors to be considered shall include but not be limited to, the following:

(a) The amount of the fee in proportion to the value of the services performed;

(b) The novelty and difficulty of the questions involved and the skill requisite to perform the legal services properly;

(c) The time limitations imposed by the client or by the circumstances;

(d) The time and labor required; and

(e) The experience, reputation and ability of the Approved Attorney performing the services.

9. An Approved Attorney shall not possess a financial stake in the success of any adoption in which the Approved Attorney is retained as counsel for any party. An Approved Attorney shall be considered to have a financial stake in an adoption if the Approved Attorney enters into a fee agreement by which the Approved Attorney is to receive a greater fee for a successful adoption than is warranted based upon the reasonable value of the services performed by the Approved Attorney, or if the Approved Attorney is contractually entitled to a lesser fee than the reasonable value of the services performed by the Approved Attorney if the attempted adoption is unsuccessful. The Approved Attorney shall not derive compensation or other consideration in connection with the adoption from any source other than or in addition to his or her client, or the party responsible for the payment of the legal fees.

10. An Approved Attorney shall disburse client trust funds only for those purposes specifically authorized by the client, and the Approved Attorney shall not exercise independent judgment or discretion over trust fund or escrow account disbursement unless the client has specifically authorized the exercise and scope of such discretion. An Approved Attorney shall promptly account for all client funds held by the Approved Attorney upon request by the client, and shall promptly reimburse to the client all client funds due to the client upon reasonable request by the client, as authorized by the retainer agreement be-

tween the Approved Attorney and the client, or upon completion of the matter for which the Approved Attorney has been retained.

11. An Approved Attorney shall not make false or misleading claims in advertisements or promotional materials.

12. An Approved Attorney shall not enter into any agreement with any person which would have the effect of restricting the Approved Attorney's ability to exercise independent professional judgment on behalf of the Approved Attorney's clients.

13. An Approved Attorney may, when appropriate and/or when requested by a client, refer parties to competent and professional medical providers, legal counsel, psychological counselors, or adoption agencies. An Approved Attorney shall avoid any appearance of impropriety and shall advise the parties of any familial or professional relationship between the Approved Attorney and any other professional to whom the Approved Attorney may refer a party, including a doctor, hospital, counselor or birthing coach. An Approved Attorney shall receive no referral fee or thing of value from any professional, organization or counselor to whom a party may be referred by a Approved Attorney.

14. An Approved Attorney shall retain adoption-related records in accordance with state law.

The CHAIRMAN. Thank you.
Ms. Cox.

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

Ms. Cox. Thank you. Good morning.

Mr. Chairman, thank you so much for taking the time to support this important legislation and these efforts, and Senator Landrieu. And also Senator Smith has a reputation in Oregon for being very knowledgeable about adoption, so I am especially pleased that he serves on this committee.

My name is Susan Soon-Keum Cox. I am from Eugene, Oregon. And I have been adoption professional for over 20 years. There have been worldwide more than 200,000 children who have found their families through intercountry adoption. I was number 167. And it is in that capacity as an international adoptee that I testify today.

I think it is important to acknowledge that intercountry adoption should never be the first line of defense, as Senator Landrieu was saying this morning, there really is an important priority. However, when a child will not have a family except for intercountry adoption, it is not only appropriate, it is also preferable to life in an orphanage or institution.

We have heard a lot today about the importance of training and preparation. And I think that it is important to acknowledge that children who come to their families for adoption deserve the very best families that are possible to help them to achieve all that they can as appropriate citizens. I think that intercountry adoption provides the lifelong response in the individual lives of children.

And so the mandate for agencies and individuals who will be working with children and families in intercountry adoption, they must be committed to finding families for children rather than children for families. I think that is an important distinction that needs to be made. It must be a priority to respect not only the birth countries, but also to respect the dignity of the child.

A nation's decision as a matter of policy to permit intercountry adoption is a complex and complicated one. And it is important

that we do not circumvent the sending country's adoption system or take shortcuts around their requirements.

As the acceptance of international adoption has grown, so has the opportunities for exploitation and abuse. It is unfortunate, but it is also true. And that is why the standards and a process of accreditation is essential. It really provides safeguards for practice which protects families and children, and it also protects the institution of adoption.

There have been more than 140,000 children adopted in the U.S. and Europe from Korea. And while it may have been considered a social experiment in the 1950's, I think that we certainly have been able to prove, two generations of us who are now adults, that we grew up and we have done, for the most part, just fine. Thank you very much.

But there are issues that are unique to intercountry adoption. And certainly the most obvious one is that generally we grow up a different race than the parents who are raising us. We are called upon to validate the realness of our adoption, and sometimes by perfect strangers.

I have had the opportunity to work with hundreds of adoptees through heritage camps and other programs for international adoptees. I do not know a single adoptee who has not been asked, "Who are your real mom and dad?"

Three weeks ago, there was an international gathering of the first generation of Korean adoptees here in Washington, D.C. Over 300 of us from seven European countries and the United States came together to celebrate our commonality, our common experience of international adoption. And there have been some lessons learned along the way. There are some things that we have to say, as you have talked about, consulting with the adoption community and the experts and so on. I really urge you to also acknowledge that we have grown up.

I participated at The Hague in 1993. And in this forum of representatives from 66 countries, I was the only adoptee in the room. And I felt an enormous responsibility to speak up and to be able to participate on behalf of the adoptees who have been adopted, but the hundreds of thousands of children who still require adoption to have a family. We are firmly committed to having access to our records and the opportunity to be able to know about those situations that were at the beginnings of our life that are a lifelong process. So I urge you to really consider that application.

One of the things also that has changed as adoption has expanded is that single families are now able to adopt and it is that there are so many children orphanages around the world. We need every appropriate family that can be found for those children, and I really see that has been a wonderful thing for children as we go into the future.

I would like to again thank the committee and all of the efforts on behalf of adoption. And I look very much forward to working with other adoptees to help move this process forward.

Thank you.

The CHAIRMAN. Thank you.

Ms. Mary, I seldom have ever heard five witnesses in a row say so much in so little time.

[Laughter.]

Senator LANDRIEU. A very good job.

The CHAIRMAN. And I am grateful and I am amazed. Suppose we have, including you, Senator Smith, if you have time, 7 minutes per Senator to question. And I want this lady to ask the first questions. Ms. Mary.

Senator LANDRIEU. Thank you very much.

Dr. Federici, we are all very familiar with your work and, in your personal experience, have adopted I think four children from Romania and have done a beautiful job. I have had the chance to meet your family, and it was quite a thrill.

When you cited the 1,500 cases, were these, do you think, self-selecting cases—in other words, did people who were having problems seek you and your colleagues out? Is your testimony, this morning, that this sample is representative of all of the international adoptions?

Dr. FEDERICI. Of course, the 1,500 that sought me out, it usually was 3 or 4 years post-adoption, when they entered school age, had some difficulties. But I think my sample is a representation of a larger sample.

And again, having worked with up to 5,000 and 6,000 different families and different networks, I think what we are seeing is a representation that many, the majority of children, who have spent longer periods of time in institutional settings do in fact have longer-term issues that require much more intensive interventions than just the wait and see or that they will recover from minor delays. So there are quite a few in my sample that really have long-term issues that again, Senator, are representative of probably the more global population.

Senator LANDRIEU. Because I think this issue is important, and I know you are a strong advocate of international adoption. I am sure your intent is not to frighten people. Rather, you want to see the barriers come down and medical records improved so that there are real opportunities for all children to find homes. We both want to make it realistic—I guess the expectations more realistic.

But the fact that there have been thousands and thousands of children that have been placed in very positive outcomes, I think the issue is just to make sure that parents are prepared. Part of this legislation outlines a system where parents can be more prepared and there can be more support services to deal with problems. We must recognize that there are some real serious and negative effects of institutionalization that perhaps we have not recognized.

Let me ask Ms. Holtan, though, not so much a question but something that I picked up that you may want to clarify. In your comments, you said that you had come across or thought that people adopting do not necessarily have the best motivations. I am not sure if that was the word that you intended to use. I think you might have meant they were not as well prepared as they should have been. Were you questioning the motivations of people in adoption?

Ms. HOLTAN. No. I was questioning some of the motivations of people who are providing adoption services.

The CHAIRMAN. Services. OK. Not the families?

Ms. HOLTAN. No. After all the years of working with families, they are extraordinarily wonderful people, by and large. I just want them to have all the facts before they make what should be a life-long decision, so that we do not get calls anymore, asking us to replace children from Eastern Europe.

Senator LANDRIEU. And along those lines, Mr. Chairman, I wanted to point out for the record, I think Ms. Holtan testified there were 82 cases of people calling in to her agency over a 5-year period. Now there would have been about 100,000 children adopted each year in that timeframe, 15,000 of which would have been international. So over a period of 5 years, about 75,000 children were adopted. It is important to note, and we want to be sensitive to it, 82 out of 75,000 represents less than one-hundredth of 1 percent.

Ms. HOLTAN. Yes.

Senator LANDRIEU. Now, some other agencies would have received other calls. But the vast majority of international adoptions are actually working. I mean despite the fact that there is not a terrific system in place, there are many instances where these adoptions are working. We still need to notice these trend lines. The fact that the number of disruptions is going up should cause us some concern also.

Ms. HOLTAN. We do not know how many adoptions are working or not working, because no one tracks it nationally. The 82 figure I gave you was our agency only. I would love to know what the figure is across the country, but there is no one counting that.

All we can say is that we have never seen anything like this in the 27 years of our program. Something is different with the children that we are being called on for. All I want to have happen is that agencies start preparing families and be there after the fact. Why are folks calling Tressler, who are strangers to them? Where is their own agency then they need help?

Senator LANDRIEU. Absolutely. And that is hopeful, Mr. Chairman. One good thing about this legislation, and I think one of the improvements we could make, is it requires pre-adoption services, that the agencies would be responsible for. We must make sure such services are provided in the middle and back end as well.

Ms. Harding, you suggested or said that there have been some development of steps to accreditation. Could you take a minute to just briefly describe some of those steps that an agency or an individual may have to go through in your mind to become accredited, or the types of things they would have to do to serve at that standard or to reach that standard?

Ms. HARDING. I talked to the CEO of the Council on Accreditation a week ago. And apparently there is 25 agencies who are working in international adoption who have already received accreditation, and at least 12 to 15 more in the process. And there are different estimates of how many agencies will elect to become accredited, but some say 200.

Our agency did go through accreditation 2 years ago. It was very rigorous. It took us 2 years to complete our accreditation process. I will not say it was easy. I will say that our agency is much better for it.

I think that Susan brought up a point that is very valid. This has been a whole social situation that has really developed over the years. International adoption has increased. We have learned. And part of the accreditation process is to help other agencies learn to do their job better.

Peer reviewers who specialize in international adoption, who are social workers, come into the agency and look at every aspect of the agency. They look at your financial records, which must be audited. They talk to your board of directors. They interview your families. They look at all of your records, or any random sample that they want to. They track your client recordkeeping. They look at all of your policies and procedures.

So I think that it is a very good system, and there are people in place that are doing this very well.

Senator LANDRIEU. OK. I have some additional questions. My time is up. But maybe we will get a second round.

The CHAIRMAN. Go ahead.

Senator LANDRIEU. Mr. McDermott, you mentioned that you think one of the changes in the bill would have to be a technical correction made on the accreditation issue between agencies and individuals. Explain that a little bit more, in the sense that some of us are hoping that if you are an agency or a lawyer or an individual, that you would have to maintain, or believe you should maintain, the same standards and have to meet the same accreditation requirements, or at least something similar.

Can you comment on that? Because I know this was a big part of the discussion, and that is a very important thing for us to try to work out in this final language.

Mr. McDERMOTT. Yes, Senator. Let me start by saying we are not contending in any way that the standards should be lower or less or in fact different, other than where they have to be to fit the situation. We are in favor of rigorous standards for qualifications to perform intercountry adoption services. That is why we are strongly in favor of the Convention. And I think the criteria that I have submitted that we did just for attorneys for the record is instructive in that regard. We feel they are pretty rigorous.

In fact, now that we have had some of the ideas that we have gotten from S. 682, we would add those things in there, like the translation of records and so forth.

But the Convention itself contemplated this. This is something that we, as the Academy and part of the U.S. delegation, were involved in this. It was a major issue for the State Department. The U.S. delegation believed in this, that there should not be artificial restrictions on who can provide adoption services.

And in the Convention itself, Article 22.1 is the article that addresses accredited agencies. And Article 22.2 is the article that addresses others. And it speaks in terms of bodies and persons other than these accredited agencies, but makes it clear that they need to be regulated, approved and controlled, and there has to be a lot of oversight.

So your point is well taken, Senator, that there should be no suggestion that there be a lower standard applied to these other people who are going to be allowed to provide intercountry adoption services.

Senator LANDRIEU. But you all are objecting, though, to having to follow the standards as outlined for an agency under the idea that you are not an agency, but yet you are in some ways going to be functioning like an agency. So I think we have to work through that and see. And maybe there is some ways that we can sharpen that language. And I am open to your suggestions and I know the chairman is.

Mr. McDERMOTT. And we are very much looking forward to working with you as this project goes on.

Senator LANDRIEU. And, finally, to Ms. Cox. I want to commend you for your great work in hosting the recent international gathering of Korean adoptees. You can, of course, speak from personal experience, but I think it was really a life-changing event for many of the over 300 or 400 people, Mr. Chairman, that participated in the first gathering.

You talked about single parents, and I wanted to revisit that for a moment, because I think while it would be ideal for every child to grow up in a family with two parents, it does not happen even in the United States. It does not happen in many places in the world. The chairman and I have talked about that issue, in trying to find a way to work through our differences of opinion.

In our own domestic adoption system, I do not think—correct me if I am wrong—there is a State that prohibits a single person from adopting, is that correct?

Ms. Cox. I think that is correct.

Senator LANDRIEU. From your experience, while many of the Korean adoptees came into two-parent families, some of them have either ended up or came in initially to a single family. Can you describe their reaction? Was it positive or negative?

Ms. Cox. Senator and Mr. Chairman, I agree. I am very glad that I had both a mother and father. But the fact of the matter is I have seen children in orphanages and institutions around the world, and we need as many families as possible for them. So I do not think there is any disagreement that a two-parent family is preferred, that certainly single parents also provide that.

Now, it is also a recognition of what does the sending country, what are their requirements. Korea, for example, does not—they are not open to single-parent adoptions. That is a guidance of the Korean Government. However, many other countries, and certainly China, has been an opportunity for many, many little baby girls to have families, who otherwise would not have any due to the single-parent provision. So I really urge that that is something that is included.

Senator LANDRIEU. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. In our shop a few days ago, we received a letter from a parent in Washington State who supports S. 682, and emphasized the need for consumer protection laws in international adoptions. Please bear with me as I read some of what this lady wrote regarding her adoption of a 12-year-old girl from Russia, named Inga. And I quote her:

Despite very specific questions of the adoption agency prior to picking up Inga, some crucial facts were not—and she underscored that—not disclosed to us. We were

shocked to learn that she had been placed with two Russian families. She could not read or write Russian at the age of 12. She was a smoker. And she was a habitual runner—meaning running away from home. She had a history of being picked up by the police and brought back to the orphanage. Had we known any of these facts, the lady said, prior to traveling to Russia to pick her up, we would not have proceeded.

Now, obviously Inga's adopted family was unable to cope with the child and is now attempting to dissolve the adoption. She is now a ward of the State. She has gone through six families and two hospitalizations. And according to the lady's letter, the adoption agency has been—and I am quoting the lady—has been reluctant to admit any responsibility whatsoever for its neglect in accessing pertinent, easily available information. End of quote.

Now, that leads me to ask, and I want any of you to respond to it, what is the current legal responsibility of adoption agencies to provide parents with full disclosure of physical and mental disabilities?

Dr. FEDERICI. Mr. Chairman, I have a statement that I would like to enter into the record, as provided by Secretary of State Tabacaru, of Romania, who says that any and all documentation can be obtained from the family, from the hospital, and should be provided in great detail to the family. And his position in Romania is that when there are statements made to American agencies or agencies to families that the information is not available, that is typically not correct.

I have personally sought out for many families when I have been on trips to Romania to go back and find information that was told to them by the agency was not available, and have retrieved it immediately by going to the institution. What you just mentioned, Mr. Chairman, is one of the big issues that, again, in my sample of working with families, they said, had they known more information, they would have not adopted.

In the cases that I have been working on in litigation, where my records have been subpoenaed and they retrieve the original records from different agencies in different countries, it was very clear that information was withheld. And I have seen this, and this has been a big topic of litigation. So this is something that I have heard countless time. And, again, for the Romanian Secretary of State to say that the records are readily available, it is just that no one asks for them in the correct way.

The CHAIRMAN. Thank you, sir.

Ms. Cox?

Ms. Cox. Mr. Chairman, I would also like to add that in addition to what are the legal requirements, there are also ethical requirements. And even if it is not required by law, anyone that is working in adoption needs to get as much information as possible not only for the parents who are adopting the children, but for the children themselves, so that that information is available to them as they are growing up and into their adulthood.

Ms. HOLTAN. And just one other thing, Mr. Chairman. It is difficult in some situations to get full background information on both internationally born kids and children here in the United States.

So what we suggest at Tressler is that you train your families in sort of more general terms. In other words, if you are adopting from Russia, you know the alcoholism rate in that country, therefore it is not a shock that a lot of the children in the orphanages will be affected by fetal alcohol syndrome.

So you as a parent need to decide, can you take that risk? Can you choose this child, knowing that it may not say he has fetal alcohol syndrome or he has been sexually abused or whatever the issue is, but that might have happened anyway? If you can do that, then go for it. But if even thinking about it makes you afraid, then imagine living with the situation.

So agencies say, well, we did not know, so how could we tell? You know enough to talk in general terms about what institutionalization does for kids. And that is what you have to teach.

The CHAIRMAN. Thank you.

Ms. Harding?

Ms. HARDING. One of the emphasis of Joint Council for the last few years is parent preparation and training staff to do better medical collection. I think that this is such a new area, Eastern European adoptions really have proliferated in the last few years, starting about 7 years ago in Russia, it has been a learning experience. It is a challenge to get these records, I can tell you.

These people in these orphanages are oftentimes spending most of their time trying to feed the children. They are working for a communist system that does not pay them. They are not highly motivated people. They do not have copy machines. They have a lot of challenges in their life. And so we have to find creative ways or hire enough staff to do the work ourselves.

We have staff now that speaks Russian, that literally calls over there and talks to the doctors, because we cannot always get the written medical information. We send the videos to the parents. We send them to doctors who specialize in this in the United States, who then ask us more questions, and we call over there.

But the parents have to be willing to pay for this. And if the parents are just going to adopt from any organization or any individual that is unwilling to go to these lengths and have this quality assurance, they are going to or it could have problems.

The CHAIRMAN. Thank you.

Mr. McDermott?

Mr. McDERMOTT. To respond further to the chairman's question about the current standards, that is somewhat outlined by our legal system under this emerging tort called wrongful adoption. And what the cases say in that area is that an agency is required certainly not to conceal information that they do have. And beyond that, they are required to exercise reasonable care in gathering information that is relevant to the decision that is being made by the adoptive parents.

There are more and more of these cases that are wending their way through the courts in the United States. But that is not a good thing, because these are after-the-fact fixes for tragic situations. And hopefully, through the legislation that we are considering here today, these things can be prevented at the front end and there will not be as many wrongful adoption cases.

The CHAIRMAN. Very well. Now, this one I am not going to ask you to answer now. I want you to take the thought home, the question home, and think about it and, if you do not mind, write the Senator or me, or both of us, your answer to this question. And I want you to be specific. What disclosure laws do you believe would be useful in ensuring that parents will be most fully aware and prepared for the special needs of adopted children?

[The information referred to was not available at press time.]

The CHAIRMAN. Now here is a question I want all of you to answer now as briefly as possible. Although exact statistics on the cost of adoptions are not available, typical fees according fees according to our folks who looked into it, appear to be around \$15,000 to \$20,000. I do not know whether that is reasonable or not.

Would each of you provide your understanding of what these costs are for? What is the money used for, sir?

Dr. FEDERICI. Well, sir, since I am not an adoption agency nor am I involved in it, I can only refer to an interview that was completed while one of the remaining officials were here. And his opinion, in Romania, is that a Romanian adoption should cost no more than \$4,000 to \$5,000 from start to finish.

His question that he left the American agencies with is: What happened to the other money, because it is not making its way back into the Romanian orphanage system? It is somewhere lost between transit, between cash money sent over to the country, to the NGO's, and he is not exactly sure and they are trying to find some accountability.

So that is the best answer that I can give as a non-agency.

The CHAIRMAN. Do you agree with that?

Ms. HOLTAN. Senator, in 1975, our adoption of our first son cost \$2,000, and that included the plane fare. Today, the quote that you gave is accurate. I have heard as high as \$30,000 and \$40,000. All these years, I have been waiting for the bottom to fall out of this and people to say, I am not paying that. It has not. It just keeps escalating.

I do not know what could possibly cost that much money.

Ms. HARDING. The adoption ranges that I hear most are \$15,000 to \$20,000, \$22,000. A lot of this includes the travel of the parent. They stay in the country for 2 to 3 to 4 weeks. Intercontinental travel, bringing the children back, you have to have home studies done in the United States.

You have to hire the staff to do overseas what we mentioned earlier to collect the information to care for the children to bring the parents to the courts. You have a staff here in the United States. We personally have 25 staff members here in the United States, and I feel like they are all going to quit any day because they are underpaid and overworked, including myself. And we only do 200 adoptions a year.

So it seems to me like the services we provide are getting greater, and yet we have to make sure that we keep the costs down. And it takes a lot of accountability. I do not think Dr. Tabacaru understands how the system is really working in Romania. We tried to do adoptions there for 2 years at that price.

Unfortunately, the Romanian foundations that they have set up seem to have the control of the children. And they ask a certain

amount. And if you do not pay that amount, the American families do not get those children. Now, whether that is right or wrong, it is the reality of what is happening.

And particularly if there are so many individuals working on it, and a parent can adopt with simply a home study, when they do not have an agency that they know what they are doing to protect them. It should not be what the market should bear.

The CHAIRMAN. Good.

Mr. McDermott?

Mr. McDERMOTT. I would agree with that range being accurate and the description of the services. It is just a matter of life that when all these services are involved, there is going to be expenses to pay for those. I know this is not germane today, but that is one of the reasons why we are also vitally interested in an extension on the adoption expense tax credit legislation that the Congress passed a few years ago.

