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ASIAN ADOPTIONS IN THE UNITED STATES

HEARING

BEFORE THE

SUBCOMMITTEE ON EAST ASIAN
AND PACIFIC AFFAIRS

OF THE

COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

JUNE 8, 2006

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ASIAN ADOPTIONS IN THE UNITED STATES

TUESDAY, JUNE 8, 2006

U.S. SENATE,
SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:30 p.m., in room SD–419, Dirksen Senate Office Building, Hon. Lisa Murkowski (chairman of the subcommittee) presiding.

Present: Senators Murkowski, Craig, and Landrieu.

OPENING STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA

Senator MURKOWSKI. Good afternoon and welcome to the Foreign Relations subcommittee on East Asian and Pacific Affairs. Today we are going to be taking a look at the United States policy on international adoption, and in particular, adoptions from Asian nations.

I am particularly pleased to have Senator Larry Craig with us this afternoon. Senator Mary Landrieu will be joining us shortly. They are here this afternoon to provide us with their insights and their perspectives on the issue of adoption. I think it's fair to say that there are probably no greater advocates of adoption in the United States Senate than these two and they are certainly a tremendous credit to this body for their hard work in this area. Senator Craig, I want to personally thank you, and I will do the same to Senator Landrieu, for your efforts.

Here in the United States, U.S. citizens adopt more children from abroad than the citizens of all other countries combined. Last year over 22,000 foreign children were adopted by U.S. citizens. And we recognize that that does create a burden on the Departments of State and Homeland Security to meet the demands and expectations of prospective parents who are anxious to bring new family members into their lives. Yet much of the burden lies with the foreign governments who must permit adoptions by foreign nationals and provide a smooth and transparent process for intercountry adoption.

The Hague Convention on Intercountry Adoption, which entered into force in 1995, is designed to facilitate the process of intercountry adoption. Congress passed the International Adoption Act of 2000 to provide the domestic legislation to implement the Hague Convention. And yet, the United States has not yet ratified that Convention. I hope that our witnesses from the administration today will be able to provide us with an update on where we are

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in implementing the Convention and what Congress can do to help facilitate that process.

During the course of the hearing, I would also like to bring up the status of adoptions from both Cambodia and China. In December 2001, the United States placed a moratorium on adoptions from Cambodia due to concerns about baby trafficking, certainly a concern that must be addressed. At the time of the moratorium we had two families in the state of Alaska who were left in limbo. Their adoption petitions had been approved, they had already visited the children, but they were unable to finalize the process.

Fortunately, thanks to the efforts of many interested organizations and families, and the cooperation of the administration, many of those that were stuck in the pipeline, including those families from Alaska, were able to complete their adoptions. But still, that moratorium remains in place.

In a similar vein, in 2001 and again in 2004, Romania changed its adoption laws to essentially prohibit international adoption. After the 2001 moratorium was first implemented, we again had an Alaska family who was in the pipeline to adopt a Romanian child. And they were one of the few families who the Romanian Government eventually allowed to proceed with their adoption.

Since then, the State Department has worked aggressively with Romania to help reform their adoption laws. And in this past May, the Senate Foreign Relations Committee approved a resolution introduced by Senator Landrieu urging Romania to reduce their barriers to intercountry adoption. I am hopeful that similar efforts are being made with Cambodia.

And with regard to China, the No. 1 source of adopted foreign children by United States citizens, the issue is probably one of timing more than transparency. It often takes more than the allocated 18 months to process an adoption petition in China, requiring prospective parents to incur additional costs in renewing their petition and submitting new fingerprints.

Although the time frame may be a problem only for adoptions from China, it is a problem for thousands of Americans each year—nearly 8,000 last year. And as more and more families look to adopt from overseas, and particularly from China, it seems that we should be able to find an acceptable solution to this growing problem.

With that, I would like to begin with our first panel, Senator Craig. I do understand that Senator Landrieu is in a meeting, and will join us, hopefully, after you have had an opportunity to make your comments, Senator Craig. If not, we will work her into the panels when she arrives. But if you would please provide your statement here this afternoon. And again, thank you for your efforts to make a difference to so many families.

STATEMENT OF HON. LARRY CRAIG, U.S. SENATOR FROM IDAHO

Senator CRAIG. Well, Madame Chairman, thank you for that kind introduction, and thank you for convening this important hearing on adoption from primarily the Asian region, the source of the largest number of children adopted internationally in the United States, as you have just previously stated.

I wish my schedule permitted me to stay and listen to all of your witnesses today. I am sure they will be providing the subcommittee with some additional valuable information. This hearing is particularly noteworthy because I believe it is the first congressional hearing on international adoption issues to be held since the publication of the final rule on accelerating agencies in accrediting agencies in intercountry adoption, one of the last steps necessary for this country to fully implement the Hague treaty on intercountry adoption, that was signed more than a decade ago, and ratified by the Senate 6 years ago.

In other words, we are fully entering a new era of international adoption by Americans, an era in which the Federal Government has a critical role in the adoption process. There should be an ongoing dialog between Capitol Hill and the executive branch of Government as we move ahead. For example, we will surely find the need to adjust our system and law. In fact, during the immigration debate, the Senate passed the "ICARE" amendment offered by Senator Landrieu, Senator DeMint, myself, and others, to make some important changes that will help Americans involved in international adoption.

I know we still have to convince some people on the details of this amendment, and I believe we will be able to address those concerns. But my point is that there is an ongoing need for focus by Congress and other Federal agencies on the issue of international adoption, and I am very pleased you are kicking it off with this discussion today. It is tremendously important.

As you know, Madame Chairman, I am an adoptive parent. As a freshman Senator, I became involved with the congressional coalition on adoption, and several years later Senator Landrieu joined me as a Senate cochair. That coalition today numbers nearly 200 members of the House of Representatives and the Senate, for whom adoption is a priority issue. Senator Landrieu and I have also helped to establish a nonprofit institute called CCAI, Congressional Coalition Adoption Institute, which helps to educate Members of Congress and the public about adoption.

On the international front, CCAI has played a key role with foreign delegations involved in adoption issues who are traveling in our country, and we have organized trips for Members of Congress to visit the source countries for U.S. adoption, and discuss adoption matters with their government.

Although I am a strong advocate for adoption, it wasn't my passion for this issue that drove all of these developments. It is important to note that we were responding to a demand for congressional assistance that has been growing steadily from adopting families in the United States, and you have spoken in your opening statement about the concerns of some of your constituents in Alaska. When there was no specific point of contact in either Congress or the Federal Government on handling adoption issues, our coalition and the institute began to help fill that very gap. Today, that situation is changing in regard to international adoption, with the Departments of State and of Homeland Security stepping into some of the central authority roles described under the Hague treaty.

However, one thing that probably will not change is the demand coming from adopting families. Americans pursue international

adoptions for various reasons. Some have personal roots in another country that they want to renew through adoption. Others just feel a cultural kinship with a foreign country. Some adopt internationally for humanitarian reasons. And frankly, some choose international adoption as a last resort out of frustration with United States law that hinders them from adopting domestically. They want to form a family through adoption, and when they can't do it here they reach out around the world.

Whatever the motivation, U.S. families have been adopting overseas in ever-increasing numbers, and you mentioned those. More than 20,000 annually, for the last couple of years. That's a lot of people who potentially need assistance from our Government in dealing with foreign countries. The greatest number of United States international adoptions, as you've spoken to, comes from China. China is much improved, even though there are still difficulties. There's a greater transparency and efficiency and predictability. And yet still, it is timely and it is costly. And we ought to work to improve that with the Chinese Government.

I wish I could say as much about the experiences Americans have adopting elsewhere in Asia. It is not true. There are enormous difficulties in sending countries that comprise the Asian region, including their unique culture, their characteristics, and their governments. All of these unique traits affect how these countries deal with adoption. This past year, I was in India. There, it is nearly impossible, and yet there are more Indian children in need of a home than almost in any other continent of the world.

Beyond those difficulties, obstacles have arisen in international adoption from Asia because of the concerns about the horrible crimes of human trafficking, and you have mentioned some of that—in Cambodia and Vietnam, in particular. Even legitimate adoptions have been disrupted in a fight against corruption. You mentioned Cambodia. We were involved in Cambodia for some citizens from my State of Idaho. It was also true. You mentioned Romania. The same thing happened with Idahoans in Romania.

Let me stress, I do not know of anybody in the adoption community who would countenance trafficking in children. As much as we want to facilitate adoptions, these adoptions must be ethical, and they must be transparent. Having said that, however, we should help these nations find ways to fight corruption while allowing legitimate adoptions to proceed. Otherwise, it is the orphan who will be paying the price for somebody else's criminal behavior, the orphan who cannot be adopted domestically, and may be deprived of a permanent, loving home from an adoptive family of another country.

I have only scratched the surface here, and I am sure you will hear much, much more of the challenges and the opportunities for adoption in the Asian region from the panelists that you have assembled here today. In closing, again Madame Chairman, let me thank you for beginning a very critical dialog, a new role to be played between the Congress and the executive branch of Government. There are literally thousands of Americans waiting to form families, and you and I and others can play a critical role in facilitating their dream. Thank you very much.

Senator MURKOWSKI. Thank you, Senator Craig. And again, thank you for your leadership on this. We had an opportunity to speak just a few moments ago and talked about the competing priorities that we, as a Government, face—that the agencies face. State Department has a great deal of important issues on their plate, as does Homeland Security. We have got the war, we've got other issues, but we know that when it comes to caring for our children, this is the true marker of good people and of great nations—it is those that are able to find a way to help the children. So thank you for your efforts in doing just that.

Senator CRAIG. Thank you very much, Lisa.

Senator MURKOWSKI. And we appreciate your schedule, and we will look forward to Senator Landrieu's comments when she is able to join us. With that, let us call up the second panel. Catherine Barry, the Deputy Secretary Assistant for Overseas Citizens Services, Bureau of Consular Affairs here in Washington DC, as well as Robert Divine who is the acting deputy director of the Citizen and Immigration Services for the Department of Homeland Security.

Welcome to the committee this afternoon. And again, we thank you for joining us this afternoon to share comments from both the State Department and the Department of Homeland Security. With that, Ms. Barry, if you want to start off, please.

STATEMENT OF CATHERINE BARRY, DEPUTY ASSISTANT SECRETARY FOR OVERSEAS CITIZENS SERVICES, BUREAU OF CONSULAR AFFAIRS, DEPARTMENT OF STATE, WASHINGTON, DC

Ms. BARRY. Thank you very much. Chairman Murkowski, thank you very much for this opportunity to discuss the status of intercountry adoptions from Asia, as well as the Department of State's efforts on behalf of American families who have decided to open their hearts and their homes to Asian children in need of permanent, loving families. The departments of State and Homeland Security are deeply committed to working with these families, as well as with the children's countries of origin to ensure that intercountry adoptions occur under transparent conditions, and with appropriate safeguards to protect the interests of birth parents, adoptive parents, and most importantly, the children themselves.

Last year alone, Americans adopted nearly 23,000 children from countries around the world. Over 10,000 of those children came from Asia. We encourage Asian nations to allow intercountry adoption as an option for children who otherwise would spend their childhoods in orphanages and other nonpermanent care. Our work encouraging intercountry adoptions is inspired by the 1993 Convention on protection of children and cooperation and respect of intercountry adoption, which I will further refer to as the Hague Convention. The Convention recognizes that the full and harmonious development of a child needs a family environment, quote, "an atmosphere of happiness, love, and understanding," end quote.

It also recognizes that intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her state of origin. As of today, 68 countries have ratified or acceded to the Hague Convention. Asia

is well represented in this group. China, India, the Philippines, Sri Lanka, and Thailand are all Hague countries.

Through discussions in cooperation with Asian governments, particularly those that have not ratified the Hague Convention, we seek to implement and enforce standards and protections to ensure that the childrens' best interests are always the primary consideration, and to combat baby buying and selling. Consular officers and other State Department officials abroad, as well as those of us here in Washington, meet regularly with country of origin officials to identify potential problems and coordinate solutions.

The past years have several milestones that I believe portend good things for the use of intercountry adoptions in Asia to help children in need. On June 21, 2005, Assistant Secretary for Consular Affairs, Maura Harty, and Vietnamese Justice Minister Uong Chu Luu, signed a bilateral adoption agreement that reaffirmed both countries' commitment to high standards and safeguards, and allowed for the recommencement of adoptions from Vietnam.

The Vietnamese Department of International Adoptions has licensed nearly 20 United States adoption agencies to work in Vietnam. And on January 25 of this year, the United States Embassy in Hanoi issued the first orphan immigrant visa to a Vietnamese child since our Embassy took over the responsibility for orphan visa cases from our Consulate General in Ho Chi Minh City, and the bilateral agreement entered into practical effect.

Over two dozen Vietnamese children have found permanent families with American citizen parents since January, and we believe that many more children will follow them in the coming months. In another important and extremely positive development, the People's Republic of China, the largest country of origin of children adopted by Americans internationally, ratified the Hague Intercountry Adoption Convention on September 16, 2005. The Department of State and the American adoption community have long viewed China as a country of origin with clear, uniform procedures that are transparent to adoptive parents and their representatives. We also know that the Chinese Government has strict measures to verify the identity and status of children available for adoption. China's Hague Convention ratification bolsters even further our level of confidence in China's commitment to equitable, legal, and transparent adoption procedures that meet the best interest of children, nearly 8,000 of whom came to the United States last year.

At the other end of the confidence spectrum, unfortunately, is Cambodia, the only country for which the United States currently has an adoption suspension in effect. The then-Immigration and Naturalization Service suspended adoptions from Cambodia in December 2001, due to very serious concerns about baby selling and rampant document fraud, some of which led to criminal convictions in the United States. Although a small number of so-called pipeline cases were allowed to continue to conclusion, the U.S. Government suspension has, at present, essentially stopped adoptions from Cambodia to the United States.

The U.S. Government remains engaged on this issue. U.S. Ambassador to Cambodia, Joseph Mussomeli, met in March with UNICEF officials to coordinate efforts to assist the Cambodian Government in building its capacity to establish and/or regulate

child welfare institutions. A draft child welfare law, which UNICEF wrote and the United States supports, is under consideration and we are hopeful that the critical legislation might be enacted by the end of the year. The draft legislation would permit intercountry adoptions. The U.S. Government, in partnership with UNICEF, stands ready to provide guidance to the Cambodian Government in both establishing a child welfare system, and enacting and implementing the pending legislation.

Let me briefly summarize our efforts to ratify the Hague Convention on intercountry adoption in 2007. We plan to complete our regulatory work this calendar year. In February, we published the final rule regarding the standards of accreditation for adoption service providers and approved persons. This summer we will publish, for public comment, regulations modifying the consular role in immigrant visa processing in Hague cases, regulations governing the certification process for Hague adoptions that take place in the United States, and regulations establishing reporting duties for adoption services providers handling emigrating adoption cases. In this matter we are working closely with the Department of Homeland Security.

