

INTERNATIONAL ADOPTION PROTOCOL BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE KINGDOM OF SPAIN

The Republic of the Philippines and the Kingdom of Spain, hereinafter the Parties, have agreed to the following in consideration of :

The Convention on the Rights of the Child, adopted by the United Nations' General Assembly on November 20, 1989, establishes that international adoption can be considered as another form of child care, in the event that the child can not be provided with a foster family or that he / she can not get adequate child care in the country of origin;

In agreement with their respective legislation, both Parties have ratified the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (The Hague, May 29, 1993), and therefore, both Parties agree in working together for the sake of the child's best interests;

The principle of the child's best interests, that is to say, he / she is raised in stable family conditions, will be the essential basis for the interpretation of this Protocol;

Adoptive placement must take into account the child's cultural identity;

The rights and conditions of and safeguards for the international adoptive child should be equivalent to those of the national adoptive child;

The central and the appropriate bodies of both Parties must be in charge of the child's placement and no undue profit should be obtained by the persons involved in the process; and

Both Parties intent to offer each other maximum cooperation for adoption in their respective countries;

FOR ALL OF THE ABOVE, both Parties in full possession of their legislative powers and exercising their responsibilities, agree to comply with the Protocol.

TITLE I SUMMARY OF THE APPLICATION

ARTICLE 1

The current Protocol has the following objectives:

- a. To establish a system of cooperation between the Parties to prevent and completely eliminate the abduction, sale and illegal traffic of children.
- b. To agree to mutual acceptance of full adoptions made in the context of this Protocol in agreement with the legislation of both countries.

ARTICLE 2

- a. The Protocol shall be relevant in the adoption of a child whose permanent residence is in the Philippines or in Spain by persons permanently living in the other country.
- b. For the purpose of this Protocol, a "child" is a person under the age of eighteen, except in the case of a younger age provided by the government's law.

TITLE II CENTRAL AUTHORITIES AND OFFICIALLY APPROVED ORGANIZATIONS

ARTICLE 3

- a. Both Parties appoint as "Central Authorities" the following institutions:

For the Philippines: Inter-Country Adoption Board (ICAB)

For Spain : Each of the Spanish institutions authorized for the residents of their respective territories which have fulfilled the requirements provided in Article 6.2.b of the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (The Hague, May 29, 1993). The aforementioned institutions are listed in Appendix A.

- b. The Dirección General de Acción Social del Menor y de la Familia (General Office for Child and Family Welfare), which is part of the Ministry of Labor and Social Affairs, shall be the Central Authority for the transmittal of reports and for communication with the ICAB. However, in the event that any of the approved Spanish Central Authorities included in Appendix A, process the applications directly with the ICAB, the Ministry of Labor and Social Affairs shall inform beforehand the ICAB and the agreement shall take place after the Central Authority has received a letter from the ICAB acknowledging receipt of the communication mentioned above.
- c. The Central Authorities may delegate all or part of their responsibilities to officially designated public or private institutions proposed by one of the Parties approved by the other Party.
- d. The Central Authorities shall serve as supervisors of the approved organizations and shall impose or require that competent authorities immediately impose sanctions for failure to comply with, or infractions of the laws of this Protocol, the international agreements, and the laws for the defense of children.

ARTICLE 4

- a. The Central Authorities shall co-operate and promote the liaison between the respective official authorities to ensure the protection of prospective adopted children and to attain the rest of this Protocol's objectives; in particular, these authorities, in agreement with their respective legislation, shall comply with and carry out the pre-adoption

process which consists in submitting for adoption a prospective adoptive child to the most suitable persons. They shall also supervise the next stage of the process after the legal ruling.

b. The Central Authorities shall inform each other about their national legislation concerning adoption and about any other related matters, and shall maintain in close contact in regard to the application of the Protocol so that any difficulty that might arise can be eliminated.

ARTICLE 5

The Central Authorities shall take the appropriate measures in order to :

- a. Keep and exchange information regarding both the child and the prospective adoptive parent's history and present situation, and concerning the success of the child's adaptation to them;
- b. Facilitate, follow and activate the adoption process;
- c. Prevent improper, illegal profits in the adoption process as well as any action against the objectives of this Protocol;
- d. Execute and promote adoption control activities in both countries;
- e. Provide with the respective parties evaluation criteria for the international adoptions carried out under the auspices of this Protocol.