Another thing I would highlight is that if any of these costs are going to foreign facilitators as finder fees, that is one thing that we are very concerned about.

Ms. Cox. Senator, I believe that fees are one of the most important barriers between children and families in adoption. And while I agree with Tomilee, it is absolutely necessary to provide fees for services, but they need to be appropriate fees for services. And I cannot imagine that adoption could be justifiably beyond \$20,000. I really do think that fees are an incredibly important issue.

You need to provide good services. But also, some times these fees, the higher fees, do not necessarily mean that families are getting better services. So there are a lot of things in this very complex issue besides just the amount of money.

The CHAIRMAN. Well, my understanding is that most adoption agencies are 501(c)(3) organizations for tax purposes.

Ms. COX. Correct.

The CHAIRMAN. And I asked myself, and I ask you to ponder it, do you believe that the cost of adoptions appropriately reflect the cost of the adoption only and not profit for individuals providing the service? That may be a question that varies from instance to instance.

Senator LANDRIEU. Could I make a comment, if I could?

The CHAIRMAN. Sure.

Senator LANDRIEU. I wanted to jump in for just a minute to say that I think one of the goals of this Treaty is to keep the cost down and to keep the cost appropriate and to create more transparency in this whole process. So by being more transparent, it becomes sort of a self-monitoring system, if you will. The problem now is it is not transparent at all. And it is quite difficult, and so tremendous abuse can occur.

But I want to say for the record that the cheapest adoption is not always the best adoption. And I think we have to keep that in mind. And there are some agencies that provide tremendous and terrific services and they are legitimate, and it costs money to do that, as has been testified to. And I would just say, Mr. Chairman, on that point, the tax credit that the Congress adopted is currently a \$5,000 tax credit for adoption and you have to show expenses to claim it.

But we, with your help, have put in a proposal to improve that tax credit, to double it, No. 1, to \$10,000, and to make it real for special needs children— sibling groups, children, international, domestic adoptions of non-infants, you know, States that would determine what are special needs, and whether you have expenses or not, you could still take the \$10,000.

Now, most international will have expenses, but some domestic for special needs children do not. And so we want this tax credit to work both international and domestic. And I hope, Mr. Chairman, we can get that done. Of course that is a separate piece of legislation, but we hope that could be done this year also.

The CHAIRMAN. Do you have any further questions?

Senator LANDRIEU. No.

The CHAIRMAN. I have kept you longer than I intended, and I have another meeting that I must preside over in 30 minutes. You have been very good about answering questions. Could I impose on you one more time? There are going to be Senators who wanted to come and who could not, who would like to ask you questions. There will be probably the chairman who wants to ask other questions. Would you grant us the privilege of forwarding to you further questions and would you respond to them and get them back to us? It would be so helpful if you would do that. And I will personally appreciate it.

Ms. Mary, anything else?

Senator LANDRIEU. No other questions. I would just say I really appreciate the testimony and all the hard work that is gone into this. And as I said, we have got improvements to make and some changes that have been mentioned today that we hope we can work through, but we are on our way. And I thank the chairman again. And hopefully we can—I do not know what your timeframe is—is it possible we could move this, do you think, this Congress?

The CHAIRMAN. We can give it the old college try.

Senator LANDRIEU. Well, I will start working on my side, the chairman said he will start working on his side, to see if we can get this moving forward. Thank you all so very much.

The CHAIRMAN. Thank you all. And I thank you all folks for being here.

If there be no further business to come before the committee, we will stand in recess.

[Whereupon, at 12:05 p.m., the hearing was adjourned.]

APPENDIX

Additional Material Submitted to the Committee for the Record

AMERICAN EMBASSY,
Moscow, Russia.

Hon. JESSE HELMS,
U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: American citizens continue to adopt Russian orphans at a brisk pace. In the first five months of this year, the embassy issued one thousand six hundred and seventy immigrant visas to Russian orphans adopted by American families. At this rate, we may well exceed last year's record number of Russian orphan visa issuances, four thousand one hundred and seventy seven.

Danger in the Caucasus

Because Russian law requires that both adoptive parents be present for the court hearing, the large number of American adoptions in Russia means that many thousands of American citizens come here every year expressly for this purpose. Unfortunately, some U.S. adoption agencies are arranging adoptions in areas of Russia—such as the Caucasus—that are extremely dangerous. Our consular information sheet and the state department webs site warn against travel to the area. In fact, I prohibit embassy personnel from traveling to the Caucasus.

Adopting families are very attractive targets for kidnaping because, in addition to being foreigners, it is well known that they are spending large amounts of money in the adoption process. There is also the problem of deadly random violence; car bombs are a frequent aspect of daily life in this unstable part of Russia.

This is not a theoretical problem. Four foreigners were kidnaped and decapitated in the Caucasus last year. An American missionary has been held hostage for the past several months because he and his family decided to ignore the embassy's advice in the belief that their good work and extensive local contacts would protect them. He has since lost part of his hand and is still a hostage of a criminal gang. No foreigner is safe in the republics that constitute the Caucasus: Chechnya, North Ossetia, Dagestan or Ingushetia. Even Russians are at risk; a Russian army general is currently being held captive.

I want to emphasize that we do not object to agencies facilitating adoptions in these dangerous localities. Rather, it is the unsafe practice of sending American citizens into areas we consider dangerous that is our concern. My consul general has written to several agencies that have arranged adoptions recently in the Caucasus to suggest that if they are committed to working in this region, they establish an arrangement whereby the adoptive parents can accomplish the adoption by proxy or by some other mechanism that does not endanger their clients.

Russian adoption regulations still delayed

As you know, the Russian government in July 1998 amended its family code with respect to international adoptions. However, the government still has not announced guidelines and regulations to implement the law. The guidelines will address important matters such as the registration of foreign adoption agencies, and documentary requirements for foreign adoptions. Once the regulations are known, we expect that foreign adoptions in Russia will become more time-consuming and expensive. We are nonetheless confident that foreign adoptions will continue.

Lacking guidelines since the law was amended, there has been even less uniformity than usual in how Russia's eighty nine jurisdictions have processed adoptions. This has caused some adoptions to be delayed. As I mentioned to you in my last update, the court in Irkutsk has been particularly obstructionist. To ameliorate the situation, we have invited a member of the Irkutsk court that handles adoptions to visit the U.S. as a participant in a United States Information Agency-sponsored pro-

gram entitled "Russian Children and America: Understanding the U.S. Adoption Process." The judge has accepted our invitation and will travel to the U.S. in late June and return to Russia in early July. USIA, the sponsoring agency, is arranging for the judge and other participants in the program to meet with Congressional members and staff. Also, an embassy officer will travel to Irkutsk next week to meet with local officials to discuss ways of allowing adoptions to proceed.

Fiancees

While it has become a well-known fact that embassy Moscow issues more orphan visas than any other post in the world, you may not be aware that we also handle a large number of fiance (k-i) visas. We are second only to Manila in the volume of fiance visa cases processed, and the number is steadily rising. In order to improve customer service to the prospective brides and grooms, my consul general has worked out an expedited scheduling plan that in most instances allows us to process a fiance visa in about four weeks, the minimum time necessary to complete the required name check. This has cut the waiting time by fifty percent. Once we receive an approved fiance petition from INS, and assuming the applicant is otherwise qualified, we can issue the visa the same day as the interview.

I want to assure you that we will continue to do all that we can to assist U.S. citizens with adoptions and other visa matters, and to keep you informed of developments here.

Sincerely,

JAMES F. COLLINS, AMBASSADOR,
AMERICAN EMBASSY, MOSCOW.

STATEMENT SUBMITTED BY WILLIAM PIERCE, NATIONAL COUNCIL FOR ADOPTION

Mr. Chairman, the National Council For Adoption (NCFA) welcomes this opportunity to submit testimony on S. 682, the Intercountry Adoption Act. We are pleased and honored by your leadership in respect to this important legislation. We are also grateful for the bipartisan nature of S. 682, as reflected by the co-sponsorship of Sen. Mary Landrieu (D-LA). We have participated in and closely monitored the progress of the Hague Convention for a decade and, based on our experience, we believe that, all things considered, S. 682 is the superior legislative approach and therefore strongly endorse your bill.

NCFA is a national organization, formed in 1980, which has four major functions—part research body, part public education body, part advocacy group and part membership group. This statement reflects our interests in all four categories.

In terms of research, we have looked closely at intercountry adoption issues and professionally, I have been involved with the issue for more than 30 years of my career in social services. For the last 10 years, I have spent perhaps half of my time on the Hague Convention, first in preparation for the sessions, then as a member of the U.S. Delegation, and since 1993, working collaboratively with people in the U.S. and around the world to ensure that implementation is as appropriate as possible.

In terms of public education, we spend an enormous amount of time trying to convince people who are interested in adopting abroad to do their homework and do it right, but many people do not listen and then make major, life-changing mistakes. We also take many, many calls and complaints, some forwarded by government agencies, some by elected officials, trying to help citizens after the fact.

In terms of advocacy, we have, thanks to your excellent staff and their outreach to the broad adoption community, had an opportunity to provide our views about implementing legislation prior to the introduction of S. 682 and subsequent to S. 682's introduction. We have provided your staff with extremely detailed suggestions for making a good bill even better and we will not repeat those voluminous remarks in this Statement.

In terms of membership, we are perhaps unique in that we have as members not-for-profit adoption agencies, adoption attorneys, social workers, physicians, adoptive parents, adult adopted persons, persons who have placed children for adoption, academics, members of the media—in short, several thousand persons in every state and even some members in other countries. Perhaps half of our present membership of 130 member agencies is currently involved in some fashion in the provision of services to persons considering international adoption, and virtually all the rest are considering this area of service because of the tremendous numbers of children languishing, without families, in other countries. Of our attorney membership, only a small percentage currently are involved with intercountry adoption, just as only a

tiny percentage of attorneys generally are presently involved with intercountry adoption, except for re-adoptions here in the U.S.

But, and this should be stressed, our views here and always are not primarily those of a professional association of either agencies or attorneys: we see our constituents as a much broader group including women faced with crisis pregnancies, children who have a right to live with parents who are willing and able to provide them with a sound moral framework in which to grow to responsible, productive adulthood and not just a place and family to live with. For that reason, we are frequently seen as a critic of poor adoption services, and rightly so: we believe that the best way to protect the good things in international adoption is to ensure that the incompetent, whether well-meaning or not, and the unethical are not in the ranks of adoption providers here or abroad.

We are also sometimes seen as not sufficiently responsive to the interests of children, especially children who have been adopted as minors and who, as adults, believe that they have a right to intrude into the lives of the women who bravely and humanely granted them both the opportunity to be born and the chance for a better life. We are keenly aware of the challenges facing women who are pregnant, and who are often unmarried—challenges which are complicated by religious, ethnic, political, language, cultural and national differences. Not every woman who chooses adoption or feels she has no real choice but adoption, given the circumstances in which she finds herself, fits the media stereotype of a birth mother anxious to have the adopted person come knocking at her door. In some countries and in some cultures, a knock on the door may be far more than an embarrassment or an uncaring exhibition of curiosity—it may literally destroy lives. The American culture, with its all-too-frequent preoccupation with sexuality and casual acceptance of nonmarital relationships that result in pregnancy, is not the sort of culture from which many of the children who come to the U.S. for adoption originate. I believe that the American approach to human rights and the rights of women to place their babies with whomever they choose, within the laws that prevent baby-selling and obviously improper activity, should be respected. That means, in my view, that a woman should have the right, without any governmental view that the country “owns” children interfering, to exercise her Constitutionally-protected right to travel, whether pregnant or with her baby, and to arrange an adoption. If, for instance, she was born in Mexico, or Canada, or Ireland, or the Philippines—or any other country other than the U.S.—she should have the option of returning there or going wherever she wishes to place her child with the parents of her choice or through the adoption provider of her choice. By what reasoning should our government try to second-guess her decision? It certainly is obvious that at present a woman who is a U.S. citizen has the opportunity to travel abroad if she wishes to arrange an abortion and she should have exactly the same right to travel abroad if she wishes to arrange an adoption.

We now offer comments on some of the topics that have been raised during the years the Hague Convention has been under discussion, including topics or statements made in connection with the Oct. 5, 1999, hearing.

The U.S. as the major adopting country. Asst. Sec. Mary Ryan and others have stated that they believe that the U.S. adopts more children from abroad than all other countries combined. I note for the record that no data were presented to support this estimate. The fact is that there are other countries and localities, Quebec Province being just one example, where the rate of adoptions from other countries exceeds that of the U.S. Gross numbers alone may distort the picture since the U.S. is a nation with a very large population.

HHS and its role in intercountry adoption and the Hague Convention. As a professional, I have worked in Washington since 1969 and had numerous interactions with the various federal agencies which have been mentioned as having a role in implementing the Convention. The fact is that one of the reasons we strongly support S. 682 is that the bill recognizes the necessity for locating the responsibility squarely in the Department of State. HHS indeed is the lead agency for domestic, special needs adoptions but its role during the last 20 years in particular has been anything but positive in respect to intercountry adoptions in general and to adoptions of children across racial and ethnic lines in particular. There have been numerous occasions when former U.S. Senator Howard Metzenbaum, who represented Ohio, has criticized HHS for its failure to carry out his MultiEthnic Placement Act. Some of these critiques have been before Congressional hearings, others with the media and this last Spring in a panel presentation at our Annual Conference. Because intercountry adoption is almost always interethnic and substantially inter-racial in nature, it would be a grave error to allow HHS to play any role whatsoever of a substantive nature in the implementing legislation. HHS has also demonstrated its lack of interest by its absence from the policy discussions of intercountry adop-

tion since 1989. I did not see HHS as part of the U.S. Delegation. Only when implementing legislation began to be discussed and there was a need to consider what agency would have the role of overseeing agency accreditation did HHS appear. HHS does have substantial experience in some accreditation functions but not in intercountry adoption. Whichever federal agency is assigned this role by Congress, and I urge the Committee to hold fast to a single designation for State, that agency will need to hire consultants or staff or train existing personnel to gear up for the responsibility. It will be just as easy for State to do this as HHS and since State has a reputation for being adoption-friendly and helpful to citizens traveling overseas to adopt, State is quite properly the best choice. State is the only agency of the three agencies mentioned in hearings and discussions—State, INS and HHS—with any sort of track record of responsiveness to citizens, or even to Congress. Not a month goes by that I do not receive a call from some Member of Congress who is frustrated by a lack of responsiveness from INS, and INS is head-and-shoulders above HHS in its competence and ability to work in international adoptions. The surest way to miss deadlines and to foul up international adoptions for U.S. citizens is to allow HHS to get involved in the process. There are many reasons why HHS has not been involved to date, not the least of which is its “family preservation at all costs” philosophy, an approach which sometimes even intrudes into the refugee and AID precincts of State.

Abuses and problems as a reason for the Convention. Many of those who comment on the Convention focus on the relatively few abuses and problems in intercountry adoption rather than the astounding successes. This focus on the negative was present in the 1960s and continues to this day, a reflection of the fact that there have been isolated instances of problems—trafficking and fraud and bribery and misrepresentation and ineptitude—which have gotten headlines. And the light of public opinion is a strong disinfectant, one we like to see applied liberally. There were terrible miscarriages of justice in Argentina and some bad practices in Colombia (before our Ambassador helped his colleagues in Colombia root out the problematic people and organizations) and some mis-steps with the Vietnamese Baby Lift and some well-intentioned movements to pull children out of war-torn or disaster areas. But these are a minority of cases, and no reason to discard adoption across national borders. It is statistically predictable that there will be problems in any field of endeavor and our job is not to shut down those activities but to root out wrongdoers and prevent any repetition of improper, illegal or unethical acts. The Convention is designed to help ensure that when such problems arise they will be promptly and effectively dealt with. The Convention will ensure that intercountry adoption is as “clean” as humanly possible.

Case-tracking and the temptations of public servants to expand. During these years of discussions, the matter of “case-tracking” has come up again and again and we would like to draw your attention to this matter. While no doubt there will be a need for State to develop a system, and INS will need to be involved, there are concerns about the size and scope of this case-tracking system. As a part of a delegation of organizations working under the ad hoc “Hague Alliance” I recall vividly hearing an exchange between two individuals, one from State and one from INS, the sense of which was that State and INS intended to spend a great deal of time and perhaps as much as a million dollars developing a tracking system. I would urge the Committee to keep a close eye on this case tracking system, so that it does not become either a waste of taxpayer or appropriated funds, or that it delays implementation of the Convention. The Convention should not be used as the excuse to do what well-intentioned public servants have had on their agenda for years.

Post-placement and post-finalization involvement of government. These are two very important issues that we respectfully urge the Committee to monitor. First of all, there is a significant difference between post-placement and post-finalization. Once an adoption has been finalized by a court, and this is usually a court in the child’s country of origin, that is a complete adoption. That family is legally the same as a family formed by biology and should not be subject to ongoing monitoring and especially should not be subject to intrusion. In the U.S., we do not interfere in the sanctity of the family without very good cause, and an adoptive family is no different than a family formed through biological reproduction within marriage. It is clear that countries of origin are concerned with the outcome of children placed with American and other families and who grow up outside the countries of their births. It should be possible for voluntary understandings to be reached which accommodate the legitimate interests of the orphanage and other officials to know how the children are faring, in a general way. But neither government entities nor adoption providers can or should be empowered to play “Big Brother” for the years of an adopted child’s minority. This is an area where sound diplomacy and extremely good adoption practice can combine to protect family autonomy and reassure countries of

origin. Secondly, there have been many references made to "post-adoption services" during the years the Convention has been under consideration and we would like to point out some concerns about this aspect of adoption. First, there is virtually no limit to what the government could end up paying for if "post-adoption services" becomes a feature that must be paid for as a part of international adoption services. Just as foster care and other related services have mushroomed into a multi-billion dollar "industry" so also could the present crowd of consultants, so-called experts and actual experts do to international adoption what they have done to domestic adoption. We urge great caution in respect to any mention of "post-adoption services" in legislation and specifically suggest that any regulations relating to this subject be required to be cleared in advance by the Committee on Foreign Relations because of the professional and diplomatic considerations involved.

Uniformity among the States. Adoption is a matter of family law and in essence should be left to the various states. Although there are claims about "trends" and "the movement of the field" in one direction or another, much of this discussion is a matter of wishful thinking on the part of advocates for one position or another. As a case in point, consider North Carolina and its laws on privacy of adoption records. Although a number of state legislatures have seen fit, unwise in our opinion, to water down promises made to women who bravely chose adoption for their babies and to retroactively change laws so as to inhumanely destroy their reputations and lives, North Carolina has not done so. Neither have a number of other states moved to allow adopted persons to disrupt the lives of the women (and, less frequently, men) who made it possible for them to have the gift of life with parents who were ready and willing to take on child-rearing responsibilities. The most ambitious move to achieve uniformity, the Uniform Adoption Act, has been endorsed and actually supported by groups like the American Bar Association and NCFA, but not the American Academy of Adoption Attorneys. We find it odd that some have testified as to the need for uniformity in international laws about adoption while resisting rather minimal uniformity in domestic laws about adoption. We strongly urge that, to the extent possible, the Committee resist attempts to "federalize" adoption laws, even in supposedly innocuous plans such as setting up Federal Adoption Reunion Registries, a pet scheme of Sen. Levin of Michigan for two decades. It is true that state licensing is uneven in its content and application. So also is state monitoring of intercountry adoption operations and complaint processing. But the only thing worse than imperfect administration of programs at the state level is imperfect administration of programs at the federal level, with the complications of dozens of jurisdictions and the necessity for layers and layers of bureaucracy.

Accreditation, approval and quality considerations. Great hopes have been attached to the accreditation of agencies as a means of ensuring quality services for American citizens and proper protection for children. And undoubtedly, if accreditation is properly carried out, the net effect will be an improvement of quality. But accreditation is essentially a consultative process, not a policing process, at least as carried out by human services accrediting bodies. Therefore, there should be no illusion about any accreditation, even if NCFA were to take on such a role (and this is highly unlikely), guaranteeing or ensuring quality. I have spent nearly 30 years working in the field and seeing first-hand how membership standards and accreditation actually work and can assure the Committee that these are very much a matter of art and not science. At bottom, there are many variables which account for quality: staff; supervision; turnover; board leadership; dedication to mission; consumer service; financial accountability; creativity; flexibility; relationship of fees to services provided; activity of consultants, contract employees and various facilitators. An agency I would rate as "A" one year may, in the course of a few months, become a "C" agency because its CEO has retired and its director of intercountry adoption services has resigned. By the same token, an agency that is new or struggling or marginal can substantially improve its quality of service and go from a "D" to a "B." The same is true for those who may be seeking approval under the Convention. Just as there are good agencies and marginal or bad agencies, there are good attorneys and social workers and marginal or bad attorneys and social workers. Good as the oversight of accreditation will be from State, I can assure you that even if I had that task (and I will not have that assignment) there would still be a need for independent and ongoing monitoring by others in State to ensure that citizen complaints are promptly answered and actions taken to improve services. Accreditation or approval, even if it met the sort of requirements I outlined in the law review article published in 1996 by the Catholic University of America, which is provided as an attachment to this Statement, would still not provide the sort of assurances that the Committee would prefer.

Adoption counseling. Much has been made of the difficulty that would be encountered were S. 682's provisions calling for pre-adoption education and preparation of

prospective adoptive parents. There are many models available which the Committee could use to tailor more precisely its language, but the essential wisdom of the provision remains. To ensure that something happens to help prepare people for the challenges of intercountry adoption, there needs to be a specific requirement in the law. Certainly there will be uneven application of the requirement. Some training will be better because the people preparing the curriculum or doing the training are more experienced and competent. We urge the Committee to require at least one hour of training per week over a period of six weeks and leave the details of the training to regulations.

Adoption provider responsibility. Most intercountry adoptions today are finalized prior to the time that the child leaves her or his country of origin, so that if a placement breaks down it usually is after the child comes home to the U.S. with the adopting family. We believe that it is proper for the implementing legislation to address the issue of provider responsibility. Our view is that the law should require the adoption provider, whether an agency, an attorney, a social worker or any other entity, to provide for permanent legal parents for the children they place. This means that if an adoption breaks down, there should be a clear responsibility for the provider to take custody and responsibility for the child if the adoption has not been finalized by a court. For finalized adoptions, we believe that the legislation should strongly encourage but not require adoption providers to step in, because it is impractical to hold providers responsible. In terms of those few adoptions that do break down after court finalization, we believe that data should be gathered but in such a fashion as to respect the privacy of the family and within the practical limits of adoption providers.

