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Official Committee Hansard

**HOUSE OF  
REPRESENTATIVES**

STANDING COMMITTEE ON FAMILY AND HUMAN SERVICES

**Reference: Adoption of children from overseas**

MONDAY, 9 MAY 2005

CANBERRA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES



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**HOUSE OF REPRESENTATIVES**  
**STANDING COMMITTEE ON FAMILY AND HUMAN SERVICES**

**Monday, 9 May 2005**

**Members:** Mrs Bronwyn Bishop (*Chair*), Mrs Irwin (*Deputy Chair*), Mr Cadman, Ms Kate Ellis, Mrs Elson, Mr Fawcett, Ms George, Mrs Irwin, Mrs Markus, Mr Quick and Mr Ticehurst

**Members in attendance:** Mrs Bronwyn Bishop, Mr Cadman, Mr Fawcett, Mrs Irwin, Mrs Markus, Mr Quick and Mr Ticehurst

**Terms of reference for the inquiry:**

To inquire into and report on:

How the Australian Government can better assist Australians who are adopting or have adopted children from overseas countries (intercountry placement adoptions) with particular reference to:

1. Any inconsistencies between state and territory approval processes for overseas adoptions; and
2. Any inconsistencies between the benefits and entitlements provided to families with their own birth children and those provided to families who have adopted children from overseas.

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**Committee met at 9.35 am**

**GIBSON, Dr Diane, Head, Welfare Division, Australian Institute of Health and Welfare**

**KELLY, Ms Susan, Project Manager, Children, Youth and Families Unit, Australian Institute of Health and Welfare**

**KIM, Ms Cynthia, Unit Head, Children, Youth and Families Unit, Australian Institute of Health and Welfare**

**MADDEN, Dr Richard, Director, Australian Institute of Health and Welfare**

**CHAIR**—I declare open this public hearing of the House of Representatives Standing Committee on Family and Human Services for its inquiry into the adoption of children from overseas. This is the first public hearing for this sensitive and important inquiry. During the inquiry the committee will be exploring how the Australian government can better help those Australians who are seeking to adopt or who have adopted children from overseas. We will be talking to Commonwealth, state and territory officials and of course trying to meet as many of the parents and prospective parents as possible. Today we begin by gaining a statistical overview from the Australian Institute of Health and Welfare on the numbers and trends in intercountry adoptions. We will then meet people from the region who are trying to adopt or have adopted children from overseas. Finally, in this short hearing we will take evidence from government officials responsible for the Commonwealth's role in the intercountry adoption process.

This hearing is open to the public and a transcript of what is said will be made available via the committee's web site. I welcome witnesses from the Australian Institute of Health and Welfare. Do you have any comments to make on the capacity in which you appear?

**Ms Kelly**—I am the project manager of the Adoptions Australia data collection.

**CHAIR**—I thank the secretary of the committee for administering the oath or affirmation. We have spoken with the AIHW on a previous occasion, and I know that we have received a very good submission from you. Would you like to make an opening statement?

**Dr Madden**—The Australian Institute of Health and Welfare is shortly described as Australia's national agency for health and welfare statistics. We operate under the Australian Institute of Health and Welfare Act 1987. We are a statutory authority under that act, and we operate under the Commonwealth Agencies and Companies Act. We have been in existence for 18 years now, and we have had our welfare functions, which are relevant to this inquiry, for 13 years. As part of those functions, at the very beginning of our welfare activities in 1992, the states and territories funded the institute to collect data on child protection issues and adoptions, taking over collections that had been established under the so-called WELSTAT arrangements in earlier years. At the same time, the Commonwealth parliament has given us an appropriation, and we add to that through a range of project work undertaken for governments and other bodies. But in this particular case, the states and territories fund us to collect data on adoptions. Every year the institute publishes a publication, *Adoptions Australia*, pursuant to those arrangements. While there are four of us here, Susie Kelly is actually the person who does all the work on this.

The submission shows clearly the declining number of officially reported adoptions from the late 1960s until now. The majority of that decline has occurred in local adoptions, but there is also information on a number of intercountry adoptions, both across Australia and by state and territory. We report the country of origin of those children. I am actually also an adoptive parent with intercountry adopted children. I do not think that is a conflict of interest, but it is an overlap of interests.

**CHAIR**—I think it is an endorsement.

**Dr Madden**—This publication is compiled from the material provided to us by the states and territories. The data is reviewed by representatives of the adoption section of each community services department prior to its publication. Thus, to the best of our knowledge, the information on policies and practices in each jurisdiction is correct. However, you will no doubt hear from individual jurisdictions, and they have considerably more expertise than we do. Importantly, in this publication we do have an appendix showing the practices and legislation in each state—but we are not the authors but the repeaters of that information. I would like to point out some highlights from the submission we made to you.

**Dr Gibson**—The submission is the one in the blue folder that has been handed out. Richard will be referring to a couple of specific figures. This is something we prepared last week from the most recent information that we have available. It is fairly succinct.

**Ms Kelly**—It is the only submission. We did not make a prior submission.

**CHAIR**—I think it builds on what we have already got. We formally receive the submission from the Australian Institute of Health and Welfare as evidence to the inquiry into overseas adoptions and authorise it for publication. It is so moved.

**Dr Gibson**—It was prepared to be of assistance this morning, so it is fairly succinct.

**Dr Madden**—It draws on a lot of the information in our publication. On page 4 of that document is figure 1, which sets out fairly dramatically the drop in adoptions since the early 1970s to the present. You will notice there is a small break in that series in the mid-eighties, prior to the establishment of the institute. Over the page, the number of children legally adopted from the early eighties on is shown for local and intercountry adoptions, with local adoptions continuing to fall, as shown earlier, and intercountry adoptions rising, falling a little bit and then rising again. On page 6 is a table showing the countries of origin of intercountry adopted children over the last 10 years. It shows the recent increases in the importance of China as a source of adoption following the agreement between Australia and China. Also it shows the importance of various countries over the 10 years, notably South Korea, India, Thailand, Ethiopia, China and the Philippines. Table 4 on page 8 of the submission shows the state breakdowns of the number of children placed. The number of adoptions is slightly different; children are placed and then adopted a bit later on. The number of children placed in 2003-04 is 415. You can see the split-up across the states and territories.

The proportions in each state are then shown below that. If you compare that to the proportion of the population shown at the bottom of that table, you can see that New South Wales and Queensland are relatively behind in the number of intercountry adoptions. Victoria is almost



exactly on its proportion of population and South Australia, Tasmania, the ACT and the Northern Territory are ahead. I think they are the only broad statistical issues we wanted to point out to you. We will obviously be happy to answer any questions you might have.

**Mrs IRWIN**—Richard, you were saying that you are an overseas adoptive parent. May I ask what country you adopted your children from?

**Dr Madden**—Sri Lanka.

**Mrs IRWIN**—How many?

**Dr Madden**—Two.

**Mrs IRWIN**—May I ask their ages?

**Dr Madden**—They are 23 and 21.

**Mrs IRWIN**—How old were they at the time of adoption?

**Dr Madden**—Three weeks and 2½ months.

**Mrs IRWIN**—Did you have any problems with those adoptions back then, over 20 years ago?

**Dr Madden**—At the time we did it, no. The main thing about the process was that it was very lengthy. My wife and I referred to it as a two-year pregnancy or a pregnancy by bureaucracy. We were both bureaucrats, so that was not overly terrifying, but I think for many of the people we met in the process it was very long and difficult. Nonetheless, the processes were very rigorous, both in New South Wales through the department of foreign affairs that transmitted our material to Sri Lanka and in Sri Lanka. We supported that rigorous process because we knew that this was a very sensitive issue.

**Mrs IRWIN**—The statistics are very interesting to look at. Have you got any statistics on the percentage of adoptive applicants who have been on the IVF program?

**Ms Kelly**—No, we do not.

**Dr Madden**—We do not have any statistics on applicants, only on the adoptions. We have got statistics on the IVF program in the institute, through our assisted conception collection. But there is no linkage between that and adoption.

**Mrs IRWIN**—It would be interesting to find out those who have been on the IVF program who have not been successful and who are looking at adopting children from overseas.

**CHAIR**—The statistics I have are that last year there were 7,000 children born to IVF parents. There seems to be a correlation there. I do not know if we have looked at that—Diane, you might like to look at it at some stage. At the peak of adoptions in Australia, there were 9½ thousand in 1970-71, but now IVF is becoming a little easier for parents who are doing it because the technology is better and people do not have to have as many goes at it. I might add

that many people are becoming IVF parents because the bloke has a problem, not the woman. I think there are 7,000 IVF children born as Australian citizens. Obviously, there has to be a correlation somewhere in those figures.

**Dr Madden**—Certainly a whole lot of things have changed over the 20 years. The age of giving birth has risen dramatically over that period, which has encouraged people into the IVF program, and, of course, as you say, the technology has got better. Perhaps I should send the committee some copies of our assisted conception publications so you can have a look at that. That is done by the National Perinatal Statistics Unit, which is a collaborating unit of the institute at the University of New South Wales.

**CHAIR**—That would be very interesting to have.

**Mr FAWCETT**—I have a question for you on the statistics. I am aware, both personally and from the submissions that have come in, that there are children from countries other than those that are listed here—for example, Kenya. Can you confirm that these countries here exclude people who adopted while they were resident overseas? I am aware that at least one of the cases from Kenya was in that category.

**Ms Kelly**—In this publication we only count adoptions that are organised by the adoption agencies in the community service departments. We have a table in this document that shows how many children came in on a visa for that purpose—and we say which countries they come from in an appendix table, but we do not keep statistics on them. We do not know about them.

**Mr FAWCETT**—Without finding that table, do you know roughly how many come into Australia each year? Or do you know how many children have come in over the last decade?

**Ms Kelly**—It is not many. It is on page 47 of the pink book. There were 34 last year and, sorry, there were two adoptions from Kenya. There were 34 visas issued. That does not mean that the children travelled. They might travel later. DIMIA issued 34 subclass 102 visas.

**Mr QUICK**—Is it possible to get a breakdown of where the Chinese and Ethiopians, the majority of people, are going to? Are they going to any particular state or do they go across the states in the same proportion as the population?

**Ms Kelly**—On page 14 of that book it tells you which state the children went to.

**Mr FAWCETT**—Do you have any statistics on the ‘ethnicity’, if that is the right word, of the adoptive parents?

**Ms Kelly**—No.

**Mr FAWCETT**—I am aware that some countries prefer their kids to go to people of the same origin. I was just wondering, with our increasing Chinese population, whether there was any correlation with the increasing number of children.

**Ms Kelly**—The only information we have on adoptive parents is age, marital status and something else—I cannot remember what that is off the top of my head. The problem we have

with these numbers is that, because they are so small, if we break down the data too far it becomes a bit identifying. So we have to be careful that we keep things on a more global level and do not dig too far down. There were only 370 adoptions last year and 112 of them were from China so if you break down the ethnicity of these people then—

**Mr FAWCETT**—You could probably achieve the result by asking whether the parents and new adoptive children have the same ethnic origin. That would not identify which country they come from but you would get the breakdown of how much intercultural adoption there is.

**Ms Kelly**—I could raise that at the next intercountry meeting in Canberra.

**Mr FAWCETT**—Thank you.

**Mr QUICK**—Amongst the statistics is there a waiting list for each of the states?

**Ms Kelly**—Yes, people apply for adoption. It is probably better to talk to people like those behind us who go through the process. You have to apply and there are a whole lot of processes to go through.

**Mr QUICK**—In Tasmania, where I come from, 22 children were adopted from overseas in 2003-04. Are there 60 families that are on the waiting list for children?

**Ms Kelly**—I cannot answer that.

**Mr QUICK**—Do the states have those figures?

**Ms Kelly**—Yes, they will have those figures.

**Mr FAWCETT**—Yes, they do. The case load can number in the hundreds in some of the states and in Queensland they have an open and shut system. They open a window when you can lodge an application and then they close the window. So there are quite a few families who want to adopt but have not made one of the windows and so are not officially recorded as being on the waiting list. Some of them are disqualified three years down the track—

**CHAIR**—Because they are too old?

**Mr FAWCETT**—because they are too old when they finally get their names on the list.

**Mr QUICK**—Would it be good for you to have those figures in something like this document?

**Ms Kelly**—We have discussed it at intercountry adoption managers' meetings. We worry that it would be misleading. If there are 60 people on the list and only 20 adoptions people might think that it will take at least three years but it does not necessarily mean that. Some people will take a longer time than others depending on their situation. We are concerned that the information will be misread.

**Mr QUICK**—If we are doing a national inquiry into the whole issue, it is a bit like waiting lists for hospitals and waiting lists for childcare centres. But you can get a ballpark figure. If there are 17,000 Australian households who wish to adopt children from overseas, surely in the days of computerisation we can come up with a ballpark figure that makes some sense so that when we talk to the states we know whether there is a huge number in Queensland and a small number in Tasmania and how many people are actually moving states because the rules are different. It would be good to have those figures from you people, as the world experts. I think it would be good if we could twist the arms of the states, which are reticent in most things about providing people like you with information. If you are happy to get it, when we talk to the states hopefully we can suggest to them that you are the fount of all knowledge when it comes to statistics and you should surely be given that information.

**Dr Madden**—I will comment on the general issue of waiting lists. We do not have data on waiting lists for surgery and hospitals. We publish data on waiting times. It is a very difficult topic to define properly because it depends on when people come onto a list. Some people come onto a list and it depends on the bureaucratic arrangements. It has just been described in Queensland. Sometimes it is easy to get on the list and the list is comprehensive; at other times the list is not comprehensive because people are deterred by the length of the list or whatever. Generally it is much more reliable to collect data on the waiting times so that when people adopt you can see how long they have waited to adopt. It gives you the same style of information but it is a more reliable measure.

**Mr QUICK**—Some of us believe that we are in the rail gauge mentality when it comes to adoption—that each state has their own approach rather than having a national one. If one of our recommendations is that there ought to be a national, consistent approach rather than states making ad hoc decisions about what they want to do and when they want to do it then we ought to define waiting times, waiting lists and the like so that there is consistency and we can find out how many frustrated households would like to adopt children and what barriers we can remove as a federal parliament to ensure that those people are looked after if there are children waiting to be adopted overseas. It makes sense to me.

**Dr Madden**—That is why we have provided in the submission, at least as a first indicator, the proportion of intercountry adoptions against the proportion of the population. I mentioned the two states that are relatively behind in that ratio.

**CHAIR**—I do think what Harry is saying makes sense though.

**Mr FAWCETT**—Recognising concern about publishing data, in fact that may be misleading. Could we ask as a committee for the purpose of this inquiry that you do gather the data on waiting lists, however different they are in terms of their definitions? They were incomplete in terms of Queensland's because of the open and shut system, but as a starting point it would give us a good indication of the demand versus the supply and, as Harry said, it would point out whether there are barriers that we can work with the states to try and remove.

**Dr Madden**—Do we have that information at all, Ms Kelly?

**Ms Kelly**—We do. It is just used internally.

**Dr Madden**—We would have to discuss that with the providers of the data to us. Under our act we can only provide release data in accordance with the wishes of the providers of that data. So we can take your request on notice and get back to you.

**Mr CADMAN**—They might be embarrassed to release it.

**Dr Madden**—It is quite possible.

**CHAIR**—You might tell us if you have any impediment to releasing the data and we will give them a hard time.

**Mrs IRWIN**—It would be good if you could get back to us, because then we could put a bit of pressure on the states. I think that this committee is entitled to have that data if it is going to bring recommendations to the government.

**Dr Madden**—We can tell you what data we have available. You may then be able to ask the respective states what their position is.

**Mr CADMAN**—Even if they say no, it is valuable to know that. You explain the sudden drop from about 1972 by saying there were changes in legislation practices. You give four dot points, none of which satisfy me about why at one year suddenly the thing crashes. Give us a proper explanation, please. You suddenly go within a few months from almost 10,000 a year down to 5,000. It halves over 24 months, approximately. Something traumatic happened at that point to create that result. You cannot say it was because of IVF or anything like that. There has to be something significant.

**Dr Gibson**—One of the things that you observe in this data is that there is substantial variation in the New South Wales numbers—depending on your capacity to do numbers in your head. Look at table 1 on page 2 of the submission that we handed out today. I believe you are referring to the total number of adoptions.

**Mr CADMAN**—Yes, I am, but I am looking at page 4. I drew my remarks from page 4, which has a graph. Are the figures on page 2?

**Dr Gibson**—I am suggesting that if you look at table 1—

**Mr CADMAN**—Victoria is not far behind—

**CHAIR**—Look at page 2 and look at the New South Wales figures—Diane is drawing a point there.

**Dr Gibson**—Around 1971-72, the period you are referring to, New South Wales goes down from 4,500 to 1,900 over a two-year period. At the institute we have had some discussions about the accuracy of those figures. They go back a long time and the institute took over this function in 1993 so we are not in a position to know. Certainly, as you say, that is a dramatic change. If you look across to the left-hand column, a significant proportion of the change is coming from one jurisdiction. We are a little concerned that the magnitude of that drop may be something

peculiar in the data. It is not necessarily something as simple as an error; it could be a change in accounting rules or internal policy.

**Mrs IRWIN**—Do you think it could be because of Vietnam? In that period of time a lot of children were adopted from Vietnam, especially in Western Sydney.

**Dr Gibson**—This is a drop in the number of total adoptions. The whole drop is a drop in local adoptions.

**CHAIR**—In 1968-69 the figure for New South Wales was 1,700 and in 1973-74 and 1974-75 it is back to that number. It is almost as if there is a graph that peaked in 1971-72 which was an aberration that is not matched anywhere else.

**Dr Madden**—Look at the data for the other states except Western Australia—Victoria, Queensland, South Australia, Tasmania and the territories. You will see a fairly consistent drop. It looks like their numbers were more reliable whereas New South Wales and Western Australia both jump around. I believe this data has come from the Bureau of Statistics. The first efforts to get any consistency in this data were with the WELSTAT efforts at the end of the 1970s. Prior to that there was not any effort at national consistency. I do not think you can put too much reliability on those early numbers. Certainly the other states have a very regular fall.

**Mr CADMAN**—Is it not a significant feature of population data to be so far out in those sorts of figures? It indicates trends and attitudes. Any demographer would be really interested in that.

