

FAQs:
Bilateral Adoption Agreement with Russia

July 13, 2011

Q: Why is there a Bilateral Adoption Agreement with Russia?

Each year, thousands of children find loving, nurturing homes through intercountry adoptions, and thousands of American families are enriched by welcoming Russian orphans into their homes. In light of concerns raised by several tragic cases, in April 2010, the U.S. and Russian governments began negotiating the *Agreement between the United States of America and the Russian Federation Regarding Cooperation in Adoption of Children* to strengthen procedural safeguards in adoptions between the United States and Russia.

Q: When was the Agreement signed?

The Agreement was signed on July 13, 2011, by U.S. Secretary of State Hillary Clinton and Russian Foreign Minister Sergei Lavrov in Washington, D.C.

Q: When will the Agreement enter into force?

The Agreement will enter into force upon the exchange of diplomatic notes from the U.S. and Russian governments. The exchange of notes will take place only after both sides have completed internal procedures necessary for entry into force, which for Russia means approval by its Duma and establishment of other internal procedures for implementing the Agreement.

The U.S. Department of State and U.S. Citizenship and Immigration Services (USCIS) will provide on their websites procedures and clear guidance related to the Agreement prior to its entry into force. Please monitor www.adoption.state.gov and www.uscis.gov for more information.

Q: Does this mean that the United States does not want Russia to join The Hague Intercountry Adoption Convention?

In order to promote stronger safeguards for children in the intercountry adoption process between our two countries within our existing legal authorities, the United

States and Russia negotiated the Agreement, which incorporates several elements of The Hague Convention.

Q: What are the key provisions of the Agreement?

The Agreement provides a framework for intercountry adoptions between Russia and the United States and is designed to be reciprocal.

The Agreement aims to improve the intercountry adoption process and better protect adoptive children, birth parents, and adoptive parents. Under the Agreement, Russia may authorize adoption agencies to operate in Russia and only those “authorized organizations” may provide services in adoptions covered by the Agreement, except in the case of an adoption of a child by his or her relatives. This will eliminate independent adoptions of children from Russia by U.S. families, except in situations where a child is being adopted by a relative. The Agreement includes provisions designed to enhance the prospective adoptive parents’ preparation to adopt, to ensure that prospective adoptive parents receive more complete information about adoptive children’s social and medical histories and anticipated needs, and to improve post-adoption reporting and monitoring.

Q: Whom does the Agreement cover?

The Agreement will cover adoptions to and from the United States and Russia. It applies to children up to the age of 18 who are citizens of and habitually resident in one country, and who are adopted in their country of origin by spouses habitually resident in the other country (at least one of whom is a citizen of that country), or by an unmarried individual who habitually resides in and is a citizen of the other country.

Prospective adoptive parents should also be aware that the Agreement only covers adoptions where both spouses, or the individual (if unmarried), have seen and observed the child in person prior to adoption and personally participated in the decision-making procedures by the court issuing the adoption decree.

Q: Will the Agreement change U.S. visa processing for adopted children?

The Agreement will not significantly impact visa processing for children adopted from Russia. The processing of an adopted child’s U.S. visa occurs after the adoption in Russia and the approval of the orphan petition (Form I-600, *Petition to*

Classify Orphan as an Immediate Relative) by USCIS. Information on how to adopt from Russia is available on www.adoption.state.gov.

Q: What will change as a result of this Agreement?

Three aspects of the current intercountry adoption process will change:

No independent adoptions

Russia will no longer permit independent adoptions (i.e., adoptions where the prospective adoptive parents elect to act on their own behalf without facilitation by an adoption agency), unless a child is being adopted by a relative. Once the Agreement enters into force, non-relative adoptions from Russia must take place with the facilitation of an authorized organization. Relatives are defined in accordance with Russian law.

Prospective adoptive parent preparation and training

U.S. prospective adoptive parents may be required to obtain additional special training in light of their particular matched child's special needs. The new procedures called for by the Agreement will help ensure that prospective adoptive parents receive all available information on the child's social and medical history, possible special needs, and availability for intercountry adoption before the adoption takes place.

The authorized organizations should also provide prospective adoptive parents with information on how to register their adopted children with the Russian Embassy or local consulate in the United States and other post-placement reporting required by Russian law. Prospective adoptive parents will be expected to register their adopted children as soon as possible after bringing them to the United States and to work with their adoption agencies to comply with the post-placement reporting requirements.