In the near term, we hope to sign agreements with our potential accrediting entities. Once these agreements are ready, we can announce the application period for those interested in becoming accredited adoption services providers, or approved persons. Once we know the total number of applications, we will be able to provide a more accurate estimate of when we will be able to complete ratification of the treaty in 2007. It is our goal, now and in the future, as a central authority for the operation of the Hague Convention, to support the generosity of American families to provide permanent homes to children in need throughout Asia and the rest of the world. Thank you for your attention.

[The prepared statement of Ms. Barry follows:]

PREPARED STATEMENT OF CATHERINE BARRY, DEPUTY ASSISTANT SECRETARY FOR OVERSEAS CITIZENS SERVICES, BUREAU OF CONSULAR AFFAIRS, DEPARTMENT OF STATE, WASHINGTON, DC

Chairman Murkowski, ranking member Kerry, distinguished members of the committee. I appreciate this opportunity to discuss the status of intercountry adoptions from Asia, as well as the Department of State's efforts on behalf of American families who have decided to open their hearts and their homes to Asian children in need of permanent, loving families. The Department of State is deeply committed to working with these families, as well as with the children's countries of origin, to ensure that intercountry adoptions occur under transparent conditions, and with appropriate safeguards to protect the interests of birth parents, adoptive parents and, most importantly, the children themselves.

It was exactly 50 years ago, in 1956, that the first large wave of internationally adopted children came to the United States, and they came from Asia. In the aftermath of the Korean War, Harry and Bertha Holt learned of the plight of Amerasian children in Korean orphanages and decided to help. Although a small number of children had come to the United States as adoptees before that time, it was an extremely new concept. The Holts adopted eight Korean children, and they and other pioneers like them were on the forefront of a movement that has grown and expanded to the point that last year alone, Americans adopted nearly 23,000 children from countries around the world. Over 10,000 of those children came from Asia.

From Korea and Cambodia, Mongolia and Vietnam, China and many other Asian countries, children have come to the United States to join permanent and loving families, and the Department of State has been, and continues to be, by their side. [A statistical chart is attached to show the number of adopted children brought to the United States over the past 5 years as well as the source countries.]

We encourage Asian nations to allow intercountry adoption as an option for children who otherwise would spend their childhoods in orphanages and other nonpermanent care. Our work encouraging intercountry adoptions is inspired by the 1993 Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, which I will further refer to as the Hague Convention. The Convention recognizes that the full and harmonious development of a child needs a family environment, "an atmosphere of happiness, love, and understanding." It also recognizes that intercountry adoption "may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her state of origin." The principles and goals of the Hague Convention have broad international support. As of today, 68 countries have ratified or acceded to the Hague Convention. Asia is well represented in this group: China, India, the Philippines, Sri Lanka, and Thailand are all Hague countries. In addition, UNICEF strongly supports the Convention as a means to protect children around the world and to ensure that their best interests are met.

Through discussions and cooperation with Asian governments, particularly those that have not ratified the Hague Convention, we seek to implement and enforce standards and protections to ensure that the children's best interests are always the primary consideration, and to combat child buying and selling. In all countries, finding local, community-supported family settings to support orphaned or abandoned children is the preferred arrangement. When these options are not feasible, however, domestic and intercountry adoptions may be appropriate and in the best interests of the child. Consular officers and other State Department officials abroad, as well as those of us here in Washington, meet regularly with country-of-origin officials to identify potential problems and coordinate solutions.

The past year saw several milestones that I believe portend good things for the use of intercountry adoptions in Asia to help children in need.

On June 21, 2005, Assistant Secretary for Consular Affairs, Maura Harty, and Vietnamese Justice Minister Uong Chu Luu signed a bilateral adoption agreement that reaffirmed both countries' commitment to high standards and safeguards and allowed for the recommencement of adoptions from Vietnam. The bilateral agreement is consistent with several key principles of the Hague Convention such as having government authorities determine that:

- A proposed adoption is in the best interests of the child;
- The consent to the adoption was given by the persons or institutions authorized to do so;
- Adoptive parents had received counseling;
- There were no improper requests for compensation; and
- Prospective adoptive parents paid reasonable fees for necessary administrative, medical, and court matters.

The Vietnamese Department of International Adoptions has licensed nearly 20 United States adoption agencies to work in Vietnam, and on January 25 of this year, the U.S. Embassy in Hanoi issued the first orphan immigrant visa to a Vietnamese child since our Embassy took over the responsibility for orphan visa cases from our Consulate General in Ho Chi Minh City and the bilateral agreement entered into practical effect. Over two dozen Vietnamese children have found permanent families with American citizen parents since January, and we believe that many more children will follow them in the coming months. We have centralized adoption visa processing at our Embassy in Hanoi, and assigned an additional consular officer on temporary duty there, in order to facilitate ongoing dialogue with Vietnamese authorities and to ensure an efficient process for prospective adoptive parents.

In another important and extremely positive development, the People's Republic of China—not only the world's most populous nation, but also the largest country of origin of children adopted by Americans internationally—ratified the Hague Intercountry Adoption Convention on September 16, 2005. The Department of State and the American adoption community have long viewed China as a country of origin with clear, uniform procedures that are transparent to adoptive parents and their representatives. We also know that the Chinese Government has strict measures to verify the identity and status of children available for adoption. In February 2006, the Chinese Government realized that some measures had been compromised by rural officials in Hunan province. A number of these officials were sent to jail pursuant to criminal convictions. The Chinese Government subsequently assured United States officials that none of the children erroneously put forward for adoption had been adopted by American families. The Chinese Government also assured us that they have reinvigorated their internal controls. China's Hague Convention ratification bolsters even further our level of confidence in China's commitment to

equitable, legal, and transparent adoption procedures that meet the best interests of children, nearly 8,000 of whom came to the United States last year.

As I mentioned earlier in my statement, we also have a long and cooperative history with Korea regarding intercountry adoptions. As in China, transparent procedures and strong safeguards for the welfare of children are a hallmark of the Korean adoption system. In fiscal year 2005, over 1,600 Korean orphans found loving, permanent homes in the United States through intercountry adoption.

At the other end of the confidence spectrum, unfortunately, is Cambodia, the only country for which the United States currently has an adoption suspension in effect. The then-Immigration and Naturalization Service suspended adoptions from Cambodia in December 2001, due to very serious concerns about baby selling and rampant document fraud, some of which led to criminal convictions in the United States. Although a small number of so-called "pipeline" cases were allowed to continue to conclusion, the U.S. Government suspension has, at present, essentially stopped adoptions from Cambodia to the United States.

The U.S. Government remains engaged. Last summer, the U.S. Government funded a survey by the international child welfare organization, Holt International—the same organization founded by Harry and Bertha Holt 50 years ago—to count and identify all of the children living in Cambodian institutions. The purpose of this survey was to develop baseline data about the numbers of Cambodian children in institutional care and the nature of their needs, a first important step toward designing an appropriate child welfare system. During this same period, UNICEF was also conducting a separate survey focused on the provision of child care services and facilities in Cambodia. Both we and UNICEF have turned over the results of our studies to the Government of Cambodia with the expectation that the data would help Cambodian officials design programs to meet the needs of children requiring care. U.S. Ambassador to Cambodia, Joseph Mussomeli, met in March with UNICEF officials to coordinate efforts to assist the Cambodian Government in building its capacity to establish and/or regulate child welfare institutions. UNICEF has indicated its intention to assist the Cambodian Government in training Cambodian nationals in achieving this goal through workshops and seminars. A draft child welfare law, which UNICEF wrote and the United States supports, is under consideration, and we are hopeful that this critical legislation might be enacted by the end of the year. The draft legislation would permit intercountry adoptions. The U.S. Government, in partnership with UNICEF, stands ready to provide guidance to the Cambodian Government in both establishing a child welfare system and enacting and implementing the pending legislation.

Let me take this opportunity to briefly summarize the Department's efforts to ratify the Hague Convention on Intercountry Adoption. Our goal is to do so in 2007. Specifically, the Department intends to complete our regulatory work this calendar year. In February, we published the final rule regarding the standards of accreditation for adoption service providers and approved persons. This summer, we will publish for public comment regulations modifying the consular role in immigrant visa processing in Hague cases, regulations governing the certification process for Hague adoptions that take place in the United States, and regulations establishing reporting duties for adoption service providers handling emigrating adoption cases. In this endeavor, we are working closely with the Department of Homeland Security.

In the very near term, we hope to sign agreements with our potential accrediting entities. Once these agreements are ready, we can announce the application period for those interested in becoming accredited adoption service providers or approved persons. Once we know the total number of applications, we will be able to provide a more accurate estimate of when we will be able to complete ratification of the treaty.

The Department of State and the Department of Homeland Security both participated in the special commission on the practical operation of the Hague Convention, September 17–23, 2005. It was evident, as numerous national delegations and NGO experts commented on the operation of the Convention, that U.S. support for the Convention is broadly appreciated. More importantly, the U.S. delegation was gratified to learn that many governments appreciate the willingness of American families to provide loving homes to children, including children with special needs. Statistics presented at the meeting indicated that worldwide adoptions amounted to approximately 40,791 in 2003. Of that number, approximately 21,616 had been adopted by American families. It is the goal of the Department of State, now and in the near future as the central authority for the operation of the Hague Convention, to support the generosity of American families to provide permanent homes to children in need throughout Asia and the rest of the world.

IMMIGRANT VISAS ISSUED TO ORPHANS COMING TO THE U.S.

TOP COUNTRIES OF ORIGIN

	FY 2005	FY 2004	FY 2003
1	CHINA (mainland) – 7,906	CHINA (mainland) – 7,044	CHINA (mainland) – 6,859
2	RUSSIA – 4,639	RUSSIA – 5,865	RUSSIA – 5,209
3	GUATEMALA – 3,783	GUATEMALA – 3,264	GUATEMALA – 2,328
4	S. KOREA – 1,630	S. KOREA – 1,716	S. KOREA – 1,790
5	UKRAINE – 821	KAZAKHSTAN – 826	KAZAKHSTAN – 825
6	KAZAKHSTAN – 755	UKRAINE – 723	UKRAINE – 702
7	ETHIOPIA – 441	INDIA – 406	INDIA – 472
8	INDIA – 323	HAITI – 356	VIETNAM – 382
9	COLOMBIA – 291	ETHIOPIA – 289	COLOMBIA – 272
10	PHILIPPINES – 271	COLOMBIA – 287	HAITI – 250
11	HAITI – 231	BELARUS – 202	PHILIPPINES – 214
12	LIBERIA – 182	PHILIPPINES – 196	ROMANIA – 200
13	CHINA (Taiwan-born) – 141	BULGARIA – 110	BULGARIA – 198
14	MEXICO – 98	POLAND – 102	BELARUS – 191
15	POLAND & THAILAND – 73	MEXICO – 89	ETHIOPIA – 135
16	BRAZIL – 66	LIBERIA – 86	CAMBODIA – 124
17	NIGERIA – 65	NEPAL – 73	POLAND – 97
18	JAMAICA – 63	NIGERIA – 71	THAILAND – 72
19	NEPAL – 62	THAILAND & BRAZIL – 69	AZERBAIJAN – 62
20	MOLDOVA – 54	ROMANIA – 57	MEXICO – 61

World Total for Fiscal Years
2005 – 22,728; 2004 - 22,884; 2003 - 21,616

Senator MURKOWSKI. Thank you, Ms. Barry.
Mr. Divine, welcome.

STATEMENT OF ROBERT DIVINE, ACTING DEPUTY DIRECTOR, CITIZENSHIP AND IMMIGRATION SERVICES, DEPARTMENT OF HOMELAND SECURITY, WASHINGTON, DC

Mr. DIVINE. Thank you. Senator, my written remarks are in the record, and you either read them or can read them, and I won't repeat them, and I'll speak a little bit from the heart.

As a lawyer, and as an immigration lawyer for 17 years before coming to the Government, I represented a number of families who were adopting children internationally, and I know the frustration with the process and I have experienced, with them, some of the difficulties. Two of my very best friends have adopted three dif-

ferent Chinese children in the last 2 years. My wife and I have adopted three children ourselves, and I know what it's like to eagerly await your child.

I have happily accepted invitations of child-placing agencies to speak with prospective adoptive parents. And when I have done that speaking, I have tended to find myself saying the same thing that my wife and I were preaching to ourselves as we were going through the process, and that is that it is not about us, it is about the children. This is about the best interest of the child.

And I know that among the prospective adoptive parents, some were hurting, most were anxious, all were eager, and God bless them. But it is about the children. Adoption is a beautiful example of grace and restoration in an otherwise sometimes disappointed world, and children who need a home and parents who want a child can come together and make a family.

But most good things are subject to perversion and abuse, and this is no exception. Some people would want to adopt for wrong reasons that would not be the best for the child. Others may have great homes and great intentions, but whether known or unknown to them, their eagerness to parent can create a market for children that works against the best interests of children in our country. U.S. law, I think, is well conceived to protect the children and everyone else in the process in international adoptions, and the Hague Convention and the Intercountry Adoption Act will provide more protection. USCIS, the agency where I work in the Department of Homeland Security, works to ensure several things. First, that at least one of the parents is a U.S. citizen, according to the law; also, through an FBI fingerprint check, we make sure that the adults in the home are not dangerous. Next, through a home study, we ensure that the adoptive home is appropriate for a child. Then we make sure that the child to be adopted is truly a child without a home, and is not being sold. If there is an inadmissibility issue, maybe a disease issue, then we adjudicate the admissibility through a waiver. And finally, we issue permanent resident cards and citizenship certificates to children who immigrate in the United States.

As in so many areas of the law, the Department of Homeland Security and the Department of State share responsibilities and processes in international adoption, and since coming to the Government, I have really been impressed with the dedication of people in both Departments who are working well, and better all the time in their own agencies, and with each other. But we can do better.

We need to give a clearer picture—in my view, in my personal view—we need to give a clearer picture to adoptive families about how the process will work, and where they are in the process at any given time in it. The process needs to flow more naturally and more efficiently. There needs to be a more seamless connection between the government offices involved, both within and between the departments. An example of how things ought to work, and what we ought to be shooting for is one of our processing successes. The Child Citizenship Act amended section 320 of the INA, to provide automatic citizenship when basically everything has come together to result in permit residence conferred on the child, with a full and final adoption.

So beginning on January 1, 2004, USCIS, before I got there, made the process as automatic as the legal effect for these children. So as the adopted child enters the United States port with an IR–3 visa, the visa file is routed to the USCIS office in Buffalo, who instead of issuing a permanent resident card, goes ahead and issues a certificate of citizenship, without the family even having to apply separately for that document. That is the kind of thing that we ought to be shooting for: Less complexity for the families, better ultimate result.

At the beginning of this year, I had become aware of some concerns. Friends of mine dealing with the process, other people—got some folks together, and it became clear that our adoption process at USCIS needed improvement, especially in streamlining and clarifying the process for those families. I set up an "intercountry adoption working group," and it involves people both at USCIS and at the Department of State. They are taking a fresh perspective to improve what we are already doing, and to get ready to implement the Hague Convention, according to the Department of State's schedule that was mentioned.

