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HAITI

"Expediting" intercountry adoptions in the aftermath of a natural disaster … preventing future harm.

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Foreword

The January 2010 earthquake in Haiti was a disaster of unprecedented proportion in modern times, with over 222,000 deaths and over 300,000 injured in a single, already fragile, nation. Large-scale emergencies of this nature not only put the international humanitarian interventions to the test, they are also a "stress test" for rules designed to guide international actions.

This report focuses on one particular aspect of the international community's post-earthquake response, and in how far it was in fact guided by the relevant rules: the response for children whose transfer for adoption abroad had been, or might have been, envisaged. The intention is to reflect upon what occurred in Haiti, and hence to inform future actions.

There are two main instruments for guiding and determining initiatives in this domain: The 1989 UN Convention on the Rights of the Child (CRC), which came into force twenty years ago; and the Hague Convention of 1993 on Protection of Children and Cooperation in Respect of Intercountry Adoption, that entered into force in 1995 (the 1993 Hague Convention). The 1993 Hague Convention builds on the CRC by setting out obligations and a cooperation framework between countries of origin and receiving countries. It is designed to ensure ethical and transparent processes through uniform safeguards and procedures, therefore respecting the rights of children, adoptive parents and birth parents in the intercountry adoption process.

The provisions of the CRC are to be complied with at all times and in all circumstances – there is no derogation clause allowing for the suspension of obligations it creates in times of emergency. Similarly, the 1993 Hague Convention explicitly excludes the possibility for Contracting States to make reservations as to its applicability. Moreover, both instruments are now globally recognised as constituting the baseline, in their respective spheres, against which policy and action are to be assessed, even for non-ratifying countries.

Against this background, and using a range of intergovernmental, governmental, non-governmental and media sources, this report compiled by International Social Service constitutes an unprecedented effort to document, and draw preliminary conclusions from, the course of events related to intercountry adoptions from Haiti in the first half of 2010.

The report pinpoints many issues that will require objective and in-depth consideration if the identified problems are to be avoided in the future. Some of the relevant issues were indeed already broached at the Special Commission that met in the Hague in June 2010 to review the practical operation of the 1993 Hague Convention. Among the key findings two are of particular concern in this context: that approaches differed widely among the countries involved – and to some extent also over time – despite the agreed standards and common obligations; and that the emergency context gave rise to rushed, "expedited" actions, whereby the supposed urgency led to principles and procedures being circumvented, which are otherwise rightly viewed as essential and indispensable safeguards.

We welcome this report as a significant contribution to on-going efforts to identify and resolve concerns in the field of intercountry adoption and to secure the cooperation of all involved, so that future interventions in similar contexts can build on the lessons learned in Haiti and avoid some of the mistakes that were made.

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Abbreviations

AAB	Adoption Accredited Body
IBESR	Institut du Bien-être Social et de Recherches (Haïtien Central Adoption Authority)
Hague Conference	Hague Conference on Private International Law
ICA	Intercountry adoption
ISS	International Social Service
PAPs	Prospective Adoptive Parents
Special Commission 2010	Special Commission on the operation of the Intercountry Adoption Convention, The Hague 17-25 June 2010
THC-93	The Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption
THC-96	The Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children
UNCRC	United Nations Convention on the Rights of the Child 1989

Executive summary

There is broad consensus that, in the aftermath of a catastrophe, intercountry adoption is not a valid response, at least until conditions permit full family tracing efforts to be completed regarding the children potentially concerned. In countries such as Haiti, where many – in this case several hundred – adoption procedures had been at some point in "the pipeline" when disaster struck, a special problem is posed. Agreement has to be reached as to how to deal with cases at very different stages, ranging from those where an adoption order had been granted to those where matching had taken place and even those where the "adoptability" of the child had been only informally determined. All actors in the field bore the responsibility of establishing a policy in these respects that was consistent with international obligations and principles, national law, and the best interests and other rights of the children, as well as the rights of birth-parents.

As of 30 May 2010, at least 2,107 pipeline cases were processed following the earthquake on 12 January 2010, almost doubling the total number of Haitian children adopted in 2009. The USA alone accounted for approximately 1,200 cases whereas France, Canada, Netherlands and Germany arranged the transfer of about 850 children. Around 50 children were sent to Switzerland, Belgium and Luxembourg. During this period Spain and Italy received the final authorisation for 9 children to leave Haiti, the last remaining cases from 2007, when they suspended adoptions.

Whilst in principle it is in the best interests of the child to expedite *pipeline cases with an adoption judgment*, fast tracking measures regarding the transfer should nevertheless be carried out within a framework of international standards. Prioritising intercountry adoptions should not be at the expense of emergency relief efforts. Nor should they be undertaken in such a manner that children do not have sufficient time to recover in a familiar environment. Moreover, given the heightened risk of exploitation of children in the aftermath of a catastrophe, adequate identification and registration measures should be in place to avoid children being erroneously and illegally moved across borders.

For all *other pipeline cases, that is, those without an adoption judgment*, hindsight would now teach us that the accumulation of heightened risks for children far outweighs the benefits of fast tracking the adoption process. Such cases should only be expedited when there are 'compelling' health, medical or safety conditions' necessitating their urgent evacuation.

Recalling that the intercountry adoption process in Haiti has long been renowned for its systemic failures - including corruption, lack of transparency and an inexistent monitoring system - the system only further deteriorated in its earthquake-affected state. The flurry of "expediting" activities resulted in what one can only describe as chaos for all parties involved:

1. A competent body did not exist to ensure that internal procedures were complied with, so that for example, adoptive parents who had biological children were permitted to adopt children and children older than 16 were adopted in contravention of national laws. Over-approval of cases to be expedited is another example of this lacuna. A competent authority was not in place to monitor the large sums involved in adopting such a high number of children, given that on average in-country fees and charges can amount to at least 10,000 USD per child. The already fragile Haitian Central Adoption Authority (IBESR) was only further debilitated with the earthquake.
2. Neither Haiti nor the receiving countries were in a position to ensure that family reintegration measures and other domestic solutions were exhausted prior to implementing fast-tracking procedures, in other words, that the principle of subsidiarity was complied with. Genuine respect for this principle usually takes time and therefore it is concerning when babies as young as two months are adopted abroad. Such realities in Haiti are a clear warning that the principle has likely been breached.
3. Few efforts existed to confirm the adoptability of children, nor were children given an opportunity to be consulted or prepared before being transferred to other countries. Physically, children lacked appropriate clothing to confront the cold winter weather and on a psycho-social level, they were not prepared to meet their adoptive parents, many for the first time.

4. Prior to the movement of any child across borders, especially on a permanent basis, the consent of biological parents must be confirmed. This is all the more important in Haiti, where an estimated 80% of adoptable children have at least one biological parent. Moreover, while some biological parents had the fortunate opportunity to express their refusal to a proposed adoption, many others were deprived of giving or confirming their consent.
5. As States Parties to THC-93, all 'receiving countries' had obligations to ensure that this convention was applied in the emergency situation. Despite this responsibility, receiving countries failed to ensure that the adoptive parents were all eligible and suitable to adopt a child who had lived through a trauma, nor did they adequately prepare them.
6. In retrospect, to minimise the possible stress and trauma during the transfer period, it would have been judicious to delay any movement of children at least until the resumption of commercial flights – which were operational within weeks of the earthquake. This would have given adoptive parents the possibility to personally accompany children to their new homes and learn 'first hand' about the child's country of origin.
7. The lack of co-ordination among receiving countries in their approach to intercountry adoptions in Haiti is of concern. By continuing intercountry adoptions on a large scale, certain countries have sent an implicit message that they continue to accept the well-known failures of the Haitian system, rather than working together to address the systemic flaws.
8. Few Governments were adequately prepared to welcome the large groups of children at airports in terms of having professionals skilled in dealing not only with emergency situations but also with adoption issues. Reception conditions were deficient in that many families lacked privacy for their first meeting with professionals and children. The quality of post-adoption follow-up services being offered to families is also questionable.
9. The influx of legislative initiatives to expedite intercountry adoptions initiated by various 'receiving countries' in response to the earthquake is disturbing. As opposed to having legislative reform processes that are consultative and well developed, hasty emotional responses are likely to be detrimental to children's rights. Many proposals have been based on misconceptions of which children are in need of adoption and reflect little understanding of the priority that must be given to domestic solutions.

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This assessment was carried out independently by Mia Dambach[2] and Christina Baglietto[3] on behalf of ISS. The views expressed are those of the authors and do not necessarily reflect the policies and views of organisations, Governments or other bodies mentioned in this report.

[1] The cover-page photo was taken by Nora Lis and used by RELAF (www.relaf.org) for their activities in Haiti.
[2] Mia Dambach worked as a children's lawyer for over five years in Australia before joining the ISS in Geneva as a children's rights specialist.
[3] Christina Baglietto works as a child protection consultant in the Latin American region and is based in Mexico after working at ISS as a children's rights specialist.

What "expediting" should have meant

To "expedite" is to "act expeditiously" when undertaking a task or procedure, making it as fast and efficient as possible, with no undue delay, while respecting the rules and process that the proper accomplishment of the task or procedure imply[4].

The term "expediting" was used more especially in relation to two issues in the aftermath of the Haitian earthquake: transfer of adoptees to the receiving country concerned, and the adoption process itself. In both cases, in practice it covered a range of initiatives that did not always correspond to its definition.

Expediting transfer

"Expediting transfer" could be expected to concern the displacement of Haitian children for whom an adoption order had been approved by the court and who, on the day of the earthquake, had only been waiting for authorisation and travel documents to be processed before travelling to the receiving country. An example of this was the French decision of 18 January to expedite only cases where there was an adoption judgment.

This notion, however, was rapidly expanded to cover the transfer of children whose adoption had not been pronounced by a court. Like other countries involved, Belgium announced the arrival of children whose adoption process had been under way before the earthquake, even if the procedure had not been completed ("*engagés dans un processus d'adoption avant le tremblement de terre, même si la procédure n'est pas terminée*"). Canada stated that "[t]hese children were at different stages – most cases were considered advanced in the adoption process when the earthquake struck…".

"Expedited transfers" were then extended, within days, to children who had not yet been matched with specific adopters[5], and even to children whose basic "adoptability" had not been clearly established. In those cases, the act involved can only be qualified as the "evacuation of children". In many instances, moreover, the justification and circumstances surrounding such transfers do not seem to stand up to the internationally-recognised criteria on which evacuation decisions are to be founded.

In addition, many transfer exercises were couched in misleading and highly emotive terms by certain governments and several other actors. These included references to the "repatriation" ("rapatriement") of the children and "reunion" ("réunification") with their prospective adoptive families, neither of which corresponded to the situation: none of the children was returning to their country of habitual residence and, in most cases, they were not being reunited with their prospective adopters after a separation. The unwarranted use of such terms placed a psychological hurdle in the path of those seeking to question the legitimacy of expedited transfers under the conditions that prevailed.

Expediting adoption

The aim of expediting adoption is to eliminate time-lags between stages in the process that are not caused and justified by actions to ensure that procedures are respected and necessary safeguards are applied. In the case of Haiti, where the backlog of adoptions in process was invariably of administrative origin rather than a result of the active verification of the elements on file, expediting these may have appeared justifiable. There were, however, two realities in post-earthquake Haiti that need to be recognised in this respect.

Parts of the country were – directly at least – not affected by the disaster in terms of the functional capacity of their institutions, such as courts. While the proportion of children considered "in the adoption process" in those regions was relatively small compared to those housed in crèches in the Port-au-Prince area, the process up to court level could in principle be pursued in these cases. For its part, the IBESR was already fielding case submissions as of early February. Thus, "expediting" these adoptions could have involved, in the first instance, minimising procedural delays up to that stage. In the event and generally speaking, however, it appears that expediting adoptions from these areas was dealt with as if the same conditions applied there as in the disaster zone.

[4] In the sense of the obligation of States to "act expeditiously in all proceedings" (1980 Hague Convention on Child Abduction) and "fair and expeditious trials" (International Criminal Court Statute).

[5] Ministry of Justice, 'Group of Nine Haitian Children May Also Come to the Netherlands', 17 January 2010, http://english.justitie.nl/currenttopics/pressreleases/archives-2010/100117group-of-nine-haitian-children-may-also-come-to-the-netherlands.aspx?cp=35&cs=1578.

As regards Port-au-Prince and other directly affected areas, the court system was not functioning. If adoptions were to be "expedited" from there during the weeks immediately following the earthquake, it was therefore necessary to "fast-track" the process by changing the rules and procedures, rather than eliminating delay.

From the Haitian side, there first came a policy announcement by the President that "only children for whom the intercountry adoption process had been engaged, i.e. a regular adoption procedure, may be considered for intercountry adoption". This statement, with its vague wording of "process… engaged" ("processus… entamé"), was widely viewed as an attempt to appease (and as being made at the request of) the international community. It simply precluded, at that time, any "new" adoption applications being dealt with. It had no intrinsic juridical value or ramifications in Haiti, and the process set out by law remained in force. Nonetheless, it seems to have enabled some actors to take advantage of the widest possible interpretation, so that children simply labelled "adoptable" by a crèche (but not yet having been matched with adoptive parents, let alone the subject of an adoption order delivered by, or pending with, the court) could be included among those for whom the "process had been engaged".

Coupled with this came the announcement that, since the judicial system and much of the administrative process was non-functional, all intercountry adoptions would have to be approved by the Prime Minister. This followed an initial period during which, by all accounts, virtually any official's signature was deemed sufficient to "expedite" an adoption and to secure permission for the child concerned to leave the country. Clearly, the rapid approval of the Prime Minister could in no way constitute a means of ensuring that normal safeguards were applied. "Expediting" in that case simply meant by-passing usual (legally-imposed) procedures.

A question of urgency?

The expressed justification for "expediting" in this way was grounded in the "urgency" and "insecurity" of the situation confronting children. Thus, Michele T. Bond, Deputy Assistant Secretary for Overseas Citizens Services, recognised the need to determine "how to expedite adoption so the children can be brought safely home to the United States"[6]. The Belgian Government noted that "given the dramatic circumstances in which Haiti finds itself, and as an exceptional measure, the procedure will be considerably relaxed for the children concerned", and Evelyne Huytebroeck (Ministre de l'Aide à la jeunesse, Communauté française) "justified the operation under way by the 'urgency' of the situation"[7].

No one would contest that, in the immediate aftermath, conditions for many children were dire and that there were protection concerns about, inter alia, possible abductions and consequent exploitation. At the same time, children in residential care facilities were among the first to receive assistance, and by no means all such facilities were severely affected. Once disaster had struck, there was obviously a need for "urgency" in providing assistance of all kinds to the affected population, including attention to their security.

The question, then, is whether the most appropriate response to the harsh conditions was to displace certain children abroad so hastily that, in many if not most instances, it warranted non-compliance with key internationally-recognised safeguards relating to both adoption and evacuation. The importance of this question is all the greater in that the Haitian adoption procedures in place were already acknowledged as woefully inadequate for protecting children's rights and those of their birth-parents.

It will take time to bring together all the elements needed to answer this question in a considered manner. For the moment, however, we can at least say without a doubt that what happened to many children displaced from Haiti was somewhat far removed from actions that would normally be accepted as "expediting adoptions".

[6] U.S. Department of State, Interview on the Situation in Haiti and the Adoption of Haitian Children: Michele T. Bond, Deputy Assistant Secretary for Overseas Citizens Services, 19 January 2010, http://www.state.gov/p/wha/rls/rm/2010/135396.htm.

[7] 'Pas de nouvelles adoptions', *La Libre Belgique,* 19 January 2010, http://www.lalibre.be/actu/international/article/556549/pas-de-nouvelles-adoptions.html.

Chronology of events of countries that expedited the intercountry adoption process

Date	Event and actors involved
12 January 2010	Earthquake hits **Haiti.**
14 January 2010	**France** states that it will not expedite adoptions.
15 January 2010	**Netherlands** announces that it will expedite the transfer for 56 children where there is an adoption judgment.
16 January 2010	**Netherlands** announces that it will expedite the adoption process for 44 children where there is no adoption judgment but a matching has occurred. **Canada** announces that they will expedite transfer where only visas must be processed and there is an adoption judgment.
17 January 2010	Prospective adoptive parents in **France** undertake a demonstration to put pressure on Government. **Netherlands** announces that it will bring nine children into the country that had not been matched with adoptive parents.
18 January 2010	**France** announces that it will expedite transfers for adoptions with a judgment. **USA** announces that 'humanitarian parole' will be granted for two categories of children who were in the adoption process, including those with an adoption judgment and those who had been matched. The possibility for a third category of children was left open in the announcement. **Belgium** decides to expedite adoption procedures for 14 cases
19 January 2010	**Luxembourg** is given permission by Haiti to transfer 14 children. 53 children arrive in Pittsburgh **USA**.
20 January 2010	**Germany** receives approval from Haitian Government to expedite the adoption cases of 63 children, some with a judgment and others with matching.
21 January 2010	Nine children arrive in Zurich, **Switzerland.** In two cases, expedition of transfer and in seven cases, expedition of adoption procedure.
24 January 2010	Haitian Government approves 217 adoption cases to be expedited for **Canada**. 24 children arrive in Ottawa on the same day.
29 January 2010	**Germany** announces that a total of 60 children have arrived in the country.
9 February 2010	**France** announces that a total of 326 children have arrived in the country.
11 February 2010	**France** announces that a total of 371 children have arrived in the country. Another 910 families involved in ongoing adoption cases.
15 February 2010	**Insel (USA)** commences commercial flights to Haiti.
16 February 2010	**USA** announces that over 750 children have been granted humanitarian parole.
19 February 2010	**Air France** commences direct commercial flights to/from Haiti.
23 February 2010	**Canada** announces that Haitian Government has approved 250 adoption dossiers to be expedited but to date only 202 children have been transferred to the country.
25 February 2010	**France** announces that on 12 January, there were 1,011 adoption dossiers for Haitian children, of whom 80% had at least one biological parent. The Government will expedite the transfer of 489 cases with an adoption judgment.
4 March 2010	French Central Authority provides a communication that the courts outside **Port-au-Prince** are now functioning and that the Haitian Central Adoption Authority has resumed its activities. Haitian judges go to Paris to discuss the future of intercountry adoptions with the government.
16 April 2010	**USA** closes its humanitarian parole program which had so far concerned over 1,000 children. It is expected that about 1,200 children will be covered by the program in total, although it is considering 1,340 cases.
29 April 2010	**Haiti's** adoption authority, the Institut du Bien-être Social et de Recherches (IBESR), informs the U.S. Government that they are now accepting new adoption applications for Haitian children who were either documented as orphans before January 12, 2010, or who have been relinquished by their birth parent(s) since the earthquake.

Aims of the report

This report examines intercountry adoption practices in the aftermath of the earthquake in Haiti. Haiti has been a 'popular' country of origin, meaning that thousands of children were at some stage of the adoption process – albeit simply "identified" as potentially adoptable – when the earthquake struck. There were diverse and contrasting responses by 'receiving countries' and others to the subsequent adoption of children displaced abroad. This report documents and reviews the vast range of responses and the exceptional measures implemented by some countries in expediting firstly, the transfer of cases (with an adoption judgment) as well as secondly, adoptions and other procedures (without a judgment).

In the context of these exceptional measures, the principal objective of this report is to identify lessons to be learned from this situation in order to prevent future harm. It is not the intention of the report to denounce a particular country, but rather to provide an objective analysis of the fast-tracking measures implemented, against the backdrop of international norms.

Outline of the report

The report is divided into two parts, the first dedicated to an overview of the child protection and adoption situation in Haiti before, during and after the earthquake, and the second delving into much more detail about the individual responses of countries and regions to intercountry adoptions from Haiti following the earthquake.

Part 1 is divided into three sections. The first gives a brief background of Haiti and the intercountry adoption process pre-earthquake. The next section examines the international standards dealing with intercountry adoptions and in particular their application in the context of a natural disaster. The third section provides a **critical analysis** of intercountry adoption issues that arose as a result of various responses to the earthquake.

Part 2 is divided into three sections summarising the various responses by countries: those that had been undertaking intercountry adoptions in Haiti at the time of the earthquake and expedited the procedures thereafter; those that had already suspended intercountry adoptions from Haiti and processed the remaining cases post-earthquake; and those that expressed an opinion on intercountry adoptions from Haiti, divided by region. These sections aim to provide an **objective factual account** of Government actions and reactions, serving as the evidence-base in which the analysis in Part 1 is grounded.

PART 1: GENERAL OVERVIEW OF SITUATION IN HAITI

1. Situation before and during earthquake

In order to provide the context in which fast tracking activities took place, it is important to firstly examine the general child protection and adoption system operating in Haiti prior to the earthquake. This section shows that the system in place was quite fragile and clearly deficient.

1.1 Child protection system

Haiti, whose population numbered 9.2 million in 2009, is one of the poorest countries in the world, with 80% living under the poverty line and 54% in "abject poverty"[8]. UNICEF estimates that there were approximately 4.2 million children, of whom 1.25 million were under five years old in 2007[9]. The UN Committee on the Rights of the Child has raised a number of serious concerns about children and their family environment, the high number of separated children and the lack of periodic monitoring of the alternative care system[10].

UNICEF statistics from 2007 indicate that only 82% of children born in Haiti are registered, leaving the remainder subject to higher risks of trafficking, abuse and exploitation. UNICEF estimates that 21% of children were involved in child labour between 1999 and 2007 and the child marriage rate stood at 30% between 2000 and 2008. In 2007, UNICEF determined that approximately 380,000 children had lost either one or both parents due to all causes. The number of children who had lost both parents before the earthquake in Haiti was put at 50,000[11].

In its report to the UN Committee on the Rights of the Child in 2003[12], the Haitian Government explained the various forms of separation of children from their families as including, inter alia, parents putting their children in domestic service with other families; placing them with relatives as parents are living/working abroad; administrative or judicial decisions due to abuse, maltreatment etc. In the majority of cases, children are invariably surrendered to alternative care because of poverty, not because they are parentless.

In many cases, parents bring the child to a crèche in the belief – or having been persuaded that – they can be better cared for. Therefore, many children in crèches are not all orphans. In practice, the IBESR does not have the resources to verify what procedures were followed for accepting the child into care and what was explained to the biological parents[13]. In a study on the 'Situation of orphans in Haiti', it was stated that 'neither the number of institutions nor the number of children in institutions is officially known, but the Chambre de l'Enfance Nécessiteuse Haitienne (CENH) indicated that it has received requests for assistance from nearly 200 orphanages around the country for more than 200,000 children'[14].

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[8] Central Intelligence Agency, *The World Factbook*: Haiti, https://www.cia.gov/library/publications/the-world-factbook/geos/ha.html.
[9] UNICEF, *Information by country: Haiti,* Statistics, http://www.unicef.org/infobycountry/haiti_statistics.html.
[10] UN Committee on the Rights of the Child, *Concluding Observations: Haiti*, CRC/C/15/Add.202, 18 March 2003, http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/0993aafea549a989c1256d2b00526ce9/$FILE/G0340876.doc.
[11] UNICEF, *Statement on Child Protection in Haiti*, New York, 28 January 2010, http://www.crin.org/docs/HFJ%20NY%20statement%20for%20distribution_FINAL.docx.
[12] UN Committee on the Rights of the Child, *Initial Report: Haiti,* CRC/C/51/Add.7, 21 June 2002, http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/e0742e60f1c1eccec1256c3000302437/$FILE/G0242693.doc.
[13] Quote from reports presented at the Francophone Central Adoption Authority Meeting convened by the Hague Conference, June 2009.
[14] Eveillard, R and Hunter, S, *The situation of orphans in Haiti: A summary assessment*, Family Health International and USAID IMPACT Project, http://www.fhi.org/NR/rdonlyres/ehbzuqgt73edzijin3rcxfahwkcdbqwcj5c3adjm7zufa4bgnyl565hxib5ol4sqqtwrdlretneote/haitiovcassessmentenhv.pdf.

On 6 February, the New York Times described the alternative care system in Haiti in the following terms: 'at the front lines of the system are the orphanages [normally known as crèches], which run the gamut from large, well-equipped institutions with international financing to one-room hovels in a slum where a single woman cares for abandoned children as best she can. Most of the children in them, the authorities said, are not orphans, but children whose parents are unable to provide for them. To desperate parents, the orphanage is a godsend, a temporary solution to help a child survive a particularly tough economic stretch. Many orphanages offer regular family visiting hours and, when their situations improve, parents are allowed to take their children back home. But instead of protecting Haiti's most vulnerable population, some orphanages have become tools of exploitation, the authorities fear. "There are many so-called orphanages that have opened in the last couple of years that are not really orphanages at all," said Frantz Thermilus, the chief of Haiti's National Judicial Police. "They are fronts for criminal organizations that take advantage of people who are homeless and hungry. And with the earthquake they see an opportunity to strike in a big way"'[15].

It is within this dysfunctional child protection framework that intercountry adoption measures are offered as a solution.

1.2 Adoption situation

There are two main decrees governing the adoption system in Haiti: Décret du 04-04-1974 (Formes et conditions relatives à l'adoption)–the 1974 Decree, and Décret du 24-11-1983 (Création de l'I.B.E.S.R). Given the antiquity of such laws, the Government is currently in the process of drafting a new adoption law with the aid of UNICEF, Hague Conference and other international experts. Haiti has not yet ratified the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (hereafter THC-93).

For the last few years, Haiti has been one of the most attractive countries of origin. In 2009, Haiti was the largest 'source' of children for France, second largest for Canada and eighth largest for USA. The table below gives figures for the main receiving countries, and shows *inter alia* that Italy and Spain stopped adopting children from the country in 2007 (because of the lack of children's rights guarantees in the process). It is also worth observing that Canada and USA are accustomed to undertaking a high number of relative intercountry adoptions linked with the Haitian migrant population.

	2003	2004	2005	2006	2007	2008	2009	Total
Canada	150	159	115	123	88	148	89	**872**
Belgium	7	6	4	1	0	3	1	**21**
France	542	507	475	571	403	731	651	**3.880**
Germany[16]	NA	35	37	23	31	61	30	**217**
Italy	6	9	13	2	2	0	0	**32**
Luxembourg	NA	NA	1	1	7	8	3	**20**
Netherlands	69	42	51	41	28	91	60	**382**
Spain	17	36	24	15	22	0	0	114
Switzerland	9	7	8	10	12	4	9	**59**
USA	250	356	231	309	190	301	380	**2,017**
Total	**1,050**	**1,157**	**959**	**1,096**	**783**	**1,347**	**1,223**	**7,614**

[15] 'Bleak Portrait of Haiti Orphanages Raises Fears', *The New York Times,* 6 February 2010, http://www.nytimes.com/2010/02/07/world/americas/07trafficking.html.

[16] These figures are approximates provided by the Germany Federal Central Authority who have stated they do not have official statistics on intercountry adoption cases. The accredited bodies are, however, obliged to report any finalised intercountry adoption to the authority - not for statistical reasons, but in order to facilitate the child's research for his/her biological family. The problem is that the finalisation might not be reported in the same year in which the adoption decision has been pronounced.

1.2.1 Summary of adoption procedure before the earthquake[17]

This section briefly examines the key stages of the Haitian adoption system pre-earthquake and the various safeguards in place before an intercountry adoption can proceed. Further details about the procedure can be found in the comprehensive report prepared by Marlène Hofstetter and Fernando Freire for UNICEF based on an assessment in 2005 (hereafter UNICEF report (2005)) as well as in the reports presented at the Francophone Central Adoption Authority Meeting convened by the Hague Conference held in June 2009.

Competent Authority

The Competent Authority for Adoptions in Haiti is the Institut du Bien-être Social et de Recherches[18] (hereafter referred to as IBESR). The IBESR is responsible for examining all requests for adoption, authorising adoptions, accreditation and control of crèches as well finding suitable placements for children abandoned on the street and in hospitals.

Consent

Before a child is declared adoptable, the Juge de Paix (Magistrate/Justice of the Peace/Registrar) is responsible for obtaining the consent of the mother/father of the child in the presence of a responsible person from the crèche. If the parental rights have been withdrawn, the consent of the Family Council is required. If the parents are unknown, the consent of the Mayor closest to where the child lives is required.

Children who can be proposed for an adoption

According to the 1974 Decree, only children under 16 years old can be adopted, where there are "justifiable reasons and clear advantages" for the child.

Prospective adoptive parents

Under Haitian law, the prospective adoptive parent (hereafter PAP) must be 35 or older. For married couples, one PAP may be under age 35, provided the couple has been married for ten years and has no biological children. The prospective adoptive parent must be at least 19 years older than the child they intend to adopt. Adoptions by married couples require the consent of both spouses. Some of these conditions can be waived with permission from the President of Haiti.