**Dr Madden**—I agree it is a very interesting study. Also, as we were talking about at the institute last week, it reports legal adoption, so it reports cases going through the courts. If there was a change in administrative or legal processes that could bunch adoptions up together. There may be a reason, which will, hopefully, come out in research, other than some sort of administrative problem behind that.

**CHAIR**—What date was the legislation introduced for the single parent benefit?

**Ms Kelly**—About 1974-75.

**CHAIR**—I think it was earlier—about 1973.

**Dr Gibson**—1972-73 is in my head. It is a long time ago.

**CHAIR**—They were elected in November 1972 so probably 1973.

**Mrs MARKUS**—The process for them to apply for adoption would have begun a couple of years before that. Is that relevant?

**Dr Gibson**—Yes, it is.

**Mrs MARKUS**—The figures here would be for the year of adoption, but when they started the application would have been a couple of years earlier.

**Dr Gibson**—There is a distinction between placement and adoption. The legal finalisation of the adoption can be affected by a number of factors, including the individual getting around to finalising components themselves. That is why, in providing this table with the figures on intercountry adoptions by year, we have given you a table on both legal adoptions and placements because the placements give you a more up-to-date picture. The legal adoptions table, table 3 in this slim document, shows legal adoptions and that builds in the lag time, if I can call it a lag time—the period it takes to legalise the process.

**CHAIR**—Diane, in that figure of 4,500 in the New South Wales column, is it possible that placements could have been bunched in with formalised adoptions?

**Dr Gibson**—It is certainly possible, but it is very difficult for us to know. However, having made that point about the big bump, there is still a very strong trend. Regardless of whether it is truly 9½ thousand, you are still going from, say, 5,000 in the mid-seventies down to 500 in 2001. That is a very strong trend.

**CHAIR**—Yes, but that 1972 figure seems to be a peak; it built to that and then dropped away. So maybe a more realistic figure would be around 1,700, from which the drop away then starts. When did IVF begin in earnest?

**Dr Madden**—IVF did not begin really until the late seventies.

**Dr Gibson**—I recall the early eighties was the period when they had all the—the word ‘excessive’ is in my head, but it is not the right word—multiple births. That was the period in the early eighties when multiple embryos were being implanted. That was the experimental stage—the early to mid-eighties.

**CHAIR**—We really need to get the correlating figures for IVF, don’t we?

**Mrs IRWIN**—You really have to look at what happened in those years when they peaked. I know that I had friends who adopted a little boy in 1972 and they adopted a little girl in 1975. Then we have the rate going down. And do not forget that there was sex education in schools and there were terminations, so there were a number of things that would play on these figures from the seventies and right through the eighties and nineties.

**Dr Madden**—When you talk to the states and territories you will also find there were changes in legislation at that time around this area.

**Dr Gibson**—Yes. So if you had a policy timeline for both federal and state policies, not just on adoption but on these surrounding issues, that would be the most helpful thing in interpreting this—a policy timeline for both federal and state shifts.

**CHAIR**—And also traditional decisions.

**Dr Gibson**—And these practices like IVF.

**Mrs MARKUS**—We are particularly looking at New South Wales and Western Australia, which seem to have more inconsistencies than other states.

**Dr Gibson**—That high point of the broad trend over the 20 or 30 years is perhaps the one that is of more interest, in many ways, to the committee.

**Mr CADMAN**—Are you ready to change the subject? I want to talk about the Hague convention.

**CHAIR**—Yes, I want to talk about the Hague convention.

**Mr CADMAN**—This is the personal experience of one of my constituents who wanted to adopt from the US, a non Hague convention country—he could not do it. He was told China, another non Hague country, was okay. I do not follow that.

**Mr FAWCETT**—We have a bilateral agreement with China; we do not have one with the US.

**Mr CADMAN**—Do we have one with South Korea?

**Dr Gibson**—Yes. We have bilateral agreements with China, South Korea, Ethiopia and Thailand. Is that correct, Susan?

**Ms Kelly**—Yes.

**Mr CADMAN**—When did they start?

**Ms Kelly**—It was in the nineties; I do not know the exact date. It was prior to the Hague convention being ratified.

**Mr CADMAN**—So before then there were no adoptions from those countries, being non Hague convention countries?

**Dr Gibson**—The bilateral agreements were organised prior to Australia signing the Hague convention, so they pre-date the convention.

**Dr Madden**—I think the Attorney-General's Department will be able to tell you in more detail, but these are arrangements to standardise the entry of these children into Australia. But, prior to that, there were adoptions from those countries arranged through the different states.

**Mr CADMAN**—The thing that concerns me a little is the possible trade in babies. In fairly primitive environments there are few records kept, compared with a Western country that has similar record-keeping processes to our own. In one country it is okay to adopt but in the other it is not. One country has an agreement and the other is not a signatory to Hague. To me, that seems an inconsistent stance.

**Dr Madden**—Going back to my own experience, the processes in Australia at the time we adopted in the early 1980s, which were run by the states, were very rigorous. The complaint of the adoptive families was that they were too rigorous because they took so long. It would have been very difficult to bring a child into Australia without approval in Australia. You will no doubt find during your inquiry that there are some celebrated cases which you could have read



about in the media at the time, but generally it was a very tightly regulated process in Australia. In our case, in dealing with Sri Lanka, it was very tightly regulated in Sri Lanka.

**Mr CADMAN**—I can understand Australia being tightly regulated; I am just worried whether the donor countries are as rigorous. Is it as rigorous in China?

**Ms Kelly**—We deal with certain adoption agencies within the country. We make an agreement with particular adoption agencies. We do not just go to China; we go to an agency. That is how it works. It is highly investigated before we make an agreement with the particular agency. If you are a party to the Hague convention, you have signed up to adhere to all the stipulations. You have probably seen the document. A-G's would be the best people to talk to.

**Mr CADMAN**—We could not sign adoption agreements with agencies in the US but we could in China. We have totally different legal systems and everything else. It seems inconsistent to me.

**CHAIR**—Does that mean we have not tried to sign a bilateral with the United States?

**Dr Madden**—We do not know that.

**CHAIR**—Do we have any data on the average age of children when they are adopted?

**Dr Gibson**—Yes.

**CHAIR**—Does that appear in one of the tables?

**Ms Kelly**—It is at the back of the book. There is a chart, at page 15, which looks at the age of the child. Also, the submission shows the main eight countries that we adopt from. There is a graph at page 9 of the submission. We do not break the under-ones any further than under-one, unfortunately, so we cannot look at a child aged 26 weeks and so on.

**CHAIR**—Dr Madden, you said you adopted one of your children at three weeks. Would it be possible in this day and age to get a child at three weeks of age?

**Dr Madden**—I have no idea.

**Ms Kelly**—I would not have thought so, but it is something that is best raised with the states.

**Dr Gibson**—It is an interesting question. I also note that, in preparing for this meeting today, Susie raised with us the fact that in some countries there is a hierarchy of placement options in place for children. It is somewhat similar to the Australian Aboriginal child placement principle. There is a notion that the first option should be for the child to be placed with the family, then within the local community and then within the country. This is not true for all countries but it is true for some countries. That period of attempting to ascertain what those options are obviously makes it more difficult for children in those countries to be adopted at a very young age.

**Dr Madden**—Madam Chair, I must correct myself: it was four weeks, not three weeks.

**Mrs IRWIN**—You had your application in for two years prior to adopting the four-week-old baby?

**Dr Madden**—Yes.

**Mrs IRWIN**—It seems a short period now compared with what some people are going through to adopt children from overseas. It can be a lot longer now.

**CHAIR**—As there are no other questions for the institute, I thank the witnesses. We will look forward to getting that extra data if you can get it for us; if you cannot, you might let us know that.

**Dr Madden**—It may be a long process to get that data.

**Mr CADMAN**—As I said, even if you do not get it that tells us something.

**Dr Madden**—Obviously, if we can help you with any more information as your inquiry goes along we would be happy to do so.

**CHAIR**—We would appreciate that because I think you do have a lot of data that is useful to us. Thank you very much. It has been good to see you all again.

[10.17 am]

**CORNHILL, Ms Ionela, Private capacity**

**CORNHILL, Mr Robert, Vice-President, Adoptive Families Association of the ACT Inc.; Assistant National Coordinator, EurAdopt Australia; and private capacity**

**PLOHBERGER, Mrs Ann, President, Adoptive Families Association of the ACT Inc.; and private capacity**

**PLOHBERGER, Miss Raluca, Private capacity**

**CHAIR**—I welcome the representatives of the Adoptive Families Association of the ACT. In doing so, I note that we are going to hear from two witnesses in a dual capacity. We are going to hear from Mrs Ann Plohberger and Mr Robert Cornhill firstly in their official capacity representing that association and then subsequently in their private capacity. We note that each of them has a child who has joined us here today and we make Ionela and Raluca most welcome to this public hearing. We will hear firstly the formal testimony from Mrs Plohberger and Mr Cornhill concerning the Adoptive Families Association of the ACT. When we have concluded that we will then ask the witnesses to speak as individuals. As I understand it, Raluca and Ionela will perhaps make a comment as they feel they might like to make a comment. We would welcome that. Mrs Plohberger, I invite you to make an opening statement.

**Mrs Plohberger**—I brought along some photos, which are flashing up behind us. You can look at those from time to time. I come here today with two hats on. The first is in my official capacity as President of the Adoptive Families Association of the ACT and the second is in a personal capacity as the mother of three intercountry adopted children. Being included on this morning's program amongst public servants from the Department of Immigration and Multicultural and Indigenous Affairs and the Attorney-General's Department, I hope to show you the human face of adoption by way of a slide show. In fact, it will be three human faces, those of my adopted children. The pictures date back to mid-2001, when my husband and I first met our children at the ages of four, five and six.

I am truly thankful that I was born in Australia, a country that does not have the need for orphanages where children must live. Sadly, it is a fact of life that there are many countries overseas with orphanages full of children. I have been truly fortunate to have travelled overseas on many occasions, but it is a trip to Romania, where I visited an orphanage for babies, that haunts me the most. Prior to travelling to Romania, we endured a wait of three years and nine months to meet our children. In 2001, whilst in Romania, I was unable to visit the orphanage for three- to six-year-olds where my three children had spent the early part of their lives. I did, however, manage to visit an orphanage for babies, nought- to three-year-olds.

My husband and I entered the first room and found some 20 cots with two babies per cot. They were the sweetest, tiniest little babies. They were all less than one month old and they had all been abandoned. The next four rooms that we looked into were all exactly the same. They were the same size, with the same number of cots and the same number of babies. The most

disturbing feature was the silence. It was eerily quiet in a roomful of little babies. How could a roomful of so many babies be so quiet? In their short one month of life, these tiny little babies had already learned that there was no point in crying, because no mother was going to come and soothe their needs. Dr Gregory Keck PhD from the USA is a world-renowned expert on attachment disorders, as well as an adoptive father. His respected research has shown that for every one month a child spends in an institution you can deduct three months from its development. If a one-month-old baby in an overseas orphanage has already learned not to cry, what is he or she going to learn in another six months in an institution?

Having set the scene for you with a tiny baby in an overseas orphanage, I now wish to bring you back to Australia and the many families who wish to nurture those babies and the many older children in overseas orphanages. There are many families in Australia who wish to adopt young babies. There are also many older children with backgrounds of neglect and abuse who are emotionally damaged and display distress through troubled behaviour who are also looking for a family to give them a second chance at life. Nearly all of the older children will need extra support with their education from families who have the experience, resilience and resourcefulness to cope with difficult or unusual behaviour. It is certain that they will all require far greater expenditure of time, energy and commitment from their new family than children who have been fortunate enough to stay in their birth family.

Australian families adopt children from overseas for a variety of reasons. Childless couples may decide to adopt after years of IVF, where their chances of success may only be around 10 to 20 per cent. Families with birth children may wish to expand their existing families by adopting a child. Certainly not every family in Australia is in the position of being able to open up their family and welcome unconditionally an unknown child or children into their midst, but the overwhelming majority of Australian people respond very positively to those who can and do adopt.

The outpouring of generosity shown during the recent Asian tsunami confirms that Australia is a caring nation. I refer also to the assistance offered by neighbours and the local community, many of whom had previously been total strangers. The assistance offered to my family when we adopted our three children was indeed humbling. The media are certainly quick to latch on to a good news story such as ours. The United Nations, the Australian government, the Adoptive Families Association of the ACT and I personally are all in agreement that the rights of the child are paramount. The Australian government needs to do more to assist adoptive families. On a global scale, many of the world's developed countries support their adoptive families by way of tax credit schemes for adoptive families. Why not the Australian government?

Adoption in Australia is an evolving process. It has evolved from the dark days of the stolen generation to the secret and hidden years of sixties style closed adoptions. Today's prospective adoptive families spend the years waiting for their child by educating themselves, learning foreign languages and about other cultures, and being open in their thoughts and plans for their future family. Today, the majority of adopted children grow up knowing and socialising with other adopted children. There are far too many children in the world in need of loving families. Australia is a land with many loving families who are willing to provide them with the chance at a new life.

**CHAIR**—Thank you. Robert, do you have anything you would like to say?

**Mr Cornhill**—I do have a statement but it is more in a private, personal capacity.

**CHAIR**—We might first talk about the role that your organisation plays and what you do. We will then go to your individual testimonies. Would you like to tell us about the work of the organisation.

**Mrs Plohberger**—Adoptive Families of the ACT has about 105 member families here in Canberra. We produce a magazine each quarter. This magazine, although edited and organised here in Canberra, is actually used by many other states. Some yellow pages in the middle contain local ACT news, but this magazine now goes to New South Wales, where they slip in some green pages with New South Wales information. It also goes over to South Australia and the Northern Territory, where they slip in blue pages with their information. So although it is produced locally here in the ACT, we are almost Australia-wide now. This comes out four times a year. We have lists containing information about who you should contact, depending on which country you are interested in. We have subgroups for different countries. We have Club Prietenii, which families who have adopted from Romania attend with their children. We have a Filipino club, a China club and a Kimchi club for the Koreans. So although we are one big umbrella organisation with lots of adoptive international and local children, we have subgroups which specialise in areas of culture.

**Mrs IRWIN**—Do you get funding for your newsletter?

**Mrs Plohberger**—No.

**Mrs IRWIN**—No funding whatsoever?

**Mrs Plohberger**—No funding whatsoever.

**Mrs IRWIN**—So you rely on donations?

**Mrs Plohberger**—Absolutely. Parents volunteer their time, their effort and their money. Membership fees help to cover costs. We have done a lot of rationalising lately. We are now coming out ahead.

**Mr QUICK**—Is there a national body?

**Mrs Plohberger**—No, there is not a national body. We would dearly love to try and start one. We have been trying for many years.

**Mr Cornhill**—There was a national organisation that was put together prior to Australia signing and ratifying the Hague convention, but since that time it has fallen into disuse.

**Mr CADMAN**—Are there organisations in each state?

**Mrs Plohberger**—Yes.

**Mr Cornhill**—There are several organisation in some states. I personally tried to get support for a national organisation recently, but the support just was not there.

**CHAIR**—Was that from the individual state bodies?

**Mr Cornhill**—Yes. I am not sure why it is, but I think that, like everybody, adoptive parents are flat out looking after their children.

**Mrs Plohberger**—We looked at some funding that was available for establishing a peak body, but for the auditing and accounting requirements we would have needed a full-time person justifying where the money had gone, and we did not have a full-time person who was available to do that. We have investigated it.

**Mr Cornhill**—The funding was there not for actually setting up the body but for maintaining it. We would have had to set it up ourselves.

**Mrs Plohberger**—Also I believe we would need to include all sides of the adoption triangle—adoptive families like ourselves, but also a lot of relinquishing mums and adoptees.

**CHAIR**—You say you operate with specific subgroups. You have got one for Korean, one for Romanian, one for Filipino and one for Chinese children. Are the problems different for different families adopting from different countries?

**Mrs Plohberger**—Absolutely. From China you are going to get very small, young babies who are not so institutionalised. From Romania you only got older children who had spent years in an institution. Children from Ethiopia have different hair styles that you have to try to organise. Apart from different cultures, there are different needs and different requirements in the adoption process.

**CHAIR**—Do you find it better, in helping people with whatever difficulties they might have as the child is growing up and going through the schooling system, to deal with a group of people who have children who have come from the same country? Do they share problems?

**Mrs Plohberger**—No. As the years go by and the children are growing up, they all have similar problems. In the early days, in the years of waiting and in the process, they need more country-specific information in preparing their application and preparing to travel.

**Mr FAWCETT**—As a group working in adoption here in the ACT, how do you describe your relationship with the territory department?

**Mrs Plohberger**—I think we have a very good situation here in the ACT. Our association has a memorandum of understanding with the ACT department. I do not believe that goes on in every state. The ACT is looked on very favourably.

**Mr FAWCETT**—What role in terms of the adoption process do you play? Is it purely a supportive role for people who are looking to, and then post, the adoption stage?

**Mrs Plohberger**—I think we play a fairly instrumental role in the parent seminars, the adoption seminars and information sessions that the department have that are compulsory for applicants. We provide most of the speakers at those. The department does a country lunch, and we provide families from the specific countries for the prospective applicants to meet. We are

fairly instrumental in ensuring that the education of the prospective adoptive families has the input of our association.

**Mr FAWCETT**—Do you have any involvement with, for example, a departmental desk officer for a particular country or any contact directly with the agency that you are working with in the foreign country?

**Mrs Plohberger**—We are not allowed to contact overseas people.

**Mr FAWCETT**—Do you find much turbulence in terms of people within the department moving on and therefore corporate knowledge about dealing with a particular country tending to erode with time?

**Mrs Plohberger**—It has come down a bit. Speaking personally, I went through the adoption process from 1997 until 2001. In that time I had lots of different social workers, and when it came to the final few months before travel I had a brand new lady who knew nothing and I almost hopped on the plane without visas for my children. You cannot expect a public servant who is new in a job to know the requirements of every country, and that is where an association like ours provides that ongoing information.

**Mr FAWCETT**—Do you see a role for a non-government organisation to partner with the department in terms of the whole process?

**Mrs Plohberger**—Absolutely. Applicants going through the process feel far more comfortable, I think, speaking to a person who has been through the process than a bureaucrat who may not even be a mother or a parent.

**Mr QUICK**—Has the process got any better or easier in the last few years?

**Mrs Plohberger**—I only went through it once, thankfully.

**Mr Cornhill**—I think it has, but it is very variable. We can only talk for the ACT of course, which is a very small jurisdiction. As Ann has said, I think that we are very lucky here in the ACT.