We expect to have a draft of our rule next month. It has to make its way up through the Department and OMB, but we are doing everything we can to get that done. It is part of a bigger scheme, and the goal is to have it all converge so that nobody is holding anybody else up.

This working group is a marvelous group under fantastic leadership. Anne Palmer is leading it, and by all accounts, she is incredibly dedicated to this task. And she has really solicited ideas from stakeholders and I think they would all, I think—people in the stakeholder community—would applaud what she has been doing. On June 12, that group will give the first of, I'm sure, many quarterly reports to the Congressional Coalition on Adoption Institute, and we look forward to that, and I am sure that your staff will be interested in that.

So in closing, I would like to just mention the ICARE Act. I really applaud the willingness of the Senate to consider a new perspective, a new approach, and not be completely hampered by however things have gone before, and we are certainly trying to approach things that way in our agency. But the Department of Homeland Security has concerns about the ICARE Act, and particularly, the provision that allows foreign governments to designate U.S. citizenship through the foreign adoption process. That citizenship provision in our view is too automatic, and we urge you not to eliminate the critical U.S. Government control over citizenship determinations. I guess otherwise I would say, as we have described, we are trying to make the very best out of the process that we have and out of the framework that we have, and we look forward to the opportunity to make that as effective as anything else could be.

Thank you.

[The prepared statement of Mr. Divine follows:]

PREPARED STATEMENT OF ROBERT DIVINE, ACTING DEPUTY DIRECTOR, CITIZENSHIP AND IMMIGRATION SERVICES, DEPARTMENT OF HOMELAND SECURITY, WASHINGTON, DC

Madame Chairwoman and members of the subcommittee. My name is Robert Divine and I am the Acting Deputy Director of U.S. Citizenship and Immigration Services (USCIS). I am honored to have this opportunity to address the subcommittee on intercountry adoptions. The employees of USCIS are proud of the important role they play in assisting U.S. citizens seeking to adopt children from other countries. As a result of their collective efforts, more than 200,000 foreign-born children over the past decade are living with their adoptive families in the United States.

I also want to take this opportunity to publicly thank our colleagues at the Department of State for their ongoing partnership with USCIS as we assist U.S. citizens in opening their hearts and homes to children from other countries. Today my colleagues from the Department of State and I will share with you the many achievements and challenges we have faced in the past year. I will also address particular issues concerning intercountry adoption in China, Indonesia, Vietnam, Cambodia, and the implementation of the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (Hague Convention).

OVERVIEW

In recent years, the United States has seen a steady increase in the number of children from other countries adopted by U.S citizens—from 19,087 children in fiscal year 2001 to more than 22,700 children in fiscal year 2005. USCIS remains committed to improving and streamlining its processes, while strengthening the protection of children in the system.

Fiscal year (Oct.1–Sept. 30)	Immigrants-orphans adopted by U.S. citizens
2005	22,710
2004	22,911
2003	21,320
2002	21,100
2001	19,087
2000	18,120

Source: Office of Immigration Statistics, Yearbook of Immigration Statistics data includes (1) orphans adopted abroad, admitted to the United States (IR3s), (2) orphans adopted abroad, adjustments in the United States (IR8s), (3) orphans to be adopted, admitted to the United States (IR4s), and (4) orphans to be adopted, adjustments in the United States (IR9s).

RECENT ACHIEVEMENTS IN INTERCOUNTRY ADOPTION

USCIS understands the critical role it plays in the process of intercountry adoptions. There are several vehicles USCIS uses in its efforts to assist prospective adoptive parents and children through the intercountry adoption process. One such vehicle is the Child Citizenship Act (CCA).

Child Citizenship Act Program

The Child Citizenship Act (CCA), which became effective on February 27, 2001, amended section 320 of the Immigration and Nationality Act (INA) by providing U.S. citizenship to certain foreign-born children. Under the CCA, children with a full and final adoption abroad who immigrate to the United States with a U.S. citizen parent automatically acquire U.S. citizenship upon entry. Children who emigrate and have their adoption finalized in the United States become citizens at the time of the final U.S. adoption. A "full and final adoption" exists, for immigration purposes, if (1) the adoptive parents completed the adoption abroad according to the laws of the child's country, so that the adoptive parents are now the child's legal parents for all purposes, and (2) BOTH parents saw the child either before or during the adoption proceeding abroad. The child receives an "IR–3" immigrant visa, if both of these requirements are met. If not, then the child receives an "IR–4" immigrant visa. For example, if only one parent saw the child, but the foreign proceeding was an actual adoption proceeding, an IR–4 visa would be the proper visa. An IR-4 visa would also be the proper visa if both parents saw the child, but the foreign proceeding was a guardianship or custody proceeding, rather than an actual adoption proceeding. For a child who enters with an IR-4 visa, the parents must then adopt the child in the United States, if there was no adoption abroad. If there was an adoption abroad, but the parents did not both meet the child before or during the adoption, then the parents must establish that the foreign adoption is recognized

under the law of their home State. This recognition may be established either by obtaining a formal court order recognizing the adoption (sometimes called "readoption") or by establishing that the home State's law recognized the foreign adoption without the need for a formal court proceeding.

If a citizen believes that his or her adopted child acquired citizenship under the CCA, the parent may file an application for a certificate of citizenship. In addition to this standard practice, however, USCIS also implemented the requirements of the CCA by creating a special program that processes citizenship for children adopted in other countries. The program began on January 1, 2004, and is located in the USCIS Buffalo, NY District Office. Through the program, USCIS-Buffalo receives and reviews all immigrant visas for children admitted to the United States who were adopted abroad (that is, those issued IR–3 visas), and issues a certificate of citizenship to those children who meet the requirements under section 320 for automatic acquisition of citizenship. No formal application for a certificate of citizenship is required, under this special program, if the child meets these requirements.

To date, the CCA Program has been a success. From its inception on January 1, 2004 to May 30, 2006 the program has:

- Received and reviewed 37,617 visas for children admitted with IR–3 visas; and
- Produced 37,185 certificates of citizenship for adopted children who were found to have acquired citizenship under section 320.

It is important to note that just 34 days, on average, elapse from the time the child enters the United States with an IR–3 immigrant visa to the time a certificate of citizenship is produced for the adopted child. While proud of this accomplishment, USCIS continues to work hard to maintain and improve the timeliness of this program.

Intercountry Adoptions Working Group

In March 2006, I established and chartered the Intercountry Adoptions Working Group consisting of representatives of various components within USCIS that play a role in intercountry adoption, as well as representatives from the Department of State's Office of Children's Issues and Consular Affairs. The working group is responsible for addressing three issues:

- Near-term improvements and streamlining of USCIS' current intercountry adoption process;
- Long-term redesign of USCIS' intercountry adoption process to strengthen customer service and integrity; and
- Promulgation of USCIS regulations, and potential other changes, necessary to implement the Hague Convention.

I believe we are already beginning to see progress from the efforts of this working group, particularly in the area of coordination with the Department of State. For example, as a result of increased communication, USCIS and the Department of State have agreed to provide joint quarterly updates to the Congressional Coalition on Adoption Institute concerning implementation of the Hague Convention, and on other pressing issues facing intercountry adoption. The first of these updates is scheduled for June 12.

COUNTRY UPDATES

Because of this committee's and the public's interest in intercountry adoption in China, Indonesia, Vietnam, and Cambodia, it is important to highlight the various processes and issues with intercountry adoption in these countries.

China

Of the countries that currently participate with us in intercountry adoptions, China generally is viewed as the most efficient, predictable, and transparent of all countries. In terms of U.S. involvement in this process, much of the credit for this positive reputation goes to the Adopted Children's Immigrant Visa Unit (ACIVU), a subunit of Department of State's consular section in Guangzhou, which is supported by USCIS overseas personnel. ACIVU works closely with the China Center of Adoption Affairs (CCAA), the Chinese Government authority that oversees foreign adoptions to ensure an effective intercountry adoption process.

The Guangzhou consulate adjudicates orphan petitions and conducts orphan investigations for all children adopted by United States citizens in China. More immigrant visas for adopted children are processed in Guangzhou than in any other post in the world. In fiscal year (FY) 2005, Guangzhou issued 7,906 visas to adopted children immigrating to the United States.

According to information posted on CCAA's Web site, the current wait time for the referral of a child for adoption is about 11 months—up from about 8 months

only several months ago. CCAA has attributed this increase in wait time to three factors: (1) An increase in intercountry applications; (2) a finite number of children; and (3) an increase in domestic adoptions. CCAA has not speculated about whether wait times will continue to rise in the future. Rather, they stress that their policies are transparent, and that they do not impose quotas on intercountry adoptions. Given this situation, the Intercountry Adoptions Working Group, in conjunction with partners at Department of State, has begun to examine the adoption processes to identify opportunities for streamlining that will reduce the impact on U.S. citizens of longer CCAA processing times.

Indonesia

Indonesia has strict guidelines and laws that prospective adoptive parents must meet, including such requirements as being a resident in Indonesia for at least 2 years with a permit issued by the local authorities and a letter from the U.S. Embassy in Jakarta (a statement of domicile). Indonesian law stipulates that an adoptive child must be of the same religion as the adoptive parents; where the religion of the child's natural parents is not known, the child will be deemed to be Muslim. These are only some of the many requirements that prospective adoptive parents must fulfill and follow, but I will defer to my colleague from the Department of State to address more fully the current situation in Indonesia.

Vietnam

On June 21, 2005, the United States and Vietnam signed a bilateral agreement to resume intercountry adoptions—ending a 2½-year moratorium. Under the agreement, which entered into force on September 1, 2005, the United States and Vietnam recognized:

- Intercountry adoption is an appropriate measure to provide children with a permanent family when an appropriate family cannot be found in their country of origin;
- Both countries needed to take appropriate measures under their respective laws to prevent and deal with actions of adoption abuse; and
- Both countries share responsibility for implementing measures to prevent improper financial or other gain as a result of working for and receiving orphans, and to penalize such practices.

The Vietnamese Department of International Adoptions (DIA), within the Department of Justice, is the Vietnamese Government entity responsible for overseeing and authorizing all adoptions by United States citizens. The goal is to eliminate the possibility of contact between the adopting and biological parents, which could allow for the possibility of child selling.

Since the agreement took force on September 1, 2005, the U.S. Government has received 22 requests for immigrant visas in adoption cases from U.S. citizens. On January 25, 2006, the U.S. Embassy in Hanoi issued the first immigrant visa to a Vietnamese child adopted by a United States family under the agreement. USCIS is extremely pleased with these developments and, with Department of State, will continue to monitor the progress of safe and well-maintained intercountry adoption in Vietnam.

Cambodia

On December 15, 2001, the then-Immigration and Naturalization Service (INS) imposed a suspension on intercountry adoptions from Cambodia due to evidence of baby selling and corruption in the adoption process. A joint State Department-INS task force was then formed to process all cases of American citizens whose Form I–600A (Application for Advance Processing of Orphan Petition) to adopt an orphan from Cambodia had been approved prior to December 31, 2001. Over the next 3 years, this joint task force, working with the Royal Government of Cambodia, processed over 400 cases. The task force completed its mission and was disbanded on August 31, 2004.

Currently, with the dissolution of the joint task force, no further cases involving orphans from Cambodia will be processed by either the Department of State or by USCIS. This means that there will be no processing of orphan petitions (Form I–600) and/or immigrant visa applications for Cambodian orphans until the suspension on intercountry adoptions from Cambodia is lifted.

The U.S. Government stands ready to provide guidance to the Cambodian Government in both establishing an improved child welfare system and enacting and implementing Cambodia's pending adoption legislation. We believe that this plan will yield positive results, once the Cambodian Government begins to move forward on this issue. To that end, the U.S. Embassy in Phnom Penh will continue to remain engaged with both the Cambodian Government and UNICEF. In addition, USCIS

has offered to provide technical assistance in any way that might be helpful as Cambodia looks to move forward on these issues. I defer to my colleagues from Department of State to discuss in more detail the current situation with Cambodia.

THE CONVENTION ON PROTECTION OF CHILDREN AND COOPERATION IN RESPECT OF INTERCOUNTRY ADOPTION (HAGUE CONVENTION)

In reviewing intercountry adoptions, it is necessary to discuss the Hague Convention. The Hague Convention is a multilateral treaty that was adopted on May 29, 1993. The Convention covers the adoption of a child who habitually resides in one Convention country by adoptive parents who habitually reside in another Convention country, when the child is going to immigrate to the adoptive parents' country as a result of, or for the purpose of, the adoption. The Convention establishes certain internationally agreed-upon minimum norms and procedures. The goal of the Hague Convention is to protect the children, birth parents, and adoptive parents involved in intercountry adoptions and to prevent abuses.

The United States signed the Hague Convention on March 31, 1994, signaling its intent to proceed with efforts to ratify the Convention. In September 2000, the Senate consented to the President's ratification of the Convention, but the Senate conditioned this consent on the adoption of the laws and regulations necessary to carry out the principles of the Convention.

On October 6, 2000, President Clinton signed the Intercountry Adoption Act to, among other things, establish the domestic legal framework for implementing the requirements of the Hague Convention. Since that time, efforts have been under way to issue Federal regulations to set forth:

- The requirements entities must meet to qualify for designation to accredit or approve adoption service providers;
- The standards agencies and individuals must meet to become Hague Convention accredited or approved as adoption service providers; and
- The procedures for adoptions to and from the United States.

I will address the third point—the procedures for U.S. citizens to adopt children from "Hague" countries, as this is where USCIS has responsibility. Under the Intercountry Adoption Act, USCIS is responsible for regulations addressing:

- Determination of the suitability of a prospective adoptive parent to adopt a child from another Hague country; and
- Adjudication of a petition to classify a child as a "Hague child."

USCIS is currently working to implement these two responsibilities, and is consulting closely with the Department of State on the overall implementation framework and timeline.

That said, I would like to take this opportunity to address the addition of the ICARE Act to S. 2611, the Comprehensive Immigration Reform Act of 2006, recently passed by the Senate. While DHS shares the goals of the drafters to improve and streamline the intercountry adoption process for U.S. citizens, while protecting the best interest of the children, we are concerned that introduction of such dramatic changes into the intercountry adoption process while the U.S. Government is in the midst of implementing the Intercountry Adoption Act could significantly delay ratification of the Hague Convention. In addition, the citizenship provision of the ICARE Act, which provides for automatic acquisition of citizenship by adopted children upon a full and final adoption in a foreign country, is particularly troubling. It eliminates an important "check" from the U.S. Government process for recognizing acquisition of citizenship by adopted children—the admission of children to the United States for permanent residence. This important step in the process allows the U.S. Government to review foreign adoptions and refuse to recognize them for immigration purposes when fraud, public welfare, or other particular issues are present. Without this step, foreign governments would have a larger role in the decisions about which adopted children automatically acquire U.S. citizenship.

Rather than risk a delay to ratification of the Hague Convention, the ICARE Act, particularly the U.S. citizenship portion, should be reconsidered at this time. By waiting until after implementation of the Intercountry Adoption Act and ratification of the Hague Convention, we will have an opportunity to fully assess the reforms necessary to strengthen the intercountry adoption process in the United States.

