

**INTERIM REPORT ON THE
ETHIOPIAN – AUSTRALIAN
BILATERAL
INTERCOUNTRY ADOPTION
PROGRAM**

Prepared by the Australian Commonwealth, State and Territory Central Authorities on
Intercountry Adoption – November 2005

TABLE OF CONTENTS

	Page
1 EXECUTIVE SUMMARY	3
1.1 Recommendations.....	5
2 HISTORY OF THE PROGRAM	6
3 CONCERNS RAISED BY ADOPTIVE PARENTS	8
3.1 Concerns Raised by Victorian Adoptive Parents in Respect of the Ethiopian program	8
3.2 Action Arising from Concerns.....	9
4 ISSUES	9
4.1 Roles and Responsibilities of the Stakeholders in the Ethiopian Program.....	10
4.1.1 Australian Central Authorities for Intercountry Adoption.....	10
4.1.2 Ethiopian Ministry of Labour and Social Affairs (MOLSA).....	10
4.1.3 The Representatives.....	11
4.1.4 Australian-African Children's Support Association (AACASA).....	11
4.2 Accuracy of Information at Allocation	11
4.2.1 Assessed age differs from age given at allocation.....	12
4.2.2 Inaccurate Information about Birth Parents and Extended Family	12
4.2.3 Identification of unknown siblings following adoptive family's travel to Ethiopia.....	13
4.2.4 Identification of extended family / relatives at time of prospective adoptive parent's travel to Ethiopia.....	13
4.2.5 Other Issues including health related matters	14
4.3 Legality of Adoptions	14
4.4 Children's Rights and Safety	14
4.5 Recent Changes to the Ethiopian Adoption Process	15
4.6 Fees and Payments	16
4.7 Post Adoption Search for and Contact with Birth Relatives of Children	16
4.8 Falsification of Foreign Affairs Stamp	17
5. CONCLUSION.....	17
6. RECOMMENDATIONS	17

INTERCOUNTRY ADOPTION BILATERAL PROGRAM: Ethiopia

1 EXECUTIVE SUMMARY

The purpose of this report is to provide information to Ministers and Chief Executive officers in each State and Territory, and the Community Services Minister's Advisory Council (CSMAC) about the Ethiopian - Australian intercountry adoption program. The report provides information about:

- the history of the program
- the context under which it operates
- issues which require further action in relation to its continued operation; and
- recommendations for progressing future work with the program.

A review of existing bilateral arrangements with overseas countries was undertaken in January 2004 in line with obligations which arise out of Australia's compliance to the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption (the Hague Convention). A report on the review was tabled at the meeting of CSMAC on 7 October 2004. At the time of the review, the Australian Central Adoption Authorities were not fully aware of a number of the issues. A decision was made to withdraw Ethiopia from the review process and the Community and Disability Services Ministers were advised of this on 27 July 2005. They were advised that further consideration of this program would be dealt with separately.

The formal negotiations for the establishment of the Ethiopian-Australian program were finalised in 1994 with the signing of *The Agreement on the Working Arrangements for the Co-ordination of Intercountry Adoption between the Ethiopian Ministry of Labour and Social Affairs and the Council of Social Welfare Ministers, Australia* (the Bilateral Agreement).

Ethiopia is not a signatory to the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption, and although there are indications that the Ethiopian government wishes to consider becoming a signatory to this Convention in the future, no formal arrangements have yet been made for the government of Ethiopia to sign the Convention.

The Ethiopian Ministry for Labour and Social Affairs (MOLSA) is the nominated government authority for the delivery of adoption services in Ethiopia. Queensland, through the Department of Child Safety, is the lead Australian state for coordination of legal and policy issues for the program.

Between 1 July 1993 and 30 June 2005, 357 Ethiopian children were placed with Australian adoptive families with the number of placements increasing each year. In 2004-05, fifty nine Ethiopian children were placed with Australian adoptive families.

The Australian States and Territories initially appointed Ato Lakew Gebeyehu as the Representative to undertake tasks associated with the adoption process in Ethiopia on behalf of the Australian States and Territories. The Representative has Power of Attorney for prospective adoptive parents to allow the adoption process to be finalised in Ethiopia.

In 2004, a Service Agreement signed between the Australian States and Territories and Ato Lakew Gebeyehu and Woz Misrak Getahun (the Representatives) defined the roles and responsibilities of the Representatives.