Immediate care and matching of children

The crèches are at the heart of the adoption procedure. The crèches are in direct contact with the biological families and provide the immediate care for the children. Prior to a child being declared adoptable, the crèches must arrange for a psychological assessment of the child to assess his/her adoptability. The professionals preparing these reports have no way of following up whether their recommendations are taken into account in the adoption decision. The crèches will then allocate the child to PAPs on their list of clients, an act that passes for "matching". The crèches also choose the lawyers that will undertake the adoption procedure. The lawyers are responsible for preparing the adoption dossier. The lawyers must present these dossiers to the IBESR and Civil Court.

Obtaining the adoption judgment

After the lawyer has prepared the adoption dossier with the necessary consents, the IBESR will give its authority for the adoption to proceed. Once this approval is obtained, the lawyer will submit the complete adoption dossier to the Civil Court. The Civil Court will then assess and verify that the dossier complies with all the legalities (articles 26-27, 1974 Decree). If the Civil Court is satisfied that all the requirements have been met, it will pronounce the adoption judgment. The judgment will then be registered with the civil registry. The Embassy of the receiving country will be responsible for preparing the passport and delivering the visa for the child.

[17] The following summary is based on an analysis of the existing laws and reports presented at the Francophone Central Adoption Authority Meeting convened by the Hague Conference, June 2009.
[18] Institute of Social Welfare and Research.

1.2.2 Comments on the adoption procedure before the earthquake

The Haitian adoption system pre-earthquake was characterised by its inadequate legal framework, weak procedures and lack of transparency in adoption costs.

Inadequate laws

It is widely recognised that Haitian legislation regulating adoption is vastly inadequate. Indeed, efforts have been under way for several years to draw up a new Adoption Law that would take account both of the changed realities in intercountry adoption since the 1974 Decree currently in force and of the international standards developed since that time.

The problems with the present legislative framework for adoption are many and serious. While some stem from what the 1974 Decree actually says, the most disturbing are undoubtedly the issues that it completely disregards.

Thus, for example, there is no reference to – or even intimation of – the principle of subsidiarity to be applied to intercountry adoptions. The child is given no right to express an opinion about a proposed adoption, and his/her consent is not required. Moreover, there is no provision regarding the need to fully inform biological parents as to the consequences of their consent, and to ensure that such consent is freely given, without incitement or reward[19].

There are three particularly glaring absences from the Decree. The first is that of "matching", the non-regulation of which has allowed the crèches to take full control of the allocation of children to prospective adopters (see under "Weak procedures" below). The second concerns foreign actors: there is no mention of adoption agencies and their authorised roles, no restrictions or requirements are placed on the activities of individual prospective parents, including as to their ability to act independently. Third, the key issue of fees, costs and "donations" is not covered at all.

At the time of writing, draft legislation on adoptions has passed the Lower House and is being considered by the Senate. Unfortunately, it may not address all the lacunae in the current Decree and may not meet the requirements of THC-93. The crèches, in particular, are seeking to retain as much as possible of their current role, and have been attempting to influence law-makers and others in order to block draft provisions that they see as endangering their operation in the context of intercountry adoptions.

Weak procedures

In good part as a result of these inadequate laws, the Haitian adoption procedure is well-known for being rife with risks and abuses. Already in 2003, the UN Committee on the Rights of the Child commented 'that it is concerned at the increase in intercountry adoptions without an adequate monitoring mechanism'[20]. The UNICEF/Terre des Hommes report (2005) outlines systemic and grave abuses within the Haitian adoption system.

It is deeply worrying that many crèches exist solely for the purpose of – and obtain their income solely from – processing intercountry adoptions. These crèches are able to play a key role in securing consent and in allocating a child to specific prospective adopters, and they then place the process in the hands of lawyers whom they choose and employ to this end. It is disturbing that in practice, PAPs can submit their applications directly to the crèches and have contact with the latter in order to 'choose' their child – the UNICEF/Terre des Hommes study (2005) indicated that some crèches go as far as to look for a child in the community who fits with PAPs' requirements. This 'allocation' procedure replaces, *inter alia*, the vital stage of 'matching', which should be undertaken by a group of professionals who can identify the needs of the child and pre-select an appropriate family.

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[19] This is all the more crucial in the Haitian context where the great majority of adopted children have at least one biological parent and simple adoption is the only recognised form. Invariably, an intercountry adoption will be converted into a full adoption, and it is therefore vital that persons giving their consent understand the complete rupture of the parent-child relationship, and likely cessation of contact in the future, that full adoption entails.

[20] UN Committee on the Rights of the Child, *Concluding Observations,* op. cit.

The IBESR has a very weak role in practice given that the adoption process is mainly in the hands of the crèches and the lawyers/judges. It is not adequately equipped to perform the responsibilities of a central adoption authority according to international norms. It has insufficient resources to verify the 'adoptability' status of the children, including the identities of the child and the biological parents, the veracity of 'abandonment' declarations, and the circumstances under which consent to adoption was given. The IBESR does not have the capacity to supervise the crèches and the lawyers, nor does it have the legal mandate to prevent illicit gains[21].

As a result, adoption proposal files that reach the IBESR through the hands of the lawyers are virtually *faits accomplis*. Their subsequent passage through the court and administrative processes until final approval can take an inordinately long time but invariably this does not reflect any real efforts at verification at any stage, over and above basic checking that all the prescribed documents are present and in order. Hence, highly questionable procedures, as of the moment of 'consent', routinely become legalised as intercountry adoptions.

Responsibility of receiving countries and lack of transparency in costs

International adoption agencies and receiving countries must shoulder a substantial share of the responsibility for the problematic situation in Haiti. Those that have continued to process adoptions from the country have thereby implicitly condoned practices that – as they are well aware – are at complete odds with international standards, and have allowed the 'demand-led' adoption reality to take hold.

Lack of oversight of the adoption process includes lack of transparency over 'in-country fees and costs' charged by Haitian actors and paid by PAPs, either directly or through their agencies. The amounts involved (which exclude travel, accommodation and administrative fees in the home country) are considerable and do not correspond to reasonable charges in light of the cost-of-living and normal salaries in Haiti. Thus, taking the example of the two main receiving countries from Haiti – France and the USA – it appears that, with very few exceptions, French adopters have been asked to pay between 7,000 and 9,000 USD in local costs, and Americans slightly higher (from 8,600 to 12,000 USD). Alongside their 'regular' programmes, at least three US agencies have also been proposing arrangements with crèches that could 'expedite' adoptions, but with an in-country fee of no less than 16,000 USD[22].

These fees have essentially been paid to the crèches (the case fee at IBESR is just 140 USD). One part is a 'processing fee' (which often seems to be in the range of 5,000 USD), a proportion of which is paid to the lawyer dealing with the application. Use of these funds is entirely at the discretion of the crèche director, with no monitoring. The second part is ostensibly designed to cover the 'care costs' of the child allocated to the PAPs for an initial period (e.g. ten months) during the processing. The sums involved range from 350 USD to 550 USD or more per month, and again there is no oversight of their actual use. Furthermore, since the adoption procedure has recently been taking two or three years at least, the crèches are able to invoice PAPs for similar additional monthly sums over the entire period.

The lack of transparency in the breakdown of 'in-country fees and costs' is a problem that is by no means confined to Haiti[23]. But wherever it occurs, it points to a disturbingly unhealthy connection between intercountry adoption and financial gain, with all the ramifications that this may have.

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[21] Quote from reports presented at the Francophone Central Adoption Authority Meeting convened by the Hague Conference, June 2009.

[22] Decolores Adoptions (http://www.decoloresadoptions.com), Global Adoption Services (http://www.adoptglobal.org/) and Wasatch International Adoptions (http://www.wiaa.org/).

[23] See, for example, regarding Viet Nam: International Social Service, *Adoption from Viet Nam: Findings and recommendations of an assessment*, 2009, pp. 55-56, http://www.iss-ssi.org/2009/assets/files/news/vietnam%20report_ENG.pdf.

1.3 Earthquake 12 January 2010 and situation of children remaining in Haiti

It is in the context of extreme poverty, precarious child protection and adoption systems mentioned above that 'a massive magnitude 7.0 earthquake struck Haiti *on 12 January 2010* with an epicentre about 15 km southwest of the capital, Port-au-Prince. An estimated two million people live within the zone of heavy to moderate structural damage. The earthquake is assessed as the worst in this region over the last 200 years'[24]. Within a week of the earthquake, UN experts stated that 'there is an increased risk of unaccompanied children in Haiti, including orphans and *restaveks*, being abducted, enslaved, sold or trafficked, due to increased insecurity in the country'[25].

Five weeks after the earthquake, UNICEF published a short report summarising the situation of children remaining in Haiti[26]. The report states that 'according to the Government the earthquake has led to the deaths of at least 212,000 people (2% of the population of Haiti) with 300,000 reported as having suffered injuries of various kinds, including at least 1,000 people who had at least one limb amputated'.

UNICEF states that over 1.26 million children were directly affected by the earthquake, including three vulnerable groups by location: children and caregivers in temporary settlement sites; vulnerable children and caregivers in the border area and inside the Dominican Republic; and displaced children and caregivers in rural areas and their vulnerable host communities. The most important priorities for the moment are providing shelter (only 23% are covered) and for UNICEF, 'continued provision of safe water, rapid vaccination of children against measles, the scale-up of protection mechanisms to prevent exploitation and abuse of children and the resumption and expansion of learning opportunities are also critical'.

> *The earthquake had a far reaching impact not only on the Haitian child protection system but also on its intercountry adoption processes. The problematic adoption environment prevalent in Haiti pre-earthquake deteriorated even further. It is in this challenging context that internationally accepted norms become more pertinent as the benchmark for ensuring that children's rights are not forgotten amidst the chaos.*

[24] Central Intelligence Agency, *The World Factbook*: Haiti, https://www.cia.gov/library/publications/the-world-factbook/geos/ha.html.
[25] Office of the High Commissioner for Human Rights, 'Separated Haitian children risk being sold, trafficked or kept in slave-like conditions - UN human rights experts', 2 February 2010, http://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=9799&LangID=E.
[26] UNICEF, *Children in Haiti: One month later,* UNICEF Monthly Situation Report: 12 February 2010, http://www.crin.org/docs/UNICEF%20HAITI%20One-Month%20Sitrep%2012%20Feb%20(updated,%20compressed).pdf.

2. International standards

This section examines the international conventions and guidelines dealing with intercountry adoptions and emergency issues, shedding light on how children to be adopted can be best protected in the aftermath of a catastrophe. The third section examines the divergent international responses to the earthquake.

2.1 International Conventions

Inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin (article 21(b)).

The **UN Convention on the Rights of the Child 1989** (UNCRC)[27] is the most widely ratified convention in the world. Articles 20 and 21 UNCRC are dedicated to the issue of children deprived of their family and alternative solutions including adoption.

When solutions are being considered, 'due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background' (article 20(3)). For adoptions, the best interests of the child shall be the paramount consideration (article 21). Moreover the principle of subsidiarity is embedded in the UNCRC as a key requirement prior to the processing of intercountry adoptions. In practice, this principle has two levels. Firstly, domestic adoption is subsidiary to keeping or returning the child to his/her family of origin and there should be a priority given to preventing abandonment. Governments and civil society must do their utmost to ensure that families of origin have the possibility, and are encouraged to care for their children. The second aspect of the principle of subsidiarity is that intercountry adoption is to be considered only after domestic adoption possibilities have been examined.

These underpinning principles are further elaborated in the **Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption** (THC-93), which specifically treats the issue of intercountry adoptions. Its main objective as outlined in its preamble is to respond to 'the necessity to take measures to ensure that intercountry adoptions are made in the best interests of the child and with respect for his or her fundamental rights, and to prevent the abduction, the sale of, or traffic in children …'.

As of 21 April 2010, 81 countries had signed and ratified the Convention, including all the countries that expedited adoptions post-earthquake. Despite Haiti not being a party to the Convention, the Permanent Bureau of the Hague Conference on Private International Law has argued that the principles of the Convention nevertheless applied in dealings with this country:

> **Haiti is party to the UNCRC but not to the 1993 Hague Intercountry Adoption Convention.** However, in 2000, the Hague Conference adopted a Recommendation to the effect that States parties should, as far as practicable, apply the standards and safeguards of the Convention to the arrangements for intercountry adoption which they make in respect of States that have not yet joined the Convention. More than 80 States, including almost all receiving States, are parties to this Convention. **Therefore, even if Haiti is not party to the 1993 Hague Convention, all receiving States should apply these standards and safeguards[28].**

[27] Available at: http://www2.ohchr.org/english/law/crc.htm.

[28] Hague Conference on Private International Law, 'Information Note to States and Central Authorities: Haiti earthquake and intercountry adoption of children', 20 January 2010, http://hcch.e-vision.nl/upload/haiti_infonote_e.pdf. The Permanent Bureau published a similar statement calling for restraint in 2004 – 'Press Release: Asian-African Tsunami Disaster and the Legal Protection of Children', 10 January 2005, http://hcch.e-vision.nl/upload/tsunami_e.pdf.

2.2 International Guidelines

2.2.1 Guidelines for the Alternative Care of Children

Children in emergency situations should not be moved to a country other than that of their habitual residence for alternative care except temporarily for compelling health, medical or safety reasons. In that case, this should be as close as possible to their home, they should be accompanied by a parent or caregiver known to the child, and a clear return plan should be established (paragraph 160).

The Guidelines for the Alternative Care of Children[29] aims to give further clarification to rights embedded in the UNCRC specifically dealing with children deprived of their family. One section deals with the care of children in emergency situations. It places emphasis on supporting care options within the child's community and notes that, before adoption is considered in such a situation, it should be shown that family reintegration is impossible, which can only be verified after a certain time has lapsed (para. 160).

2.2.2 UN Committee on the Rights of the Child: General Comment 6

In 2005, the UN Committee on the Rights of the Child published General Comment 6 on the treatment of unaccompanied and separated children outside their country of origin[30]. A key principle is that 'unaccompanied or separated children must not be adopted in haste at the height of an emergency'. Moreover adoption should not be considered 'unless a reasonable time has passed during which all feasible steps to trace the parents or other surviving family members has been carried out. This period of time may vary with circumstances, in particular, those relating to the ability to conduct proper tracing; however, the process of tracing must be completed within a reasonable period of time'. Importantly the child should be involved in any decision regarding adoption ensuring that 'he/she has been counselled and duly informed of the consequences of adoption and of his/her consent to adoption, where such consent is required'.

2.2.3 UNHCR Best Interest Determination Model[31]

In May 2008, UNHCR developed guidelines on determining the best interests of the child for unaccompanied and separated children. These guidelines emphasise the need to have procedural safeguards in place in 'order to identify which among the available options is in his or her best interests. Under the CRC, strict procedural safeguards are required for adoptions'. Basically, a competent authority is essential for ensuring that the safeguards in place are followed. To be competent, the authority must be adequately resourced and have the capacity to carry out its functions. In an emergency situation, clearly the capacities of all authorities are diminished and their abilities to carry out their 'normal' functions are severely reduced. Additionally, strict procedural requirements are in place to ensure the maximum protection of children's rights. In principle, these requirements should not be relaxed in a time of emergency, where unfortunately certain bodies or individuals will take advantage of the country's inability to verify that children's rights are being well respected.

2.2.4 Other international guidelines

The Hague Conference, ISS and UNICEF have all prepared international guidance notes on intercountry adoptions, which can also be specifically applied to emergency situations. In 2009, the Hague Conference published *The Implementation and Operation of the 1993 Intercountry Adoption Convention: Guide to Good Practice*[32] which contains important information on the practical operation of THC-93 and how to best protect children's rights. ISS has also developed an ethical

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[29] Available at: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/11/L.13.

[30] CRC/GC/2005/6, 1 September 2005, available at: http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/532769d21fcd8302c1257020002b65d9/$FILE/G0543805.DOC.

[31] UN High Commissioner for Refugees, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, available at: http://www.unhcr.org/refworld/docid/48480c342.html.

[32] Hague Conference on Private International Law, *The Implementation and Operation of the 1993 Intercountry Adoption Convention: Guide to Good Practice*, 2008, http://www.hcch.net/upload/adoguide_e.pdf.

guide on the rights of the child in adoption and this provides similar insights as the Guide to Good Practice[33].

In UNICEF's position statement on adoptions[34], it is noted that during war or natural disasters, it cannot be assumed that such children have neither living parents nor relatives. Even if both their parents are dead, the chances of finding living relatives, a community and home to return to after the conflict subsides exist. Thus, such children should not be considered for intercountry adoption, and family tracing should be the priority. This position is shared by UNICEF, UNHCR, the International Confederation of the Red Cross, and international NGOs such as the Save the Children Alliance.

2.3 Examining international responses to Haiti and the adoption of children

The responses within the international community were highly inconsistent in terms of the interpretation of international standards. The UN Human Rights Council held a special session on Haiti and passed a resolution calling for the maximum protection of the most vulnerable[35]. On 15 January 2010, the UN Committee on the Rights of the Child published a statement about the situation of children in Haiti, noting the vulnerability of children separated from their families[36]. The issue of intercountry adoptions was not addressed.

Within the first weeks, the response to intercountry adoptions by other international actors was at times diametrically opposed. Spain on behalf of the EU called for the fast tracking of adoptions[37] as did other groups advocating for intercountry adoptions[38]. In contrast, other bodies such as Save the Children, World Vision and the Disasters Emergency Committee called for an immediate moratorium on intercountry adoptions[39].

In between the two ranges of responses, on 20 January, the Hague Conference noted that special measures had to be applied to pipeline cases[40]. The Hague Conference noted that it may be in the best interests of the child to expedite adoption proceedings in two cases, firstly where there is an adoption judgment and secondly, where the child has already been matched with his/her prospective adoptive parents and his/her safety necessitates evacuation.

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[33] International Social Service, *The Rights of the Child in Internal and Intercountry Adoption - Ethical Principles - Guidelines for Practice*, 1999/2004, http://www.iss-ssi.org/2009/index.php?id=38.

[34] UNICEF, 'UNICEF's position on Inter-country adoption', http://www.unicef.org/media/media_41918.html [accessed January 2010].

[35] Office of the High Commissioner for Human Rights, 'Human Rights Council concludes Special Session on Haiti', http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9788&LangID=E.

[36] UN Committee on the Rights of the Child, Statement, 15 January 2010, http://www2.ohchr.org/english/bodies/crc/docs/statements/CRC_Statement-Haiti.pdf.

[37] 'EU urged to fast-track adoptions from Haiti: Spanish presidency', *EUbusiness*, 22 January 2010, http://www.eubusiness.com/news-eu/haiti-quake-spain.2e4/, and 'No EU plan foreseen to fast-track adoptions of Haiti children', *M&C*, 25 January 2010, http://www.monstersandcritics.com/news/americas/news/article_1528204.php/No-EU-plan-foreseen-to-fast-track-adoptions-of-Haiti-children#ixzz0dhklEl70.

[38] 'The paperwork can wait: everybody wins with adoption', *The Times*, 21 January 2010, http://www.timesonline.co.uk/tol/comment/columnists/melanie_reid/article6995752.ece.

[39] 'Chief Executives of Save the Children UK and World Vision UK respond to Times UK article "The paperwork can wait: everybody wins with adoption"', 21 January 2010, http://www.crin.org/docs/Chief%20Executives%20of%20Save%20the%20Children%20UK%20and%20World%20Vision%20UK%20respond%20to%20Times%20UK%20article.docx and Disasters Emergency Committee, 'DEC member agencies call for halt to any new adoptions of children separated from their families after Haiti earthquake: Aid effort must focus on tracing and reunification of families', 20 January 2010, http://www.reliefweb.int/rw/rwb.nsf/db900SID/VVOS-7ZVMKD?OpenDocument&RSS20=03.

[40] Hague Conference on Private International Law, 'Press Release: Haiti earthquake and intercountry adoption of children', op. cit., and Information Note to States and Central Authorities: Haiti earthquake and intercountry adoption of children, 20 January 2010, http://hcch.e-vision.nl/upload/haiti_infonote_e.pdf.

ISS went even further than the Permanent Bureau in its earlier response on 18 January regarding the types of pipeline cases that should be expedited[41]. ISS stated that expedition could occur only in cases where there was an adoption judgment as well as a number of other pre-conditions.

On 10 February, the European Parliament adopted a resolution, which included "7. Urges the EU to support a temporary moratorium on new adoptions of children from Haiti for up to two years after tracing efforts have begun; calls for EU efforts to provide children with their basic needs, to bring temporary schools into operation and to provide counselling to children as a matter of urgency"[42].

On 12 February, a large number of international NGOs drafted a statement calling on the European Parliament to support both a moratorium on international adoptions and measures to prevent separation of children from their families in Haiti.

At the same time as these calls for a moratorium, numerous legislative initiatives were being taken, particularly in the USA, calling for the expedition of even more adoption cases, including new applications (see section 4.8).

There was thus a clear rift between the two camps of those who thought the best manner to protect Haitian children was by expediting as many adoptions as possible and others who believed that that this response should be limited to prevent abuses.

> *In light of such divergent responses, the question to ask is whether the fast tracking of intercountry adoption procedures post-earthquake was compliant with international norms, as dealt with next.*

[41] International Social Service, 'Earthquake in Haiti: Intercountry Adoption Cases', 18 January 2010, http://www.iss-ssi.org/2009/assets/files/news/haiti_position%20CIR_ENG.pdf.
[42] European Parliament, Resolution on the recent earthquake in Haiti, 10 February 2010, http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2010-0015&format=XML&language=EN.

3. General overview of intercountry adoption issues post-earthquake

There was a rapid and sharp increase in adoptions post-earthquake, when compared to the adoption trends over the last seven years in Haiti as shown in the table. The figures seem staggering in terms of the disproportionate increase in adoptions within a one-month period, where there were more than 400 intercountry adoptions compared to 2009, although account has to be taken of the fact that adoptions were taking two or three years to process (including sometimes a year to obtain a passport) resulting in a massive backlog.

	2003	2004	2005	2006	2007	2008	2009	2010 earthquake	Total
Canada	150	159	115	123	88	148	89	203	**1,075**
Belgium	7	6	4	1	0	3	1	14	**36**
France	542	507	475	571	403	731	651	489	**4,369**
Germany[43]	NA	35	37	23	31	61	30	62	**279**
Italy	6	9	13	2	2	0	0	2[44]	**34**
Luxembourg	NA	NA	1	1	7	8	3	14	**34**
Netherlands	69	42	51	41	28	91	60	107	**489**
Spain	17	36	24	15	22	0	0	7[45]	**121**
Switzerland	9	7	8	10	12	4	9	9	**68**
USA	250	356	231	309	190	301	380	1,200[46]	**3,217**
Total	**1,050**	**1,157**	**959**	**1,096**	**783**	**1,347**	**1,223**	**2,107**	**9,736**

Within three months of the earthquake, Canada, USA, Luxembourg and Belgium almost tripled their numbers. Germany doubled their numbers. Only France's figures remained lower than the previous years, a phenomenon that may be explained by their political stance that only cases where there was an adoption judgment would be expedited. Other countries fast tracked adoption cases where there was only a matching and some cases where children had not even been matched.

> *This acute augmentation in figures shows that intercountry adoptions were disturbingly 'over' prioritised during the emergency.*

It could have been hoped that the restraint in adoptions shown after the Tsunami and other disaster situations would have also been exercised in regard to Haiti, even more so given its precarious intercountry adoption history. Unfortunately, the typical emotive response to a catastrophe was as prevalent as ever, "children need to be saved and adopted" but it is one that flies in the face of well established international norms.

International standards unequivocally demand that compelling 'health, medical or safety reasons' exist before any child is transferred out of a country during an emergency. Sparse proofs of the latter were offered for justifying the transfer of many of the Haitian children. Different newspaper articles indicate that many of the orphanages that the children were staying in were not directly affected by the earthquake and were not even in Port-au-Prince[47]. As an illustration, of the 80

[43] These figures are approximates provided by the Germany Federal Central Authority who have stated that they do not have official statistics on intercountry adoption cases. The accredited bodies are, however, obliged to report any finalised intercountry adoption to the authority - not for statistical reasons, but in order to facilitate the child's research for his/her biological family. The problem is that the finalisation might not be reported in the same year in which the adoption decision has been pronounced.

[44] Please see section 5 for an explanation of the particular situation for Italy and Spain.

[45] Ibid.

[46] U.S. Citizenship and Immigration Services, *Special Humanitarian Parole Program for Haitian Orphan Fact Sheet*, http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=6d5135f9b29d7210VgnVCM100000082ca60aRCRD&vgnextchannel=8a2f6d26d17df110VgnVCM1000004718190aRCRD.

[47] See, for example: 'Adoptions of Haitian children thrown into chaos', *National Post*, 14 January 2010, http://www.nationalpost.com/news/world/story.html?id=2447400.

children transferred to Miami on 21 January, the Director of one of the Adoption Agencies involved stated "all of these children escaped from this tragedy unharmed".[48] Another newspaper reveals that, 'the staff at Children of the Promise, about 90 miles from Haiti's capital, barely felt the temblor. But 39 of the 50 children there were approved for humanitarian parole (in the USA), even though none of them had been affected by the disaster and the orphanage had not yet received the proper license to place children.'[49] One newspaper documents that 'the orphanage was not damaged and none of the roughly 200 children living there was injured'[50]. Another newspaper notes that 'none of the children was hurt in last week's earthquake. But Macky Schouten, head of the Netherlands Adoption Foundation, said it was difficult getting them from their orphanages in Haiti to the choked Port-Au-Prince airport'[51].

> *Whilst it is accepted that some children had 'compelling' health, medical of safety conditions necessitating their urgent evacuation, a good number of children whose adoption cases were expedited were not in this situation.*

We now know that the result of expediting such a mass number of adoptions without sufficient regard to international norms has already had extremely preoccupying consequences for some children. It is hoped that this sad reality can be used to inform well-meaning members of the public who naively believe that expediting adoptions should be a priority, irrespective of whether or not there are adequate procedures in place to ensure that children are protected.

The following section on intercountry adoption issues is divided into four main categories dealing firstly where adoptions with an adoption judgment were expedited, secondly where adoptions without an adoption judgment were expedited, thirdly issues related to the transfer of children out of Haiti and lastly matters concerning the arrival of children into receiving countries.

3.1 Expediting transfer - cases where there is an adoption judgment

This section deals exclusively with pipeline cases where there is an adoption judgment and only the visa and passport processing remains before the child can leave Haiti, i.e. cases where the transfer is expedited. For these cases, in principle, it can be assumed that the relevant tribunal would not have made an order unless domestic laws were complied with. In this context, in the majority of cases it may be in the best interests of children to be united with their families as soon as possible and therefore there is some sense in expediting such cases.

However, these fast-tracking measures should be undertaken within a framework that guarantees respect for the rights of children and others. Prioritising intercountry adoptions should not be at the expense of emergency relief efforts. Nor should they be undertaken in such a rapid manner that children are not provided with sufficient time to recover from the earthquake in a familiar environment. Moreover, given the heightened risk of exploitation of children in the aftermath of a catastrophe, it would have been prudent to ensure that adequate identification and registration measures are in place before children are transferred out of the country.

3.1.1 Prioritising adoptions over emergency relief efforts

By prioritising intercountry adoptions, some relief measures for the wider Haitian community were by-passed. The already congested airport became even more clogged-up as a result of private initiatives. For example, the Chinese Children Adoption International, a Colorado-based Christian

48 'Eighty Haitian Orphans Unite with Adoptive Families at Miami Hotel', PR Newswire, 21 January 2010, https://www.adoptioncouncil.org/images/stories/documents/2010/01%2021%20PR%20Newswire.pdf.
49 'After Haiti Quake, the Chaos of U.S. Adoptions', *NY Times*, 3 August 2010, http://www.nytimes.com/2010/08/04/world/americas/04adoption.html?_r=2&pagewanted=1
50 'N.S. couple reunited in Canada with two Haitian adoptees', *The Canadian Press*, 27 January 2010.
51 'Dutch adoption airlift brings 123 Haitian children into the Netherlands', *The Canadian Press*, 21 January 2010.

organization was able to land by private jet in Port-au-Prince on January 18, as did the Bresma rescue group, whereas the Médecins sans Frontières portable hospital plane was diverted"[52].