CONCLUSION

As the committee can see, intercountry adoptions require a multifaceted and complex process. USCIS, in partnership with the Department of State, is working first and foremost to protect children, birth parents, and adoptive parents involved in the intercountry adoptions and to make the process as well-maintained and efficient as

possible. Thank you again for the opportunity to speak with you on this important subject. I am happy to answer any questions you may have.

Senator MURKOWSKI. Thank you, Mr. Divine. Appreciate your testimony here this afternoon, and your personal perspective. Couple questions here this afternoon. Ms. Barry, I had mentioned the situation in Cambodia, and the moratorium that is in place. You have spoken to that—indicated that the ambassador has been involved in working with UNICEF. What specifically, in terms of the Government agencies, have been involved in any form of negotiations with the efforts with Cambodia? And from the Cambodian perspective, on their side, what agencies within Cambodia have been responsive to the discussions that have been going on, whether it is law enforcement, the police, judiciary? If you can just give me a little more detail into the status of where we are with Cambodia?

Ms. BARRY. Yes, of course I would be happy to give you some more background on Cambodia. The United States Embassy in Cambodia does have several agencies represented there for this particular issue. The main players have been the State Department officers. Under the direction primarily of the ambassador. The various ambassadors we've had there have all taken a very personal role on this particular issue. And USAID. As we step back from the suspension and the processing of the pipeline cases, and took a look at what we thought needed to be done, we decided not to focus on the legal framework, because UNICEF had taken a very proactive role in working on that problem. And so we got together with UNICEF and we agreed that we would support them, but allow them to take the lead on that, working with the legislature of Cambodia on that particular issue.

Then we thought it was a good idea to sort of define the problem. Just how many children in need are there, what is the nature of their needs, and where are they? And so that was the idea for what turned out to be the USAID-funded survey of children in need. And so we started that. And, in fact, it was Holt that was asked to actually do the work, to go out and about through the countryside and do that survey. We turned the survey over to the Government of Cambodia, hoping that would then allow them to start to define the type of executive agency that would be needed to step up and do child welfare.

They have an agency, which we call by its acronym, MOSALVY, which does social welfare and children, and which was the agency involved in adoptions earlier. But it was not acting in a professional manner, had no internal controls that we could see, and that was what, in part, led to the baby buying and selling.

The other player that we would look to would be law enforcement, because if you are talking about document fraud, if you are talking about facilitators who are engaged in criminal activity, the only one who can shut them down is an effective law-enforcement arm. Although on our side, the U.S. Government stepped up, primarily through the work of then-INS, and got criminal convictions on our side for those who had abused the adoption process, no one in the law enforcement community in Cambodia has stood up to shut down anybody who was abusing the process in Cambodia.

So to this day, we do have interest in the legislature to get the legal framework in place, and UNICEF continues to take the lead on that. We continue to work very closely with the executive branch of Government to work on the social welfare structure that needs to be put in place. There hasn't been as much activity as we would like to see on the part of the Cambodian Government. We are looking for more demonstration of political will to actually put some real effort into this, but we will keep trying. We will keep trying. And in part, we think that the legislation is important because it will define who, at the executive level, will have the oversight responsibility. But we are trying to keep several efforts going simultaneously.

Senator MURKOWSKI. What thresholds does the State Department or Homeland Security use in determining when a country is no longer suitable for adoptions? What do you specifically look to? We have mentioned the baby trafficking in Cambodia, obviously, but is there a threshold where you say "We are cutting it off, and there is now a moratorium in place"?

Mr. DIVINE. Cutting off all adoptions for a country is obviously an extraordinary measure, and it is very rarely used. There is not a set criteria or a checklist. I think it's an overall determination. Every country is unique, and you know, that sounds like an agency to say that, but I think transparency is probably the key. If you cannot see into what is going on, you cannot trust what is going on, and especially when you also know that there were a lot of bad things going on. Until you can see better systems that will prevent bad things, then it is hard to open it up, because you have got a serious possibility of encouraging the very market that you don't want to foster.

Senator MURKOWSKI. Back to you, Ms. Barry, with the ratification of the Hague Convention. You have mentioned the expectation that 2007, sometime during that period, recognizing as Senator Craig has mentioned that it has been 10 years in the making—are we certain as to that timetable, or the timeframe of 2007?

Ms. BARRY. Yes, I will say I am confident that we will make that deadline. And the reason I say that is because the regulations that I mentioned that we are going to publish this summer are much less complex than what we've been through in setting standards for the adoption service providers. The first regulation that you will see is modifying the visa process, and we are really not so much modifying the process, as simply recognizing the definition of "orphan" from the Hague Convention into the regulatory framework for visas. So that's a very short regulation, will not be controversial, and we will be able to finalize that, I'm certain, this calendar year.

The other one concerns children leaving the United States who will be adopted elsewhere. And the Convention, as you may know, requires a certification process between the two governments before the adoption is finalized. So we will be proposing in that regulation to the American public, how we propose to do that. We think we are going to propose something fairly straightforward, and again I don't think see that it will be a controversial issue.

And then the third one goes to a requirement of the intercountry adoption act, that we have a mechanism to track cases, both incom-

ing and outgoing cases. Since we use automation extensively now for the immigration of adopted children into the United States, that is not a difficult step for us. But we will explain again in a short regulation how we intend, in general terms, to do that. So I am confident that that regulatory framework will be wrapped up by the end of the calendar year. As I said, the wildcard, so to speak, for when we can actually ratify is the accreditation process—how many adoption agencies will step forward to seek accreditation, because they will all have to be inspected by the accrediting entities.

So is it 50, is it 100, is it 150? We will know that number by the end of summer, and then we can come back and tell you and others much more specifically, based on the professional evaluation of the accrediting entities, how long that process is likely to take.

Senator MURKOWSKI. And then one final question. This was after the tsunami, you know, in Indonesia, the adoptions coming out of Indonesia and Thailand were suspended. Can you tell me what the current state of affairs is on that? And I have to assume that from the State Department's perspective, there were a fair amount of lessons learned with that process. If you can, do speak very briefly to that?

Ms. BARRY. The suspension on adoptions from the countries hit by the tsunami was a suspension by the governments of those countries, not by the U.S. government. So if I could just make that clear for the record. Adoptions are now available, in principle, in all countries that were hit by the tsunami, but American citizens, in looking at the State Department information that we have on each country and the adoption process in place in each country, will find that the process in those countries is very different.

Senator MURKOWSKI. Different post-tsunami than it was pre-tsunami?

Ms. BARRY. No, it did not change. Indonesia, for example, has always had a residency requirement for adoptive parents, and it is a fairly strict residency requirement, and so it is not attractive to American families to move to Indonesia for a significant period of time. But it is available. It is an option.

Senator MURKOWSKI. What about Thailand?

Ms. BARRY. Thailand is—we have our statistics that we submitted for the record, if you would give me a second to look them up. I don't believe we have seen any significant change in Thailand over the years. They actually relatively quickly were able to identify the children in need because of the tsunami and they responded very quickly. So for example, in 2004, American families adopted 69 children from Thailand, and in 2005, 72. So you will see there was almost no change whatsoever. As I said, Thailand responded very effectively to the tsunami, and helped their affected populations.

And the other thing about Thailand is that the tsunami actually harmed a relatively small part of the country, as opposed to Indonesia, where much larger populations were harmed, and badly harmed, obviously, by the tsunami.

Senator MURKOWSKI. Thank you.

Mr. Divine, I appreciate your perspective. Thank you for the personal side of it, as well. It is one thing to be working within a de-

partment, within an agency and recognizing that you are part of a bureaucracy, but also to wear another hat—the hat of a parent, of an adoptive parent—to recognize that you may be part of the problem, and how can you fix it, and to know that you have been proactive in forming a working group to try to figure out how you do make for a more streamlined process, provide for the questions, and to try to meet the needs of those that are trying to fulfill their dreams by having a child and having the family.

Can you give me a little bit of insight, then, either from your bureaucratic side or from your adoptive parent side, in terms of the average timeframe that it takes for an application for an international adoption to be processed? And I am just looking for averages. It probably differs from country to country.

Mr. DIVINE. And part of the problem is that there are several steps in the one process, and things have to coalesce before we can approve that first part, where we bless the family as able to participate on the other end and in the country—to say "You are fine to be an adoptive family." Because they have to have their papers to say who they are. We send them to a local fingerprint station—we call it an application support center—and they have to have their home study completed and sent to them.

And I know in my home State of Tennessee, I was forever receiving calls from families who were complaining that the immigration service was not doing anything on their case, and why were they not doing it. And it turned out that what was happening is that the home study which had been done by the child placement agency—and the family knew it—had been sent to Nashville, to the interstate compact office, that had to then be the one to send it to the immigration office, and those people had not forwarded it on. So the immigration office had not received it, but the customer did not know that they had not received it.

And so one of the things that is pretty obvious to do is just to put in a few little customer service steps to say, "We got your home study." So that they know that all of the pieces are in. Another piece is just to figure out where we should suggest to people, where in the process we should send people to get their fingerprints done. Because, you know, there is a tension there. We want to go ahead and get the fingerprints done so that when their home study comes in, it is all done and we can approve it and send them on their way. But at the same time, if it is going to be a long time before, say China, makes the child available for them, the fingerprints could expire. And we need to balance that, and we need to figure out what is optimal. And also, I want us to give people options so that they can be part of the process of gauging for themselves, because each country is different, and the parents may be a lot more attuned to the situation. Those are little examples, but it is surprising how much they can matter.

Senator MURKOWSKI. That is one of the issues that we have learned with the China situation—where we are seeing the process take longer than that 18 months to be approved by the Chinese Government—and so you have got, I guess, an expectation through the process here but you have got a process over in China that is taking longer.

Mr. DIVINE. It's tough for everybody to predict how to pull it all together at the right time so that everything is current and valid at the time it needs to be, and people can go.

Senator MURKOWSKI. Is China the exception, then, in terms of the length of time that it is taking them to go through the approval process, as compared to some of the other countries that we are seeing so many of our foreign adoptions come from?

Mr. DIVINE. Well, I can't claim to have a comprehensive country-by-country perception of this, but my sense is that China is the one country that has been sending the most children—that has had a significant slippage in the period of time that it takes for a family to be able to go and meet their child. And that has been a function as I understand it of conditions in China, not a function of anything the U.S. Government is doing.

Senator MURKOWSKI. Can you tell me, give me a for instance, which countries are perhaps more cooperative in DHS investigations, which ones are really difficult to deal with, and perhaps the reasons why?

Mr. DIVINE. Well, let me be positive first, anyway. I think China is a good example of a country that has been very involved, and while there has been one incident, their reaction to it demonstrated their commitment to the integrity of the process, and so that's on the positive side, and I think that my understanding is that—and I am not a Hague Convention expert yet—but my basic big picture understanding is that the Hague Convention is going to make adoptions for participating countries look more like Chinese adoptions in a sense, because the country of the child is going to be more involved, centrally ensuring that the conditions out of which the child is coming are appropriate for adoption. But my colleague may have more useful things to say on this.

Ms. BARRY. If I may comment on China. One of the issues is that we do not have the full picture, because we are one of several receiving countries. So we know how many United States files have gone to the Chinese authority for adoptions. We have no idea how many files they have received from Western Europe, the Nordic countries, Australia, New Zealand. In other words, the other receiving countries.

And so that is unknown to us so we cannot predict exactly how long China will take. As you said, the timelines have changed a bit, and I think that is a reflection that China is receiving files, probably more files from American families, and more files from other receiving countries as well.

Senator MURKOWSKI. Do you think that we can expect that the timeframe in which China is able to approve will be reduced? Are things getting better or are things getting worse, in terms of the timeframe?

Ms. BARRY. It has gotten somewhat worse, and I think we will simply know that over time by maintaining good communication with the Chinese central authority. Our goal is to have the best information available to the prospective families, so that whether it is 15 months or 18 months, I think it is most important that families know that. We will continue to talk about how we can improve the process with the Chinese to, you know, to keep it at the lower end, but I think we do have to be mindful of the fact that there

is a larger process going on. It is not simply a United States-Chinese relationship.

Senator MURKOWSKI. Thank you. Mr. Divine. One final question for you. This relates to the October 2005 GAO report that found that USCIS didn't have a formal quality assurance program in place to review the quality of the adoption process. Has this aspect been addressed, or is it being addressed?

Mr. DIVINE. I have to confess that apparently that is one of the things that the working group is definitely onto. And let me say about the working group—it is not one of these things where, you know, we have to look like we are doing something, so let us round up some people, you know, put them in a room and act like we are doing something. We have pulled in the people who care about this, full-time, for months and months—the person in Buffalo who really spearheaded this process of giving citizenship certificates to people, and she is riding herd on this regulation, full-time. I mean, this is several people. This is not just a tangential effort. I really want this done, I want it done right, and I want our agency to be a more centralized and coordinated effort, of the type that I think the ICARE envisions this other organization in the State Department would be.

And my view is, if we can just get that working, you wouldn't be able to be able to tell the difference between that and whatever else you might try to come up with. Doesn't matter so much which agency it's done in——

Senator MURKOWSKI. As long as it's done?

Mr. DIVINE [continuing]. As long as is done, and done right. One of the problems, and this is part of our bigger picture, that, you know, our systems have not been great, and this is one of the few types of cases that have been filed locally, and are not on any database, except whatever local database the little office has. We have a lot of opportunity to put order into this and systematize it, because of how decentralized it has been. You know, we have got a lot that we can do, and we are going to do it.

Senator MURKOWSKI. Senator, thank you. Thank you to both of you for coming this afternoon, and providing your testimony—your efforts.

With that, I would like to invite Senator Mary Landrieu. As I mentioned earlier, the Senator has been a leader on adoption issues here in the Senate. We greatly appreciate her work. Senator Landrieu, Senator Craig was able to join us at the beginning of the hearing, and certainly lauded you for your efforts, as I certainly concur—certainly agree with. Thank you so much for joining us this afternoon. I know we have had to adjust schedules a little bit so I appreciate you working us into yours.

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

Senator LANDRIEU. Well, thank you, Madame Chair. And I really appreciate you taking the initiative to have this very important hearing today. It is a subject that I am sure that Senator Craig shared with you, that we think is so important, and doesn't get the attention that it really deserves and needs here in Congress. Of course there are many important issues, but for families that have

built their families through adoption, for many child welfare advocates here in America and around the world, and any number of other agencies, entities, nonprofits, and individuals, this is the most important issue, because they really believe that adoption is such a positive outcome for so many children and families of the world—that the uniting of the families is so beneficial for the parents and the children, and the need is so great, as you know.

Here in the United States, today, we have 500,000 children in foster care, ages 0 to 18. About half of them are waiting for families to come adopt them. Orphans—their parental rights have been terminated. They don't have parents, and they are waiting to be adopted.

