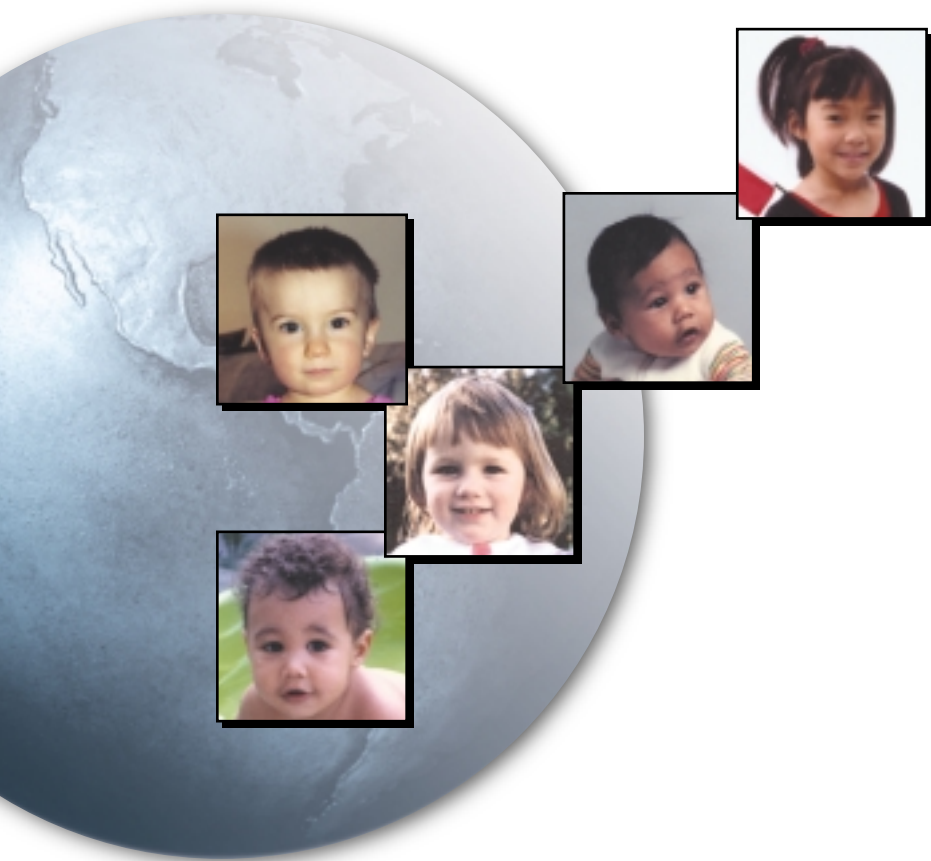




Citizenship and
Immigration Canada

Citoyenneté et
Immigration Canada

International Adoption and the Immigration Process



Canada 

C&I-387-03-00

**International
Adoption and the
Immigration Process**

For additional copies, contact:

Citizenship and Immigration Canada

Communications Branch

Ottawa, Ontario K1A 1L1

Tel.: (613) 954-9019

Fax: (613) 954-2221

Also available on the Internet at <http://www.cic.gc.ca>.

© Minister of Public Works and Government Services Canada, 2000

Cat. no. Ci63-18/2000

ISBN 0-662-64903-6

Available in alternative formats upon request.

Table of Contents

General Information	1
Responsibility for the Adoption and Protection of Children	2
Foreign Laws	4
The Hague Convention	5
The Sponsorship of Adopted Children under Canadian Laws	7
Adoption and Immigration: General Steps	9
Appeals	14
Questions and Answers	15
Provincial and Territorial Requirements	18

General Information

This booklet is designed to serve as a guide to the process of international adoption and the entry of adoptive children into Canada. It provides information on the basic steps and procedures that must be followed. The guide begins with an overview of adoption and immigration, and then focuses on the steps to be taken in the process.

It is a criminal offence in certain provinces or territories to bring an adopted or a soon-to-be adopted child into Canada without the prior authorization of the province or territory.

Responsibility for the Adoption and Protection of Children

International adoption can appear daunting at first. Its complexity stems from the various legislations involved in the process: social welfare laws, immigration laws and, not least, the laws of the child's country.