Pre-approval process

Russia may require that cases involving Russian children being adopted by U.S. prospective adoptive parents undergo a "pre-approval" step with USCIS after the match but before the Russian adoption process is completed. To implement this pre-approval process, the prospective adoptive parents will file their Form I-600, *Petition to Classify an Orphan as an Immediate Relative*, before completing the adoption procedures in Russia. Russian authorities will provide all available medical and psycho-social information about the child at this stage in the process, thereby enabling USCIS to review the family's suitability and eligibility

determination in light of the child's particular needs. Before issuing pre-approval, USCIS will work with the adoption agencies and the prospective adoptive families in an effort to ensure that the family is fully aware of the child's situation and has completed appropriate training and preparation.

Q: How will the Agreement affect U.S. adoption agencies' ability to work in Russia?

This Agreement will add no additional authorization requirements under U.S. domestic law.

However, under the Agreement, only adoption agencies that are specifically authorized by Russia will be permitted to provide services in adoptions to or from Russia. The Department has agreed to provide the Russian Ministry of Education with the list of U.S. adoption service providers accredited or approved in the United States to provide services under The Hague Convention. The Ministry may, at its discretion, decide to grant requests for authorization only to U.S. adoption service providers who have obtained such accreditation or approval, and may not necessarily authorize all of the organizations on the list provided.

Russian authorization of adoption organizations

Adoption agencies must apply to the Russian Ministry of Education and meet the criteria established by Russia to be authorized to operate in Russia. The U.S. Department of State will publish the specific authorization criteria on www.adoption.state.gov once they become available. Adoption service providers will have 60 days following the Agreement's entry into force to submit the required information in order to continue to provide services in adoptions from Russia. The Ministry must make a decision about an adoption service provider's continued authorization in Russia within 30 days of receiving the required information.

Adoption service providers seeking authorization to operate in Russia for the first time will be able to submit an application at any point after the Agreement's entry into force. The Ministry must make a decision about the new provider's authorization request within 60 days of receiving the application.

Adoption service providers that do not meet the selection deadline

The Ministry has confirmed that any adoption agencies currently operating in Russia that do not submit the required documentation for authorization under the

Agreement within the required 60-day timeframe after the Agreement's entry into force will be allowed to apply for re-authorization after one year.

Q: Does the Agreement impose any new or more stringent responsibilities on adoption agencies?

Adoption service providers authorized to operate in Russia will need to meet requirements established by the Russian Ministry of Education or by Russian law in order to obtain and retain authorization to provide services in intercountry adoptions from Russia. The Agreement lays out several new or expanded requirements for receiving and maintaining authorization that may be imposed on adoption service providers. Adoption service providers may be required to submit documentation assuring that they will comply with certain requirements, including the following:

Post-adoption requirements

- To inform prospective adoptive parents of Russia's adoption procedures and post-adoption reporting requirements. If the authorized organization assists with a subsequent dissolution and/or placement of a child with another family, the authorized organization must also inform the new prospective adoptive parents of the Russian procedures and post-adoption reporting requirements.
- To monitor the living conditions and upbringing of adopted children as instructed by Russia. The monitoring would have to be carried out at the family's home by the authorized organization's social worker, or by another social worker or organization licensed to evaluate the home.
- To provide periodic reports following an intercountry adoption to the Russian authorities. The reports would have to contain reliable information about the child's psychological and physical development and adaptation to his/her new life.
- To confirm an adopted child's lawful entry into the United States and the child's acquisition of U.S. citizenship.

Adoption disruption and dissolution requirements

- To notify Russian authorities and the U.S. Department of State's Office of Children's Issues as soon as reasonably possible if a case in which it

provided services (even cases facilitated before the Agreement entered into force) is pending dissolution or has dissolved. The notification may need to include information on any proposed placement or new adoptive family, the expected (or completed) timeframe for the U.S. court's decision (or any decisions reached by the U.S. court). At the same time, for cases still pending a court decision, the authorized organization may be required to request the consent or non-consent of the Russian authorities to the proposed re-adoption, and if a statement is provided by the Russian authorities before the re-adoption decision is made by the court, present the Russian consent or non-consent information to the court for its consideration.

Authorized organization requirements

- To notify the Russian authorities and transfer any pending cases or post-adoption reporting responsibilities to another authorized organization in the event that an authorized organization chooses to cease operating in Russia.

Q: What if my case started before entry into force?

Prospective adoptive parent(s) initiating an adoption prior to the Agreement's entry into force will be able to complete the process under the current (pre-Agreement) procedures. Cases will be considered initiated if the prospective adoptive parents have registered their documents to adopt in Russia prior to entry into force.

Q: Is any part of the Agreement effective retroactively?

The Agreement does not apply retroactively. Under the Agreement, Russia may impose requirements on adoption agencies regarding the disruption or dissolution of an adoption that took place prior to entry into force of the Agreement. For example, an authorized organization may be required to report a disruption or dissolution as soon as reasonably possible after it discovers that a case may, or has, been terminated, regardless of when the intercountry adoption was completed.