The African–Australian Children’s Support Association (AACASA) is the non-profit community based organisation in Australia, which was instrumental in the initial establishment of the program. AACASA continues to provide aid to Ethiopia to support the care of disadvantaged children and communities and information and support for families who are seeking to or have adopted an Ethiopian child.

In August 2004 a group of adoptive parents met with the Victorian Department of Human Services (DHS) to raise a number of issues in relation to the program. The key issues of concern identified at this meeting were:

- Questions about the accuracy of child’s birth date due to later identification of a difference between the developmental age of the child compared to the birth date on the documentation provided at the time of allocation.
- Information about birth parents and extended family given at time of allocation later found to be inaccurate.
- Identification of unknown siblings or extended family following adoptive family’s travel to Ethiopia.
- Identification of health issues not identified on placement documentation but apparent at time of placement of child with prospective adoptive parents in Ethiopia.

The Victorian DHS raised these matters at the meeting of the Commonwealth, State and Territory Central Adoption Authorities in November 2004. As part of the response, a decision was made to review the files for all Ethiopian adoptive placements made in Australia for the period from July 2002 to November 2004. A total of 117 files were reviewed in light of the concerns expressed at the meeting in Victoria.

At the time that the aforementioned issues were raised with DHS (and separate from those issues) the Representative advised that a former employee had falsified an Ethiopian foreign affairs stamp on a number of applications for Australian families. This resulted in a delay in finalising the adoption orders in the Ethiopian Court. These difficulties were resolved by May 2005.

In considering the above issues, the following should be taken into consideration:

- Ethiopia is a country with humanitarian and social challenges to meet often within limited resources and infrastructure. Adoption services are one very small part of the activities that fall under the responsibility of MOLSA.
- MOLSA has confirmed that that in Addis Ababa and regional areas in Ethiopia there is limited capacity for the Police or the Bureau of Labour and Social Affairs (BOLSA) to verify information (if available) about an individual child, particularly for a child found to be abandoned.
- The accuracy of information (if made available to authorities, orphanages or agents) from the family or community in which the child lived (if known) may also be subject to question for a range of reasons, including fear of authorities or reticence to disclose circumstances that may be seen as socially distressing, unacceptable or embarrassing.
- The process used by Australian families for searching for information is unmonitored and unique to this program. It may result in identification of a birth parent who has sought to maintain confidentiality and privacy because of their circumstances. It has the potential to be open to corruption or exploitation by drivers, interpreters, extended family and other community members.

1.1 Recommendations

A number of recommendations have been made in relation to operational matters of the program, which are detailed in the body of the Report.

Since the delegation from Australian States and Territories visited Ethiopia in 2003 a number of changes have occurred in Ethiopia with the implementation of the *Family Code 2000*. In particular the process by which children are referred to MOLSA for consideration of an intercountry adoption placement has changed, with an increased involvement of the orphanages and adoption agencies in the referral process.

The following is a suggested process for progressing the work in relation to the Ethiopian - Australian adoption program:

1. That this Interim Report be tabled at the CSMAC meeting on 9 March 2006, providing information about the issues identified in the report and the proposed process to respond to the issues. The Report will include recommendations about the proposed review of the bilateral agreement. It is proposed to recommend that CSMAC bring these matters to the attention of CDSMC in July 2006.
2. That a delegation travel to Ethiopia in order to investigate issues identified in the review of the program. It is proposed that the delegation include representatives from the Queensland Central Authority, as the lead state for the Ethiopia program, and the Commonwealth Government, subject to Ministerial approval. The delegation will meet with representatives from MOLSA, the Ethiopian Department of Justice and the Ethiopian Ministry of Foreign Affairs, as well as the Australian Representatives. The purpose of the delegation is to
 - Determine the compliance of the Ethiopian - Australian adoption program with the standards of the Hague Convention on Intercountry Adoption
 - Determine the compliance of the Ethiopian - Australian adoption program with the Ethiopian law and policies for intercountry adoption in that country
 - Clarify the new Ethiopian adoption processes in terms of legal requirements, administration, casework and accountability
 - Determine the processes in place to protect the interests of children subject to intercountry adoption
 - Determine MOLSA's position in relation to payment/level of foster care fees or reimbursement of care costs for a child
 - Clarify MOLSA's requirements for the review of the Bilateral Agreement between Australia and Ethiopia and its annexures
 - Discuss contact between adoptive families and birth relatives of children placed under the Ethiopian intercountry adoption program with MOLSA and develop policy guidelines regarding this issue.
 - Clarify particular case matters which require specific follow up
 - Provide a report to the Community and Disability Services Ministers on the above matters
3. Queensland Central Adoption Authority, on behalf of the State and Territory Central Authorities, will keep AACASA informed of the progress and outcome of this review.