ARTICLE 6

The adoptions envisaged in this Protocol shall be carried out when :

- a. The Central Authority of the country of origin has declared that no legal objections exist for the child's adoption;
- b. The Central Authority has verified that the international adoption is in the child's best interest;
- c. The Central Authority of the country of reception guarantees that the prospective adoptive parents qualify for international adoption according to the requirements of Appendix B;
- d. The Central Authority of the country of origin has assigned the child to the prospective adoptive parents;
- e. The Central Authority of the country of reception gives a guarantee that the child will be authorized to enter and live permanently in that country.

ARTICLE 7

The Central Authority of the country of reception, in agreement with its legislation, shall guarantee the compliance of all necessary requirements for recognizing full adoption, shall inform the Central Authority of the country of origin of the decision, and shall forward the relevant documents.

ARTICLE 8

If during the process of adoption it becomes evident that the adoption is not being carried out in the child's best interest, the Central Authority that upholds such an objection shall contact the Central Authority of the other country so that adequate measures can be taken by mutual consent to protect the child's rights. The Central Authorities of both countries shall completely guarantee the child's safety and coordinate efforts until a final agreement on the child's protection is reached.

TITLE III REQUIREMENT AND PROCEDURES

ARTICLE 9

In the processing of the petition forms between the Central Authorities of both countries, the requirements shall be fulfilled and additional documents listed in Appendix B, an integral part of this Protocol, shall be requested. Appendix C contains the procedures for filing the petitions.

ARTICLE 10

The conditions listed in Appendix B should be adapted at any given time to the legislation and / or to the criteria and procedures of both countries, and can be modified at any time through an exchange of letters between the Department of Social Welfare and Development and the Ministry of Labor and Social Affairs once it has been approved in writing by the Central Authorities of both parties.

ARTICLE 11

The Central Authorities shall keep safe all the information regarding the child's origin and family history, when available. It will be possible to access this information after permission is granted within the limits established by the laws of both countries.

ARTICLE 12

a. When an official authority has sufficient proof that there is risk of failure to comply with any of the stages of the procedures for international adoption provided in this Protocol, it shall contact its Central Authority immediately so that the Central Authorities of both countries can work together to adopt the measures deemed necessary.

b. Any discrepancy that might arise in the interpretation or application of this Protocol shall be resolved by means of consultation or negotiations.

TITLE IV FINAL CLAUSES

ARTICLE 13

a. Any change or revision of the text of this Protocol shall be made by mutual consent of both parties. This change or revision shall be consistent with the provisions of the matter. Any changes made to the requirements included in Appendix B shall be made in writing by the Central Authorities as long as these revisions do not fundamentally

change the provisions of this Protocol. However, any change to the Protocol or to Appendix B shall not affect the process of filing an application.

b. This Protocol shall continue to be valid until one of the Parties notifies officially, through diplomatic channels, of its decision to postpone for a period of time, or to contest the validity of the Protocol. If such a case exists, this Protocol shall be valid for ninety (90) days after the date of the official notification. Such a suspension shall not affect the adoption applications in process, nor shall it change any of the previous obligations met in regard to the children already given for adoption.

ARTICLE 14

This Protocol shall provisionally be valid for 30 days after the date of its signature and shall take effect from the date of the last written notification through diplomatic channels between the Parties, stating that all of the internal requirements have been fulfilled.

This Protocol was made in Manila on 12 November 2002, both in English and Spanish, and they are both equally valid.

FOR THE REPUBLIC OF
THE PHILIPPINES

(Sgd.)

LOURDES G. BALANON

Undersecretary for
Social Welfare and Development

FOR THE KINGDOM OF
SPAIN

Sgd.)

**RAMON GIL-CASARES
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Secretary of State for
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APPENDIX A

AUTONOMOUS COMMUNITY
OF ANDALUCIA

Dirección General de Infancia y
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Consejería de Asuntos Sociales
Avda. Hytasa, 14
41071 SEVILLA

AUTONOMOUS COMMUNITY
OF ARAGÓN

Instituto Aragonés de Servicios
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50071 ZARAGOZA

AUTONOMOUS COMMUNITY

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Social a