**Mrs Plohberger**—Compared to some of the horror stories we hear in other states.

**Mr QUICK**—I am interested in the feedback that you obviously must get. You put out the magazine and the others put the blues and the greens and whatever in it, and it appears to me that you seem to be the de facto peak body. Things have improved here—and that is fine and we ought to learn from what you are doing and how well you are doing it—but we should also hear whether things are static or going backwards in the other states. We would like some of that information even if it is hearsay so that when we do talk to the other states at least we have got some examples of just how the bureaucracy has ground to a halt.

**Mr Cornhill**—It would be hearsay.

**Mrs Plohberger**—Last week I met a couple that travelled from North Queensland that are looking to move to the ACT. They were down here on a fact-finding mission.

**Mrs IRWIN**—Was that mainly because of the cost factor or is it a lot quicker if you are from the ACT to adopt children from overseas?

**Mrs Plohberger**—If you miss a six-week window in Queensland you must then wait another two years and hope that they open up another six-week window in two years.

**Mr Cornhill**—They made their application during that six-week window but there were 800-odd applications in that six-week period.

**Mrs Plohberger**—And a lot missed that six-week period.

**Mr Cornhill**—The Queensland government has guaranteed to process a hundred a year, so how long is that going to take them?

**Mrs Plohberger**—There is eight years worth.

**Mrs IRWIN**—It is very hard when that window is closed your face, isn't it? It is very frustrating.

**Mr Cornhill**—They were still in their 30s but they said to me that they were concerned about their ages.

**Mrs IRWIN**—How many applications are you aware of from the ACT that are going through now for overseas adoptions?

**Mrs Plohberger**—When I was going through between 1997 and 2001 a figure of 700 people applied each year. I looked at moving to Jerrabomberra to be in New South Wales to see whether it was any better over there than here in Canberra. I was quite prepared to move nine kilometres but there was a bigger pool in New South Wales and there were far more people. I was a little fish in a big ocean there so I chose to stay in the ACT. As it worked out, I think I made the right choice.

**Mr Cornhill**—I think I heard that there are about 25 or so current applications being worked on.

**Mrs Plohberger**—Generally in the ACT the department would hold one lot of information adoption sessions. This year they have held two already, so there is certainly a lot more interest being generated this year than last year.

**CHAIR**—Do you help would-be adoptive parents by telling them what is in store and what they need to be prepared for?

**Mrs Plohberger**—Absolutely.

**CHAIR**—They obviously find that helpful.



**Mrs Plohberger**—Absolutely. We will lobby on their behalf. If they think that something is not quite right in the process we will lobby on their behalf.

**CHAIR**—When people come to you do you also have a role in telling them whether they are really going to be suitable or not to be adoptive parents? Can you tell that, or is that not part of your role?

**Mr Cornhill**—No, it is not part of our role.

**Mr FAWCETT**—Do you see that non-government agencies should have a role to play in the assessment? I am looking at the South Australian case where they did that very successfully for a number of years and have now been stopped. Do you see that your organisation with some full-time staff could or should play a role in the process?

**Mrs Plohberger**—I do not know about our organisation. Having some full-time staff sounds lovely. I do not know a great deal about the South Australian situation but I know that in New Zealand—I have travelled to New Zealand and have been to their conferences—they run a similar system to what South Australia had. I think that if applicants going through are able to deal with families who have been there and done that they are far more interested. I certainly would not think that those sorts of family bodies should be able to do the final yes or no for approvals, but certainly in the education process, yes, it would be useful.

**Mr Cornhill**—I think the situation in South Australia was a little bit different to New Zealand, where I think it is truly a parent organisation that does do the administration of the process. In South Australia it was an NGO that was set up and staffed by professionals to specifically conduct the administration for the South Australia government.

**Mr FAWCETT**—It was a mixture of both, in fact. There were some professionals. They were concerned to keep it at arm's length, but the state still had the sign-off in the end.

**Mrs Plohberger**—Yes.

**Mrs IRWIN**—You also stated that with your adoptive children it took three years and nine months.

**Mrs Plohberger**—Yes.

**Mrs IRWIN**—Is that from the time you decided to adopt or from the time you applied?

**Mrs Plohberger**—I came through IVF first. I did three years of IVF. I was very hesitant to leave IVF because I knew, at 37, if I left IVF I would not get through the process again—the six months to a gyno, a year referral to an IVF specialist and a year to get on the program. I knew that if I cut it off then that would be the end of it, and I was extremely hesitant to do that. But the day I did it I was so blown away—what a weight off my shoulders it was. It really surprised me; I had not anticipated that. In the final few months of IVF I was thinking about international adoption. I was researching it, I was going to social functions and meeting families. When I did make that decision I had to phone the department and tell them that I had chopped off IVF and I was concentrating full time on international adoption. It all happened fairly quickly.

**Mrs IRWIN**—But three years and nine months is a very long time.

**CHAIR**—So that included the IVF period?

**Mrs Plohberger**—No. From 1994 to 1997 was IVF, and there was a year before that waiting to get on IVF.

**Mrs IRWIN**—Something that I am interested in from a number of submissions that we have received is the age of the children that people want to adopt from overseas. You stated that you adopted three gorgeous children aged 4, 5 and 6. Are they related?

**Mrs Plohberger**—Yes. Siblings.

**CHAIR**—That is great.

**Mrs IRWIN**—That is absolutely wonderful. We have also heard that some people prefer to adopt babies. Do you hear that?

**Mrs Plohberger**—Yes, sure. I thought I wanted to adopt a baby too. But, as you grow and go through the process, things change.

**Mr QUICK**—Changing the subject, can I ask about the fees?

**Mrs Plohberger**—Certainly.

**Mr QUICK**—How do the states and territories justify what, to me, seem to be absolutely obscene fees?

**Mrs Plohberger**—I guess you would have to ask the states.

**Mr QUICK**—But you have gone through the process. The stories are that you are looking at \$25,000 to \$30,000 to jump through more hoops than people who want to become Australian citizens.

**Mrs Plohberger**—That \$25,000 to \$30,000 is more than the state fees; that is for travel overseas, orphanage donations and everything else. That would be a final figure. But they are up to \$9,700 in New South Wales. Tassie can do it for \$2,000.

**Mr QUICK**—What about the ACT?

**Mrs Plohberger**—I think we are about \$3,000 or \$4,000.

**Mr Cornhill**—I think it is a bit over \$4,000 now. I think they justify it simply by finding that adoptive parents are, should I say, desperate. They have come to the end of the road. They have tried through natural childbirth and failed at that—

**Mr CADMAN**—It sounds like psychological blackmail to me.

**Mr Cornhill**—Pretty much.

**Mrs Plohberger**—You have no choice.

**Mr Cornhill**—They have been through IVF. Adoption is the only solution they have left.

**Mrs Plohberger**—If that is the fee, that is what you pay. What can you do about it?

**Mrs IRWIN**—Would you like to see the fees abolished—

**Mr Cornhill**—Yes.

**Mrs IRWIN**—or reduced? Let us be honest: I think you have to have some sort of fee. I think the fees are too high. I agree with you on that. But there are so many checks that state governments and territories have to do, especially state police checks, Federal Police checks.

**Mrs Plohberger**—We pay separately for the police checks.

**Mrs IRWIN**—Within Australia?

**Mrs Plohberger**—Yes. The adoption applicants organise it.

**Mr Cornhill**—That was not included in those figures.

**Mrs IRWIN**—Okay. Let's talk about the fee for the ACT. What does the fee cover?

**Mr Cornhill**—To start with, you have to pay a fee to go to the information session, which is \$500 or so to cover the cost of putting that information session on—even though we provide some of the voluntary labour for it. Then you have to pay about \$2,500 for your home study, which is where the social worker comes into your home, goes through your cupboards, interviews you endlessly and then writes a report on whether she or he feels that you are good enough to be an adoptive parent. You have to pay thousands for that. Then you have to pay—

**Mrs Plohberger**—You have to go to the doctor and organise your medical—

**Mr Cornhill**—I was just talking about the government fees.

**Mr CADMAN**—But that is a cost you have to bear, isn't it?

**Mrs Plohberger**—Yes, and it is not something the department does for you for the fee that you pay them. It is up to you to get your own police check, your own medical report—

**Mr Cornhill**—And accountants fees to prove that you are financially able to look after a child. There are police checks—there is even a fingerprint check—

**Mrs IRWIN**—So that is on top of the fee?

**Mrs Plohberger**—Yes.

**Mrs IRWIN**—What is the fee for onshore adoptions?

**Mr Cornhill**—That varies by state. I do not know that there is any fee in the ACT. Some states charge no fee.

**Mrs IRWIN**—When I put in for adoption in 1971-72—and luckily for me, because it was a seven-year wait in those days, I did fall pregnant five years later—there was no fee. We had our seminars and home visits, and I think the only thing we had to pay for was our medical expenses.

**Mr Cornhill**—And back in those days there were tax deductions for the fees it cost you to travel overseas.

**Mrs IRWIN**—So you are saying that there is discrimination against those parents who are adopting from overseas.

**Mr Cornhill**—We think so. There is a difference.

**Mr QUICK**—What are the requirements by the states as to your financial capacity? Is there an earning limit?

**Mr Cornhill**—No. In the ACT you really only have to be able to show that you are financially capable of supporting a child—which is not terribly difficult. In other states it is a little bit more rigorous.

**Mr QUICK**—Is there a form that the person who comes into your home fills out?

**Mrs Plohberger**—In my case, we provided a statement—net assets and liabilities—from our accountant.

**Mr QUICK**—Is it like a census form where you have to put things like ‘three bedrooms, husband working, earning capacity \$25,000’?

**Mrs Plohberger**—All of that goes into their report.

**Mr QUICK**—But is there a form that they fill out?

**Mr Cornhill**—No. We simply had to provide, as Ann said, a form giving our income and expenditure for the year and what assets and liabilities we had.

**Mr QUICK**—In the other states are there forms that they have to fill out? I am interested in the cost of all this. It is the public servant who is being paid to do a job, and then they whack on \$7,000 or \$8,000, in some cases, for a person doing what they normally do in DOCS.

**Mr Cornhill**—We are an easy milk cow.

**Mr CADMAN**—We are going to be asking the states, no doubt, for a breakdown of all their figures. Could you make sure you track the evidence that we receive and then supplement that if there is an inaccuracy or added costs for parents that are not tabulated within that table that we expect to get from the ACT and other governments? You have already identified medicals, financials—

**Mrs Plohberger**—Police checks.

**Mr CADMAN**—And police or security. So those are three areas you have got to cover yourself that the states may not present as a cost.

**Mr Cornhill**—And then there are Commonwealth costs. I think we mentioned several areas.

**Mrs Plohberger**—Immigration fees—

**Mr Cornhill**—Immigration, visa fees—

**Mrs Plohberger**—Translation fees, documents.

**Mr CADMAN**—Track our evidence, would you, so you can help us get the right result.

**Mrs Plohberger**—Do you have a copy of my personal submission?

**Mr CADMAN**—Yes.

**Mrs IRWIN**—Costs are a big factor for some people who are going to make wonderful parents—because of the cost factor they just cannot proceed.

**Mrs Plohberger**—Absolutely. They front up at the first information session, see the costs and walk away. You never hear from them again.

**Mrs IRWIN**—Let us just go back to the costs. I do not mind saying on the public record that I think they are very high in our states and territories. From a federal perspective is it just the visa, which I think is \$1,500?

**Mrs Plohberger**—Yes, and the stamping and public notarising of documents.

**Mr Cornhill**—We had to take all of our documents to the department of foreign affairs, and they charged us hundreds of dollars for a process that took them about five minutes to stamp.

**Mrs Plohberger**—I know.

**Mrs IRWIN**—So we have to look at the big picture.

**CHAIR**—At this point I will hand out a press release that Peter McGauran put out on Sunday, 8 May for you to have a look at. I would like your comments on it.

**Mrs MARKUS**—Ann, do you keep any records of how many people you come across who just give up altogether? Do you have a percentage of people?

**Mrs Plohberger**—No. They tend to just drift away and lose heart and generally you do not hear from them again.

**Mrs MARKUS**—Would you have any idea of a rough percentage?

**Mrs Plohberger**—No.

**CHAIR**—I want to go to one of the points that you make on page 25 of your submission.

**Mrs Plohberger**—My personal submission?

**CHAIR**—Yes.

**Mrs Plohberger**—I do not think I got to page 25.

**CHAIR**—I know, but it is in our notes. I go to the point that you make about some experiences in adoptive families where you say, ‘Almost leaving Australia without visas for the children.’

**Mrs Plohberger**—Yes.

**CHAIR**—Peter McGauran put out a release yesterday, which he rang the office about on Friday, which stated:

... there are an increasing number of Australians seeking to adopt privately overseas. Around 20 per cent of children adopted overseas applied for citizenship without first obtaining adoption visas.

**Mrs Plohberger**—Who is doing private adoptions?

**Mrs IRWIN**—That is the question I was going to ask. Are you aware, within the ACT or elsewhere in Australia, that there can be private adoptions?

**Mrs Plohberger**—Yes. We hear of them from time to time.

**Mr Cornhill**—As far as I am aware, they are not legal and should not be done. I think possibly he is referring to people who do adoptions while they are living overseas. For instance, if someone living in the United States adopts a child over there through the American system—

**Mrs Plohberger**—And then tries to come home.

**Mr Cornhill**—and applies for citizenship for that child.

**CHAIR**—He says that ‘checks required before a visa is granted provide assurance that the child is genuinely available for adoption’.

**Mrs Plohberger**—Yes. I recall when I went through the system. I am married to an Austrian and we lived in Europe, and we were skiing instructors in Austria for quite a few years while we were trying to fall pregnant. I recall the department was very firm that there was no way we were to adopt a child while we were in Austria. They said: ‘There is no way you will get that child into Australia. You must prove that you have employment overseas and that that is the exact reason why you are going overseas—you are not going to adopt a child.’ Certainly the ACT department made it quite clear that you do not try to get around the system.

There was a show on SBS about a Melbourne couple who went to Croatia to do some aid work for a month. They fell in love with a little girl there, Petra. The SBS program showed the hassle they had trying to bring the child back. In the end she came home to Melbourne to support the husband and the child in Croatia for the year that it took to get the visa. The end of the story is that she did the wrong thing and she went about it the wrong way, but she still got home with her child quicker than I ever did by doing the right thing.

**Mrs IRWIN**—We do have the department of immigration coming in. I am sure that we can ask for some figures on that. I have heard of a case in my own electorate where they did go through privately, but the child was from Vietnam. A sister was killed in a horrific accident over there. Her husband was killed as well and there were three young children. But they still had to go through the procedure with the adoptive visa.

**Mr QUICK**—Why are the children on a separate Medicare card? What is the justification for that?

**Mrs Plohberger**—The justification, the Medicare officer told me, is just in case the adoption does not work out and I send the children back. I told her: ‘I am sorry, but there is no-one in Romania that I can send them back to. The adoption was finalised and they are legally my responsibility until they are 18,’ and I demanded that my children be on my Medicare card.

**Mr QUICK**—Is that a normal occurrence?

**Mrs Plohberger**—AFA hears some terrible stories with regard to people going to Medicare and trying to get their kids on Medicare cards.

**Mr FAWCETT**—Part of the problem, I believe, is that there is no clear leadership. I think that is one of the outcomes we need from this inquiry.

**Mrs Plohberger**—Absolutely.

**Mr FAWCETT**—Many people working in the departments are confused and unclear as to what the opportunities are to provide people with things like children’s names on a Medicare card. I think that is why, as we sift through all of the various things, we will find that we need a fairly clear statement that the government’s intention is that parents should be able to have these children on their Medicare card as they are legally their own children.

**Mrs Plohberger**—At the Adoptive Families Association we try and prepare our members before they go to Medicare so that they know what to expect. We do what we can to make the system a bit more understandable for them. It is still very daunting when you are in the queue

and you feel so happy and excited that you are finally putting your kids on your card, and they tell you something like that in front of a queue of people. There could be a lot more education of government employees.

**Mrs MARKUS**—It would not be terribly wise to say it in front of the children, I would imagine?

**Mrs Plohberger**—No, absolutely. You need to reassure the children that they are going to be here forever. Having a government official-looking person saying that—

**CHAIR**—It is not a good look.

**Mrs IRWIN**—They have got to take the father's name—is that correct?

**Mrs Plohberger**—The names are different in every state.

**CHAIR**—Can we explore that issue of names?

**Mrs Plohberger**—Sure. I do not know. I love my children's names and they came with our surnames, so we were happy. We did not have to fight that battle. Did you have any name problems, Mr Cornhill?

**Mr Cornhill**—No. But there are people who adopt from other countries, perhaps Asian countries, where the names are not something that would go down well in Australian society, and those people would prefer to change the names. As far as I am aware, New South Wales is the only state that has introduced legislation to ensure they retain the child's original first name.

**CHAIR**—Why has it done that?

**Mrs IRWIN**—Isn't it the father's surname?

**Mrs Plohberger**—Yes, they can only get the father's surname, not the mother's surname. Then the parents can go and change it by deed poll the next day, anyway.

**Mr Cornhill**—It really achieves nothing. The idea, I think, was to retain the child's culture and identity.

**Mr CADMAN**—That is fine, but an Asian person remains Asian by appearance. They cannot do anything about that. Why shouldn't adopted Korean families, for instance, have an Anglicised name? Those kids feel so much better at school.

**Mrs Plohberger**—And you will find that they usually keep the children's names as the middle name anyway because of that connection. It was something that was given to those children by their birth parents.

**Mr FAWCETT**—One of the people who will be coming to the committee is a young lady who is 30 now and who is Korean. I think she was the first Korean child adopted into Australia. She talks—in fact Louise and I had lunch with her in Sydney not long ago—about the fact that



she sees herself as completely Australian. The only thing that her Asian appearance did for her was that, when she went through the normal issues of self-identity and awareness as a teenager, she said, 'I could more easily point to the things that I did not like about myself because I did not immediately fit in.' But she looks back and says she has absolutely no concerns at all about having an Australian name.

**Mr Cornhill**—I think the rationale by the social workers behind this was to retain the culture and identity, but I think that in doing so they are unaware of the situation for some of these children.