The responsibility for social welfare matters, including adoptions, lies with the provincial or territorial authorities. The ministry responsible for adoptions varies depending on the province or territory where the adoptive parents reside. For example, the authority might be the New Brunswick Department of Health and Community Services, Manitoba Family Services or Saskatchewan Social Services, to name a few. Each province or territory manages its own adoption legislation. If you are considering an international adoption, you should first contact the ministry or department in your province or territory to learn about its requirements (see insert for the list of provinces and territories).

Citizenship and Immigration Canada (CIC) is responsible for the immigration process that allows the child you have adopted or intend to adopt to come to Canada.

Although the process that leads to the issuance of immigrant visas in international adoption cases is a high priority for CIC, adoptive parents may encounter delays that might be perceived as nothing more than "red tape." The domestic and international procedures that exist, however, have been established to protect the safety and well-being of children.

Immigration and adoption standards are put in place to ensure the protection and best interests of the parties involved. Essentially, adoption is a process that ensures that the child is provided with a suitable family environment although, on occasion, abuse and fraud unfortunately occur.

About 2,000 foreign children are adopted by Canadian citizens or permanent residents every year. These children are given high priority in the immigration process.

Human Resources Development Canada, a federal department, has a Child, Family and Community Division (CFCD) whose programs and activities are designed to strengthen families and communities by fostering optimal lifelong development. The intercountry adoption activities formerly handled by the National Adoption Desk have been reprofiled under this division.

The CFCD exists to represent the provinces and territories abroad on matters of intercountry adoption, except for Quebec, where the Secrétariat à l'adoption internationale plays this role. The CFCD facilitates the development of intercountry adoption protocols, and promotes the best interests of children adopted from another country by Canadians. It also coordinates intercountry adoption issues and information among the provinces and territories, other federal departments, foreign authorities and non-governmental organizations, and acts as the federal central authority under the Hague Convention on Intercountry Adoption.

Foreign Laws

Laws regarding adoption by foreigners vary from one country to another. It is the responsibility of the visa officer to ensure that the adoption is legal according to the laws of the country in question. If the adoption has already occurred, the onus is on the sponsor to provide the documentation needed to establish this fact. An adoption legally completed in a foreign country will be given automatic legal recognition under the laws of all jurisdictions in Canada except in Quebec, where such recognition must be granted by a Quebec court after the arrival of the child.

Not all countries allow the adoption of children by foreigners. Some allow only a guardianship while others forbid any international adoptions. Potential sponsors should consult their provincial or territorial adoption authorities or the appropriate foreign embassy in Canada before applying for sponsorship to determine if adoption is allowed. The sponsorship of children under guardianship is not allowed under current Canadian immigration legislation. For the telephone numbers and addresses of foreign embassies or consulates in Canada, consult your local telephone directory or visit the Internet at <http://www.dfait-maeci.gc.ca/protocol/>.

The Hague Convention

In May 1993, 66 countries, including Canada, reached an agreement on the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (the Hague Convention on Intercountry Adoption). The Convention seeks to establish a cooperative framework between the countries of origin of children in need of adoption and their receiving countries to ensure that the child's best interests are safeguarded. The Convention's objective is to prevent abuses such as the abduction or sale of, or the trafficking in, children or any other improper financial gains. It also ensures proper consent to the adoption, allows for the child's transfer, and establishes the adopted child's status in the receiving country.

The Convention sets minimum international standards and procedures for adoptions that occur between signatory countries. Not every signatory country has yet ratified the agreement (see insert for the list of countries that have). In the case of adoptions taking place between countries that have ratified it, the Convention ensures greater protection from exploitation for children, birth parents and adoptive parents alike. Canada ratified the Convention in December 1996, and it came into force on April 1, 1997, in those provinces and territories that had taken the legislative steps required to conform to it (see insert).

Each country that is party to the Convention must designate a central authority to monitor requests for intercountry adoption. As adoption falls under provincial or territorial jurisdiction in Canada, each province and territory has its own central authority (listed in the insert). The federal central authority coordinates matters between the federal departments and the provincial or territorial central authorities for adoption. It also assists the provincial and territorial authorities with the implementation of the Convention.

The ratification of the Convention has made necessary the amendment of federal immigration regulations. The amendments provide that the central authorities of the receiving province or territory and the country of origin must agree to the child's placement. The immigration requirements must be met before the adoption can take place and before a visa officer can issue an immigrant visa for the child.