> *During an emergency, priority should be given to relief efforts directed to meeting the immediate needs of the wider community and should not be compromised by the fast tracking of intercountry adoption cases.*

3.1.2 Children should be given time to recover from the earthquake in familiar surroundings

When fast tracking intercountry adoptions, the principle that during an emergency 'care within the child's own community, including fostering, should be encouraged as it provides continuity in socialisation and development' (para. 158 Guidelines for the Alternative Care of Children) should be respected. In other words, children need a familiar environment to recuperate after a catastrophe. Pierre Lévy-Soussan, who assisted with the arrival of various children in France from Haiti, has remarked that the best environment for children to recover from the shock of the earthquake is in his/her own country where there are familiar landmarks[53]. Nazir Hamad, a psychoanalyst, contends that children also need an opportunity to grieve and say farewell to their relatives, carers and friends. [54]

> *Children should be given some time to recover from the shock of catastrophe in familiar surroundings before changing their environment on a permanent basis to another country. Children should also be given the opportunity to farewell their close relations.*

3.1.3 Identification and registration measures were inadequate during the transfer of children

During emergency situations, there can be a propensity for certain individuals or groups to take advantage of the lack of procedural safeguards by way of identification and registration measures. For example, on 21 January, there was a report of children being targeted in emergency care arrangements so that 'for the next couple of days, until they are all ready to leave the hospital, the children will all be together at the far end of the tent, right by the resting space for the doctors and nurses. The reason for keeping them here is that it enables the medical personnel here to keep a close eye on them as several people have attempted to take the children out of the country'[55]. In a press statement, UNICEF reported that since the earthquake about 15 children had gone missing from hospitals.[56]

Another flagrant example can be seen in the case of US missionaries who attempted to escort 33 Haitian children across to the Dominican Republic without the necessary paperwork on 31 January[57]. The children were aged from two months to 12 years[58]. Immediately after the group was arrested, the children were cared for by SOS Children's Villages International. In fact, at least 20 of the 33 children have at least one parent still living[59]. All but one of the 33 children have been reunited with their families. It has been reported that '…all the children had parents to return to. Each family was given food, blankets and $260 (£170) as they came to collect their children'[60]. Some children had been told that they were going on holidays, whilst in other cases parents believed that their children would have a better future in the USA. In response to this, the New

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[52] 'The big business of haitian adoption', *AlterPresse*, 23 March 2010, http://www.alterpresse.org/spip.php?article9376.
[53] 'Querelle de psy autour des enfants adoptés d'Haiti', *Ouest France*, 26 February 2010.
[54] *Accueil* No. 155, Enfants & Familles D'Adoption, May 2010 at 15.
[55] 'Haiti: plight of orphaned children', Opinion – Blog by Tom Parry, *Daily Mirror*, 21 January 2010, http://blogs.mirror.co.uk/developing-world-stories/2010/01/haiti-plight-of-orphaned-child.html.
[56] 'Une quinzaine d'enfants haïtiens a disparu des hôpitaux', TDG, 22 January 2010, http://www.tdg.ch/haiti-quinzaine-enfants-disparu-hopitaux-2010-01-22
[57] 'Haiti arrests US nationals over child 'abductions'', *BBC News*, 31 January 2010, http://news.bbc.co.uk/2/hi/americas/8489738.stm.
[58] 'Case Stokes Haiti's Fear for Children, and Itself', *The New York Times*, 1 February 2010, http://www.nytimes.com/2010/02/02/world/americas/02orphans.html?ref=world.
[59] SOS Children's Villages, Statement of SOS Children's Villages: The needs of unaccompanied children in Haiti, 4 February 2010, http://www.sos-childrensvillages.org/News-and-Media/News/Pages/Need-of-unaccompanied-children-in-Haiti.aspx.
[60] 'Haiti 'orphans' returned to parents', *BBC News*, 18 March 2010, http://news.bbc.co.uk/2/hi/americas/8574074.stm.

York Times reported that: 'Prime Minister Jean-Max Bellerive angrily denounced them as "kidnappers" who "knew what they were doing was wrong." Justice Minister Paul Denis said, "We may be weakened, but without laws the Haitian state would cease to exist." And the chief of the National Judicial Police, Frantz Thermilus, said: "What surprises me is that these people would never do something like this in their own country. We must make clear they cannot do such things in ours"'[61].

Children were also permitted to leave Haiti for the purpose of adoption without having proper identification. For example, as a result of the Pennsylvanian Governor landing a chartered jet to rescue children from the Bresma orphanage, 'of those 54 children, 12 later placed in foster care were found to have been airlifted to the US without proper documentation, and in violation of Haitian laws, the Hague Adoption Convention, and the UN Convention on the Rights of the Child'[62]. Moreover, "a 12-year-old boy who was allowed onto a U.S. military plane without documentation or relatives in the U.S. and is now in limbo while officials try to find out if he left family behind in Haiti. In another case, a 3-year-old boy arrived on a private plane with other orphans even though the family who had been planning to adopt him had changed their mind and abandoned the process"[63].

Based on these few examples, clearly the lack of identification and registration measures during the emergency, which took UNICEF and other actors three weeks to implement, resulted in the ad hoc and often illegal movement of children across borders, ignoring both national and international laws. In its earthquake-affected state, Haitian authorities had a severely limited capacity for verifying compliance with its national laws, a fact confirmed by the Haitian delegate during the Special Commission on the operation of the Intercountry Adoption Convention at the Hague 17-25 June 2010 (hereafter Special Commission 2010). In an emergency context, it is therefore arguable that receiving countries, via their Embassies, have an elevated obligation to ensure that the national laws of the country of origin are followed especially with respect to the verification of children's identity and adoption dossier. The receiving countries failed this duty as seen in the prior examples and as discussed below (see section 3.2).

In the aftermath of a disaster, children are especially vulnerable to being exposed to acute risks of exploitation. It is therefore imperative that adequate identification and registration measures are in place, before children are transferred out of a country for the purpose of an adoption. Receiving countries have a heightened obligation to ensure that the latter exists given the weakened state of the affected country.

3.2 Expediting adoptions - cases where there is no adoption judgment

Guidelines for the Alternative Care of Children
Children in emergency situations should not be moved to a country other than that of their habitual residence for alternative care except temporarily for compelling health, medical or safety reasons. In that case, this should be as close as possible to their home, they should be accompanied by a parent or caregiver known to the child, and a clear return plan should be established.' (para 160)

This section examines the 'expedition' of cases where there is no adoption judgment. For such cases, this refers to fast tracking stages in the adoption procedure as well as the actual transfer. As detailed in Part 2, this would include cases where children were not matched (i.e.: Luxembourg and Netherlands) as well as those where children were matched with their prospective adoptive parents (i.e.: Belgium, Germany, Luxembourg, Netherlands Switzerland and USA) but with no adoption order.

In considering such cases, it is important to remember 'what expediting should have meant' according to international law, as discussed after the Executive Summary.

[61] 'Case Stokes Haiti's Fear for Children, and Itself', op. cit.
[62] 'The big business of haitian adoption', *AlterPresse*, 23 March 2010, http://www.alterpresse.org/spip.php?article9376.
[63] 'Arrest of Americans deepens Haiti adoption debate', Associated Press, 1 February 2010, https://www.adoptioncouncil.org/images/stories/documents/2010/02%2001%20Associated%20Press.pdf.

Customarily in Haiti, a child is matched to a family early on in the adoption process and therefore an additional one to two years are deemed necessary before an adoption judgment can be made. It is important to recall, as discussed earlier (see section 1.2), that the matching process is inherently deficient as it is ordinarily a private agreement between the Director of a crèche and a prospective adoptive parent, without any professional involvement or objective assessment. Meanwhile, after the "matching", a number of checks and balances are implemented to ensure some degree of protection for the child. Even though such checks (i.e.: existing laws and policies) were inadequate pre-earthquake, a complete disregard of them could only lead to even more chaos (see section 1.2). At the Special Commission 2010, a Belgian delegate, while justifying the way in which intercountry adoptions had been processed to Belgium, nonetheless raised a number of pertinent questions including: "if the receiving countries had paid even minimal attention to the conditions in which their adopters were adopting in Haiti, would they really have accepted the ways in which most crèches have been operating: selecting children according to medical status before agreeing to take care of them, giving priority to children who still have their biological parents, to the detriment of abandoned children on the pretext that the procedures are longer and more complicated in their cases…?"[64].

This section examines the harmful consequences of overlooking such safeguards when expediting adoption for cases without a judgment.

> *Hindsight would now teach us that the accumulation of heightened risks for children due to the lack of such internal safeguards, which were already feeble before the earthquake (see section 1.2), far outweighs the benefits of fast tracking cases without an adoption judgment. Such cases should only be expedited as an exception when there are 'compelling' health, medical or safety conditions necessitating their urgent evacuation.*

3.2.1 Competent Authority (article 4)

Ideally IBESR as the Central Adoption Authority should be equipped to ensure that intercountry adoptions are undertaken in a manner consistent with international norms. The Guide to Good Practice states that '148. If the Central Authority is to exercise control of the adoption process (Arts 14.22), eliminate obstacles (Art. 7(2) b)) and deter all practices contrary to the objects of the Convention (Art. 8), it should have sufficient powers to achieve these aims (…) 149. Of equal importance is ensuring that the designated Central Authority is established with adequate personnel and resources to be able to function effectively. (...) The autonomy of the Central Authority from inappropriate political or diplomatic pressure should also be preserved'[65]. As noted earlier, the IBESR already lacked the capacity to oversee and control the intercountry adoption process prior to the earthquake (see section 1.2).

The impossibility of having a 'competent' body being equipped to carry out the tasks mentioned above is a major reason why adoptions should not be carried out in an emergency situation. In Haiti, files were lost, buildings were damaged and government authorities were crippled as well as many public officers being injured and in some cases being killed as a result of the earthquake. It is quite challenging to envisage how the Haitian Government would have been in a position to adequately comply with article 4 THC-93[66]. Given this unlikelihood, receiving countries that have ratified THC-93 would not necessarily have the sufficient guarantees that they were complying with their obligations thereunder.

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[64] Statement by Didier Dehou on behalf of the Belgian francophone Central Authority at the Special Commission on the operation of the Intercountry Adoption Convention The Hague 17-25 June 2010.

[65] Hague Conference on Private International Law, *The Implementation and Operation of the 1993 Intercountry Adoption Convention: Guide to Good Practice*, 2008, http://www.hcch.net/upload/adoguide_e.pdf.

[66] Even if Haiti has not ratified THC-93, this Convention reflects the principles embedded in UNCRC, to which the country is a State party.

A 'competent' authority was not in place to ensure that national laws were respected. Therefore, prospective adoptive parents adopted children despite having biological children[67] and children older than 16 were adopted, contrary to the 1974 Decree.

No authority was in place to monitor the costs involved in adopting such a large number of children. This is particularly disturbing – and all the more so in a country renowned for lack of transparency in this field – given the large sums involved for adopting such a high number of children, where on average in-country 'fees' can amount to 10,000 USD per child. Moreover, there are allegations that additional sums may have been paid in some instances: thus, on 18 January, an NGO group, United Adoptees International, heavily criticised the Dutch Government for allegedly paying Haitian authorities between 1,000 and 1,500 Euros as an additional fee[68].

Article 4 THC-93

An adoption within the scope of the Convention shall take place only if the **competent authorities of the State of origin** -

a) have established that the child is adoptable;

b) have determined, after possibilities for placement of the child within the State of origin have been given due consideration, that an intercountry adoption is in the child's best interests;

c) have ensured that

(1) the persons, institutions and authorities whose consent is necessary for adoption, have been counselled as may be necessary and duly informed of the effects of their consent, in particular whether or not an adoption will result in the termination of the legal relationship between the child and his or her family of origin,

(2) such persons, institutions and authorities have given their consent freely, in the required legal form, and expressed or evidenced in writing,

(3) the consents have not been induced by payment or compensation of any kind and have not been withdrawn, and

(4) the consent of the mother, where required, has been given only after the birth of the child; and

d) have ensured, having regard to the age and degree of maturity of the child, that

(1) he or she has been counselled and duly informed of the effects of the adoption and of his or her consent to the adoption, where such consent is required,

(2) consideration has been given to the child's wishes and opinions,

(3) the child's consent to the adoption, where such consent is required, has been given freely, in the required legal form, and expressed or evidenced in writing, and

(4) such consent has not been induced by payment or compensation of any kind.

Another consequence of the Haitian Government not having a competent authority can be seen in their 'over-approval' of adoption cases to be expedited. In the first week of the adoption, 'any government minister, no matter how removed from the adoption file, was signing the paperwork necessary to take a child out of the country' including the Ministry of Agriculture[69]. As of 22 January, all adoptions in Haiti had to be approved by Prime Minister Jean-Max Bellerive and without this approval, children were not allowed to leave the country. This was based on the recognition of the Haitian Government that it was 'the desire of the Haitian people, to the extent that this can be done, is for the children to be cared for in Haiti …That is their preference"[70].

But even with this attempt to gain control over the adoption situation, the country was ill equipped for the approval process. Another example can be seen in the fact that the Haitian President approved 250 adoptions into Canada, of which only 203 adoptions were in fact 'legitimate'. The list prepared by Canadian authorities was defective in that it included cases where the provincial/territorial government's approval for adoption or prospective adoptive parents was

[67] *Adoptive Families*, 'Home from Haiti', http://www.adoptivefamilies.com/articles.php?aid=2034; 'Duncan family's Haitian adoptees safe, but family awaits reunion', *Times Colonist*, 17 January 2010; 'Local family welcomes twins who survived Haitian earthquake', *The Star Phoenix*, 29 January 2010; 'First post-quake adoptee from Haiti arrives in B.C', *The Vancouver Sun*, 25 January 2010; 'Alberta families who adopted Haitian orphans say kids adjusting to new life', *The Canadian Press*, 15 February 2010.

[68] United Adoptees International, 'Dutch Government accept bribes to get Haitian Children', 18 January 2010, http://uai-news.blogspot.com/2010/01/dutch-government-accept-bribes-to-get.html.

[69] 'First orphans to arrive today', *Toronto Star*, 24 January 2010.

[70] 'Pedro Pan plan for Haiti unlikely to happen', *Miami Herald*, 20 January 2010, http://www.miamiherald.com/news/americas/story/1434664.html.

lacking. Further, a number of prospective adoptees were over 18[72] and ineligible to be adopted as well as some children not being matched with a family in Canada before the earthquake in Haiti.

	Number approved	Number adopted
Canada	250	**203**
Belgium	14	**14**
France	489	**489**
Germany	63	**62**
Luxembourg	14	**14**
Netherlands	109	**107**
Switzerland	9	**9**
USA	1,340[71]	**1,200**
Total	**2,288**	**2,098**

> *Prior to expediting intercountry adoptions in an emergency, a "competent" authority must be in place to ensure that its national laws are well respected, there is transparency in costs and also that a satisfactory approval system is in place. It is patently obvious that both Haiti as the country of origin and certain receiving countries did not have an adequate adoption approval process in place post-earthquake.*

3.2.2 Adoptability of the child (article 4a)

It is not necessarily in the best interests of every child without parental care to have an adoption plan. It is therefore essential to have an accurate evaluation of the child's adoptability. This evaluation should include a legal and psycho-social-medical analysis of his/her situation. Such an analysis is important to determine whether an adoption is a suitable option for the child and whether s/he is capable of forming attachments.

It is not clear whether such an analysis had been undertaken pre-earthquake before the child was matched with PAPs. As mentioned earlier, the IBESR did not even have the resources to verify how children entered the alternative care system pre-earthquake, let alone undertake a comprehensive evaluation of their adoptability (see section 1.2)[73]. An article in the NY Times provides examples where children were adopted 'without legal documents showing they were orphans and without regard for evidence suggesting fraud. In at least one case, two siblings were evacuated even though American authorities had determined through DNA tests that the man who had given them to an orphanage was not a relative.'[74]

Moreover, it would have been prudent to undertake an analysis post-earthquake to assess whether the child's adoptability had been affected by such an intense experience. One can not assume that a child's adoptability would have remained unchanged.

It is further concerning that the children were not amply, if at all, consulted or prepared for the adoption. The child's preparation for adoption also plays an important role in influencing the child's integration into his/her new country and capacity for adapting. The Guide to Good Practice notes that 'the preparation of the child for the adoption, including counselling, may be required. Children's close ties, whether to their family or to other children or personnel in the institution, will be severed by the adoption and they may be especially vulnerable and in need of counselling prior to the adoption'[75].

One newspaper reports that '"They (two Haitian children) don't have a clue what they're getting into," said Jackie Koehn, 19, one of two Mennonite caregivers who came to see the children through the bewildering experience of leaving their homeland'[76]. A newspaper has reported '"It was

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[71] The US Government stated that it is considering 1,340 adoption cases; U.S. Citizenship and Immigration Services, *Special Humanitarian Parole Program for Haitian Orphan Fact Sheet*, http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=6d5135f9b29d7210VgnVCM100000082ca60aRCRD&vgnextchannel=8a2f6d26d17df110VgnVCM1000004718190aRCRD.

[72] It is of course important to note that some children may have been under 18 at the time the adoption proceedings started. However, given the time usually taken to process an adoption, it may have been the case that some children were 18 at the time of the adoption judgment.

[73] Quote from reports presented at the Francophone Central Adoption Authority Meeting, op. cit.

[74] 'After Haiti Quake, the Chaos of U.S. Adoptions', op. cit.

[75] Hague Conference on Private International Law, *The Implementation and Operation of the 1993 Intercountry Adoption Convention: Guide to Good Practice*, 2008, p. 36, http://www.hcch.net/upload/adoguide_e.pdf.

[76] 'First orphans to arrive today', *Toronto Star*, 24 January 2010.

hard," she said (adoptive mother). "It's another change of environment for Woodson. We have a dog and a cat, which he's never seen before, and they totally freak him out. He's also never met my [other] kids before so he's a little strange with them. He woke up every couple hours"'[77].

Adoption cases should not be expedited in an emergency without the child's adoptability being confirmed. In addition, the child ought to be consulted and prepared.

3.2.3 Examination of alternative care solutions within the country (article 4b)

Prima facie, it is always concerning when children – especially young babies – are adopted out of a country without an appropriate amount of time being dedicated to trying to reintegrate them with their biological families or finding national solutions as dictated by the principle of subsidiarity. This is especially problematic in Haiti where this principle is missing from national laws (see section 1.2.2). In light of this international norm, it is troubling that young babies (e.g.: two months old in the Netherlands, three months old in Canada and four months old in Germany etc) were transferred out of the country in the aftermath of the earthquake.

There is no available information indicating that, for the children adopted out of Haiti, there was due consideration given to the possibilities of them remaining in the country. As mentioned above, children are matched with their PAPs quite early on in the adoption process. It is only when the case comes before the judge presiding over the adoption proceedings that compliance with this principle is verified. In the emergency context, this vital verification process did not exist.

During the Special Commission 2010, a delegate from Haiti remarked that the only option offered by receiving States for many Haitian children in the aftermath of the earthquake was intercountry adoption. The delegate confirmed that the Haitian authorities did not have the capacity to check whether the principle of subsidiarity had been complied with, referring to point two of the Executive Summary of this report. Delegates from Thailand, China and Kenya also noted that following natural and man made disasters; their respective Governments implemented a moratorium on intercountry adoptions. This decision proved to be correct given that the great majority of children were eventually reunited with their families, including some who had been in institutions. Many delegates emphasised the need to find community solutions as a priority.

Some national options may have been overlooked in the haste to evacuate children, especially young babies aged between two and six months. Prior to adoptions being expedited in the aftermath of a natural disaster, there should be sufficient proofs that the principle of subsidiarity has been complied with.

3.2.4 Consent of biological parents, guardians etc (article 4c)

Before an adoption judgment is pronounced, the consent of parents, guardians must be verified before the 'Juge de paix'. As noted earlier, prior to the earthquake, the IBESR did not have the resources to verify what was explained to the biological parents (see section 1.2)[78]. Therefore, some form of verification is clearly needed and all the more necessary given that the majority of children being adopted out of Haiti have at least one biological parent. In practice, many parents place their children in crèches solely due to poverty and maintain regular contact with them.[79] The French Government notes that at the time of the earthquake, 80% of the 1,011 Haitian children identified for French families had at least one of their biological parents living[80]. Such verification is clearly justified: for example, two birth-parents arrived at an orphanage and decided to care for their children who were destined for adoption in the Netherlands. This verification opportunity would not have been possible for the majority of other children, who were rapidly displaced. It is further contended that biological parents should not be expected to give their consent in a stressful emergency context.

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[77] 'First post-quake adoptee from Haiti arrives in B.C', *The Vancouver Sun*, 25 January 2010.
[78] Quote from reports presented at the Francophone Central Adoption Authority Meeting, op. cit.
[79] *Accueil* No. 155, Enfants & Familles D'Adoption, May 2010 at 7-8.
[80] France Diplomatie, Haïti (Situation au 25 février 2010), http://www.diplomatie.gouv.fr/fr/actions-france_830/adoption-internationale_2605/actualites_3230/2010_19952/haiti-situation-au-25-fevrier-2010_80381.html.

Central Authorities, such as Belgium, are clearly aware of the potential problems that could arise when adopting children when the biological parent's consent is not confirmed. In this regard, in April, they decided to verify the consent of the biological parents for three children despite having already moved the children into Belgium[81]. With retrospection, to avoid the necessity for such *post facto* verification, it would be wiser not to move children without all the appropriate consents.

> *In principle, the transfer of children out of a country should never take place without the confirmed consent of his/her parents, especially if it is for an adoption. Such movements across borders create unnecessary obstacles for tracing as well as potential adjustment difficulties for the child should his/her parents not be found and even more so should they be found and not provide their consent.*

Article 5 THC-93

An adoption within the scope of the Convention shall take place only if the competent authorities of the **receiving State** -

a) have determined that the prospective adoptive parents are eligible and suited to adopt;

b) have ensured that the prospective adoptive parents have been counselled as may be necessary; and

c) have determined that the child is or will be authorised to enter and reside permanently in that State.

3.2.5 Ensuring prospective adoptive parents are eligible to adopt (article 5 a)

Receiving countries also by-passed a number of safeguards embedded in their obligations under THC-93. The receiving countries had the responsibility for ensuring that the PAPs were suited to adopt a child from Haiti. While PAPs would presumably have been confirmed as eligible to adopt a child from Haiti, the assessment would not necessarily have included an analysis of the PAPs' ability to care for a child who has just lived through a trauma. It is not even sure that all parents would have undergone all the necessary preparatory steps as dictated by their own national laws, or were mentally prepared for such a task[82]. One Canadian newspaper notes that one family had five days to prepare for the arrival of their children. It states that 'the Reimches had finished their paperwork in Canada, but had only just been "proposed" their children. They didn't expect Haiti to approve the adoption for another 14 to 24 months. They believed Wilson and Mackenson would be two years old before they could be brought to Canada. Last Friday, they were told their children would be in Canada within the week'[83].

> *Prior to the expedition of intercountry adoption cases, receiving countries have the duty to ensure PAPs were also eligible and adequately prepared to adopt children who had lived through an earthquake with its devastating circumstances.*

3.2.6 Ensuring that the child is or will be authorised to enter and reside permanently in the State (article 5c)

As part of fast tracking activities, receiving countries had the obligation of ensuring that Haitian children would be able to enter and reside 'permanently' in the Receiving State.

As an example, it has been reported that the US' Department of Homeland Security has 'acknowledged that the administration's priority was getting children out of harm's way, not the safeguards the United States is obligated to enforce under international law.'[84] It is therefore not surprising that in the USA, some Haitian children whose cases were expedited are facing difficulties in obtaining the same benefits as children adopted from other countries. This anomaly has been explained by the fact that these children entered the USA with a humanitarian visa which permits temporary entry as opposed to a 'standard' orphan visa. It has been argued that 'as a result, these children are not truly in the legal custody of their "adoptive" families until they are re-adopted in their new state of residence (…) This means that these particular children do not enjoy the benefits of their new family's health insurance …'[85].

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[81] 16th Informal Working Meeting of Central Authorities for Intercountry Adoption, Amsterdam, 27-28 April 2010.
[82] *Adoptive Families*, 'Home from Haiti', http://www.adoptivefamilies.com/articles.php?aid=2034.
[83] 'Local family welcomes twins who survived Haitian earthquake', *The Star Phoenix*, 29 January 2010.
[84] 'After Haiti Quake, the Chaos of U.S. Adoptions', op. cit.
[85] Smith Rotabi, K, 'Unanswered Questions Abound on the Plight of Haitian "Adoptees" in the U.S.', Blog, *Americas Quarterly*, Karen Rotabi, Americas Quarterly 27 May 2010, http://www.americasquarterly.org/user/3206 [accessed 15 June 2010].

An article in NY Times provides examples of children were brought to the USA without appropriate paperwork or proper matching and how these children will 'face years of legal limbo because they have arrived with so little proof of who they are, how they got here and why they have been placed for adoption that state courts are balking at completing their adoptions.'[86] For example, 'one Kansas lawyer said he satisfied a judge's questions about whether the Haitian boy his clients had adopted was an orphan by broadcasting announcements on Haitian radio stations over two days, urging any relatives of the child to come forward if they wanted to claim him.' [87] In addition, a number of children who had been transferred by the Governor of Pennsylvania into Pennsylvania are now living in an institution, without a clear plan for their future and Red Cross has been contacted for family tracing[88]. Such children may eventually be returned to Haiti after biological families have been contacted. This lack of certainty is not in the best interests of children.

With regards to Belgium, the families without an adoption judgment were all assisted by an accredited body before the *Tribunal de la jeunesse* (Youth Court) to ensure that an intercountry adoption for all cases is recognised according to Belgium law and ensure residential permanency. In Germany, accredited bodies were also responsible for assisting with the residency issues.

> *Prior to fast tracking activities, receiving countries must ensure that the child to be adopted will be authorised to enter and reside permanently in the State.*

3.2.7 Use of development aid in the context of an emergency

The efforts of the international community in supporting Haiti with generous financial and material aid to help reconstruct the country are of course commendable. There is nonetheless possible cause for concern that some assistance provided may not have been sufficiently demarcated from objectives related to intercountry adoptions,[89] and/or that it serves to re-establish or bolster aspects of the overall child protection system (e.g. over-reliance on residential facilities) that do not correspond to accepted standards on alternative care for children[90].

In light of this, the question might be posed as to whether sufficient distance exists between, for example, the Danish efforts to rebuild an orphanage affected by the earthquake, while this same institution is also the 'source' of adoptable children. An identical question may be raised about the financial and material assistance provided by the French Government directed at helping the First Instance Court in Port-au-Prince to become operational again. The French Government itself notes that 'the Court of First Instance of Port-au-Prince handles about 90% of records for international adoptions in Haiti'[91].

It may well be that, after examination; there are no grounds for concern in these two specific instances. The important issue is, however, that those granting relief or development aid must always ask themselves the question before doing so.

> *Any development aid must not be directly linked to intercountry adoption services. A clear demarcation between aid efforts post-earthquake and intercountry adoptions did not always exist.*

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[86] 'After Haiti Quake, the Chaos of U.S. Adoptions', op. cit.
[87] Ibid.
[88] Smith Rotabi, K, op. cit.
[89] One of the conclusions of the Special Commission 2010 re-emphasised 'the need to establish, in all cases, a clear separation of intercountry adoption from contributions, donations and development aid'.
[90] Guidelines for the Alternative Care of Children, approved by the UN General Assembly (2009); see also, for example, the 'Stockholm Declaration' from the 2nd International Conference on Children and Residential Care, 12-15 May 2003.
[91] France Diplomatie, Déclaration de Bernard Valero, Porte-parole du MAEE (25.03.2010), http://www.diplomatie.gouv.fr/fr/IMG/pdf/Declaration_du_Porte-parole.pdf.

3.2.8 Co-ordination among "receiving countries"

As clearly highlighted in Part 2 of this report, the intercountry adoption responses of "receiving countries" diverged greatly. Within a couple of days of the earthquake, the Netherlands and Luxembourg had the immediate reflex of 'saving' their children, requesting that intercountry adoptions be expedited. During this same initial period, Canada and France made clear statements that adoptions from Haiti were suspended.

Within five days of the earthquake, ten countries that had taken political stances to expedite transfer and/or adoption procedures made public announcements to that effect. These countries included Belgium, Canada, France, Germany, Luxembourg, the Netherlands, Switzerland and USA. All these countries had ongoing adoption programs in Haiti prior to the earthquake. Whilst Italy and Spain also expedited transfers post-earthquake, the two countries stand apart as they had officially suspended adoptions since 2007, and the cases involved had been pending since then. Apart from these countries, Israel was the only other country that showed an interest in adopting children post-earthquake. As a sign of solidarity, Senegal offered to temporarily care for children if necessary.

In stark contrast to these ten countries, at least 30 countries from across the regions made explicit statements against intercountry adoptions from Haiti after the earthquake. These countries heavily relied upon the international standards demanding restraint and a certain time to elapse before such alternatives should be investigated. It is important to note that countries such as Austria, Australia, New Zealand, Sweden, United Kingdom, Denmark, Norway, Italy, Spain etc had taken specific stances not to undertake adoptions in Haiti prior to the earthquake due to a lack of safeguards. Moreover, Spain had specific national legislation prohibiting intercountry adoptions in the aftermath of a catastrophe or war, an initiative that can only be commended.

