

Hague Information

What is “The Hague”?

When people talk about “The Hague” they are talking about The Hague Conference on Private International Law. This is a governmental organization made up of countries from around the world that creates treaties covering a wide variety of issues. When we talk about “The Hague” in the adoption community, we are talking about “The 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.” This is one of the many treaties created by The Hague Conference. The Hague Treaty regarding international adoption was developed in 1993 and has currently been ratified by over 63 countries. The goal of The Hague is to protect children and families involved in intercountry, or international, adoption. It provides standardized regulations for every country that ratifies it and allows for greater transparency in the adoption process.

What is ratification and accession?

When a country ratifies or accedes to The Hague, they are committing to follow its regulations from that point forward when working with other countries that have acceded to or ratified The Hague. Prior to ratifying or acceding to The Hague, countries sign on to it. After signing on to The Hague, countries work to put the proper infrastructure into place that will help them meet The Hague guidelines. The time between signing on to The Hague and ratifying or acceding to it can vary greatly between countries. Countries who have ratified or acceded to The Hague can still work with countries that are not party to The Hague without meeting The Hague regulations.

Where is the U.S. at in the process?

The United States signed onto The Hague on March 31, 1994. It then created the Intercountry Adoption Act of 2000 to help set-up the framework for The Hague. The U.S. is continuing to put the infrastructure into place in order to be ready to implement The Hague. Some of the necessary steps are designating a Central Authority through which all intercountry adoptions with Hague countries will be processed and completing the appropriate accreditation of agencies. The U.S. Department of State has set the goal of ratifying The Hague before the end of 2007. This is an ambitious goal and whether or not the Department of State will be able to meet this goal is unclear at this time.

What is Hague Accreditation?

Adoption agencies can decide whether or not to become Hague Accredited. In a nutshell, only Accredited agencies will be allowed by the Department of State to maintain and develop adoption programs in the more than sixty Hague Nations including China, India, Panama and Poland. All Nebraska families hoping to adopt a child from another Hague Nation will be required by the Department of State to have very specific requirements met within their home study, training and post placement services. Adoption Links Worldwide is the only Nebraska-based agency pursuing National Accreditation as a Hague Approved agency. As an Accredited agency, ALW will have in place all the requirements and will be best able to meet the needs of the family and the children waiting abroad in other Hague Nations.

What is the issue with Guatemala?

Guatemala acceded to The Hague in September 2002 and it went into effect in March 2003; meaning that they committed to following the regulations set forth in The Hague. After their accession, the Guatemalan Constitutional Court found The Hague to be against their country's constitution, but they never formally rescinded their accession. This means that Guatemala is still committed to following The Hague from an international legal perspective, but that they are not following it due to the political atmosphere of the country.

How are adoptions between the U.S. and Guatemala being affected?

Once the U.S. has ratified The Hague, we are committing to work only with countries that are meeting the regulations of The Hague if that country has also ratified or acceded to The Hague. (If a country has not ratified or acceded to The Hague, the U.S. can still work with them using current procedures.) Since Guatemala has acceded to The Hague, but is not properly implementing its regulations and has not rescinded their accession; once the U.S. ratifies The Hague, it will not be able to legally process adoptions from Guatemala. Until the time that the U.S. ratifies The Hague, because the U.S. is not bound yet by the regulations of The Hague, adoptions with Guatemala can proceed as normal.

What does the future of adoptions between the U.S. and Guatemala look like?

The U.S. Department of State has stated that families who have turned in their application to adopt an orphan (the I-600A) before the U.S. ratifies The Hague will be able to legally continue their adoption process in Guatemala after ratification. This application is filed with the Center of Immigration Services and when approved, they issue the I-171H which is the pre-approval to bring an orphaned child into the U.S. In Nebraska, the I-600A application is filed by a family immediately after their home study is approved. The U.S. Department of State is saying that families who have done this can move forward with their adoption under the current system.

The Guatemalan government has not stated how they will proceed with U.S. adoption once the U.S. ratifies The Hague. Families who have newly filed their I-600A at the time the U.S. ratifies, and who do not yet have a referral of a child are at the greatest risk of having their adoption process affected. Many people in Guatemala rely on adoptions for an income (from taxi drivers and hotel personnel to attorneys and family court judges) and it appears that Guatemala would have very little to gain by saying no to adoptions while the U.S. is still granting visas.

The Guatemalan government has stated that they are committed to making adoption reform a priority in their country. If they are able to put into place the necessary measures to become Hague compliant before the U.S. ratifies The Hague, adoptions can continue between the two countries. This would require that Guatemalan officials, who previously found The Hague regulations to be against their country's constitution, to now pass The Hague compliant legislation in their Congress. Hague compliant legislation was presented in Guatemala's Congress in late March 2007. We are now waiting while the legislation is reviewed and the possibility of implementation is decided.

Why take the risk of adopting from Guatemala now?

There are more than 22,000 children in Guatemala right now waiting in orphanages and foster care for their forever families. In 2006, there were 4,135 adoptions from Guatemala to the U.S., which accounts for 90% of all Guatemalan adoptions last year. There is no "Plan B" for all of the children in orphanages and foster care, and for those children who are yet to be born into abject poverty. Guatemala has the highest rate of malnourished children in the Western Hemisphere. The reason most parents in Guatemala place their child for adoption is so they can have their basic needs met. Many of the birth parents cannot provide sufficient food, clothing or even the most basic medical care (and there is no system set up in Guatemala to help them). Many children die from curable diseases such as pneumonia and diarrhea. In many instances, adoption is the child's only hope for a future.

There are children of every age and both genders waiting in Guatemala for a family. However, the majority of children needing families right now are infant boys. Referrals of newborn baby boys often come almost immediately after a family's paperwork is sent to Guatemala. Because of the tenuous state of adoptions between the U.S. and Guatemala due to The Hague, families are needed now! We need to help as many children as possible come home to loving families who are committed and able to take the risks of Guatemala adoption, so that these children can be given an opportunity for a future in case adoptions between the two countries are stopped when the U.S. ratifies The Hague.