

NCFEA ON TOPIC:

HAGUE VS. NON-HAGUE COUNTRY ADOPTIONS

What is the difference?

In the decision to pursue Inter-country Adoption, one of the first decisions made is what part of the world a prospective adoptive parent will adopt from. The second influences the entire adoption process: which countries are Hague accredited countries and which are not? **What is the difference between a Hague Country and a Non-Hague Country?**

Many times prospective adoptive parents are only vaguely, if at all, aware of **the Hague Convention**. The Hague Convention on the Protection of Children and Co-operation in Respect of Inter-country Adoption (Hague Convention) is an international agreement to establish safeguards to ensure that inter-country adoptions take place in the best interests of the child. The Convention entered into force for the United States in April 2008. The Hague Adoption Convention applies to adoptions between the United States and the other countries that have also joined it. The Hague regulates the way adoptions are carried out and provides certain procedural safeguards internationally instead of leaving the procedure up to individual countries.

To begin, the [U.S. State Department](#)¹ has put out a bulletin and basic chart outlining the differences of the two in general:



	Convention Countries	Non-Convention Countries
Your Adoption Service Provider	Licensed in U.S. state of residence + Accredited or approved by one of the Department of State's designated Accrediting Entities	Licensed in U.S. State of residence
Adoption Services Contract	Adoption services contract contains information about agency's policies, fees, history, relationships with supervised providers, etc.	Though many ASPs disclose policies, fees and relationships with supervised providers, they are not required by most state laws to do so.
Home Study	Must meet both State and Federal requirements; Prepared by an accredited agency, supervised provider or exempted provider	Must meet State level and USCIS federal requirements
Adoption Fees	Itemized in adoption services contract	
Parent Education	10 Hours of parent education	Parent education only if mandated by U.S. State of residence or voluntarily provided by agency
Adoptive Parent's Eligibility	Form I-800-A; Must be filed before being matched with a child (and before Form I-800)	Form I-600-A; Can be filed at the same time as the Form I-600.

Provisional Petition Approval; Child's Eligibility	Country of Origin must determine the child is adoptable with Convention consents and other protections, must meet definition of Convention adoptee Form 1-800	Must meet orphan definition Form 1-600
Child's Medical Records	Prepared, and provided by Convention country's competent authorities; Prospective adoptive parents given at least 2 weeks to review	
Visa Type	IH-3 or IH-4 Visas	IR-3 or IR-4 Visas
Visa Application	Submitted before foreign adoption/ legal custody proceedings	Submitted after foreign adoption/ legal custody proceedings (except Guatemala and Vietnam)
Adoption Records	Preserved for 75 years	

Another useful resource about this issue is the Child Welfare Information Gateway's [Intercountry Adoption From Hague Convention and Non-Hague Convention Countries](#),² a guideline to Hague and Non-Hague processes. However, few resources explain what the charts really mean and what costs and benefits each path has. There is no "right" way to adopt, just as is there is no "one way" adoptions must go. All children deserve a family, and living in a Hague versus non-Hague country may not be a determining factor, but does help inform what system might be the best fit for the prospective adoptive family.

Below is a comparison chart outlining the State Department's differences and what those differences may mean for your family. Please recognize these are trends and not hard factual statistics, but the information is compiled from the State Department's website.³ Each intercountry adoption journey is different, and there are many factors such as wait times, governmental organization, country popularity, and more that can influence and even change the differences below impacting the unique needs of each prospective adoptive family.

The Process	The Difference	What It Might Mean
Your Adoption Service Provider	<p>Hague: Licensed in state, and approved by federal government.</p> <p>Non-Hague: Licensed in state but must follow the Federal Accreditation Guidelines.</p>	<p>The State Department requires accredited adoption agencies to follow mandated guidelines, trainings, and follow certain protocols that may not be the same as state guidelines alone. State guidelines can also vary state to state.</p> <p>However, a singular license may create a more streamlined process and federal guidelines guarantee the variance between states is minimal.</p>
Adoption Services Contract	<p>Hague: The contract <i>must</i> contain information about policies, fees (upfront), history and relationships with the in-country providers.</p> <p>Non-Hague: The contract <i>may</i> contain policies and fees, etc. but is not required to by most states.</p>	<p>A Non-Hague country or non-accredited adoption agency may not admit its new relationship with a country's governmental procedure, or hidden or unexpected fees down the line.</p> <p>On the other hand, an accredited agency may be more expensive or have more limited access to different countries.</p>
Home Study	<p>Hague: Must meet both state and federal requirements and be performed by an accredited professional.</p> <p>Non-Hague: Must meet state requirements</p>	<p>A more thorough background check may preclude couples from adoption for misdemeanors, mental or physical health, etc.</p>