Central information source. We noted with interest the statement in Asst. Sec. Ryan's statement that "Under the Convention, the U.S. Central Authority will arrange for access to a central source of information on U.S. state laws relevant to intercountry adoption." We are concerned about how this statement might be implemented, given the past history of adoption information and the federal government. A GAO study, *INTERCOUNTRY ADOPTION: Procedures Are Reasonable, But Sometimes Inefficiently Administered*, April 1993 (GAO/NSIAN-93-83), done at the request of Sen. Specter of Pennsylvania commented, at p. 29, on the one HHS activity that directly related to intercountry adoption, the National Adoption Information Clearinghouse, operated under contract. The GAO report says "The information is broad based and generally useful, but *it contains some mistakes that could cause a processing delay or confusion. For example, prospective parents are advised that an approved home study is needed when submitting an orphan application for advance processing when, in fact, the home study may be admitted later. Also, according to the [NAIC] information, the orphan petition should be filed when the child is legally adopted in the foreign court. To the contrary, it should be filed as soon as possible* [emphasis added]." We hope that the Committee would preclude any use of HHS or its Clearinghouses to provide such information. We also experience, each day, dozens of calls from citizens who have not been able to get answers from any other source and call us thinking that somehow we are a federal, taxpayer-supported organization. We clarify that we are a private charity but do try to help, especially if a person or couple is about to make a terrible or costly error. We even take calls from citizens of other countries who are temporarily residing in the U.S., who have been referred by their embassies to us. The kind of information Asst. Sec. Ryan mentioned is critical to provide and we urge the Committee to ensure that this information be provided by State, or if not directly by State, by competent, adoption-savvy and adoption-friendly sources. Today, much excellent information is on the internet and State has excellent resources on its site but there is also a great deal of misleading information.

Limiting adoption to married couples. One of the aspects of S. 682 which has drawn comment is the requirement that U.S. children who are adopted by persons who are citizens of other countries be adopted only by married couples composed of a male and a female. Some of the comments and statements have called this "an unprecedented standard" and predict various dire consequences. For the record, we would point out, as Susan Cox of Holt did in her oral testimony, that the country which has the longest and, arguably, the most successful intercountry adoption program, the Republic of Korea, has had a general rule of this sort from the outset. There have been exceptions, of course, as there always are to general rules, for good cause. But the policy has been proven out in research findings which have reflected outstanding results for children from Korea adopted by American couples. Korea's policy has not restrained other countries, such as China or Russia or Colombia or others, to put any similar restriction in place. If this is an approach which the Committee believes is best for American children, then we would strongly support this viewpoint not just because of the precedent from Korea but because of the evidence

from child development research as well as common sense, evidence once again confirmed by the comments in the Hearing, that all things being equal a child benefits from having a Mom and a Dad rather than only a Mom or, less frequently, only a Dad. We are aware that there are groups who wish to expand on adoption practices allowed in some states and allow unmarried couples, whether of the same gender or otherwise, to adopt. We are gravely concerned about this approach and urge the Committee to reject such a drastic step. Those who cannot or will not commit to each other legally can hardly commit to a lifetime of parenting and legal responsibility for a child. By the same token, we are quite aware and applaud the many single parents who have stepped forward and are very successfully raising adopted children. We would not wish our concerns about adoptions by unmarried couples to be misread as opposition to adoption by single, unmarried persons when the situation is in the best interests of the child.

Twelve month waiting period. We have serious concerns about this provision in S. 682 for the reasons outlined at length in previous communications to the staff of the Chairman. We urge its deletion or, if any waiting period is retained, that it be applied only to those children who are within the public child welfare system. Any waiting period for newborn children would be profoundly problematic and could lead to unintended consequences. As stated above, we believe that if a woman wishes to plan adoption for her newborn, this is her right and is not subject to interference by federal, state or local officials, by tribal or parental interests, or by any other party except, where indicated and appropriate under applicable state law, the biological father of the baby. On the other hand, an argument could be made that if a child is a ward of the state then the state could determine to wait a year and seek a U.S. family for the child. We would hope that such a policy decision would not be made, but it would have the virtue of recognizing "parental" or "in loco parentis" status.

Privacy considerations. Having been a member of the U.S. Delegation, I had the privilege of hearing the debate at The Hague about privacy. It is clear that many sending countries desire to protect the privacy of biological parents. It is also clear that some of the receiving countries, especially those in Western Europe, have views on privacy that are quite different—views that would place the rights of the child to intrude upon a parent above the rights of the very parent who carefully decided to carry a baby to term or to place a child for adoption precisely because of privacy guarantees. We urge you to ensure that those privacy guarantees are respected and, as necessary, that loopholes which would endanger the reputation (and at times, the very life) of a woman would be closed.

Findings on outcomes of children. There have been various reports issued about the health and developmental status of adopted children prior to and as part of the Hearing. We would urge the Committee to carefully review any claims about outcomes and determine how much scientific validity is present. It is true that substantial numbers of children from Romania (and to a lesser extent, from other Eastern European countries) have been diagnosed with serious developmental and other problems. Reports on these children, however, are largely from a self-referred sample and are likely to be the result of well-meaning attempts to provide homes to children who were portrayed on the media as languishing in orphanages established in Romania's Ceausescu era. Similarly, reports of good outcomes for children from Eastern Europe, at least to date, appear to be from selected samples. Much more study is required before any definitive conclusions can be drawn about children from Eastern Europe.

Consumers of adoption service. We have noted with interest some of the letters and statements provided to the Committee for the Hearing, especially those which reflect profound dissatisfaction with services. We urge the Committee to import into S. 682 substantial portions of legislation drafted by Rep. James Traficant of Ohio, legislation which aims to improve the odds that consumers of adoption service will have information they need to make informed choices. We would also point out that these consumer protections are part of the assignment that all Central Authorities are expected to take on not just in respect to their own citizens but in order to be able to exchange information with other Central Authorities.

Conclusion. We are deeply grateful to the Chairman for his leadership on this important issue. We believe that S. 682 is a sound piece of legislation. As Sen. Landrieu stated in the Hearing, it is not "perfect" but it is an astounding contribution to intercountry adoption and to the millions of children whose futures depend on the Hague Convention—now and in the years to come. We urge the Senate to approve S. 682 and stand ready to be of assistance or counsel as the legislative process moves forward. We respectfully request that the Senate complete its work dur-

ing this calendar year. The birth mothers, the children and the adoptive families need action now.

STATEMENT SUBMITTED BY THE CHILD WELFARE LEAGUE OF AMERICA

The Child Welfare League of America (CWLA) welcomes this opportunity to submit testimony on S. 682, the Intercountry Adoption Act. We commend the efforts of the bill's bipartisan sponsors for taking steps to both ratify the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (the Convention) and to put forth legislation to implement the Convention.

CWLA is an 80-year-old association of more than 1,000 public and private non-profit community-based agencies that serve more than three million children, youth, and families each year. CWLA member agencies provide the wide array of services necessary to protect and care for abused and neglected children, including child protective services, family preservation, family foster care, treatment foster care, residential group care, adolescent pregnancy prevention, child day care, emergency shelter care, independent living, youth development, and adoption. Nearly 400 of our member agencies provide services that enable children to secure loving, permanent families through adoption. Of that total, approximately 125 agencies provide international adoption services.

CWLA and our member agencies were active participants throughout the convention process. The Child Welfare League of Canada's former executive director was part of the official delegation from Canada to the Hague Conference on Private International Law that led to the enactment of the Convention on Intercountry Adoption. CWLA provided direct input to the official United States delegation during the negotiations leading up to the United States' signing the treaty in 1994. CWLA member agencies were represented on the Study Group on Intercountry Adoption convened by the United States Department of State. Following the adoption of the Convention, CWLA member agencies and others in the forefront of intercountry adoptions drafted accreditation standards consistent with the Convention. These draft accreditation standards are available for review and/or revision and implementation by the United States central authority to be designated in legislation to implement the treaty. CWLA also provided input into the proposed implementing legislation transmitted to Congress by the Administration.

NEED FOR ACTION

Intercountry adoption can offer children the advantage of a permanent family for whom a suitable family cannot be found in his or her country of origin. Increasingly, families in the United States are choosing to build their families by adopting children from abroad. The number of children from other countries who were adopted by families in the United States has nearly doubled in the past 10 years.

- In the last 10 years, almost 100,000 children have joined United States families through intercountry adoption.
- In 1988, a total of 9,356 international adoptions were completed.
- In 1998, 15,774 international adoptions were completed in the United States. That number is expected to increase significantly in the next decade.

There is substantial public and governmental interest in attending to and monitoring the international process to protect children from exploitation and abuse and further to ensure their safety and well-being. Recognizing this need, the United States signed the Convention on Intercountry Adoption in 1994. The Convention prescribes a framework for cooperation and a legal structure to safeguard children, birth parents, and adoptive parents involved in intercountry adoption. The Convention addresses safeguards to ensure that intercountry adoptions are in the best interest of children. It establishes a system of cooperation among countries to prevent abduction, sale of, or traffic in children.

The United States signing of the Convention was only the first step. The treaty is not legally binding until it is ratified by the United States Senate. To become operational, implementing legislation also needs to be passed by both the House and Senate. As other countries ratify the Convention, they agree to place children for adoption only with countries that offer the same protections. Delay or failure of the United States to ratify and implement the treaty could result in thousands of American families not being able to adopt children from other countries.

COMMENTS ON PROVISIONS OF S. 682

We agree with the important goal of the legislation: to ensure that children joining families through adoption across national borders be better protected. Today we offer comments and recommendations on S. 682.

Establishment of Central Authority

The United States is unique from other countries in that adoption is governed by state laws, which leads to as many as 50 different offices with related but somewhat different eligibility requirements, forms, and procedures for other foreign governments to interact with to complete an intercountry adoption. This variability is very confusing to other countries that have one central authority for handling adoptions and one set of eligibility requirements, forms, and procedures.

Establishing a national central authority will ensure that the United States has a single authoritative source of information about the laws and procedures for intercountry adoptions in the United States. The central authority will serve as a single point of contact for other party countries to look for reliable information about adoption laws in the United States. The central authority will also be responsible for monitoring United States implementation of the Convention, to ensure that the adoption procedures outlined in the Convention are followed. These procedures include ensuring that the necessary consents for adoption have been obtained, the country sending the children has determined that the child is eligible for adoption, and the country receiving the child has determined that the potential adoptive parents are eligible and suited to adopt. S. 682 designates the United States Department of State as the central authority with total responsibility for these functions. CWLA agrees that the State Department should have a pivotal role in overseeing intercountry adoptions.

Accreditation Oversight

Under the Convention, all agencies providing international adoption services have to be accredited. CWLA helped prepare draft accreditation standards that are now available for review and/or revision and implementation by the designated United States Central Authority. These standards of practice detail the fundamental requirements for providing quality intercountry adoption services. Given the complexity of intercountry adoption, standards of practice need to be consistent throughout the country, and agencies need to be accredited to demonstrate their competence in this specialized field of adoption. This accreditation process will ensure that agencies doing adoption services are reputable, have knowledge of the special issues and expertise needed to do intercountry adoptions competently, and follow sound business practices.

Licensed, nonprofit adoption agencies play a pivotal role in ensuring protections both for the children and the families seeking to adopt. Although independent intercountry adoptions have been possible in the United States and can continue under the Convention, CWLA believes that, due to the complexities inherent in adoption, all adoptions, domestic or intercountry, need to be completed through a licensed, nonprofit social service agency. The added complexity of intercountry adoption increases the need for the involvement of social service agencies to ensure that the children have been voluntarily released by their birth parents or freed for adoption in a legally correct manner, and that services were offered to birth parents if they are known, to ensure that they made an uncoerced decision with full knowledge of the implications of their decision.

Social service agencies are also in the best position to prepare families for the challenging and rewarding experience of intercountry adoption and to support them following placement and following the legal completion of their adoptions. Not only do families need to deal with the usual issues of adoption—grief and loss, attachment, explaining adoption to their children, assisting with self-concept, and integrating the reality of both birth family and adoptive family into their own identities—but they must also be prepared to help children with abrupt changes in language, customs, food, climate, dress, and behavioral expectations in their new country.

S. 682 assigns oversight of accreditation to the United States Department of State. CWLA believes that role should be assigned to the United States Department of Health and Human Services (HHS). That agency has the knowledge and expertise in child welfare policy and practice including adoption services. CWLA suggests that HHS, in coordination with the Department of State, be delegated the accreditation responsibilities prescribed by the Convention.

Need for Post-Legal Adoption Services

CWLA strongly recommends that S. 682 add provisions to promote the development of post-adoption services. Article 9 of the Convention states that the central authority shall promote the development of post-adoption services yet, S. 682 makes no provision for these services. Families adopting children from other countries are likely to need assistance after the adoption is finalized. In addition to the issues related to changes in culture and language increasing numbers of children adopted from other countries are older; in some instances, they have experienced years of living in orphanages or other institutions and need help adjusting to living within a family. A significant number of children are reported to have problems related to attachment and bonding with their new families. Post-adoption services such as respite care, counseling, and parent education and training can support parents in meeting the specific needs of their adopted children to maintain safe, nurturing, permanent families. Post-adoption services are the key to preventing adoption disruptions and dissolution and should be available to all adoptive families.

Married Couple Requirement for the Adoption of U.S. Children

CWLA recommends that the requirement set forth in S. 682, that parents adopting United States children be a "married man and woman" be dropped. That proposal creates an unprecedented standard for both United States or intercountry adoption and creates additional barriers for children in need of permanent adoptive families. CWLA Standards for Adoption Practice state that all applicants should have an equal opportunity to apply for the adoption of children and receive fair and equal treatment and consideration of their qualifications as adoptive parents. The needs of the child are always the priority consideration in adoption. The imposition of this type of limitation may result in other countries reciprocating by imposing similar restrictions on United States adoptive parents. This would result in fewer children finding permanent families CWLA opposes any measure, such as the restriction contained in S. 682, which would restrict permanency options for the children in need of permanent families.

Access to Identifying Information

Article 30 of the Convention mandates that information on the child concerning the child's origin—in particular information concerning the identity of his or her parents as well as the medical history—be preserved. The Convention also states that the child or his or her representative should have access to such information, under appropriate guidance, in so far as is permitted by the law of the state. S. 682, however, prohibits access to identifying information in adoption records. The evidence is increasingly clear that individuals who were adopted as children need information about their backgrounds for their optimal mental health. While such information is often fragmentary in intercountry adoptions, what is available should be shared. CWLA suggests that S. 682 be changed so to allow identifying information to be maintained, and provisions and conditions for access be determined, as set forth in the Convention.

Twelve-Month Waiting Period to Adopt Children in the United States

S. 682 prohibits the adoption of a child from the United States until 12 months after the child has been made available for adoption. CWLA suggests that this provision be dropped. CWLA opposes any restriction that would delay placement of children into permanent families. The imposition of this type of limitation may result in other countries reciprocating by imposing similar restrictions on children leaving their countries. This would result in unnecessary delays for children in need of permanent families.

Annual Report on Disrupted Adoptions

The annual report prescribed in S. 682 includes data on the number of disrupted adoptions, including the reasons for the disruption and the resolution of the adoption. Disruptions usually refer to ending an adoption between the time the placement agreement is signed and the adoption is finalized. In intercountry adoptions, 80% of the adoptions are finalized in the sending country prior to the child entering the United States. The burden of measuring disruptions in intercountry adoptions, therefore, falls exclusively on individual adoptive families. This requirement imposes an intrusive burden on adoptive families, violating their right to privacy. We suggest that this data element be dropped from the annual reporting requirements.

In sum, we again commend this Committee for moving forward to implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. We applaud the efforts of the Senators who worked diligently in developing this legislation, which we believe can and should move forward, with improve-

ments. We look forward to continuing to work with you to help protect children as they move across national borders to find loving, permanent families.

AMERICAN BAR ASSOCIATION,
GOVERNMENTAL AFFAIRS OFFICE,
740 FIFTEENTH STREET, NW,
WASHINGTON, DC, *September 1, 1999*

The Honorable JOSEPH R. BIDEN, JR.,
Ranking Member, Committee on Foreign Relations,
U.S. Senate,
Washington, DC.

DEAR SENATOR BIDEN: On behalf of the American Bar Association (ABA), I write to express our interest in continuing to work with you and your colleagues on the Committee on Foreign Relations as you hold hearings on S. 682, the Intercountry Adoption Convention Implementation Act of 1999.

Recently, the ABA Sections of Family Law and International Law jointly developed the enclosed comments in support of the ratification of the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption and the proposed implementing legislation, entitled the Intercountry Adoption Act (IAA), submitted by President Clinton to Senate leaders and Administration officials. The comments on the proposed IAA are presented on behalf of the Family and International Law Sections. They have not been approved by the ABA House of Delegates or the Board of Governors and, accordingly, should not be construed as representing the position of the Association.

We are writing to transmit these comments and request that this letter be made part of the record of the Committee's hearing of September 15, 1999 as the debate continues over the many complex issues involved in developing uniform international legal procedures to govern intercountry adoptions.

Should you wish to obtain further information on the ABA's role in dealing with the Convention or adoption issues, please do not hesitate to contact Irving Daniels in this office. We look forward to working with you and your Committee to assist in the passage of this important legislation.

Sincerely,

ROBERT D. EVANS.

AMERICAN BAR ASSOCIATION,
SECTION OF FAMILY LAW,
750 NORTH LAKE SHORE DRIVE,
CHICAGO, IL, *May 17, 1999.*

The Honorable MARY LANDRIEU,
Hart Building, Room 702,
2nd & C Streets, NE,
Washington, DC.

DEAR SENATOR LANDRIEU: The Section of Family Law and the Section of International Law and Practice of the American Bar Association (ABA) submit these comments in support of the ratification of the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption (hereinafter the Hague Convention treaty). We are also submitting comments on proposed implementing legislation for the Hague Convention treaty. The proposed implementing legislation includes the Intercountry Adoption Convention Implementation Act of 1999 (IACIA) (S. 682) which has been introduced to the 106th Congress and the Intercountry Adoption Act (IAA) which was transmitted by President Clinton along with the Hague Convention treaty to the 105th Congress. IAA has not yet been transmitted or introduced to the 106th Congress.

The comments on the legislation are presented on behalf of the Family and International Law Sections. They have not been approved by the House of Delegates or the Board of Governors and, accordingly, should not be construed as representing the policy of the ABA. The comments, however, are consistent with the ABA's current resolution, adopted in February 1994, which urges the United States to ratify the Hague Convention treaty and urges enactment of legislation to implement the treaty. The resolution states:

RESOLVED, That the American Bar Association urges that the Senate of the United States give its advice and consent to the ratification of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry

Adoption, the final text of which was adopted by the Hague Conference on Private International Law on May 29, 1993.

BE IT FURTHER RESOLVED, That the Congress of the United States enact implementing legislation to permit the United States to participate in this multilateral Convention.

The Hague Convention is a multilateral treaty that sets out uniform international legal procedures to govern intercountry adoptions while at the same time recognizing the freedom of each ratifying country to establish its own system for implementing the Convention. Intercountry adoptions occur when a country of origin—the home State of a child—permits adoptive parents from a receiving nation—the home State of the parents—to adopt and move a child across international borders. The Hague Convention is the first treaty to endorse intercountry adoption as an option for children in need of a family as long as the internationally established norms of the Hague Convention are followed.

We urge Congress to ratify the Hague Convention on Intercountry Adoption. The Hague Convention treaty and implementing legislation will provide a legal framework for facilitating intercountry adoptions. Without the treaty and accompanying implementing legislation, U.S. citizens eventually may be unable to adopt abroad as more and more countries ratify the Hague Convention and require other States to be a party to the treaty for an intercountry adoption to take place.

Many children, oftentimes in institutions and orphanages, are being permitted by their country of origin to participate in an intercountry adoption. U.S. parents are seeking to adopt those children designated by their country of origin as adoptable. The Hague Convention treaty standards have thus become crucial to connecting prospective parents with adoptable children. Without the Hague Convention standards, there are no internationally recognized norms or procedures to protect the individual participants involved in the adoption triangle—the child, the biological parents, and the adoptive parents—or to ensure that States of origin and receiving States have coordinated with each other to complete the necessary steps for a final adoption that respects the legal procedures of each State.

The treaty is an international bridge between adoptable children and adopting parents. All members of the adoption triangle are protected by the rules requiring accreditation of adoption agencies and registration of those agencies with The Hague Conference on International Law Permanent Bureau. All parties are protected by the prohibitions against excessive remuneration in any adoption. All parties' ability to complete an intercountry adoption is increased by the creation of Central Authorities—governmental entities in each participating State responsible for coordinating intercountry adoptions.

We believe that any implementing legislation should be consistent with the Hague Convention treaty principles. Our general comments on any proposed implementing legislation for the Hague Convention on Intercountry Adoption are listed below. We also make some specific comments on the IACIA, introduced as S. 682, and on the proposed IAA, which was transmitted to the 105th Congress, but which has not been transmitted or introduced to the 106th Congress.

1. The Hague Convention treaty requires that the United States designate a Central Authority. We support the designation of the U.S. Department of State as the U.S. Central Authority. The Department of State negotiated the treaty and has experience with assisting U.S. parents adopting abroad and with coordinating with other States who are parties to the Hague Convention. This experience should enable the Department of State as the Central Authority to keep the adoption paperwork moving so that parents and their adopted children may come home without unnecessary delays. Likewise, sufficient funds and resources should be specifically allocated for the performance of Hague Convention treaty functions. We support a fee retention mechanism that permits fees charged to be designated specifically for Central Authority functions.

2. The Hague Convention treaty legislation may establish a troika of federal agencies—Department of State, Health and Human Services (HHS), and the Immigration and Naturalization Service (INS)—to implement the Hague Convention treaty or just two agencies—Department of State and INS—may be responsible for implementing the Hague Convention. Any agencies that are assigned Central Authority functions should be required to coordinate and consult with each other about implementing policies and regulations that affect intercountry adoptions before establishing such policies and regulations.

In the case of INS, for example, the rule that persons immigrating show proof of certain vaccinations was passed without considering the effect on immigrating children. After it was implemented and caused substantial hardship and anguish for traveling families, the vaccination requirement was changed for immigrating adopt-

ed children. Many adopted children receive no vaccinations in their country of origin and could not be safely vaccinated before traveling to the United States. Although the problem was eventually corrected, this issue could have been avoided if the effect of new policies on intercountry adoption was considered before implementation.