When Does the Hague Convention on Intercountry Adoption Apply in Canada?

The Hague Convention applies only when the child to be adopted resides in a country that has implemented the Convention, and when the prospective adoptive parents live in a province or territory that has also implemented the Convention. The central authority of the province or territory determines if the Convention applies to a specific case.

Prospective adoptive parents must fill out an application for adoption and present it to the central authority of their province or territory. They are advised to contact their provincial or territorial authority (see insert) to obtain information on the adoption process and the provincial or territorial requirements.

Note: Adoptions arranged privately without the involvement of any central authorities are not allowed if both the adoptive parents' province or territory of residence and the country where the child resides have implemented the Hague Convention.

The Sponsorship of Adopted Children under Canadian Laws

Who Is Eligible to Sponsor?

Persons eligible to sponsor adopted children or children intended for adoption in Canada must be Canadian citizens or permanent residents, aged 19 or over, and living in Canada. Other eligibility criteria are outlined in the application kit *Sponsoring a Family Class Relative*, which can be downloaded from the CIC Web site (<http://www.cic.gc.ca>) or ordered through the CIC Call Centre (see page 17 for numbers).

Who May Be Sponsored?

There are two types of adoption cases:

■ Children Adopted Outside Canada

Children may be sponsored to come to Canada if they are under 19 years of age at the time of the sponsorship application and if they have been adopted outside Canada according to the laws of another country. A genuine parent-child relationship must be created as a result of the adoption.

■ Children Adopted in Canada

A child may also be sponsored as an intended adoptee to be adopted in Canada, if he or she is under 19 years of age at the time of the sponsorship application and:

- an orphan;
- an abandoned child whose parents cannot be identified;
- a child born outside of marriage who has been placed with a child welfare authority for adoption;
- a child whose parents are separated and who has been placed with a child welfare authority for adoption; or
- a child, one of whose parents is deceased, who has been placed with a child welfare authority for adoption.

What Are the Financial Requirements for Sponsorship?

There are no financial requirements for adoptive parents if the child has already been adopted outside Canada. However, if the adoptive parents are sponsoring a child they intend to adopt in Canada, they must meet the Low Income Cut-Off criterion for the number of persons in the household. The application kit *Sponsoring a Family Class Relative* provides detailed information on these financial requirements.

Adoption and Immigration: General Steps

To determine if an adoption will be processed under the Hague Convention, first consult the section on the Hague Convention.

1. Home Study

The home study is an essential component of the adoption process. Its objective is to assess the ability of the applicants to parent an adopted child. It can include references, medical reports and other personal information, and is usually done by a licensed social worker approved by the province or territory of residence of the applicants.

The adoption process may vary from one province or territory to another. However, all provinces and territories require that a home study be completed before approving the arrangements for the adoption.

A home study will assist prospective adoptive parents in dealing with international adoption and its implications. Bringing up an adoptive child sometimes requires special skills. Children may have had a difficult start in life, or may have been deprived of emotional support or physical stimuli in an orphanage, or may even have suffered some health ailments. Adoptive parents will have to be prepared for the reactions of their family, racial and cultural differences, and adjustment problems. All the possible implications for both the adoptive parents and the child will need to be well thought-out before proceeding. Applicants should contact the central authority responsible for adoptions in their province or territory to obtain all relevant information on home studies.

2. Sponsorship

Once a home study has been done, adoptive parents begin the immigration process by completing an Undertaking Form, available in the application kit *Sponsoring a Family Class Relative*. The kit may be obtained through the CIC Call Centre (see page 17 for the numbers) or downloaded from the CIC Web site at <http://www.cic.gc.ca>.

The undertaking is a binding commitment from the sponsors to provide the necessary care and support for the child they wish to adopt or have already adopted. The agreement remains in force for 10 years (or until the child reaches the age of majority—whichever is longer—in Quebec cases).

3. Fees

There is a fee for the sponsorship to cover the cost of processing the sponsorship and the visa application. The fee is not refunded regardless of the outcome of the case. Instructions for the payment of the fee are provided in the sponsorship kit.