And so Senator Craig and I, and 190 Members of Congress have spent a great deal of time trying to educate ourselves about adoption, and trying to educate the country about the benefits of trying to connect children with families, because we think governments here in the United States and around the world do a lot of things well, but raising children isn't one of them. That parents or parent, preferably responsible, loving, nurturing adults, should raise children—should raise a child or children.

In addition, the new policy around the world appears to be to keep sibling groups together. That can be quite a challenge if the sibling group is 8, or 6, or 10. But we are making a great effort to not only have children adopted, but keeping sibling groups together. And China, I have to say, has been really extraordinary as countries go in the world, in being willing and able to participate in this process.

As you know, 120,000 children are adopted every year in the country. Twenty thousand of those come from other countries to the United States. Approximately 100,000 children are adopted within our own country. And about 20,000—and that number has increased dramatically over the last 15 years—but in our view, as adoption advocates, we do not think that number is nearly high enough. We have not set, as a coalition, a target, but our stated and unstated goal and just, you know, focus, is to find a home for every orphan in the world. So we have a long way to go.

And that is why I get so frustrated, and so does Senator Craig and members of our coalition, when bureaucracies slow this process down for no good reason. Sometimes there are good reasons to slow the process down. You want to eliminate fraud, you want to eliminate crime, criminal behavior. But if we have a process that is so full of red tape, bureaucracy and paperwork, et cetera, and if we stop the process every time there is one violation, we will never create a system in this country or the world that gives a chance for kids who are desperate for parents, and parents who are desperate for children, to find each other.

And so I'm here, and I have a written statement, but I really would rather just focus on two specific things about China, because our delegation has been to China, and I have been in touch annually with Chinese officials, since 10 years ago, and trying to work closely with them and encourage them to keep this very mutually beneficial relationship going.

And what do I mean by that? China, as you know, has a population challenge, and they also have a one-child policy, which has

been somewhat liberalized, thank goodness, these days, but they just have millions of children that need homes. And we have millions of Americans that are able and willing and want to adopt children.

Number two, besides the obvious need, that of connecting parents that want kids and kids that need parents, I have explained internationally that these children become the most effective ambassadors for these countries when they come to the United States, without saying or doing anything. The childrens' presence softens and opens up America's eyes to China, and to Korea, and to Vietnam, and to Guatemala—which is not the subject here, you know. It is Asia—more than I can tell you.

And I will share one story for the record. I was in Louisiana, as you know. You are always in Alaska. But 3 years ago, I was in a tiny town called Bawcomville, that you will never hear or see anywhere, and it is right outside of Monroe, and a city council member from Bawcomville came up to me and, you know—just a good old boy from Louisiana—he threw his arms around me and he says, "Senator, I voted for you, I will support you. I am appreciative of everything you've done. I want you see a picture of my grandchild."

So I am sort of half paying attention and I look at this picture. And this is a baby, clearly, I can see, from China. And I looked at him, and he looked at me, and I said, "And so we went to China for this baby?" And he said "Oh, yes. And, you know, my daughter went, and this baby is the apple of our eye. And this baby is the special child in Bawcomville." And I am thinking that this is something, Bawcomville to Beijing, Beijing to Bawcomville, and how they are now celebrating, you know, this child in this town that you wouldn't necessarily think was on the cutting edge of international adoption.

But I am telling you, America, little towns to big cities, parents are adopting children domestically and internationally. China asked me when I was over there if our State Department could help them—if we could move the center from Guangzhou to Beijing, so our parents do not have to travel back and forth. It is our decision, not China's decision. Our State Department has not done that yet, so I want to go on the record urging our State Department to do that, if possible.

Also, they said that because China deals with this in a very centralized way, and our system is very decentralized with our 50 States, we respect that. We need to keep it that way. These agencies are licensed by the State. But we have worked now for many years to try to encourage the State Department here to assume a more centralized role with respecting the 50 States, not trying to step on the toes of our 50 States, but they have got to come up with a streamlined, central State Department, and not three different departments, and not three different entities, but one. We think the State Department knows what the treaty says—what is in the Hague implementation—and really now the President. We just have to get this implemented. This bill that we have been trying to pass for 5 years called the ICARE bill. It is broadly supported by Democrats and Republicans, and yet our State Department continues to push back.

So I am sorry I was not here for questioning of the State Department, but I am going to pursue the lines of questioning and writing to them as we work through this, because the countries that we work with all over the world are creating these more centralized systems, and they have to work with a national, centralized agency, and they cannot work with 50 States. China cannot work with California one day, then New York another day, and then North Dakota another day, and then Louisiana. They are just not organized that way.

So I understood that we cannot do everything these other countries ask, and we have to respect our own country, but as a Senator who believes in this, I have had to figure out a way to get countries to a common ground. And so I am asking our State Department to move a little more quickly to help China to continue to be the largest sending country to the United States. The last I looked, China sent 8,000 children for us to, you know, to become American citizens. We are so grateful that parents have adopted these children.

I was literally stopped today, 2 hours ago, but this happens to me every day. I went to give a speech to a Des Moines, IA group. Before I could even walk in the door, a woman running the association said "Thank you, Senator. My 3-year-old is from China," and we had to talk for a little bit—how parents do about their kids—and she was telling me how tiny she is and how little she is, but how beautiful she is, and how smart she is.

And she's got a 10-year-old—and I can tell you this whole story which I won't—but this happens to me every day. And then she said, "Please, Senator, please continue to fight for shorter times, less paperwork, less finances. These children need us and we need them."

So I just want to encourage you, Madame Chair, in your role on this committee, to please continue to focus on South Korea, and Vietnam, and China, and East Asian countries. But I promise you that we want to focus on all the countries of the world, because we believe that many countries need to find places for children, and we need to do a better job in our country of finding homes for the 250,000 children who are now available for adoption, and we believe we have an obligation to provide a family for them, and a future for them.

So I want to continue to help. I will be happy to answer any questions that you might have, and our whole 190 Members of Congress are committed—and it is amazing in this caucus. It is the only one I belong to that does not argue. And we have Democrats and Republicans, and everybody just is happy, and we all get along because we just literally do not argue about it. We are all together trying to make this work, and it is a happy caucus, and we are happy to testify any time that we can help on the subject.

Thank you.

Senator MURKOWSKI. Again, I want to thank you for your leadership in this area—so very, very vitally important. Just very quickly, I would like you to comment on a statement that was made by Mr. Divine from Homeland Security. He commented on the ICARE legislation, and he indicated that from Homeland Security's perspective, that one of the concerns was the automatic citizenship determination.

Senator LANDRIEU. Absolutely. Why we feel very strongly about this is because, you know, if you went overseas as an American citizen and you were pregnant and had the baby in a country, that child might not be born in the United States, but he's an automatic citizen of the United States because that is the law. When an adoptive parent goes to adopt a child in China and that adoption is finalized in China, that child is at that moment, as an adoptive parent, at that moment—under most laws, not all—is the child of that parent right away. There is no waiting period.

Now, domestically, when we do an adoption, some States require a 3-month wait until it is completely finalized by the law. You can understand why that might be the case for domestic adoption, but in international adoption, that is a final and forever and ever and ever. That is your baby, that is your child, and we think he/she should be an automatic citizen. Right now parents have to go through the court process, or whatever the process of the country of option, then they had to file additional paperwork for their child to become a citizen. It does not make any sense.

So we wanted to reduce paperwork and the time and make that automatic. And so that's my answer—it's the same way a biological child would be brought back. You don't need a visa for your newborn coming back from wherever you were overseas—you do not need a visa. That child has a special visa. You might need a passport to get the child back. I think that you don't need a special visa application. It is just another step that adoptive parents go through for no real good reason.

But I want at least to say one other thing. I have tried to explain this to the State Department. It is not just this current State Department, it has been a problem with all the State Departments I have worked with. And I understand the need to focus against fraud.

Believe me, nobody wants to eliminate fraud more than our delegation, our whole caucus, but I want to say this for the record: When a bank is robbed in Chicago, we do not shut down the banking system. We go find the bank robber, and we put them in jail. Every time there is one stealing of a baby, or you know, one violation of a crime, everybody starts shutting down international adoption. And we don't realize, when they do that, they literally sentence children to death, literally. And they disrupt the lives of thousands of good tax-paying church-going American citizens, who are just to the end of their process, and then somebody steps up and says "Oh, we have a suspicion that 10 babies were taken illegally, so we are shutting the system down."

It is the worst shock to the system, and we do not do it anywhere else. And I'm going to fight against these closures that we keep going through, and we need to keep the system open, transparent, and it is a literal lifeline to children, and a happiness line for parents.

The second thing I wanted to say is all of this negative, that this—every time we have an incident, one adopted child, you know, was hurt in America—I hate to say this because it's a hard thing to say, but I tell international people that come into my office all the time—they tell me "Senator, how do we know our children will be safe, how do we know that you will take care of our children?

How do we know that you all do not just adopt the children"—they think for body parts sometimes. I try to calm them down, saying that we have a free press, "If we were taking body parts from children, you would know about it—our press would write about it. It doesn't happen," I said, "but every now and then, of course, a parent will do the wrong thing and hurt a child. Sometimes they hurt adopted children."

But I hate to tell you all this, and it is hard for me to say it, but Americans kill their own children. Seventeen hundred children are murdered every year in the United States at the hands of their own parents. I mean their biological parents. So I hope the State Department understands that if you are looking for a perfect system where children are never hurt we will never get there. We just have to have a system that works 95 percent of the time, does everything it can, because if we are trying get this adoptive system to be perfect when the normal world is so imperfect, then all we will have is millions of orphans sitting around in orphanages, literally wasting away, and millions of parents that would love to adopt them, and we cannot get them together because we have got bureaucrats running around wanting a perfect system. So I am sorry I went on about that, but any other questions?

Senator MURKOWSKI. I appreciate your passion. I think we do see this ripple effect, if you will, from allegations, or reports of baby trafficking in one country, that do threaten to undermine international adoptions, not necessarily just from that country, but from other countries as well. All of a sudden, all the flags go up and everyone is ultracautious, and of course we do need to be cautious—we do need to be making sure that everything we do is in the best interest of the child.

But we need to make sure that it is not an overreaction to hopefully very, very isolated instances, and in an effort to make sure that we do not ever have that problem again, that as you point out, we seal it off, and the ones that really do suffer are the children and prospective adopted families that wanted to adopt these children. So I appreciate your passion on this, and all your good work. Thank you so much for spending the time here before the committee.

Let us next go to—I guess it is our last panel here this afternoon. We have Mr. Thomas Atwood, who is the president and CEO for the National Council for Adoption, as well as Susan Soon-Keum Cox, the vice president of public policy and advocacy for Holt International Children's Services. Welcome to the committee this afternoon. Thank you for time. Mr. Atwood, why don't you go ahead and present your testimony, please.

STATEMENT OF THOMAS ATWOOD, PRESIDENT AND CEO, NATIONAL COUNCIL FOR ADOPTION, ALEXANDRIA, VA

Mr. ATWOOD. Thank you, Madame Chairman Murkowski. My name is Thomas Atwood. I am president and chief executive officer of the National Council for Adoption, NCFA. I thank you for the opportunity to testify. NCFA applauds the subcommittee's interest in the compassionate practice of intercountry adoption. An adoption research, education, and advocacy organization founded in 1980, NCFA has been involved in improving the intercountry adoption

system since the early stages of the drafting of the Hague Convention, and right on through the enactment of the Intercountry Adoption Act of 2000.

Since last September, we have continued the work. We have traveled to China, Vietnam, Russia, and The Hague, serving as a global advocate and expert on adoption and child welfare. Adoptions from Asian countries have increased 10 of the 12 years. At the 2000 census, 12.6 percent of America's adopted children living with their parents had been adopted internationally, 6.2 percent were born in Asian countries, and nearly half of them from South Korea. China and South Korea have been the top four countries of origin for America adoptive parents since 1994. In the first half of the 1990s, South Korea was the leading country of origin with 25 percent of all American international adoptions during that period. With the increase in adoption from China, Russia, and Guatemala since then, and with South Korea's recent decline in adoption, Korean adoptions stood at 7 percent in 2005—China has been the No. 1 country of origin for each of the last 6 years, and either the No. 1 or No. 2 position every year since 1995, with annual adoptions by Americans ranging from 4,800 to 7,900.

Much of the overall increase in intercountry adoptions in recent years has been due to increases in adoptions from China, with most other Asian countries either remaining steady or declining slightly, such as India and the Philippines, and others declining dramatically due to suspensions—namely, Cambodia and Vietnam.

The basic tenet of intercountry adoption is that national boundaries and national pride should not prevent children from having families. This truth seems self-evident. Given the choice between growing up with a loving, permanent family of one's own through international adoption versus growing up without a family in the country in which one happens to have been born, most people would choose a family through intercountry adoption. To varying degrees, intercountry adoption encounters a streak of nationalism in every country of origin. To some extent, this nationalistic reaction is understandable. Any self-respecting nation would like to be able to take care of its children in need itself. Our intercountry adoption advocacy should be careful not to feed into this nationalistic caricature, that rich, presumptuous Americans are coming to take the mother-country's children.

This potential pitfall argues for our Government's current advocacy approach, whereby the Assistant Secretary for Consular Affairs manages intercountry adoption as part of a broader portfolio. And it argues against a single-focused Ambassador-at-Large for intercountry adoption position. It is difficult to see how political leaders in countries of origin would want to associate publicly with the American representative whose sole purpose is to enable Americans to adopt the native country's children.

NCFA, instead, recommends a holistic approach which respects intercountry options as part of a country of origin's overall adoption and child welfare program. This approach presents intercountry adoption as a positive option for orphans, second in preference to timely domestic adoption, but to be preferred over domestic foster care, and group or institutional care. However, when a domestic

adoption is not occurring for children within a certain timeframe, orphans should become eligible for intercountry adoption.

As they implement the Hague Convention, many countries of origin are taking a holistic approach at their adoption and child welfare programs. Thus, because of our country's many decades of experience with child welfare policies, America's opportunities here go beyond promoting our own citizens' ability to adopt internationally. By sponsoring educational seminars and exchanges with our Hague central authorities, for example, we can promote and inform the global proliferation of adoption and child welfare policies.

And Madame Chairman, here is my most important point this afternoon: Now that the State Department has published the implementing relations for the Intercountry Introduction Act, the top international adoption priority for the American Government and the adoption community should be to make a smooth transition to the implementation and ratification of the Hague Convention through these regulations.

This will not be easily accomplished. The regulations are sound and will promote child protection and international adoption, but they are also complex and demanding. Over the next 18 months, the entire international adoption community in America will be relearning its ways of processing adoptions. The very complicated steps involved in making this transition are described in my written testimony. Further reforms may be appropriate once we are further along in the transition to the Hague Convention. But there is no compelling reason to implement other major reforms at this time, such as transferring to the State Department all of the DHS's work currently housed in the Citizenship and Integration Services, as contemplated by the ICARE amendment pending, referred to by Senators Craig and Landrieu. Forcing such a transition at this already demanding time would disrupt intercountry adoptions, and confuse our central authority partners around the world.