> *This divergent approach by "receiving countries" provides mixed signals to Haitian authorities creating practical problems for the country to respond appropriately to concerns identified.*

On the one hand, countries have pinpointed specific problems and gaps with the Haitian system resulting in a moratorium instigated by receiving countries, and on the other hand, other countries have continued adopting children implying their satisfaction with adoption practices. As noted in the ISS report on Vietnam, this situation is not new[92]. This situation has been repeated in Nepal, Guatemala, Cambodia, etc.

During the Special Commission 2010, there was wide agreement between States and international organisations about the need to have a common approach when dealing with countries of origin with regard to intercountry adoptions in the aftermath of a natural disaster. Many States noted that such a common approach would help alleviate pressure from the public, whose immediate reaction in such circumstances is invariably to call for children to be adopted. Whilst the recommendations from this Special Commission unfortunately did not deal specifically with pipeline cases, it strongly reaffirmed the position that in these situations, new adoptions should not be undertaken until the country of origin is in a position to ensure that adequate safeguards are in place. To our knowledge, as noted above, only Spain has domestic legislation that respects this latter principle.

> *As a result of these mixed signals, the unhelpful message on the adequacy of the system is being sent as opposed to receiving countries working together to remedy the existing flaws. Receiving countries should agree on a common approach when dealing with intercountry adoption practices in any country of origin, especially in emergency situations.*

[92] International Social Service, *Adoption from Viet Nam: Findings and recommendations of an assessment*, op. cit.

3.3 Conditions for the transfer of children

There was chaos surrounding the transfer of hundreds of children within days of the earthquake. Proposals varied greatly, including children being airlifted to Florida in a humanitarian project that has roots in a similar mass exodus from Cuba fleeing the Castro regime (18 Jan)[93], petitions in France to "repatriate" children (16 Jan)[94], Dutch accredited bodies organising private flights (15 Jan)[95], the use of Airforce 1 to carry children to Pittsburgh (19 Jan)[96] and even to Guantanamo bay (21 Jan)[97].

Article 19 THC-93

(1) The transfer of the child to the receiving State may only be carried out if the requirements of Article 17 have been satisfied.
(2) The Central Authorities of both States shall ensure that this transfer takes place in secure and appropriate circumstances and, if possible, in the company of the adoptive or prospective adoptive parents.
(3) If the transfer of the child does not take place, the reports referred to in Articles 15 and 16 are to be sent back to the authorities who forwarded them.

It is important to recall that international standards exist for the transfer of children between countries and ideally 'adoptive parents should escort the child from the State of origin, as that enables them to know and understand the child's life and living conditions before the adoption and to understand something of the background of the child'[98]. In the immediate aftermath of the earthquake, this possibility was not available. However, given that Air France started operating commercial flights on 19 February and some American Airlines started flights on 15 February, it would have probably been wiser to wait a few weeks to give parents the possibility to escort their children out of Haiti and learn 'first hand' about the conditions in the country.

Regarding this subject, the Guide to Good Practice further notes that 'preparation and counselling for the entrustment and transfer should be provided to the prospective adoptive parents and the child, to minimise possible stress or trauma during this period'[99]. Arguably, the preparation and counselling afforded to children and parents for the transfer would have been severely limited due to the haste in which children were transferred out of the country. It may also be arguable that the rushed transfer of children from an emergency situation caused additional trauma for children, although this would be difficult to measure, and impossible at present as regards long-term ramifications (see section 3.4).

> *Given that commercial flights were operational within weeks of the earthquake, it would have been judicious to wait for at least this period, in order to give adoptive parents the possibility of personally accompanying their children to their new homes and learn 'first hand' about the child's country of origin.*

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[93] 'Haitian orphans could be airlifted to Miami for resettlement', *The Guardian*, 17 January 2010, http://www.guardian.co.uk/world/2010/jan/17/haitian-orphans-airlifted-miami-resettlement.
[94] Pour l'évacuation de tous enfants en cours d'adoption en Haïti, Petition initiated by the Collectif SOS Haïti Enfants Adoptés, http://www.mesopinions.com/Pour-le-rapatriement-des-enfants-en-cours-d-adoption-en-Haiti-petition-petitions-953b1d275c02b507a709385480180828.html.
[95] United Adoptees International, 'Dutch Government allows new 'Babylift' operation to get children for adoption from Haiti', 15 January 2010, http://uai-news.blogspot.com/2010/01/dutch-government-allows-private-flights.html.
[96] 'Haitian Orphans Arrive in Pittsburgh', *CBS News*, 19 January 2010, http://www.cbsnews.com/stories/2010/01/19/national/main6114410.shtml.
[97] 'U.S. prepares Guantanamo Bay for possible influx of Haitians', *CNN*, 21 January 2010, http://edition.cnn.com/2010/WORLD/americas/01/21/haiti.guantanamo/index.html.
[98] Hague Conference on Private International Law, *The Implementation and Operation of the 1993 Intercountry Adoption Convention: Guide to Good Practice*, 2008, p. 91, http://www.hcch.net/upload/adoguide_e.pdf.
[99] Hague Conference on Private International Law, *The Implementation and Operation of the 1993 Intercountry Adoption Convention: Guide to Good Practice*, 2008, p. 91, http://www.hcch.net/upload/adoguide_e.pdf.

3.3.1 Use of transit countries

The use of the Dominican Republic or other territories such as Martinique or Guadeloupe to transfer children out of Haiti for the purpose of intercountry adoption raises a number of questions. One particular issue is the potential application of the Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children (THC-96)[100]. Whilst Haiti is not a party to THC-96, a number of countries that have expedited intercountry adoptions have at least signed the Convention (e.g.: Belgium, Canada, France, Germany, Italy, Luxembourg, Netherlands, Spain and USA) with Switzerland having ratified the Convention. Interestingly, however, the Dominican Republic is a state party to THC-96. While it is true that THC-96 may not be applicable, as 'decisions on adoption, measures preparatory to adoption, or the annulment or revocation of adoption' (article 4) are not covered by the Convention, the Dominican Republic as a transit country may have been considered to have certain responsibilities in that regard.

THC-96 may be applicable given that, at the time when certain children (i.e.: those without an adoption judgment) had left Haiti, they were under the guardianship of the Directors of Orphanages or certain government bodies. Their adoption status was not yet established. THC-96 covers the 'rights of custody, including rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence, as well as rights of access including the right to take a child for a limited period of time to a place other than the child's habitual residence' (art 2b)', 'guardianship' (art 2 c) and 'foster care' (art 2 e).

> *One of the aims of THC-96 is to provide for the recognition of a child's statute in the country of origin in the country where s/he is transferred to. Therefore, possible contraventions of THC-96 may exist if the child's Haitian status is not recognised or even changed upon arrival into the Dominican Republic, other transit territories or even the receiving country.*

3.4 Arrival conditions of children in receiving countries

The considerable efforts of receiving countries to establish appropriate arrival conditions at the airport for Haitian children within such a short period are commendable. At the same time, it is worth noting that there is significant divergence among professionals regarding the satisfactoriness of such measures and the extent to which they may prove detrimental to children and families. Nonetheless, professionals are in agreement about certain areas requiring improvement. This section relies heavily on interviews kindly provided by professionals in France and Canada who worked directly on the arrival conditions of children in receiving countries or had close dealings with the latter. Information was also gathered from various media sources.

Whilst it is conceded that the concerns identified below do not categorically apply to every adoption case, it does appear that the number of children and families affected cannot be overlooked.

3.4.1 Plane landing

The plane landing conditions varied greatly among and within countries. For example, for some children arriving in the *USA*, 'workers, some carrying children, disembarked the plane and boarded waiting buses. Other children walked by themselves and waved to onlookers. Some children were wrapped in blankets as they adjusted to the Pittsburgh weather - 32°F and overcast, compared to the sun and 82° temperatures they had left behind. Medical workers from the University of Pittsburgh Medical Centre and, in some cases, adoptive families are waiting for them'[101]. The children are then subject to medical examinations at the hospital. Given that the adoption procedures had not been finalised in Haiti, a court room with judges has been set up to finalise the proceedings[102].

[100] Available at: http://www.hcch.net/index_en.php?act=conventions.text&cid=70.
[101] 'Haitian Orphans Arrive in Pittsburgh', *CBS News*, 19 January 2010, http://www.cbsnews.com/stories/2010/01/19/national/main6114410.shtml.
[102] Ibid.

For others in *Canada*, a separate room was designated for the meetings of children with their parents away from the eyes of the media to avoid having a "freak show"[103]. With the first arrivals, the CIC Minister stated "We're delighted that this initial group has come here safely and successfully. All of the kids appear to be healthy and I think a little bit unnerved by the cold Canadian winter"[104]. Some children were provided with Red Cross blankets and stuffed toys to help welcome them[105]. Another newspaper describes the arrival, 'the children, ranging in age from 18 months to 14 years, walked or were carried by Air Canada volunteers across the tarmac to the lounge, where their new parents waited for them. Wrapped in blue airline-issue blankets, many of them were dressed in T-shirts and sneakers; one little girl wore sandals and a thin cotton frock. After arriving, the children were given checkups by doctors and nurses on site and offered warm clothes and stuffed toys by Salvation Army and Red Cross volunteers'[106].

In *France*, a private room was designated for the encounters between children and their parents. Within this room there were children's books and toys on the floor as well as a bag with clothing if necessary[107].

> *It is clear from these brief examples that some Haitian children were at times not physically prepared (many wearing t-shirts) for the harsh winter conditions in the receiving countries. As stated earlier, whether children were mentally prepared for their 'new life' is also highly questionable.*

3.4.2 Concerns observed among some Haitian children on their arrival

From as early as 1977, Frederick has highlighted the existence of various psychological risks and reactions that children commonly have following a natural catastrophe including, *inter alia*, post traumatic stress syndrome, nightmares and panic attacks, which often appear only years after the event.[108] Given such a context, ideally, reception conditions catering to children coming from any catastrophic situation should be well prepared to meet their basic medical, psycho-social or material needs. In addition, if the children concerned are to be adopted, there should be consideration of the particularities of creating a new filiation with an adoptive family as part of reception efforts.

When children arrived in the receiving countries, some clearly had greater needs than others. Dr Thierry Baubet, who was responsible with the psychologist Hélène Romano for the psychological and medical aspects of reception of children at French airports, describes the conditions of children as follows: 'many of them presented growth and developmental charts inferior to what was expected for their age. A lot of them were suffering from minor health problems: mild malnutrition, dehydration, respiratory infections, and parasites. Some had to be briefly hospitalised once the paediatricians had given their diagnosis. Others had been injured during the earthquake…These children had all undergone very different experiences before they arrived: a number of nurseries had not been affected by the earthquake, while in others children had been killed or wounded. All of them had to face up to the extreme distress of the adults who were taking care of them, which was very disturbing for them'[109].

As a general observation, it has been contended that the time allocated to the first meetings between the child and parents was too restrictive for the process of creating a filiation tie[110]. Despite such time constraints, in a great number of cases, Baubet states the encounters were

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[103] Interview with Johanne Lemieux, 27 May 2010.
[104] 'Haitian adoptees arrive in Canada', *CBC News*, 25 January 2010, http://www.cbc.ca/canada/ottawa/story/2010/01/24/haiti-orphans.html?ref=rss.
[105] 'A 'happy day' as Haitian orphans arrive in Canada', *The Star*, 24 January 2010, http://www.thestar.com/news/world/haiti/article/755143--a-happy-day-as-haitian-orphans-arrive-in-canada?bn=1.
[106] 'First post-quake adoptee from Haiti arrives in B.C', *The Vancouver Sun*, 25 January 2010.
[107] Interview with Sophie Marinopoulos and Pierre Lévy-Soussan, 16 May 2010.
[108] Current thinking about crisis or psychological intervention in U.S disasters. Mass Emergencies, 1977 in *Accueil* No. 155, Enfants & Familles D'Adoption, May 2010 at 11-12.
[109] Interview with Thierry Baubet, 16 April 2010, *ISS/IRC Monthly Review,* N° 05/2010.
[110] Interview with Sophie Marinopoulos and Pierre Lévy-Soussan, 16 May 2010.

positive and promising[111]. However some of the meetings of parents with children at the airport were rather difficult. Children have been described as being 'distant, scared, screaming without hope, nothing appeasing them, pushing everyone away from them with the little strength that they had'[112]. In France, some children – especially the older ones – refused to go with adoptive parents. Sophie Marinopoulos, a psychologist working with children arriving in Paris, stated: 'I saw children traumatised on several fronts and connecting with parents difficult'[113]. Lemieux nevertheless argues that stressful emotional tensions between parents and children are common for 'normal' adoptions and are not specific to the Haitian emergency context[114].

In terms of children being prepared for their encounter with their parents, Dr Baubet notes that 'some of them seemed ready; they recognised their adoptive parents or their voices, for others this was clearly not at all the case'[115].

It is further arguable that the conditions in which displacement from Haiti took place may have caused an additional shock to the already traumatised child[116]. Golse, Chief of Pedopsychiatry at Necker Hospital, argues that it is important to not to project the fears of adults on children, who may or may not have been in need of a transfer.[117] Marinopoulos and Lévy-Soussan explain that the transfer did not adequately consider the psychological conditions of children[118]. Valuable ties already forged with Haiti were broken in the hasty exit, such as familiarity with the culture, certain persons and the language, and these would have provided children with a minimum sense of security. Marinopoulos and Lévy-Soussan strongly argue that children should have at least been given an opportunity to absorb the effects of the earthquake and some time to understand the effects of the upcoming psychological changes.

> *Whilst established reception efforts have accumulated experience of other emergency situations, specific measures were needed to deal with adoption cases. Countries were ill-prepared for catering to children to be adopted, and were not well-equipped for ensuring the children's first meeting with their adoptive families.*

3.4.3 Concerns observed among some prospective adoptive parents

Several psychologists working with children arriving in Paris and their respective adoptive families have noted a number of specific difficulties. In particular Dr Baubet notes that many parents had never been to Haiti and therefore never met their adopted children[119]. As a result of this, some of his staff observed certain children – and indeed certain parents – imposing a space between each other. Other parents were in a total denial of the child's reality, acting as if the child was just born (e.g.: immediately using a new first name...), whereas others minimised the challenging reactions of children such as rage and anger. Dr Baubet notes that a significant number of children had hypersomnia (escape and avoidance). Some parents did not understand this behaviour and immediately took their children away. For example, one parent left with a little girl who had been crying for six hours, without any assistance[120]. He believes that these actions are worrying because the children would have woken up in a new environment without any transition period[121].

Other disturbing examples[122] include a 58-year-old lady who collected her two adoptive children (aged four and six years) at the airport with the intention of leaving them with a neighbour the

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[111] 'L'adoption internationale en contexte traumatique: une étude sur des enfants haïtiens', Conference in Geneva, 4 March 2010.
[112] *Revue Enfance Majuscule*, N° 110, January-February 2010.
[113] 'Querelle de psy autour des enfants adoptés d'Haiti', *Ouest France*, 26 February 2010.
[114] Interview with Johanne Lemieux, 27 May 2010.
[115] 'L'adoption internationale en contexte traumatique: une étude sur des enfants haïtiens', op. cit.
[116] Interview with Thierry Baubet, 16 April 2010, op. cit. and *Accueil* No. 155, op. cit.
[117] *Accueil* No. 155, op. cit.
[118] Interview with Sophie Marinopoulos and Pierre Lévy-Soussan, 16 May 2010
[119] 'L'adoption internationale en contexte traumatique: une étude sur des enfants haïtiens', op. cit.
[120] Interview with Thierry Baubet, 16 April 2010, *ISS/IRC Monthly Review,* N° 05/2010.
[121] 'L'adoption internationale en contexte traumatique: une étude sur des enfants haïtiens', op. cit.
[122] *Revue Enfance Majuscule*, op. cit.

following day due to work obligations. The age of some adoptive parents also gives cause for concern. Thus, two separate couples aged over 60 were adopting children aged 26 months and six years old. In a different vein is the case of a Haitian mother (director of an orphanage), who volunteered to accompany adoptees on the flight in order to take advantage of the trip to visit her own biological children in France, whom she had consented to being adopted.

Clearly for all families adopting children in France, especially those in worrying contexts such as mentioned above, post-adoption follow-up would be essential for providing additional support. In this respect, it appears that only Paris-based families were given a list of COCAS (Consultations spécialisées d'adoptions) and the details of CUMP (Cellules d'urgence médico-psychologique)[123]. Each family was offered the possibility of keeping a telephone link with the person who had seen them at the airport as well were systematically contacted when necessary in order to receive news, maintain a link and refer to other services when needed[124]. With regards to Belgium, all 14 families were provided with follow up services by the accredited body, including psycho-social assistance.

Dr Fanny Cohen Herlem[125], Marinopoulos and Lévy-Soussan[126] recommend that in the future parents need to be better prepared and supported by professionals specialised in child development and the specificities of adoption.

> *Parents were not adequately prepared to meet their adoptive children, some of whom they had never met beforehand. Post-adoption follow-up should also be offered to parents to cope with the specific needs of children who may have been traumatised by a disaster.*

3.4.4 Concerns observed about the working conditions of professionals

Baubet, Cohem Herlem, Lemieux, Marinopoulos and Lévy-Soussan all emphatically commended the efforts of the support persons at the airport given the circumstances[127]. Baubet specifically notes the tireless efforts of all professionals to work around the clock[128]. Marinopoulos and Lévy-Soussan observe that the CUMP professionals were always available to give individual attention to the children and had the capacity to quickly identify signs of distress, having all been trained in emergency reception[129].

As a general observation, Dr Baubet however noted that there was a lack of privacy between professionals and families during their meetings[130]. Therefore it is not surprising that professionals such as Marinopoulos and Lévy-Soussan believe that working conditions at the French airports were *ad hoc* and rather limited in nature, given that little time was available to prepare for the arrival of so many children in this particular context[131].

Despite an expertise in emergency situations, there is agreement among professionals that the majority of those working in the reception areas in France were not at all familiar with adoption issues. Dr Baubet further believes that the 'classic post-adoption tools' do not address the adoption of children who have recently lived through a disaster, and the tools therefore need adapting. Lemieux notes that this was in contrast with the professionals in Canada under the supervision of Dr Chicoine[132]. In this case, Chicoine and his team, based at St Justine's hospital, had over 20

[123] Interview with Thierry Baubet, op. cit.
[124] Ibid.
[125] Interview with ISS, 16 April 2010. Dr Cohem Herlem is a French Paedopsychiatrist and Psychoanalyst, author of many adoption works with a long experience in adoption matters. She was invited by the SAI to observe the reception conditions and meetings of parents with children.
[126] Interview with Sophie Marinopoulos and Pierre Lévy-Soussan, 16 May 2010.
[127] Interviews with ISS between 1 April and 27 May 2010.
[128] Interview with Thierry Baubet, op. cit.
[129] Interview with Sophie Marinopoulos and Pierre Lévy-Soussan, 16 May 2010.
[130] 'L'adoption internationale en contexte traumatique: une étude sur des enfants haïtiens', op. cit.
[131] Interview with Sophie Marinopoulos and Pierre Lévy-Soussan, 16 May 2010.
[132] Interview with Johanne Lemieux, 27 May 2010.

years of experience in adoption matters as well as emergency receptions.

> *Few Governments were adequately prepared to cope with the high influx of children entering their countries. Prior to expediting adoptions, professionals and suitable reception conditions should be prepared in each receiving country. This entails the training of professionals as well as updates to post-adoption tools to cater to children who have experienced a disaster situation.*

Concluding remark

This report has pointed out the areas that would seem to be of concern, (*see issues highlighted in orange*) in the way that adoptions were expedited in the aftermath of a natural disaster. Areas such as these will need to be taken into account, when evaluating operations of this kind, together with other data that will become available in due course, in order to ensure that appropriate lessons are learnt in the process and for the future. A common approach must be found.

The 2005 Special Commission agreed that there should not be unnecessary delays, but a certain delay was necessary in order to ensure diligence in the adoption preparations and in making a decision in the best interests of the child[133]. In the aftermath of any natural disaster, as we saw in Haiti, there is a clear need to have some 'delay' to ensure appropriate safeguards are in place before processing or expediting any intercountry adoptions.

Whilst in principle it can be in the best interests of the child to expedite the transfer of pipeline cases with an adoption judgment, an appropriate waiting period would result in fast tracking measures not being undertaken at the expense of emergency relief efforts or in such a manner that children do not have sufficient time to recover in a familiar environment or without adequate identification and registration measures in place.

For all other pipeline cases, that is those without an adoption judgment, hindsight would now teach us that the accumulation of heightened risks for children far outweighs any potential benefits of fast tracking activities to secure their rapid displacement abroad. Rules and procedures were not followed more efficiently, which is what 'expediting' should have meant. In practice, essential steps in the adoption process providing safeguards for children, biological parents, prospective adoptive parents and others were disregarded. According to international standards, transfer of children without an adoption judgment would be classified more appropriately as evacuations, and the latter should only be carried out, under clear pre-conditions (including consents, registration, documentation and wherever possible the presence of an accompanying parent or relative), when there are 'compelling health, medical or safety conditions' necessitating the child's urgent cross-border displacement. Circumventing vital adoption and evacuation procedures in order to 'expedite transfer' as 'adoptees' cannot be condoned.

[133] Hague Conference on Private International Law, *The Implementation and Operation of the 1993 Intercountry Adoption Convention: Guide to Good Practice*, 2008, p. 82, http://www.hcch.net/upload/adoguide_e.pdf.

PART 2:

DETAILED OVERVIEW OF ADOPTION RESPONSES IN HAITI BY COUNTRY/REGION

This part examines in detail the chronological responses of countries and regions to the issue of adoptions and pipeline cases in the aftermath of the earthquake. Section 4 considers countries that were undertaking intercountry adoptions in Haiti at the time of the earthquake and then expedited transfers and/or adoption procedures. Section 5 discusses the particular cases of Italy and Spain as countries that had suspended intercountry adoptions in Haiti and processed the remaining cases post-earthquake, that is expedited transfers. The last section explores countries that expressed an opinion on intercountry adoptions, divided into the various regions.

4. Receiving countries that were undertaking intercountry adoptions in Haiti prior to the earthquake and expedited transfers and/or adoptions

4.1 Belgium

Summary of Belgium

- 14 adoption cases expedited
- One child had an adoption judgment
- All children had been matched
- Children aged between one and eight years
- Children transferred with those heading to the Netherlands
- 100,000 Euros given to the orphanage where children were living
- AABs involved in adoptions - Enfants de l'espoir and Sourires d'enfants

Since 2002, 73 children have been adopted from Haiti, which is the 8th largest source of children for Belgium[134]. On 15 January, Belgium's French-Community (Wallonia) Central Adoption Authority made a clear statement that they would not consider any new adoption applications[135]. On 18 January, the Government decided to expedite 14 adoption cases from Haiti[136]. Only one child had an adoption judgment, with all children having been matched. All the children were from the orphanage 'Enfant haïtien, mon frère' in Port-Au-Prince[137]. On 21 January, the Belgian Government noted that 100,000 Euros had been given for the rebuilding of that orphanage[138].

The Central Adoption Authority stated that three children were to be adopted into the Flanders region and 11 in Wallonia. As far as the 'Flemish' children were concerned, some matching had occurred but there was no adoption judgment yet. When the children first arrived, they had the status of being in foster care whilst waiting to be adopted. The children were reportedly aged between one and eight years old[139]. The responsible Minister noted that the majority of children would in fact only be able to join their families after Easter (4 April), over two months later[140]. In late April[141], the Belgian Central Authority clarified that the 11 children adopted in Wallonia did not have

[134] Service public federal Justice, Statistiques globales, http://www.just.fgov.be/adoption/adoption_stat_global.html.
[135] Communauté française de Belgique, Service de l'Adoption, 'Haïti – Tremblement de terre', 15 January 2010, http://www.adoptions.be/hors_menu/saac_actualite/saac_detail/?tx_ttnews%5Btt_news%5D=243&tx_ttnews%5BbackPid%5D=753&cHash=a02d1dfba2.
[136] Service public federal Justice, 'Communiqué commun des Ministres De Clerck (Justice), Van Ackere (Affaires étrangères), Wathelet (Famille et Migration), Vandeurzen (Welzijn, Communauté flamande) et Uyttebroek (Aide à la jeunesse, Communauté française)', 18 January 2010, http://www.just.fgov.be/communiques/2010/01/18.html and 'Enfants haïtiens adoptables bientôt en Belgique', *RTBF*, 19 January 2010, http://www.rtbf.be/info/monde/haiti/des-enfants-haitiens-adoptables-bientot-en-belgique-178929.
[137] Evelyne Huytebroeck (Ministre du Gouvernement de la Région de Bruxelles-Capitale & Ministre du Gouvernement de la Communauté française), 'Les jeunes Haïtiens en cours d'adoption ont rejoint leur famille belge!', 16 January 2010, http://www.evelyne.huytebroeck.be/spip.php?page=article&id_article=675.
[138] Evelyne Huytebroeck, 'La maison d'accueil "Enfant haïtien, mon frère" sera reconstruite', 21 January 2010, http://www.evelyne.huytebroeck.be/spip.php?page=article&id_article=669.
[139] 'Enfants haïtiens adoptables bientôt en Belgique', *RTBF*, 19 January 2010, http://www.rtbf.be/info/monde/haiti/des-enfants-haitiens-adoptables-bientot-en-belgique-178929.
[140] Evelyne Huytebroeck, 'Les jeunes Haïtiens en cours d'adoption ont rejoint leur famille belge!', op. cit.
[141] 16th Informal Working Meeting of Central Authorities for Intercountry Adoption, op. cit.

biological parents and that the three children to be adopted in the Flanders region still had biological parents. Prior to formalising the adoptions of the latter, the Authorities intend to confirm the consent of the biological parents in Haiti. In the meantime, the children remain in foster care.

4.2 Canada

4.2.1 Historic involvement with Haiti

Haiti is the second largest 'source' of children for families living in Canada, after China. A large number of relative adoptions exist. The highest number of children ever received prior to the earthquake was in 2004, being 159 children.

Summary of Canada

- 203 children have been transferred to Canada
- Up to 250 children have been granted approval by the Haitian Government
- Ages ranged from three months to 18 years old
- Not all children had an adoption judgment
- All children had been matched
- At least 68 children were at the very beginning of the process – expedition adoption
- Breaches of national laws since children 16 years and older adopted out of Haiti and adoptive parents with biological children were able to care for Haitian children
- Canadian Government decides to waiver some adoption fees
- Problems identified, including children not having the required provincial/territorial government approval for adoption or parents unable to obtain provincial approval to adopt. In other cases, the prospective adoptees were over 18 and ineligible to be adopted, or were not matched with a family in Canada before the earthquake in Haiti.

4.2.2 Main actors involved with Haiti

Citizenship and Immigration Canada (CIC) is working closely with other federal departments, to monitor the situation and help those in need following the recent earthquake in Haiti[142]. CIC is responsible for working with the Haitian Government for the processing of adoption cases and transfer of children. The various provincial central authorities are responsible for working with the adoptive families and the immediate care of children. Given that Quebec has received almost 65% of the children from Haiti, the International Adoption Secretariat in Quebec has a significant role for processing adoptions in Canada. The two main accredited bodies working in Haiti are Soleil des Nations[143] and Corporation Accueillons un enfant[144].

4.2.3 Immediate response to Earthquake (1st week: 12th – 18th Jan)

On 13 January 2010, the Secrétariat à l'adoption internationale (International Adoption Secretariat in Quebec) released a statement recalling that before considering intercountry adoptions as a solution, everything should be done to ensure that separated children can be reunited with their families. On the same day, they stated that, until further notice from the Haitian Government, all intercountry procedures had been suspended.

On 16 January, the Minister for CIC announced that they would be accelerating the adoption procedure for children where only visas were left to be processed[145]. A newspaper reported that priority would also be given to families wanting to care for their Haitian relatives (family reunification) and specified that there were approximately 2,000 dossiers waiting to be processed[146].

4.2.4 Response to Earthquake (2nd and 3rd week: 19th – 1 Feb)

On 20 January 2010, the International Adoption Secretariat in Quebec informed the public that new adoption applications for Haiti were not being accepted and for those with an ongoing procedure, information could be obtained from their accredited body or the Central Authority.

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[142] Citizenship and Immigration Canada, Earthquake in Haiti, http://www.cic.gc.ca/english/haiti/index.asp.
[143] Soleil des Nations, http://www.soleildesnations.org/.
[144] Accueillons un enfant, http://www.accueillons.org/index.html.
[145] Citizenship and Immigration Canada, 'Government of Canada introduces special immigration measures in response to the earthquake in Haiti', 16 January 2010, http://www.cic.gc.ca/english/department/media/releases/2010/2010-01-16.asp.
[146] 'Haiti : procédure d'immigration facilitée pour les victimes du séisme à Port-au-Prince', *Immigrer.com*, 16 January 2010, http://www.immigrer.com/page/outils_newsletter_haiti-procedure-d-immigration-facilitee-pour-le-parrainage-et-l-adoption-pour-victimes-seisme-port-au-prince.html.

