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## CONGRESSMAN SPENCER BACHUS
## SIXTH DISTRICT, ALABAMA

TO: Deputy Assistant Secretary Janice Jacobs

FROM: Congressman Spencer Bachus

DATE: 12/4/03

FAX #: 202-736-9133

SUBJECT:

NUMBER OF PAGES: 5

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## House of Representatives
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December 4, 2003

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**Via Facsimile (202-736-9133)**

Ms. Janice L. Jacobs
Deputy Assistant Secretary of State for Consular Affairs
Bureau of Consular Affairs
2201 C Street, NW
Washington, D.C. 20520-0099

Dear Ms. Jacobs:

On behalf of my constituents Herbert Newell and the Lifeline Children's Services, I would like to bring a matter of great importance to your attention. As you know, the Hague Regulations were created in response to an increase in child trafficking and the exploitation of families involved in international adoption. While I agree with the intent of the Hague Regulations, it has been brought to my attention that these regulations threaten the international adoption programs of many small- to medium-sized agencies, which provide many of the adoptions performed in the United States.

Specifically, I have been informed the Hague Regulations fail to eradicate the true cause of such acts. Focusing on problems that are more prominent with non-licensed facilitators, the Hague Regulations do not take into account the effect these measures will have upon adoption agencies or the cost of adoption for families. The Hague has the potential to close many small- to medium-sized agencies' international adoption programs. The implementation of such regulations also places an unnecessary burden on agencies already licensed and effectively regulated by their respective state governments.

With this letter, I have included an analysis of the portions of the Hague Regulations that are exclusive and do not help to promote adoption. Please give this analysis every possible consideration in your decision.

Thank you for your time. I await your reply.

Sincerely,

Spencer Bachus
Member of Congress

STB:jc

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# Lifeline Children's Services Analysis of the Hague Regulations

2908 Pump House Road
Birmingham, AL 35243

**Re: Docket number State/AR-01/96**

**Introduction:**

A child in the Ukraine needs warmth and food. An orphan in China is waiting for someone to hold her. These are the needs that drive agencies to open their doors each and every day. We are one of these agencies. Located in Birmingham, Alabama, Lifeline Children's Services is a small, ministry driven adoption agency performing adoptions not only domestically but also in China and the Ukraine. We agree with the foundations from which the Hague Regulations were birthed - that child trafficking needs to be prohibited and prevented and families need to be protected. However, these regulations exclude the small to medium sized agencies that many times are the true heart and soul of international adoption, bringing services to families that are based on meeting needs and not bottom lines. The true culprits that hinder the integrity and exploit families are mainly facilitators and individuals not licensed to provide such services by their respective state governments. Our belief is that accreditation should remain with the state governments, who in most cases have strict guidelines and licensing processes already in place. To mandate that agencies also become accredited by the Hague Regulations will very well cause the cost of adoption to increase and therefore, make this opportunity unavailable to many who need and desire it most.

Below are listed each of the points that most evidently show how the Hague is far too burdensome and discouraging for adoption agencies to continue their services and promote the life alternative to abortion.

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**Subpart F**
**96.33 (h)**

"The agency or person maintains insurance in amounts reasonably related to its exposure to risk, including the risks of providing services through supervised providers, but in no case in an amount less than $1,000,000 per occurrence.

**Comments:**

Lifeline Children's Services recognizes that there is a need to protect families involved in international adoption. However, the above regulation proves to be an unnecessary and impossible stipulation for agencies to incorporate. Not one carrier has been found that would provide such insurance coverage, and even if it could be obtained, the premiums would cost agencies between $40,000 and $50,000 per year. This fixed cost would require some one hundred adoptions per year to provide funds necessary to pay for these premiums alone. No agency, big or small, will be able to afford this, nor has any agency been able to even find a carrier that would provide such insurance for an international adoption program. Lifeline Children's Services recommends that this regulation be removed from the Hague Regulations in its entirety. Restricting facilitators and

individuals from participating in servicing international adoptions and requiring that any participant be required to be a licensed agency with their respective state governments would be much more viable and workable regulation for agencies to adhere to rather than the incorporation of the Hague and its regulations. Also, agencies should be required to adhere to State Department warnings on countries with underhanded adoption practices. This is not to mention that any family entering into international adoption understands the risks involved with travel and working with foreign governments

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**Subpart F**
**Sec. 96.37 (f)**
"Home studies. The agency's or person's employees who conduct home studies:
(1) Have a minimum of a master's degrees (or doctorate) in a related human service field, including, but not limited to, psychology, psychiatry, psychiatric nursing, counseling, rehabilitation counseling, or pastoral counseling."

