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February 22, 2010

U.S. Department of State
Office of Children's Issues
Washington D.C.

Att: Michelle Bond
Mike Regan
Bill Bistransky

Dear Michelle, Mike, and Bill:

On behalf of the American Academy of Adoption Attorneys, I am writing in response to the recent report (by the Hague Permanent Bureau) and last week's DOS posting regarding concerns over Nepal's international adoption program.

From the DOS posting, it appears that there is consideration currently being given to suspend international adoptions with the country of Nepal, I assume primarily on the basis of the Hague Report of Mission. However, I believe that this would be a mistake that would negatively impact children, detrimentally effect many U.S. families, and cast aspersions on the goals, benefits, and overall value of the Hague Convention on Intercountry Adoption.

The Hague report makes blanket statements and accusations condemning Nepal's entire adoption process and alleging that among other problems: paperwork is routinely falsified; children are not adoptable or investigations are flawed; and money is tainting the orphanage and adoption process. The report urges a stoppage of the international adoption process until a comprehensive

set of policies and programs can be implemented, many of which will take years, if ever to successfully complete. A number of the recommendations of the report include the development of a variety of alternative solutions to family care; and until these recommendations can be implemented, the report recommends cessation of all intercountry adoptions – all in the name of children’s best interests and compliance with the Hague Convention.

I believe that this report is flawed and should not be acted upon without additional information, careful analysis, an opportunity for the Nepalese government to respond to the report; and an opportunity for the U.S. government to work with the government of Nepal to provide advice and assistance to improve their international adoption program.

The report:

- Offers no credible evidence to support many of its findings or its recommendations;
- Include findings that appear to be, in part, contrary to the experience that our government has had with the adoption cases to processed and investigated for U.S. citizens;
- Summarily recommends suspension of adoptions without giving the Nepalese government an opportunity to even comment on the report, its findings, or the underlying investigation.
- Recommends suspension of adoptions until a variety of social programs can be implemented, many of which will take years, if possible at all, to establish, staff, and appropriately fund

The type of blanket condemnation and generalized allegations found in the report is suspect and generally indicative of intentions or agendas other than providing for the best interests of children. I am certain that improvements can be made in much of Nepal’s current adoption process; and I further believe that the Nepalese government is in the process of implementing changes to address some parts of its adoption process.

However, I believe that the recommendation of an immediate suspension of adoptions is contrary to intention of the Hague Convention itself. The Hague Convention on Intercountry Adoption makes clear that intercountry adoption is a priority option for children as compared to all other options except true family care in-country in the form of birth family preservation or reunification, or domestic adoption. Yet, this report recommends that adoptions cease until among other things, the country develops a child protective system and integrated policy of alternative care options; develops and supports measures for long-term family preservation programs; develops and supports alternative care (to parental care) policies and programs; and writes a new adoption law for both national and international adoptions. I believe that this is a dishonest and gross misinterpretation of the Hague Convention and represents a significant step backwards in the protection of children’s rights.

I also believe that the report and recommendations encouraging other Hague Convention countries to stop adoptions from Nepal in compliance with the Hague Convention’s

responsibilities is itself contrary to the interests of children and the spirit of the Hague Convention itself. It took the U.S. 15 or more years of hard work and careful planning to fully implement the Hague Convention. The country of Nepal has taken the first step in this process and signed the convention. In doing so, the country has declared its intentions to adhere to the values and child protections offered by the Convention. However, to hold the country hostage to an unrealistic time frame and alternative agendas of other organizations is not the type of protections that the Hague Convention was supposed to offer.

I urge you to refrain from accepting this report at face value without substantiation of the findings in the report; I urge you to give the Nepalese government sufficient time to respond to the report; I urge you to work together cooperatively with the Ministry in Nepal to assist with Hague implementation; and I urge you to refrain from suspending U.S. adoptions from Nepal on the urging of what I consider to be an organization that has strayed significantly from the goal of protecting children and promoting children's rights.

I believe that a suspension of adoptions will harm children; it will harm families, both in the countries of Nepal and the U.S.; and it will cast aspersions on the entire Hague Convention on Intercountry adoption.

Sincerely,

Bill Rosen

Chair, International Committee – American Academy of Adoption Attorneys

CC: Senator John Kerry, Chairman of the Senate Foreign Relations Committee
Representative Howard L. Berman, Chairman of the House Foreign Affairs Committee
Senator Mary Landrieu, Co-Chair of the Congressional Coalition on Adoption