After many frustrations with CIS, formerly INS, and the State Department in previous years, the adoption community now reports significant improvements in performance of both agencies. There has been greater cooperation between the two agencies, increased communications and more responsiveness to families and adoption service providers, increased standardization of processes across branch offices, and more proactive advocacy of adoption. There has been a positive corporate culture shift in both agencies.

The pivotal moment of implementation of the Hague Convention and the IAA is here. The American international adoption community believes we should not jeopardize this long-awaited transition by introducing other major bureaucratic and organizational reforms at this time.

I further submit for the record, Madame Chairman, NCFA's letter to Senator Landrieu regarding the ICARE amendment expressing our concerns.

Senator MURKOWSKI. We will put it in as part of the record.

Mr. ATWOOD. Thank you.

[The information referred to follows:]

NATIONAL COUNCIL FOR ADOPTION,
Alexandria, VA, May 17, 2006.

Hon. MARY L. LANDRIEU,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LANDRIEU: Your staff has graciously allowed the National Council for Adoption (NCFA) several opportunities in recent weeks to discuss NCFA's position on the Intercountry Adoption Reform Act (ICARE). As staff suggested, I am writing to summarize and explain this position for you.

NCFA finds many of the tenets of ICARE to be of interest and potentially worth pursuing, and we sincerely respect the excellent intentions contained in this initiative. However, we believe that now is not the time to consider such dramatic changes to the intercountry adoption system, just as that system is in the midst of transitioning to the recently released implementing regulations for the Intercountry Adoption Act and Hague Convention on Intercountry Adoption. We believe that attempting to manage two enormous bureaucratic transitions at the same time would create confusion, reduce predictability and transparency, and complicate workloads to unmanageable levels for all responsible parties—U.S. Government agencies, adoption service providers, foreign central authorities, and prospective adoptive parents—and thereby compromise adoption and child protection.

Another advantage of waiting to consider ICARE is that other reform needs may become apparent during the transition to the Hague regulations, reforms that could be incorporated into ICARE. I think you will agree that since the first draft of ICARE, the Department of State and Citizenship and Immigration Services (CIS) have taken significant steps toward addressing concerns that you and the adoption community share. Your introduction of ICARE has helped to produce the results of fewer unnecessary delays, more adoption advocacy, and a more constructive partnership between the two agencies.

Senator Landrieu, we greatly admire and appreciate your adoption leadership and the spirit with which you offer this proposal. We know firsthand of your desire to provide solutions to bureaucratic challenges to intercountry adoption and to keep adoption high on America's agenda. We respectfully recommend revisiting ICARE after the Hague implementation is further along and its impact better understood. Thank you very much for your consideration.

Sincerely,

THOMAS C. ATWOOD,
President and CEO.

Mr. ATWOOD. In conclusion, if I may, I have three two-sentence points about—my written testimony discusses salient issues regarding specific Asian countries in more detail. But first, China's and South Korea's increased emphases on domestic adoption and child welfare programs should be applauded, but America should continue to advocate in these countries that a family through intercountry adoption is better for children than domestic foster or institutional care, especially for younger children.

There is a specific proposed amendment in the South Korean legislature at this time that would end intercountry adoption, end this trailblazing country for intercountry adoption, and this requires our urgent attention.

Second, America's imminent ratification of the Hague Convention creates opportunities to increase adoption with countries that have said they would be interested in doing so when America ratifies, such as India. The American Government and adoption community should begin to discuss moving forward on this plan with the Indian central authority. And third, the recent progress in restarting adoptions from Vietnam is very encouraging. We hope that similar progress can be made in Cambodia, while ensuring child and birthparent protection, and a legal, ethical, transparent process in both countries.

In conclusion, Madame Chairman, the National Council for Adoption greatly appreciates the American Government's and the

subcommittee's advocacy of intercountry adoption, and we offer our continued assistance in advancing this crucial mission.

[The prepared statement of Mr. Atwood follows:]

PREPARED STATEMENT OF THOMAS ATWOOD, PRESIDENT AND CEO, NATIONAL COUNCIL FOR ADOPTION, WASHINGTON, DC

Chairman Murkowski and members of the subcommittee, my name is Thomas Atwood, president and chief executive officer of the National Council for Adoption. On behalf of the National Council for Adoption (NCFA), I thank you for the opportunity to testify on the subject of Asian adoptions to the United States. NCFA applauds the subcommittee's interest in the compassionate practice of intercountry adoption, which has found loving, permanent families in America for some 108,000 Asian orphans since 1989.

The National Council for Adoption is an adoption research, education, and advocacy nonprofit whose mission is to promote the well-being of children, birth parents, and adoptive families by advocating for the positive option of adoption. Since its founding in 1980, NCFA has been a leader in serving the best interests of children through policies that promote a global culture of adoption and child welfare, increase intercountry adoptions with appropriate child protections, present adoption as a positive option for women with unplanned pregnancies, further adoption of children out of foster care, and make adoption more affordable through the adoption tax credit.

NCFA advocates the positive option of adoption, both domestic and intercountry, for children and families in the United States and around the world. NCFA has been involved in improving the intercountry adoption system since the early stages of drafting the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (1993) and the Intercountry Adoption Act of 2000. Since last September, we have been to China, Vietnam, Russia, and The Hague, serving as a global advocate and expert on adoption and child welfare. We are planning trips to countries of origin in Asia, eastern Europe, and Central and South America in the coming year.

ASIAN ADOPTIONS AND THE GROWTH IN INTERCOUNTRY ADOPTIONS

The number of intercountry adoptions continues to grow in the United States, having increased 13 out of the last 15 years. In 2005, the number of intercountry adoptions by Americans, 22,710, actually exceeded the number of infants adopted domestically by Americans, 22,291, in 2002, the most recent year for which statistics are available.[1] Increases in adoptions from Asian countries account for a large part of that growth, having increased in 10 out of the last 12 years, with China leading the way with 7,939 children adopted by Americans in 2005. At the time of the 2000 census, 12.6 percent of American adopted children under the age of 18 and living with their parents were adopted internationally; 6.2 percent of America's adopted children were born in Asian countries, nearly half of them from South Korea.

China and South Korea have been in the top four countries of origin for American adoptive parents since 1994. In the first half of the 1990s, South Korea was the leading country from which United States citizens adopted, representing 25 percent of American international adoptions during that period. With the increase in adoptions from China, Russia, and Guatemala since then, and with the decline in adoptions from South Korea from an average of 1,800 per year since 1990 to 1,604 in 2005, South Korean adoptions stood at 7 percent of the total international adoptions by Americans in 2005.

China has been the No. 1 country of origin for each of the last 6 years and in either the No. 1 or No. 2 position each year since 1995, with annual adoptions by Americans ranging from 4,843 to 7,939. Much of the overall increase in the numbers of intercountry adoptions in recent years has been due to increases in adoptions from China, with most other Asian countries either remaining steady or declining slightly, such as India and the Philippines, and others declining dramatically due to suspensions, such as Cambodia and Vietnam. In 1990, Asian-born children made up 42 percent of Americans' intercountry adoptions; in 2005 that proportion was 46 percent.

[1] Adoption Factbook IV, National Council for Adoption, publication pending.

BENEFITS OF INTERCOUNTRY ADOPTION

The benefits of intercountry adoption to children are indisputable. The clinical record clearly confirms what common sense tells us—that outcomes for children who are adopted internationally are better than those for children raised in institutions or in foster care. A study, "Behavior Problems and Mental Health Referrals of International Adoptees," recently published in the Journal of the American Medical Association found that even though the studied internationally adopted youth were referred to mental health services more often than non-adopted youth, the effect size was small, and the large majority of them were "well-adjusted." The researchers considered the finding that the large majority of internationally adopted children and youth were well-adjusted to be particularly significant in light of the fact that prior to adoption many internationally adopted children "experience insufficient medical care, malnutrition, maternal separation, and neglect and abuse in orphanages." Clearly, internationally adopted children grow up healthier than they would have if they remained in institutional or temporary care.[2]

Empirical studies are valuable, but in this case they only confirm what we already know from common sense and millennia of human society: All children need and deserve loving, permanent families of their own. We can also observe intercountry adoption's benefits to children with our own eyes in the international-adoptive families we know personally. Even good institutional or temporary care cannot take the place of a loving, permanent family of one's own, whether obtained through domestic or intercountry adoption.

HOLISTIC APPROACH TO INTERNATIONAL ADVOCACY OF ADOPTION AND CHILD WELFARE

The basic tenet of intercountry adoption is that national boundaries and national pride should not prevent children from having families. This truth seems self-evident. Does the child have a greater interest in remaining in his or her country of origin than in having a family? Given the choice between growing up with a loving, permanent family of one's own through international adoption versus growing up without a family in the country in which one happens to have been born, most people would choose a loving, permanent family through intercountry adoption. The love and security of belonging in one's own legally recognized and permanent family during childhood is fundamental to healthy human development.

Adoptive parents and intercountry adoption policy can address the concern about losing connection with national roots by providing opportunities for internationally adopted children to learn about their countries of origin, and even to visit them, if possible, and the children so desire. In fact, most adoptive parents pay close attention to teaching their internationally adopted children about their national roots.

Nationalists and opponents of international adoption sometimes virtually equate adoption with child trafficking. International adoption advocates should be careful always to make clear the distinction between adoption and child trafficking. Intercountry adoption is a professional social service, in the best interests of children to provide them loving, permanent families, conducted in accordance with child protection regulations in a transparent process. Child trafficking is the illegal exploitation of children and their parents or guardians, through kidnapping or financial corruption, to serve the selfish interests of unscrupulous and predatory sellers and buyers.

To varying degrees, intercountry adoption advocates and practitioners encounter a streak of nationalism in every country of origin with which we work. To some extent, this nationalistic reaction is understandable: Any self-respecting nation would like to be able to take care of its children in need itself. NCFA agrees with the principle that domestic adoption is to be preferred over intercountry adoption. Whenever possible, it is preferable for children to grow up with loving, permanent parents and families in their countries of origin. However, when domestic adoption is not occurring for children within a certain timeframe, international child welfare principles suggest that they should become eligible for intercountry adoption in a timely manner and they should receive the best possible temporary care while waiting.

In communications with countries of origin, it can be counterproductive solely to advocate that Americans be allowed to adopt their orphaned children. This approach can feed into the negative, nationalistic caricature—that rich, presumptuous Americans are trying to take the mother-country's children—which cynical politicians in countries of origin exploit to suspend or discourage adoptions. This potential pitfall argues for the current advocacy approach, which is working well, whereby the Assistant Secretary for Consular Affairs manages intercountry adoption as part of a broader portfolio, and it argues against the creation of a single-focused Ambassador

[2] "Behavior Problems and Mental Health Referrals of International Adoptees," Journal of the American Medical Association, vol. 293, no. 20, May 25, 2005.

at Large for Intercountry Adoption. It is difficult to see how political leaders in countries of origin would find it advantageous to associate favorably with the American representative whose sole purpose is to enable Americans to adopt the native country's children.

Instead, NCFA recommends a holistic approach to international adoption advocacy, which respects intercountry adoption as part of the country of origin's overall adoption and child welfare program. In its communications with countries of origin, NCFA presents intercountry adoption as a positive option for orphaned children, second in preference to timely domestic adoption, but to be preferred over domestic foster care and group or institutional care. NCFA also offers to share with these countries as much as they would like to receive of its expertise regarding America's experience with adoption, foster care, and other child welfare policies. This approach has helped NCFA to build strong relations with several Asian countries, including China, Korea, and Vietnam.

In response to their implementation of the Hague Convention on Intercountry Adoption, many countries are taking comprehensive looks at their adoption and child welfare programs. Because America has many decades more experience with governmental approaches to these policies than almost all the countries of the world, it has much to offer to countries of origin as they develop their own programs, if they are interested in learning from our experiences.

National boundaries should not prevent children from having families, indeed. But in the area of international adoption and child welfare policy, the United States' opportunities go beyond simply promoting its citizens' ability to adopt internationally. By sponsoring educational seminars and exchanges with other Hague central authorities, for example, the American Government and adoption community can also promote and inform the global proliferation of adoption and child welfare policies, in the best interests of children around the world. The increased international cooperation and good will created in doing so would also likely increase international receptivity to Americans' adopting.

MAKING A SMOOTH TRANSITION TO THE HAGUE CONVENTION ON INTERCOUNTRY ADOPTION

Now that the Department of State has published in February 2006, the implementing regulations for the Intercountry Adoption Act (IAA), the top international adoption priority for the American Government and adoption community should be to make a smooth transition to U.S. ratification and implementation of the 1993 Hague Convention on Intercountry Adoption.

While these regulations are sound and will promote child protection and international adoption, they are also complex and demanding. It will be mid- to late-2007 before the regulations have been sufficiently implemented so that the treaty can be formally ratified and entered into force. During that time period, the entire international adoption community in America will be relearning its ways of processing adoptions from the more than 60 Hague Convention member states. Hague Convention central authorities from around the world will also be relearning how to work with America.

Among the new systems and challenges in the State Department's 100-page public notice of the final rule that will have to be learned and managed over the next 18 months, in order to process adoptions with Hague Convention member states are: The establishment of the new central authority in the Department of State; the authorizing and contracting of new accrediting entities; the complete accreditation of adoption agencies and approval of persons who may make adoption placements under the Hague Convention; the adaptation of all adoption service providers to the rule's new standards and requirements; a new six-part definition of adoption services and new rules regarding four newly defined categories that may provide them; the establishment of a case registry at State and the Department of Homeland Security for incoming and outgoing adoptions, both for Hague Convention and non-convention intercountry adoptions; new data collection, recordkeeping and reporting requirements, and much more.

Other substantial reforms may be appropriate once the intercountry adoption system is further along in the transition to the Hague Convention. Indeed, as the IAA regulations are implemented, the need for additional reforms may become evident, and they could be considered along with other proposals at that time. But there is no compelling reason to implement other major reforms at this time, such as transferring to the State Department all of the Department of Homeland Security's intercountry-adoption work currently housed in Citizenship and Immigration Services (CIS). Forcing such a transition at this already demanding time would be disruptive

to the intercountry adoption system and confusing to our central authority partners around the world.

After many frustrations with CIS (formerly INS) and the State Department in previous years, NCFA is pleased to note that the intercountry adoption community in America reports significant improvements in the performance of both agencies. There has been greater cooperation between the two agencies, increased communications and more responsiveness to families and adoption service providers, increased standardization of processes across branch offices, and more proactive, international advocacy of adoption. Both agencies seem to have grasped and appreciate the preciousness of the mission they are responsible for in handling intercountry adoption—helping American citizens provide loving, permanent families for orphaned children around the world.

The pivotal moment of implementation of the Hague Convention on Intercountry Adoption of 1993 and the Intercountry Adoption Act of 2000 is here. The international adoption community believes that we should not jeopardize this long-awaited transition by introducing other major bureaucratic and organizational reforms at this time.

COUNTRY REPORTS

Following are brief reports highlighting intercountry adoption issues in various Asian countries.