**Mrs Plohberger**—Kids have to go to school.

**Mr Cornhill**—In China, for instance, I understand that a lot of the babies are abandoned for cultural reasons. They are left in specific places outside police stations, for instance, and the police go and check every night to see who has been left there. I have heard of a child ending up with a name which meant in Chinese 'found in the park'. Because of this New South Wales legislation, that is the name that this child is stuck with.

**Mrs MARKUS**—That would not be good, either.

**Mrs Plohberger**—The orphanage workers make up the names for the kids because they are abandoned and they do not come with paperwork and a name. A baby cannot tell you what their name is, so the workers make up names like 'little blue eyes' or 'found in the park' or whatever.

**Mr Cornhill**—It is an identity that is given to them by the workers in the orphanage, not by the parents.

**CHAIR**—When did this legislation come in, in New South Wales?

**Mrs Plohberger**—Within the last year or two. The crazy thing is that they can go and change it the next day, anyway.

**CHAIR**—If they concentrated on having the trains running on time or getting the hospital beds operating, it might be better.

**Mr CADMAN**—There is a huge difference between the number of adoptees in the ACT—one per 12,400-odd people—and the number in New South Wales, which is one in 101,000. I would like you, based on your knowledge, to try and analyse that difference. You have got a more mobile community in the ACT by the character of it being a national capital, so maybe there are more opportunities to see children that people would like to adopt. Can you tease that difference out a bit based on your observations? It would help us. Be as nice or as critical as you like of us; we need to get to the truth if you can identify it.

**Mr Cornhill**—Part of it, anyway, comes down to the attitude of the social workers in the system. My wife and I had a five-year pregnancy and we went through the system in the late 1990s. Even then, in the ACT, the system was rather negative. The workers in there treated us negatively. We almost got the feeling that what we were doing was wrong and that we should not

be doing it. A lot of that attitude has changed now, and I think they are pro-adoption. They are keen to get the job done. They are more effective.

**Mrs Plohberger**—The ACT population is fairly well educated and fairly well financially positioned. We live in a very multicultural society. There are a lot of diplomats here that come in and out; there are great school facilities for kids learning English. I am biased; it is a great place to live if you adopt kids. Maybe things are different in other states.

**Mrs IRWIN**—What we have also got to look at is the expense. Fair enough, you have got to pay the return air fares to go and get your children, but there are also the fees and the time frame here on our own shores. I am sure you would agree that there are a lot of parents out there—not only in the ACT but Australia wide—who would love to adopt a child, but it is mainly the cost factor involved that stops them.

**Mrs Plohberger**—Or the age factor. People move states to adopt for lots of different reasons.

**Mrs IRWIN**—That is right, because there is a difference in the ages allowed to adopt.

**Mr Cornhill**—As I said in my submission, I heard a figure dropped into a conversation one time by some ACT workers. They said that they received something like 700 calls a year from people just inquiring about adoption. Yet we have 25 adopted children come into the ACT. Where do all those people go?

**CHAIR**—Some of them might fall pregnant.

**Mr Cornhill**—True.

**CHAIR**—For anyone who is not having an instant pregnancy when they want it, the idea goes through their head and they think, ‘I’d better inquire.’ I do not know that those phone calls would be a good indicator.

**Mr Cornhill**—No, but it does give you some sort of a handle on the number of people who fall along the way.

**Mrs IRWIN**—That was a little bit like me. My adoption papers were in, they were going forward, but I fell pregnant and I withdrew. I think the ACT is the only territory or state in Australia that allows same-sex adoption—

**Mr Cornhill**—I understand WA does too.

**Mrs IRWIN**— and single parents. Are you aware of any adoptions by single parents in the ACT?

**Mrs Plohberger**—Yes.

**Mrs IRWIN**—What about same-sex?

**Mrs Plohberger**—No.

**Mrs IRWIN**—To your knowledge, how many single parents would have adopted overseas?

**Mrs Plohberger**—They can adopt from China, but they can only be one in every eight files that go to China. There is a quota on how many of them can do it.

**Mr CADMAN**—Is that set by the Chinese?

**Mr Cornhill**—Yes, that was set by the Chinese. They can apply to any other country, but some countries will not allow single parents to adopt. I am not aware of any country that Australia deals with that will adopt to same-sex couples.

**Mr CADMAN**—Can you explain the resistance to sibling adoption? That does not make sense to me. I cannot understand that.

**Mrs Plohberger**—No, nor can I.

**Mr Cornhill**—Are you talking about resistance by adoptive parents or by the authorities?

**Mr CADMAN**—No, from the authorities and the departments. What is the rationale?

**Mrs Plohberger**—I have a pretty good case in hand. We were 37 when we started. We knew we were getting older and that time was running out. We did not want an only child—we certainly wanted siblings. We knew we could not wait four years to apply for the second child, because we would have been too old. So for three years we pushed for siblings. At every opportunity we said to the department, ‘We want to adopt siblings.’ Yet they would still approve us for only a single child because they said that we did not have daily contact with children. We asked them, ‘How does a childless couple get daily contact with children?’ So I changed my employment and got work in a school.

**Mr CADMAN**—You are a smart lady.

**Mrs IRWIN**—This is wrong; you should not have had to do that.

**Mrs Plohberger**—I did everything I could, yet they would still not approve us for siblings. Then in December 2000 I got a phone call asking, ‘Will you take three children?’ I thought, ‘What sort of sick joke is this? For three years we have pushed to get siblings and you ring two weeks before Christmas offering us three children. What’s going on?’

**Mr CADMAN**—Can you describe the qualifications of the people giving you this advice?

**Mrs Plohberger**—They are social workers, aren’t they?

**Mr CADMAN**—I do not know.

**Mrs Plohberger**—They should be social workers.

**Mr CADMAN**—Are they parents themselves?

**Mrs Plohberger**—Some might be.

**CHAIR**—Good question.

**Mrs Plohberger**—I won in the end because I was so determined, but when they made this phone call the situation was that Romania was closing. We can no longer adopt from Romania. If I had one Romanian child and wanted a sibling, I could not do it now—Romania has a moratorium. I got my children out with one week to spare before that moratorium came into effect. In the two weeks before Christmas 2000 when they first phoned me and asked, ‘Would you take three?’ I said, ‘Of course.’ She said, ‘Would you like 24 hours to think about it and talk to your husband?’ I said, ‘Yes, I’ll take it but of course we’ll say yes.’ We had to be re-assessed then. We had to go through the whole process again from the angle of adopting the siblings.

**Mrs IRWIN**—What problems did you encounter with the adoption of your children, Mr Cornhill? What country were they from?

**Mr Cornhill**—We have two children. They are both from Romania too. It was just a coincidence that Ann and I happen to be the best of friends. We had an enormous fight with the department as well, mainly because we were—

**CHAIR**—You might like to make this your personal submission.

**Mr Cornhill**—I was just thinking about the statement I was going to make. I think we are covering most of it.

**CHAIR**—In that case, if it is typed you might give it to us and we will stick it into our papers.

**Mr Cornhill**—By all means.

**CHAIR**—Thank you. Somebody may like to move that we accept this as a written submission.

**Mrs IRWIN**—Sometimes it is better to talk from the heart. The old saying is that you do not have to carry a child within; you carry that child from the heart.

**Mr Cornhill**—A lot of that came from the heart. We had been married for 15 years or so before we decided to adopt. My wife had been married before. She came to the marriage with two other children, one of whom was adopted locally in Canberra. Those children had left home. We had a beautiful lifestyle—very hedonistic. We had an overseas trip every year. We drove sports cars. We enjoyed the good life. I happened to be overseas in the Philippines and I was on my way to the airport in my airconditioned car when a little girl aged about six years old dressed in nothing but a raggy old pair of underpants banged on the window. She wanted money for food. That was burned into my memory for a long time afterwards. It still is.

When I got back to Australia, I said to my wife, ‘We’ve got this terrific lifestyle. We’re still reasonably young. We have good incomes. We’ve had lots to do with children.’ My wife had been a teacher since the early 1970s. She is now a primary school principal. We had had a lot to do with children, quite apart from the two that she brought to the marriage. We had provided

foster care. We had worked in programs with Barnardo's with children. We thought we had a fair bit of experience. We had dealt with some fairly troubled children in all sorts of situations. We thought, 'There are lots of older children in these orphanages throughout the world.' We did not want babies. We had done the baby thing. We thought, 'We can adopt a couple of older children.' We went to the department. They said, 'No, you cannot adopt two children at once.' I said, 'Why not?' We had to put up a huge fight with them. We almost lost the fight because of our ages. We had to take a solicitor in there and read them the riot act. They rewrote the papers; we sent them off to Romania, which was the second country of choice; they were accepted in Romania; and here we are with two beautiful children.

**Mrs IRWIN**—How long did it take?

**Mr Cornhill**—It took us five years.

**Mrs IRWIN**—Five years?

**Mr Cornhill**—For the whole process. The children actually are not blood brother and sister. That was another fight we had with the department. No-one had ever been allowed to adopt two children who were not related. We had to prove that they were bonded in the orphanage. We did that and luckily we won through.

**Mrs IRWIN**—How old were the children when you adopted them?

**Mr Cornhill**—The children were six and eight. Ionela had just turned eight. Now she has just turned 13.

**Mrs Plohberger**—On the sibling point, I have to say that I think the reason my three children are so settled is that they have each other. It has been the one constant in their lives. They were the product of a dysfunctional family. They got put into an orphanage. They went to one foster home in a high-rise apartment. They went to a second foster home in rural Romania. They came to Australia with a bunch of foreigners who did not speak the same language. In five years they had five different situations, but they always had each other.

**CHAIR**—Raluca, what do you think?

**Mrs Plohberger**—She just put a lolly in her mouth.

**Ms Plohberger**—What am I supposed to think about?

**Mrs Plohberger**—How old are you?

**Ms Plohberger**—Ten.

**Mrs Plohberger**—What school do you go to?

**Ms Plohberger**—Richardson primary.

**Mrs Plohberger**—What was it like when—

**Ms Plohberger**—My favourite colour is red.

**Mrs IRWIN**—Can we ask you a question?

**Ms Plohberger**—My birthday is on 13 June, on the Queen's birthday this year. I like being on the Queen's birthday because I get an extra day.

**CHAIR**—That is very nice.

**Mrs IRWIN**—Can I ask you what you felt like when you knew you were coming to Australia.

**Ms Plohberger**—I didn't sleep.

**Mrs Plohberger**—Do you remember the little photo albums we sent over?

**Ms Plohberger**—Yes.

**Mrs Plohberger**—She got to look through photo albums before she came so she could see a photo of her bedroom with her clothes and toys in it and she could see a picture of a bicycle that was waiting for her.

**Mrs IRWIN**—Were you all excited?

**Ms Plohberger**—Except I didn't like Romania. You know how some people just come in and say hello and give you food and all that. They always took it off us and they wouldn't share—the people that were looking after it. In 2006 we are hoping to go back to Romania for a KidFest. We do KidFest. I am really looking forward to that. Hopefully we will be able to go and help the people in the orphanages.

**CHAIR**—You want to go and visit those who perhaps are still there?

**Ms Plohberger**—Yes.

**Mrs IRWIN**—Friends that you made in the orphanage?

**Ms Plohberger**—Umm—

**Mrs IRWIN**—Do you write to them? Can you write to them? You cannot?

**Ms Plohberger**—No, but there is a person there. What's his name?

**Mrs Plohberger**—Vali.

**Ms Plohberger**—Yes, Vali. He sends us lots of messages. And there are certain days, like Florica day and all that.

**Mrs Plohberger**—The name days. He helps us with Romanian culture.

**Ms Plohberger**—My name wasn't really Raluca. It was Florica Raluca Plohberger.

**Mrs Plohberger**—There were lots of Floricas in the orphanage, so she got called by her middle name, which is Raluca.

**Mrs IRWIN**—That is a pretty name.

**Ms Plohberger**—Instead of having my first name, my first name is now swapped around. My last name used to be Domuta.

**Mrs IRWIN**—It sounds as though you have a wonderful mummy and daddy in Australia.

**Ms Plohberger**—Yes, I do.

**Mrs IRWIN**—I am sure they will always let you know where your roots started from.

**Ms Plohberger**—Yes, except that we do not know much about my daddy, because my mum in Romania did not tell us anything about him. So I do not know what he looks like and I cannot picture him in my head.

**Mrs IRWIN**—But you are all family.

**Mrs Plohberger**—We can look at her brothers and say, 'Maybe your birth daddy looked like your brothers.' When her brothers ask, 'What did my birth mummy look like,' we can say, 'Look at your sister; she probably looks like your sister.'

**Ms Plohberger**—Not exactly; she had straight, blonde hair.

**Mrs Plohberger**—There would be similarities.

**Ms Plohberger**—I am more like my dad than my mum.

**Mr Cornhill**—Our story is somewhat different. Ionela, can I tell these people where you came from?

**Miss Cornhill**—Yes.

**Mr Cornhill**—Both of my children have never had a family. Both of them were abandoned in the hospital where they were born. They had teenage parents who were quite low in their teens. In Romania, single parents are ostracised by society; it is just not done. It is a bit like Australia was back in the forties and fifties. We have changed, but they have not. It is still the same there. Romania is very poor. A lot of houses do not have power or water. It is a fairly hand-to-mouth existence. So when these two girls found they were pregnant they went off to a hospital, had their babies, told the staff they were going home to get their papers and were never seen again. Ionela is lucky. Her mother and grandmother came back to visit a few times, we were told—maybe three times in eight years. They had the foresight and cared enough about Ionela to sign her up for adoption rather than just leave her there listed as 'abandoned'. That is the background.

**Mrs IRWIN**—Was it exciting for you, my darling, when you found out you were coming to Australia?

**Miss Cornhill**—Yes.

**Mrs IRWIN**—Have you got a brother or sister?

**Miss Cornhill**—I have got a brother.

**Mrs IRWIN**—Is he older?

**Miss Cornhill**—No, he is younger.

**Mrs IRWIN**—What were your first feelings when you came to Australia?

**Miss Cornhill**—Happy.

**CHAIR**—Was the fact that you came together important to you?

**Miss Cornhill**—Yes.

**CHAIR**—So you got to know each other in the orphanages?

**Miss Cornhill**—Yes.

**Mr Cornhill**—Ionela is very good with young children and babies. I have a feeling that she might have mothered her brother. Maybe that is how they got to know each other. It is very hard to tell. We have more problems than Ann does. Because the children never knew a family and never knew how to bond, we have terrific problems with attachment disorder. But we are still working on it and we hope we will win in the end. The children do have each other, but they probably hate each other a lot of the time.

**Mrs IRWIN**—We always fight with our brothers and sisters.

**Mr Cornhill**—They probably fight more than most brothers and sisters, but I think they will realise when they grow up that they do have each other and hopefully, with maturity, will become better friends than they are now.

**CHAIR**—Ionela, how old are you?

**Miss Cornhill**—Thirteen.

**CHAIR**—How old is your brother?

**Miss Cornhill**—Twelve.



**CHAIR**—I can understand that. You are becoming a mature young lady and he is still a pain in the neck! Is that about it?

**Miss Cornhill**—Yes.

**Mr FAWCETT**—I must say that has nothing to do with adoption!

**CHAIR**—Nothing at all!

**Mr Cornhill**—Ionela's situation was a little bit different, having been in the orphanage. Children in Romania do not start school until September of the new school year after they have turned seven. Ionela came here at the age of eight and had had just three months of school. She had no education. They had no toys in the orphanage, they had no entertainment, they never went outside, they had no experience of the world at all. It was like starting with a clean slate; it really was. Some experiences, like simply putting a bare foot on grass, they had never had. Ionela is now in a swimming club, she swims for a swimming team, and she had never seen a body of water before.

**Mrs IRWIN**—You love swimming?

**Miss Cornhill**—Yes.

**Mrs MARKUS**—Are you fast?

**Miss Cornhill**—Yes.

**Mrs MARKUS**—Do you beat the boys?

**Miss Cornhill**—Sometimes.

**Mrs IRWIN**—Good on you!

**Mrs MARKUS**—Do you beat your brother?

**Miss Cornhill**—Yes, I do.

**CHAIR**—What about school work? How do you find that? You would have had to learn English, I guess.

**Miss Cornhill**—Correct.

**CHAIR**—And you too, Raluca?

**Ms Plohberger**—I went to the English school for three months.

**Mrs Plohberger**—In Canberra we have three schools—one in the north, one in the south and I think one in the middle—that are English schools. I guess a lot of diplomats’ kids get to utilise them.

**Mr Cornhill**—Introductory English centres.

**Mrs Plohberger**—Yes, IECs.

**Ms Plohberger**—I learnt English very completely in three months.

**CHAIR**—Good girl!

**Mrs Plohberger**—Generally children spend three or four terms at an English school before they will go to a mainstream school. Raluca was through hers in one term. In her first year she jumped 18 reading levels. She came at the age of six and within three days of arriving in the country she turned seven, and she knew that is when you start school in Romania. In my personal circumstances, my mum broke her ankle, my stepdad died, my husband had to go to work and I was left at home with three kids all of a sudden. I put my eldest two into school within three days, and Raluca learnt English so quickly. It was phenomenal. She was just like a sponge. It was amazing to see.

**CHAIR**—What about the other two? Did they learn?

**Mrs Plohberger**—They were a little bit slower. The youngest one went six weeks without saying a word and then, one weekend, three months worth came out. I think it was just a confidence thing.

**CHAIR**—What about you, Ionela?

**Mr Cornhill**—Ionela spent four terms at the IEC and then went to an ordinary school. The experts tell us that they will probably not reach the full range of vocabulary that normal Australian children have until they have been here for at least 10 years. That is a fairly normal thing, and that is only if they had a good grasp of—

**CHAIR**—Their own language.

**Mr Cornhill**—Yes, their first language, and these two children did not. There was one adult caregiver—I call them caregivers but that is not really what they did—to about 30 children. They never really had that much contact language-wise, so they learnt their language from the other children. It was like an orphanage patois. We had a Romanian speaker from the same region talk to them and he said they were very difficult to understand because they did not speak their language properly. If they do not have that grasp of their first language it is going to take them a lot longer to pick up a second language.

**Mrs IRWIN**—Was there any assistance when you arrived back in Australia with the children? Was there information there that the department would have given you about English classes or various other community groups that you could get involved in?