	and also the USCIS requirements .	Certain countries may require additional medical information precluding couples from adoption. For example, China requires a certain BMI to be eligible as prospective adoptive parents.
Adoption Fees	Hague: Requires an itemized services list in the initial contract. Non-Hague: No requirements.	This can act as a balance of high expenses versus unknown expenses in the future. In some instances, there are no surprise expenses and it can be less costly, but this is not always the case, especially in-country.
Parent Education	Hague: 10 hours of parent education about adoption is required. Non-Hague: Parent education is only mandatory if state required. Otherwise, parental education is voluntary and provided by the adoption agency.	Parent education can prepare prospective parents for mental and physical difficulties, cultural differences, health concerns, family adjustment, and more in regards to the adoptive child. Mandatory parent education is the same for all countries and all states, while voluntary education is not regulated or uniform.
Adoptive Parent's Eligibility	Hague: I-800A Non-Hague: I-600A	Both forms need to be filled out by a U.S. citizen. The differences in forms can come up in processing time and number of steps needed (ex. I-600A may have more steps but move more quickly and vice versa).
Provisional Petition Approval; Child's Eligibility	Hague: The country of origin must find the child <i>adoptable</i> as a convention adoptee. Non-Hague: The United States must find the child an <i>orphan</i> .	I-800A is for Hague countries that have <i>already</i> declared a child an orphan. This means that when I-800A is accepted, then a match (referral) between parent(s) and child will be made after the I-800A is processed. I-600A is for the <i>United States</i> to find and declare a foreign born child is an orphan. This can also mean that a child will be referred even before its status as an orphan has been confirmed.
Child's Medical Records	Hague: Prepared by Convention country and its authorities. Given to the parents at least 2 week in advance of accepting a child referral. Non-Hague: No requirements about providing records. If provided, does not require an English translation.	Medical records can be a double edged sword. Even with competent medical records, diagnoses in different countries can be interpreted differently. Provided medical records in Hague Countries may be sparse or unknown. However, if a child has a clear and convincing disease, medical records may help catch it at a young age and allow prospective adoptive parents to review what challenges they are willing and able to handle in their child.
Visa Types	Hague: IH-3 or IH-4 Visas Non-Hague: IR-3 or IR-4 Visas.	IH visas are those from a Hague country. IR visas are those from a non-Hague country. The important difference in visa types is whether the visa is a 3 or 4 . ⁴

Type 3 visas are generally for children who are adopted [in-country](#). Children who are under 18 **automatically acquire U.S. citizenship** when they enter the United States on an IH-3/IR-3 visa in order to reside in the legal and physical custody of their U.S. citizen parent(s). In such cases, USCIS automatically sends Certificates of Citizenship without requiring additional forms or fees. It is then up to adoptive parents to file for social security and record the birth and adoption certificates with the state.⁵

Type 4 visas are generally for children traveling with their adoptive parents from their country of birth and will be adopted in the United States. IH-4/IR-4 recipients **do not acquire U.S. citizenship upon entry into the United States**, but are lawful permanent residents until the adoption is full and final. You will need to file the [N-600 Application for a Certificate of Citizenship](#) once you have the final U.S. adoption decree.

Visa Application

Hague: Submitted *before* the foreign proceedings begin.
Non-Hague: Submitted *after* the foreign proceedings begin.

This visa refers to the visa to the United States a prospective parent will apply for on behalf of his or her adoptive child in order to reenter the country. This is *not* the parent's travel visa. Often this means parents who adopt from Hague countries go in-country for 2-3 weeks to pick up their child and formalize the paperwork, and are ready to leave when the consulate stamps the child's visa.