3. IACIA requires that the Central Authority provide reports on the status of the Hague Convention treaty and implementing legislation to appropriate congressional oversight committees on a regular basis once the Hague Convention treaty has been in force for a set period of time. We support the statutory requirement of providing annual reports on intercountry adoptions.

4. An independent advisory or oversight board, consisting of adoption and international law experts, adoptive parents, agencies and attorneys working in the field of intercountry adoption, and others who could provide input and advice on an ongoing basis to the Central Authority and other federal agencies responsible for implementing the legislation, should be created. This advisory or oversight board could ensure that the responsible officials receive timely information about the implementation of the Hague Convention treaty from the adoption community.

5. HHS or the State Department may be delegated the accrediting functions under the Hague Convention. In preparing regulations on the accreditation of adoption agencies and approved persons for working in the field of intercountry adoption, either agency should be statutorily mandated to give serious consideration to recommendations on accreditation standards from the appropriate adoption groups and professionals familiar with intercountry adoption practices and procedures. We support the IACIA and IAA statutory requirement that consideration be given to such accreditation recommendations.

6. Under the Hague Convention treaty, governmental entities that provide adoption services have a preferred position. State and local governmental agencies, under Section 203(b)(3) of the proposed IAA, are to be considered only as approved persons for the purposes of the accreditation of governmental entities to provide adoption services under the Hague Convention. IACIA may require state and local agencies to meet the same accreditation standards as private agencies. The legislation should be made consistent with the Hague Convention treaty so those governmental agencies providing adoption services are granted preferred status as permitted by the Convention.

7. Under both the IACIA and the proposed IAA, the U.S. Department of State is designated as the U.S. Central Authority for implementation of the Hague Convention. The Department of State is responsible for all "central authority functions," which is defined as follows in Section 3(8) of IACIA and in Section 2(f) of IAA:

Central Authority Function.—The term "central authority functions" means the duties imposed upon central authorities by Chapters III and IV of the (Hague) Convention.

The definition of "central authority functions" is too narrow. The reference to Chapters III and IV of the Hague Convention is correct but the other chapters of the Hague Convention should be included in the definition. For example, Chapters I, II, V, VI, and VII of the Hague Convention are not included. Unless the designated U.S. Central Authority is given responsibility for overall Hague Convention compliance, not just certain portions or chapters of the Hague Convention, critical Hague Convention requirements will not be clearly assigned to a federal agency.

8. The Hague Convention treaty itself does not contain provisions on voiding adoptions completed under it; however, the proposed IACIA and IAA contain such provisions in Section 305 on Voiding of Adoptions for Cause. Under Section 305, an U.S. state court may void a decree, and must give full effect in the United States to another country's proceedings vacating an adoption under the Convention, if certain requirements specified in the statute are met.

First, the provisions of Section 305(a)(1)(2)(A) assume that in all cases there would have been birthparent consent or consent by a relative to the adoption. In abandonment cases, however, consent would have been properly given at the time of the adoption by an institution such as an orphanage, and in cases where parental rights were terminated for abuse or neglect, parties other than the birthparents would have granted the appropriate consents to the adoption. Thus, the voiding of adoptions for cause section should recognize other types of valid consents that were legally recognized under the law of the country of origin at the time that they were granted. Otherwise, the mere absence of birthparent consent could be grounds for vacating an adoption even where such consent was not required at the time the adoption was granted.

Second, if provisions on voiding adoptions conflict with individual U.S. state law, the section does not make clear which law will govern—federal or state. In particular, the reference to state law in Section 305 (a)(2)(A) does not make clear, which

"state" law is being referenced—the U.S. state where the child was adopted or the sending country from which the child immigrated.

Third, in Section 305 Voiding of Adoption for Cause, the provision set out in Section (a)(5), stating that no adoption may be voided after two years has passed since the adoptive parents obtained custody of the child, should be modified to provide that the two years start to run when the parents have legal or physical custody of the child, whichever occurs first.

9. A new certification procedure for Hague Convention intercountry adoptions in Sections 301 and 302 of IACIA and IAA is created. As set out, the U.S. Central Authority will certify that a particular adoption is in compliance with the Hague Convention and the U.S. implementing legislation. This certification is then sent to INS. INS uses the certification as the basis for issuing a visa for the adopted child to immigrate to the United States.

The two sections—Section 301 (b)(1) and 302 (b)(2)—dealing with this certification procedure are not consistent. Section 301 (b)(1) requires that the State Department issue the certification (1) when the Department of State receives appropriate notification from the Central Authority of the child's country of origin that the adoption is in compliance with the Hague Convention and (2) when the Department of State has verified that the requirements of the IACIA or IAA have been met. Section 302 (b)(2), however, requires the Department of State to send to INS a Certification that provides that the Central Authority of the child's *country of origin* notify the U.S. Central Authority that the adoption is in accordance with the Hague Convention and IACIA or IAA as the case may be (emphasis added).

The issue is whether the Central Authority of the child's country of origin must notify the Department of State that the adoption complies with both the Hague Convention and the IACIA or the IAA or whether the Central Authority of the child's country of origin notifies the Department of State that the adoption complies with the Hague Convention and the Department of State determines if the adoption complies with the U.S. law, i.e., IACIA or IAA. It will be difficult for the country of origin to represent that the adoption is in compliance with the U.S. implementing legislation because its access to the statute and its regulations and knowledge about how to apply the provisions to a specific case may be limited. The Department of State, when the United States is the receiving country, would be in a better position than a foreign jurisdiction to make the determination necessary for issuing the Hague certification described in IACIA or IAA.

10. IACIA and IAA impose criminal penalties in Section 404(c) Criminal Penalties on any person who knowingly and willfully does the following:

- (1) provides adoption services in the United States to facilitate a Hague adoption without appropriate accreditation or approval in accordance with title II;
- (2) makes a false or fraudulent statement or misrepresentation of material fact, or offers, gives, solicits or accepts improper inducement intended to influence or affect:
 - (A) decisions concerning the accreditation of agencies and approval of persons to perform adoption services and central authority functions under this Act;
 - (B) the relinquishment of parental rights or parental consent relating to the adoption of a child within the scope of this Act;
 - (C) the decisions or actions of persons and entities performing central authority functions pursuant to the Convention and this Act.

The Hague Convention treaty does not require or mandate that any participating State impose criminal sanctions upon adoption service providers or any other participants in the intercountry adoption process. Thus, the criminal sanctions are inconsistent with the Hague Convention treaty parameters, which were designed to cover the civil law aspects of intercountry adoption. Criminal sanctions in general may be unnecessary in light of the Hague Convention treaty's reliance on the accreditation and approval process to enforce the standards imposed upon adoption service providers. Also, the term "improper inducement," which applies to both criminal and civil sanctions, should be clearly defined. The statute needs to make a clear distinction between improper inducement that is intended to influence a specific adoption matter and other types of actions frequently undertaken by adoption agencies or by adoptive parents, such as making ongoing charitable contributions to orphanages of medical supplies, toys, or clothing. These charitable contributions are typically not intended to induce a specific action by an institution caring for children. Rather the contribution of supplies by agencies, parent support groups, and individual parents is designed to assist those children who remain in the institutions. The statute should clearly permit humanitarian assistance to go forward without the fear of criminal sanctions serving to discourage or deter such efforts. We

recommend that a narrow definition of improper inducement be added to the legislation.

11. The Hague Convention treaty regulates the adoption of emigrating U.S. children when individuals residing in another Hague Convention State seek to adopt a child residing in the United States. The following comments apply to the case of U.S. children emigrating for the purpose of intercountry adoption:

- There is no requirement in IACIA or IAA for prospective adoptive parents, who are residents of another Hague country, to include the results of a nationwide criminal background check in their home study, before they are permitted to finalize an adoption of a U.S. child who will emigrate after the adoption is completed. Our recommendation is that a nationwide criminal background check from the receiving State of the prospective adoptive parents should be required before they are permitted to adopt an emigrating U.S. child. Certain criminal offenses, in particular child abuse or neglect or spousal abuse, should be considered grounds for prohibiting the intercountry adoption.
- The Hague Convention treaty, in Article 4 (b), provides that an adoption shall take place only if the competent authorities of the State of origin "have determined, after possibilities for placement of the child within the State of origin have been given *due consideration*, that an intercountry adoption is in the child's best interests." (emphasis added). Section 303 (b)(1) (B) of IAA requires that a determination be made that the child "cannot *expeditiously* be placed for adoption in the United States." (emphasis added).

IAA essentially proposes the policy that U.S. born children should not be adopted by residents of a receiving State, unless the child cannot be adopted expeditiously in the United States. Elsewhere, the proposed implementing statute authorizes the making of regulations changing procedures for adoption by relatives, but it is not clear that this will include a preference for relatives where the child could be placed expeditiously with nonrelatives who are U.S. residents. The statute should permit a state court judge to give due consideration to an adoption by relatives or for other parties with a "significant relationship" with the child (such as those who have been responsible for the child for a significant period of time, or were named in the parent's will).

IACIA, on the other hand, requires that 12 months must elapse since the accredited person made efforts to place the child in the U.S. before a child may be placed in a permanent home in another Hague country. IACIA also requires that in every case a determination be made in accordance with the federal Adoption and Safe Families Act of 1997 that the child cannot be placed in the U.S.

Overall, we recommend that any implementing legislation mirror the language in Article 4 (b) of the Hague Convention treaty so that "due consideration" is given to the opportunity for a child to be placed in the U.S. The 12-month automatic wait period may not be in a child's best interest in every case and the requirement that there be a finding that the child cannot be placed expeditiously in the U.S. likewise may not be in the child's best interest in all cases. The due consideration standard from the Hague Convention permits the state court judge to better consider the individual circumstances of a particular child.

- For emigrating children, it would be useful to clarify that provisions in Article 16 of the Hague Convention, stating that a Central Authority of the State of origin shall "give due consideration to a child's ethnic, religious and cultural background" is not intended to conflict with provisions of the federal Multiethnic Placement Act prohibiting delaying or denying an adoption on the basis of race or ethnic background.
- Under both IACIA and IAA, state court judges retain the discretion to issue an adoption decree for an emigrating child, and in those cases, the courts should be encouraged by statute or regulation to appoint counsel for the child involved in an intercountry adoption from the United States.
- The provision in IACIA Section 303 (b)(1)(B) effectively prohibits single persons from adopting emigrating U.S. children and unnecessarily limits the opportunities for children to be adopted. We recommend that IAA Section 303 (b)(1) be adopted and that single persons be permitted to adopt emigrating U.S. children.

12. The Hague Convention, in Article 3, covers intercountry adoptions between participating States for children before they reach the age of eighteen years old. As proposed in both statutes, children over the age of sixteen will continue to not be eligible to immigrate under the rules governing visas for children adopted by U.S. citizens abroad. Any legislation should be consistent with the treaty so that immi-

grating adopted children up to the age of eighteen may participate in an intercountry adoption.

13. Some sending countries do not grant a final decree of adoption; however, they do grant to the adoptive parents legal custody and permission to immigrate for the purpose of adoption—a process known as “simple adoption”. Neither IACIA nor IAA say what effect, if any, a foreign authority’s grant of custody or certification of availability for adoption should have in an U.S. court. By its silence, the legislation as written almost invites *de novo* reconsideration of all the substantive and procedural aspects of the child’s adoptability that were made by the sending country. The statute does not specify what law should apply to questions like the timing of the relinquishment. Any implementing legislation should at least say that the foreign authority’s determination regarding adoptability is entitled to presumption of validity, and that the law of the nation of origin governs on issues of relinquishment and availability for adoption.

14. The avenues for administrative review of adverse action in the accreditation of agencies and approved persons are non-existent in the statutes. The implementing legislation should contain an administrative review process for those agencies or individuals who are adversely affected during the accreditation process. The current statutory structure of providing only judicial review is not adequate. Administrative review procedures are important because (1) a regulatory agency is usually better equipped than a federal court to obtain and review information needed to assess adverse actions at a reasonable cost, and (2) the dockets in some federal courts are crowded, and a civil action seeking judicial review may take a very long time to process.

15. Section 105 (b)(1) of IAA and Section 103 (d)(1) of IACIA establish a case registry on “all adoptions involving immigration into the United States, regardless of whether the adoption occurs under the Convention”. This section implies that data on *any* adoption involving immigration, including those of any person who is immigrating to the U.S. with adopted children, will be included. The registry is presumably intended to cover just intercountry adoptions under section 101 (f) and (g) of the Immigration and Nationality Act, i.e., those where the U.S. parents adopt a child from a sending country regardless of whether the country is a party to the Hague Convention. The statute should make clear what adoptions are covered by the registry.

16. The Hague Convention, in Article 31, requires that personal data gathered or transmitted under the Convention shall be used only for the purposes for which such data were gathered or transmitted. The proposed legislation, which establishes certain monitoring and registry procedures, should make clear that the intent of the legislation is to be consistent with Article 16 of the treaty. Likewise, in Section 203 (b)(1)(C) of IAA and Section 203 (b)(1)(D) of IACIA a reference should be made to require accredited agencies to maintain such records and reports and information in accordance with applicable federal and state privacy laws.

17. Any fees established by INS, HHS, or the Department of State for implementing the Hague Convention should be set via a rulemaking procedure. In particular, the fee amounts to be set under Section 204 (d)(2) of IAA or Section 202 (d)(2) of IACIA should be subject to a notice and comment rulemaking procedure under the Administrative Procedure Act.

18. Under Section 205 (d)(1) of IAA and Section 204 (c)(1) of IACIA, a change should be made so that it is clear that agencies and adoptive parents can seek judicial review of adverse accrediting decisions. These sections should also be modified so that the reference to an adverse action by the federal agency responsible for selecting the accrediting body includes the cancellation or failure to designate an accrediting entity or an action whereby the accrediting body fails to accredit an agency or person for practicing in the field of intercountry adoption.

19. Both proposed bills do not make clear whether accrediting agencies must renew their accreditation. The implementing legislation or regulations need to establish provisions and timeframes for renewal of accreditation of agencies and approved persons. An accreditation renewal process for agencies and approved persons would help to ensure that the standards imposed by the Hague Convention are met on an ongoing basis.

20. Both IACIA and IAA require the Secretary of State to monitor the rate of disruption of all intercountry adoptions. The term “disruption” is not statutorily defined, and the purpose for which such data will be collected is not stated.

21. The reference in Section 302 (b)(2) of IAA to paragraph (b)(1), (g) or (h) of section 101 of the Immigration and Nationality Act appears to be incorrect; the reference is probably intended to be to (b)(1)(G) or (H).

22. The provision in Section 303 (b)(3)(C) of IACIA and IAA regarding the responsibilities of accredited agencies providing intercountry adoption services in the case

of an emigrating child should proscribe that the documentation and information that a U.S. Central Authority may require an accrediting body to provide must be identified in published regulations so that agencies know in advance what specific information must be sent on each individual case.

23. Under both IACIA and IAA, U.S. states may impose additional requirements upon Hague accredited agencies providing services for emigrating children. Any such additional requirements should be required by statute to be transmitted to the U.S. Central Authority, and the U.S. Central Authority should be required to communicate such requirements to the Hague Conference Permanent Bureau. Then prospective adoptive parents from other countries will have ready access to information regarding the practices of U.S. states.

24. IACIA, unlike IAA, does not permit individual persons, such as attorneys or social workers, to be accredited to provide adoption services under the Hague Convention as "approved persons," a term defined in Section 2(d) of IAA. We recommend that IAA standards permitting approved persons, not just accredited agencies, to provide adoption services be included in the Hague Convention implementing legislation.

24. We support the changes that both IACIA and IAA make to the Immigration and Nationality Act (INA) so that adopted children from Hague participating countries of origin may obtain an U.S. visa in cases where the child's birthparents voluntarily consented to the adoption by the U.S. parents. We endorse the modifications to the INA that make it possible for more children adopted by parents from the U.S. to obtain a visa to enter the U.S.

25. We recommend that the implementing legislation include provisions permitting a child to be granted U.S. citizenship upon completion of an adoption so that U.S. adoptive parents are not required to apply for such approval separately.

Our letter does not include comments on each and every aspect of possible implementing legislation for the Hague Convention treaty. We do anticipate, however, that additional comments on any various proposed versions of implementing legislation will be submitted as the need arises.

In conclusion, we recognize the historical importance of this landmark treaty. Never before has intercountry adoption received such a positive endorsement. Many prospective U.S. parents fight their way through the arduous process of intercountry adoption. Oftentimes they call upon a Senator or Congressman to assist in ending delays or unforeseen glitches. In the meantime, children who are eligible for international adoption wait to be united with loving, adoptive families. We support the Hague Convention treaty and implementing legislation that uses sensible and practical legal procedures to encourage and facilitate the intercountry adoption process.

Our Sections appreciate the opportunity to comment on the Hague Convention treaty and to provide input and suggestions on implementing legislation for the treaty.

Respectfully submitted,

MAURICE JAY KUTNER,
Chair, Section of Family Law.

WILLIAM M. HANNAY,
Chair, Section of International Law and Practice.

Hon. JESSE HELMS,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, DC.

HONORABLE CHAIRMAN HELMS. Thank you for the opportunity to testify at the hearing on "S. 682." I was so proud of the way you chaired the meeting. You are my idea of a true gentleman, a trait that is not always considered necessary in our modern society, yet one I believe to be the foundation of civilization. You make people feel valued, while getting to the heart of the issue.

You asked us to comment on our idea of useful disclosure laws: My analysis is rather blunt, but I trust you will understand my motives and use it to benefit the children.

Thank you for the opportunity to do so.

Adoption agencies are dependent on foreign facilitators and have limited control

Unfortunately, in the last few years, the "tail has started wagging the dog". Since we do not live overseas, it is necessary to hire foreign nationals to do the majority of the work. Even though we pay them, they are still independent. They lack the business skills, which we take for granted in a free-enterprise society (such as time

management, keeping appointments, performing tasks in a reasonable time frame, and providing an acceptable level of service).

At worst, they have no loyalty or sense of ethics (as we perceive ethics) and sell their service to the highest bidder. Since their service is the adoption of children—well, you can see the obvious outcome.

If I offer a facilitator reasonable payment for his work, but he can get hundreds or thousands of dollars elsewhere, he will be gone. If I ask for complete medicals, great videos, detailed descriptions of the child, and fast, reliable and honest service; he may very well work for someone who has easier requirements—or none.

Although, we struggle to provide adequate service to families, it is getting more difficult. The last time I was in Russia, at least six people knocked on my door to ask if they could work for Christian World Adoption. They had no experience in adoption, but were drawn by the perceived profits. They asked ridiculous fees and promised incredible things. Although we were experienced enough to turn them away, others are not.

If these individuals are motivated strictly by money, and not controlled by ethical, knowledgeable agencies, all sorts of abuses occur. Officials may be bribed, medical records “fixed,” and children offered to one family, then taken away when another offers more money. In some cases, children have even been abducted.

The abuses are rampant and growing. Eventually, it will close adoption in Russia, as it has in so many other countries. Russians view adoption as a business because of the money paid, and believe that capitalism is evil. Since birth, they are taught that capitalism allows the rich to abuse the poor and that the middle class does not exist. Every time we bring Russians to the U.S. to visit, they are amazed at how well our society functions and realize that they have been lied to all of their lives.

The more adoption turns into a competitive business, the more difficult it is to help the children. Distrust grows and corruption flourishes.

China was beginning to have this problem three years ago. The government was wise enough to outlaw private facilitators and required that all agencies work through their central authority. They receive the parents’ dossier, match a child to them, and approve all of the foreign adoptions in the country. The criteria are the same for all families, and the fees are the same.

Foreign facilitators and/or government officials have limited control/authority to provide adequate services

Even when we have foreign facilitators who are good at their job, they are limited in what they can do. These folks are trying to survive under communist regimes or democratic rulers who are really dictators; controlling their countries through oppression, fear or military might.

They have seen friends and families murdered for opposing the government—they understand that safety means anonymity. They are often afraid to appear too cooperative, as they may be accused of taking bribes and “selling” children. Many orphanage directors, caregivers, judges, doctors, and government officials are not paid to perform, they are paid to follow orders and not cause trouble (and often they are paid poorly, or not at all). They are NOT motivated to do the extra work necessary to complete an adoption.

Their priority is finding enough to eat and keeping safe and warm, not doing extra paper work for demanding rich Americans.

How do we encourage cooperation and limit corruption?

First, and foremost it is critical that the facilitators not be able to play adopting parents against each other. As long as a foreign facilitator can refer a child to any American who holds a Home Study, they will act as “free agents.” While competition might be good in some industries, it has terrible consequences in international adoption. There are far more parents who want healthy, Caucasian infants than there are children available. It drives up cost, and allows facilitators to do substandard work, or worse.

As “S. 682” is written, a parent can adopt without using an accredited agency

I fear that if the Hague Implementing Legislation is passed as it is, current practices will NOT change.

Thousands of social workers, exempt from accreditation under the Hague, are allowed to write Home Studies. With any Home Study, a parent has the right to adopt directly from a foreign facilitator without using an accredited agency.

Many agencies, while well intentioned, do not have the budget or the staff to travel, train, monitor, manage and truly understand the laws and system of the child’s birth country. They are at the mercy of the facilitators overseas and do not provide parents with the protection they need.

Facilitators live in the U.S. and act as agencies without any licensing

Incredibly, there are a large number of people living in the U.S. who are acting as adoption agencies WITHOUT ANY licensing. They advertise adoption services on the Internet, in Adoptive Families of America magazine, in newspapers and appear at trade shows. I personally know of several, as does Maureen Evans, Director of JCICS. You are welcome to call us for details. They are not attorneys, and some have even been denied state licensing. The parents do not realize that these people are not licensed and the various State Departments of Social Services are too overwhelmed to do anything.

I know of one Vietnamese mother and daughter who were convicted of stealing humanitarian aid intended for orphans, who have been denied licensing in South Carolina, Las Vegas, and Pennsylvania and who have a class action suit pending against them by angry parents. DSS in SC has asked me to report their activities and has sent letters to desist; yet they continue to operate, year in and year out.

It is very discouraging to have these individuals sully the reputation of agencies, while reputable organizations are working their hearts out to provide excellent services.