**Mrs Plohberger**—We received that from the Adoptive Families Association.

**Mr Cornhill**—There was no follow-up and no post-adoption support from the department whatsoever. In fact, I rang them after six weeks and told them we were back and they said, ‘Oh, good—I’ll put that on your file.’

**Mrs IRWIN**—It is similar for someone who is applying to migrate from overseas to Australia. They are given information by the embassies overseas and when they eventually land in Australia they are given contact phone numbers of various groups and associations. But you were given virtually nothing. You had to notify the department to say that you were back in Australia. That is unreal.

**Mrs Plohberger**—Yes, it was very strange. After so many years of having them tell you what you can and cannot do—

**CHAIR**—You find you are on your own.

**Mrs Plohberger**—And now we have the kids. We certainly felt neglected.

**CHAIR**—Is there anything else you think we ought to know or that you think you should tell us?

**Mrs Plohberger**—We put a lot of points in our AFA submission which hopefully you will find interesting and which you can work from. There were many more points that we could have put but I could only do so much in a month and a half and without doing further research in other states. I tried to restrict it to what we knew here in the ACT. That is not a definite list. There are certainly more things that could go in.

**CHAIR**—You said some follow-up assistance would be useful. You also said that prospective adoptive parents in New Zealand feel empathy from experienced adoptive parents and the education assessment processes.

**Mrs Plohberger**—Yes.

**CHAIR**—I think that would be much better than having it from a government employee who could well be someone who is not married and—

**Mrs Plohberger**—We certainly find that as applicants go through the process they are extremely nervous that, if they do something wrong, they will fail or go to the bottom of the list or that, if they are seen to be bucking the system, they will be disadvantaged in some way. Whereas with an association like ourselves, they are quite happy to come and speak with us because we can represent them. We try our best to be anonymous, but in a small town it is very hard to do that.

**Mr QUICK**—Would you suggest that, rather than perhaps the states having a post-adoption program, someone in FaCS could coordinate your hassles with Medicare, you mentioned the Brendan Nelson \$700 reading thing, the parenting payment and the like. Might we not come up with, say, Family and Community Services having a post-adoption responsibility—rather than

you going through all the various departmental silos trying to sort out all the paperwork, one federal department could say, 'Look, we'll coordinate all that'?

**CHAIR**—Either that or an NGO is funded to do that sort of stuff.

**Mr QUICK**—Yes.

**Mr Cornhill**—Although a lot of it is local information. If you want to know where the IECs are in Canberra, you have to approach the—

**Mr QUICK**—Yes, but each state and territory have their own branch of FaCS. Surely they can coordinate it rather than you having to go to Medicare to plead your case and then go to Education, Science and Training and say, 'Look, we wouldn't mind the \$700,' and then go down to FaCS for the parenting payment hassles and all that sort of stuff. We have one lot responsible for children and families—let's do it.

**Mrs Plohberger**—Coordinating speech pathology for one and occupational therapy for the other—all the medical requirements. You want to get them started in everything so quickly, because the sooner you can help them the sooner they can come up to speed with their peers. It was daunting what was required to be done when you suddenly had three children from none. Having never been a parent before, you do not know what the system is out there.

**Mr Cornhill**—Chair, you have asked if there are any other issues that we have not explored. One particularly important one to me, especially representing EurAdopt Australia, is the number of countries that Australians can adopt from, which is becoming more restricted. There are fewer countries and those countries that we can adopt from are restricting people further and further.

**CHAIR**—Is that by us or by those countries?

**Mr Cornhill**—By those countries. That is a good thing. I personally would like to see a world where there were no children available for adoption—that they could all live in their own natural families. But that is not going to happen. There are still plenty of countries in the world with thousands and hundreds of thousands of children living in orphanages. Having seen the way my children lived, I do not want them to live like that, because there is more damage done to them every day they are there. Yet the Australian government seems to procrastinate or mess around with countries that certainly are Hague convention countries but have very few children available for adoption.

**Mrs Plohberger**—The amount of work involved in opening up a new country program is horrendous—backwards and forwards translating the faxes, waiting for replies, travelling there, checking out their systems and everything. It is a big undertaking. Why do it in a country such as Lithuania where the total population is only three million people? How many of those are going to be adoptable? Why expend so much time, effort and resources in trying to open a program with Lithuania?

**Mr Cornhill**—The reasons that we are given by various levels of government for not having programs with non-Hague countries—that is further programs with non-Hague countries,

because as you are aware, we do have a number of programs with non-Hague countries: the ones that were—

**Mrs Plohberger**—bilateral agreements.

**Mr Cornhill**—bilateral agreement countries prior to Hague. They have agreed that we will have no further non-Hague countries, but the reasons are becoming more spurious every day. They tell us that the Hague convention gives a consistency to the process. Yes, it does to a large extent, but not always.

**Mr CADMAN**—There are some countries under suspicion that are signatories to Hague. Tell us about that.

**Mr Cornhill**—I am not terribly sure which countries are under suspicion.

**Mrs Plohberger**—Would Attorney-General's know?

**Mrs IRWIN**—Our next witnesses, who are actually in the room at the moment, are from the Attorney-General's Department. I notice one of your dot points speaks about the role of the Commonwealth Attorney-General's Department. You say that the department needs to take a more active role with the states and territories in intercountry adoption and not be a policy development passenger. I am sure there will be a number of questions that we will be asking the department about the Hague convention and so forth.

**Mr Cornhill**—I have only chosen Russia as an example.

**Mrs Plohberger**—They have signed the Hague but they have not ratified.

**Mr Cornhill**—Signing it indicates to me that they want to pursue the intentions of the Hague, so why can't we just investigate these countries?

**Mr FAWCETT**—Can I put something on the record to back up what Robert is saying. One of the reasons departments gave at that meeting I had with them in Tasmania was that there are many countries where children are in orphanages but the family come and visit them and at some point later often they will actually take them home again. In this article in *About the House* Sue Priest makes this comment on page 36:

It is a myth in our community that there are thousands upon thousands of children overseas in dire need of families.

I challenged her about that when I spoke with her in South Australia and outlined some of the cases where I know that there are thousands. She admitted that in fact in some countries that is the case. In some of the Hague convention countries what she said applies, but there are countries outside the Hague framework where that is actually very true. Unfortunately she had already submitted the article and it came to print without any opportunity. A lot of people look at her role as the head of the very successful non-government organisation in South Australia and say that whatever she has said has terrific weight, which it does. But she acknowledged that there are countries where that is the case. I think that is important in this discussion about whether Australia should be looking beyond the existing Hague countries. Some of the reasons

that countries do not sign up are that the costs for them to actually meet the requirements are considerable, but I do not believe that for Australia that should necessarily be a barrier in terms of saying we could still have a dialogue. Whether we in fact give assistance to some Third World countries may be out of scope, but I think it is something that should be explored for these countries where there is a very large population of kids who are having the sort of damage that Robert is talking about day after day.

**Mr QUICK**—David, are you saying that state departments monitor what is happening in orphanages overseas? Is that the argument they are giving?

**Mr FAWCETT**—They get feedback from the overseas agencies in terms of the waiting lists, people who do come back and collect their children et cetera. But often it is also a little distorted because there may be four or five agencies or more than that in a country but they may only deal with one, so they will get a picture from the one as opposed to the national perspective.

**Mr QUICK**—I find it hard to believe, just looking at, for example, the role of DOCS in New South Wales and DOCS in Tasmania and how hopeless they are at looking after kids at risk in our own states.

**CHAIR**—You can say that again!

**Mr FAWCETT**—I want to put on the record the fact that some of the objections to expanding services have been this attempt to debunk this myth, and all I am saying is that it is not a myth and the author of this article has acknowledged that.

**Mr Cornhill**—I brought along this book and was going to mention it in my opening remarks. It is called *Abandoned for life*. It is by a boy who has now grown to a man who was adopted from Romania into the US at the age of 11. If you want to read about some of the abuse that goes on in orphanages, this is a good read. But it is a chilling book.

**CHAIR**—Before he was adopted.

**Mr Cornhill**—He lived in an orphanage for 11 years and survived. It is only the tough kids that survive the orphanages.

**Mr FAWCETT**—You talk about the moratorium that has come in. Why is that?

**Mrs Plohberger**—Because Romania hopes to join the European Union in 2007 and to do that they need to bring their social welfare standards up to those of Europe, which they are not going to do. There was also an attempt to clean up corruption in Romania and so they thought they would ban all international adoptions while they looked at it and assessed the process and tried to bring it to European standards.

**Mr Cornhill**—It was really brought about as a political decision because there was a member of the European parliament, an Englishwoman who made it her mission to shut down adoptions from Romania.

**CHAIR**—Why?

**Mr Cornhill**—We really do not know.

**Mrs Plohberger**—She had an adoption herself that was not terribly successful.

**Mr Cornhill**—And now she is apparently looking at Bulgaria and making the same sort of noises.

**CHAIR**—She adopted someone?

**Mrs Plohberger**—A child from Iraq, I think.

**Mr Cornhill**—She adopted a child and that has been unsuccessful and she is now estranged from the child. Whether that is the cause of that, who would know. She is vehement.

**CHAIR**—What is her name?

**Mrs Plohberger**—Baroness Emma Nicholson.

**CHAIR**—There being no other questions, I thank you all. I particularly thank the young ladies, Raluca and Ionela.

**Mrs Plohberger**—Haven't they sat here so beautifully all morning.

**CHAIR**—You are an absolute credit to yourselves as well as to your parents. It was a great pleasure to meet you. We would love you to come back and visit us again for a cup of tea one day. We will make an arrangement for a social get-together, and we will invite your brothers.

**Mrs Plohberger**—Some of the boys are very lively!

**CHAIR**—We will be in touch. Thank you.

**Mrs Plohberger**—Thank you for asking us and listening to us.

[11.42 am]

**DUGGAN, Mr Kym, Assistant Secretary, Family Law Branch, Attorney-General's Department**

**WILSON, Mr Scott Raymond, Senior Legal Officer, International Family Law Section, Family Law Branch, Civil Justice Division, Attorney-General's Department**

**CHAIR**—I now call the representatives from the Attorney-General's Department. Would you like to make an opening statement?

**Mr Duggan**—I will make it very brief, I think. You have our letter, which outlines the role that the Commonwealth central authority plays; effectively, the Attorney-General's Department is the Commonwealth central authority for the purposes of the Hague convention on intercountry adoption. The role of the Commonwealth central authority is to enable the performance of the Australian government's obligations under the convention and to ensure that Australia as a whole complies with the requirements and standards of the convention. But the Commonwealth central authority is not involved in the processing of individual adoption applications or the case-by-case assessment procedures used to determine suitable families for overseas children.

Rules relating to intercountry adoptions in general are set down in the Family Law (Bilateral Arrangements—Intercountry Adoption) Regulations, and they set out in some detail just what the central authority can do and what role the states play—I will not go into that; it is here in the submission. Our central authority functions do not include, for example, as I said, processing the day-to-day case work involved in a particular adoption, approving an application for the adoption of a child, giving consent to the adoption of a child—a function reserved under a Commonwealth-state agreement for a state or central authority—or accrediting a body for the convention. Those responsibilities are retained by the state authorities.

We have an overarching role to ensure that the obligations of the convention are maintained throughout Australia. We assist the states in engaging in consultation or discussion about the possibilities of new programs. We meet regularly with the states and territories—we do it once every six months—to identify any areas of concern or any new areas that might be required for us to consider in terms of our obligations under the convention.

Up until now, at least, it has been the bipartisan policy of government that new programs in relation to intercountry adoption will be entered into only under the Hague convention. There was some discussion about that, I notice, by the previous witnesses. As you are also aware, this country maintains a number of arrangements with countries, arrangements which pre-existed the Hague convention, and those agreements continue. Indeed, those agreements provide for the bulk of children who are adopted into Australia. That is all I propose to say. I imagine the committee has plenty of questions.

**CHAIR**—I will begin on the Hague convention and ask how the policy developed that we would only adopt from Hague convention countries.



**Mr Duggan**—The concern of government is to ensure that there are very transparent and obvious procedures, guidelines and protections relating to intercountry adoption. Governments have taken the view that they are best set down in the Hague Convention on Intercountry Adoption.

**CHAIR**—But our government—and I happen to agree with the way we do things—have developed much of our policy in a bilateral manner, whether it be free trade agreements or other things that we do. We find bilateral arrangements very satisfactory. When you look at the statistics, most of the adoptions come from countries with which we have bilateral agreements and do not rely on a multilateral agreement. Has this question been revisited recently?

**Mr Duggan**—I am unaware of that. Certainly in my time—I have been in this position for about four years—I do not think the position has been reviewed by the former or the current Attorney-General.

**CHAIR**—So it is possibly out of sight, out of mind.

**Mr Duggan**—You might say that, Madam Chair. One thing that we have done during our time is to ensure, to the extent that we can, that the bilateral arrangements that we have with these countries meet the standards that are set down in the Hague convention. We understand that a number of these countries are considering joining the convention and that is certainly, at the moment, Australia's preferred position.

**CHAIR**—It offers many other benefits, like when people try to abduct children and take them to other countries and so on.

**Mr Duggan**—As you quite rightly point out, there are a whole range of benefits that flow to Australia by being party to numerous Hague conventions, not just in family law but in civil law generally. This country has always been a very active participant in the Hague convention procedures, both in civil law and in other areas. Indeed, a member of my staff has been recently seconded to the Hague convention—

**CHAIR**—At some stage it might be quite useful to have a background paper on the Hague generally.

**Mr CADMAN**—It is much broader than the adoption area.

**Mr Duggan**—You would like a paper on what The Hague does generally?

**CHAIR**—We might get you to do that at a private meeting, as a background briefing. That might be a good idea.

**Mr Duggan**—There is another area of the department which would be involved. Of course we would make that paper available to the committee.

**CHAIR**—That would be very good, so we can see the broader picture. Yesterday Peter McGauran put out a media release entitled 'Extra protection for adopted children', which stated:

... there are an increasing number of Australians seeking to adopt privately overseas. Around 20 per cent of children adopted privately overseas applied for citizenship without first obtaining adoption visas.

... the checks required before a visa is granted provide assurance that the child is genuinely available for adoption.

He said this was necessary to stop the trafficking, abduction and sale of children, a goal with which we would all concur. None of us quite understand what private adoptions are—how they take place. What has prompted this and why is it being done by the Minister for Citizenship and Multicultural Affairs and not the Attorney-General?

**Mr Duggan**—The adoptions the minister is referring to relate to Australians who have lived for some time in another country and have effectively adopted a child under the laws of that country and seek to bring the child back to Australia. These are what we call non-resident adoptions. They are not done under the Hague convention; they are done entirely under the domestic laws which operate within the countries in which the children have been living. Because there are now so many Australians who live overseas for some period, this is becoming quite common, and there is a concern from government about whether there are appropriate checks and balances in relation to those children before they are being brought back to this country.

**CHAIR**—Indeed, and in relation to those parents.

**Mr Duggan**—Absolutely. It is not something, as you would appreciate, that Australia gets involved in at either the state or federal level, until parents wish to bring those children back into the country. We have no knowledge of what is happening in the country of origin and we have no knowledge about what checks and balances are put in place to deal with adoptions in those countries. I am not for a moment suggesting that they are not appropriate; I am simply indicating that we do not know what they are in many cases.

**Mr QUICK**—What numbers are you talking about?

**Mr Duggan**—I do not know the answer to that offhand. I am happy to try to ascertain that. It is more a matter for DIMIA because these are not Hague convention—

**Mr CADMAN**—We are talking to DIMIA next.

**Mr FAWCETT**—Page 55 of the program has the DIMIA numbers in there—27 and 28.

**Mr QUICK**—You mentioned that the Commonwealth and states meet every six months. Have there been any areas of concern in the last couple of years that have been resolved and, if so, what are they?

**Mr Duggan**—None particularly but, as you are probably aware, the way the arrangements between us and the states operate—and I think Mr Fawcett has seen some of this in operation—is that each state would take responsibility for a major program and they will regularly visit that country to see whether in fact the checks and balances are operating effectively. Often at those meetings there will be a concentration on a particular country, brought about by the state concerned, and there will be discussion about any issues that need to be considered. At the

moment, as far as I am aware, with the possible exception of some issues such as Ethiopia, there are no significant issues causing ongoing concern. As I said, it is regularly monitored. It was interesting last year when we had a significant spike, if that is the right word, a large increase in the adoption of children from China. As far as we can tell, there were no particular reasons for that other than that the program has been operating for some time and procedures now seem to be working well, so there were more children able to be adopted through the Chinese agreement.

**Mr QUICK**—These are state Attorneys-General meeting with Commonwealth—

**Mr Duggan**—No. They would generally be DOCS equivalents who go over, people with expertise in adoptions. That is something that the Attorney-General's Department per se does not have a lot of—expertise in assessing people for eligibility for adoption.

**CHAIR**—Do you detect any sort of attitude from any of the state and territory authorities that they are opposed to overseas adoptions?

**Mr Duggan**—Not that I am aware of. As a previous witness indicated to you, in an ideal world there would be no intercountry adoptions; appropriate arrangements would be made in countries of origin for children to remain there. Indeed the Hague convention is premised on the basis that, if you like, adoption between countries will be almost a last resort. The hope is that countries will improve facilities for children within their own country and that there will be less and less need.

As you can imagine, many Australians were very generous with their concern after the recent tsunami. The official position taken by governments, both federal and state, was that we need to deal with the welfare of these children as a matter of priority now and to wait for some time to see whether, in fact, they are genuinely available for adoption. Some of them may be in the longer term but, because of the chaos that was created for some time in those countries, it would have been premature to bring those children out of that situation and potentially subject them to further trauma if, indeed, their parents were found and they were returned. So despite very generous offers by a whole range of Australians who wrote to our minister and a number of ministers in the Commonwealth—and, indeed, the states—at the moment we will wait to see whether there are any children from those countries.

**CHAIR**—I think the more horrifying aspect is the number of people with known paedophile records who attempted to go and take advantage of the situation. That shows why we have to be vigilant.

**Mr QUICK**—Can you provide us with a list of which states are responsible for which overseas countries?

**Mr Duggan**—I can do that. I apologise for not having it with me, but I happy to do that.

**Mr QUICK**—So someone regularly looks after China and reports on it?

**Mr Duggan**—Yes. They travel to those countries on a semiregular basis. I will try to ascertain exactly how often that happens. They meet with the relevant authorities over there and then

report back to the larger body about what they found and whether in their view there are any areas of concern or areas where we might need to have further consultation with that country.