Parents who adopt from Non-Hague countries might be in-country for 4-6 weeks in order to wait for the visa to clear after they apply in-country. One parent is required to stay with the child during this wait time, but not both.

Adoption Records

Hague: Preserved for 75 years.
Non-Hague: No requirements.

Adoption agencies in the United States might keep records of the adoption; however the country of origin may not. Hague Convention countries are therefore mandated to keep adoption records for 75 years (e.g. a "lifetime") of an adoptive child in case he or she wishes to return to their land of origin and retrace the adoption process.

Such records *may* be maintained in non-Hague countries, but are not required, nor for how long.

Summarily, Hague Convention countries often have a longer wait list and timeline because of more safeguards and steps in procedure, in-country identification and investigation into adoptable children, and higher cost for the whole process because of those steps. However, Hague Countries can provide greater safety measures from parental education, home studies, medical records, and adoption records. Alternatively, non-Hague countries might be more cost effective, faster to refer a child and match with prospective parents, and easier for parents and home studies to be approved. The downside to non-Hague countries are potential hidden fees, delays while in-country and the time it takes in country, dearth of records, lack of federal oversight and uniform regulations.

Is one route better than the other, and how do families choose? Prospective adoptive parents might choose one type of country over another because of the transient nature of intercountry adoption. Countries' policies on adoption can change as politics shift, meaning that open countries are not necessarily all Hague countries, or all Non-Hague countries. Rather in some years, there are more Hague countries open, and other years the reverse might be true. Therefore, there is not a "better" route, only better information on the processes used to navigate these avenues.

To help begin the process for **Hague v. Non-Hague Countries**, below is a chart listing the top 10 sending countries that are currently open and which side of the convention they fall on. The State Department's data from the popularity of adoptions is based on how many U.S. adoptions have occurred from 2009-2013 (later data is currently unavailable).⁶

	Country	Total Number of U.S. Adoptions	Hague v. Non-Hague
1	China	13,990	Hague
2	Ethiopia	9,078	Non-Hague
3	South Korea	3,445	Non-Hague
4	Ukraine	2,533	Non-Hague
5	Colombia	1,042	Hague
6	India	1,042	Hague
7	Haiti	1,038	Hague
8	Philippines	1,028	Hague
9	Nigeria	827	Non-Hague
10	Uganda	851	Non-Hague

In addition to the different processes of Hague and Non-Hague countries, prospective adoptive parents should be aware that there are specific sending country requirements. For example, China also has health requirements that state that parents are not allowed to adopt if they have a current diagnosis of any mental or physical disability (including depression or hearing loss), a history of alcoholism, a major organ transplant in the last 10 years, or a BMI greater than 40, among others. Country specific requirements can be detailed and a determining factors for some families. This stands as another procedural step between Hague and Non-Hague countries; one country may have too restrictive guidelines while another may offer an easier application process, or one that is more likely for a specific family to be approved.

In the end, the answer to the earlier question, "what is the difference between Hague and Non-Hague countries?" is this: the differences between Hague and Non-Hague countries vary on the steps a prospective adoptive family is able and willing to take. Certain countries can be too restrictive; others can be too unorganized. The adoption journey is flexible and tailored for families to be able to pick the country and the child that is right for them.

References

1. United States. Department of State. Intercountry Adoption. Hague vs Non-Hague Adoption Process.
2. United States. Child Welfare Information Gateway. Children's Bureau. Intercountry Adoption From Hague Convention and Non-Hague Convention Countries. July 2014.
3. adoption.state.gov
4. United States. Department of Homeland Security. U.S. Citizenship and Immigration Services (USCIS). Bringing Your Internationally Adopted Child to the United States: Your New Child's Immigrant Visa., 17 Mar. 2015.
5. United States. Department of State. Intercountry Adoption. US Visa For Your Child; the Hague Visa Process.
6. "Intercountry Adoption Statistics; Adoptions By Year." Bureau of Consular Affairs U.S. Department of State.