On 20 January, a Canadian newspaper reported that CIC Minister Kenny, in the daily briefing on Haiti, had stated that 'regular processing fees will be waived and the federal government will cover health costs until they can be covered under provincial programs', and furthermore that Ottawa was sending additional staff to Haiti to process adoption cases as well as setting up an office in the Dominican Republic[147].

On 21 January, CIC Minister Kenney[148] stated that Canada had identified 150 cases — 100 that were somewhat advanced in the process when the earthquake hit and 50 at more recent stages. 'The list we will prepare to present to the Haitian government will be those cases where Haitian children have been matched to parents and there is some documentation to confirm the adoption is in process with Haitian authorities', Kenney said.

On 22 January[149], the Minister for CIC announced that the Haitian Government gave its authorisation so that 154 children could be adopted in Canada. 86 of the cases were already at an advanced staged and the Haitian authorities had already provided its preliminary authorisation. The other 68 children were at the very beginning of the process. The Federal Canadian Government stated that it was working with the Social Welfare Institution and provincial Governments to expedite the process.

Between 24 January 2010 and 1 February, three planes transferred 75 adopted Haitians to Quebec.

4.2.5 Response to Earthquake (4th and 5th week: 2 Feb – 16 Feb)

On 6 February[150], the Canadian Government announced that on 24 January 2010, the Haitian Government had in fact authorised 217 children to be adopted in Canada. The CIC stated that 'all of the children who were brought to Canada were already in the adoption process when the earthquake struck near Port-au-Prince. To date, all of the parents who received provincial/territorial approval to adopt have been united with their children. As more approvals are received, those children will also be able to come to Canada. We are only proceeding with cases where a match between the child and parents was made prior to the earthquake'[151].

On 8 February, the Quebec officials stated that they were now working on a procedure to finalise the adoption and regularise the immigration status of the children.

As of 10 February, 183 children had arrived in Canada. All of these children have been united with their adoptive families in Canada[152]. As of 16 February, 202 children had arrived in Canada[153].

- Two children, aged 5 and 9 years, arrived in Ottawa on February 10. They were destined for Quebec.
- A 16 year old child arrived in Ottawa on February 6.
- 31 children arrived in Ottawa on February 3. The children ranged in age from 6 months to 16 years old. One child was destined for Ontario, one for Alberta and the rest went to Quebec. These children were accompanied by Air Transat staff, CIC officials, and a medical team.

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[147] 'Canada eases restrictions, waives fees to speed some adoptions of Haitian kids', *The Canadian Press*, 20 January 2010.
[148] 'Adopted Haitian children may arrive soon: Kenney', *CBC News*, 21 January 2010, http://www.cbc.ca/canada/story/2010/01/21/haiti-canada.html.
[149] Citizenship and Immigration Canada, 'Canada gets agreement from Haiti to evacuate adopted children', 22 January 2010, http://www.cic.gc.ca/english/department/media/releases/2010/2010-01-22.asp.
[150] Citizenship and Immigration Canada, 'Operation Stork: February 6, 2010 update', 6 February 2010, http://www.cic.gc.ca/english/department/media/notices/notice-haiti23.asp.
[151] Citizenship and Immigration Canada, 'Operation Stork: February 16, 2010 update', 16 February 2010, http://www.cic.gc.ca/english/department/media/notices/notice-haiti28.asp.
[152] Citizenship and Immigration Canada, 'Operation Stork: February 10, 2010 update', 10 February 2010, http://www.cic.gc.ca/english/department/media/notices/notice-haiti24.asp.
[153] Citizenship and Immigration Canada, 'Operation Stork: February 16, 2010 update', op. cit.

- 62 children arrived in Ottawa on January 30. The children ranged in age from 3 months to 17 years. Thirty-five of the children were destined for Quebec, and the rest went to British Columbia (11), Alberta (10), Saskatchewan (2), Manitoba (2) and Ontario (2). The children were accompanied by Air Canada staff, CIC officials, and a medical team.
- 52 children arrived in Ottawa on January 27. The children ranged in age from six months to 18 years of age. Twenty-four of the children were destined for Quebec and the other children went to British Columbia (4), Alberta (11), Saskatchewan (8), Ontario (1), New Brunswick (2), and Nova Scotia (2). These children were accompanied by Air Transat staff, CIC officials, and a medical team.
- One child arrived on a Canadian Forces evacuation flight on January 26 and another one was already in Canada.
- 24 children arrived in Ottawa on January 24. The children ranged in age from 11 months to 14 years in age, and were accompanied by Air Canada representatives, CIC officials, and a medical team.
- Nine children arrived through the United States having travelled on American evacuation flights.

The Canadian Government recognised that the processing of 202 cases 'was a monumental task – in just a month, the Government of Canada and the provinces and territories processed as many cases from Haiti as are normally done in about two years'[154].

For the Quebec region, the press release on 16 February[155] stated that measures were implemented at the various airports to ensure the best conditions for receiving the children. In the same release, it was noted that the Haitian situation « engendrait un stress énorme, car celles-ci ne connaissaient pas l'état de santé de l'enfant qu'ils se préparaient à accueillir » (had engendered enormous stress as the parents did not know the health status of the children that they were preparing to care for). Team work was essential to provide professional support to the families at the airports. Dr Chicoine, a paediatrician at the University Hospital Saint Justine led a team to ensure that the children received the necessary medical needs.

4.2.6 Response to Earthquake (6th week to 9th week: 17 Feb – 16 March)

On 23 February, the CIC noted that the '*Government of Haiti has given permission for up to 250 children to come to Canada. These children were at different stages – most cases were considered advanced in the adoption process when the earthquake struck near Port-au-Prince*'[156].

The Government further stated that *'the majority of these children were able to come to Canada under the special immigration measures. While it is possible that a few more children will be able to come to Canada, this will not be possible for most of the remaining cases. The Government of Canada included as many names as possible on the list for approval by the Haitian government. After close review, some of these children do not have the required provincial/territorial government approval for adoption. In other cases, the prospective adoptees were over 18 and ineligible to be adopted, were not matched with a family in Canada before the earthquake in Haiti, or the parents were unable to obtain provincial approval to adopt*'[157].

As of 5 March, 203 children have arrived in Canada since the Haitian Prime Minister gave permission for up to 250 children to be allowed to travel to Canada for adoption[158].

- 127 children were destined for Quebec
- 27 children were destined for Alberta
- 21 children were destined for British Columbia

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[154] Citizenship and Immigration Canada, 'Operation Stork: February 23, 2010 update', 23 February 2010, http://www.cic.gc.ca/english/department/media/notices/notice-haiti31.asp.
[155] Gouvernement du Québec, 'Adoption internationale en Haïti – Rapatriement des enfants destinés au Québec : Mission accomplie!', 16 February 2010, http://communiques.gouv.qc.ca/gouvqc/communiques/GPQF/Fevrier2010/16/c2216.html.
[156] Citizenship and Immigration Canada, 'Operation Stork: February 23, 2010 update', op. cit.
[157] Ibid.
[158] Citizenship and Immigration Canada, 'Conclusion of Operation Stork: March 4, 2010 update', 4 March 2010, http://www.cic.gc.ca/english/department/media/notices/notice-haiti35.asp.

- 10 children were destined for Saskatchewan
- Eight children were destined for Ontario
- Six children were destined for New Brunswick
- Two children were destined for Manitoba
- Two children were destined for Nova Scotia

4.2.7 Response to Earthquake (2 months plus: from 17 March)

On 4 May, Accueillons un enfant, the AAB from Quebec stated on their website that the Quebec Central Adoption Authority had not given their authority to accept new dossiers for Haiti. Nevertheless, given that they had received news that adoption procedures had started again, they were willing to accept pre-inscription files ("nous avons eu confirmation par nos contacts en Haïti que les procédures d'adoption reprennent leur cours. Ceux qui respectent ces critères sont invités à nous envoyer une fiche de préinscriptions")[159].

4.3 France

Summary of France

- 487 children adopted by French families and in the process of being transferred into France.
- All 487 children had an adoption judgment - expedition transfer
- 489 cases have been approved for expedition
- Children between eight months and eight years, with the majority being between two and three years
- 1,100 prospective adoptive families waiting to adopt a child from Haiti
- 1,011 children involved in an adoption procedure
- Children transferred to Paris after stopping beforehand in Guadeloupe or Martinique.
- 326 millions Euros over two years, support for the reconstruction of the hospital and university in Port-au-Prince etc
- French Embassy has provided materials to the judiciary and their administration, in an effort to ensure the quickest possible re-installation
- Specific credit has been provided to the Court of First Instance at Port-au-Prince which handles 90% of intercountry adoption cases

4.3.1 Historic involvement with Haiti

France is the largest receiving country of Haitian children. As of the date of the earthquake, there were approximately 1,100 outstanding adoption procedures[160]. France expedited only the transfer of cases (i.e.: with an adoption judgment) and this totalled 487 adoptions.

4.3.2 Main actors involved with Haiti

The two main bodies working with the Haitian Government are the French Embassy (Haiti) and the Service de l'Adoption Internationale (SAI), which is the Central Adoption Authority.

4.3.3 Immediate response to Earthquake (1st week: 12th – 18th Jan)

On 14 January, the SAI stated that its priority would be to collect information about the children and crèches in Haiti[161]. It made a clear statement that 'le rapatriement de l'ensemble des mineurs haïtiens pour lesquels une procédure d'adoption a été engagée par des candidats français n'est pas envisagé à l'heure actuelle' (i.e.: at this time, they do not envisage the repatriation of children where an adoption procedure has started) [162].

On 17 January, numerous prospective adoptive parents held a demonstration in front of the Quai d'Orsay where they lined up semi-filled bottles of water, demanding that the Government expedite adoption procedures[163]. They also presented a petition (circulated by email) to this effect, with 12,000 signatures.

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[159] Accueillons un enfant, http://www.accueillons.org/index.html.
[160] Service de l'Adoption Internationale, *Actu,* N° 2 – Spécial Haïti (March-April 2010), http://www.diplomatie.gouv.fr/fr/IMG/pdf/News2_VDEF23MAR.pdf.
[161] France Diplomatie, 'Communiqué Haïti', 14 January 2010, http://www.diplomatie.gouv.fr/fr/actions-france_830/adoption-internationale_2605/actualites_3230/2010_19952/communique-haiti-14.01.10_78992.html.
[162] France Diplomatie, 'Action du Service d'adoption internationale en Haïti', 14 January 2010, http://www.diplomatie.gouv.fr/fr/actions-france_830/adoption-internationale_2605/actualites_3230/2010_19952/action-du-service-adoption-internationale-haiti-14.12.10_79002.html.
[163] 'Adoption en Haïti: prudence des autorités face à l'impatience des familles', *Le Matin*, 17 January 2010, http://www.lematin.ch/flash-info/monde/adoption-haiti-prudence-autorites-face-impatience-familles.

On 18 January[164], the SAI stated that 'tous les enfants haïtiens qui seraient en grande difficulté médicale peuvent faire l'objet d'une évacuation sanitaire, y compris naturellement les enfants qui feraient l'objet d'une procédure d'adoption' (i.e.: evacuation of Haitians with serious medical needs and this includes children who are the object of an adoption procedure).

4.3.4 Response to Earthquake (2nd and 3rd week: 19th – 1 Feb)

The Crisis Centre[165] stated that since 22 January, 13 Air France flights had been used to transfer children out of Haiti.

4.3.5 Response to Earthquake (4th and 5th week: 2 Feb – 16 Feb)

On 9 February[166], the SAI in collaboration with the French Embassy in Haiti stated that they had undertaken a brief assessment of the number of French families who had engaged in an intercountry procedure. The assessment identified 910 families. On this date, SAI with the French Embassy had managed to identify a number of adoption judgments that had been pronounced before the earthquake. 326 children have since arrived in France, on the basis that adoption judgments were being produced. The Crisis Centre (le Centre de Crise), in collaboration with SAI, SAMU and Red Cross (French) worked together to ensure that the children arrived in France under the best conditions.

On 11 February, the SAI announced that a total of 371 Haitian children had arrived in France for the purpose of adoption[167].

On 15 February, a French newspaper[168] noted that Nadine Morano, Secretary of State for the Family and Solidarity, had initiated a project where children leaving Haiti for France would now make a stopover in Guadeloupe. The purpose of the stopover, lasting approximately 15 days, would be to ensure that the children receive the necessary medical, psychological, pedagogical and legal follow-up before entering France. It was proposed that the children would be taken care of in a vacation centre, situated 15 minutes from the airport. The centre has the capacity to care for about 40 children as well as the French adoptive families.

This article also mentioned that in addition to the adoption dossiers already dealt with, there were approximately another 500 waiting to be processed.

The Crisis Centre[169] described the activities in Port au Prince by stating that the French Embassy as well as additional staff from Paris were being used to visit systematically the various crèches. Before children leave Haiti, they were being regrouped at the French high school (*Lycée français),* where their identity was checked and confirmed before receiving the formal permission of Haitian authorities to leave the country. With this permission, the children were then transferred to either Guadeloupe (vacation centre) or Martinique (sports centre), where health staff would examine their medical and psychological needs for one day[170]. The next day, the children would then leave for Paris with one person accompanying each child less than two years old and one person accompanying two children older than two. SAMU Psychologists and Red Cross staff also escorted children on the plane.

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[164] France Diplomatie, 'Séisme en Haïti : situation des enfants haïtiens', 18 January 2010, http://www.diplomatie.gouv.fr/fr/actions-france_830/adoption-internationale_2605/actualites_3230/2010_19952/seisme-haiti-situation-enfants-haitiens-18.01.10_79104.html.
[165] France Diplomatie, 'Haïti : adoption', 12 February 2010, http://www.diplomatie.gouv.fr/fr/pays-zones-geo_833/haiti_513/france-haiti_1218/presentation_4655/haiti-adoption-12.02.10_79968.html.
[166] France Diplomatie, 'Haïti (Situation au 8 février 2010)', 8 February 2010, http://www.diplomatie.gouv.fr/fr/actions-france_830/adoption-internationale_2605/actualites_3230/2010_19952/haiti-situation-au-8-fevrier-2010_79360.html. Accessed 8 February 2010.
[167] France Diplomatie, 'Haïti (Situation au 11 février 2010)', 11 February 2010, http://www.diplomatie.gouv.fr/fr/actions-france_830/adoption-internationale_2605/actualites_3230/2010_19952/haiti-situation-au-8-fevrier-2010_79360.html. Accessed 11 February 2010.
[168] 'Bientôt un « sas » pour les enfants d'Haïti adoptés en France', *Le Parisien,* 15 February 2010, http://www.leparisien.fr/societe/bientot-un-sas-pour-les-enfants-d-haiti-adoptes-en-france-15-02-2010-816009.php.
[169] France Diplomatie, 'Haïti : adoption', 12 February 2010, op. cit.
[170] Ibid.

As for the conditions of the child's arrival in France, staff from the Central Adoption Authority as well as other bodies[171] assisted with the arrival (at least 150 persons were mobilised). Paediatricians would examine the children and give a personal report to the parents. A psychologist surveyed the first meeting in Paris.

The Ambassador for intercountry adoptions also visited Haiti during this period to meet with Haitian authorities to ensure the maximum security of children.

4.3.6 Response to Earthquake (6th week to 9th week: 17 Feb – 16 March)

On 17 February, the French President also went to Haiti and announced that France would be donating 326 million Euros over two years to help with the reconstruction of the hospital and university at Port-au-Prince. Other material aid was also provided, such as tents, beds and vehicles etc[172].

On 19 February, Air France started flights to Haiti, stating that daily flights would be available as of 1 March[173]. On 24 February, the SAI noted that 372 children had now arrived in France, who had adoption judgments before the earthquake[174]. On this same day, the SAI stated that they would not be processing any 'new' adoption dossiers until the time the Haitian bodies were functioning properly.

On 25 February, a French Government communication noted that at the time of the earthquake, 1,011 Haitian children, 80% of whom had at least one of their two biological parents, were involved in an adoption process, but only 489 had been granted an adoption judgment[175]. The French Government stated that they were working to transfer the remaining 117 children out of Haiti into France.

On 5 March, the French Central Adoption Authority noted that they had received feedback on the difficulties encountered by some children and their families, which in turn led to the discontinuation of receiving other children from Haiti[176]. In this same communication, they noted that they had invited Haitian judges to Paris to discuss the future of intercountry adoptions and that the Government would not be processing any dossiers where an adoption judgment did not exist. The French Embassy had provided materials to the judiciary and their administration, in an effort to ensure the quickest possible re-installation[177]. Specifically, France has also exceptionally provided credit to assist in the reactivation of the Court of First Instance of Port-au-Prince, which handles about 90% of records for intercountry adoptions in Haiti[178].

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[171] Préfecture, Police de l'Air et des Frontières, Centre de crise, Caisse d'allocations familiales et Caisse d'Assurance maladie de l'Ile de France (afin que les parents puissent réaliser sur place les formalités, évitant ainsi d'avoir à se déplacer ultérieurement), SAMU avec un dispositif médical, deux postes de soins dirigés par des pédiatres et des infirmières, sous la coordination d'un directeur des secours médicaux, Cellule d'urgence médico-psychologique accompagnant les parents et les enfants, Croix-Rouge française...

[172] France Diplomatie, 'Séisme en Haïti : bilan de l'intervention française', 19 February 2010, http://www.diplomatie.gouv.fr/fr/pays-zones-geo_833/haiti_513/france-haiti_1218/presentation_4655/seisme-haiti-bilan-intervention-francaise-19.02.10_80214.html.

[173] Air France, 'Air France resumed operations to and from Haiti on 19 February', 22 February 2010, http://corporate.airfrance.com/en/press/press-releases/article/item/air-france-a-repris-sa-desserte-de-et-vers-haiti-le-19-fevrier/back/61/browse/1/.

[174] France Diplomatie, 'Haïti (Situation au 24 février 2010)', 24 February 2010, http://www.diplomatie.gouv.fr/fr/actions-france_830/adoption-internationale_2605/actualites_3230/2010_19952/haiti-situation-au-8-fevrier-2010_79360.html.

[175] France Diplomatie, 'Haïti (Situation au 25 février 2010)', 25 February 2010, http://www.diplomatie.gouv.fr/fr/actions-france_830/adoption-internationale_2605/actualites_3230/2010_19952/haiti-situation-au-25-fevrier-2010_80381.html.

[176] France Diplomatie, 'Adoption en Haïti', 4 March 2010, http://www.diplomatie.gouv.fr/fr/actions-france_830/adoption-internationale_2605/actualites_3230/2010_19952/adoption-haiti-04.03.10_80583.html.

[177] Service de l'Adoption Internationale, *Actu,* N° 2 – Spécial Haïti (March-April 2010), http://www.diplomatie.gouv.fr/fr/IMG/pdf/News2_VDEF23MAR.pdf.

[178] France Diplomatie, Déclaration de Bernard Valero, Porte-parole du MAEE (25.03.2010), http://www.diplomatie.gouv.fr/fr/IMG/pdf/Declaration_du_Porte-parole.pdf.

The French Central Authority also sent a multi-disciplinary team to Haiti to assess the cases of a number of children in relation to whom there was an adoption judgment. The team identified 23 cases of concern, where the children's lives were not in danger but who should ideally be transferred out of Haiti to France. Measures were to be implemented so that the children could be cared for in France, after meeting their 'adoptive parents' in Guadeloupe as an intermediary stop.

As of 15 March, the Central Adoption Authority had identified 1,200 Haitian children being part of an adoption application by a French family. 492 children were in possession of an adoption judgment, of which 372 were evacuated to France, and 115 were being evacuated initially to Guadeloupe[179].

4.3.7 Response to Earthquake (2 months plus: from 17 March)

On 25 March, the Central Adoption Authority reminded French PAPs that no new dossiers had been accepted since 13 January and therefore no new attributions of a child by a crèche in Haiti were being processed for 'long séjour adoption' visas[180]. On 26 April, the Central Adoption Authority stated that it was in the middle of establishing a list of all cases where a matching had occurred and that could possibly be expedited with the agreement of Haitian authorities[181].

	Number
6 to 12 months	18
1 to 2 years	99
2 to 3 years	121
3 to 4 years	98
4 to 5 years	67
5 to 7 years	66
> 7 years	25
Total	**494**

On 26 May, the Central Adoption Authority provided disaggregated statistics about the children adopted post-earthquake, stating that of the 494 children who were being adopted, 233 were girls and 261 were boys.

On 23 July, the Central Adoption Authority noted that they had signed a special agreement with the Haitian government to expedite the processing of passports for children with an adoption judgment.[182]

4.4 Germany

4.4.1 Historic involvement with Haiti

For the last eight years, Germany has on average undertaken 35 adoptions from Haiti.

4.4.2 Main actors involved with Haiti

The Federal German Central Authority is the main body in charge of adoptions. There are two main adoption accredited bodies working in Haiti and in charge of the identification and transfer of children, being "Help a Child" and "Eltern für Kinder".

Summary of Germany

- 62 children have been transferred to Germany
- 63 children were approved by the Haitian Government
- Children are aged between four months and six years old
- Adoption of children with an adoption judgment and also those who had only been matched
- Two German Accredited Bodies were responsible for the transfer of children
- AABs are actively working to support the Haitian community with reconstruction of orphanage and provision of basic food/water
- Use of Dominican Republic as a transit country
- Concerns about identification of children (ex: problems with double matching of children identified)
- Government made formal references to the Guidelines on the Alternative Care of Children

[179] Service de l'Adoption Internationale (France), *Actu,* N° 2 – Spécial Haïti (March-April 2010), http://www.diplomatie.gouv.fr/fr/IMG/pdf/News2_VDEF23MAR.pdf.
[180] France Diplomatie, Déclaration de Bernard Valero, Porte-parole du MAEE (25.03.2010), http://www.diplomatie.gouv.fr/fr/IMG/pdf/Declaration_du_Porte-parole.pdf.
[181] France Diplomatie, 'Communiqué Haïti', 26 April 2010, http://www.diplomatie.gouv.fr/fr/actions-france_830/adoption-internationale_2605/actualites_3230/2010_19952/communique-haiti-26.04.2010_81894.html.
[182] France Diplomatie, 'Communiqué Haïti', 23 July 2010, http://www.diplomatie.gouv.fr/fr/actions-france_830/adoption-internationale_2605/actualites_3230/2010_19952/communique-haiti-23.07.2010_84496.html

4.4.3 Immediate response to Earthquake (1st week: 12th – 18th Jan)

During this period, the German Central Authority identified three categories of children, for whom the German Embassy would ask permission from the Haitian Government enabling them to leave the country. The initial list contained 63 children.

1. Children who were already adopted (decision made by the civil court) waiting for their papers to leave the country
2. Children who were in adoption procedure, not finalized.
3. Children who were not yet in adoption procedure but definitely matched to certain applicants who accepted the matching proposal

4.4.4 Response to Earthquake (2nd and 3rd week: 19th – 1 Feb)

On 19 January[183], the German Central Authority stated on its website that even though the people of Haiti are currently in need of help, it should be noted, that the adoption of children out of the current situation were not an appropriate response for emergency humanitarian situations. Firstly, the current situation allows no detailed analysis of the family circumstances of individual children such as whether there are surviving relatives. Secondly, children are only given for adoption to those applicants who have gone through the necessary consultation and review by a specialized body. Even the transfer of a child into temporary care should only occur where persons are professionally prepared.

On 20 January, the German Central Authority received the approval of the Haitian Government to expedite 63 cases, which included for some children this involved fast tracking the transfer whereas others it involved the adoption procedure.

On 28 January, the evacuation of 61 children started, instead of the 63. One child had to stay in the Dominican Republic because of serious meningitis, and in the view of experts he would not survive the trip. Another child stayed in Haiti because it was not clear that this child was definitely matched to German prospective adoptive parents. This child had an adopted sibling in Germany and the prospective adoptive parents had agreed to adopt this child too. But it seemed that the child was already matched to Spanish prospective adoptive parents. The child was therefore left in Haiti pending further clarification about his status. The 61 children were brought to the Dominican Republic and left the country with a team from the German accredited bodies, paediatrics etc.

On 29 January[184], the evacuation of children from Haiti, whose adoption process has been completed or at least was at an advanced stage, was successfully completed. To explain this evacuation process, the Rhein-Zeitung has published a report[185]. This report states that 'the orphans of Haiti are aged between four months and six and a half years. "Especially the older children have consciously experienced the quake and are traumatized," said Garnier Merz. They had also grown accustomed to their carers in the orphanage. The new environment for a foreign family can be an additional shock.'

Help a Child, the German AAB provided further details of the travel conditions stating that the Condor Airline transferred the children with the help of a special medical team whose services were rendered during the flight and at Frankfort airport[186]. Eltern für Kinder stated that the children identified pre-earthquake in Haiti required a rapid transfer without stating precisely the need for such rapidity[187].

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[183] Bundesamt für Justiz, Aktuelles, http://www.bundesjustizamt.de/cln_115/nn_257850/DE/Themen/Zivilrecht/BZAA/BZAAInhalte/Aktuelles.html.
[184] Ibid.
[185] 'Koblenzer Adoptionsverein holte Kinder aus Erdbebengebiet in Haiti', *Rhein Zeitung,* 29 January 2010, http://www1.rhein-zeitung.de/on/10/01/29/rlp/t/rzo666810.html.
[186] Help a child, http://www.helpachild.de/index.php/lang-fr/component/content/article/43-neuigkeiten/159-danke.
[187] Eltern für Kinder e.V., http://www.efk-adoption.org/presse/presseinfo/.

4.4.5 Response to Earthquake (4th and 5th week: 2 Feb – 16 Feb)

During this period, the Federal German Central Adoption Authority explained that the German accredited bodies would now have to deal with the Haiti Embassy in Germany to provide the children with appropriate documentation. In most of the cases, the Central Authority was of the view that they had enough papers to identify precisely the children. It can be noted that the baby who had meningitis and was left in the Dominican Republic was eventually brought to Germany, making the total of children with expedited adoption cases 62.

4.4.6 Response to Earthquake (6th week to 9th week: 17 Feb – 16 March)

On 19 February 2010, the German Central Authority made the following public announcement *'the German authorities have received several requests by German citizens to bring Haitian children to Germany to be placed in temporary foster care. The authorities doubt whether providing shelter to Haitian children outside Haiti would truly be of a temporary nature or in the best interest of the children. United Nations General Assembly adopted a resolution on the Guidelines for the Alternative Care of Children. According to these Guidelines the primary goal is to trace and reunify children with their families to the maximum extent possible prior to any other permanent solution being pursued. Even in the worst disasters, such as this, most children have extended family members. No relief effort should inadvertently promote the separation of children from their immediate and extended family. In particular, children in emergency situations should not be moved to another country for the purpose of alternative care except temporarily for compelling health, medical or safety reasons. If the latter is necessary, the Guidelines stress that children should be moved as close as possible to their home, they should be accompanied by a parent or caregiver known to the child, and a clear return plan should be established. As the German government is aware of the particularly urgent humanitarian needs by children in Haiti, it has, though, concentrated its efforts in humanitarian aid on them and privileged funding for projects for traumatised children, safe spaces for children and food, water and health supplies for children's homes.'*

4.4.7 Response to Earthquake (2 months plus: from 17 March)

On 16 April, Help a Child (German AAB) reported on its ongoing activities in Haiti including rebuilding of children's homes and providing 400 people with food and water[188]. As of this date, neither Help a Child nor Eltern für Kinder have published on their websites information about the post-adoption follow-up, if any, being offered to the children.

4.5 Luxembourg

Summary of Luxembourg

- 14 children transferred
- Only 13 children had started an adoption procedure
- Luxembourg Red Cross is the public administrator
- Donation of over 3.8 million Euros to help with reconstruction efforts

Over the last five years, Luxembourg has undertaken from one to eight adoptions per year, with three adoptions carried out in 2009.

On 19 January 2010, Prime Minister Jean-Max Bellerive gave his authorisation for the evacuation of 14 children, 13 of whom were subject to an adoption procedure before the earthquake[189]. Luxembourg stated that after the Netherlands, it was the second country to receive its authorisation[190]. A press meeting was held on 20 January with the children and their adoptive parents, with the photo showing that a number of the children were less than one[191].

[188] Help a child, op. cit.
[189] Gouvernement luxembourgeois, 'Situation des 14 enfants haïtiens en cours d'adoption: Marie-Josée Jacobs informe sur les efforts du gouvernement en vue d'accueillir les enfants le plus rapidement possible au Luxembourg', 20 January 2010, http://www.gouvernement.lu/salle_presse/actualite/2010/01-janvier/20-jacobs/index.html.
[190] Ibid.
[191] http://www.gouvernement.lu/salle_presse/actualite/2010/01-janvier/21-jacobs-haiti/index.html.