**Mr QUICK**—Do they work through DFAT in Beijing and Shanghai, or do they just go and operate in Shanxi province or wherever? Do they use DFAT as an enabling group of people?

**Mr Wilson**—I understand that representatives from the Victorian department, who are primarily responsible for the program with China, are in China at the moment. They deal directly with the central bodies in China, rather than the provinces, as I understand. They do consult with DFAT, which provides assistance when it can, in their dealings with the Chinese central authorities.

**Mr CADMAN**—So we delegate this process of approval to state government departments—is that right?

**Mr Duggan**—In terms of management of the programs and the operational requirements thereof, the answer in simple terms is yes.

**Mr CADMAN**—If we had state departments with a particular preference for one area in the world, then we would get unbalanced feedback or a particular resistance to some country or another.

**Mr Duggan**—I think a way that that is overcome is through the policy that governments have adopted in relation to the Hague convention, and that is that we effectively look to engage in new programs with only those countries which join the Hague convention. It is not as if states have any say over which countries will join that convention.

**Mr CADMAN**—But they have to say whether or not Ethiopia is performing, don't they, and that would raise a concern here about whether the bilateral was effective.

**Mr Duggan**—That is right, and that is an ongoing process.

**Mr CADMAN**—So it is not an assessment made by the Commonwealth; we rely on other agencies.

**Mr Duggan**—We obviously are part of the process when those state representatives come back and we discuss the report that they provide. But, yes, we tend to rely on the views of the states and territories, mainly because they are the areas with expertise.

**Mr CADMAN**—That is interesting, because my personal experience is that the states have refused to even contemplate any relationship with the United States. But we can have adoptions out of Ethiopia or China by talking to central agencies and taking their word for it that everything out in the sticks is okay.

**Mr Duggan**—No, we do not simply take the word of central authorities, although we obviously liaise through central authorities. The states and territories do visit on-the-ground areas, for example, to see how things are operating.

**Mr CADMAN**—I thought you said their discussions were confined to central agencies.

**Mr Duggan**—No, we said they are coordinated through central agencies. To that extent, I suppose there is always the chance that they do not see the full picture. But, as I understand the situation, they actually go to the agencies which are directly involved in processing children—

**CHAIR**—Are you telling me that, for instance, people from DOCS go?

**Mr Duggan**—Yes, that is right.

**Mrs IRWIN**—So our states and territories are sending people over to these countries.

**Mr Duggan**—That is right.

**CHAIR**—Do we reimburse the states for this function?

**Mr Duggan**—No.

**CHAIR**—Why don't we do it ourselves?

**Mr Duggan**—As I have indicated to you in terms of this agency, we have no particular expertise in relation to that.

**CHAIR**—With respect, if you were to ask the average man in the street whether DOCS had any particular expertise, he would say no.

**Mr Duggan**—That is a matter for government, Madam Chair.

**Mr Wilson**—Let us take a step back. We are talking very much about programs that are operating here and the ongoing management of them. A number of the submissions that have come in, and certainly a number of the people I have spoken to, have been calling for the federal government to take more of a lead in terms of establishing new relationships with countries that have not signed up to the Hague agreement. In fact there are some who have, but we do not actively pursue those. The feedback I had—in fact it is from the same meeting that Scott was at—was that the states believe it is inappropriate for Australia to approach a country and basically say, 'We would like to adopt your children.' At a very practical level, if there is a group within that country who wish to put children up for adoption and the country is open to adoptions generally, which agency then actually takes the initiative to initiate the establishment of either an agreement under the Hague one or indeed a bilateral agreement if the government decide that they will go that way?

**Mr Duggan**—When a country ratifies the Hague convention then there will be a joint decision by the Commonwealth and the states to approach that country, so we do get involved at that level. As we have already discussed, at the moment the current policy of government is that we will not start new programs with countries that are not parties to the Hague convention. So, in answer to your first question, yes, we are involved in that decision and it will often be the Commonwealth central authority that will actually write to the relevant agency concerned. Generally speaking, the actual on-the-ground assessments and the way that they are done—as I

have indicated to you, they are done by the states and territories and that is in recognition of their particular expertise—are in fulfilment of the Commonwealth-state agreement we have with the states, which I am happy to make available to the committee. If I may, I just need to check, Madam Chair, as to whether that is meant to be a publicly available agreement. I will certainly make it available to the committee and I will advise you as soon as I can as to whether it is a public document, but certainly it will just be available to the committee itself.

**Mrs IRWIN**—So you are virtually stating that the department does not play a role in fostering bilateral agreements with countries that are not signatories to the Hague convention?

**Mr Duggan**—New ones—that is true.

**Mr FAWCETT**—What kind of workload is involved in actually getting a country that has signed up and ratified the convention to establish a relationship with Australia? My concern stems from the fact that much of the feedback we are getting is that there are countries which have long waiting lists of children waiting for adoption and for which there is no active agreement. The feedback I am getting from the states is that they are reluctant to take on more adoptions because they do not feel that they have the resources to manage the adoptees who are currently coming into the country. So is it just a matter of underresourcing in that we do not actually have the resources to initiate new agreements or new practical working arrangements with countries that have ratified the Hague agreement?

**Mr Duggan**—From our point of view, we are not aware that that is the major determining factor. From our point of view, the issue relates to, as I say, whether a country is going to join or is joining the Hague convention. That has been a bipartisan policy for some time. So that is the limiting factor, as far as we are concerned. I am sure that the states and territories do have resource limitations, but I am unable to speak on their behalf in that regard. Certainly the main limiting factor, from our point of view, is that particular policy and the safeguards it creates.

**Mr FAWCETT**—Do you have any full-time staff within A-G's working on adoption?

**Mr Duggan**—We probably have perhaps one full-time staff member.

**Mr Wilson**—I think Mr Fawcett's question is: is there anybody who works only on adoption matters in the Australian central authority? No, Mr Fawcett. There are several full-time staff members who have responsibilities for adoption.

**Mr FAWCETT**—You have no-one who works full time on adoption issues?

**Mr Duggan**—Not solely; that is right.

**Mr FAWCETT**—So, if there were an opportunity to create a new working relationship with a signatory to the Hague convention, that would have to be drawn from various other parts of the A-G's department—and likewise within DOCS—to actually get the resources to put the work into doing that?

**Mr Duggan**—Certainly as for starting the initial process, we would have the capacity to do that now. As for actually going over and then doing the necessary checks that you have

discussed, yes, that would be a matter of finding the resources to be able to do that. I cannot comment from the states' and territories' point of view.

**CHAIR**—But all you would have to do is withdraw the delegations from the states and territories and resume the function, which is properly a federal function.

**Mr Duggan**—In relation to the Commonwealth-state agreement, that is not the agreement that governments signed.

**CHAIR**—Do you mean there is a signed agreement that says that you will delegate that authority for no consideration?

**Mr Duggan**—As you are probably aware, many agreements at this sort of level between governments are, strictly speaking, not contracts; they are memoranda of understanding or agreements in law.

**CHAIR**—Which you can vary from time to time.

**Mr Duggan**—Indeed, they can be varied from time to time. But this agreement sets out fairly clearly the role of the Commonwealth and the states in relation to the way we—

**CHAIR**—How old is the agreement?

**Mr Duggan**—It was signed in 1998.

**Mr QUICK**—So, in reality, the federal government is a central authority in name only—one person—and it is basically the states running the show.

**Mr Duggan**—In terms of the decisions about individual adoptions and the monitoring of countries, yes, the states have the primary responsibility, and that is in accordance with our agreement with them.

**Mr QUICK**—It has been suggested to the committee that we should make more progress in establishing relationships with Russia, where there are 600,000 children in need of care. New Zealand has organised some arrangement—520 is the number mentioned there. Do you take a lead?

**Mr Duggan**—We understand that the New Zealanders have had some difficulties with the Russian program, but, as far as I am aware, Russia is not a party to the convention at this stage.

**Mr QUICK**—But neither is China, and we are letting the Chinese kids in.

**CHAIR**—But it predates the Hague agreement. That is what I was saying.

**Mr QUICK**—I know, but we are talking about individual children.

**CHAIR**—Absolutely.

**Mr QUICK**—They are still coming in, from the spike in China.

**Mr Wilson**—To clarify the situation with New Zealand, it is my understanding, although we would have to check with the New Zealand central authority, that they themselves do not have a relationships with Russia but that those are, in effect, privately run adoptions.

**Mrs IRWIN**—Could you take that on notice, because it would be very interesting. When you are looking at 600,000 orphaned children in Russia, and New Zealand has allowed 520 in, what are we doing in this great country of Australia? Can I follow on? I want to talk about Portugal.

**Mr CADMAN**—Just one point: you said ‘private’ arrangements. What do you mean? I do not understand that in Australian terms.

**Mr Wilson**—I would have to clarify that with the New Zealand central authority, so it would be subject to their information, but I understand that these are not adoptions which are run through the New Zealand central authority, which, as a Hague country, has the same kinds of responsibilities as the central authorities in Australia.

**Mr CADMAN**—We do not have that mechanism through the states?

**CHAIR**—Yes, we do. Presumably, private adoptions are the ones we were discussing before, where the parents adopt them in Russia according to Russian law and then bring them back.

**Mr Wilson**—I cannot be certain: they may not go to Russia as such, but it is certainly the same kind of process.

**Mr CADMAN**—It would helpful if you could clarify that. There might be something that we can pick up.

**Mrs IRWIN**—Let’s go back to the Hague convention. Portugal has signed up to the Hague convention, but the committee has also been told that Portugal is another country with many abandoned children—we do not have the number—and that the Portuguese central authority only takes 10 days to approve an application for adoption. Has any attempt been made for a bilateral agreement with Portugal by the Attorney-General’s Department, because Portugal is a signatory to the Hague convention?

**Mr Wilson**—I am not sure of the status of Portugal and whether it has ratified the convention or not.

**CHAIR**—Yes, it has.

**Mr Wilson**—We could certainly take that on notice.

**Mrs IRWIN**—That would be good.

**CHAIR**—That came into effect on 1 July 2004.



**Mr CADMAN**—But from what you said it would rely on a state agency wanting to go to Portugal. Your department would not have any initiative in that regard, would it?

**Mr Duggan**—We would have the initiative in that, generally speaking, the Commonwealth central authority would initiate government to government discussions. Once we had found out that, in fact, that country was interested in establishing a program with Australia, there would then be a need to identify a state—you are quite right—that would then do the necessary checks and balances.

**CHAIR**—In looking at the stats of the number of children adopted from overseas in proportion to the population, the Australian Institute of Health and Welfare pointed out that New South Wales and Western Australia, I think, are way below the number of children that you would think would be adopted. Victoria is right on course but the other states are ahead population wise. What delegation have you given to New South Wales?

**Mr Duggan**—In accordance with the agreement we have discussed with you previously, New South Wales is responsible, as are the other states and territories, for assessing individual applications for adoption.

**CHAIR**—Which countries are they responsible for—for going to assess?

**Mr Wilson**—We have undertaken to provide that to the committee.

**CHAIR**—It could well be that the reason there are comparatively few adoptions in New South Wales vis-a-vis the population of New South Wales could be the way in which they exercise your delegation.

**Mr Duggan**—That is a possible interpretation. There may be other reasons as well.

**Mrs IRWIN**—What do you mean by ‘other reasons’?

**Mr Duggan**—It may be a question of where the people wish to settle or where the applications come from. We could certainly seek some information from New South Wales on their view about why there is such a disproportionate number.

**CHAIR**—When you give out the delegation—and there are not all that many countries that we are taking children from—who gets China?

**Mr Duggan**—Victoria.

**CHAIR**—That is the biggest intake, and Victoria is right on par with the numbers. Who gets South Korea?

**Mr Wilson**—I could not say offhand.

**Mr Duggan**—I am advised that it is New South Wales. We will confirm that.

**Mr CADMAN**—If we could have a breakdown for everything, that would be good.

**CHAIR**—Yes, I think we need a really good look at that.

**Mr QUICK**—There are over 60 countries, according to page 46 of the document on intercountry placement adoptions by country of origin. We have six states and two territories, so they all got about eight each or someone got a whole heap. It sounds like a dog's breakfast, to me.

**Mr Duggan**—There is clearly a greater capacity for the bigger states to deal with more than the smaller ones.

**Mr QUICK**—I know. But you have everything from Argentina, Macedonia, Mauritius, Morocco, Nepal, Portugal, Samoa, Serbia, Tonga, Costa Rica—and so it goes on.

**CHAIR**—Some of them are only two or three people. It could well be how well or how badly the states are carrying out their function that relates to the numbers that are successful or unsuccessful.

**Mrs IRWIN**—I need to get my head around this. I want to know—and I think this is an important question—to your knowledge, do the states and territories pick the country from which they want children to come to Australia?

**Mr Duggan**—No. As I have indicated with the previous question, the determinant of that these days is whether a country joins the Hague convention. I have to advise you about the situation in Portugal, which is a recent signatory to the convention. The main criterion, the prime determinant, upon which this country will develop a program with a new country is whether they have actually signed the Hague convention.

**CHAIR**—But you said that this has been a bilateral policy. Presumably that predates the election of this government, which is going on for 10 years ago, and yet the source of countries from which children are coming is under the bilaterals. They are not coming under the Hague convention.

**Mr Duggan**—That is quite true, but I would just point out to you that the agreement between the Commonwealth and the states was signed in 1998, which is—

**CHAIR**—A long time ago.

**Mr Duggan**—It is a long time ago, but it was during the time of the current government.

**Mr FAWCETT**—I think one of the significant problems is that there is no mechanism whereby groups either in the country where the children are coming from or in Australia can instigate either the federal government or the state government to say, 'Let's create a new agreement.' Certainly the feedback I had when I was in Tasmania speaking to the state and territory managers was that they all perceived that they are underresourced to manage the programs they currently have.

**CHAIR**—I have never yet met a department that is not underresourced.

**Mr FAWCETT**—Correct. But what that says is that there is no incentive for them to instigate a new program. This is where I think the federal government needs to provide the leadership and say, ‘Even if we only limit it at the moment to those countries that have signed on to the Hague agreement, where are the countries with the greatest need, where there are children in institutions with no hope of actual reunion with their family or placement in foster care?’ The national leadership needs to say that that is where the priority for the states will be over the next period and that a mechanism is missing in terms of the way this works.

**CHAIR**—I would be most interested. We have got 62 countries signed up for the Hague convention of which Belgium, China, Ireland, the Russian Federation, the United States of America and Hungary are yet to ratify. The others have ratified and have commenced. Which, if any, of those countries, aside from the ones with whom we have bilaterals, have we actually entered into an agreement with?

**Mr Duggan**—We can provide that detail to you, Madam Chair.

**CHAIR**—I will be very interested to know whether there are any.

**Mr Duggan**—There are certainly some. We can provide that detail to you.

**Mr CADMAN**—Taking one of the previous questions a little bit further: would it be within the scope of the Commonwealth to nominate as the manager of some of these processes a national organisation such as Centacare, which has a capacity to liaise and comply with conventions, instead of the states? Does this matter have to go down through the states?

**Mr Duggan**—Under the terms of our current agreement with the states and territories my understanding is that, yes, it does.

**CHAIR**—How long does that agreement have to run?

**Mr Duggan**—It has not got a particular time limit that I am aware of.

**CHAIR**—We sign Medicare agreements for particular lengths of time. We sign housing agreements for particular lengths of time. We sign other agreements for particular lengths of time. Why does this not have a time limit?

**Mr Duggan**—I presume it is because it is a memorandum of understanding rather than a contract and it is a way that we will operate in terms of having central and state—

**CHAIR**—What scrutiny is there and what accountability is provided? What reporting mechanisms have they got to the federal government about how well or how badly they carry out the delegation?

**Mr Duggan**—Effectively, it is the six-monthly meetings where we get together, which Mr Fawcett was talking to you about—

**CHAIR**—So you just have a nice chat?

**Mr Duggan**—No. Certainly, there is a fair degree of accountability engendered by the very active participation of the non-government organisations, one of which we heard from this morning. So there is a degree of accountability in the way that those—

**CHAIR**—I don't buy that. There are people struggling. They have virtually no resources. It is all voluntary effort and they are doing a marvellous job with very little help. I do think that somebody who might have a good look at this is the Auditor-General. We might write to the Auditor-General telling him that I think we need a project management audit.

**Mrs IRWIN**—I think that is a brilliant idea, Madam Chair.

**Mr CADMAN**—This is not reflecting on the department. I think that we have started by reacting to a need from the states, that have the head of power under current law, and we have just allowed them to implement a process which is internationally acceptable. It is time to change that, in my view.

**CHAIR**—I think so too.

**Mr FAWCETT**—Are you the regular attendee from the A-G's Department to the six-monthly meeting?

**Mr Wilson**—No, I am not. I have attended since I have been part of the International Family Law Section.

**Mr FAWCETT**—How many meetings would you have been to?

**Mr Wilson**—I have been to two meetings now.

**Mr FAWCETT**—That is a very limited exposure but if, for example, the Commonwealth were to take more of a proactive leadership role in terms of the model of how states would work and who we would actually proactively look for agreements with on the international scene, do you have any feel for what resource implication that would have for the federal government based on what you have seen the states and territories doing?

**Mr Wilson**—Do you mean outside the current agreements?

**Mr FAWCETT**—Forget the current agreement—the new model. If we suddenly said, 'Scott, you are running an element within a department to give leadership to this at a national level,' are you talking about a couple of people, 10 people—

**Mr Wilson**—I could not say. I guess the only thing I could reflect on is that at the recent meeting, which you attended, there was a very informal figure given by the states as to the costs of opening a new program under the Hague convention, and that was in the vicinity of \$50,000 to \$100,000.

**Mr FAWCETT**—Which I think explains, Madam Chair, why it has not happened recently.

**CHAIR**—Exactly. But there is another question in there too about the big fees that some of the states charge. Are they trying to recover from would-be adoptive parents by way of these big fees the money they spend to send people from DOCS to go and have a look?

**Mr CADMAN**—Absolutely.

**Mr QUICK**—That is right.

**CHAIR**—That is the thing that really seems to be relevant.

**Mr CADMAN**—They are cost shifting.

**CHAIR**—Yes, it is cost shifting.

**Mr Duggan**—The states and the territories concerned have given public explanations of their increases in those fees, which we are happy to make available to the committee. In essence, to some extent what you say is true: there is some cost recovery involved, but it is not unusual in government programs that cost recovery will be sought.