We must make it mandatory that parents process their adoptions through an accredited agency

Accreditation is a rigorous process. The standards used by COA (Council on Accreditation) were written by experts in the international adoption community based on the Hague. They are relevant and demand full disclosure of fees and services in every step of the adoption process. Although nothing is foolproof, I can not think of a better way to establish and monitor sound practice. Accreditation requires proof of quality case management, ethical practice and sound financial status.

I truly believe that accreditation will provide better consumer protection, because it looks at the total picture and requires agencies to function in an ethical manner, using sound business and children's welfare practices.

If you would like an outline of the standards used to review and accredit adoption agencies by the Council on Accreditation, I would be glad to provide it.

Sincerely,

TOMILEE HARDING,
Executive Director, Christian World Adoption.

STATEMENT SUBMITTED BY THE NATIONAL COUNCIL OF BIRTHMOTHERS

KEEP FOREIGN ADOPTION RECORDS OPEN

We urge you to kill this bill that would close forever adoption records of those who are foreign born.

This is a country that prides itself on its freedoms—and welcomes people from all over the world who come to be a part of this land of opportunity.

How can this land of freedom and opportunity—extend its hand to the peoples of the world and use that same hand to slap the face of adopted people who are foreign born?

We are only beginning to see the tip of the ice berg when it comes to the horrors that have been visited upon the people's of other lands when it comes to foreign adoptions. Is it any wonder that Russia, India, Korea, China, and other countries are re-examining their policies on foreign adoption—some in fact closing their borders to foreign adoption?

Our own STATE DEPARTMENT has travelers warnings for Americans traveling in Guatemala—NOT TO BE SEEN WITH GUATEMALAN CHILDREN as this could be very dangerous for them—due to the deplorable record of the “American adoption” industry operating in that country. An industry that preys on the poor of that country, that steals children from their families—and presents them to unsuspecting American families.

This type of activity goes on in many countries around the world. We read of illegal adoption rings and their practices—involving foreign countries and individuals within the United States regularly.

The sealing of foreign adoption records will only help to protect the individuals and groups involved in these illegal activities by hiding the record of their crimes.

Sealed adoption records are a practice peculiar to the United States. The majority of the world have open records—in that an adopted person when they reach adulthood—is given access to the records of their birth.

It is accepted as a matter of course that an individual has a right to government held records pertaining to themselves.

In the past few decades we have come to realize the tragedy of sealed adoption records and the folly of leaving the dispensing of such information up to the whim of third parties. We have seen adoptees die from lack of medical information—when such medical information was in the hands of adoption agencies who refused to pass along the information—or judges who have decided medical emergency was not “good cause” to open the records. We have information in case upon case of government officials willfully defying the law in not providing critical information to adoptees, adoptive parents, and birthparents.

The American Academy of Pediatrics has the following in their Policy Statement:

Recent adoption research and considerable anecdotal evidence challenge the wisdom of maintaining permanent separation of mature adoptees and their biological families. [2-6] The interests of each member of the adoption triad often change over time. As adoptees reach adolescence, their interest in learning about their biological families frequently increases. This is almost always unrelated to the degree of stability of their adoptive family relationship and is usually seen as a healthy and normal aspect of their personality development. Concomitantly the interest of birth parents in preserving their anonymity may diminish over time. Several studies of birth mothers show that they frequently reconsider and remain uncomfortable with the decision they made to surrender their child. [2,5,6] Often their feelings of guilt, grief, and loss are unresolved, and often they believe that their sense of loss might be lessened by knowing what actually happened to their child. Sometimes the third member of the triad, the adoptive parents, may feel threatened by the desires of their adopted children to search for birth parents when these children become adults and begin to develop their own independent lives, [5,6] but often adoptive parents support their children's efforts to search for their birth parents.

As more and more adult adoptees began to challenge confidential court records and search for their birth parents, support groups and advocate organizations evolved to help organize searches and to lobby for less restrictive state laws.

The actual number of adult adoptees who search for information about their birth parents is unknown but thought to be a small (yet recently increasing) percentage of total adoptees, and the motives of those who search are quite varied. [6] Some are at risk for certain medical problems in which knowledge of a family medical history is important. Others wish to have children and want to know more of their genetic and medical history. (All states require a medical and genetic history to be obtained at the time of adoption, but these histories are often incomplete and inaccurate.) Other adult adoptees just believe that they have a right to find out their birth names and family heritage to fill the void that makes them feel incomplete and separates them from their pasts.

Adoption researchers are learning about reunions between adoptees and the birth parents and the impact these reunions have on each member of the adoption triad. [5-7] During the past decade, there seems to have been a change in general attitude among adoption professionals toward search and reunion. Previously the idea of searching for one's birth family was seen as either harmful and/or neurotic. Now such searches and reunions are often seen as healthy and a helpful endeavor for all concerned.

With all we have learned about adoption and its present and future implication for all the families involved—let us not take a step backward into the Dark Ages by passing a law that forever renders foreign born adoptees to the permanent status of second class citizens in our country.

Let our shores still continue to represent the free and the brave.

TERI LEBER,
President, NATIONAL COUNCIL OF BIRTHMOTHERS.

ROSALIND MAYA LAMA,
Santa Cruz, CA 95062.

Hon. JESSE HELMS,
*U.S. Senate Foreign Relations Committee,
Washington, DC 20510.*

ATTN: S. 682—TESTIMONY

DEAR SENATOR HELMS: Kindly accept this testimony regarding S. 682, a bill intended to implement the provisions of the Hague Convention on Intercountry Adoption.

I would like to point out that Section 401, containing sealed records and secrecy provisions, is in violation of the United States Constitution, in particular the 14th Amendment. It also violates the Freedom of Information Act—a restriction normally imposed only with respect to matters of national security. Secrecy and sealing of records of children brought into the U.S. for the purpose of adoption is moreover an encouragement to various types of fraud, crime and violations of civil and human rights. Such secrecy is not in the best interest of children, adult individuals who are affected by it, or the State. It is in the best interest of adoption agencies and other persons who are employed in the adoption and foster care industries, because it assures a steady stream of children who may be treated as a commodity. The American public has shown an interest in the conditions under which consumer goods are produced, such as those manufactured using child labor, prison labor, and under slave-type working conditions. The public also has an interest in knowing the origins of children brought into this country for adoption. Not knowing ones own origins and history can have tragic and far-reaching consequences for individuals and society as a whole.

It is a fact that children are obtained through various means which, if they saw the light of day, could not be legally or morally permitted. It is a fact that many children who have been brought into this country for the purpose of adoption end up in foster or institutional care due to emotional damage stemming from the conditions in which they were kept prior to entering this country. It is also a fact that there are at least 500,000 children currently in foster or institutional care in the U.S. Many of these are free for adoption but are unwanted due to not being of a preferred color or age. However, even these rejected children provide a livelihood for employees of adoption agencies and the various departments of social services that provide foster and institutional care. It is big business.

The U.S. is the single biggest recipient of foreign children brought in for the purpose of adoption. The children have included those who were kidnapped, bought or coerced from poor women, those who have been abandoned due to draconian legislation regarding reproductive rights in their home country, and the victims of racial and religious oppression.

Human beings have natural curiosity and a need to know their own origins. Children are not a blank slate on which parents, whether natural or adoptive, can write their own script. Whatever the reason, psychological, medical, legal or simply in the pursuit of satisfaction, people in this country have the right to personal information regarding themselves, and to be treated equally under the law.

I have had personal experience with the closed records adoption system. In November of 1959 I gave birth to a son, Marcus, in NYC. I was 16 years old, a senior at the prestigious H.S. of Music and Art. His father was a fellow student who had graduated in 1958. We had been high school sweethearts and intended to marry, but this was objectionable to my parents due to racial differences. We had no desire or intention to give up our son. My son's paternal grandparents expressed their wish to take him home but were prevented from doing so by the Bureau of Child Welfare and an adoption agency that had become involved due to my parents efforts. I was able to obtain a record of the case kept by the Administration for Children's Services through a FOIL request, as well as some relevant court documents pertaining to my prosecution as a delinquent. I was told that if I signed surrender papers I would not be prosecuted. As I refused, my parents and a sectarian social service agency connected with the adoption agency brought charges against me with hopes of having me committed to a mental asylum for the purpose of terminating my parental rights. At that time unwed fathers did not have parental rights. My son's father, braving the possibility of being prosecuted for statutory rape, signed paternity papers and paid for unwanted, unnecessary and inhumane foster care provided by the adoption agency and the Bureau of Child Welfare. In fact, we did not know, and still do not know, where our son was kept during the time I supposedly had full legal custody, according to the documents of the BCW.

It is not necessary at this time to go into the details of the manner in which a signature on the various documents of surrender was coerced. The end result was

the total psychological destruction of my son, who died by his own hand at age twenty. Unlike most biracial children, who probably made up the majority of institutionalized children at the time, my son was adopted. The adoptive mother, when I finally found her in 1996, asked me where I had been when she needed me, and stated that she felt the outcome (of my son's life) would have been different if he had had the support of his "true" parents. She told me my son continually asked for his parents from the time he entered adolescence. The adoption was a disaster for all concerned, except for the numerous persons whose livelihood depended on terminations of parental rights, foster and institutional care, casework, psychiatry and adoption. The adoptive mother had been Superintendent of Children's Institutions in NYC. Her sister-in-law told me she "found" my son in an institution.

The records I obtained through the FOIL request had been altered, with numerous additions, deletions, and false quotes and statements in order to bring the record up to the minimum standards of legality for the time. A number of these falsifications, including some in my court record, can easily be verified. This includes a notation on the court record of my school grade, given as 8th, suspended, in order to give the impression of feeble-mindedness. I never attended the 8th grade, as I skipped it, had completed my junior year in high school, been accepted at the college of my choice, and had taken medical leave from my senior year.

I will be available to supply further information regarding my own case and my position that secrecy in adoption practice encourages various types of cruel and illegal activities which do not serve a civilized society. I object to adoption triad members such as myself, adopted children and adults, and adoptive and foster parents not being called as witnesses in this serious matter.

Yours truly,

ROSALIND MAYA LAMA.

JAMES C. AND DAWN M. DOOLEY,
Fayetteville, AR 72704.

Hon. JESSE HELMS,
*U.S. Senate Foreign Relations Committee,
Washington, DC 20510.*

ATTN: S. 682—TESTIMONY

DEAR SENATORS: It is a great concern to me that you have decided to sponsor S. 682. As adoptive parents, we cannot see where this provision will benefit anyone related to international adoption. For ourselves, we feel that our child should have the right to know and find his birth parents if he so desires. By passing this provision, you are effectively taking that right away from them. There is also a greater medical precedence in that if a donor organ is needed or other life threatening situation, this provision will not allow the adoptee to gain the information to allow them to continue living. In essence, a death warrant!

When we decided to adopt internationally, it was not by some flippant thought or impulse decision. We spent many months deciding if we wanted to go international or domestic, what country we felt was best for us. Now based upon our decision our son would be persecuted for being adopted.

I am further appalled at the decision to only allow members of the adoption industry to testify. Do we as American citizens no longer have a voice in what is passed into law? I propose a lottery of adoptive parents be allowed to testify at this hearing. I am sure it would shed much light on the proper and correct provision for adoptees.

I am trying to decide if this provision was just poorly written or does it speak of possible racial prejudice. I would hope that it was merely a oversight of proofreading that caused this great injustice.

Our son, Elijah Lee, came home on April 16, 1999 and is now at the wonderful age of 1 year. He does not know about this provision and as the best parents we can be, are speaking for him on his behalf.

We finally urge you to not sponsor S. 682, Section 401, which goes against ALL internationally adopted children!

Sincerely,

JAMES C. DOOLEY,
DAWN M. DOOLEY.

MARYLEE MUNSON ODDO,
Charleston, Illinois.

Hon. JESSE HELMS,
*U.S. Senate Foreign Relations Committee,
Washington, DC 20510.*

ATTN: S. 682—TESTIMONY

DEAR SIRS AND MADAM: After reviewing the upcoming legislation of S.682 on Intercountry Adoption, I must strongly argue against its intent and content, especially section 401. As I interpret it, it absolutely negates what the original Hague Convention Intercountry Adoption proposes.

And, Ms. Landrieu, I am quite shocked that you would support such a move. I was at the International Gathering of the First Generation of Korean Adoptees in Washington, D.C., as were you, and I find it particularly disturbing that you, of all people, would support such a turn. One of the more topical issues discussed in the formal Adoptee discussion groups was the need and desire to search for information regarding our biological past. Though many of us Adoptees may not wish to seek out this type of information AT THIS TIME, we may wish to in the future. Lacking the desire to search does not equal lack of desire for freedom of disclosure.

I am also dismayed to hear that the petition I signed at the Gathering, in support for the Hague Convention, was modified with the before mentioned changes UNBE-KNOWNST to me. I forthwith withdraw my previous support.

I feel the Federal government should not be maintaining confidential files on American citizens solely because they were adopted from outside the U.S. All citizens deserve to be accorded equal dignity and respect under the law. Specifically restricting the ability of international adoptees to access their personal files and exempting them from the Freedom of Information Act is discriminatory and un-American.

A double standard for adoptee rights is unacceptable. While states like Oregon and around the country are moving toward opening records to adoptees, S. 682 threatens to make these gains meaningless for international adoptees. S. 682 goes against the national trend toward greater openness.

Many foreign countries, such as Korea, have open records. Yet, S. 682 would perpetually seal the records of adoptees like myself that enter the U.S. from those countries. We legally lose our right to our identities and knowledge about our heritage when we become Americans. Our nation should lead in protection of these rights rather than following these other nations.

The purpose of the Hague Convention is to mandate accountability and integrity in the international adoption process, and to provide minimal standards for protecting the rights of adoptees, including the right of adoptees to information on their identities and heritage. But Section 401 of S. 682 appears to go against both the intent and letter of the Convention.

I personally am trying to find out more information about my biological past. I have flown to Korea and visited the site of my former orphanage as well as searched for records that may uncover any information regarding my birth family and personal history. Unfortunately, I have uncovered so very little at this time. As an older adoptee adopted over 33 years ago, searching is a long, difficult, and often expensive task. But one I feel well worth all my resources and efforts. Please do not limit or terminate my ability to search.

I am a Korean adoptee and will support only legislation that:

- (1) Acknowledges that all adult adoptees deserve their records;
- (2) All adoptees deserve medical information;
- (3) All records should be maintained and preserved;
- (4) All adoptees have the right to their identities and knowledge about their heritage;
- (5) Adoptees should have the right to participate in the drafting of such legislation, as opposed to those who have no personal knowledge of the situation; and
- (6) Senators should recognize and respect that international adoption is a lifelong process and enable legislation that reflects that.

Let me finish by saying that I hope that this is legislation that will happen only after each of you has taken serious time to explore all realms of it and particularly of the children involved who will become adults. I would also like to add that I do fully support the Hague Convention, but in its original form and intent.

Please do not consider only the adoption agencies, birth-parents, and the adoptive parents for input. Our perspective has been overlooked. Please consider the perspec-

tive of the adoptee as this directly affects us. I ask you to talk with ADULT adoptees. We also have first-hand knowledge and experiences on these issues.

Please understand that this is important and it affects people's lives. Please forward this to interested parties. Thank you for your time and consideration on this important matter.

Sincerely,

MARYLEE MUNSON ODDO.

TRACY HOUSER,
Santa Rosa, CA 95401.

Hon. JESSE HELMS,
*U.S. Senate Foreign Relations Committee,
Washington, D.C. 20510.*

ATTN. S. 682—TESTIMONY

DEAR MR. HELMS: As an adoptee who has been reunited with my birthparents for almost 7 years now, I find the possibility of S. 682 passing totally disturbing.

Adoption, contrary to what you may believe, isn't just about a young, unwed woman giving birth to an unwanted child and "getting rid of the problem" by giving it to two wonderful and loving parents to raise it as their own. Somehow, the world loves to paint the fairy tail of the grateful little adoptee living happily ever after never wondering where he or she came from. Almost as if the fact that they were given up unselfishly by their "first mother" just erases the fact that she ever existed.

I don't know why, or how this myth ever evolved, but it's the most ludicrous thing I have ever encountered. Where society got the idea that you could just take a child from its mother in the name of "what's best for the child," forge a so-called "birth certificate" by erasing the child's natural parents name, and adding in the adoptive parents instead (and assume this child will never have a need to know who they are and where they came from) is beyond me.

We, as adoptees, deserve the same rights as any other person who walks on this earth. Most people in the United States have the freedom of knowing who their natural parents are (because they are raised by them), know what their nationality is, know who they look like, and know their families medical history. We, as adoptees, don't have these rights. Somehow this was deemed "fair" by someone in The Stone Ages and now we have to live with this even in this day in age.

I found my birthparents by going through an "underground." I paid \$150 to find my birthmother's last name, and I searched on my own and found her 3 months later. It is so absurd that I had to actually pay someone to find out what was rightfully mine to begin with. I don't understand why we as adoptees are the one's that suffer the most when the whole "adoption process" is supposedly in the "best interest of the child." It's almost as if we have to suffer for the irresponsibility of our mothers.

Although I had a great childhood with parents that love me dearly, my adoption affects me on a deeper level that I can't put into words. To know that there are still people out there who seriously think it's better to keep a child birthright a secret, regardless of where they were born, makes me sick. Just because a child is born outside the U.S., and is adopted into the U.S. doesn't mean their feelings will be any different from mine. EVERY adoptee should know from the earliest time possible where they came from, who their natural parents are and what their names are, and how they can contact their natural parents when the time is right FOR THE CHILD. It's time for the lies to stop, and to truly start making the adoptive child's best interests a priority. In terms of "best interests," the ranking at this point in time in the adoption triad goes the adoptive parent first (keeping the child's adoption records sealed so that the adoptive parent will not be threatened by a birthmother or birthfather butting into the child's life at any time). Second, the birthmother (keeping the child a secret depending on her circumstance).

And third, the adoptive child (last on the list of priorities of course, since we never had any say in the matter to begin with).

In closing, I would like to say that I am not anti-adoption. I believe as a last resort, in cases of abuse, etc., that adoption may be in the best interest of the child. However, even so, ALL PEOPLE wherever they are born, MUST know who they are!!! This is totally unacceptable! Adoptees have needs like everyone else. We are not some kind of caged animal that you can control as you see fit. It seems everyone who is NOT adopted comes off as an expert in adoptee psychology where in reality they truly do not have a clue as to how we feel or what's right.

If this bill passes, it will be a big mistake. A child born outside the U.S. is entitled to know who they are.

They have the right to find the woman who gave birth to them when they feel they are ready. Every human being should have the right to know their mother. By taking that right away, you violate everything this country stands for.

Sincerely,

TRACY HOUSER.

ELLEN GARLICH,
Christiansburg, VA 24073.

Hon. JESSE HELMS,
U.S. Senate Foreign Relations Committee,
Washington, DC 20510.

ATTN. S.682—TESTIMONY

DEAR SENATOR: I am writing in opposition to S. 682—Intercountry Adoptions Convention Implementation Act of 1999. In particular, I am concerned about the adoption secrecy provisions contained in Title IV, Section 401.

First of all I would like to express my concern that people affected by adoption, such as myself, and international adoption in particular, have not been invited to testify on this bill. Instead, I understand that only adoption industry professionals were asked to present testimony at scheduled hearings for S. 682. Americans who have experienced adoption firsthand, whether as adoptees, adoptive parents, or birthparents, are in a position to provide meaningful feedback which should not be ignored in the drafting of adoption related legislation.

I am an adoptee who has been searching for medical information for over 17 years. My adoption was handled privately and arranged by a doctor. It baffles me why no one, especially the doctor, found it important to get a medical history to pass on. It could have been done with no identifying information given out to my adoptive parents or myself. It angers me that as a tax paying citizen I am not entitled to information pertaining to myself. I am told that it is to protect the rights of the child. I am no longer a child. I have an ailment that the doctors can't pinpoint, and with no medical history it's like finding a needle in a haystack. My doctor has even written the state to request copies of my files, but to no avail. Even my adoptive parents have written letters, but get the same response. I have children that would benefit from knowing their mothers medical history. Unless your are an adoptee, you can't even relate to what it is like to have no heritage to pass on to your children, to not even know your nationality or your genealogy. For a school project, my daughter was to see how far they could track her ancestors. She couldn't do it on my side because I don't even know it. It's embarrassing to tell your children "I don't know who my ancestors are", its embarrassing to constantly be asked what nationality I am and say "I don't know". I have nothing to link myself to. It's like an empty void that can't be filled. According to the Freedom of Information Act, I have a right to any information on myself, but this law is ignored as well when it comes to adoption. I should not have to spend thousands of dollars to have a private investigator find out information that should be my basic rights as an American tax paying citizen.

I ask you to prayerfully reconsider this bill. S. 682, as proposed, not only short-changes adoptees, but also goes against the intent of the Hague Convention, which it claims to "enable". Consideration needs to be given to the rights of the adult adoptees to documents held on them by the government.

Thank you for taking the time to read and consider my testimony. I hope that before you even consider passing this bill, that you will agree to hear testimony from our side, not just testimony from so called professionals that have not experienced firsthand the effects of adoption.

Sincerely,

ELLEN GARLICH.

Hon. JESSE HELMS,
U.S. Senate Foreign Relations Committee,
Washington, D.C. 20510.

DEAR SENATOR HELMS: As an adult Korean adoptee, I write to you out of a profound concern that the privacy provisions in S. 682—the Intercountry Adoption Convention Implementation Act of 1999 that you and Sen. Mary Landrieu introduced earlier this year—may actually contradict both the letter and the spirit of the Hague

Convention on Intercountry Adoption that the bill is ostensibly intended to help implement. The most worrisome provisions in S. 682 are Section 401 (b)(1) and 401 (2)(abc).

401 (b)(1) Consent Required.

Except as provided in subsection (d), identifying information contained in Convention adoption records shall not be disclosed.

401 (2) Application of Privacy Act

a. An individual, or an individual's parent or guardian, who would otherwise have a right to access any Convention adoption record pursuant to section 552a of title 5, U.S. Code, shall have such right with respect to identifying information in such record only to the extent that such right is not restricted by this section.

b. No Disclosure to Child Under 18. A child who is the subject of a Convention adoption record shall not be afforded access to identifying information in such record, and such information shall not be disclosed to such child, unless the child has reached the age of 18 years.

c. Freedom of Information Act Exemption. Information contained in records of the Department of State and the Immigration and Naturalization Service relating to adoption cases subject to the Convention shall not be disclosed to any person pursuant to section 552 of title 5, U.S. Code.