On 4 March, the Central Adoption Authority explained that the children were evacuated on 21 January by charter flight to the Netherlands and from there, by bus to Luxembourg. The children were in the formal care of the PAPs with a view to their adoption. The Government was waiting for the judicial authorities to be re-established before finalising the adoption procedures. The Luxembourg Red Cross was appointed as the public administrator of children by the judge of guardianships. For administrative reasons, the foster parents and PAPs have been designated as the administrators of the property of the 14 children.

On 30 March, the Luxembourg Government stated that it would be donating 3.8 million Euros over four years to help with the reconstruction of the country[192].

4.6 Netherlands

Summary of the Netherlands

- Haitian authorities approved 110 children to fly out to the Netherlands
- The Dutch flew out 108 children:
  - children for whom the adoption procedure was almost finished (56) – expedition transfer
  - children who had already been matched (44) – expedition adoption
  - children for whom matching had not yet occurred (9)
- 105 children made it into the Netherlands after the death of three children during an airplane crash
- Use of the Dominican Republic as a transit country
- Children as young as two months old adopted
- United Adoptees International accused the Netherlands Government of paying Haitian authorities an additional fee of 1,000/1,500 Euros to adopt children
- Children between two months and seven years old
- Biological mother attended the orphanage to pick up her children
- Two months after the children had been airlifted out of Haiti, nine children were still awaiting a placement

4.6.1 Historic involvement with Haiti

The adoptions from the Netherlands over the last eight years ranged from 28 to 91, averaging about 50. In 2002, the Netherlands Minister of Justice suspended the license of the 'Flash Agency'. This action was based on a report, which concluded that 'the information provided on the backgrounds of the children is not consistent with what is actually experienced in the Netherlands. Parents have indicated that children often seem older than reported or develop more rapidly than would be expected. There are also children with behavioural disorders that indicate past abuse… There is no supervision of the care provided and the expenditure of the financial means granted'[193]. It seems that the Netherlands was the first country to make a decision to expedite adoptions (within 24 hours of the earthquake).

4.6.2 Main actors involved with Haiti

The Dutch Ministry of Justice is the Central Adoption Authority in the Netherlands. The adoption accredited bodies Nederlandse Adoptiestichting (NAS)[194] and Vereniging Wereldkinderen have acted on behalf of the children.

4.6.3 Immediate response to Earthquake (1st week: 12th – 18th Jan)

On 15 January, Mr Hirsch Ballin, Minister of Justice, stated that he had expedited procedures to admit to the Netherlands 56 Haitian adoptee children. NAS is responsible for organising a private flight for transferring the children from Haiti using a fast-track procedure. The Minister stated that '*the children involved do not yet possess the right entry and travel documents, but they have been matched with the applicant adoptive parents and the Haitian Court has decided favourably on their cases*'[195].

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[192] Ibid.

[193] Ministry of Justice, 'Ministry of Justice temporarily suspends adoptions by adoption agency Flash', 27 September 2002, http://english.justitie.nl/currenttopics/pressreleases/archives2002/-Ministry-of-Justice-temporarily-suspends-adoptions-by-adoption-agency-Flash.aspx.

[194] Nederlandse Adoptie Stichting, http://www.nederlandseadoptiestichting.nl/.

[195] Ministry of Justice, 'Hirsch Ballin Expedites the Entry of Haitian Adoptive Children', 15 January 2010, http://english.justitie.nl/currenttopics/pressreleases/archives-2010/100115hirsch-ballin-expedites-the-entry-of-haitian-adoptive-children.aspx?cp=35&cs=1578.

On 16 January, the same Minister decided on humanitarian grounds to allow a second group consisting of 44 children. He stated that adoption procedures for these children were already in progress and that they had been matched with Dutch adoptive parents, but they were still awaiting a final decision of the Haitian Court[196].

On 17 January, Minister of Justice Hirsch Ballin granted permission to bring another group of nine Haitian children to the Netherlands. These children had already been placed for adoption and adoption procedures had already started, but no adoptive parents had been found for them yet[197]. On this same date, six Haitian children arrived in Eindhoven, transferred by a Military plane[198].

On 18 January, an NGO group, United Adoptees International, heavily criticised the Dutch Government for allegedly paying Haitian authorities between 1,000 and 1,500 Euros as an additional fee[199].

4.6.4 Response to Earthquake (2nd and 3rd week: 19th – 1 Feb)

On 20 January, the Ministry of Justice released a press statement explaining why the Government allowed the nine children that had not been matched into Netherlands. The Minister of Justice stated that 'due to the earthquake, the most fundamental care in the orphanages was no longer possible. I was informed that the safety of these children could no longer be guaranteed and therefore I decided to also admit these children on the basis of humanitarian grounds'[200].

On 21 January, the Minister of Justice gave a full explanation (via a letter) to the Second Chamber (Lower House) of his decisions regarding the acceleration of adoptions from Haiti[201].

On 24 January, a Canadian newspaper reported that 123 children had landed in Eindhoven and that they were aged between two months and seven years old. 14 of the children were to be transferred to Luxembourg[202].

4.6.5 Response to Earthquake (4th and 5th week: 2 Feb – 16 Feb)

It does not appear that the Netherlands Government made any "formal" statements or decisions during this period.

4.6.6 Response to Earthquake (6th week to 9th week: 17 Feb – 16 March)

On 18 February, the Minister of Justice explained that a total of only 105 children entered the Netherlands because 'the list of 109 children also included three missing children, who were later, found to have lost their lives, together with their Dutch adoptive parents. Furthermore, two children were picked up by their biological mother from a children's home in Haiti at the very last moment

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[196] Ministry of Justice, 'Hirsch Ballin Permits Entry of Second Group of Haitian Adoptive Children', 16 January 2010, http://english.justitie.nl/currenttopics/pressreleases/archives-2010/100116hirsch-ballin-permits-entry-of-second-group-of-haitian-adoptive-children.aspx?cp=35&cs=1578.

[197] Ministry of Justice, 'Group of Nine Haitian Children May Also Come to the Netherlands', 17 January 2010, http://english.justitie.nl/currenttopics/pressreleases/archives-2010/100117group-of-nine-haitian-children-may-also-come-to-the-netherlands.aspx?cp=35&cs=1578.

[198] http://www.tdg.ch/depeches/people/haiti-avion-neerlandais-va-ramener-109-enfants-cours-adoption.

[199] United Adoptees International, 'Dutch Government accept bribes to get Haitian Children', op. cit.

[200] Ministry of Justice, Letter to Second Chamber (Lower House), 20 January 2010, http://www.justitie.nl/images/adoptie_tcm34-250552.pdf.

[201] Ministry of Justice, 'Minister informeert Kamer over versnelde toelating Haïtiaanse adoptiekinderen', 21 January 2010, http://www.justitie.nl/actueel/nieuwsberichten/archief-2010/100121minister-informeert-kamer-over-versnelde-toelating-haitiaanse-adoptiekinderen.aspx.

[202] 'Dutch adoption airlift brings 123 Haitian children into the Netherlands', *The Canadian Press*, 21 January 2010.

and one child was added to the list. As a result, a total of 105 children have actually come to the Netherlands'[203].

On 9 March, the NAS stated on their website that nine children that had come from the Bresma home had not yet been matched with families and were waiting to be placed with foster families[204].

4.6.7 Response to Earthquake (2 months plus: from 17 March)

In late April[205], the representatives from the Netherlands Central Adoption Authority stated that they had started accepting new adoption dossiers for Haiti (approximately nine to date).

4.7 Switzerland

The Swiss Central Adoption Authority expedited nine adoption cases, of which only two had adoption judgments.

On 21 January, nine children arrived at Zurich airport. The children had to undergo a medical examination before being united with their families[206].

Summary of Switzerland

- The Swiss flew out nine children in two categories.
  - Two children for whom the adoption procedure was almost finished – expedition transfer
  - Seven children who have been already matched – expedition adoption
- Swiss AAB assisting with material resources to help partially damaged orphanage.

On 26 January, TIMOUN – enfants et parents (Swiss AAB) reported that it had now been able to deliver material aid to the orphanage in Haiti that had been partially damaged and from where they processed adoptions[207]. Children had to be evacuated from the building because it was unsafe and therefore tents were donated.

The Federal Swiss Central Adoption Authority's website stated the following on 9 February 2010: *'regarding the earthquake that struck Haiti, many people in Switzerland have made contact with authorities or specialized bodies expressing the desire to adopt an orphan affected areas. Because of the earthquake, the Haitian authorities currently accept no new applications for adoption. It is not advisable to adopt children after a natural disaster. Children must stay as close as possible to their familiar environment so that we can first establish their identity and then find the surviving members of their families. International adoption should be considered only if no other solution, including a national adoption is possible in the country of origin. Haiti needs time to conduct necessary investigations and identify children for whom adoption is taken into account. Currently, the priority is relief*[208].

In April, TIMOUN – enfants et parents (Swiss AAB) stated that it is working with Help a Child (German AAB) to help reconstruct buildings to house children in Haiti[209].

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[203] Ministry of Justice, 'The Netherlands Fosters a Total of 105 Haitian Adoptive Children', 18 February 2010, http://english.justitie.nl/currenttopics/pressreleases/archives-2010/100218the-netherlands-fosters-a-total-of-105-haitian-adoptive-children.aspx.
[204] Nederlandse Adoptie Stichting, http://www.nederlandseadoptiestichting.nl/.
[205] 16th Informal Working Meeting of Central Authorities for Intercountry Adoption, Amsterdam, op. cit .
[206] 'Adoption: neuf enfants haïtiens sont arrivés en Suisse', *Romandie News*, 29 January 2010, http://www.romandie.com/infos/ats/display2.asp?page=20100129194822955172194810700_brf050.xml.
[207] Timoun – Enfants et parents, http://www.timoun.ch/60001.html.
[208] Office federal de la justice, Adoption Haïti, http://www.bj.admin.ch/bj/fr/home/themen/gesellschaft/internationale_adoption/herkunftslaender/haiti.html.
[209] Timoun – Enfants et parents, op. cit.

4.8 USA

Summary of USA

- More than 1,000 children have been granted humanitarian parole and 340 cases are still being investigated. At least 1,200 children are expected to be granted humanitarian parole.
- In 2009, USA adopted 380 children
- Three categories of children identified by the Government for potential adoption
- Ten Americans arrested for illegally attempting to transfer 33 children into the Dominican Republic (majority had biological parents)
- USA is considering a draft law 'Family for Orphans Act' which undermines the principle of subsidiarity and other international principles embedded in the Hague Convention
- One child had been moved to the USA, only to discover that his prospective adoptive parents had changed their minds
- One child left on a military plane for the USA without officials being sure that he had no family in Haiti that could care for him

4.8.1 Historic involvement with Haiti

The USA has a large Haitian community and undertakes a relatively high number of relative adoptions. In 2008 and 2009, USA adopted approximately 340 children. Prior to the earthquake, the US Department of State's website stated that 'Haitian law does not allow for a Haitian child to travel to the United States to be adopted. Therefore, PAPs must obtain a full and final adoption under Haitian law before the child can immigrate to the United States. PAPs can expect a lengthy process to adopt a child in Haiti.' The site further states that 'the adoption process in Haiti frequently requires as long as 18 months, primarily because the legal process is complex. Often adoption applications can take more than two years.'

4.8.2 Main actors involved with Haiti

The Department of State and Department of Homeland Security are responsible for coordinating the transport of Haitian orphans with approved travel documents to ensure their safe arrival into the U.S. Children were travelling by both military and private aircraft[210]. The Immigrant, Refugee, and Migrant Health Branch Division of Global Migration and Quarantine Centres for Disease Control and Prevention were in charge of the medical examinations of the children when they arrive in the USA.

4.8.3 Immediate response to Earthquake (1st week: 12th – 18th Jan)

On 18 January, Department of Homeland Security (DHS) Secretary Janet Napolitano with the U.S. Department of State (DOS) announced a humanitarian parole policy allowing orphaned children from Haiti to enter the United States temporarily on an individual basis to ensure that they receive the care they need[211].

Two main categories of children were identified as being eligible for humanitarian parole. **Category 1** are those children who have been legally confirmed as orphans eligible for intercountry adoption by the Government of Haiti, and who were in the process of being adopted by Americans prior to 12 January 2010. The USCIS website states *"Some of the children in this category will receive immigrant visas and others will receive humanitarian parole, depending on the completeness of the cases. Those who enter with immigrant visas will enter as aliens lawfully admitted for permanent residence. Those who enter with humanitarian parole will need to have their immigration status finalized after arrival through an application for adjustment of status"*[212].

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[210] U.S. Citizenship and Immigration Services, Questions & Answers: Information for U.S. Citizens in the Process of Adopting a Child from Haiti, 26 February 2010, http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=8f712d86a8756210VgnVCM100000082ca60aRCRD&vgnextchannel=6abe6d26d17df110VgnVCM1000004718190aRCRD.

[211] U.S. Citizenship and Immigration Services, 'Secretary Napolitano Announces Humanitarian Parole Policy for Certain Haitian Orphans – Fact Sheet', 18 January 2010, http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=9c22546ade146210VgnVCM100000082ca60aRCRD&vgnextchannel=68439c7755cb9010VgnVCM10000045f3d6a1RCRD.

[212] U.S. Citizenship and Immigration Services, Questions & Answers: Information for U.S. Citizens in the Process of Adopting a Child from Haiti, 26 February 2010, op. cit.

Category 2 Children who have been identified by an adoption service provider or facilitator as eligible for intercountry adoption, who were matched to prospective American adoptive parents prior to 12 January 2010, and who meet the below criteria.

For children where the adoption procedure was not yet finalised, the USCIS website assured prospective adoptive parents that:

> If you have not received a formal order granting you custody from the Government of Haiti, then the child may be placed in your care but some additional procedures must be followed first. These procedures are intended to protect children and ensure that those without final adoptions are placed with families that are able to care for them. These additional procedures may take a little time, but they are critical for keeping children safe. Children who cannot be placed with prospective adoptive parents will be well cared for. The Office of Refugee Resettlement (ORR) within the Department of Health and Human Services (HHS) has contracts with organizations around the country to care for unaccompanied children who are not U.S. citizens[213].

Category 1

- Evidence of availability for adoption, which MUST include at least one of the following:
  - Full and final Haitian adoption decree
  - Government of Haiti Custody grant to prospective adoptive parents for emigration and adoption
  - Secondary evidence in lieu of the above.
- Evidence of suitability for adoption, which MUST include at least one of the following:
  - Notice of Approval of Form I-600A, Application for Advance Processing of an Orphan Petition
  - Current FBI Fingerprints and background security check clearances
  - Physical custody in Haiti plus a security background check

Category 2

- Significant evidence of a relationship between the prospective adoptive parents and the child AND of the parents' intention to complete the adoption, which could include the following:
  - Proof of travel by the prospective adoptive parents to Haiti to visit the child
  - Photos of the child and prospective adoptive parents together
  - An Adoption Service Provider "Acceptance of Referral" letter signed by the prospective adoptive parents
  - Documentary evidence that the prospective adoptive parents initiated the adoption process prior to Jan. 12, 2010 with intent to adopt the child (filed Form I-600A, Application for Advance Processing of an Orphan Petition, and/or Form I-600, Petition to Classify an Orphan as an Immediate Relative, completed a home study, located an ASP to work with in Haiti, etc.)
- Evidence of the child's availability for adoption, which could the following:
  - IBESR (Haitian Adoption Authority) approval
  - Documentation of legal relinquishment or award of custody to the Haitian orphanage
  - Secondary evidence in lieu of the above
- Evidence of suitability for adoption, which MUST include at least one of the following:
  - Notice of Approval of Form I-600A, Application for Advance Processing of an Orphan Petition; OR
  - Current FBI Fingerprints and background security check clearances

In addition to the two categories of children being granted humanitarian parole, the USCIS website appears to have created the possibility for a third category of children in smaller print:[214]

Other Orphaned or Separated Children

Given the severity of the disaster in Haiti, we understand that there are additional children that have been orphaned and/or separated from relatives and may also be in varying stages of the adoption process. DHS and the U.S. Department of State continue to evaluate additional eligibility criteria and will provide additional information as soon as it is available.

[213] Ibid.

[214] U.S. Citizenship and Immigration Services, 'Secretary Napolitano Announces Humanitarian Parole Policy for Certain Haitian Orphans – Fact Sheet', 18 January 2010, op cit.

4.8.4 Response to Earthquake (2nd and 3rd week: 19th – 1 Feb)

On 19 January, Haitian orphans arrived in Pittsburgh. A journal article stated that 'Fifty-three children from infants to about age 10, along with Pennsylvania Governor Ed Rendell, were on the Air Force flight'[215].

On 21 January, French newspapers reported that the US Government had started setting up tents in Guantanamo Bay as shelter for Haitians affected by the earthquake[216]. On this same day, "eighty orphans from earthquake-ravaged Haiti are scheduled to arrive at Miami International Airport tonight, Thursday, January 21, at 9:40 p.m., and will be united for the first time with their adoptive parents"[217].

On 26 January, Washington confirmed that humanitarian parole had been granted to almost 500 Haitian orphans in the process of being adopted, several hundred of whom are now in the United States[218].

4.8.5 Response to Earthquake (4th and 5th week: 2 Feb – 16 Feb)

Before internationally adopted children come to the United States, they are usually required to have a medical exam. However, children coming from Haiti at this time are "humanitarian parolees." Thus, they are not required to have this overseas medical exam and arrive to the United States without any medical evaluation. On arrival into the USA, children are required to have an initial exam which includes[219]:

- medical history
- general physical exam, with a measure of nutritional status
- screening for tuberculosis (TB)*
- vaccinations, as suitable for the age of the child
- screening for intestinal parasites
- a blood test (with complete blood cell count)
- screening for syphilis
- HIV testing
- screening for malaria
- treatment for chronic diseases, such as asthma

A more complete examination will take place once the child has settled into the country.

- hearing and vision tests
- growth and development evaluations
- culturally appropriate mental health assessment
- blood lead testing
- screening for congenital defects (such as foetal alcohol syndrome)

On 13 February, newspaper reported that 'in one case, LIRS said, a 12-year-old boy who was allowed onto a U.S. military plane without documentation or relatives in the U.S. and is now in limbo while officials try to find out if he left family behind in Haiti. In another case, a three-year-old

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[215] 'Haitian Orphans Arrive in Pittsburgh', *CBS News*, 19 January 2010, http://www.cbsnews.com/stories/2010/01/19/national/main6114410.shtml.

[216] 'Guantanamo, futur refuge de sinistrés haïtiens', *Le Monde*, 21 January 2010, http://www.lemonde.fr/ameriques/article/2010/01/21/guantanamo-futur-refuge-des-sinistres-haitiens_1294595_3222.html and 'Guantanamo dotée d'une nouvelle mission après le séisme d'Haïti', *La Tribune*, 22 January 2010, http://www.latribune.fr/depeches/associated-press/guantanamo-dotee-d-une-nouvelle-mission-apres-le-seisme-d-haiti.html.

[217] https://www.adoptioncouncil.org/images/stories/documents/2010/01%2021%20PR%20Newswire.pdf

[218] U.S. Department of State, 'Departure of Haitian Orphans Covered By Humanitarian Parole', 26 January 2010, http://www.state.gov/r/pa/prs/ps/2010/01/135877.htm.

[219] Centers for Disease Control and Prevention, 'Important Health Information for Parents Adopting Children from Haiti during the 2010 Earthquake Recovery', http://www.cdc.gov/immigrantrefugeehealth/exams/parents-adopting-children-haiti-earthquake.html.

boy arrived on a private plane with other orphans even though the family who had been planning to adopt him had changed their mind and abandoned the process'[220].

On 15 February, Insel started charter flights[221]. On 16 February, US Department of State website stated that more than 750 children had been granted humanitarian parole[222]. 45 orphans have been granted IR3/4 visas[223]. The IR-3 visa classification signifies that the orphan has been adopted abroad prior to the issuance of the immigrant visa. The IR-4 visa classification signifies that the orphan will be adopted by the petitioner after being admitted to the United States[224].

During this period some in the USA pushed to have Families for Orphans Act legislation passed. Ethica[225] has provided some commentary on the Act, which identifies many weaknesses in the legislation (see Section 4.8.9).

4.8.6 Response to Earthquake (6th week to 9th week: 17 Feb – 16 March)

On 23 February, the US Government published an information pack for families given that 'under normal circumstances, a child immigrating to the United States from Haiti as the adopted orphan child of a U.S. citizen is adopted before leaving Haiti, and is then admitted to the United States with an immigrant visa for Lawful Permanent Residence (LPR) status. The adopted child then acquires citizenship upon entry as specified in Section 320 of the Immigration and Nationality Act (INA). In light of the devastating earthquakes in Haiti, the Secretary of the Department of Homeland Security authorized Haitian children, who were adopted or were in the process of being adopted by American families prior to the earthquake, to be paroled into the United States. "Category 1" parolees are Haitian orphans who were already legally adopted in Haiti. "Category 2" parolees are certain Haitian orphans whose cases had not yet resulted in final adoptions'[226].

It appears that there may be potential difficulties with the processing of Lawful Permanent Residence (LPR). Where families caring for children do not have an adoption grant or legal custody in Haiti, the child's legal status may be left in limbo for a number of years. For example, for those who want to make a LPR application for the child as an orphan, the information guide states that 'under the DHS regulation, however, you must still adopt the child in Haiti. It is not known, currently when Haiti will be able to resume normal processing of adoption cases, or whether Haiti would require the child to return to Haiti for an adoption proceeding.' Additionally, for those making an application for the child as being adopted, the information package states 'this means that you can file the Form I-130 only after you have lived with the child for at least two years and have had legal custody of the child for at least two years.' These are ambiguous and somewhat lengthy periods for the child living in the USA, especially given there is no certainty that the child will be adopted and yet has left his family. There are no sanctions mentioned for the failure to submit papers and therefore children may end up never acquiring US citizenship status.

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[220] 'The adoption dilemma', *Winnipeg Free Press*, 13 February 2010 and https://www.adoptioncouncil.org/images/stories/documents/2010/02%2001%20Associated%20Press.pdf

[221] InselAir, http://www.fly-inselair.com/index.php?page_id=49.

[222] Office of Children's Issues (U.S. Department of State), 'Notice to Parents with Pending Haitian Adoption', http://adoption.state.gov/news/parents_with_pending_haitian_adoption.html.

[223] Ibid.

[224] Bureau of Consular Affairs (U.S. Department of State), 'Telegram: Determining Orphan Classification', 16 June 2001, http://travel.state.gov/visa/laws/telegrams/telegrams_1408.html.

[225] Ethica, http://www.ethicanet.org/.

[226] U.S. Citizenship and Immigration Services, 'Information for Adoptive Parents of Paroled Haitian Orphans Obtaining Lawful Permanent Residence (LPR) Status and U.S. Citizenship', 23 February 2010, http://godslittlestangelsinhaiti.org/wp-content/uploads/2010/02/USCIS-FAQ-Orphan-After-Legal-Custody-2-23-10.pdf.

Haitian children were allowed into the USA with humanitarian parole which 'is used sparingly to bring someone who is otherwise inadmissible into the United States for a **temporary period** of time due to a compelling emergency'[227].

The USCIS sent an email to US Adoption Service providers stating, *'as many of you are aware, commercial travel between Haiti and the United States resumed on Friday February 19, 2010. At the same time U.S. military flights ended …With the resumption of commercial air [flights], Haitian authorities have also resumed screening at the airport and are carefully examining all documentation for minors leaving Haiti to prevent trafficking in children. As some of you may be aware, six children who had been approved to enter the U.S. under the special humanitarian parole program and been approved to depart Haiti by the Prime Minister were prevented from boarding a private flight organized by their orphanage on Saturday February 20, 2010. The parents of these children have all been made aware of this situation. Unfortunately, these additional screening procedures have resulted in a travel delay for all children, including children who have previously been approved to travel by the Government of Haiti but who have not yet travelled. The U.S. Embassy is working closely with the Haitian authorities at the highest levels to get clarification on when they expect orphan children who are documented with humanitarian parole letters to be able to board commercial or private flights to Miami'*[228].

On 12 March, American Airlines and American Eagle started flights to and from Haiti[229].

4.8.7 Response to Earthquake (2 months plus: from 17 March)

On 14 April, the US Government stated that it would stop accepting new requests for consideration under the special humanitarian parole program and that it will resume regular processing of intercountry adoptions. They stated that 'since January 18, USCIS has authorized parole for more than 1,000 orphans under the special program, and as of April 5, approximately 340 cases are still being considered. The unprecedented program included safeguards to ensure that each child granted parole was truly available for adoption and had been matched to a suitable U.S. citizen for adoption'[230]. It is expected that approximately 1,200 children will benefit from the program[231].

On 29 April, the US Department of State's website stated that 'Haiti's adoption authority, the Institut du Bien-être Social et de Recherches (IBESR), has informed the U.S. Government that they are now accepting new adoption applications for Haitian children who were either documented as orphans before January 12, 2010, or who have been relinquished by their birth parent(s) since the earthquake. The U.S. Embassy in Port-au-Prince has also resumed normal visa processing. We encourage prospective adoptive parents to verify that their application is being processed in accordance with Haitian legal requirements and the procedures established by IBESR'[232].

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[227] U.S. Citizenship and Immigration Services, 'Humanitarian Parole', 15 April 2010, http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=accc3e4d77d73210VgnVCM100000082ca60aRCRD&vgnextchannel=accc3e4d77d73210VgnVCM100000082ca60aRCRD.

[228] National Council for Adoption, Heart to Haiti, https://www.adoptioncouncil.org/news/heart-to-haiti.html and https://www.adoptioncouncil.org/intercountry-adoption/country-updates.html#haiti

[229] American Airlines, 'American Airlines to Resume Service to Haiti Starting Feb. 19 – American Eagle Announces New Flights to Haiti from Puerto Rico and Dominican Republic Beginning March 12', 16 February 2010, http://aa.mediaroom.com/index.php?s=43&item=2851.

[230] U.S. Citizenship and Immigration Services, 'Special Humanitarian Parole Program for Haitian Orphans Draws to a Close at Request of Haitian Government', 7 April 2010, http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=dc4535f9b29d7210VgnVCM100000082ca60aRCRD&vgnextchannel=c94e6d26d17df110VgnVCM1000004718190aRCRD.

[231] U.S. Citizenship and Immigration Services, 'Special Humanitarian Parole Program for Haitian Orphan – Fact Sheet', 7 April 2010, http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=6d5135f9b29d7210VgnVCM100000082ca60aRCRD&vgnextchannel=8a2f6d26d17df110VgnVCM1000004718190aRCRD.

[232] Office of Children's Issues (U.S. Department of State), 'IBESR Accepting New Adoption Cases', 29 April 2010, http://adoption.state.gov/news/haiti_notice.html.

A Love Beyond Borders stated on their website that 'effective April 2010, per the announcement from the Government of Haiti that adoptions have resumed, we are pleased to reopen our Haiti program!'[233], and other agencies were quick to follow with similar messages on their websites[234].

4.8.9 Legislative initiatives

A number of legislative initiatives were initiated in the USA to promote the intercountry adoption of children in Haiti. For the reasons noted below, many initiatives circumvent agreed international principles and standards. Law reform in principle should involve wide consultation and not be responsive to one particular situation as arguably the law will be widely applied.

> *Laws need to be objective and time is needed for the drafting of good laws rather than being prepared as hasty knee jerk reactions.*

4.8.9a Families for Orphans Act of 2009

In the aftermath of the earthquake there was lobbying for the adoption of legislation referred to as 'Families for Orphans Act of 2009'[235], with the hope of finding permanent family placement for children in Haiti, although its application would be much wider. Some groups such as Ethica[236], Global Action for Children[237] and Better Care Network etc raised a number of concerns with this Act.

If the Family for Orphans Act is applied to the Haitian context and potentially other countries, it is highly concerning that:

- Definition of institution is far too large (i.e.: orphanages, a children's home, dormitory etc) which could capture long-term foster care, small group homes, boarding schools etc, basically anything that is not permanent. The definition would capture alternative care settings that would not necessarily be detrimental to the child (art 5). The Guidelines for Alternative Care of Children only discourages the use of large scale institutions.
- Definition of institutionalised child up to 21 years can be stigmatising and is also contrary to the definition of children in the UNCRC.
- Definition of orphan is contrary to internationally accepted definitions and far too encompassing. Every child living in an institution is not necessarily an orphan (art 7). The majority of children in institutions have parents.

The Act is being promoted as a foreign assistance bill whereby the main objective 'is to locate permanent homes for *all* children in the world, by funding a new office in the U.S. Department of State to advocate for the needs of orphaned and vulnerable children'[238]. In reality, the Act would interfere with the child protection measures in place of other countries and their sovereignty in deciding what is in the best interests of their children.