**CHAIR**—No. But what is of concern is that if a particular state is doing the work badly or inefficiently, then they are taking the money off people by just jacking up the fees. It is just like if you run the state badly: you put the taxes up because you cannot do it well. That is why I think we definitely need an audit.

**Mr QUICK**—Which ministers get a report back of these Commonwealth-state meetings? Is it just Attorney-General's, or Family and Community Services or whatever it is called these days.

**Mr Duggan**—The Department of Family and Community Services does not attend. It is essentially a matter between the central authorities of the states and the Commonwealth.

**Mr QUICK**—So it is A-G's?

**Mr Duggan**—Yes.

**Mr QUICK**—So even though it is to do with children—

**Mr Duggan**—DIMIA attends as well.

**Mr QUICK**—So it is just DIMIA and A-G's, and we are talking about the welfare of children. So it is basically a legal thing?

**Mr Duggan**—In terms of the Hague convention that is right. In terms of the adoption program generally within Australia, the ministers for family and community services are generally the ministers responsible and, indeed, most of the signatures to this agreement are from similar ministers, not the attorneys-general.

**CHAIR**—Can I have a look at those signatures?

**Mr QUICK**—You mentioned areas of concern. We have heard about the lack of post-adoption resources for families who adopt children from overseas. Is there no mechanism under this current federal-state central authority liaison thing for concern in that area to be raised at these meetings? Is it all basically the Hague convention and the protocols?

**Mr Duggan**—Essentially that is true. In the end it will obviously be a matter for individual state and territory governments as to the resources they make available to this area, as indeed it is a matter for the Commonwealth.

**Mr QUICK**—So if there were areas of concern—for example, in my state of Tasmania, about the whole system falling apart, and there are parents who have jumped through all the hoops and paid an arm and a leg and there are deficiencies—that would be out there in the ether somewhere and nothing would be resolved?

**Mr Duggan**—It is primarily a matter for the Tasmanian government; that is right. It would be a matter upon which the Commonwealth could seek an explanation from that particular government, but in the end it is a matter for that particular government.

**Mr QUICK**—But there is only one person in A-G's who is dealing with the issue of the Hague Convention on Intercountry Adoption.

**Mr Duggan**—That is true. It would certainly be a significant resourcing issue for the Commonwealth if we were to expand that involvement, as we discussed before.

**Mr QUICK**—What is the level of the employees from the A-G's of the states and territories? I do not know what level Scott is, an SES or whatever. What level are the people from the states who attend these meetings?

**Mr Wilson**—I am not aware of the level and how it would equate to the Commonwealth Public Service, but they are certainly the managers of the international adoption areas within the relevant state departments.

**Mr QUICK**—Are the minutes of those meetings available? Or is it all top-secret and our committee cannot read about the areas of concern?

**Mr CADMAN**—You would have to get approval for release from the states, and do you think they are likely to do that?

**Mr Duggan**—We would be happy to ask the states in that regard.

**Mr QUICK**—Yes. I would be interested in that.

**Mr Duggan**—Those minutes would probably be something that we would not necessarily want publicly available on the web site.

**Mr QUICK**—No.

**CHAIR**—This is an interesting agreement. They are all signed up, except that there is no agreement between Queensland and the federal government because the federal minister did not sign with Queensland.

**Mr Duggan**—That is only one copy of the document. There are couple of those issues that you raised that I do need to check, and I will check to make sure that we have precisely that.

**CHAIR**—I have a page for each state and territory, except Queensland.

**Mr Duggan**—Yes, I am aware of that. It might well be that it is simply missing from a copy. I was not aware that that would be handed to the committee today.

**CHAIR**—If this is made from the original, there is no signature.

**Mr Duggan**—I need to check back. I cannot say one way or the other, Madam Chair. That is simply a document I brought along to assist me this morning. I need to check back through the files to see if there is anything else that might indicate the answer—that document was simply provided to me this morning to bring along. There may be something else that deals with that.

**CHAIR**—If you suddenly find a copy of a sheet that has an extra signature on it, I will be very suspicious.

**Mr Duggan**—Yes.

**Mr QUICK**—Are you aware of any countries that have been put in the ‘at risk’ category? When it comes to visas being granted from some countries I know that you need to jump through 10 more hoops than is normally the case if you want to get a visitor visa, tourist visa or the like. Are you aware of any countries which, even though they have signed the Hague agreement, are put in the too-hard basket when it comes to getting visas for children to be adopted?

**Mr Duggan**—That is more a matter for the department of immigration.

**Mr QUICK**—I will ask them about this, but I am asking you if you are aware of any.

**Mr Duggan**—Not that I am particularly aware of, no.

**Mr QUICK**—It is interesting to look at the case of the Philippines. There were 53 visa subclass 102s in 2003-04. I would be interested to know how many visas for areas other than the Philippines had to jump through 10 more hoops.

**CHAIR**—Could you just explain to me again about the Hague convention, because this agreement is actually between FaCS and their state counterparts. It is signed by Warwick Smith not by A-G’s—and it is an agreement.

**Mr Duggan**—Yes.

**CHAIR**—From a very cursory read, it seems to indicate that the states also had to legislate to implement the Hague convention. Is that right?

**Mr Duggan**—Yes, that is right.

**CHAIR**—Have all the states done that?

**Mr Duggan**—I will check that. The agreement is actually between the Commonwealth and the states. So as long as the Commonwealth minister has signed the document it is between the Commonwealth and the states.

**CHAIR**—That is the point I made: it is between the Commonwealth and each state and territory.

**Mr Duggan**—Yes.

**CHAIR**—But it has not been signed with Queensland by the minister. That was the point I was making earlier.

**Mr Duggan**—Yes.

**CHAIR**—Clause 16 of the agreement says:

16. If it subsequently comes to notice that there is a deficiency in the legislation or administrative procedures of a State such that the State does not comply with the requirements of the Hague Convention, then the State shall forthwith notify in writing the other parties to this agreement of the deficiency, and:

(a) the State may amend its legislation or administrative procedures to ensure compliance with the Hague Convention; or

(b) the State may request the Commonwealth to enact such legislation for the duration of time and to the extent necessary to ensure compliance; or

(c) if, within a reasonable time from the deficiency coming to notice, a State does not amend its legislation or administrative procedures in accordance with ... (a) or ... (b), the Commonwealth will, if necessary and in consultation with the State, enact such legislation as is required to ensure compliance with the Hague Convention.

That, to me, tends to indicate that the states also had to enact legislation.

**Mr Duggan**—I have indicated to you that we will check and get back you on that.

**CHAIR**—You do not know whether they have done that?

**Mr Duggan**—I do not personally know, no. This program was operating for a long time before I came into this portfolio.

**CHAIR**—So you will see whether or not they have done it and whether that clause has been initiated anywhere along the line.



**Mrs IRWIN**—You might also have to take on notice what follow-up steps can the Commonwealth take if it suspects that the state or territory welfare agencies might not be complying with Australia's obligations under the Hague convention. Has any action ever been taken?

**Mr Duggan**—I do not know the answer to that.

**Mrs IRWIN**—Could you take that on notice.

**Mr Duggan**—Indeed.

**CHAIR**—Going to these bilaterals, reading this agreement, it tends to indicate that the bilaterals exist with the states. It says:

Where a country which has an existing bilateral agreement with Australian States does not become a party to the Hague Convention within three years from the date of Australia's ratification of the Convention, that bilateral agreement is to be renegotiated by the Commonwealth (in conjunction with the States) to obtain conformity with the provisions of the Hague Convention.

Has that happened with all those agreements?

**Mr Duggan**—Yes, an audit of those has been done.

**CHAIR**—So they have been renegotiated and now signed by the Commonwealth?

**Mr Duggan**—No. As I understand it, we have assessed the agreements as complying with the Hague convention procedures. As outlined in our submission, that was done last year.

**CHAIR**—Do you consider that a renegotiation?

**Mr Duggan**—It was a unilateral review by this country. So I suspect that the other countries would not regard that as a renegotiation.

**CHAIR**—Can we keep this document, now that I have my hands on it?

**Mr Duggan**—On the understanding that I will check, in particular, the issue you have raised to see if there is any other document. Otherwise, I do not have any particular reason not to provide that. But, at the moment, we would appreciate if that document was for the committee only.

**CHAIR**—At this stage we will receive this as an exhibit which at the present time we will not publish. There is quite a lot in this. There is a lot of reporting from the states and the Commonwealth required in here.

**Mr Duggan**—Yes. That is why we have these regular meetings.

**Mrs MARKUS**—Is the meeting the only way they report? In what other ways does reporting take place?

**Mr Wilson**—I would have to see a copy of the agreement to know exactly what kinds of statistics or reporting we are talking about.

**Mrs MARKUS**—If there any other reporting requirements, it would be good to know whether they are being adhered to.

**Mrs IRWIN**—For how many years have your six-monthly meetings been taking place?

**Mr Duggan**—We will provide that answer to you. They have been going for at least five years, and I suspect for a good deal longer than that.

**Mr FAWCETT**—I was only at the meeting for 1½ hours but I got the feeling that it was very much a collaboration meeting between agencies, as opposed to there being any accountability by state to federal. I think that is because of the way that agreement is structured. It essentially says the A-G's department is, by name, the central agency but essentially everything else is delegated. The feeling at the meeting was collegiate rather than there being an accountability structure, which probably explains the lack of any formal outcome in terms of reports to the Commonwealth.

**Mr QUICK**—Can you explain what the Hague convention compliance letter is that parents need? Parents need to have legal documents, birth certificates, marriage certificates, home study report, police check, medical reports, photographs and a Hague convention compliance letter.

**Mr Duggan**—It is a matter provided by the states. I do not know the answer to that question. I can provide you with information on it.

**Mr QUICK**—It is another cost to parents who wish to adopt. It is a requirement not of the Commonwealth but of the state?

**Mr Duggan**—There would need to be an indication that the Hague convention has been complied with and that the procedures involved in the Hague convention have been satisfied. That is what that letter would be about. I have not seen a copy of that letter.

**CHAIR**—This document says:

This agreement does not give rise to any legally enforceable right, privilege, obligation or liability in respect of:

(a) anything done under the agreement; or

(b) anything omitted to be done under the agreement.

It also says that if any state does not want to be a party to it any longer it just gives 12 months notice and it is out.

**Mr Duggan**—Yes, it does say that.

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**Mrs IRWIN**—That document states that if any state or territory does not want to be a signatory they are out in six months, is that right?

**CHAIR**—Twelve months.

**Mrs IRWIN**—What happens to those parents who are putting in for adoption of children in that particular country?

**CHAIR**—I do not know. It is very important that we know what has happened to the bilaterals. It says here that the bilaterals have to be renegotiated three years after we have ratified, but the original bilaterals seem to be between the states—not the Commonwealth—and other countries. But, under the 1991 state protocols and procedures for developing new programs with new countries, the Commonwealth is required to be involved in any new bilaterals because we have ratified the Hague convention. So presumably they still have the power to enter into new agreements. The question is whether we have the power to enter into new agreements.

**Mr Duggan**—In terms of constitutional and other power, I would have thought there would be no impediment for Australia to do that. It is a matter of policy.

**CHAIR**—Quite clearly, it is pursuant to a convention.

**Mr Duggan**—Indeed, but as a matter of policy governments have decided that they will be limited to the Hague convention countries. It is not a constitutional limitation; it is simply a matter of policy.

**CHAIR**—But clearly we have not revisited this question since 1998. We will have a good look at that. You will come back to us with the extra information?

**Mr Duggan**—Indeed.

**CHAIR**—We might find out a few things. There being no other questions, we thank you very much for coming this morning, and we look forward to getting that extra information. Thanks very much.

[12.38 pm]

**CUBBAGE, Ms Sue, Assistant Director, Child Migration Policy Subsection, Family Migration Section, Migration Branch, Migration and Temporary Entry Division, Department of Immigration and Multicultural and Indigenous Affairs**

**ELLIS, Ms Mary-Anne, Assistant Secretary, Citizenship and Language Services Branch, Citizenship and Multicultural Affairs Division, Department of Immigration and Multicultural and Indigenous Affairs**

**MILLS, Mr Greg, Acting Assistant Secretary, Migration Branch, Migration and Temporary Entry Division, Department of Immigration and Multicultural and Indigenous Affairs**

**VARDOS, Mr Peter, First Assistant Secretary, Citizenship and Multicultural Affairs Division, Department of Immigration and Multicultural and Indigenous Affairs**

**CHAIR**—Welcome. Do you have any comments upon the capacity in which you appear today?

**Mr Mills**—The Migration Branch has policy authority for most aspects of adoption visas and procedures within DIMIA.

**CHAIR**—We have your letter. Would you like to make an opening statement?

**Mr Mills**—Yes, I will make a brief opening statement. Self-evidently, our principal role in this area is to process and grant visas to children who have been adopted under the arrangements that you have been discussing. Adopted children require legal authority to enter Australia in order to live with their adoptive parents. In the majority of cases, an application is made for a permanent residence visa for a child who is adopted from overseas. The migration regulations set out the criteria to be met for the grant of a visa. These include where the adoption occurs under state and territory intercountry adoption arrangements—that is one type, if you like—and, second, where a child is adopted by expatriate Australians without the involvement of the state and territory government welfare authorities.

That first category this program year comprises about 92 per cent of all adoption visas granted. So you can see that in the great majority of instances the actual processing is being done by the state and territory welfare authorities. Our role is a relatively marginal one in simply processing the visa at the end of that sequence of events. The department gives a high priority to the processing of adoption visa applications for fairly obvious reasons, and our overseas posts are carefully instructed in that regard.

For adoptions under state and territory intercountry adoption programs, the health assessment procedure is streamlined and the results are usually available within 24 hours of that process being initiated. Once the adoptive parents have travelled overseas, finalised the adoption processes overseas and obtained a passport for the adopted child, the visa application is usually

finalised on a same-day basis. I say ‘usually’ because we cannot give an absolute guarantee of that, but that is the norm.

Adoption visa applications by expatriate Australians typically may take longer to process. The onus falls on the overseas decision maker to satisfy himself or herself of a number of requirements: firstly, that the adoptive parents have lawfully acquired full and permanent parental rights under the laws of the country in which the adoption order has been made; secondly, that the adoptive parents have been residing overseas for more than 12 months at the time of the application, as the legislation requires; and, thirdly, that the residence overseas was not contrived to circumvent the requirements for the entry to Australia of adopted children. High processing priority is also given to these expatriate adoption cases but, as I stated earlier, they do tend to take longer than the state and territory ones simply because the processes involved are slightly more complex.

**Mr QUICK**—Is the fee exactly the same for both processes?

**Mr Mills**—There is only one fee for an adoption visa, irrespective of how it is processed.

**Mr QUICK**—So one could be done in 24 hours; the other could take weeks and weeks.

**Mr Mills**—That is correct.

**Mr QUICK**—But you are still up for the same fee.

**Mr Mills**—That is right. It is the nature of the requirements that dictates the time frame.

**CHAIR**—With regard to the second category, children being adopted by expats, do you as a matter of policy take the same attitude to determining whether they are going to be permitted to get a visa that you take to overseas marriages?

**Mr Mills**—No, I would not say so. In relation to marriages, the principal criterion is whether we regard the relationship as ongoing and genuine.

**CHAIR**—Don’t you regard the adoption in the same way?

**Mr Mills**—Yes, except in the sense that we have to accept the laws of the country in which the adoption took place.

**CHAIR**—And you do not accept the laws of marriage of another country in that way?

**Mr Mills**—Not necessarily.

**CHAIR**—What is the policy basis of the differentiation, of accepting another country’s laws for one thing but not for another?

**Mr Mills**—I cannot go into the history of that; I am not entirely sure. It is quite a different process. We need to be satisfied that an adoption order taken out overseas is legitimate, and there are those other protections I mentioned in my opening statement.

**CHAIR**—Do you require a criminal check on those parents?

**Mr Mills**—No, we do not.

**CHAIR**—I presume this press release put out by Mr McGauran yesterday is part of your bailiwick, so perhaps you might explain to me precisely what is behind this new policy and precisely what it means—what has been done.

**Ms Ellis**—I would just like to clarify one aspect of the release, if I may. In the sixth paragraph there is a reference to ‘around 20 per cent of children adopted’. The word ‘privately’ is incorrect. It should be ‘around 20 per cent of children adopted overseas applied for citizenship’. That error was identified this morning and is being corrected.

**Mrs IRWIN**—So we should just take out ‘privately’?

**Ms Ellis**—Just take out ‘privately’, and then that statement is correct.

**Mrs IRWIN**—Are you saying there are no private adoptions?

**Ms Ellis**—No, it is saying that around 20 per cent of children adopted overseas—regardless of how they are adopted—have applied for citizenship without first obtaining an adoption visa.

**CHAIR**—How did they get here?

**Ms Ellis**—Once they have citizenship, they are entitled to a passport.

**CHAIR**—How did they get citizenship if they did not get in here to become citizens?

**Mr CADMAN**—Out of country.

**Ms Ellis**—Out of country. They are adopted overseas and the adoptive parents apply for citizenship on their behalf.

**CHAIR**—So why do they then need a visa?

**Ms Ellis**—They do not need a visa once they have citizenship.

**CHAIR**—So what is the problem?

**Ms Ellis**—There have been concerns arising that essentially there was differential treatment: those children who were adopted and who were going straight to citizenship were not going through the same processes as other children adopted overseas.

**CHAIR**—So why would you make it more difficult, rather than making it easier, for the other lot?

**Ms Ellis**—The decision was taken to require that all children who were adopted overseas first needed to get a visa.

**CHAIR**—The logic of that escapes me. If you are overseas for the required 12 months and you have adopted the child in accordance with the laws of the nation from which the child comes and it is legally your child and you then apply for citizenship for your child, what the hell do you need a visa for?

**Mr CADMAN**—I agree; it just does not make sense. I would like to see the background papers on that. The logic of it escapes me.

**Mrs MARKUS**—It is just creating more hoops for people to jump through.

**CHAIR**—Now that you taken out the word ‘privately’ it makes even less sense. There is an increasing number of Australians seeking to adopt privately overseas. Is there? Do we know that? Evidence? Can we find that out? In the same paragraph it says ‘around 20 per cent of children adopted privately overseas apply for citizenship without first getting an adoption visa’. It seems to be part of the same statement, but now we know it is not.