Rather than help implement the Hague Convention, these privacy provisions, if enacted into law, would actually undermine it; they would make it extremely difficult if not impossible for many adult intercountry adoptees to pursue a search for information on the circumstances of their birth and adoption; and they would virtually preclude the possibility of a search for birth parents, even under conditions of mutual consent. Even in situations in which the birth mother and an adult adoptee are simultaneously searching for the birth mother—not an uncommon scenario at all—the privacy provisions of S. 682 would erect an impenetrable wall between the adoptee and the birth parents. Clearly, the creation of such insurmountable obstacles to search was not the intent of the Hague Convention and it is contrary to the emerging consensus within the adoption community about the right of adult adoptees' access to information about their circumstances of birth and adoption where such access does not seriously infringe upon the privacy of the birth parent(s).

Speaking personally, I have recently decided to pursue a search for my birth parents, and the lack of records from the period of my birth and adoption (1960–61) and the time already elapsed since then make the chances of a successful search already low; the privacy provisions of S. 682, if enacted, would almost certainly deprive me of any additional information about the circumstances of my birth and adoption. It is quite possible that my birth mother may still be alive, and she may even be searching for me; with both of my adoptive parents now dead, she would be the only parent remaining to me; S. 682 could well ensure that we never meet again.

I urge you, then, to excise the aforementioned privacy provisions from S. 682, and I submit this letter as testimony to my opposition to S. 682 as currently drafted.

Sincerely,

PAULINE PARK, PH.D.

KIMBERLY A. TURNER,
New Brighton, MN 55112.

Hon. JESSE HELMS,
U.S. Senate Foreign Relations Committee,
Washington, DC 20510.

DEAR SENATOR, As an adult, International Adoptee, and American citizen, I want to strongly urge you to reconsider provision S. 682 of the Intercountry Adoption bill.

When I took my two daughters (6 & 4) to see Tarzan this summer, I got a lot more than the usual kids movie I was expecting. Who would've thought an old story retold (and the accompanying Phil Collins soundtrack) would become a somewhat cathartic experience for me? What could I possibly have in common with Tarzan and his family of apes?

I was born thirty-eight years ago in Korea, adopted at the age of one, and raised in Iowa. Like Tarzan, those I grew up with were the only family I knew and loved. I have always considered myself very well adjusted to life as I knew it—to the point that I felt to give any thought of where I came from to be fantasy, and I was much too realistic.

Though my Mom always encouraged me to know more of my biological heritage, I wanted nothing to do with it. Just as Tarzan, I wanted to fit in, to not be considered different. The reflection in the mirror may have been Asian, but American is all I have ever known.

It was when I was pregnant with my first daughter that I allowed myself to consider my own beginnings, and to realize that they were actually human-I didn't just magically appear. What is the right balance between adoptive and biological heritage? Especially if there are two totally different cultures and you really have no connection to one.

My first connection came on September 10-12, 1999. I had the opportunity to attend The Gathering in Washington, DC, a conference which explored the various aspects and effects of international adoption on the first generation of Korean Adoptees. Not only are we the first generation adopted from Korea, but we have paved the way for international adoption as it has come to be known in the U.S. and Europe.

I attended the conference with curiosity and trepidation. The prospect of being surrounded by Asians was something I was not used to, nor comfortable with. What I found was my innermost thoughts and feelings being voiced by strangers who looked like me, without ever having told them a thing. After three days they knew me in ways those who have known me a lifetime will never understand.

This brings me to the Intercountry Adoption Convention Implementation Act of 1999 which is under your consideration now. Specifically provision S. 682, sections 401 (b)(1) and 401 (2)(a)(b)(c).

You cannot begin to comprehend what it is like to have no knowledge of your background as it relates to international adoptees, unless you yourself have experienced what we have. It has taken me thirty-seven years to even acknowledge that being "well adjusted" doesn't mean you have to deny your origination. It will have devastating and long lasting repercussions to take away adult adoptees rights as it pertains to the privacy provisions you are now considering.

For the first time I have given consideration of possibly returning to the country of my birth. I may find that reality is what I always thought it to be, that there are no real answers for me, but even then I can put to rest some of those nagging feelings that are deep within. Like Tarzan I think I will be grateful to have better understanding of where I came from and will also realize that my family and home are where they've been for the last thirty-seven years.

We can learn the importance of identity and healing knowledge from this simple children's story, of how Tarzan transformed from the anguished young boy to a confident man, as he came to find out where he was from and how he came to be with those who raised him. Disney is probably grateful to have another profitable venture, but the connection it can provide to international adoption is amazing.

Please take the time to listen to the voices of we International Adoptees and allow us to help you understand the full ramifications of your vote on this issue.

Sincerely,

KIMBERLY A. TURNER.

ANITA WALKER FIELD,
Skokie, Illinois 60077.

Hon. JESSE HELMS,
U.S. Senate Foreign Relations Committee
Washington, DC 20510.

ATTN. S.682—TESTIMONY

When the Senate drafts legislation, I believe it is imperative that our elected representatives listen carefully and thoughtfully to the people about whom the legislation revolves. In the matter of S. 682, an adoption bill, the views of adopted citizens must be taken into account. I am a 62 year old adopted woman who finds it unacceptable that only representatives from the adoption industry were invited to give testimony to the Senate on S. 682.

Did you ever wonder what it is like to be adopted; to live your life without any knowledge of your biological origins? What do you think it is like to lose your original parents, your name, your religion, and your culture with just one stroke of a judge's pen? You become a new person when you are adopted; a person created not by your biological parents but by the state. The Superior Court of the District of Columbia, in a case known as "In re Female Infant," referred to the adult adoptee's plight as a form of "genealogical bewilderment." And this court was talking about adoptees born in the United States.

Imagine, if you can, how a child born in another country and into another culture must feel when he or she is brought to the United States through the process of adoption. How "genealogically bewildered" must he or she feel? These children have a different primary language, a different culture, and often, a different face. Will their heritage be lost to them forever? It most certainly will, if S. 682 is enacted into law.

Section 401 of this bill is of particular concern to me. It states that upon reaching the age of maturity, internationally adopted children will be forbidden by federal law to ever access information pertaining to their original identities. Section 401 sanctions the federal government to permanently seal the birth records of international adoptees in the United States.

This provision flies in the face of the current trend of open records in our country. In 1998, the voters in Oregon overwhelmingly approved a ballot initiative to unconditionally release original birth certificates to adult adoptees.

That same year, The United States Sixth Circuit Court of Appeals upheld a 1996 Tennessee adoption records law giving adult adoptees access to their original birth records. [Roe v Sundquist] In 1997, the United States Supreme Court declined to review Roe v Sundquist, thus letting stand the Sixth Circuit Court of Appeal's decision that the federal constitution does not prevent a state from making birth records available to adults adopted as minors. And just this month, the Supreme Court of Tennessee upheld this open records legislation.

To further muddy the waters, Section 401 states that international adoptees would be exempt from using the Freedom of Information Act to obtain any information about themselves which is being held by the federal government. This exemption is normally made only for matters of national security. This is blatant discrimination against one class of people whose only "crime" was to be born in another country and adopted by United States citizens.

The Joint Council on International Children's Services also expresses serious reservations about S. 682. They write, "... the Hague Convention in Article 30 specifically mandates that information on the child, 'in particular information containing the identity of his or her parents,' is preserved and that appropriate access be allowed."

It is evident that S. 682 is in conflict with that which it proposes to implement—The Hague Convention on Intercountry Adoption.

Adoption is a fluid, lifelong process. That which is in the best interests of adopted "children" is not in the best interests of adopted adults. Sealing birth records of adopted "children" promotes the adoption process and serves to preserve the adoptive family unit. But continuing to keep the records sealed after adoptees reach adulthood is most decidedly not in the adult's best interests! Because this practice causes us adoptees to be "genealogically bewildered" all of our lives.

I believe it is the civil right of every adult citizen of the United States, regardless of the circumstances of his or her birth, to request and receive, unconditionally and without falsification, his or her original birth certificate.

Honorable Senators, I urge you all to vote against S. 682 unless Section 401 is amended to remove the secrecy issues.

Thank you,

ANITA WALKER FIELD.

AMERICAN ADOPTION CONGRESS,
New Castle, DE 19720.

Hon. JESSE HELMS,
U.S. Senate Committee on Foreign Relations,
Washington, DC 20510.

RE: S. 682—TESTIMONY.

DEAR SENATOR HELMS: The American Adoption Congress (AAC) appreciates this opportunity to present its response to the testimony submitted by adoption organizations and individuals on Tuesday, October 5, 1999, concerning S. 682.

The AAC, founded in 1978, is a national organization comprised of individuals, families and adoption professionals committed to adoption reform. We represent all whose lives are touched by adoption. Through education and advocacy, we promote honesty, openness and respect for family connections in public policy.

AAC supports ratification of the Hague Convention on Intercountry Adoption if and only if implementing legislation establishes adequate safeguards for children and parents.

Article 30 of the Convention states that identifying information and the medical history of the child must be preserved and that the child or his representative shall

have access to such information. Section 401 of S. 682 deprives adoptees of this access. We urge you to revise this section so that it conforms to the language in Article 30.

Our organization strongly supports the requirement in Section 105(a)(3) that the number of disrupted intercountry adoptions be reported. While we respect the Child Welfare League and the Joint Council on International Children's Services, we do not agree with their request that this requirement be deleted. Dr. Ronald Federici and Barbara Holtan of Tressler Lutheran Services presented testimony on Tuesday about the rising number of disrupted adoptions in the past few years. With over 15,000 children immigrating into the United States for adoption in 1998 alone, it is critical that these disruptions be tracked, including the country of origin and the responsible agencies or persons providing adoption services in both countries.

The requirement that children emigrating from the United States must be adopted by a married couple should be deleted (Sec. 303(b)(1)(B)). There is no similar requirement for children immigrating into the United States. The requirement may cause other Convention countries to retaliate and restrict adoption of their children to married couples in the U.S.

We also heard testimony that many agencies and facilitators are not available to the adoptive parents once the adoption is finalized and the fees, often exorbitant, collected. AAC recommends that Adoption Services, as defined in Section 3(3)(F), be revised so that an agency responsible for arranging an adoption is also required to provide a full range of post-adoption services, not simply post-placement monitoring. It could reasonably be expected that the number of disruptions would decrease as adoptive parents have an opportunity for counseling and other post-placement services. As Barbara Holtan said so well, "Adoption is not an act; it is a process. Far too many adoption agencies and facilitators see it only as the act of getting the child. Far more attention must be paid to the long view: the process of raising that child to adulthood."

Thank you for allowing us the opportunity to present our position on this important legislation.

Respectfully submitted,

CAROLYN HOARD,
Legislative Director.

PARENT FINDERS OF CANADA,
West Vancouver, B.C. V7V 3J5 Canada.

Hon. JESSE HELMS,
*U.S. Senate Committee on Foreign Relations,
Washington, DC 20510.*

RE: S. 682—TESTIMONY

DEAR SENATOR, We are writing to support your efforts to have the United States ratify the Hague Convention on Intercountry Adoption and to strongly oppose any provisions which would officially and permanently seal the records of international adoptees in the United States, specifically S. 682, Section 401.

Parent Finders of Canada was founded 25 years ago in Vancouver to promote openness and understanding in adoption, to provide a volunteer service to the adoption community in general, and specifically meet the needs of adult adoptees and birth relatives. Today we have over 29 chapters across Canada and 2 chapters in the United States, with a total of over 56,000 people registered in our Canadian Adoption Reunion Registry.

Canada's 1998 International adoption statistics show that the United States was one of the ten leading countries from which children were adopted. There are also a significant number of Canadian children who are adopted by United States citizens each year. The Hague Convention on Intercountry Adoption seeks to establish minimum "safeguards to ensure that intercountry adoption takes place in the best interests of the child and with respect for his or her fundamental rights as recognized in international law". We therefore support your efforts to ensure that the United States ratifies this treaty.

However, we strongly oppose S. 682, Section 401, which seeks to officially and permanently seal the records of international adoptees in the United States, as Section 401 contravenes international law including: Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the United Nations Convention on the Rights of the Child, as well as the spirit and intent of the Hague Convention on Intercountry Adoption.

You should be aware that the Tennessee Supreme Court in *Doe v. Sundquist*, just last week, recognized an adoptee's right to retroactively access their personal

records (<http://www.tsc.state.tn.us/BARISTA/Tsc/993/Doeopn.htm>). In addition, the U.S. Sixth Circuit Court of Appeals has also upheld an adoptee's right to access their personal records (<http://www.law.emory.edu/6circuit/feb97/97a0051p.06.html>).

The United States Senate's proposal to seal international adoptees' records would therefore thwart the openness and disclosure provisions of several States and some Provinces. For example, if a child was adopted from the province of British Columbia, which permits adoptees to access their records, or the State of Tennessee, which also permits adoptees to access their records, the Senate's proposed S. 682, Section 401 would negate access to records rights which already exist for these international adoptees.

We therefore respectfully call upon the United States Senate to ratify the Hague Convention on Intercountry Adoption without any rider provisions which would seal any records of international adoptees in the United States.

Sincerely,

JAMES KELLY,
LEGISLATIVE CHAIR,
Parent Finders of Canada.

ADOPTED PEOPLES ASSOCIATION,
IRISH ADOPTION CONTACT REGISTER,
Republic of Ireland.

Hon. JESSE HELMS,
U.S. Senate Committee on Foreign Relations,
Washington, DC 20510.

RE: S. 682—TESTIMONY: U.S. Hague Convention will Permanently Seal Records of International Adoptees; S. 682, Section 401, which contains the sealed records and secrecy provisions.

All at the APA (Adopted Peoples Association (Ireland)) are deeply saddened at this development in the U.S. Senate. We are genuinely outraged at this regressive step which is completely out of line with the international movement of openness in adoption. Would somebody please inform these Senator's that secrecy in adoption only causes heartbreak and frustration to all concerned.

It may be of interest to note that over 2,000 Irish born children where adopted by U.S. couples in the 50's, 60's & 70's. As adults the APA has assisted many of these people to successfully reunite with their natural families. As a result we have acquired a specialised knowledge of the affects of inter country adoptions.

Late last year one these reunions was front page news in the influential Irish Voice newspaper and the story was syndicated around the U.S.—why? Because it showed the world the raw emotions involved in adoption search and reunion, i.e., that blood ties can never be broken? The adopted person in this case searched for over twenty years travelled over 3,000 miles 3 times, just to find his mother.

This is not something he wanted to do, this was something he had to do! His mother was overjoyed. She recalled never seeking confidentiality, it was imposed by the all knowing authorities. This imposed confidentiality ensured the loss of over twenty years of a now flourishing relationship—those years are lost, they can never be given back.

Only a very poorly educated person would seek to deny a person a right to know their very own mother?

It may also be of interest to note that the Heads of Bill entitled the Post Adoption & Associated Issues Bill has been under preparation by the Dept. of Health & Children and will be presented to the Republic of Ireland's Cabinet (The Government's 15 Ministers) January next for approval.

This Bill when enacted will give all adopted people over the age of 18 in the Republic of Ireland the statutory right to obtain their original birth certificate and surrounding adoption placement information. The Bill will also provide for the establishment of statutory search and reunion services to assist adopted people and natural family members to trace one and other.

The Government regard this legislation as a top priority. The relevant Government Minister, Frank Fahey TD stated in speech given in Dail Eireann (the Irish Parliament) earlier this year that his priority is to enact legislation that will enable adopted people access their birth record information which he believes is their birth-right.

The Dept. of Health & Children are also preparing the Head of a Bill to enable Ireland comply with the terms of the Hague Convention on the Protection of Children with Respect to Inter Country Adoption which is due to be presented for Cabinet approval in May/June of next year.

One of its main provisions will be that the child's natural family background information must be received by the Irish Central Adoption Authority before the child will be issued with an entry visa by the Irish Department of Foreign Affairs (except in clearly defined truly exceptional circumstances). This background information will be made available on request to the adopted person at the age of 18.

Put simply—No background information—No adoption.

This measure will also work the other way i.e. if an Irish child is to be adopted in a foreign jurisdiction the child must have the same rights as a child adopted in Ireland.

A proposed adoption of an Irish child to a jurisdiction with less rights than an Irish adopted child will be vetoed.

Regrettably we will be making representations through all diplomatic channels available to us concerning this nightmare measure.

We will start with Sen. Edward Kennedy, the American Ambassador to Ireland, and the Irish Minister Foreign Affairs, David Andrews TD.

KEVIN COONEY,
RESEARCH & INFORMATION OFFICER,
Adopted Peoples Association (Ireland).

Re: S. 682—Intercountry Adoption Convention Implementation Act of 1999, 106th Congress

MR. CHAIRMAN & COMMITTEE MEMBERS: Thank you for providing us with this opportunity to express our concerns regarding S. 682—Intercountry Adoption Convention Implementation Act of 1999 (“S. 682” or the “Bill”). Bastard Nation is an incorporated not-for-profit organization dedicated to preserving and restoring the rights of adoptees.

I. Executive Summary and Recommendation

We believe that the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (the “Hague Convention” should be enabled by the United States in a manner such that the rights of intercountry adult adoptees to know their identities will be protected and affirmed.

We have the following areas of concern:

(i) Title iv, Section 401 of S. 682.

We are concerned that S. 682 Section 401 will impose by law a form of secrecy on the adoption process which is, by its nature, unfair and discriminatory toward Americans adopted from foreign countries.

(ii) The hearing process for S. 682.

We are concerned that no apparent effort was made to invite American citizens personally affected by international adoption, including adoptees, adoptive parents and birthparents and the voluntary organizations representing them, to submit testimony to the Committee regarding S. 682, despite the fact that the Bill may have a direct impact upon their lives and the lives of all Americans touched by adoption.

We urge the Committee to amend Section 401 of S. 682 to protect the right of adult intercountry adoptees to freely access any Hague Convention-related information held on them by American government agencies where such access would not explicitly contravene the Hague Convention. Failing amendment of Section 401, we request the Committee to reject S. 682 in its entirety. We also request that in the future the Committee makes appropriate efforts to provide timely notification of relevant hearings and pending legislation to American citizens personally concerned with the international adoption process so that they may participate more meaningfully in the legislative process.

II. Concerns with S. 682 (Title IV, Section 401)

Adult adoptees everywhere deserve the information held on them by public agencies and courts concerning their identities, heritage and development.

We are concerned that secrecy provisions far more stringent than those required under Article 30 of the Hague Convention are included in S. 682. We believe that American intercountry adoptees have an interest in seeing their access to such information legally preserved instead of prohibited, and we also believe that this interest takes precedence over whatever foreign interests S. 682 seeks to protect by prohibiting such access.

It is our view that the Federal government should not be maintaining secret files on American citizens in the absence of a national interest for doing so, nor should

the Federal government require state and local administrations to do likewise through Federal legislation. However, Section 401 (b) seems to have the effect of legally requiring the maintenance of such secret files, and of permanently preventing adoptees from accessing them.

Our system of government requires that all citizens deserve be accorded equal dignity and respect under the law. Specifically restricting the legal ability of adult intercountry adoptees to access their personal files and exempting them from the Freedom of Information Act of 1966, as amended, violates the dignity of such adults, and is discriminatory. Section 401(c) provides for such an exemption, which we understand is normally made only where interests of national security or public safety are involved. There are no interests of national security or public safety involved in providing non-criminal and non-suspect American citizens with access to their own records, even where such records come into the possession of our government from foreign sources through the Hague Convention adoption process.

In addition, Section 401 appears to go against the will of the American people in respect of the treatment of the government-held records of adoptees. State legislatures have enacted or are considering the enactment of laws to allow domestically adopted adults access to certain adoption records. Oregon and Tennessee have recently enacted legislation permitting access to identifying information. On Friday, September 27, 1999, the Tennessee State Supreme Court ruled that such legislation is permitted under their state constitution, dismissing attempts by plaintiffs to overturn the state law in question (*Doe v. Sundquist*). This follows a ruling by the U.S. 9th Circuit Court upholding the same law, as well as by the refusal of the U.S. Supreme Court to grant cert. to those opposed to the law in their petition to stop it from going into effect. On July 16, 1999, a lower court in Oregon issued a similar ruling (*Doe v. Kitzhaber*) relating to that state's new law permitting adult adoptees to access their Original Birth Certificates—a law which was approved by [57%] of Oregon voters in a state initiative in November, 1998. Furthermore, recent public opinion surveys conducted by organizations such as CNN have shown that a vast majority of Americans support the ending of adoption secrecy laws. S. 682 threatens to make these gains meaningless for intercountry adoptees. It is unclear why the sponsors of this legislation, Senators Jesse Helms and Mary Landrieu, appear to be going against the national trend toward greater openness.

America's states are not the only governments which give recognition to the rights denied by S. 682. Many foreign countries also provide adoptees with access to government-held records, including countries who regularly allow children to be adopted in the United States. Yet S. 682 seeks to perpetually seal the records of adoptees who enter the U.S. from all countries, regardless of the adoption practices prevalent in those countries—an extreme form of adoption secrecy which is not required under the Hague Convention or any other international instrument. If S. 682 is passed as written, adoptees coming from certain countries would legally lose their right to information about their identities and heritage only when they become Americans under the provisions of S. 682. Such secrecy requirements may also conceivably prevent such adoptees from benefiting under foreign programs created to assist adoptees once they become adults. Foreign governments have or are considering measures which would provide international adoptees with certain benefits. However, the ability of future generations of intercountry adoptees to take advantage of such benefits may be put in jeopardy by S. 682's secrecy provisions. A case in point is the Republic of Korea, which, according to statistics provided by the U.S. Immigration and Naturalization Service was the source of 1,829 intercountry adoptees entering the United States in 1998. South Korea provides considerable assistance to adoptees seeking to obtain information about their identities, as well as programs which provide tangible economic and social benefits to such adoptees, should they choose to return to South Korea.

The right of adoptees to information to their identities and heritage is widely recognized and mandated in a number of international instruments. These instruments include the Hague Convention (Article 30), the U.N. Convention on the Rights of the Child (Articles 7, 8 and 20 (3)), the U.N. Declaration on Legal and Social Principles Relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally (Articles 9 and 24) and the widely accepted Uniform Guidelines for Foster Care and Adoption prepared by the International Council on Social Welfare (Sections 2.11 and 4.10). Section 401 of S. 682 appears to go against both the intent and letter of these instruments, including the instrument it purports to enable.