2. HISTORY OF THE PROGRAM

The adoption program between the Australian States and Territories, and Ethiopia was initiated from a proposal submitted by the Australian-African Children's Support Association (AACASA) in April 1992. The purpose of the proposal was to establish a formal program to facilitate placement of Ethiopian children requiring adoptive families with Australian prospective adoptive parents.

The Agreement on the Working Arrangements for the Co-ordination of Intercountry Adoption between The Ethiopian Ministry of Labour and Social Affairs (MOLSA) and the Council of Social Welfare Ministers, Australia (the Bilateral Agreement) was negotiated by the Queensland Department of Families and Aboriginal and Torres Strait Islander Affairs (now Department of Child Safety) on behalf of the Australian State and Territory Community Services Ministers. Anne Warner, the then Minister for Families and Aboriginal and Torres Strait Islander Affairs, on behalf of Australia's Community Services Ministers, signed the Agreement in March 1994. Queensland is nominated in the Bilateral Agreement as the co-ordinating State for the program in relation to policy and program issues.

The Australian States and Territories initially appointed Ato Lakew Gebeyehu as the Representative to undertake the tasks associated with the completion of the adoption process in Ethiopia.

As at 30 June 2005, 357 children have been placed from Ethiopia with Australian families.

Since the establishment of the program, a number of issues have been addressed including:

- Clarification of the role of the Ethiopian Representatives in relation to the Australian States and Territories, acting as Power of Attorney for applicants, and coordinator of aid activities for the AACASA.
- The parameters for AACASA in the provision of aid and support in Ethiopia,
- Clarification of program administration processes and procedures
- Direct communication between adoption applicants and the Representatives
- Insufficient health and social history about the children being placed for adoption

In May 2003, a delegation on behalf of Australian States and Territories visited Ethiopia. The delegation comprised the Managers for Intercountry Adoption Units in Queensland, South Australia and Victoria. The purpose of the visit was to:

- Meet with representatives of the MOLSA to confirm the commitment to the Bilateral Agreement
- Develop strategies to strengthen the operation of the program to ensure its accountability and probity; and,
- Negotiate a Service Agreement with the Representatives for the delivery of services under the Ethiopian-Australian adoption program.

In January 2004 a Service Agreement was formalised appointing Ato Lakew Gebeyebu and Woz Misrak Getahun as the Representatives and confirmed their roles and responsibilities. The development of a formal Service Agreement enabled a number of program related issues to be resolved and provided a formal process for addressing concerns.

The Representatives are recognised by the Ministry of Labour and Social Affairs (MOLSA) to undertake specific tasks in relation to the adoption process on behalf of the Ethiopian –

Australian program. The Representatives hold similar obligations to those of adoption agents which represent other countries' non-government agencies and are registered with the Ethiopian Ministry of Justice. The Representative undertakes a number of functions in the adoption process in Ethiopia including:

- Acting on behalf of Australian States and Territories in relation to the administration of the program in Ethiopia
- Liaison with MOLSA as the nominated representative on behalf of Australian States and Territories
- Has Power of Attorney for prospective adoptive parents to act on their behalf in the adoption process

The Service Agreement reflects the guiding principles for the working arrangements between Ethiopia and Australia articulated in the Bilateral Agreement as well as those in the *Hague Convention on the Protection of Children and Cooperation in respect of Inter-country Adoption* (the Hague Convention). The principles include the following:

- that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding;
- that each State should take, as a matter of priority, appropriate measures to enable that child to remain in the care of his or her family of origin;
- that intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her State of origin;
- the necessity to take measures to ensure that intercountry adoptions are made in the best interest of the child and with respect for his or her fundamental human rights and to prevent the abduction, the sale of, or traffic in children.

The program is monitored on an ongoing basis and regular reports are provided to the meetings of the Australian Central Adoption Authorities.

A review of existing bilateral arrangements with overseas countries was undertaken in January 2004. The review was conducted in line with the obligations which arise out of Australia's compliance with the *United Nations Convention on the Rights of the Child*, *The United Nations Declaration on Social and Legal Principles relating to the Protection and Welfare of Children*, with special reference to Adoption and Foster Placement Nationally and Internationally, and, the *Hague Convention on the Protection of Children and Cooperation in respect of Inter-country Adoption* (the Hague Convention).