The Act also fails to deal with why children are in orphanages such as poverty and other root causes.

By changing such fundamental definitions, the Act would widen up the number of potentially adoptable children, despite them having parents and 'permanency' in their own countries of origin.

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[233] A love beyond borders – International Adoptions, http://bbinternationaladoption.com/haiti_adoption.shtml.
[234] Adoption Start, http://www.adoptionstar.com/; Tree of Life Adoption Center, http://www.toladopt.org/haiti.html; Loving Stork Charities Foundation, http://www.lovingstork.org/haiti_adoption, etc.
[235] Kidsave, Families for Orphans Act, http://www.kidsave.org/advocacy_orphanact.shtml.
[236] Ethica, http://www.ethicanet.org/.
[237] Global Action for Children, http://www.globalactionforchildren.org/.
[238] Ethica, http://www.ethicanet.org/fighting-for-%e2%80%9corphans%e2%80%9d.

4.8.9b Haitian Orphan Placement Effort (HOPE) Act

On 4 February, U.S. Representative Peter Hoekstra of Michigan introduced legislation, the Haitian Orphan Placement Effort (HOPE) HR 4603[239] that would expand humanitarian parole "on a case by case basis" to Haitian orphans but who had not yet been matched with an American family. In the event an American family could not be found for these children, they would be able to access the Unaccompanied Refugee Minor Program.

Initiatives such as this unnecessarily circumvent the verification process to ensure that the children are really in need of adoption and that suitable domestic solutions are not available for the child (i.e.: principle of subsidiarity).

4.8.9c Adoption Fairness Act

On 9 March 2010, U.S. Senators Amy Klobuchar (D-MN) and Mary Landrieu (D-LA) introduced legislation to simplify the international adoption process for American families. The aim of the bill is to 'ensure that all international adoptees receive their certificate of U.S. citizenship in a timely manner at no cost to the adoptive family'[240]. This initiative is viewed as another step to reduce the cost of intercountry adoptions. Ethica firmly supports streamlining citizenship rights for adoptees once they have left their countries of origin - a child or adult without evidence of citizenship can be at risk of deportation or can be deprived of basic civil rights in the U.S.

4.8.9d Concurrent planning for children as part of legislative initiatives in the USA

The USA child welfare system practices what is called concurrent planning, whereby two options for permanency are explored at the same time, family reunification (giving families all the services they need so that if they can get it together, their children can be returned) and in addition, searching for an adoptive home, in the event that the families cannot get it together, then there is a permanent option in the wings, so kids do not have to wait yet another year for permanency. The adoptive home ideally should be with relatives, strangers being the last resort.

Some actors in the USA are considering this system in the Haitian context. The reasoning behind this approach is the fear that when searches and traces reveal that children who are unaccompanied do not have anywhere else to go, they are not then able to be adopted by families outside of Haiti, because so much time has gone by, that the families have since lost interest in being adoptive families. If the processes were concurrent, then it could make the wait more reasonable.

It is understandable that it may be more 'efficient' to try and look for more options for children at the same time. However, given that there are so little resources available in Haiti we believe that the great proportion of resources should be used to support the child and his family and reintegration programs. Resources spent on finding alternatives would take away from the very little that exists.

Secondly, we believe that it is important to remember the principle of subsidiarity. The principle operates on the basis of exhausting domestic solutions FIRST before looking for alternatives in other countries. In our view, the concurrent planning would go against this well established principle.

Thirdly, if children are even temporarily removed from Haiti, as we have mentioned, this should be done for compelling reasons (see Guidelines para. 159) and not as a general measure. A clear return plan should also be made and the child should be accompanied by an adult that they know.

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[239] To read the Bill: Haitian Orphan Placement Effort Act, H.R. 4603, The Library of Congress, http://hdl.loc.gov/loc.uscongress/legislation.111hr4603, and further explanation available at: Congressman Pete Hoekstra, http://hoekstra.house.gov/News/DocumentSingle.aspx?DocumentID=170189.

[240] 'Klobuchar, Landrieu introduce legislation for adoptees', *HometownSource.com*, 9 March 2010, http://www.hometownsource.com/index.php?option=com_content&view=article&id=12812:klobuchar-landrieu-introduce-legislation-for-adoptees&catid=13:capitol-news&Itemid=29.

Fourthly, it would be important to also acknowledge that children should not be put in a position (temporary care in another country) where ties are likely to be formed and then a choice would have to be made to return to Haiti. It would require a very mature child to make such a decision. It is also not the time to be obtaining consents from parents willing to send their children abroad. Poverty should not be the reason for separation. The Guidelines make it clear that implied 'incentives' for families promoting separation should not be given (para. 154).

Fifthly, the reasoning that prospective adoptive parents may lose interest in being adoptive parents because of the long wait is not plausible. Intercountry adoption processes are invariably long and take up many years. The situation in Haiti should not be exploited to shorten this waiting period. This waiting period is also necessary to ensure that the 'best' prospective adoptive parents are chosen for the child and are well prepared to care for a child coming from a crisis situation.

Lastly and perhaps most importantly, it is clearly not the time to be moving children, so soon after the earthquake. Research has shown that children are even more traumatised by being moved to a 'foreign' or 'unknown' context.

5. Countries that had suspended adoptions in Haiti prior to the earthquake and expedited the transfer of the last pipeline cases

This section specifically examines the situation of Italy and Spain. The involvement of these two countries being among the main receiving countries in the world deserves particular attention as both countries officially suspended adoptions from Haiti in 2007 due to a lack of guarantees. Prior to this suspension, in 2007 Italy had finalised two adoption cases and Spain had finalised seven adoption cases. Both countries were waiting for the Haitian government to give its authorisation for the nine children to leave the country when the earthquake occurred. It was only after the earthquake that the Haitian Government gave its authorisation. Only the transfer was expedited.

5.1 Italy

Summary of Italy

- In 2007, Italy stopped adoptions from Haiti due to the lack of transparency. In 2007, two adoptions had been finalised and it was only after the earthquake, that the two children were granted the necessary paperwork to arrive in Italy.
- The Central Adoption Authority has donated the following sums:
  - Save the Children project (350,000 Euros)
  - 'Charitas Italiana' project (350,000 Euros) to secure health services, hygiene and survival for 20,000 families with children
  - 300,000 Euros to UNICEF to assist the children cared for in orphanages or in temporary facilities.
  - 750,000 Euros for medium and long term work in Haiti

5.1.1 Historic involvement with Haiti

Historically, Italy has been carrying out adoptions in Haiti to a limited extent over the last decade, as evidenced by available statistics reported by the Italian Central Adoption Authority. There were no adoptions at the beginning of the decade, followed by 39 adoptions between 2002 and 2007 and again no adoptions at the end of the decade. All adoptions were undertaken by one accredited adoption body (*Nuovi orizzonti per vivere l'adozione, NOVA*)[241].

5.1.2 Main actors involved with Haiti

The main Italian actor explicitly taking a position on the child protection response to the situation of Haitian children following the earthquake is the Italian Central Adoption Authority, i.e the *Commissione per le adozioni internazionali*[242]. The Ministry of Foreign Affairs[243] has also been active in reiterating the country's position on the assistance provided to Haiti as well as on potential adoptions between both countries. Several Italian non-governmental organisations, including *Amici dei Bambini*[244] and *Fondazione Movimiento Bambini,* have expressed their interest in responding to the needs of Haitian children as well as their support to initiatives for their temporary care.

5.1.3 Immediate response to Earthquake (1st week: 12th – 18th Jan)

As an initial and immediate humanitarian response to the situation in Haiti, Italy relied upon its cooperation agreements[245].

On 15 January, the Italian Central Adoption Authority issued a statement on adoptions. It highlights that disasters, such as emergencies and conflicts, are situations in which particular prudence is essential when initiating adoption proceedings. It adds that, in these circumstances, it is always necessary to wait until the situation returns to normality in order to be able to ensure the true state of abandonment of the children who live in these areas given that families could merely be temporarily separated. Orphan adoption procedures would have to be undertaken in full compliance with domestic and international standards. Furthermore, Italy has always had limited

[241] Commissione per le Adozioni Internazionali, *Dati e prospettive nelle adozioni internazionali – Rapporto sui fascicoli dal 1° gennaio al 30 giugno 2009*, http://new.commissioneadozioni.it/media/54739/report%20cai%20i%20semestre%202009.pdf.
[242] Commissione per le Adozioni Internazionali, http://www.commissioneadozioni.it.
[243] Ministero degli Affari Esteri, http://www.esteri.it.
[244] Amici dei Bambini, http://www.aibi.it/emergenza-haiti/.
[245] Ministero degli Affari Esteri, 'Haiti earthquake: Italian Cooperation intervention', 13 January 2010, http://www.esteri.it/MAE/IT/Sala_Stampa/ArchivioNotizie/Comunicati/2010/01/20100113_Haiti_Cooperazione.htm?LANG=IT.

activity in the field of intercountry adoption in Haiti and that no adoption process is currently pending in this country[246].

This position was subsequently reiterated by the Ministry of Foreign Affairs: 'As far as adoption is concerned, the Commission for International Adoptions, in cooperation with the central authorities of the principle signatory countries of the Hague Convention, has communicated that only once a minimum of normality has been re-established on the island, and a reference authority has been designated, will it be possible to assess the adoptable status of orphans and initiate procedures. Until that time, given the impossibility of ascertaining the status of these children, adoption initiatives cannot be considered, nor programmes for their temporary reception'[247].

On 17 January, UNICEF Italy reiterated that it was premature to consider intercountry adoption and foster care as immediate measures of support to Haiti children[248].

5.1.4 Response to Earthquake (2nd and 3rd week: 19th – 1 Feb)

Following the initial statement, the Commissione per le Adozioni Internazionali met to address its support to the Haitian population, and published a new statement[249], setting out its concrete actions in this context. It adopted a variety of immediate and medium-term interventions. It decided to facilitate the reunification of the children with their separated or injured relatives by funding the Save the Children project with 350,000 Euros; the '*Charitas Italiana*' project with 350,000 Euros (to secure health services, hygiene and survival for 20,000 families with children and donating 300,000 Euros to UNICEF to assist the children cared for in orphanages or in temporary facilities.

The Commissione also decided to allocate an additional 750,000 Euros for medium-term intervention, undertaken by the authorised bodies and other organisations that are working in Haiti. Thus, a coordinating meeting would be organised to prevent the overlap of interventions. The central authority also mentioned that it was focusing on the various proposals issued internationally in relation to potential adoptions and the temporary care of Haitian children.

For now, the Commissione stated that in cooperation with the authorised institutions it would identify couples who are waiting for adoption in other countries, and who could be selected for the possible adoption of Haitian children, once the initial emergency is over. The Commissione emphasised again the need for the reunification processes to conclude and to decide which Haitian authorities must declare the state of adoptability of the children.

The Commissione also confirmed that it was in contact with authorities in other receiving countries and discussing initiatives to support the Haitian government to speed up procedures for the determination and declaration of adoptability. For example, an informal meeting of some European Central Authorities was convened in Paris on 21 January. At this meeting, the Vice-President of the Commissione requested the inclusion of Haiti on the agenda in order to possibly coordinate initiatives between other receiving countries and the government of Haiti as well as the implementation of best practices.

During this period, the Commissione mentioned a meeting with other relevant Italian ministries, designed to identify further coordinated actions that would respond to the needs of Haitian children and prevent the negative consequences that had occurred in other emergency situations and that could affect children possibly cared for in Italy.

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[246] Commissione per le Adozioni Internazionali, 'Comunicato: Terremoto ad Haiti', 15 January 2010, http://www.commissioneadozioni.it/it/notizie/2010/comunicato-terremoto-ad-haiti-(15-gennaio-2010).aspx.
[247] Ministero degli Affari Esteri, 'Haiti: humanitarian emergency and adoption requests', 19 January 2010, http://www.esteri.it/MAE/EN/Sala_Stampa/ArchivioNotizie/Comunicati/2010/01/20100119_haitiadozioni.htm?LANG=EN.
[248] UNICEF Italia, 'Nota del l'UNICEF sull'adozione per i bambini di Haiti', 17 January 2010, http://beta.unicef.it/doc/1005/nota-unicef-su-adozione-bambini-di-haiti.htm.
[249] Commission per le Adozioni Internazionali, 'Comunicato: Le iniziative preliminary della Commissione a sostegno della popolazione di Haiti', 19 January 2010, http://www.commissioneadozioni.it/it/notizie/2010/comunicato-le-iniziative-preliminari-della-commissione-a-sostegno-della-popolazione-di-haiti-(19-gennaio-2010).aspx.

5.1.5 Response to Earthquake (4th and 5th week: 2 Feb – 16 Feb)

Amici dei Bambini issued a news brief, which mentions that the adoption of two siblings from Haiti was concluded on 3 February. Their adoption proceedings had been finalised prior to the earthquake and the children had been taken to the Dominican Republic, where they were met by their adoptive parents. The relevant accredited body has stated that no other adoptions are planned at the moment[250]. The Commissione has explained that Italy had mediated 39 adoptions between 2002 and 2007. They clarified that the last two children had not been granted passports because their paperwork had gone missing. It was only after the earthquake that the Haitian authorities granted 'laissez passer' to the children. In this regard, the adoption of the two children could not really be viewed as adoptions after the earthquake.

Amici dei Bambini has also announced the arrival, on 8 February, of the first humanitarian flight organised by the task force of the Region of Lombardy, with four Haitian children on board, who will receive treatment in the region's hospitals. Roberto Formigoni, the President of the Lombardy region has stated that this will not be an isolated case (as 300 hospital beds have been made available for children and adults), and the Region's representative has declared that this intervention's aim is only for medical purposes[251].

5.2 Spain

Summary of Spain

- In 2007, Spain suspended adoptions from Haiti due to the lack of guarantees as well as the competent authority not having the necessary capacity
- Seven families have received Haitian children into their care. These files were pending from the 2007 period.
- Spain is not initiating new adoption files in accordance with Spanish legislation
- Specific law that states that intercountry adoptions cannot be undertaken in a country that has just suffered a catastrophe or is in the middle of a war

5.2.1 Historic involvement with Haiti

Historically, Spain has carried out a limited number of adoptions from Haiti. Since 2007, adoptions were suspended given the lack of guarantees and of a reliable authority in the adoption process. In addition, article 4 of a recent new law on intercountry adoption[252] establishes that applications will not be processed for children from a country that is in conflict or disaster and where there is no authority. Thus, the only adoptions still taking place were those already ongoing before these changes and the disaster.

5.2.2 Main actors involved with Haiti

The main actor offering humanitarian assistance and addressing the plight of children, including those affected by an ongoing adoption process, has been the Ministry of Foreign Affairs and Cooperation[253], and its representation in the country (Spanish Embassy). With regards to potential care and adoption proceedings, these issues fall under the responsibility of the Autonomous Communities and their competent authorities, as well as the relevant accredited bodies, as will be evidenced by the information below. In relation to Spanish civil society organizations, who have played a particular active role in the response and protection provided to children in Haiti, it is worth mentioning the Spanish Red Cross, SOS Children's Villages, Oxfam, Plan, Save the Children and UNICEF's Spanish Committee.

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[250] Amici del Bambini, 'Conclusa la prima adozione ad Haiti', 8 February 2010, http://www.aibi.it/emergenza-haiti/conclusa-la-prima-adozione-ad-haiti-stallo-per-le-altre/.
[251] Amici dei Bambini, 'Haiti, in Italia i primi 7 feriti. Boccalari: "Presto altri"', 10 February 2010, http://www.aibi.it/ita/haiti-in-italia-i-primi-7-feriti-boccalari-%e2%80%9cpresto-altri%e2%80%9d/; Amici dei Bambini, 'Da Haiti a Milano. Quattro bambini saranno curati nelle ospedali della città', 9 February 2010, http://www.aibi.it/emergenza-haiti/da-haiti-a-milano-quattro-bambini-saranno-curati-negli-ospedali-della-citta/.
[252] Ley 54/2007 de Adopción Internacional, http://www.boe.es/boe/dias/2007/12/29/pdfs/A53676-53686.pdf.
[253] Ministerio de Asuntos Exteriores y de Cooperación, http://www.maec.es.

5.2.3 Immediate response to Earthquake (1st week: 12th – 18th Jan)

In addition to humanitarian efforts and rescue teams immediately deployed by the Spanish government and its partner organizations, the Ministry of Foreign Affairs issued a statement on the situation of children and of adoption in Haiti: '*As a consequence of the special conditions affecting Haiti, the Minister of Foreign Affairs and Cooperation is doing everything in his power to enable the transfer to Spain of the Haitian minors under the guardianship of Spanish families due the conclusion of local adoption procedures. Although Spanish adoptions in Haiti are currently suspended, already constituted adoptions are being taken into account, however, since they are simple adoptions, no filiations have come into effect and therefore the minors are still Haitian nationals, despite being under the guardianship of Spanish families. Therefore, arrangements are being made with the Haitian authorities to transfer the minors to Spain in full compliance with the law, and contact has been established with the orphanages where the minors are located. The Minister of Foreign Affairs and Cooperation is holding briefings with representatives of the Autonomous Communities, the families and the international adoption collaborating bodies (ECAI) with Haitian minors that are in the situation mentioned above*'[254].

One regional government, the *Junta de Extremadura*, offered to initiate a programme of foster care for children from Haiti in that region[255]. However, this entity made it clear that such a programme would require a prior international agreement between the governments of Spain and Haiti, which has not been concluded so far. Many organisations expressed their concern at such a programme of temporary care, including the Federation of Intercountry Adoption Associations (ADECOP) and several NGOs.

5.2.4 Response to Earthquake (2nd and 3rd week: 19th – 1 Feb)

Spain reiterated its above-mentioned approach, and contrary to some other countries, it made it clear that it would not speed up adoptions from Haiti.

In this respect, the approach focused on processing the transfer to Spain of those Haitian children who were already in the process of adoption and on placing these children with their prospective families. During this period, the children (adopted by seven families from Cataluña and Murcia[256]), who had already reached the final stages of their adoption process, were allowed to leave the country by the Haitian government and were united with their adoptive families, with the support of the Spanish Agency of International Cooperation for Development and the Spanish Embassy[257]. The Coordination of Associations in Defense of Adoption and Care (CORA), in its press release, also stated that it believed in giving priority to *in situ* help and assistance, and that the exit of children for temporary care should be considered as a secondary possibility, always taking account of the stability of the situation, and whenever considered, it should take place under the auspices of organisations such as UNICEF and with the due guarantees of return to their country of origin[258].

The media also reported that Spain, as part of the response efforts proposed at European level, would propose a joint European response to the special situation in Haiti, including speeding up those adoption proceedings that had already initiated and to facilitate the care proceedings, improving the protection of unaccompanied children in the country, and strengthening collaboration

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[254] Ministry of Foreign Affairs and Cooperation, 'News brief *On minors in the process of being adopted by Spaniards in Haiti'*, 18 January 2010, http://www.maec.es/en/MenuPpal/Actualidad/NotasdePrensa/Paginas/6NP20100118EN.aspx.
[255] Junta de Extremadura, https://igualdadyempleo.juntaex.es/acogidafamiliar/index.php?p=5.
[256] Coordinadora de Asociaciones en Defensa de la Adopción y el Acogimiento, 'Terremoto en Haití : Adopciones internacionales. Comunicado de CORA', 19 January 2010, http://www.coraenlared.org/index.php?id=78&tx_ttnews[tt_news]=165&tx_ttnews[backPid]=1&cHash=74a6aa195e.
[257] 'España propone una "respuesta conjunta" de la UE para los huérfanos haitianos', *El País,* 22 January 2010, http://www.elpais.com/articulo/internacional/Espana/propone/respuesta/conjunta/UE/huerfanos/haitianos/elpepuint/20100122elpepuint_2/Tes.
[258] Coordinadora de Asociaciones en Defensa de la Adopción y el Acogimiento, 'Terremoto en Haití : Adopciones internacionales. Comunicado de CORA', 19 January 2010, http://www.coraenlared.org/index.php?id=78&tx_ttnews[tt_news]=165&tx_ttnews[backPid]=1&cHash=74a6aa195e.

with NGOs dedicated to helping children and who are present in the field, such as UNICEF and the Red Cross[259].

During this period, and in response to potential initiatives of intercountry adoption and foster care of Haitian children in Spain, SOS Children's Villages, the Spanish Red Cross, Intermón Oxfam, Plan, Save the Children and UNICEF Spain released a statement, in which these organisations advised against the temporary care and the intercountry adoption, as means of providing a response to the needs of this sector of the population in this moment of emergency[260].

6. Other regions and countries that expressed opinions on adopting children

6.1 Asia/Pacific

Summary of Asia Pacific

- There are no countries in the Asia Pacific region undertaking adoptions in Haiti after the earthquake
- This region supported Haiti via various financial donations
- The Central Adoption Authorities of Australia and New Zealand made clear statements against intercountry adoptions in Haiti. Neither country was undertaking adoptions from Haiti pre-earthquake

There do not appear to have been any historical child protection and adoption interventions by the Asian region in Haiti. However, over the past years, several Asian countries, such as the Philippines, India, Nepal, the Republic of Korea, Sri Lanka, Bangladesh, Pakistan, and China, have contributed with military and police personnel to the United Nations Stabilization Mission in Haiti (MINUSTAH)[261].

It appears that few of these countries have direct representation in Haiti, and some of them have provided their support via their Embassies in other countries in the region. Many have contributed financially via the UN funding appeal aimed at supporting the country in the aftermath of the earthquake and in its reconstruction. It is, however, worth mentioning the particular involvement of Japan's International Cooperation Agency (JICA), who is present on the ground with personnel of the Japan Disaster Relief system[262].

The Asian region's response to the earthquake in Haiti has primarily taken a financial character, by committing funds to supporting the country and helping in attending immediate and medium-term needs. One of the first countries to do so was Japan, who through JICA, sent emergency teams from the Japan Disaster Relief system, emergency supplies such as tents and sleeping bags, and pledged five million dollars in financial assistance, to be channelled through the two UN agencies, UNICEF and the World Food Programme[263].

Other countries followed in pledging their support to Haiti. The Philippines also sent medical personnel and supplies to Haiti, worth 278,000 USD, in addition to the 50,000 USD already

[259] 'España propone una "respuesta conjunta" de la UE para los huérfanos haitianos', *El País,* 22 January 2010, http://www.elpais.com/articulo/internacional/Espana/propone/respuesta/conjunta/UE/huerfanos/haitianos/elpepuint/20100122elpepuint_2/Tes.
[260] *Emergencia en Haití: Comunicado conjunto*, 21 January 2010, http://www.unicef.es/salaprensa/recursos/notasd/384/HAITI%20Comunicado%20conjunto%2021%20enero.pdf.
[261] United Nations Stabilization Mission in Haiti, *Facts and Figures*, http://www.un.org/en/peacekeeping/missions/minustah/facts.shtml.
[262] Japan International Cooperation Agency, 'Japanese Civilian and Self Defense Force Medical Experts Help Victims at the Epicenter of Haiti's Earthquake', 27 January 2010, http://www.jica.go.jp/english/news/field/2009/20100127_01.html.
[263] Japan International Cooperation Agency, 'Japan Joins International Relief Efforts to Help Survivors of Haiti's Devastating Earthquake', 19 January 2010, http://www.jica.go.jp/english/news/field/2009/20100119_01.html.

donated towards the relief effort[264]. In addition, Thailand also committed 100,000 USD for the purchase of necessary items, medical teams and aid workers, and 50,000 tons of rice[265].

Subsequently, India handed over 5 million dollars to Haiti's UN Envoy as aid for the victims, whilst considering the second phase of its response, aimed at the reconstruction and rebuilding of Haiti's infrastructure and economy, including prosthetic legs and low-cost housing[266]. In addition, 'India is operating through the trilateral -- India-Brazil-South Africa Initiative -- and is also looking at increasing its investment and technical cooperation in Haiti'[267]. Finally, China delivered several shipments of medical aid, including multiple types of epidemic prevention medicine, worth a total of 4.4 million USD[268].

6.1.1 Australia[269]

Prior to the earthquake Australia did not undertake any adoptions in Haiti. The Australian Central Adoption Authority's website on 20 January stated:

The Department has received a number of enquiries relating to the adoption of children affected by the earthquake in Haiti. While the Government shares concerns over the plight of children affected by this disaster, intercountry adoption should not be considered in the immediate aftermath of such crises. Decisions regarding the care and protection of children are naturally a matter for the Government in the child's country.

During or after natural disasters, children are often separated from their families and communities. This does not necessarily mean that these children do not have living parents or other relatives. Even if both parents have died, the chances of finding living relatives or other carers from their community does exist. In these situations, it is in the best interests of children to remain with their family and country as further separation from their extended families and countries may compound the trauma these children have already experienced.

There have been media reports of some receiving countries evacuating children from Haiti. The Department is aware that some countries with established intercountry adoption arrangements with Haiti are expediting the entry of Haitian children who were already well into the adoption process and where existing adoption applications were in the process of being finalised prior to the earthquake. As Australia does not have intercountry adoption arrangements with Haiti, the evacuation of children from Haiti to Australia would not be an appropriate response to assist in this crisis. The Department supports assistance being provided through alternative means, such as donations to aid organisations involved in the relief effort.

AGD supports the statement from the International Social Service concerning the adoption of children from countries affected by natural disasters.

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[264] Department of Foreign Affairs of the Philippines, 'PGMA Sends Aid, Message of Sympathy to Haiti', 28 January 2010, http://dfa.gov.ph/main/index.php/press-releases/672-pgma-sends-aid-message-of-sympathy-to-haiti.
[265] 'PM: Thailand's aid to arrive in Haiti on Tuesday', *National News Bureau of Thailand*, 24 January 2010, http://thainews.prd.go.th/en/news.php?id=255301240007.
[266] 'India aid to Haiti victims', *Kolkata Mirror*, 3 February 2010, http://www.kolkatamirror.com/index.aspx?page=article&sectid=75&contentid=20100203201002031803349467a64a485&sectxslt.
[267] 'India delivers aid money to Haiti; Jaipur foot, low cost housing next', *rediffnews*, 3 February 2010, http://news.rediff.com/report/2010/feb/03/india-delivers-aid-money-to-haiti-jaipur-foot-low-cost-housing-next.htm.
[268] Chinese Government Official Web portal, China delivers 25 tons of medical aid to Haiti, 9 February 2010, http://www.gov.cn/misc/2010-02/09/content_1531314.htm.
[269] Attorney-General's Department (Australian Government), 'Children affected by the Haiti Earthquake Crisis', 20 January 2010, http://www.ag.gov.au/www/agd/agd.nsf/Page/IntercountryAdoption_OtherIntercountryAdoptionInformation-PreviousStatements#children.

6.1.2 New Zealand

New Zealand did not undertake intercountry adoptions in Haiti prior to the earthquake. The New Zealand Central Adoption Authority provided the following official statement[270]:
New Zealand does not have a programme with Haiti and will not be facilitating any adoptions from Haiti unless we are approached by Haitian ex-pats who have concerns about a relative child in Haiti who is in need of a new family. In the event we are contacted by Haitian ex-pats who have concerns about a relative child in Haiti who is in need of a new family we would make an approach to Haitian authorities but we would bear in mind the immense pressure the authorities are operating under and give no guarantees that an adoption could be undertaken. Our approach would be consistent with the requirements of the Hague Convention.

6.2 Africa

Summary of Africa

- There were no African countries undertaking adoptions in Haiti before the earthquake
- There are no African countries undertaking adoptions in Haiti after the earthquake
- Senegal offered to care for Haitian orphans

6.2.1 Historic involvement with Haiti

Senegal appears to be the only African country that immediately offered its support to Haiti. Senegal explained this solidarity and generosity based on the historical bond existing between both countries. During the second half of the 18th century, a large number of slaves were brought from several African countries, including Senegal to Haiti. 90 to 95% of Haitians are of African descent and it is in this context that Senegal offered its support.

6.2.2 Main actors involved with Haiti

Senegal's humanitarian response offered in the aftermath of the earthquake was expressed by its most high-level authorities, including the country's Head of State, Abdoulaye Wade as well as other government, political, religious, economic and social partners. Senegal also urged the African Union to offer regional support[271].

6.2.3 Immediate response to Earthquake (1st week: 12th – 18th Jan)

Upon the President of the Republic's invitation, various high-level Senegalese personalities, political leaders, religious, civil and military leaders, representatives of the Government, the Parliament, civil society organisations and various economic, social, cultural and citizen representatives met to exchange views on what sustainable solution the African Continent could offer to the Haitian population[272]. As a result of this meeting they issued a statement expressing their solidarity and commitment to helping the Haitian population[273]. A broad offer was made to Haitians wishing to come back to Africa. Senegal would welcome and offer them a variety of opportunities (land, university enrolment, etc). This offer also included the idea that Haitian orphans would be welcomed to the schools of the country, so that they could continue with their education. This latter proposal was made by Professor Iba Der Thiam's who is currently the Vice-President of the National Assembly of Senegal. He also called upon the Senegalese families to care for children who no longer have parents[274].

