



Australian Government

**SUBMISSION NO. 205**

(Supplementary to Sub No. 90)

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Department of Immigration and Multicultural and Indigenous Affairs

Ms Margaret Atkin  
Secretary – Inquiry into Adoption of Children from Overseas  
House of Representatives Standing Committee on Family and Human Services  
Parliament House  
CANBERRA ACT 2600

Dear Ms Atkin

Thank you for your letter of 17 May 2005 to the Secretary of the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA), Mr Bill Farmer, requesting clearance of the transcript of the public hearing held on 9 May 2005 and also further information from DIMIA for use by the parliamentary inquiry into Adoption of Children from overseas. Mr Farmer has asked that I respond on his behalf.

The transcript of the public hearing is accurate in so far as the personal recollections of the departmental officers who attended.

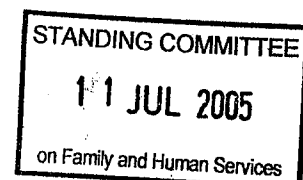
However, I would like to clarify evidence given in respect of adopted children on behalf of whom applications were made for Australian citizenship without first having obtained a permanent visa. The evidence given was that there were 94 adopted children in the 12 month period 5 April 2004 to 5 April 2005 on behalf of whom applications were made direct for citizenship rather than for a visa (page 70 of the transcript). A check of records has established that, during the period referred to, some 86 applications for Australian citizenship, made on behalf of children adopted overseas who did not hold an adoption or other permanent visa, were received by the processing office in Australia. Statistics on the number of applications of this type lodged at overseas posts during this period are not readily available. I should note also that reporting in the department is based on the time of lodgement of an application and the time of decision, rather than the time of adoption.

The additional information is as follows:

**The Chair (page 65) asked for a copy of the minute to the Minister justifying the recent change to citizenship policy regarding the grant of citizenship to children adopted overseas.**

A copy of the Minute is attached.

*Confidential.*



**Mrs Irwin (page 66) asked for statistics on the number of overseas adopted children who may have failed the health requirement.**

Departmental records indicate that in the last five years, 11 children were known not to have met the health requirements for permanent entry into Australia. There was one case in 2003 and another four cases in 2004.

**Mrs Irwin (page 66) asked for statistics on the number of overseas adopted children where the health requirement was waived over the last 12 months.**

Departmental records indicate that for the five children who did not meet the health requirements for permanent entry into Australia in 2003 and 2004, three children had the health requirements waived and were granted entry to Australia. It is understood that the prospective adoptive parents for the other two children did not proceed with the adoption and consideration of a health waiver was not required.

**The Chair (page 68) asked for a list of the Migration requirements for overseas adopted children to satisfy for permanent entry into Australia.**

A list of the requirements is provided at Attachment B.

**Mr Quick (page 68) asked for a list of high risk countries.**

The department does not maintain a list of high risk countries as such but does maintain a list of low risk countries and locations (Attachment C refers). Countries and locations that do not appear on this list are considered high risk.

The list of low risk countries and locations are gazetted, and passport holders from these countries and locations are not required to lodge visa applications to visit Australia, but can use the Electronic Travel Authority (ETA) visa system.

**The Chair (page 71) asked for citizenship figures for 2003-04.**

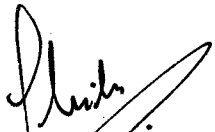
As indicated above, statistics are not readily available on the number of applications for citizenship lodged in a specified period at overseas posts on behalf of children who do not hold a permanent visa. However, during 2003-04 the processing office in Australia received 63 applications from overseas posts. This compares with 76 such applications in 2004-05 as at 22 June 2005. It is possible that some applications received by the processing office in Australia in a particular financial year may have been lodged in the previous financial year, and that some applications lodged in one financial year were not received by the Australian processing office until the following financial year.

**Mrs Irwin (page 73) asked for any statistics on whether the people adopting the children on behalf of whom applications were made for Australian citizenship without first obtaining a visa were single or married.**

These statistics are not kept.

Should you require any further information please contact Ms Susan Cabbage,  
Assistant Director Family Migration section (Ph: 6264 1815) in respect of visa  
matters and Mr Stewart Foster, Director Citizenship Policy and Promotion Section  
(ph: 6264 2940) in respect of citizenship matters.

Yours sincerely



Greg Mills  
Acting Assistant Secretary  
Migration Branch  
DIMIA

7 July 2005

**CONFIDENTIAL**

**MINUTE**

**&**

**ATTACHMENT A**

**CONFIDENTIAL**

### Migration requirements for intercountry adoption

The Migration Regulations set out the criteria to be met for the grant of a visa. The Adoption visa (Subclass 102) is for a child under 18 years of age who has been adopted or is in the process of being adopted by an Australian sponsor.

The criteria for the adoption visa provide for four separate adoptions situations:

1. children adopted overseas by Australian expatriates;
2. under an arrangement between an Australian State or Territory Adoption Authority under agreements with other countries where the adoption is to be finalised in Australia;
3. adoptions under the Hague Convention or the bilateral Agreement with China;
4. where the child was adopted under the Hague Convention and the adoption occurred between two countries other than Australia.

In all cases, the criteria require that:

- the child is under 18;
- the child is sponsored by a parent (or prospective parent) who is an Australian citizen, the holder of a permanent visa or an eligible New Zealand citizen;
- the child satisfies the health criteria; and
- the laws relating to adoption of the country in which the child is normally resident have been complied with.

#### 1 - Expatriate adoptions

These adoptions occur overseas without the involvement of an Australian State or Territory adoption authority. The adoption arrangements are between the expatriate adoptive parents and local authorities of the child's country of residence.

For these adoptions, the visa requirements include that:

- the adoptive parent has lived overseas for at least 12 months prior to the visa application, and the Minister is satisfied that the residence was not contrived to circumvent normal requirements for children for adoption; and
- the adoptive parent has lawfully acquired 'full and permanent parental rights' by the adoption.

## **2 and 3 - Adoptions arranged by State and Territory adoption authorities**

For these adoptions, the visa requirements include that:

- the child is resident overseas; and
- the child has been adopted under the Hague Convention or the bilateral arrangement with China or has been allocated to the parent by a competent authority in the overseas country for adoption in Australia; and
- either an adoption compliance certificate is in force or the competent authority has given approval for the child to travel to Australia.

## **4 – third country Hague adoptions**

For these adoptions, the visa requirements include that:

- the adoption occurred in accordance with the adoption convention; and
- an adoption compliance certificate is in force.

Should an adopted child travel onshore before applying for a permanent visa, the Child visa (subclass 802) includes similar provisions for adopted children to those of the Adoption visa.

**List of low risk countries and locations**

Current list of ETA (Electronic Travel Authority) countries and locations - considered 'low risk'- (effective 1 January 2004)

1. Andorra
2. Austria
3. Belgium
4. Brunei
5. Canada
6. Denmark
7. Finland
8. France
9. Germany
10. Greece
11. Hong Kong - Location
12. Iceland
13. Republic of Ireland
14. Italy
15. Japan
16. Republic of Korea
17. Liechtenstein
18. Luxembourg
19. Malaysia
20. Malta
21. Monaco
22. The Netherlands
23. Norway
24. Portugal
25. Republic of San Marino
26. Singapore
27. Spain
28. Switzerland
29. Sweden
30. Taiwan - Location
31. United Kingdom
32. United States of America
33. Vatican City