4. Processing the Sponsorship

The sponsoring parents are to send the undertaking with the correct fee to the Case Processing Centre (CPC) in Mississauga, Ontario (address provided in the kit). The name of the child may be left blank in the undertaking if the child has not yet been identified.

The CPC in Mississauga will process the family class sponsorship application and inform the appropriate Canadian visa office abroad once the sponsorship has been approved. The CPC will also send an Application for Permanent Residence to the sponsoring parents.

Cases Subject to the Hague Convention

In these cases, the central authorities of the receiving province or territory and the country of origin must agree to the child's placement before the adoption can take place. Therefore, it is absolutely necessary to first contact the provincial or territorial authority where the child will reside.

Once a sponsorship application has been approved, the CPC in Mississauga will write to the provincial or territorial authority to request the issuance of a "Notification of Agreement" to the adoption proposal (see Questions and Answers on page 15). The province or territory is required to indicate in the letter of notification that the application is subject to the Hague Convention. The provincial or territorial notification will be sent directly to the visa office abroad to reduce delays.

Cases Not Subject to the Hague Convention

Once a sponsorship application has been approved, the CPC in Mississauga will write to the provincial or territorial authority to request the issuance of a "letter of no objection" or a "letter of no involvement" (see Questions and Answers on page 15). Where a home study and specific information on the child are required for the issuance of the letter, the central authority of the province or territory will review the home study and the information before issuing the appropriate letter and forwarding it to the Canadian visa office abroad.

5. Overseas

The child must meet a number of immigration requirements before an immigrant visa can be issued.

The Application for Permanent Residence Form sent by the CPC must be completed on the child's behalf. Sponsors can fill out the application form themselves and send it to the visa office, or they may send the form to the child's guardian, who will complete it and forward it to the visa office.

The child must undergo a medical examination conducted by a physician designated by CIC in the child's home country. This examination is crucial to the child's acceptance in Canada. It cannot be emphasized enough that the medical examination should be done **as early as possible** in the process and, in any case, prior to the adoption. The results of the medical examination may affect the decision of the adoptive parents to go ahead with a particular adoption, especially in the case of a complex or difficult medical history. If the child is medically inadmissible in Canada, he or she will normally be refused a visa.

The visa officer must be satisfied that the adoption is not one of convenience (that is, solely for the purpose of facilitating the entry of the child or that of his or her relatives into Canada). The application for permanent residence may be refused if the visa officer concludes that the real purpose of the adoption is for the child to gain admission to Canada as a permanent resident and not to give a family to the child.

The adoption, or the proposed adoption, must not contravene the adoption laws of the child's country of origin. If an adoption is subject to the Hague Convention on Intercountry Adoption, the terms of the Convention must be respected, otherwise the application will be refused.

A passport from the child's home country permitting travel to Canada must be obtained for the child once a visa has been issued.

Cases Subject to the Hague Convention

The visa office will notify the provincial or territorial authority when the child has met the immigration requirements and is ready to be issued a visa. Only then can the adoption procedures be finalized (if the adoption takes place in the country of origin) or the child be entrusted to the adoptive parents (if the adoption will proceed in Canada).

Upon notification that the adoption and the transfer of the child to the adoptive parents has taken place, the visa office will verify the adoption or legal custody papers and the travel document, and issue an immigrant visa to the child.

Cases Not Subject to the Hague Convention

The visa office will process the case and ensure that the child meets the immigration requirements.

When this process is finalized, the visa office will verify the adoption or legal custody papers and the travel document, and issue an immigrant visa to the child.

Note: Sponsors should not go abroad intending to return to Canada with the child before they have been officially informed that the immigration process has been completed. They should not assume that Canada's immigration requirements will be waived when the adoption is completed.

While these procedures may seem complicated and lengthy, they are adhered to by all agencies involved in adoptions for the protection of the child. Sponsors are urged to be patient and to follow these procedures. Adoption is a happy moment in the lives of both the sponsor and the child. Citizenship and Immigration Canada tries to make it as easy as possible for sponsors to bring their child home while ensuring that the process is legal and that it protects the interests of all parties in the process.

Appeals

If an application is refused, the sponsor may appeal the decision. Sponsors will be notified of the refusal of their application by the visa office and will also be informed of their right to appeal. In cases where the Hague Convention applies, there is no right of appeal for a sponsor who has not respected the provisions of the Convention.