China

Since China began expanding its practice of intercountry adoption in the early 1990s, the country has become a model of consistency and predictability. The China Center for Adoption Affairs (CCAA) is an example of what a central authority, as contemplated by the Hague Convention on Intercountry Adoption, can accomplish in terms of decisionmaking, and setting policy, procedures, and oversight. However, American adoption service providers express concerns that China's process can be unduly long, with adoptions routinely taking more than a year—perhaps, the consequence of increased demands on the CCAA to process a growing number of applications. When NCFA met with CCAA in November 2005 in Beijing, the CCAA reported that it had just received 2,000 dossiers in the month of October alone, a dramatic increase.

The American international adoption community applauds Beijing's emerging commitment to improved child welfare services, including CCAA's promotion of domestic adoption. However, the American adoption community is concerned about the impact this trend could have on international adoption. We recommend ongoing, proactive international adoption advocacy by the American Government, so China will continue to treat intercountry adoption as the preferred alternative to institutionalization, for children who are not likely to be adopted domestically.

South Korea

Formalized American intercountry adoption essentially began in association with the Korean War and the pioneering work of Harry and Bertha Holt of Holt International Services, and has continued since the 1950s. By far, the largest group of internationally adopted children in America, still, is children born in South Korea. However, in 2005, South Korea posted its lowest number of American adoptions since 1996, and nationalistic voices have begun to speak out more vocally against intercountry adoption in this pioneering country.

A South Korean trend toward reduced commitment to intercountry adoption would not be surprising, if that is indeed what we are experiencing, but it should be resisted, in the interests of children. Since the days of intercountry adoption's beginnings, South Korea has become a relatively prosperous country. The more prosperous the country of origin, the more prevalent may be the attitude that it can and should take care of its orphans domestically. The American Government and adoption community should applaud South Korean efforts to promote domestic adoption and strengthen its domestic child welfare programs. But we should continue to advocate, in the best interests of children, for the policy of preferring intercountry adoption over nonfamily options when domestic adoption is not occurring for a child.

Vietnam

From 2002 to 2003, Vietnam adoptions decreased by half, from 766 to 382. Credible concerns that some children made eligible for adoption were being bought or stolen led the U.S. Immigration and Naturalization Service (INS) to review the Vietnamese adoption process. Subsequently, the Government of Vietnam announced amendments to its adoption regulations, which took effect January 2, 2003. Changes

included a requirement for countries to enter bilateral agreements with Vietnam and the creation of a central foreign adoption office to approve petitions.

The American adoption community is encouraged that, in 2005, the United States and Vietnam signed a bilateral agreement that laid the groundwork for intercountry adoptions between the two countries to recommence after a 2½-year hiatus. In the interests of Vietnam's orphaned children, the adoption community is hoping for and looking forward to a full resumption of adoptions to premoratorium levels and to eventual increases in the number of adoptions. However, given the still evolving system in Vietnam, close monitoring at the local level will continue to be necessary, in order to ensure a transparent process free from corruption, with legitimate consents from birth parents, and appropriate recordkeeping.

India

Technically, Indian law does not provide for foreigners to adopt Indian children. But under the Guardians and Wards Act of 1890, foreigners may petition an Indian District Court for legal custody of a child to be taken abroad for adoption. Considering the enormous orphan population in India, its annual average of 418 adoptions by Americans seems startlingly low. In fact, 2005 posted the lowest number of adoptions from India by Americans in the last 15 years—324. However, the Indian central authority told NCFA at the Special Commission meeting on the practical operation of the Hague Convention on Intercountry Adoption in The Hague, in September 2005, that India would be interested in working more with the United States upon our country's implementation of the Hague Convention. With implementing regulations now in place, the American Government and adoption community should begin to discuss moving forward with this plan with the Indian central authority.

Cambodia

Citing "baby selling and baby abduction," as well as "seriously flawed" adoption processes in Cambodia, the INS declared a suspension of United States adoptions from Cambodia in December, 2001. The adoption community shares the concerns about corruption and trafficking, and urges the U.S. Government to ensure child and birth parent protections, as well as legal and ethical practices, while moving forward toward resuming international adoptions from Cambodia as soon as possible.

Philippines

The Philippines is a Hague Convention country and posts 10th on the list of countries of origin, with 259 American adoptions in 2005. The Philippines' geography presents a barrier to monitoring the adoption process due to its 7,100 islands. The intercountry adoption process in Philippine courts is tedious and the law requires a strong preference for domestic adoption, followed by a preference for placing children with Philippine families abroad. Unlike some other Asian countries, there is a disproportion of male children available for adoption. The Philippines' long history of cooperation with America and its status as the world's third largest English-speaking country suggest that increased American adoption advocacy may serve the interests of Philippine orphans through increased intercountry adoptions.

Tsunami Countries

On December 26, 2004, Southeast Asia suffered a horrific natural disaster, the tsunami, leaving thousands of people in these countries in a state of emergency. Of the four most affected countries—Indonesia, Sri Lanka, India, and Thailand—only India at the time had an established international adoption program. Thailand had experience with international adoptions on a small scale, but the process took up to 2 years and the Thai Government granted only 69 adoptions in 2004. The most affected country, Indonesia, only allowed adoptions by foreign couples who had been residents for 2 years. Sri Lanka allowed only 4 adoptions by United States parents in 2001.

Despite the outpouring of sympathy from Americans offering to adopt tsunami orphans, international adoption was not a habit of these countries. In the immediate aftermath of the disaster, affected countries' authorities and the international child welfare community appropriately focused their efforts to serve the children on shelter and nutrition, protection from trafficking, and reuniting them with parents or other relatives and community members. Furthermore, before intercountry adoption could be considered as an option for tsunami orphans, as with all adoptions, it needed to be determined that a child is truly orphaned, emotionally ready to be adopted and moved from familiar surroundings, and legally free to be adopted, through proper legal determinations and proceedings.

With the passage of time, it seems appropriate for the American Government and adoption community to revisit the possibility of providing loving, permanent families through intercountry adoption for tsunami child victims who have been identified as orphans. Perhaps the tsunami-affected countries will be more open to this compassionate option at this time. Although international adoption cannot be the solution for all of these children, for those who are adopted it will likely be the best possible solution.

Chairman Murkowski, intercountry adoption can strengthen the bonds of friendship between countries. Approximately 2 million Americans have beloved family members through international adoption from Asian countries. Adoption, whether domestic or intercountry, is a phenomenally successful social institution, which has met the needs of millions of children. It can continue to do so for millions more orphans around the world, if allowed the opportunity. We greatly appreciate the American Government's and this subcommittee's advocacy of intercountry adoption and offer our continued assistance in advancing this crucial mission.

Senator MURKOWSKI. Thank you very much, Mr. Atwood. Ms. Cox, your comments this afternoon?

STATEMENT OF SUSAN SOON-KEUM COX, VICE PRESIDENT OF PUBLIC POLICY AND ADVOCACY, HOLT INTERNATIONAL CHILDREN'S SERVICES, EUGENE, OR

Ms. COX. Thank you. I would like to thank you and the committee for holding this hearing today, and especially for your support and interest in this subject. My name is Susan Cox and I am vice president of public policy at Holt International. But I also have the distinction of being an adult adoptee. I was the 167th child to be to be adopted from Korea, so that was obviously a very long time ago. But it has really been a pioneering effort that has continued to help more than 200,000 children throughout the world find families of their own.

And one point in the commitment of adoption is that it is intended to be a means for families for children, rather than children for families. And I can tell you that in the three generations now of adult adoptees, that is something that is very important to us. The simplistic assumption that a poor child in a developing country will have a better life with a family in a rich country is simply misguided, imperialistic, and it overlooks the sacrifice and loss, not only to the sending country, but also to the child.

Having said that, I don't know that you will ever find anyone that feels more positive about adoption and intercountry adoption than I do. But at the same time, the rest of the world does not necessary understand or believe that families are willingly adopting children who are orphans—who are in orphanages and institutions—and it's something that they do not understand to the point where the "body parts" scandal makes more sense to them, because, in fact, families would be adopting children for their body parts.

In this environment, it is very necessary for the advocacy efforts of the U.S. Government on behalf of so many different children and families. I want to point to some of the issues that are very important and critical now. As China hosts the Olympics, I think it is important to look at the lessons learned from Korea in 1988 when they hosted the Olympics, and the stories where it said "babies for sale—Koreans make them, Americans buy them." The response to that in Korea was literally to stop adoption for a period of time, and certainly the public opinion about adoption in Korea has never been supportive. It is that sort of environment that has made

Korea begin to propose adoption as a ban, an intercountry adoption ban, immediately.

In Cambodia, a country, the only country that has actually been closed to adoption by our Government, it's important that we do not sacrifice that process and lose the opportunity that is there to maximize the resources and expertise of private public partnerships—to be able to build an infrastructure and process that can support intercountry adoption. I would say that the violation of the process there was so critical where adoption was stopped, there really was no ability for adoption to move forward, and it created an unstable process in the region, where Vietnam or other countries were also tainted by what was happening in Cambodia.

I would like to support the process of the Hague as it moves forward. Tom and I have both had the privilege of being members of the special commission, and it is very clear that we are, the United States, is the 800-pound gorilla. We are the largest receiving country in the world, and because of that, we have a moral responsibility to make sure that the rest of the countries that are also participating in the Hague see us as being leaders as we move forward.

I would like to express concern about the shutting down of countries. Madam Chair, you've talked about that in response to allegations for things that had gone wrong. But when the process isn't respected, when it is circumvented, the tragedy is that the programs do shut down. Back in the 1970s, in Thailand, where there were abuses, and you could easily bring a child home for adoption, the consequence was that that country shut adoption down, and even now those numbers are quite small. But Latin America responses to allegations of abuse and trafficking, and then certainly Romania—while hundreds of children were placed—because the process was never readily in place in a way of a respectful process with the children and so on, that's a country that's now closed.

I would like to join my colleagues, Tom, the National Council for Adoption, as well as the joint council, in expressing our grave concern about ICARE. We applaud the efforts of both Senator Landrieu, Senator Craig, and all of the Members of Congress who are advocating—and the adoption tax credit, many of the initiatives of the last few years—we certainly support that. However, we feel strongly that this puts at risk the process that is happening now, and in fact, instead of being able to streamline it, it in fact will have the opposite effect. That sentiment is widely felt in the adoption community. So again, I want to thank you for this opportunity, for your interest, and to remember that there really are thousands of children who will benefit from adoption if we all work together on this behalf.

Thank you.

[The prepared statement of Susan Soon-Keum Cox follows:]

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

I am honored to testify before the Senate Committee on Foreign Relations, and thank Senator Murkowski for holding this hearing on Asian Adoptions to the United States. My name is Susan Soon-keum Cox, I am vice president of Public Policy and External Affairs for Holt International Children's Services in Eugene, OR.

Holt International pioneered intercountry adoptions from Korea in 1956, and has placed approximately 30,000 children from 20 countries with adoptive families in the United States. I have been an adoption professional for more than 25 years, and I have had the privilege of visiting adoption and child welfare programs in many countries. I have witnessed tremendous changes in intercountry adoption practice. Some of these changes have moved the practice forward—some have not. Sadly, what has not changed is that the number of homeless children has not diminished, but rather has increased. That reality requires a critical examination of the problems associated with international adoption and a determination to find solutions.

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

Worldwide, approximately 200,000 children have come to their families through international adoption. More than half of those children have come to families in the United States. In 2005, U.S. citizens adopted 22,728 children who were born in other countries.

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

Few subjects elicit deeper passion than issues regarding children. International adoption has always been controversial and often misunderstood. It is a life-long process, one that is generational and extends even beyond the generation that the child comes into the family. The more ordinary international adoption becomes, the larger the numbers, the greater the critical mass, the more diligent we must be in setting ethical standards that assure that birth parents, adoptive parents, and especially the children be protected and safe. This diligence is also necessary to protect the institution of intercountry adoption and the hope it represents for generations of children in the future.

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

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

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

As the number of countries with international adoption programs have increased, the number of agencies and individuals placing children have increased, to nearly 500, according to the National Adoption Information Clearing House. The size of a program or agency does not determine whether or not ethical adoption practices are followed. In the United States and elsewhere, there are large and small agencies that provide sound, ethical adoption services. The measurement of a good program is the philosophy and commitment of its principals and employees to strong professional child welfare principles. International adoption is not simply a legal process; it is a life-long process that requires consistent and professional social work practices.

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

ceeds the local yearly income of a family. It is in the best interest of adoption agencies and practitioners to set the ethical standards that avoid even the appearance of profiting at the expense of children and families.

ASIAN ADOPTIONS TO THE UNITED STATES

China, Cambodia, Vietnam, and Indonesia, the countries that are the focus of this hearing, are representative of issues and concerns that overlay intercountry adoption more generally. These countries, however, also represent unique circumstances in the current intercountry adoption climate.

China

After intercountry adoption from China became more common in the early 1990s, China rapidly became the largest and most prominent "sending country" in the Asian region. More than 51,000 children have been placed for adoption in the United States from China between 1991 and 2005. Although the process has slowed in terms of the length of time that it now takes for a child to be adopted from China, the Chinese Government's adoption program is considered a model program in terms of efficiency. The conditions of orphanage care in China have improved dramatically in the last decade, and domestic adoption, foster care, and permanency programs for orphaned children in China are increasing each year.

Adoptions from China changed the landscape and profile of adoptive families. For the first time, single parents and prospective parents over the age of 40 could adopt babies and toddlers. The requirement of families to travel to China created strong bonds and connections between adoptive families and the birth country of their adopted child. This increased understanding about the critical need for adoptive families to help their child stay connected to his or her birth heritage and culture has helped transform how adopted children identify and balance their race, culture, and heritage.

As China continues to be a more active participant in the global community, intercountry adoption is likely to be examined in the harsh light of international public opinion. As China prepares to host the Olympic Games in 2008, there are lessons to be learned from the experience in 1988 when Korea hosted the games and intercountry adoption became the target of news media stories whose headlines described adoption as "exploitation."

Vietnam

Before the fall of Saigon in 1975, approximately 8,000 children from Vietnam were placed for adoption with families in the United States. When relationships with that country reopened and intercountry adoption resumed in the early 1990s, there was strong interest on the part of United States families to adopt from Vietnam.

Those early adoptions from Vietnam were complicated by the lack of formal diplomatic and consular relations with the United States, which required children adopted in Vietnam to finalize their paperwork at the United States Embassy in Thailand. This procedure added both to the time and the expense of the adoption process. This situation changed in the mid-1990s, when adoptions could be finalized in Vietnam, eliminating the need to complete the process in Thailand.

In many ways, the success of adoptions from Vietnam contributed to a climate of market-driven competitiveness, and eventually to widespread abuse and unethical adoption practices. In this environment, it was virtually impossible to maintain ethical professional standards when the opposite became the norm. Predictably, there were adoption scandals, and in response to these allegations of abuse, the Vietnamese Government rewrote their adoption laws in 2002.