**Comments:**
The above regulation proves to be far too restrictive on the requirements for an individual performing home studies. Currently, many state laws do not require individuals conducting home studies to hold a minimum of a master's degree. This requirement will prevent many agencies from continuing to use licensed social workers approved by the state who have a wealth of experience and expertise in international adoption to perform home studies. Lifeline Children's Services strongly recommends that this regulation be altered to mandate that all individuals performing home studies must be licensed and approved by their local state government to perform such services in the state by holding a minimum of an LGSW. In addition, the exams taken to acquire an LGSW or an MSW are exactly the same. As an agency licensed by the state of Alabama, we are held by one of the most stringent set of regulations in the country on the personnel used to conduct a home study; however, they allow that a home study can be submitted by an LGSW in the case that the home study is reviewed by a licensed Master of Social Work. We do not agree that there should be a higher standard for the National government than one State's already have prescribed to for many years. Furthermore, it is critical to agencies that this stipulation be removed to prevent agencies from incurring additional costs in acquiring social workers with master's degrees. This would prove to be far too burdensome to agencies in costs and in locating such individuals to perform these services.

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**Subpart D**
**Sec. 96.25 (a)**
"The agency or person must give the accrediting entity access to all information and documents, including case files and proprietary information that it requires to evaluate an agency or person for accreditation or approval and to perform its oversight, enforcement, renewal, data collection, and other functions. The agency or person must also cooperate with the accrediting entity by making employees available for interviews upon request."

**Comments:**
An issue arises with this regulation that affects an agency's services performed in non-Convention countries. It is essential that this regulation be changed to only include Convention countries. Forcing an agency to have their full range of child placement services accredited by the Hague regulations would be far too cost prohibitive for the majority of agencies operating in the U.S. The concern is that the accrediting agency will review files related to such services as maternity homes and domestic services. For smaller to medium sized agencies, the cost to include services performed in non-Convention countries would prove to be too burdensome. Lifeline Children's Services recommends that the wording be changed to read: *including case files in Convention countries*. This would allow agencies to only have applicable services reviewed and thus, prevent agencies from having to discontinue their international programs due to exorbitant cost. It is essential to smaller and medium sized agencies that we are not further scrutinized on things already examined extremely thoroughly by the state.

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**Subpart F**
**96.33 (e)**
"The agency's or person's balance sheets show that it operates on a sound financial basis and generally maintains sufficient cash reserves or other financial resources to meet its operating expenses for three months, taking into account its projected volume of cases"

**Comments:**
The above portion of the Hague Regulations does not specify whether it refers to Convention countries alone. This regulation threatens the vitality of adoption by requiring that a non-profit guarantee that it will have financial resources to meet its operating expenses for three months. As a faith-based organization, we cannot always meet such heavy standards. We depend upon the generosity and good will of others to maintain our operations. For 22 years we have maintained our operations through the provision of our God. If, at any time, we were threatened with a great need to maintain our agency, we have a very involved board and support network that would raise the funds necessary to continue helping families as usual. Lifeline Children's Services recommends that the Department include vocabulary that specifies that such cash reserves apply only to financing related to Convention countries. Without such clarification, agencies such as our own will suffer to make sure that such funds are always secured and hence, would not be able to continue their international adoption services.

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**Conclusion:**
Adoption is intended to be a beautiful alternative to abortion and the negativity surrounding an unwanted pregnancy. With a great need for many unfertile couples and many orphaned children, adoption has flourished for some time both domestically and internationally. The Hague Regulations, although its intentions are noble, fails to attack the problem with international adoption where it lies – in the hands of facilitators. States heavily regulate agencies through their respective Departments of Human Resources, which require agencies to be inspected every two years in order to maintain a state

license. Child trafficking and the exploitation of families is a serious issue, however, the Hague seeks to punish agencies and in many cases shut their doors to international adoption due the malfeasances of these facilitators. If the regulations do continue and are effective in being implemented without serious revisions, the cost of international adoption will become so high, as agencies shut their doors, that the regulations will actually hurt the very people they seek to assist in causing the cost of international adoption to become unaffordable.