III. Concerns about the Legislative Process in Respect of S. 682

We are disappointed that no credible attempt was made to solicit testimony from individuals and voluntary organizations representing any of the parties personally

involved in the adoption process. We have heard reports to this effect from voluntary groups representing birth-parents and adoptive parents who have expressed similar concerns. Americans who have experienced international adoption first hand as adoptees, adoptive parents or birthparents are in a position to provide meaningful and substantive feedback to the Committee. We ask the Committee to see these people and their organizations as the valuable resources they are and to solicit testimony from them. We also believe that the involvement of such people in the legislative process offers a necessary complement to the views of adoption professionals and others, including paid lobbyists, involved with the adoption process in remunerated capacities, who may have certain vested interests with respect to the outcomes of such process.

IV. Conclusion

We believe the purposes of the Hague Convention are to mandate accountability and integrity in the international adoption process, and to provide minimal standards for protecting the rights of adoptees, including the right of adoptees to information with respect to their identities and heritage. S. 682 as drafted appears to contradict these purposes, and thus requires amendment or rejection by the Committee in the manner set forth in this testimony.

We request that the honorable members of the Committee recognize that international adoption is a lifelong process and not merely about "moving" children and babies across international borders. The American enabling legislation for the Hague Convention needs to reflect such a lifelong process, as well as to better protect the interests of those who become American citizens through application of its provisions. The best means to achieve these ends are to ensure that the legislation in question is consistent with the desires of the American people, and, in particular, those voters who are personally concerned with the adoption process. We stand prepared to assist you in this process.

Yours sincerely,

RON MORGAN,
EXECUTIVE COMMITTEE,
Bastard Nation.

JULIE DENNIS,
LEGISLATIVE COMMITTEE,
Bastard Nation.

ALBERT S. WEI,
EDUCATIONAL DEVELOPMENT COMMITTEE,
Bastard Nation.

Hon. JESSE HELMS,
U.S. Senate Committee on Foreign Relations,
Washington, DC 20510.

ATTN: S. 682—TESTIMONY

DEAR SENATOR HELMS: I previously sent correspondence by fax to both you and the Honorable Mary Landrieu regarding the above captioned legislation. To date, I've heard no response and want to take this opportunity to submit formal testimony to the Committee reviewing S. 682 in an amicus capacity.

I am a 39-year old adoptee, born in Ireland, adopted and raised in the United States. Moreover, I am also birth mother to an adult daughter born and adopted in the US. We were happily reunited in 1997 and now enjoy a close, loving relationship that extends to her adoptive parents, my own family, and that of her birth father.

Having reviewed the text of S. 682, I am gravely concerned that this legislation serves to violate many terms of the Hague Convention on Intercountry Adoption, rather than to support or implement its articles. The Hague is quite clear in its intent to provide all children adopted across national lines with the records of their birth, including the original birth certificate. S. 682 actually seeks to seal these records and exclude them from the FOIA information most naturalised US citizens would be able to request and receive.

I was able to obtain my original Irish birth certificate using the FOIA, along with other important documents, and am grateful that this avenue was open to me as a US citizen. Unfortunately, this information would have been sealed from me under a 1984 law passed by the Commonwealth of Pennsylvania, where my adoption was finalised. It is a sad fact that most US adult adoptees do not enjoy the same rights as their non-adopted counterparts—that is, access to their original birth

certificate (OBC). Only Kansas and Alaska have always had open records, and now Tennessee (under a very recent Tennessee Supreme Court ruling) will reopen theirs. Additionally, Oregon passed Measure 58 this past November to reopen access to the OBC, but it is currently under an injunction until a legal decision is reached.

Senator, this very simple piece of documentation is the birthright of every other American. Why should any adult be denied this right simply because of the status of their birth? In the case of international adoption, this document and other information, such as medical history, are vital to the transition of children (who will, incidentally, one day be voting adults) in our culture. Adoption is not a one-time, one-step process. It is a lifetime, full-circle event that involves the cooperation and full disclosure of all parties involved*the birthparents (inasmuch as possible), the adoptive parents, and of course, the child.

I urge you and the Committee to reconsider the proposed legislative context of S. 682 and move instead toward ratifying and implementing the full Hague Convention as written. Ireland is currently assessing ratification and I am working diligently with government and peer groups in that country to encourage that process. I have been active here in the US as well for many years in adoption issues, particularly relative to open records.

I would be most happy to provide the Committee any expertise I can offer, background materials, or general assistance and testimony. This issue is very important to me and one with which I closely identify.

Please reconsider the wording of this legislation and most importantly—consider the voices of those whom it most affects. To date, the Committee is represented largely by adoption industry members, with little to no representation from individuals affected most by the process: adoptees who will become, or are now, adults.

Thank you for your time and consideration,

MARI T. STEED,
PENNSYLVANIA STATE DIRECTOR, BASTARD NATION.

JOINT COUNCIL ON INTERNATIONAL
CHILDREN'S SERVICES.

Hon. JESSE HELMS,
U.S. Senate Committee on Foreign Relations,
Washington, DC.

DEAR SEN. HELMS: The Joint Council on International Children's Services thanks you for your leadership on the U.S. ratification and implementation of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.

Joint Council, as the largest and oldest affiliation of licensed, non-profit international adoption agencies in the world, has been closely involved with the treaty since its historic inception in 1993. Susan Freivalds, Joint Council's Hague Convention Policy Coordinator, was a delegate to the Hague Conference. Susan Cox, then president of the Board of Directors of Joint Council, was also a delegate in 1993.

Since then, Joint Council has been promoting the Hague Convention as an important means of protecting children, and of safeguarding the rights and responsibilities of all those involved in adoption. We are disappointed that we have not been invited to testify about S. 682 on behalf of our 130+ member licensed, non-profit international adoption agencies. In the more than 20 years of Joint Council's existence, our member agencies have developed an impressive amount of professional experience, knowledge, humanitarian aid programs, and commitment to children and families.

We appreciate the opportunity to submit testimony for the record on S. 682, and will do so.

We are aware that speculation has been raised about Joint Council's commitment to accountability by agencies. Sen. Helms, in the interest of fairness and accuracy, we want to be sure you receive correct information.

For example, Joint Council has taken a leadership role in promoting standards of excellence and accountability for adoption professionals. We take the accreditation process for agencies very seriously, not simply because we recognize it as a vital part of the Hague Convention process, but also because it provides rigorous and appropriate opportunities for professional accountability.

In fact, as a result of thoughtful deliberation, in dialogue with other adoption-related agencies and federal entities, Joint Council led the development and promotion of Proposed Accreditation Standards for adoption agencies. (A copy, as published in our February 1997 *Bulletin*, is attached.)

These proposed standards, developed with the Hague Alliance, were sent to the State Department nearly 3 years ago, as a measure of our commitment to account-

ability and service. The Council on Accreditation used these proposed standards in the development of their accreditation process for intercountry adoption providers. Many of our 130+ Joint Council agencies are currently going through the rigorous accreditation process with COA, and we expect many more will do so.

Sen. Helms, we raise this with you as but one example of Joint Council's commitment to professionalism and service—well before the implementing legislation was introduced. Additionally, you may not be aware that our Education Committee has produced two extremely important and widely disseminated documents related to preparation and post-placement services.

Joint Council believes that preparation is a critical component for the success of any adoption. The Adoptive Parent Preparation System, published by our Education Committee in 1998, has been widely distributed as a minimum standard for preparation in the homestudy process. It includes thoughtful readings and an impressive resource guide, encouraging both parents and agencies to look at the preparation process thoroughly and thoughtfully.

This year, the Committee produced "Post-Placement Guidelines and Tools for Adoption Professionals," as an educational tool signifying the importance we place on quality post-placement services.

Competence, financial soundness, and ethical behavior should be considered basic standards for the accreditation process. In other words, we are deeply committed to measures of excellence for professionals providing adoption services.

That is, of course, one part of our motivation in promoting the Hague Convention. We also hope, as the United States moves toward the historic ratification of the treaty, that the adoption process becomes more streamlined and effective. Ensuring that children in desperate need can join loving U.S. families in an ethical, legal, and efficient manner is crucial, and we appreciate your leadership in achieving this goal.

Sen. Helms, thank you for introducing S. 682, and for calling for hearings on the Hague Convention. It is our hope that the needs of the children will come first in these discussions, and that extraneous matters, anecdotal conjecture, or personal agendas will not impede the legislation's progress. We recognize your long-standing commitment to states' rights issues, and suggest that deference to state law, except insofar as it is necessary to implement the Convention, will be important.

We very much appreciate your powerful recognition of the need for this treaty, to ensure that adoption is in the best interests of the child, and to establish a system of cooperation among counties to eliminate the abduction, sale, and trafficking of children. We look forward to the United States taking a leadership role in achieving these objectives, and thank you for your hard work on behalf of children.

Sincerely,

MAUREEN EVANS,
EXECUTIVE DIRECTOR.

SUSAN FREIVALDS,
HAGUE CONVENTION POLICY COORDINATOR.

PROPOSED ACCREDITATION STANDARDS

The Hague Alliance's proposed standards for recognition as an agency qualified to provide intercountry adoption services and accredited under the terms of the Hague Convention on Intercountry Adoption

A. Organization Legal Sanction, and Regulatory Compliance

A.1 The agency is authorized by statute or sanctioned by the state authorities through licensure as an adoption agency to deliver adoption and/or Intercountry adoption service.

A.2 For adoptive placements not finalized in the child's country of origin, the agency that arranged the placements will accept legal custody of the child, up to the finalization of the adoption, as allowed by state law.

A.3 The agency is a non-profit corporation, complying with section 501(c) (3) of the Internal Revenue Code.

B. Governance

B.1 The agency has a governing body responsible for establishing its policies, determining its programs, guiding its development, and providing leadership.

B.2 The governing body is organized so that it can provide governance and oversight and assure that the agency is funded, housed, staffed and equipped in the manner required to carry out its program.

B.3 The governing body delegates responsibility for the administration and management of the agency to a chief executive officer or executive director whom it

holds account able for the agency's performance through a formal evaluation process which occurs no less frequently than every two years.

B.4 Permanent records are kept of the deliberations of the governing body.

B.5 The governing body approves agency policy and assures that the agency is in compliance with all applicable laws and regulations governing its program of services.

B.6 The governing body members receive no honoraria or other compensation for carrying out their duties, other than reasonable reimbursement for expenses associated with service to the agency.

B.7 The governing body assures that neither the board, volunteers, personnel or consultants are favored in applying for or receiving adoption services or other services of the agency.

B.8 Written agency policy prohibits actual or promised payment or other consideration to any party directly or indirectly involved in the administration of an inter-country adoption service, whether acting as an employee or independent contractor, except for the performance of routine professional duties necessary to successfully complete the adoption process.

B.9 No payment or other consideration is provided, promised, or accepted for referral of applicants to or from the agency.

B.10 There are no improper financial interests in the assets, leases, professional services or business transactions of the agency on the part of directors, employees, volunteers, contractors, or consultants.

B.11 Agency salaries and benefits are established in consideration of national surveys and those of similar agencies and organizations in its area and in the field of adoption, including intercountry practice, so as not to unreasonably exceed those norms.

C. Finances and Fees

C.1 The agency obtains sufficient financial resources to operate its programs at an adequate and continuing level consistent with the expectations contained in the Hague Convention on Intercountry Adoption and applicable state laws or regulations regarding intercountry adoption.

C.2 The agency complies with all applicable laws or regulations governing fee-setting.

C.3 The agency establishes a written schedule of fees and estimated or actual expenses and informs applicants at the point service is initiated of the conditions under which fees are charged, changed, refunded, waived, or reduced and the manner and timing of payment.

C.4 At the time of or prior to service delivery, clients are informed in writing of what they will be charged for services and of anticipated fees and costs in the child's country of origin.

C.5 The agency has a policy that it neither solicits nor accepts contributions from adoptive applicants or from persons acting on the applicant's behalf during the period of application or before an adoption has been finalized, unless such contributions are associated with requests made to offer past and present clients by the agency and to the public, provided that donation history and placement decisions are kept separate, insofar as possible.

C.6 An annual budget, based upon a realistic appraisal of funding anticipated and the costs of operation, is approved by the governing body as the financial plan for allocating and managing the agency's receipts and disbursements during the program year.

C.7 The agency follows generally accepted principles of sound financial management, has a bookkeeping and accounting system (cash or accrual method) that tracks all movements of its funds, demonstrates its fiscal accountability through an independent annual audit as well as regular reporting of its finances to the governing body, and meets the financial reporting requirements of state regulations.

C.8 The agency can demonstrate compliance with the fund raising requirements of the states in which it solicits donations.

D. Administration and Management

D.1 The executive director is qualified by education and/or adoption services experience and the management skills sufficient to assure effective use of the agency resources, delivery of agency services, and coordination of the agency's services with those of other agencies in the community.

D.2 The executive director:

- delegates responsibilities only to personnel who are qualified by professional education and/or experience to assume them;
- has a written plan for delegation of authority in his or her absence.

D.3 The agency has a board approved manual of policies and procedures and a manual of personnel policies which serve as guides to the governing body, personnel and others, as appropriate.

D.4 There is a written job description for each agency position, including that of executive director, and persons retained are qualified in accord with the job descriptions.

D.5 The agency's policies specify clearly the conditions under which personnel are employed and protections against favoritism or undue influence in employment practices.

D.6 The agency actively recruits, employs, and promotes qualified personnel broadly representative of the community it serves, and administers its personnel practices without discrimination.

D.7 The agency maintains a secure and confidential system of personnel records which include all necessary documentation of the hiring, evaluation, and other employment-related processes at the agency.

E. Qualifications and Training of Supervisory and Service Personnel

E.1 The agency retains social service supervisory personnel with prior professional experience in providing family and children's services and who have:

- a master's degree from an accredited program of social work education;
- or
- a master's degree from an accredited program in another human service field; or
- a state social work license at the master's degree level.

E.2 Direct social service personnel have at least a bachelor's degree from an accredited program of social work education or in another human service field and prior experience in family and children's services.

E.3 Supervisory and direct social service personnel possess knowledge of intercountry adoption service, including knowledge of issues of:

- separation and loss from family of origin;
- bonding to an adoptive family;
- development and life cycle phases;
- post-traumatic stress disorder;
- identity formation;
- cultural diversity and cross-cultural issues;
- INS rules and regulations.

E.4 Professional personnel providing intercountry adoption service hold the license appropriate in their state to their professional discipline, if applicable, and subscribe to the code of ethics of the professional organization for their discipline.

E.5 All new personnel providing intercountry adoption service are provided with orientation and in-service training in inter-country adoption service, which include:

- the agency's goals, services, policies and procedures;
- the cultural diversity of the service population;
- respect for client confidentiality;
- the lines of accountability and authority within the agency; and
- the agency's ethical and professional expectations.

E.6 Direct social service personnel receive at least 10 hours of training relevant to the field annually.

E.7 Either the executive director, supervisor, or the direct social service provider has direct experience in the professional delivery of adoption services.

F. Quality of Services

F.1 The agency engages in systematic planning and evaluation of its services and holds itself accountable for the quality of the services it provides.

F.2 The agency plans for manages, maintains necessary information about, and evaluates its programs effectively.

F.3 The agency provides to its applicants and clients the opportunity and means to lodge complaints or appeals when decisions concerning them or services provided them are considered unsatisfactory.

G. Generic Service Delivery Standards

G.1 The agency maintains intake procedures which assure that appropriate and timely attention is paid to those requesting service.

G.2 The agency informs applicants for service about its eligibility criteria, the services which are available, and the mutual rights and responsibilities of both clients and agency.

G.3 The agency has written procedures for accepting clients for initial screening and for placement on a waiting list.

G.4 The agency has the capacity to provide, either directly or in coordination with other providers acting on behalf of or under the responsibility of the agency:

- intake screening;
- comprehensive assessment;
- development of a service plan;
- implementation of the service plan;
- coordination of services with other necessary providers; and development of a plan for ongoing services as needed.

G.5 Client records:

- are maintained in a confidential and secure manner;
- contain the essential information deemed necessary to provide the service; and
- comply with legal regulations, including regulations with regard to record retention.

G.6 The agency has procedures addressing:

- protection of the privacy of current and former clients;
- legitimate future requests by former clients for information, particularly for that which may not be available elsewhere; and
- disposition and future preservation of client records in the event of dissolution of the agency.

H. Adoption Service Standards

H.1 The agency identifies the child as the primary client of the service and seeks to provide mutually beneficial relationships in an adoptive family to children whose birth parents are unwilling or unable to provide care for them and who are legally free for adoption.

H.2 Services for adoptive applicants are provided either directly or in coordination with other providers acting under the responsibility of the agency or in coordination with other accredited bodies and include:

- orientation to intercountry adoption, its meaning, the adoption process, agency procedures, and the characteristics of children needing adoption;
- disclosure of the general criteria by which the agency determines eligibility for adoptive parenthood;
- determination of the ability of the adoptive applicants to meet the needs of an internationally adopted child and preparation of a home study report;
- preparation for parenting and placement of an internationally adopted child;
- obtaining assurances that at placement the child is legally free for international adoption;
- following standard procedures to obtain assurance that the child is or will be authorized to enter and reside permanently in the United States;
- full disclosure of all information available to the agency regarding the child's medical and social history as part of the referral information; and assurance that the adoption of the child is finalized.

H.3 The agency collects and exchanges information about the situation of the child and the prospective adoptive parents, so far as is necessary to complete the adoption, and ensures that information held by the agency concerning the child's origin, in particular the identity of his or her birth parents, as well as the medical history is preserved.

H.4 The agency provides prospective parents appropriate time and support to consider a child's referral.

H.5 The agency provides counseling to prospective adoptive parents that includes assistance in understanding the child's cultural, ethnic, or linguistic background and the impact of leaving familiarities and surroundings, as appropriate to the age of the child.

H.6 Post-placement services include:

- providing post-placement reports on the progress of a child, when requested by the country of origin and when not in conflict with the law or public policy of the United States or of the state of official residence of the adoptive parents or parent;
- counseling or referral to counseling for adoptive parents and the adoptee, when an adoptive placement is in crisis;
- re-placement of the child in the event of disruption of the adoptive placement before finalization of the adoption; and
- assurance that the child or his or her representative has access, under appropriate guidance, to information regarding the child's origins that is held by the agency, insofar as permitted by laws governing the agency's op-

erations, the laws of the child's country of origin, and the agency's own policy in this regard.

H.7 Post-adoption services are available, as appropriate under the laws of the child's country of origin and the United States, upon request by members of the adoption triad, and include:

- delivery of services by persons with prior experience in post-adoption service and who are knowledgeable about the legal, social, cultural, and emotional issues pertinent to adoption;
- provision of information sought by adoptees about their origins, as permitted by the laws of the child's country of origin, the laws governing the agency's operations, and the agency's own policy in this regard;
- post-adoption reports on the progress of the child when requested by the child's country of origin and when not in conflict with law or public policy of the United States or of the state of official residence of the adoptive parents or parent; and
- post-adoption counseling on family adjustment and adoption issues or referral when requested by the family.

I. Other Service Standards

I.1 The agency cooperates with the central authority in all matters related to compliance with the terms of the Hague convention on intercountry adoption.

I.2 The agency provides service to applicants seeking to adopt a child from another country on the same basis and with no greater delay than to those applicants seeking to complete a domestic adoption, if the agency places children both domestically and internationally.

I.3 Adoption studies done by or under the supervision of the agency meet agency requirements and applicable state standards and comply with the minimum standards established for international adoption studies by the United States Immigration and Naturalization Service.

I.4 The agency informs families about how to obtain citizenship for their adopted child.

I.5 The agency does not allow preferential placement decisions regarding children the agency might refer for adoption to agency directors, employees, contractors, or consultants who are adoptive applicants.

To: Senator JESSE HELMS, *Chairman,*
Senate Foreign Relations Committee.

RE: S. 682

We hired Kirk Rector an American Attorney living in Moscow, Russia. He was employed by Global Adoption in Global Adoption Agency out of Sheridan, WY. They are still in business after taking money from very many families. Our story is below.

1. Originally signed up with Kirk Rector who basically couldn't tell the truth! His stories changed daily about our children and he didn't check things out regarding databank, relinquishment etc. He wasted 6 months of our time and came up with nothing but 4 failed referrals!
2. Two days before we went to Russia, Ivan Volsky wrote demanding more money and changing his fee due to the fact that he had not been paid the agency fee by another couple who had adopted from Barnaul (who had been totally disgusted with Global's performance.)
3. Got to Moscow *** no-one to meet us. Ivan Volsky came late.
4. As soon as he met us, he asked for more money than had been quoted in the contract. From here on in, the "money talk" started!
5. Nick Volsky (Ivan's brother and helper) argued with us that we had only requested one child! From August 96, we requested two children under 4, twins or siblings.
6. Quoted \$125 per day for expenses. When we got there they tried to hit us for \$250 as Ivan said, "this money which had been quoted was totally insufficient". Nice of him to tell us AFTER we arrived!
7. We were told (at the last minute) to give \$1,000 donation to the orphanage. We offered the money, but were TOLD to buy a computer!
8. We bought a computer (\$1,000), gave \$600 of new and used clothing to the children (after we'd checked with Ivan that used clothing was acceptable), toys and numerous other gifts. We were told the day AFTER the court hearing when the Judge, the Head of Adoptions and the Orphanage Director had said YES to the adoption that this was insufficient and we'd have to pay another \$1,000 or else "Global wouldn't be offered any other

children for the parents who were waiting and we do still have to get your papers translated and your passports ready!" We objected to this blackmail! We were told that the orphanage director had been insulted that we had given her 2nd hand clothing and that "ALL the staff (all 120 of them) in the orphanage, were insulted and furious with us! We had called Russia several times to check things before we took our gifts over. We specifically asked if nearly new clothing was acceptable and we were told yes. The used clothing we gave, by the way, was in excellent condition! We refused to pay the \$1,000 as by this time, we didn't trust either Ivan or Nick Volsky and we ended up only paying \$250. We don't believe that it went to the Orphanage Director! Ivan then changed his story to say that we should be paying \$2,000 per child. Again, none of this was even mentioned before we left for Russia.