What was expected to be a brief period of disruption resulted in an intercountry adoption moratorium to the United States that lasted for more than 2 years. During that time, the number of U.S. agencies that had been working in Vietnam shrank from dozens to fewer than 10. During those 2 years, the disruption to the process was critical. Agencies that had invested years in developing child welfare programs simply could not afford to continue to support those services. Many children had been in the process of adoption and had already been matched with adoptive families. A few families continued to wait through the 2 years, but sadly, dozens of other children lost their opportunity to be adopted. For those children, the cost of delay is immeasurable. Intercountry adoption was reestablished between Vietnam and the United States in 2005 and, to date, 19 United States agencies are licensed to place children from Vietnam.

Cambodia

Years of war, genocide, and political violence underlie the serious crisis of homeless children in Cambodia. A host of factors created homelessness, including chil-

dren born out of wedlock, desertion of spouses, death of parents due to AIDS or other ailments, and other physical and psychological health conditions in families. All these factors are compounded by severe poverty.

Child trafficking is also a serious issue in Cambodia, partly caused by inadequate legal and social service systems governing intercountry adoption. This situation has resulted in the closure of Cambodia to intercountry adoption and a current restructuring of adoption practice there.

In the 2005 USAID Cambodia Orphanage Survey [attachment], Holt International identified over 8,000 children living in 204 residential child care facilities. Most of the children expected to grow up in the institution that is caring for them. Only a few well-resourced international organizations offer services to assist local families to stabilize so parents can care for their children. Scarce resources are targeted to meeting the immediate needs of the children through model projects.

[*Editor's note.*—The attachment mentioned above will be maintained in the permanent files of the committee.]

Community-based services that are far more cost effective than currently existing alternatives will be documented in these programs; emphasized in trainings; and broadly promoted to generate interest in service replication and child welfare system reform.

Funding for these programs will not be applied to intercountry adoption, but the services developed through model projects will cover key competencies required for sound, ethical intercountry, and local adoption practice. These competencies include comprehensive background checks, child developmental assessments, child-friendly temporary care models, and prioritizing family preservation, if this result is in the best interest of the child. Opportunities for promoting local adoption will be assessed.

Overwhelming evidence exists that family-based care gives children vastly improved life prospects when compared to those facing life in institutions or on the streets. In addition, family care reduces a tremendous toll on a country's economic and social fabric. The objective is that several hundred children a year will avoid institutionalization and life on the streets through community-based family alternatives.

Cambodia has the distinction of being the only country that the U.S. Government has closed to intercountry adoption. This dramatic action followed reports of unethical practices and trafficking that affected dozens of families and children. Although there are differing views about how the adoption process in Cambodia deteriorated to this point, the current situation has been an important opportunity to evaluate lessons learned by everyone connected to the adoption community.

The Cambodian Government acknowledges its own institutional limitations regarding accountability and infrastructure. Officials have also responded favorably to the international community's offers to help develop their capacity and the infrastructure required to establish a reasonable and effective adoption process that will meet standards of efficiency and the critical need to protect children and families.

The Cambodian Government's highest current priority is to draft and enact a new adoption law, and work on this draft law is taking place within the Ministry of Justice, Ministry of Foreign Affairs, and the Ministry of Social Affairs. According to UNICEF, the changes that were made to the adoption law seek to bring the law into compliance with Cambodia's new draft civil code.

The next priority in Cambodia is to establish a central authority for adoptions and, through UNICEF, the process is underway to do a rapid assessment of the existing infrastructure at the ministry level. This step will be followed by an evaluation of existing mechanisms and an assessment of what is required to develop an infrastructure for intercountry adoption.

While immediate attention in Cambodia is focused on adoption activity, it is essential that priority also be given to developing a child welfare infrastructure that will serve the long-term best interests of children and families.

Advocating for children and families

In addition to the current closure of adoptions from Cambodia and previously from Vietnam, other countries around the world are reacting to circumstances in which internationally-adopted children were clearly not protected, with devastating consequences. Although these situations are the rare exception, they often result in increased concern about an alleged relationship between intercountry adoption and child trafficking and abuse. It is critical that policies and practices balance the urgent needs of children with the necessary safeguards that will protect them, not only at the time of adoption, but also as they address the life-long issues associated with intercountry adoption.

In the United States since 2000, there have been numerous policy advancements in support of sound, ethical intercountry adoption, including the Child Citizenship Act, the Adoption Tax Credit, and the Intercountry Adoption Act of 2000. Each of these initiatives delivered positive benefits for adoptees and adoptive families.

In this current environment, in which intercountry adoption is observed with suspicion and doubt, there is great urgency to establish and promote policies and systems that are respectful of homeless children, as well as the culture and circumstances of their birth countries.

On behalf of the adoption community, I want to express our sincere appreciation for the concern and support of the U.S. Congress on issues regarding intercountry adoption, especially from Asia. I appeal to this committee to continue to be a powerful advocate on behalf of intercountry adoption. As you promote future adoption reform, I respectfully urge you to consider carefully and thoughtfully the consequences of initiatives that may delay or compromise the implementation in the United States of the Hague Convention.

Senator MURKOWSKI. Thank you so very much, Ms. Cox. Let me ask a question of both of you, and this is relating to the ICARE legislation, which you have both mentioned and expressed a degree of concern. Mr. Atwood, I thought I heard you say that your concern was about yet another layer of bureaucracy or different process—is that really what it is about, that we are at that point where we know what the process is, and we have learned to work with other countries and they understand our process, and if we change it, it will be more complicated, or does it add more bureaucracy? I am trying to get clearly the concerns coming from the adoption community on this legislation.

Mr. ATWOOD. First and foremost, it is a management issue—it is a transition issue. The Hague implementing regulations, which were just published in February—they are 100 pages long, and they change a lot of ways of doing things. It is going to take 18 months for the intercountry adoption system approximately, or 12, at least, to make the transition to that new way of doing things. And to, at the same time, ask that everything that is being done presently by the Department of Homeland Security is to be moved to the State Department while both of those agencies are in the midst of managing the Hague transition, and to have the adopted transition, and to have the adopted service providers out there, and the prospective parents, and be able to try to figure out what is going on, would be an impossible assignment.

Senator MURKOWSKI. So the concern is as much about timing—that if we had an oportunity—that these new regulations that are going forward with the Hague—that perhaps the ICARE legislation would fit better, and its objections are more around timing than anything else?

Mr. ATWOOD. As we say in our letter to Senator Landrieu, NCFA finds many of the tenets of ICARE to be of interest and potentially worth pursuing. We sincerely respect the excellent intentions contained in the initiative. However, we believe that now is not a time to consider such dramatic changes to the intercountry adoption system, just as that system makes the transitioning to the Hague Convention piece. And moreover, there is—as we make progress through the transition—it's possible other reforms might need to be considered. The first thing is to make the Hague transition, and then look at the ideas in ICARE.

Ms. COX. I agree they are two parallel tracks, and I think at this point it would be very confusing, and instead of improving the proc-

ess that is going forward now, to continue to overwhelm it seems to derail that, or potentially could derail that.

Senator MURKOWSKI. Let me ask you both again, where there have been allegations or concerns that here in this country, we adopt from other nations and bring the child in and then the child is abused, or there are things that happen to the children—how do we, as a Nation, counter the cases of abuse of adopted children to assure other nations that may want to continue to have open adoptions with us, and not close off the adoption process to the United States, and remain willing to participate in international adoptions?

Mr. ATWOOD. Well, first, I think we have to share in the grief and outrage that a country feels when one of its children adopted by an American is harmed. This should never happen. It is an outrage. But that said, these rare tragic incidents could only be made more tragic if they resulted in a shutdown of adoptions and the children be deprived of having families. Unfortunately, harms to children do occur in families, whether adopted or biological, and we should do everything we can to minimize those.

Beginning with strict screening processes. Of course people who adopt go through much more than people go through to bear normal biological children. So we do need to be strict in our screening processes. Many countries require post-placement reporting, and we need to be cooperative, both with adoption service providers and parents—should obey the rules of the countries with respect to post-placement reporting. The emphasis needs to be, however, on the need for the children and families, ultimately.

Ms. COX. I think the preparation of families is critical. And while you can certainly also point to abuses that happen in biological families, this is different because it has been the trust of one country to let their children be adopted by another country, and so it does create a different kind of tension certainly. And I think one of the things that the Hague will do certainly is by an accreditation process, there will be a much more stringent requirement for uniformity in the way agencies protect families. You know, the idea that you can just love a child and take him home with you, and that everything will be okay. Unfortunately, that isn't true.

And so many children who were placed for adoption have been institutionalized, and they will have the effects of the institutionalization, of all of the abandonment, of loss, all those things which reflect in how the childhood behavior develops. And if family is not told about this and prepared, they do not really have anyone to go to. And we are looking now at what is happening in Russia with some really terrible abuses that happened there, and the numbers may be small but it has created a huge amount of attention in that country. And so we have to be careful, and sometimes it may seem overly stringent, and there needs to be a balance between reasonableness, but also protection.

Senator MURKOWSKI. Thank you, I appreciate that. When you talk to anyone that is an adopted family—the adoptive families—there is one thing that is consistent in their complaints, and it is the bureaucracy, the process that they have got to go through. And I think so much of it is just understanding the need for all the hoops and all the checks, and there are very good and legitimate

reasons for so much of it. But it seems that the bureaucracy and the cost associated with it are hurdles that we hear about all the time. What is the role of the National Council of Adoption in addressing this or helping to alleviate, or just helping to explain these two issues?

Mr. ATWOOD. Alleviate and explain, both. We are an adoption, research, education, and advocacy organization, so we do policy analysis and advocacy—we do education. And with respect to the bureaucracy, as you noted, there are good reasons for significant regulations when you are talking about the determination of parental rights of one set of parents, and the difference for parental rights to another set of parents. The child placement is needed—the regulations to prevent corruption are necessary in the process. So part of it is explaining.

Another part of our work is to try to improve the rules and regulations. However, that is one of the incentives behind the Hague Convention—to create uniformity, predictability, transparency, to promote intercountry adoptions while protecting the children. So it is a hefty—you know, you have to kind of an analyze a regulation on a case-by-case basis in order to comment when a parent says that it is excessive. It is a difficult process. It needs to be a difficult process in that respect, because we are talking about protecting children, and the birth parents and adoptive parents, as well.

When something goes wrong in adoption, it is heartbreaking. Things will go wrong in adoption, because there are things to go wrong in every human endeavor. But when it goes wrong in a contract or a business deal or something like that, it is not the same. When it goes wrong in an adoption, you are talking about children, family, love, parents, and dreams. And so, that is the nature of what we work with here in adoption.

Ms. COX. Senator, sometimes the bureaucracy is our response to what the other countries require. The dossiers that other countries ask for are really quite elaborate, and it is a burden for adoptive parents, there is no question. And so a part of it is the required response that we have to fulfill the obligations that other countries ask for. But there are two points that perhaps you and your committee could help with. The extended time with China, for example, right now, is going to require—and not only China—but that families have to redo their certificates. If there is some way to really look at a process where it does not have to be all done over again. The home study information is really not going to have changed that much. But then if they had records or if there were things that should have prevented them from being a parent, it is not going to change in that expired time of 6 months, so that really does not seem like a practical thing to maybe have to do. And so if there were something, something we could do to look at that, I think that would be very helpful.

The other thing that I believe will change with the Hague, and when the different bureaus around the country, formerly known as INS, has to look at the different home studies and the processes. Very often they also end up doing case work; that the information that has been sent to them was not adequately provided by the adoptive—the agency, and so hopefully, when the Hague is, you know, at the accreditation process, there will be more uniformity

to that in those agencies that do not adequately do the work for their adoptive parents, and for their process, that that will be eliminated, and that will streamline it a bit. Certainly that is a hope.

Senator MURKOWSKI. Well, is it also possible that if they fail, these entities that have been providing some of these services fail to meet the accreditation, actually have fewer out there as you would possibly take longer? Is that a concern, or are we pretty comfortable with the accreditation—those that are providing the service will be able to meet the requirements?

Ms. COX. I think so. The Hague is not something that has just happened. I mean, we have been anticipating this for a long time. So I do not know the number of agencies that are already accredited, but that is certainly something agencies could have been anticipating for some time. So there will certainly be a moment or a time as we are all adjusting in the transfer that will be difficult—I think we have all expected that. But hopefully, the agencies are also going to have a clear enough process and guidelines that we will be able to accommodate that.

Mr. ATWOOD. You also asked about costs.

Senator MURKOWSKI. Oh, yes.

Mr. ATWOOD. The cost of adoption is a stretch for many families. The adoption tax credit helps. We need the sunset that is scheduled for that in 2010 to be repealed. It is currently at $10,000, and it needs to stay at $10,000 at least——

Senator MURKOWSKI. What is the average cost of international adoption?

Mr. ATWOOD. In the neighborhood of $18,000 to $25,000, and it can be more. The tax credit is really crucial for a lot of families, and this really comes into play in international adoption, in particular, because there are lots of children internationally. When it comes to domestic infants adoptions, while looking at it from a child's point of view, we know they are going to be adopted. Somebody will be able to afford to adopt those children. But looking internationally, where there is way many more children eligible to be adopted than there are parents adopting, it becomes really crucial for marginal families to have that tax credit.

But there again, it also needs to be noted that adoption is costly—has costs associated. People ought not to think there are people out there just exploiting in a systematic way, broadly and widely, parents' desire for children. The large, vast majority of people involved in providing adoption service are doing it because they want to help children and families. That's the whole reason.

Senator MURKOWSKI. Which is the right reason.

Quickly, the increase in international adoptions—is this leading to a downward trend in domestic adoptions? Are we seeing that, or is that actually happening on the domestic front?

Mr. ATWOOD. Actually, international adoptions have slightly exceeded the number of domestic infant adoptions at this point. It is certainly not competing, so to speak, with infant adoptions—there still will be plenty of parents to adopt them. There are children in foster care—118,000 children with the case status of "waiting to be adopted," in foster care. I would not put it that way, that you know, the people are—I think it is more of an expanding pie than

a fixed pie. People who are called to adopt a child will explore all the options. And they are, you know, any adopted parent will tell you "this is my child, this is the child who is supposed to be in my family," and we feel that—my wife and I feel about our child by adoption—and this is true of every adoptive parent.

Ms. COX. The domestic numbers have also been affected by things like surrogacy and just the increased ability for infertility treatments and that sort of thing, so that's been somewhat affected by it. But I think that it is really—I think it is a very good question—and also one of the things I so appreciate about the congressional coalition on adoption is that they advocate not for "our children" and "their children," but "the children." It is much more of a global emphasis on children, which I think is very positive and important. I thank you for that.

Mr. ATWOOD. Senator Landrieu, who is a great adoption leader—and I find it awkward and unusual to be having concerns about her legislation—has a very nice way of putting it, which is "There are no unwanted children, only children who haven't found their families yet." So we need to do a better job of educating people about the need, and inspiring them to a calling they may be having to adopt.

Senator MURKOWSKI. Well, thank you for bringing children together with their families. We appreciate the efforts that you do on behalf of so many, and I thank you for giving us some time this afternoon. We really appreciate that.

And with that we stand adjourned.

[Whereupon, at 4:20 p.m., the hearing was adjourned.]

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