Appeals are made to the Immigration Appeal Division of the Immigration and Refugee Board (IRB). An appeal is initiated by the sponsor through the filing of a Notice of Appeal within 30 days of being notified of the refusal of the application. The document is submitted to an immigration officer and a hearing date is scheduled.

The sponsor has the right to be represented by counsel during the appeal process. It is up to the sponsor or his or her counsel to persuade the Appeal Division to allow the appeal.

If a sponsor is successful in appealing the refusal of a sponsorship application, the case is sent back to the visa office for review. If the appeal is dismissed, the refusal stands. For more information on the appeal process, consult the brochure entitled *Immigration Appeal Division: What It Is and How It Works*, which can be downloaded from the IRB Web site at <http://www.irb.gc.ca> or ordered directly from the IRB (please consult the blue pages of your telephone book for the office nearest to your residence).

Questions and Answers

What is a letter of no involvement or no objection?

A letter of no objection, required by Immigration Regulation 6(1)(c), is a written statement from the child welfare authority of the province or territory in which the child is to reside, confirming that the authority has no objection to the proposed arrangements for the reception and care of that child. However, where an adoption is finalized abroad prior to the child's immigration to Canada, some provinces or territories will issue a letter of no involvement which informs the visa office abroad that an adoption order that is legally granted in a foreign country will be recognized by the province or territory. It is important to note that no immigrant visa will be issued without either a letter of no involvement or a letter of no objection from the appropriate provincial or territorial authority.

What is a Notification of Agreement?

In cases where the Hague Convention applies, all adoptions must receive prior approval from the central authorities of the country of origin and the receiving province or territory before immigration procedures can begin. The province or territory where the child will reside must provide a Notification of Agreement instead of a letter of no objection. A Notification of Agreement is a written statement confirming that the province or territory agrees to the adoption.

What is an immigrant visa?

An immigrant visa is a document issued to the child which allows him or her to enter Canada to live permanently. When the child enters Canada, the immigrant visa must be presented to an immigration officer at the port of entry to complete the formal process of granting the child permanent residence in Canada. An immigrant visa expires one year after the medical examination of the child and must be used before that date.

Can I bring my adopted child to Canada before the immigrant visa is issued?

No. Before bringing their child back to Canada, adoptive parents must await notification that the child's immigrant visa has been issued. This will avoid unnecessary delays and costs.

How does adoption affect the child's relationship with his or her biological parents?

Adoption severs a child's legal relationship with its biological parents. This means that the child cannot later sponsor these relatives for entry into Canada. The sponsorship of children under guardianship is not allowed under immigration legislation because guardianship does not sever the ties between the child and the biological parents.

How long will the adoption process take?

As a member of the family class, an adopted child, or one who will be adopted, receives priority processing. However, many factors affect the length of processing. The time required to process the sponsorship itself should not exceed two weeks. The CPC in Mississauga endeavours to process them as quickly as possible. The overseas portion of the processing depends on many factors, such as the time required to complete the medical examination, for instance. In addition, complications in the adoption process will result in delays in the immigration process.

How do I check on the status of my case?

The CIC Call Centre will be able to inform you on the status of your case (see telephone numbers below). When the CPC acknowledges receipt of your undertaking, it will give you a client identification number which you should use in any future enquiries regarding your case.

CIC Call Centre Telephone Numbers

Toronto	(416) 973-4444
Montréal	(514) 496-1010
Vancouver	(604) 666-2171

For toll-free access in Canada outside these cities, call 1 (888) 242-2100

Provincial and Territorial Requirements

As the requirements for international adoptions are subject to change and fall under provincial or territorial jurisdiction, we strongly recommend that you contact the province or territory where the child will reside for information, in particular regarding the home study requirements. Telephone and fax numbers, as well as Web site addresses, are provided in the insert.



List of countries that have implemented the Hague Convention on Intercountry Adoption

The following list was updated on May 2, 2000. As countries (and other provinces and territories in Canada) may be added, it is recommended that you contact the CIC Call Centre (see next page for numbers) or visit the CIC Web site at the following address to ensure that you have the most recent information: <http://www.cic.gc.ca>.