**Mrs IRWIN**—So do we remove one ‘privately’ from the media release or two?

**Ms Ellis**—Around 80 per cent of children adopted overseas apply for a visa. The intention is to ensure that all are treated in the same way.

**CHAIR**—But that is crazy.

**Mr CADMAN**—If I am carrying an Australian passport, why do I need a visa to come back into Australia? I am a citizen.

**Ms Ellis**—The requirement is that, in the future, rather than going straight to citizenship they will be required to get the visa first.

**CHAIR**—That is stupid. If you are seriously giving as the reason ‘that all children have to be treated alike’, that is an absolute nonsense and makes the department look like an ass. As we read on, the press release says ‘it is essential to make sure there are checks in place to guard against the trafficking, abduction and sale of children’, which is why I ask you whether there is a criminal investigation of the adopting parents—

**Mr CADMAN**—There is none of that.

**CHAIR**—You are telling me there is not, and that you have to get a visa, so what is the relevance of that paragraph? In other words, who wrote the minute, for the minister to sign, that gave the justification for this change? And what did the minute say? Perhaps we can see the minute in a confidential manner.

**Ms Ellis**—I will take that on notice, Madam Chair.

**CHAIR**—Because you have got to come up with a better reason than the one you just gave.

**Mr FAWCETT**—Mr Mills, this is a completely different topic. With respect to the fees for visas, it is around \$1,200-odd for an adoption visa. If somebody is overseas and gets married to somebody overseas and wishes to bring them back as their spouse, and they come here initially as an Australian resident, what is the cost for a visa for that person?

**Mr Mills**—It is \$1,245; it is the same.

**Mrs IRWIN**—The minister, in paragraph 5 of the DIMIA submission, which he signed, stated:

There is a mandatory requirement for testing for HIV and Hepatitis B for adopted children ...

He went on to say that the testing is also for other groups. Have you got any statistics on how many children are being adopted who might fail those health requirements? Say you put in an application to adopt a child from overseas and when they go through the health requirements they show that they have HIV or hepatitis B. Have you got the statistics for the number of children who have been put up for adoption who might have failed those health tests?

**Mr Mills**—I certainly do not have statistics to hand and I am not sure whether that particular information would be available. I will, of course, undertake to research that and advise you accordingly.

**Mrs IRWIN**—That would be appreciated. The last sentence in that paragraph states:

Under the Migration Regulations health waiver arrangements are available for adopted children that fail the health requirement.

Can you explain that please?

**Mr Mills**—In certain circumstances where a medical condition is identified—let me go a step back. There are some visa categories which do not have a health waiver, for example, most of the skilled entry categories. So if a person has either a public health risk criterion, in which case they will always be excluded, for example, active tuberculosis, or alternatively a condition which may cause very significant cost to the Australian taxpayer—and that of course is a medical judgment, not a judgment made by immigration officers—then in the normal course of events that visa would be refused on the grounds that the health standards were not met. In relation to some close family categories including, for fairly obvious reasons, children and adopted children, there is a discretion for decision makers to waive a medical objection in certain cases. It is on a case by case basis but it cannot be done, as I understand it, where there is a public health risk such as active TB, which is probably unlikely in a young child.

**Mr QUICK**—How many cases have been waived in the last 12 months?

**Mr Mills**—I do not know whether we would have that information. It would be very few.

**Mrs IRWIN**—It would be interesting to find out, if you could take that on notice.



**Mr Mills**—In most cases we do try to front-end load medical processes, for very obvious reasons—the most obvious being that we wish to avoid prospective adoptive parents bonding with a child only to discover subsequently that there is a medical issue which may cause a problem. Our public information which we give out overseas always urges people to have those medical checks undertaken at the very beginning of the process.

**CHAIR**—Let us get this straight: if someone has adopted a child under the present law—leaving aside this new measure—and the child is adopted and brought in, is that child presently subject to medical checks?

**Mr Mills**—The child is subject to medical checks prior to the grant of a visa.

**CHAIR**—No, no: the child does not need a visa; the child has become a citizen.

**Mr Mills**—Then the same checks apply; the same criteria apply for the citizenship route as applied to the migration route.

**CHAIR**—So we are still checking the health?

**Mr Mills**—Yes.

**CHAIR**—So this does not change that requirement at all?

**Ms Ellis**—It is a policy requirement, rather than a requirement in the regulations.

**CHAIR**—So you are telling me there is no regulation requirement.

**Ms Ellis**—In respect of an application for citizenship, that is correct.

**CHAIR**—Instead of having a regulation that says, ‘Prior to getting citizenship and adopting, you shall have a medical check,’ you are going to change it round and make them have a visa so you can give them the mandatory check. Is that the reason for it?

**Ms Ellis**—No, that is not the reason for it. As I indicated, the reason for it is to ensure that all go through the same process.

**CHAIR**—No, I do not buy that. I am sorry; I do not buy that at all. The effect of it would be to change the requirement of the child to have a medical check.

**Ms Ellis**—That is one of the effects, yes.

**CHAIR**—What are the other effects?

**Ms Ellis**—They will be required to satisfy the regulation requirements under the Migration Act as all other children adopted.

**CHAIR**—Which are?

**Ms Ellis**—I would have to—

**CHAIR**—Can we have a list of those?

**Ms Ellis**—Mr Mills can go into that detail.

**Mr QUICK**—Can we have a list of the high-risk countries? You mentioned the eight-week period from the time of lodgment, which compares favourably with the department's published service standard for the processing of child visa caseload, which is 4½ months for high-risk countries. How many high-risk countries are we talking about?

**Mr Mills**—We can certainly identify those for you. They are effectively non-ETA countries.

**CHAIR**—What are non-ETA countries?

**Mr Mills**—Non-electronic travel authority countries. They are countries where there is a generalised and common incidence of immigration fraud and document fraud. In those countries we tend to subject documents to a significantly higher degree of scrutiny and often double-check with courts or welfare authorities in the country concerned.

**Mr QUICK**—Would I be right in thinking that the Philippines is one such high-risk country?

**Mr Mills**—I would suggest you would be right. Most of South-East Asia would fall into that category.

**CHAIR**—Going back to this proposal, what it will mean is that where an adoption has taken place, as they will no longer have the right to apply for citizenship before getting a visa, you will then have a basis for disallowing the child coming into the country, which does not presently exist.

**Mr Mills**—I am not sure that is the case. The requirements for the citizenship route, albeit only in policy as opposed to regulation, have always been applied. In my 15-odd years of being a migration officer offshore, all applications for the grant of citizenship to an adoptive child have gone through those same health checks.

**CHAIR**—That is not the point I am raising. Ms Ellis has said that there is a whole raft of other things that will flow—not just the health question. A whole raft of other things will be affected, all of which will give grounds to the department to disallow the child coming into the country. Do you agree?

**Ms Ellis**—The criteria will be in regulations under the Migration Act rather than relying on policy under the Australian Citizenship Act.

**CHAIR**—Correct. And as you have no regulations affecting the child who is a citizen, you have no ability to say that the child cannot come in, because there is no enabling legislation.

**Ms Ellis**—It is possible to refuse an application for citizenship if—

**CHAIR**—I did not say that. Listen to me. I said that, once citizenship is granted, you have no basis on which to refuse that child right of access.

**Ms Ellis**—Absolutely not. The issue is in eligibility for citizenship—

**CHAIR**—No. I am asking you what the ramification of this change is. To tell me that all children are to be treated alike is just facile. What we are really looking at is what the implications are and what the real reason is. I do not know why you were not prepared to say so in the first place.

**Ms Ellis**—Madam Chair, with respect, I indicated that it was ensuring that every child adopted overseas would go through the same process.

**CHAIR**—It is like drawing teeth to find out what the ramifications are.

**Ms Ellis**—As Mr Mills has said, the criteria for the visas are reflected in the policy applying to the citizenship application.

**CHAIR**—What it does is give you the ability to refuse that child the right to enter the country, because you now have some legislation that covers that child. What concerns me even more is that in this press release you say:

To date, there is no evidence or suggestion that private overseas adoptions have not been genuine.

However it is essential to make sure there are checks in place to guard against the trafficking, abduction and the sale of children ...

Yet you still have no requirement to do a crime check on the adopting parents.

**Mr CADMAN**—I would like to endorse what the chair is saying. If there is a weakness in this process, it is not the granting of visas to children; it is your failure to check the character of the people seeking to adopt. The issue of citizenship or visas for the children, based on the character of the individuals seeking to have that adoption or that citizenship recognised, is where our problem could be. Using your own words—‘trafficking in children’, ‘paedophilia’ and so on—the whole thing depends on the character of the adopting parents, whether they be single, same gender or whatever.

**CHAIR**—The other thing that comes out of this is that you say about 20 per cent of children adopted overseas apply for citizenship without obtaining adoption visas. Is that referring to the full complement of overseas adoptions as deleting the word ‘privately’ would tend to make us think?

**Ms Ellis**—Those that are not completed in country, as I understand it.

**Mr Mills**—It is all overseas adoptions.

**CHAIR**—Twenty per cent of them—20 per cent of the 379 children adopted last year—applied for citizenship without obtaining an adoption visa?

**Mr Mills**—Correct.

**CHAIR**—I am a bit confused. Is it 20 per cent of the 379 children last year or is it 20 per cent of those who were adopted privately?

**Ms Cabbage**—Twenty per cent of those who were adopted overseas. Citizenship have advised that about 94 children were adopted in the 12-month period 5 April 2004 to 5 April 2005 and went straight to citizenship rather than getting a visa. So that is on top—

**CHAIR**—Just a minute. That is quite important. We have 94 children in 2004-05. Between when and when?

**Ms Cabbage**—Between 5 April 2004 and 5 April 2005.

**CHAIR**—And how many children were adopted?

**Ms Cabbage**—Ninety-four went straight to citizenship.

**CHAIR**—They were children who were adopted by expats.

**Ms Cabbage**—Yes.

**CHAIR**—So there has been a dramatic jump from the year before, when there were 28, to 94 in this current year.

**Ms Cabbage**—No. Those citizenship figures have not been provided to you previously.

**CHAIR**—No.

**Ms Cabbage**—The figures you have are for grant of visas. I do not know how many children—

**CHAIR**—No, no. In the letter from Mr McGauran we have expatriate adoptions in 2002-03, 27; expatriate adoptions in 2003-04, 28; and now we have gone up between April 2004 and April 2005—

**Mr FAWCETT**—Madam Chair, that table does say ‘adoption visas granted’, so it does exclude the case we are talking about, which goes direct to citizenship.

**CHAIR**—I am sorry. You are right.

**Ms Cabbage**—The figures we provided previously were only for visas.

**Mr FAWCETT**—What that does show, though, which is significant in terms of this inquiry, is that we are now talking not about 20 or 30 but about 120.

**CHAIR**—We are talking about 100.

**Ms Cubbage**—It is very different.

**CHAIR**—In addition to the visas, could we have the citizenship figures for 2003-04?

**Ms Cubbage**—That would be for Mary-Anne to advise.

**Ms Ellis**—I will certainly take that on notice.

**CHAIR**—So these children are not counted anywhere?

**Mr CADMAN**—No. That was hinted at in earlier evidence, that there were others coming in that we were not able to identify—I think this is the figure.

**CHAIR**—That is quite a large number of people when the total number of adopters is 502. It seems to me that the implication of that paragraph, about trafficking, abduction and sale of children, is that this is a method that could be used by those people, which takes me back to the statement that you have to be checking the would-be parents.

**Mrs IRWIN**—So the parents who are expats overseas have never ever been checked?

**Ms Cubbage**—No. If the other country has finalised an adoption and it is a full and permanent adoption then the other country is likely to have done that.

**Mrs IRWIN**—Asking for federal and state police checks of those people in Australia?

**Ms Cubbage**—We do not do that.

**Mr Mills**—I think the answer is that we do not character check Australian citizen expatriates offshore. That is correct.

**Ms Cubbage**—But in the state and territory programs the states and territories do character checks, yes.

**Mrs IRWIN**—I hope there are no children being lost through the cracks.

**CHAIR**—It seems to me that if this is your concern—the trafficking, abduction and sale of children—then immediately that somebody is obliged to bring a child back into this country, or get citizenship for a child, rather than trying to go this way of subterfuge, you should do a criminal check on those parents.

**Mr FAWCETT**—With respect, Madam Chair, it is a bit like when one of our previous witnesses said that they were told by A-Gs and others in the state departments, ‘Don’t go overseas with the intention of adopting a child.’ The more proactive approach would be to speak to countries overseas and say, ‘Before you grant adoption to an Australian, our preference is that you contact us for a character reference, so that before the adoption takes place we are happy that the person is legitimate there.’ That then gets ahead of the loop because the flip side would be that they are now legally custodians of the child overseas, but we will not let them back in if

we subsequently find that they have some criminal record or ill intent. To be proactive, we should engage the other countries first and say, 'Before you approve anything, please talk to us.'

**CHAIR**—That is all very well, but there are countries where you are not going to have the facilities to do that.

**Mr FAWCETT**—Be that as it may—

**CHAIR**—It would be very interesting if we could have a list of the countries where these children come from, because you can bet that they are coming from all over the place.

**Mr FAWCETT**—In submission 102 there is a classic example of where people adopted in Kenya under similar circumstances, and there are many very genuine cases such as those. I would hate to put another level of bureaucracy into—

**CHAIR**—That is what I meant; I do not think this solves the problem. This is putting another impediment in the way of someone who is genuine, without attacking the real problem which is the suitability of the parents. If you said, 'I'm sorry you can't have citizenship for your adopted child because you are not suitable adopting parents,' it means they can come back to Australia but the child cannot.

**Mr CADMAN**—That is true. It is not the character of the child that is going to be the problem—

**CHAIR**—No, it is the parents.

**Mr CADMAN**—it is going to be the adopting parents.

**CHAIR**—We have heard in evidence today that there have been no overseas adoptions in the ACT, which is the only territory that allows same-sex adoptions, because the countries from which the children are being adopted do not permit it. But if we have a whole lot of children coming from other areas of the world, we do not know.

**Ms Cabbage**—We do not know.

**CHAIR**—We have no idea, and people who are of that ilk can usually find out that sort of stuff.

**Mrs IRWIN**—I think they also stated today—tell me if I am wrong, Chair—that a single person from the ACT has adopted. We do not know the sex of that person, what sorts of checks there were or what country was involved.

**Mr CADMAN**—One in eight comes from China, it is quoted.

**CHAIR**—One in eight files. But they are checked by the agencies, whereas these people are in a different category. I can see the potential for the same sorts of people who wanted to go to Aceh and abuse children finding a loophole. If we are looking to avoid that, I do not think we have found the solution.

**Ms Ellis**—I think it is really a matter for Mr Mills to comment on, but having a requirement to apply for a visa and the requirements of a visa provide a greater capacity to strengthen checks.

**CHAIR**—But you are not doing anything about the parents.

**Ms Ellis**—At the moment there is no criteria that I am aware of for the visa that goes to the parents.

**CHAIR**—Precisely, so it does not solve any problem. It is not the child who has the criminal tendencies; it is the possible parents. That is where we have to look.

**Mr Mills**—I think our research into trafficking issues, particularly in South-East Asia, suggests not that the parents are the perpetrators of any malpractice in that regard but that rather, in one or two instances, they have been innocent victims of those practices. I concede that what you suggest is also possible. Trafficking arrangements are normally run by criminal syndicates and we do devote considerable energy through our compliance network. In fact, we now have a specialist position based in Bangkok that looks at trafficking issues on a multicountry basis. So it is an area that is very much on the government's radar, as you would be well aware. It is an issue that we do take seriously, but the fact is that we do not character check Australian citizen expatriates at this point in time.

**Mrs IRWIN**—Which is sad.

**CHAIR**—Neither should you, at random; but, where they are applying for citizenship for an adopted child, you should. You absolutely should—it is our obligation to do so.

**Mrs IRWIN**—Correct.

**Mr Mills**—Understood. I can only give you accurate advice about what actually happens. We do not conduct those checks.

**Mrs IRWIN**—With respect to those 94 children that you quoted, who were adopted from 5 April 2004 to 5 April 2005, were those involved single adopters or were they married? Do you have any statistics on that? It would be interesting to find out.

**Ms Ellis**—We would need to take that on notice, but it is my understanding that the majority of cases were couples adopting. In terms of character checking of the parents, we would have no capacity through the citizenship process to apply such a requirement.

**Mrs IRWIN**—I understand that, but we are talking about children here. I know you do not have the capacity, but we should be trying to—

**CHAIR**—There is no earthly reason why we cannot have a regulation that says so.

**Mrs IRWIN**—That is right.

**Ms Ellis**—There may well be greater scope for that in the visa regulations than through the citizenship process.

**CHAIR**—You might want to go through the legislation relating to the prosecution of Australians for perpetrating crimes against children overseas. That is another source of legislation. I have real concerns that this change may well put up another barrier for people—a bureaucratic barrier that is not necessary—in an attempt to prevent an abuse of children. It can be done in a better way. That is my concern. We will need some more briefing and information from you. I understand that legislation is going to come in fairly quickly.

**Ms Ellis**—The citizenship issue is a policy change. It is something that is in effect now; it is not a legislative change.

**Mrs IRWIN**—And it comes into effect from today?

**Ms Ellis**—From yesterday.

**CHAIR**—But, if there is no legislative basis for it, it is unenforceable.

**Ms Ellis**—It is policy under the citizenship act provisions. The policy is used by decision makers. Of course, it does not have the same force as legislation, because policy must not be applied inflexibly in making a decision on an application, but it is generally the case that there would have to be some very unusual circumstances to make a decision outside of the policy guidelines. If an application for citizenship is refused and there are review rights to the AAT, the AAT generally takes account of the policy guidelines in determining the merits of that application. But you are correct: policy guidelines do not have the same force as regulations or primary legislation.

**CHAIR**—If you tried to run domestic law along that basis it would fail. I think we have a real dilemma on this one and that we need to look at it quite carefully. There being no other questions, I thank you for coming. We look forward to seeing that extra material from you.

Resolved (on motion by **Mrs Irwin**):

That this committee authorises publication, including publication on the parliamentary database, of the transcript of the evidence given before it at public hearing this day.

**Committee adjourned at 1.16 pm**