9. When we arrived at the host family's home at 7 a.m. one morning, they never knew we were coming! When we arrived at their home one evening at 9:30 p.m. with two three year olds, they never knew that either. When we paid extra for the children's food (another \$20 per day) they didn't know what to give them or when to give it! We relied on Nick to translate to them as they spoke no English and our Russian was limited to Teddy Bears and Dolls talk! Some mornings we waited two hours for the kid's breakfast and when it was ready, it wasn't what we had asked for. We only asked for the same as in the orphanage, porridge and bread. Eggs, cabbage, potatoes, carrot coleslaw and curds came! Oh I forgot the pure cow's milk which gave the kids terrific diarrhea. There was constant arguing in the Host family's house due to the confusion and due to the fact that the woman was so old and kept trying to give us other things to eat which the kids hated, and really she shouldn't have been undertaking such work.

10. Every day between 15 and 20 times, we'd hear about the subject of money from Nick and Ivan. How little they had, how Joyce Volsky never gave them enough, how they couldn't possibly do the adoption for us on this pittance of money unless we gave them more etc. etc. etc. We got so sick of it that on the day they blackmailed us into giving them more for the orphanage, we told them to shut up about money! EVERY DAY IT WAS THE SAME STORY!! It really wasn't what we needed and we knew it wasn't true!

11. Ivan and Nick argued constantly and we mean constantly! Mostly about money. Surprise, surprise and how they should ask us for more! When we handed over the daily expenses, Nick would turn on Ivan and give out yet another lecture in Russian. When we asked Ivan what it was about, he told us that again, Nick bad asked him to get more money from us and tell us that what we were paying was not enough! EVERY DAY WAS THE SAME STORY! Could you have put up with this?? Going to Vyksa by car, they argued most of the way too! It was a great trip!!!! I don't think!

12. Paid for translator, Driver and mid day meal every day and some days we were left without them as Nick or Ivan had other things to do, like going back to the orphanage to pick up papers they forgot to get after the court hearing. So sometimes we had no driver, translator or lunch! Good job we took cuppa soups with us! Of course, no refund was offered here!

There were many problems with Global and I think now they are too many to mention. All we can say is that we would NOT recommend them to anyone. CERTAINLY NOT! They are unprofessional and certainly do not have their act together. The constant harassment over money issues and stress brought on by it was just too much. I couldn't bear to talk to Nick Volsky for two days due to how angry I was after we were hit for another \$1,000! It was a very difficult situation as we relied heavily on them due to our situation in Russia not knowing how to speak proper Russian or being able to get around. (This, by the way, is the first country we've been in where we've found ourselves in this situation and we've traveled a great deal!)

We do not have a problem with the Russian system or the people or the "bribery/gifts" that we had to take. What we do have a problem with is when the people we rely so heavily on in a strange country try to sting us for every penny they can and they know we are at their mercy!

It has left us with a bad impression of Ivan and Nick Volsky. What a shame our adoption was messed up firstly by Kirk Rector and then by these cowboys!

We are happy though that we brought Artiom and Yelena home, although we are so sure that the process would have been much smoother with another agency.

The silly thing is that there is a saying "you only get what you pay for". Under the contract we signed with Kirk Rector, we only paid \$12,000 for the two unrelated children. We should really relate the services rendered to the money paid!

The only advice we have to people whom is considering using Global Adoption Services is DON'T! Unless you want your entire trip to be blackmail and talk of hardship and moaning from the coordinators and you want to empty the entire contents of your bank account into their pockets, ... please re-think! We only stayed with them as Kirk Rector had wasted so much of our time that our seals expired within the month and we had already chosen a boy from the video another client had. It was just pure luck that a girl came along too.

What a saga, Fm sure as the happy times start with the children, the bad memories of Global will fade!

Here's hoping!

NIGEL, JOYCE, YELENA AND ARTIOM RYDER,
THE RYDER FAMILY ON 7TH MAY 1997.

RANDIE OSTROFF SASS,
Akron, OH.

Senate Foreign Relations Committee.

DEAR CHAIRMAN JESSE HELMS, I understand that the senate committee on foreign relations will be meeting next to discuss S. 682.

Please let me add my voice to be heard. We started our "journey" in January 1996. We had not chosen an agency to work with, but I knew that the first step would be our home study. Our social worker tried to help us find agencies that dealt with overseas adoption. We did check into those, but it was at a meeting that I was given the email address for a list of people in various stages of Russian adoption. It was through this wonderful group of people that we learned more than anyone had ever told us. One of the parents maintains a list of agencies and people willing to talk about them. We originally were going to go with an Ohio agency, but later changed because of cost and they were not giving us the guidance they claimed they would. Through the list we went with Global Adoption Agency out of Sheridan, WY. They were working with an American lawyer in Russia, and if you were doing all your own paperwork and were ready, they would save you money, etc. That was January 1997. We followed their procedures and were told that when Joyce Sterkel-Volsky (owner of Global Adoption) went to Russia in February, she would bring back our referral. I went out and bought \$300.00 of new clothing as our gift to the orphanage in my excitement. February and March came and went. We were told that Joyce was delayed coming home. Then we received a letter stating that Global had severed their relationship with this American Lawyer. We were welcome to stay with Global. Believing that we were OK, we chose to remain. When Joyce went back in April, she brought nothing. She went again in May and we were assured that she would return in 2 weeks and we would have our referral. Joyce stayed until June and returned something like 2 days before our homestudy was to expire. There was no referral and we had to scramble to keep our paperwork current. Then we received a letter stating we had not paid that part of our fees to receive a referral [we hadn't] and would not get a referral until paid. I changed agencies one week later. Traveled one month later to Russia and brought our Ben home. We did write to the WY government and never heard from them. Even checking out references, etc., we still lost money. Plus each agency had different state requirements that set us back each switch [more costs, more paperwork]. Your help would be appreciated in developing consumer protection for adoption.

Sincerely,

RANDIE OSTROFF SASS.

Senate Foreign Relations Committee,
Chairman: JESSE HELMS.

RE: International Adoption and Agencies

We support S. 682 and would like to submit a brief account of our experience for your consideration. My husband and I adopted our son from San Luis, Mexico through the agency Christian World Adoption. We entered the country on November 8, 1998 and I arrived home with our son on January 20, 1999. Repeatedly during our stay in Mexico, our agency's business professionalism and coordination disappointed us. As this was our first adoption, we had no idea what to expect and had to rely entirely on CWA to communicate and facilitate the process. Upon returning home we experienced only further frustration when there was no recourse for

the failings of the agency. We submitted numerous letters attempting to meet and discuss our experiences with the director of the agency, Tommy Lee Harding, only to receive no answer. We have attached a copy of one our letters detailing some of the problems we encountered. We also contacted Virginia Rabenel about the agencies accreditation, and spoke with countless others only to learn that there is no system in place to address the concerns of adoptive parents with any efficiency or expediency. It is imperative that those involved with adoption be accountable. We are only one family, one adoption case among thousands, but many have had experiences as bad or worse than ours. With S. 682 you can make a difference and improve the system for those that follow.

Sincerely,

KATHLEEN AND ROGER ANDERSON.

LETTER SENT TO ROBERT HARDING BY KATHLEEN AND ROGER ANDERSON

Robert Harding
Wando, South Carolina 29492

DEAR ROBERT HARDING, I am writing regarding the adoption process of our son Jacob. As discussed in my phone conversation with Bob in early March, I will attempt to explain and document the problems we experienced while suggesting possible alternatives or solutions. To date an opportunity to share our experiences has not been available; this may contribute to some confusion about what transpired. I anticipate that we will need to have further dialogue to assure full comprehension of our experience.

We contacted our travel agent, Tuesday November 2nd, after we received the phone call from Jo-Ann with our travel date of Sunday November 8th. We made arrangements for our itinerary to be faxed for approval. Prior to confirming these arrangements Jo-Ann and I discussed flying into Mexico City vs. Monterrey on our way to San Luis. She said she would check with Maria Hanley but believed either entry point was fine. We never heard otherwise. Later, approximately 5 days after our arrival, we found out we should have entered via Mexico City and filed the petition to adopt before coming to San Luis and taking physical custody of Jacob. Six weeks into our stay in San Luis we learned we must fly to Monterrey before Ciudad Juarez to apply for our visa.

The confusion about the steps in the process and where these steps needed to be completed were very unsettling for a couple who were experiencing adoption for the first time. As adoptive parents you put your trust in the agency to guide you safely and efficiently through the complicated maze. Mistakes like those mentioned above are very damaging to that trust and expensive, as additional costs are incurred for flights and itinerary changes.

The problems that occurred with our itinerary are easily preventable. Every case should have a proposed chain of events including the steps involved, tentative dates for completion, and the cities in which each of these will be accomplished. These steps should be verified by phone with both Mexican and American officials to assure that the most up to date and accurate information is being given to adoptive parents. That would help assure that no adoptive parent is paying for assumptions, but rather for experienced individuals with a high level of experience, knowledge, and professionalism.

Another problem that occurred repeatedly was with communication. Even the most basic courtesy of returning a telephone call, or calling back as promised did not happen. On many occasions we were told we should wait for a call that never came or comes hours or even days later. This did not only occur with the affiliates in Mexico but also those that worked out of the South Carolina office. Again this was another aspect the continued to deteriorate the trust we had in Christian World Adoption and the agency's ability to successfully navigate us through this complex process. There is no way to assure ourselves that the employees of the agency are courteous and respectful however it is obvious that training is needed in this area from an outside source. There are many wonderful workshops, inservices, and continuing education courses available to assist the employees in extending their knowledge of customer service. Our experiences not only recommend this but also necessitate this training immediately.

Throughout our stay in Mexico we were continually told things were moving and we would be leaving shortly. Now, having experienced the entire process it is clear that many of the steps took several days to execute. How-

ever we were told to reserve seats almost daily. Flight reservations were changed twenty two times from early December until our departure on January 19th. The emotional cost of believing, anticipating, and preparing to travel for both my Mother, Roger and I is inconceivable for anyone not experiencing it first hand. As a new family being separated for such a long time is by itself difficult but always a possibility when completing a foreign adoption. However, the extensive miscommunication concerning the progress and the adoption process exacted an unnecessary emotional cost.

It is our families' belief that throughout the process situations arose that for varied reasons were very unfamiliar to CWA's personnel. We feel it would have been beneficial to all involved if that had been admitted rather than to communicate assumptions. Deadlines should not be given or dates set when it is impossible to ascertain any certainty. Most of all it should be ok to say we don't know anything and we are still waiting. Frustration occurs when something is promised and then repeatedly taken away.

Daily communication is not always a possibility. We feel that it is essential for the affiliates in Mexico and the employees in South Carolina to communicate efficiently and daily. Whenever possible the adoptive parents should be involved in this communication and be receiving updates. Our hotels all had fax machines and it would have been both efficient and economical to utilize these to communicate the process. I am aware that emails and phone calls happened daily between Mexico and South Carolina but days would pass without knowing what if anything had transpired. Faxing would give everyone a hard copy to read from and keep everyone on the same page.

The misrepresentation to the judge on our behalf must be mentioned. After successfully completing all of the adoption requirements in the homestudy and feeling confident of our ability to provide a loving and secure home for a child we were denied the opportunity to share ourselves with the Judge. A preposterous story was told that was blatantly unsubstantiated by our dossier. We were completely unprepared for this and nowhere was this mentioned in the adoption planner. When we questioned the ethics with CWA we were told two different stories. Maria Hanley claimed no knowledge of the fabrications that had transpired while Mr. Harding assured us that this happens all the time. Again as adoptive parents living in a foreign country whom do you believe?

Finally as Jacob's adoption continued to spiral out of control and became more confusing, extended, and expensive we received less contact and support from CWA. Repeatedly attempts to pacify us were made utilizing Jacob as the source for pacification. Apologies were not given and responsibility was not taken for the extensive miscalculations, miscommunication, and maltreatment.

We feel that our experience necessitates a sincere apology as an acknowledgement of the failure to provide the quality of service promised. Also we would like to see steps taken to improve the Mexican program so that this does not happen to other adoptive parents. Finally we are requesting a financial reimbursement for the extensive additional costs incurred. We are looking forward to dialoguing about our experience and hope this brief summary helps you to better understand some of what transpired.

Regards,

KATHLEEN AND ROGER ANDERSON.

STEVEN F. WHITESIDE,
Chesterfield, Virginia 23838.

Hon. JESSE HELMS,
Chairman, Senate Foreign Relations Committee.

RE: International Adoption Agencies

Our daughter and her husband, Kathleen and Roger Anderson, have submitted a detailed summary of their multiple and continuous problems with Christian World Adoption from the time they arrived on-site in Mexico until arriving home some two and a half months later.

Meantime, back in Virginia and Maryland, though not enduring the daily emotional strain, I also had first hand experience with Christian World Adoption and would like to recount one episode that exemplifies their professional ineptness.

It was Wednesday, November 25, 1998, the day before Thanksgiving. There was an urgent need to contact Christian World Adoption because due to their lack of

communication with our daughter and her husband, it was unclear whether the adoptive father needed to stay in Mexico for a procedural question, or return home to Maryland and to work. By that Wednesday there was no word forthcoming from Christian World Adoption, and his flight plans called for him to fly back the next day, Thanksgiving. I spoke with our daughter Tuesday evening, learned of the situation, and immediately called Christian World Adoption in Wando, SC , on Wednesday morning. To my shock and dismay, no one answered. They had elected to close the office a day early for the Thanksgiving holiday. I then called Tommy Lee Harding's home and received a voice mail message. Now I was becoming desperate. I then dialed the office and listened to the voice mail menu of staff. By calling three times and replaying the list I generated five or six names. I dialed directory assistance in South Carolina trying to match people from my list with names and addresses in the immediate area, all to no avail. I never spoke to anyone.

Here you have a situation, in which clients are on site in a foreign country, with questions, concerns, maybe problems, that require professional help, and you have no way to communicate with anyone at headquarters. They just decided to close and take an extra day off!

I wanted to include this cameo as just one more bit of evidence to consider when listening to the parade of expert witnesses you will hear from in the adoption agency industry.

Thank you.

Respectfully submitted,

STEVEN F. WHITESIDE.

To: Senate Foreign Relations Committee,
Chairman, JESSE HELMS,
Date: October 3, 1999.

RE: International Adoption

We support S. 682 and would like to submit our story to you for consideration when you are considering S. 682.

My name is Lydia Pfeffer and I am an attorney who has attempted three adoptions and successfully completed two adoptions from Russia. The purpose of this letter is to discuss the need for a consistent and effective way to regulate the practice of international adoption. A common misconception amongst prospective families is that if an agency is licensed there is some protection against fraud, deceit, and other gross misconduct. Nothing is further from the truth we have found. When we confronted the licensing division in California with evidence of fraud from several families their response was it was a civil matter and they were of no help. It is financially and logically prohibitive for an out of state family to locate an appropriate attorney to handle a "wrongful adoption" case from out of state. The result over and over is the adoption agency wins and the consumer loses.

We hired an agency in California to adopt a 12 year old Russian girl. We went to Russia to meet her and the child agreed to the adoption. Consent is required by a Russian child 10 years and older. When we returned 2 months later to go to court the child said she had a boyfriend at the orphanage and she didn't want to be adopted. When we returned to the states and asked for our money back (because the adoption failed due to no fault of our own) the agency director said, "we never promised you a child", and kept approximately \$5000.

The stories are endless of families being lied to regarding known medical conditions of the children, undisclosed fees that surface after the contract is signed, and other deceitful acts. We ask that adoption agencies be supervised and held accountable for their unethical and illegal practices by their licensing division, state attorney general, or other regulatory office.

Respectfully submitted,

LYDIA PFEFFER, JD.

Chairman JESSE HELMS,
U.S. Senate Committee on Foreign Relations,
Date: September 30, 1999.

RE: International Adoption

We support S. 682 and would like to submit our story to you for consideration when you are considering S. 682. It is imperative that adoption agencies, lawyers and other child placing agencies be held responsible for their actions. There should

be recourse for families if an agency is found to be unethical, irresponsible and or fraudulent.

Our Story:

We adopted a 12 year old girl through Nightlight International Adoptions, Inc. of CA, in October 97. We had heard good reports and were confident that all would go well since Nightlight seemed to have such a good track record and informative psychological reports.

We have 3 other children adopted from other countries and are experienced parents. Due to where we lived at the time (outside US in a remote locale), we were clear about what we could and could NOT deal with post placement. No services, limited school resources, etc.

Despite very specific questions prior to picking up Inga, some crucial facts were NOT disclosed to us. We were shocked to learn that she had been placed with 2 Russian families and brought back to the home. In addition, she could not read or write Russian (at the age of 12!). She was a smoker! AND, she was a habitual runner. She had a history of being picked up by the police and brought back to the home. Had we known any one of these facts prior to traveling, we would not have proceeded. Inga was not appropriately prepared for us to pick her up, either. The workers feel that adoption is in the "best interest" of the child and apparently avoided the necessary emotional preparation for fear of tantrums or resistance from Inga.

To make a very long story short, our family was devastated and we struggled to make things work for almost a year. We traveled back to the states in the summer of '98 and placed Inga with another family willing to work with her. She went through 6 families and 2 hospitalizations. All of these families were older, more experienced, and very successful at parenting "difficult" and "hard to place" older children. None of them could parent her. We researched all available resources in the US. We accessed family therapy, special education, post adoptive support groups, and a variety of specialists. We reached the lifetime limit on our health insurance coverage. We contacted the Russian judge in an attempt to dissolve the adoption. We pled with Nightlight to take some responsibility.

We are currently trying to release our parental rights and make Inga a ward of the state so she can get the treatment she needs which we cannot provide. We are truly emotionally, physically and financially depleted. This has been a tragic story for us, many other people, and most sadly, Inga. Furthermore, Nightlight has been reluctant to admit ANY responsibility whatsoever for their neglect in accessing pertinent, easily available information. Nightlight has even stated that they can't be responsible for families who are "not satisfied" with the children they adopt. To be sure they have made other successful placements, but in our case they were negligent in obtaining very essential facts, and now, 2 years later, Inga is in a residential psychiatric treatment center with a diagnosis of "major depressive disorder, psychosis, and post traumatic stress syndrome." Their recommendation is 9 more months of residential treatment and then a group home.

Clearly, we would have avoided much of this heartache and tragedy if consumer protection laws pertaining to international adoption had been in place. I would be happy to speak with you in more detail if you would like.

Sincerely,

CILIA J. WHATCOTT.

MARY MOONEY, *Founder*,
Adoption Advocates of America,
Consumer Protection Network.

RE: S. 682

Senator Helms we would like to take this opportunity to submit testimony for the senate hearing on bill S. 682.

Our organization started as a support group for families that had experienced failed or difficult adoptions. We found that most of our experiences were due to unethical and unprofessional adoption agencies, lawyers and/or facilitators. We all felt that our cases should have been taken on by the Attorney General of our state. We all felt our justice system failed us. Many of us had hired agencies licensed by their state. This gave us a false sense of security. Many of us found out that even if an agency is licensed by the state it does not mean the agency is a good agency. We

found that most state adoption licensing divisions don't even keep up with complaints or even investigate complaints.

Many agencies have broken criminal and civil laws, yet there is no one to prosecute these agencies. The foreign adoption business is a big business. We feel that many American agencies are taking advantage of unsuspecting families that are often desperate to adopt a child. These agencies know that they have the upper hand. They have the children and their client's money; therefore they call all the shots. They know that all they have to say is jump and the families will ask how high.

In light of the cases, which have been sent to you by some of our members, grass-roots consumers of adoption services, we strongly support S. 682. We believe your excellent legislation could be even better if it included all or part of legislation introduced by Representative Trafficant.

Sincerely,

MARY MOONEY.

Our Story:

We spent over 10 years of trying to adopt in North Carolina through our County Dept. of Social Services and The Children's Home Society. We completed a homestudy and followed all the rules. Only after 2 years did we realized that it would be almost impossible to adopt a child this way. We turned to international adoption in May of 1995. We researched international adoption and found it to be very popular and there seemed to be many success stories. We looked all over the US for an adoption agency. We wanted to deal with some one local. Finally we found a licensed NC agency and felt very happy with them. This agency made us feel that they would personally be involved in every aspect of our adoption. They assured us all would work out within 6 months and we would have a healthy little boy in our home very soon. They showed us pictures of cute children and assured us they had many children to choose from.

What was supposed to be a wonderful experience turned in to our worst nightmare. What seemed to be an organized agency turned out to be very unorganized agency. Nobody seemed to ever know what was going on, what papers we needed or when we would travel. When we did travel to Russia the child was not available for us to adopt. What we found was the US agency had hired a very unethical and "known" adoption facilitator that had a bad reputation all over the US.

The agency felt they had done nothing wrong. They would not help us to recoup our money or would not even offer to assist us in another adoption. Or worse, they did not even apologize. We found the NC Adoption Licensing Division to be no help. Local law enforcement was no help. The NC Attorney General stated it was a matter to be handled by the NC Adoption Licensing Division. The Licensing Division stated they have no way of keeping up with complaints and felt it was not their place or job to investigate complaints. They also stated that since the adoption was an international adoption that would not come under their care anyway. There was no one that would even listen to our story.

Because of our problems I went to the Internet to seek support. I found tremendous support and found many other families that had similar problems through out the US. I started a web page at <http://www.ncplaza.com/aaguide/> to give people a place to voice their opinions of their adoption agency or worker. Since then I have had such a large response I moved the site to a new address <http://www.theadoptionguide.com>. I make no money from this site but spend countless hours E-mailing with devastated families that are in need of emotional support. I only wish I had the knowledge to give them the legal advice they need.

State adoption licensing divisions do not have any legal authority even if they had the resources to investigate a complaint they do not have any authority to bring a law complaint against an agency.

What I have seen over the years is adoption agencies open and close at the drop of a hat. They close one place and move to another state to open again under another name. Many agencies change states and names often. Some agencies don't even try to get licensed and are not found out unless a family reports them. And if they are called on by state licensing division they just close up and move to another state.

In our case we were lucky to find an attorney that would take our case. We filed a law complaint against this agency for fraud and unethical practices. After 2 years we settled out of court. We never recovered any of the

\$7,800 that we paid to the facilitator. As part of the settlement we are not allowed to speak about this agency.

I have found that if a family is able to find an attorney and they can afford to pursue legal action the agencies will either settle out of court or the family will get a judgment against the agency that is usually never paid. Sadly most of the stories I hear have a very sad ending. Because these families have lost so much money they do not have the money to try and adopt again. Many have borrowed against their homes or from family members. This could be avoided if the adoption industry were more regulated and accountable for their actions.

With S. 682 you have the opportunity to reform the adoption laws to protect innocent families.

Respectfully,

MARY M. MOONEY.

