

Subpart C—Intercountry Adoption of a Convention Adoptee

SOURCE: 72 FR 56854, Oct. 4, 2007, unless otherwise noted.

§ 204.300 Scope of this subpart.

(a) *Convention adoptees.* This subpart governs the adjudication of a Form I-800A or Form I-800 for a Convention adoptee under section 101(b)(1)(G) of the Act. The provisions of this subpart enter into force on the Convention effective date, as defined in 8 CFR 204.301.

(b) *Orphan cases.* On or after the Convention effective date, no Form I-600A or I-600 may be filed under section 101(b)(1)(F) of the Act and 8 CFR 204.3 in relation to the adoption of a child who is habitually resident in a Convention country. If a Form I-600A or Form I-600 was filed before the Convention effective date, the case will continue to be governed by 8 CFR 204.3, as in effect before the Convention effective date.

(c) *Adopted children.* This subpart does not apply to the immigrant visa classification of adopted children, as defined in section 101(b)(1)(E) of the Act. For the procedures that govern classification of adopted children as defined in section 101(b)(1)(E) of the Act, see 8 CFR 204.2.

§ 204.301 Definitions.

The definitions in 22 CFR 96.2 apply to this subpart C. In addition, as used in this subpart C, the term:

Abandonment means:

(1) That a child's parent has willfully forsaken all parental rights, obligations, and claims to the child, as well as all custody of the child without intending to transfer, or without transferring, these rights to any specific individual(s) or entity.

(2) The child's parent must have actually surrendered such rights, obligations, claims, control, and possession.

(3) That a parent's knowledge that a specific person or persons may adopt a child does not void an abandonment; however, a purported act of abandonment cannot be conditioned on the child's adoption by that specific person or persons.

(4) That if the parent(s) entrusted the child to a third party for custodial care

in anticipation of, or preparation for, adoption, the third party (such as a governmental agency, a court of competent jurisdiction, an adoption agency, or an orphanage) must have been authorized under the Convention country's child welfare laws to act in such a capacity.

(5) That, if the parent(s) entrusted the child to an orphanage, the parent(s) did not intend the placement to be merely temporary, with the intention of retaining the parent-child relationship, but that the child is abandoned if the parent(s) entrusted the child permanently and unconditionally to an orphanage.

(6) That, although a written document from the parent(s) is not necessary to prove abandonment, if any written document signed by the parent(s) is presented to prove abandonment, the document must specify whether the parent(s) who signed the document was (were) able to read and understand the language in which the document is written. If the parent is not able to read or understand the language in which the document is written, then the document is not valid unless the document is accompanied by a declaration, signed by an identified individual, establishing that that identified individual is competent to translate the language in the document into a language that the parent understands and that the individual, on the date and at the place specified in the declaration, did in fact read and explain the document to the parent in a language that the parent understands. The declaration must also indicate the language used to provide this explanation. If the person who signed the declaration is an officer or employee of the Central Authority (but not of an agency or entity authorized to perform a Central Authority function by delegation) or any other governmental agency, the person must certify the truth of the facts stated in the declaration. Any other individual who signs a declaration must sign the declaration under penalty of perjury under United States law.

Adoption means the judicial or administrative act that establishes a permanent legal parent-child relationship between a minor and an adult who is