6.2.4 Response to Earthquake (2nd and 3rd week: 19th – 1 Feb)

On 22 January, President Wade addressed the Congress, reiterated his commitment to helping the Haitian population, in particular by allocating one million dollars for Haiti's reconstruction. He called

[270] Official e-mail sent to the Hague Conference on Private International Law, 12 February 2010.
[271] Gouvernement du Sénégal, Message de son Excellence Monsieur le Président de la République au Congrès réuni en session d'urgence sur la situation en Haïti, 22 January 2010, http://www.gouv.sn/spip.php?article896.
[272] Ibid.
[273] Présidence de la République, Résolution sur le drame haïtien, 18 January 2010, http://www.presidence.sn/spip.php?article393.
[274] 'Vœux d'adoption d'enfants, accueil d'étudiants haïtiens dans les universités', *Le Quotidien*, 18 January 2010, http://www.lequotidien.sn/index.php?option=com_content&task=view&id=12218&Itemid=9.

upon the Congress to confirm his position and to increase the Senegalese members of the MINUSTAH (United Nations Stabilization Mission in Haiti)[275].

The 14th Summit of the African Union took place during this period. On this occasion, Jean Ping, Chairperson of the African Union Commission, called for strong African solidarity and that AU Member States to support the victims. He announced that a special account to collect funds from the African countries and free donors had been opened at the African Development Bank (AfDB) in order to ensure transparency in the channelling of the funds to the victims. He further reiterated President Waye's offer to create the conditions for the Haitians' return to African territory if they wished to do so[276].

6.3 Latin America

Summary of Latin America

- There were no Latin American countries undertaking adoptions in Haiti before the earthquake
- There were no Latin American countries undertaking adoptions after the earthquake
- A number of countries expressed an interest in caring for orphans
- One newspaper reported that the Dominican Republic was caring for approximately 600 children
- Several Central Adoption Authorities in the region made clear statements against intercountry adoptions in the aftermath of the earthquake

6.3.1 Historic involvement with Haiti

Historically, the involvement of most Latin-American countries with Haiti has been limited to assistance of a humanitarian and developmental nature, given that Haiti has always been one of the poorest countries in the region. There is limited information available about the involvement of other countries in the region in child protection and adoption issues. Concerns relating to child trafficking via the Dominican Republic, have however been raised and was problematic even prior to the recent earthquake.

6.3.2. Main actors involved in Haiti

In most countries in the region, the main actors who have been involved in the response offered to Haitian children in the wake of the recent earthquake have been the respective Ministries of Foreign Affairs and authorities responsible for the protection and care of children. These, via their respective Embassies in Haiti and the Haitian Embassy in the country, have offered humanitarian assistance and issued measures in relation to the protection and care of children in and from Haiti. Through the Organisation of American States, many of the countries in the region have also contributed to the assistance provided to Haiti and have stated their approach to the protection of Haitian children.

6.3.3 Immediate response to earthquake (First week: 12 – 18 January 2010)

The **Dominican Republic**, as the neighbouring country to Haiti, was one of the first countries on the ground to assist the Haitian population, including the affected children. In particular, the *Consejo Nacional para la Niñez y la Adolescencia* (CONANI)[277], which is the governmental body in charge of child protection and childhood and youth issues, has provided shelter and medical care to Haitian children, in particular in the border areas with Haiti. CONANI has stated that this process of care and attention was being supervised by UNICEF[278]. From a more regional perspective, the

[275] Gouvernement du Sénégal, op. cit.
[276] Allocution d'ouverture du Dr Jean Ping Président de la Commission de l'Union Africaine, 14ème session ordinaire de la Conférence de l'Union Africaine, 31 January 2010, http://www.africa-union.org/root/au/conferences/2010/january/summit/14thsummit_fr.html.
[277] Consejo Nacional para la Niñez y Adolescencia, http://www.conani.gov.do.
[278] UNICEF Dominican Republic, 'Jimaní, punto de apoyo para la ayuda hacia Haití', 14 January 2010, http://www.unicef.org/republicadominicana/emergencies_16718.htm; media coverage of the assistance provided includes 'CONANI asiste a 600 niños haitianos tras sismo', *Hoy Digital*, 28 January 2010, http://www.hoy.com.do/el-pais/2010/1/28/311713/CONANIasiste-a600-ninos-haitianos-trassismo.

Organisation of American States, through its partner bodies, has rapidly become involved in providing assistance to the Haitian population and in intending to coordinate regional aid[279].

In relation to child protection issues and responses, **Brazil** was among the first to specifically respond. The Special Secretariat for Human Rights and its *Conselho Nacional dos Direitos da Criança e do Adolescente*[280], when faced with a quasi immediate interest and increase in requests from its citizens for the intercountry adoption of children from Haiti, stated that adoptions should not take place in a context of instability, such as a natural disaster, as it is not possible to ascertain the child's family background, as is the situation in Haiti. The Special Secretariat also recommended focusing on immediate protection measures, including family and social reunification[281]. Some of the country's Tribunals have agreed with this approach and issued similar recommendations[282].

6.3.4 Response to earthquake (Second and third weeks: 19 January – 1 February 2010)

Following the immediate humanitarian aid offered by the countries in the region, many of them also found themselves facing a sudden interest and increase in requests for the adoption of Haitian children. Many of these countries are traditional countries of origin of intercountry adoption or countries with a considerable level of domestic adoption. Given this interest in adopting children from abroad and the particular Haitian context, several relevant competent authorities were prompted to express their position.

In **Brazil**, more than 300 families offered to care for children who were left orphans. The Brazilian Government made it clear that they would not be processing any adoptions[283].

In **Mexico**, the responses were initially inconsistent. Whilst Mexico City's local government promptly stated that the capital was prepared to legally process the adoption of Haitian children who had become orphaned by the earthquake, to become their guardian and to organise their accommodation as soon as there would be an agreement with the Haitian authorities[284], the Federal Government, through the Secretariat of Foreign Affairs made it clear that the emergency situation in Haiti did not offer the mechanisms that would enable adoption proceedings between both countries[285]. As a result of this inconsistency, the *Sistema Nacional para el Desarrollo Integral de la Familia* (Federal Adoption Authority) and UNICEF Mexico issued a joint statement recommending that priority be given to meeting the Haitian children's basic needs and determining their family situation[286].

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[279] Organization of American States, 'OAS begins channeling aid to Haiti', 13 January 2010, http://www.oas.org/OASpage/press_releases/press_release.asp?sCodigo=E-007/10; Organization of American States, 'Hemispheric show of solidarity with Haiti continues', 15 January 2010, http://www.oas.org/OASpage/press_releases/press_release.asp?sCodigo=E-012/10; Organization of American States, 'The Inter-American system responds to the earthquake in Haiti', 15 January 2010, http://www.oas.org/OASpage/press_releases/press_release.asp?sCodigo=E-010/10.

[280] Secretaria Especial dos Direitos Humanos, http://www.presidencia.gov.br/estrutura_presidencia/sedh/.

[281] Secretaria Especial dos Direitos Humanos, 'Nota: Adoção internacional de crianças e adolescentes no Haiti', 18 January 2010, http://www.presidencia.gov.br/estrutura_presidencia/sedh/noticias/ultimas_noticias/MySQLNoticia.2010-01-18.1653.

[282] 'Brasileiros se candidatam à adoção de crianças haitianas', *G1/Globo*, 19 January 2010, http://g1.globo.com/Noticias/Mundo/0,,MUL1454188-5602,00-BRASILEIROS+SE+CANDIDATAM+A+ADOCAO+DE+CRIANCAS+HAITIANAS.html.

[283] 'Más de 300 parejas brasileñas se postulan para adoptar niños haitianos', *EFE*, 19 January 2010.

[284] 'DIF-DF pretende adoptar a niños', *El Universal*, 26 January 2010, http://www.eluniversal.com.mx/ciudad/100044.html.

[285] Secretaría de Relaciones Exteriores, 'La Secretaría de Relaciones Exteriores y la Embajada de la República de Haití en México reconocen la generosidad de las familias mexicanas interesadas en la adopción de niños y niñas de Haití', 22 January 2009, http://www.sre.gob.mx/csocial/contenido/comunicados/2010/ene/cp_024.html.

[286] DIF Nacional and UNICEF Mexico, 'DIF Nacional y UNICEF México se pronuncian respecto de la adopción de niños haitianos', 27 January 2010, http://www.unicef.org/mexico/spanish/mx_pr_COMUNICADO__CONJUNTO_UNICEF_DIF_NACIONAL.pdf.

In **Colombia**, the authorities expressed their willingness to welcome children who could benefit from the care facilities of the *Instituto Colombiano de Bienestar Familiar*[287]. The ICBF made an offer to care for the child victims of the earthquake to the Government of Haiti. This would include the system of specialised institutions and temporary homes. The children would return to their country once the emergency is over. The ICBF explicitly stated that it would not go ahead with adoptions[288].

The Servicio Nacional de Menores[289] in **Chile** stated that it was not the right time to proceed with adoptions from Haiti, given that the country required the basic conditions for an adoption to comply with international standards, and that the country first needed to re-establish a system that could ensure higher levels of transparency. The authority rejected the possibility of proceeding with 'express adoptions'[290].

Other countries, including **Argentina,**[291] **Bolivia**[292] and **Uruguay**, also faced increasing requests for information relating to the adoption of Haitian children. Uruguay's child protection authority, the *Instituto del Niño y Adolescente del Uruguay*[293], jointly with the Inter-American Children's Institute and UNICEF, issued a statement explaining that intercountry adoption should comply with all guarantees and remain a measure of last resort and that efforts should be focusing on other forms of aid[294].

From a regional perspective on the approach to child protection in Haiti, it is worth mentioning the *Joint Statement of the Representatives for Children of the Member States of the Organization of American States on the situation of children in Haiti after the recent natural disaster*[295]*: 'Our purpose in submitting this joint expression of interest is to put the best interest of the children of Haiti above all else and to activate as soon, and as appropriately as possible, a joint strategy for the care of children deprived of parental and/or alternative care, in view of the extreme state of vulnerability which they are confronting. In this respect, we wish to give particular consideration to encouraging the development of processes in harmony with international norms and domestic law and regulation, aimed at family reunification, including international adoption when appropriate, and at the same time, enabling other in-country measures, such as family-based shelter, and temporary residence in shelters'*. It also offers commitment to the following actions: to generate and strengthen areas of protection for children in extremely vulnerable situations; to support inter-state and inter-group coordination with the various national and foreign agencies and organizations; to provide human, technical and financial resources in order to support actions in the field that the State of Haiti deems necessary.

Finally, as a follow-up to its initial involvement in the immediate aftermath of the earthquake, the **Dominican Republic** stated that CONANI would ensure that unaccompanied children and

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[287] Instituto Colombiano de Bienestar Familiar, http://www.icbf.gov.co.
[288] Instituto Colombiano de Bienestar Familiar, 'Colombia ofrece a Haití sistema de protección del ICBF para atender víctimas de esta tragedia', 23 January 2010, http://www.icbf.gov.co/icbf/directorio/portel/libreria/pdf/BOLETIN_PROTECCIONHAITI_23-01-10.pdf.
[289] Servicio Nacional de Menores, http://www.sename.cl.
[290] 'Sename: Haití debe asegurar condiciones básicas antes de comenzar procesos de adopción', *Cooperativa.cl*, 20 January 2010, http://www.cooperativa.cl/sename--haiti-debe-asegurar-condiciones-basicas-antes-de-comenzar-procesos-de-adopcion/prontus_nots/2010-01-20/131800.html.
[291] 'Argentinos interesan adoptar niños haitianos', *PrimeraHora.com*, 22 January 2010, http://www.primerahora.com/diario/noticia/terremotohaiti/noticias/argentinos_interesan_adoptar_ninos_haitianos/359641.
[292] 'Familias bolivianas solicitaron adoptar niños haitianos', *Los Tiempos,* 24 January 2010, http://www.lostiempos.com/diario/actualidad/internacional/20100124/familias-bolivianas-solicitaron-adoptar-ninos-haitianos_54922_97692.html.
[293] Instituto del Niño y Adolescente del Uruguay, http://www.inau.gub.uy/component/content/article/134-adopciones-internacionales.html.
[294] Joint statement by INAU, the Inter-American Children's Institute and UNICEF Uruguay, 25 January 2010, http://www.iin.oea.org/IIN/Pdf/Haití_mensaje%20INAU,%20IIN%20y%20UNICEF%20Uruguay.pdf.
[295] Inter-American Children's Institute, Organization of American States, http://www.iin.oea.org/IIN/Pdf/declaracioniining.pdf.

adolescents would not be returned to Haiti until a process of family tracing and evaluation of the best solution for these children had taken place in the Dominican Republic. It also confirmed its decision to take the responsibility for the protection of those children and adolescents who found themselves on Dominican territory, regardless of their nationality or migratory status[296].

On 28 January, a Dominican newspaper stated that CONANI was caring for 600 Haitian children in cooperation with UNICEF[297].

6.3.5 Response to earthquake (Fourth and fifth weeks: 2 – 16 February 2010)

The latest information relating to the response and protection provided to Haitian children focuses on the services offered in the Dominican Republic and consists in periodic updates on the situation, such as their care in children's homes, family tracing, and the registration of unaccompanied and separated children, in support of similar efforts undertaken in Haiti, as well as partnerships being developed between the relevant Dominican authorities and UN agencies and civil society organisations[298].

On 3 February 2010, the Dominican Central Authority[299] stated that:
Our position on the situation of children of Haitian nationals who are currently on our territory has been the protocol governing the international response to natural disaster that is evacuated children as refugees, granting the relief because, until Haiti Government strengthen its administrative system and can return to their country of origin.
We had to assume the diffusion of international norms regarding the adoption, and we receive daily calls and visits at our office in person, especially a European nationality need to adopt these children.
Dominican Republic, through this department which I am pleased to direct, who currently directs the children under our care temporarily, but the Haitian government is power, proceed to adoption, after all formalities are completed your legislation imposes. Declaration of an orphan, family reunification, extended family, family within their home country, then international adoption. In other respects, as a country that shares an island, we have strengthened controls at our borders through specialized police, to avoid bridge illegal trafficking of children. This part is in charge of the Department of Immigration and the Ministry of Foreign Affairs is in communication with the Haitian government for that matter, who have appointed a minister to be the person responsible for authorizing the departure of a child or adolescents in their country to foreign destinations, across our border.

[296] Red de Información Humanitaria para América Latina y el Caribe, Oficina de la Coordinadora Residente, 29 January 2010, http://www.redhum.org/archivos/pdf/ID_6931_GG_Redhum-DO-Informe-Informe_de_Situacion_29_enero_Terremoto-PNUD-20100129.pdf.
[297] 'Conani ampara 600 niños haitianos que llegaron a RD después del sismo', *El Nuevo Diario*, 28 January 2010, http://www.elnuevodiario.com.do/app/article.aspx?id=184681.
[298] Red de Información Humanitaria para América Latina y el Caribe, Oficina de la Coordinadora Residente, 8 February 2010, http://www.redhum.org/archivos/pdf/ID_7031_GG_Redhum-DO-Informe-Informe_de_Situacion_08_febrero_Terremoto-PNUD-20100208.pdf; 5 February 2010, http://www.redhum.org/archivos/pdf/ID_7020_GG_Redhum-DO-Informe-Informe_de_Situacion_05_febrero_Terremoto-PNUD-20100205.pdf.
[299] Official e-mail sent to the Hague Conference on Private International Law, 3 February 2010.

6.4 Europe

Summary of Europe

- Aside from Belgium, France, Germany, Luxembourg, Switzerland and Netherlands, the remaining European countries took a firm stance on not adopting children from Haiti post-earthquake
- Romania and other countries of origin recorded a number of expressions of interests from its nationals to adopt children

6.4.1 Austria[300]

In Austria, no fast-track measures have been taken in order to expedite the adoption of children from Haiti. As it is aware of the current situation, it is reluctant to start new adoption proceedings prior to the confirmation that daily life and registration have normalised.

6.4.2 Cyprus[301]

In Cyprus, the Central Adoption Authority did not use any fast-track measures to expedite the adoption of children from Haiti, since they had not received any adoption applications concerning children from Haiti. Their position is not to accept any adoption application from prospective adoptive parents until the situation in the country settles down.

6.4.3 Denmark

On the Danish Central Adoption Authority's website, on 21 January 2010, it is stated that:
"At present it is not possible to adopt from Haiti to Denmark. Before the earthquake of Port-Au-Prince the 12th of January 2010, this was not possible either. In general, intercountry adoptions can not commence in a state where a natural disaster has recently struck, since an adoption always must involve the biological parents of the child and the authorities in the Country of Origin. Following a natural disaster it is of great importance that the authorities in the specific country are given the opportunity to use all their resources to give aid to the population, including reuniting children with their parents, siblings or extended family if possible. The Department of Family Affairs is of the opinion that the children in Haiti at present will benefit most from humanitarian aid, where the basic requirements for food, medical aid etc. can be covered."

6.4.4 Hungary[302]

The Hungarian State's official position about the adoption of Haitian children who have become separated from their families after the earthquake is the following:
In this situation the intercountry adoptions can not be proceeded until the administration and legal system in Haiti. We do not recommend adopting the children from countries strucked by wars, riots or natural disasters, because it is no possibility to identify the children and clear up their family situations. Under any circumstances the children with uncleared legal situation can not be evacuated from Haiti for indefinitely time.
It can result in illegal adoption, abduction or violating of the children's rights. Regarding to the best interests of the child, the main purpose is giving help and care for the children in their own country.
In this situation we do not propose to Hungarian citizens to begin intercountry adoptions in Haiti.
Haiti is not party to the 1993 Hague Intercountry Adoption, because of our Central Authority does not arrange any adoption from Haiti. In case of inland or intercountry adoption Hungarian citizens must have a decision of Hungarian authority about their eligibility to adopt a child. If Hungarian adoptive parents want to adopt a child from Haiti they must travel to there and Haitian Courts permit to them to go back Hungary with the adopted children.
It is possible that the children are taken out of the country whose adoptions were granted by Haitian Courts before the earthquake. We do not have knowledge there are any so pending intercountry adoption cases of Hungarian citizens.
Regarding to the abovementioned facts in currently situation we do not propose anybody to travel to Haiti for adoption, rather we recommend supporting the humanitarian aid organizations to save and help the children in Haiti that means real care for the children in crisis after the earthquake.

[300] Official e-mail sent to the Hague Conference on Private International Law, 3 February 2010.
[301] Official e-mail sent to the Hague Conference on Private International Law, 10 March 2010.
[302] Official e-mail sent to the Hague Conference on Private International Law, 15 February 2010.

6.4.5 Monaco[303]

The Central Adoption Authority has stated that to its knowledge there are no ongoing adoption cases with Haiti.

6.4.6 Northern Ireland[304]

Northern Ireland has never had any adoptions from Haiti and we have had very few enquiries since the earthquake. We will be adopting the same line as the English Central Authority and will not be considering applications to adopt children from Haiti but will review the position at the end of this month [February].

6.4.7 Norway[305]

'Norway does not have adoptions from Haiti. Therefore we do not have any cases in the pipeline, and no measures have been taken in Norway in order to start co-operation with Haiti on Intercountry adoptions since, in the present situation, this would not be the right time to take such an initiative from our side. Norway would be willing to start co-operation with Haiti at a later stage, if Haiti will be in need of more countries to co-operate with'.

6.4.8 Romania[306]

The Romanian Central Adoption Authority provided the following official statement:
There have not been any pending adoption cases of Haitian children by Romanian citizens before the earthquake. Consequently the Romanian authorities did not take any fast-track measure in order to expedite the adoption of children from Haiti by Romanian citizens. Nevertheless, after the earthquake the Romanian Office for Adoptions has received a number of applications regarding the intercountry adoption of Haitian children by Romanian citizens. Our institution informed the Romanian citizens who expressed their wish to adopt children from Haiti that the international conventions on adoption and child's rights and the recommendations regarding the application of these documents as well as the previous experiences do not qualify adoption as the most appropriate measure for children in emergency situations. Considering the current situation in Haiti, there is a considerable risk of unsafe adoptions which may lead to illegal adoptions, abduction, sale and child trafficking. Our institution also informed the Romanian citizens who expressed their wish to adopt children from Haiti that it is compulsory to obtain their adoption suitability certificate from the Romanian social services in case they maintain their intention to adopt Haitian children.

6.4.9 Scotland[307]

The Scottish Central Adoption Authority has noted that:
In line with the rest of the UK we are not processing any applications to adopt children from Haiti unless an adoption order has been granted by the courts prior to the earthquake. We have only one application live in Scotland at the moment and this is currently on hold until the situation becomes clearer.

6.4.10 Sweden[308]

There is no Swedish adoption organization authorized for intermediating adoptions to Sweden from Haiti and thus there are no adoptions from Haiti taking place. The Swedish Intercountry Adoptions Authority will not consider any application for authorization in Haiti for the time being.

[303] Official e-mail sent to the Hague Conference on Private International Law, 15 February 2010.
[304] Official e-mail sent to the Hague Conference on Private International Law, 5 February 2010.
[305] Official e-mail sent to the Hague Conference on Private International Law, 4 February 2010.
[306] Official e-mail sent to the Hague Conference on Private International Law, 12 February 2010.
[307] Official e-mail sent to the Hague Conference on Private International Law, 11 February 2010.
[308] Official e-mail sent to the Hague Conference on Private International Law, 5 February 2010.

6.5 Middle East

6.5.1. Historic involvement with Haiti

Historically, there appears to have been limited involvement by Middle-Eastern countries in Haiti, although some of them are traditional contributors to the activities of international organizations in the country and to peacekeeping operations[309]. In particular, the MINUSTAH has military and police personnel from Jordan, Egypt and Yemen[310].

Summary of Middle East

- It appears that there were no Middle Eastern countries undertaking adoptions in Haiti before the earthquake
- There are no Middle Eastern countries undertaking adoptions in Haiti after the earthquake
- Most countries in the region, as Muslim countries, do not recognise adoption as a permanent measure to offer a family to a child, and have therefore not come forward on this issue. Kafalah is the recognised form of care in this region.
- The Israel Central Adoption Authority stated that it was willing to care for up 100 children via intercountry adoptions
- A few countries in the region provided financial support and material goods (e.g.: tents, food, medicine, clothing etc)

6.5.2. Main actors involved in Haiti

The main actors from the region, which have been involved in Haiti since the earthquake, have been local or regional NGOs, either directly or through funding to international NGOs (see below).

6.5.3. Immediate response to earthquake (First week: 12 – 18 January 2010)

The Al Arabiya news network has provided a good account of the immediate aid relief from the Middle-Eastern in response to the earthquake. For example, the United Arab Emirates' Red Crescent Society began the relief efforts with aid flights to Haiti, carrying food supplies worth 500,000 USD. Other regional charities – such as the Khalifa Bin Zayed Charity Foundation, the Mohammed Bin Rashid al-Maktoum Charity, and the Life for Relief and Development – also immediately sent food, water, medicine, medical supplies, clothing and other emergency supplies. Kuwait, Qatar and Iran's Red Crescent Societies also airlifted aid and teams to Haiti, whilst Kuwait's ruler donated one million USD and Jordan and Lebanon also sent planes with emergency supplies[311]. Morocco, on the other hand, rapidly pledged one million USD of emergency aid for medical and pharmaceutical supplies[312].

6.5.4. Response to earthquake (Second and third weeks: 19 January – 1 February 2010)

During the following weeks more countries continued pledging their support to Haiti. They also started sending financial and humanitarian aid to help the earthquake's victims. The Red Crescent Societies were joined by other important regional NGOs – including Islamic Relief, Dubai Cares, International Humanitarian City[313] – in coordinating the region's aid[314]. Tunisia which was specially affected by the disaster (the Chief of MINUSTAH, Hédi Annabi was a Tunisian national) issued a pledge of one million USD for relief efforts in Haiti[315].

In relation to specific aid for children, Dubai stated that it would provide educational assistance to 200,000 children through Dubai Cares's international partners: Care International, Save the

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[309] United Nations Peacekeeping Operations, Contributors to United Nations peacekeeping operations, December 2009, http://www.un.org/en/peacekeeping/contributors/2009/dec09_1.pdf.
[310] Mission des Nations Unies pour la Stabilisation en Haïti, http://minustah.org/?page_id=7571.
[311] 'Arab aid making its way to desperate Haiti', *Al Arabiya News* Channel, 17 January 2010, http://www.alarabiya.net/articles/2010/01/17/97626.html.
[312] Ministère des Affaires Etrangères et de la Coopération, Kingdom of Morocco, 'Sa Majesté le Roi décide l'octroi d'une aide humanitaire d'urgence aux populations haïtiennes affectées par un tremblement de terre', 14 January 2010, http://www.maec.gov.ma/fr/default.asp.
[313] World Food Programme, 'Princess Haya Returns From Dubai Airlift to Haiti', 24 January 2010, http://www.wfp.org/news/news-release/princess-haya-returns-dubai-airlift-haiti.
[314] 'Muslims helping Haiti', *Daily News Egypt*, 28 January 2010, http://www.thedailynewsegypt.com/article.aspx?ArticleID=27413.
[315] 'La Tunisie accorde 1 M$ d'aide humanitaire à Haïti', *BusinessNews.com.tn*, 25 January 2010, http://www.businessnews.com.tn/BN/BN-lirearticle.asp?id=1088873.

Children, Plan International and UNICEF[316]. More specifically with regard to aid related to alternative care, it is worth reiterating that most countries in the region, as Muslim countries, do not recognise adoption as a permanent measure to offer a family to a child, and have therefore not come forward on this issue. Kafalah is the recognised form of care in this region.

However, it is worth mentioning Israel's position on this same subject, given that Social Affairs Minister Isaac Herzog instructed the staff of the Social Affairs Ministry to look into the possibility of adopting Haitian children, orphaned in the devastating earthquake. It was stated that the Ministry's Director-General Nachum Itzkovitz was instructed by Herzog to jointly inspect, together with Finance Ministry Deputy Director Rafi Barak, Israel's ability to legally adopt the orphans according to the relevant international treaties as well as to international adoption laws. The Social Affairs Minister was quoted stating that 'this is a great effort which aside from aiding the children will bring great joy to families that wish to adopt a destitute child' and that 'Israel would work in "full cooperation with UNICEF to bring dozens of children, in line with the demand which our ministry has already noticed" from local families'. 'Herzog contacted Israel's envoy to the Dominican Republic, Amos Radian, who is also in charge of relations with Haiti, and asked him to submit an official request in the matter'. It was proposed that once the children arrive in Israel, that they would undergo conversion to Judaism in specialized rabbinical courts. Furthermore the regulated maximal cost of such an adoption is 22,000 Euros, with an optional 15% discount to low-income families[317].

In this context, it is also worth mentioning the initiative taken by emergency humanitarian aid group Israel Flying Aid and Orange Israel Telecommunications, which announced that they would establish an orphanage to accommodate over 200 children in Haiti. At least 70 children will be taken in immediately. To assist the project, the Israel Defense Forces will create infrastructure for fresh running drinking water, an electric generator, tents, and primary medical supplies[318].

6.5.5 Response to earthquake (Fourth and fifth weeks: 2 – 16 February 2010)

On 7 February 2010, the Central Adoption Authority noted that '*Israel would be interested in adopting up to 100 children from Haiti in case it will be possible and there will be regulations issued by the Hague Convention*'[319].

In an e-mail dated 1 March 2010, the Israel Central Adoption Authority noted that they had not undertaken any adoptions pre or post-earthquake in Haiti. They reiterated their interest in doing so, should an opportunity arise.

[316] 'Dubai Cares to Aid 200,000 Haiti Children', *Khaleej Times*, 21 January 2010, http://www.khaleejtimes.com/DisplayArticle09.asp?xfile=data/international/2010/January/international_January1162.xml&section=international.
[317] 'Israel mulls adoption of Haiti quake orphans', *Haaretz.com*, 23 January 2010, http://www.haaretz.com/hasen/spages/1144507.html; 'Israel ready to adopt Haitian orphans', *Jewish Journal*, 24 January 2010, http://www.jewishjournal.com/haiti/article/israel_ready_to_adopt_haitian_orphans_20100124/.
[318] 'IDF, Israel CEOs Start Haitian Orphanage, Israelis Want to Adopt', *Arutz Sheva*, 25 January 2010, http://www.israelnationalnews.com/News/News.aspx/135698.
[319] Official e-mail sent to the Hague Conference on Private International Law, 7 February 2010.