Andorra	El Salvador	Norway
Australia	Finland	Panama
Austria	France	Paraguay
Brazil	Georgia	Peru
Burkina Faso	Israel	Philippines
Burundi	Italy	Poland
Canada*	Lithuania	Romania
Chile	Mauritius	Spain
Colombia	Mexico	Sri Lanka
Costa Rica	Moldova	Sweden
Cyprus	Monaco	Venezuela
Denmark	Netherlands	
Ecuador	New Zealand	

* Only the following provinces and territories have legislation in place to implement the Hague Convention:

Alberta	Nova Scotia	British Columbia
Ontario	Manitoba	Prince Edward Island
New Brunswick	Saskatchewan	Yukon
Northwest Territories		

CIC Call Centre

Toronto (416) 973-4444

Montréal (514) 496-1010

Vancouver (604) 666-2171

For toll-free access within Canada outside these cities:

1 (888) 242-2100

International adoption authorities in Canada

Government of Canada

Human Resources Development Canada
Team Leader, Research, Policy and
Program Development
Child, Family and Community Division
Tel.: (819) 997-1417
Fax: (819) 953-1115
<http://www.hrdc-drhc.gc.ca>

Manitoba

Manitoba Family Services
Child, Family and Community
Development Branch
Intercountry Adoptions Specialist
Tel.: (204) 945-6950
Fax: (204) 945-6717
<http://www.gov.mb.ca>

Alberta

Alberta Children's Services
Program Manager, Adoption Services
Tel.: (780) 422-5641
Fax: (780) 427-2048
<http://www.gov.ab.ca/cs/calgaryrockyview/programs/adoptions/internat.htm>

New Brunswick

Department of Health and
Community Services
Adoption Consultant
Tel.: (506) 444-5970
Fax: (506) 453-2082
<http://www.gov.nb.ca>

British Columbia

Ministry of Children and Families
Adoption Branch
Tel.: (250) 387-3660
Fax: (250) 356-1864
http://www.mcf.gov.bc.ca/adoption/adoption_1.htm

Newfoundland

Department of Health and
Community Services
Director of Child, Youth and
Family Services
Tel.: (709) 729-2668
Fax: (709) 729-6382
<http://www.gov.nf.ca/health>

Nova Scotia

Department of Community Services
Manager of Adoption and Foster Care
Tel.: (902) 424-3205
Fax: (902) 424-0708
<http://www.gov.ns.ca/coms/adopint.htm>

Northwest Territories

Department of Health and Social Services
Coordinator, Child Protection and
Adoption
Tel.: (867) 873-7943
Fax: (867) 873-7706
<http://www.gov.nt.ca>

Nunavut

Department of Health and Social Services
Tel.: (867) 975-5700
Fax: (867) 975-5705
<http://www.gov.nu.ca>

Ontario

Ministry of Community and
Social Services
Adoption Unit, Central Services
Tel.: (416) 327-4730
Fax: (416) 327-0573
<http://www.gov.on.ca/CSS/>

Prince Edward Island

Department of Health and Social Services
Director of Child Welfare
Tel.: (902) 368-6514
Fax: (902) 368-6136
<http://www.gov.pe.ca>

Saskatchewan

Saskatchewan Social Services
Adoption Program Consultant
Tel.: (306) 787-5698
Fax: (306) 787-0925
<http://www.gov.sk.ca/govt/socserv/infocntrl/progserv/FamilyYouth/Adoption/ado1.htm>

Quebec

Ministère de la Santé et des
Services sociaux
Secrétariat à l'adoption internationale
Tel.: (514) 873-5226 or 1 (800) 561-0246
Fax: (514) 873-1709
<http://www.msss.gouv.qc.ca/fr/organisa/index.htm>

Yukon

Yukon Health and Social Services
Family and Children's Services
Placement and Support Services
Tel.: (867) 667-3473
Fax: (867) 393-6204
<http://www.gov.yk.ca>

The Hague Conference on Private International Law

(1993 Intercountry Adoption Convention)
<http://www.hcch.net/e/conventions/menu33e.html>

For more information on international adoptions, please consult the brochure *International Adoption and the Immigration Process*, available as follows:

Citizenship and Immigration Canada
Communications Branch
Ottawa, Ontario K1A 1L1
Tel.: (613) 954-9019
Fax: (613) 954-2221

Also available on the Internet at <http://www.cic.gc.ca>