A report on the review was tabled at the meeting of the Community Services Ministers Advisory Council on 7 October 2004. At the time of the review, the Australian Central Adoption Authorities were not fully aware of a number of the issues. A decision was made to withdraw Ethiopia from the review process and the Community and Disability Services Ministers were advised of this on 27 July 2005. They were advised that further consideration of this program would be dealt with separately.

3 CONCERNS RAISED BY ADOPTIVE PARENTS

3.1 Concerns Raised by Victorian Adoptive Parents in Respect of the Ethiopian program

On 20 August 2004, a small group of families requested a meeting with the A/Manager and staff of the Intercountry Adoption Service (ICAS), Department of Human Services (DHS) in Victoria to discuss a range of issues relating to the Ethiopian Program. These families made it clear that they did not represent AACASA, although some people who attended the meeting were at the time, members of that organisation.

The DHS report of the meeting indicates that the families raised a number of issues particularly in relation to the information received at the time of allocation, the role of the Ethiopian Representatives and a "directive" from AACASA regarding the adoptive families searching for birth families of their children.

It was agreed that DHS would inform the Department of Child Safety in Queensland of these matters and raise these issues at the Australian Central Authorities Meeting in November 2004. The group indicated that they would provide a written document regarding their concerns and give some examples to illustrate the issues.

On 21 September 2004, DHS received a letter from the President of AACASA dated 12 September 2004 responding to the "Notes from the meeting with DHS, Friday 20th August 2004". These notes were sent directly to AACASA by the parents who had attended the meeting and were not provided to the DHS. Although the "notes" covered some of the issues raised with DHS, they contained different information from that discussed at the meeting. The issues were set out under six key points and were as follows:

1. *To discover if the view of AACASA directive to stop parents finding families within five years of placement (then pay a US\$500 finder's fee) is shared by the DHS*
2. *To have made available copies of the Ethiopian Law*
3. *To disclose a loss of confidence with AACASA due to*
 - *the above directive*
 - *an unwillingness to accept our comments on AACASA e-groups and in the AACASA newsletter unless it is "happy"*
 - *an inability to represent to Meg Turner (as delegated officer of Queensland as co-ordinating State for the Ethiopian program) our views and concerns*
4. *To examine why many orphanages are now no longer able to give children to Australia and why Koala House has closed*
5. *To make a recommendation to Queensland via Victoria that when the Representatives retire, an NGO is installed*
6. *To ensure that the Ethiopian program continues both effectively and efficiently by ensuring that the best interests of the child are maintained*

On 3 November 2004, AACASA sent an email to members indicating that the Victorian group had met with the DHS and that the views of this small group were not representative of the general AACASA membership.

On 5 November 2004, the DHS held a further meeting with some of the group who advised that their intention was not to close the program but to deal with the issues.

3.2 Action Arising from Concerns

DHS raised the issues at the meeting of the Australian Central Authorities in November 2004. It was agreed that a working party comprising representatives from the Commonwealth, Queensland, New South Wales, Victoria, Western Australia and South Australia would investigate these matters.

It was agreed to review the information provided from Ethiopia relating to children placed with Australian adoptive parents in the period between July 2002 – November 2004. A total of 117 files were reviewed. The process involved a review of information and documentation provided at allocation, at time of travelling to Ethiopia and when the family returned with the child to Australia. Non-identifying information was forwarded to QLD for collation and an initial analysis undertaken.

The issues that were reviewed were grouped as follows:

- Accuracy of child's birth date and/or concerns about developmental age of child compared to the birth date on allocation information.
- Information about birth parents and extended family later found to be inaccurate or incomplete
- Identification of unknown siblings or extended family following adoptive family's travel to Ethiopia.
- Identification of unidentified health issues which became apparent at time of placement with the adoptive parents.

The Queensland Department of Child Safety advised the Representative of the review and confirmed that any matters which required clarification or needed to be addressed would be formally conveyed to him. The Representative advised that he would assist in every way he could.

On 18 November 2004 a letter was sent to ACCASA advising of the outcomes of the November meeting.

4 ISSUES

A number of issues have been raised in relation to the program including:

- Roles and responsibilities of the stakeholders in the Ethiopian program
- Accuracy of information at allocation
- Lack of or inaccurate health information
- Legality of Ethiopian adoption orders
- Children's rights and safety
- Changes to the Ethiopian adoption process
- Fees and payments
- Post adoption search for and contact with birth relatives of children
- Falsification of the Ethiopian Foreign Affairs stamp
- Future allocations of children

4.1 Roles and Responsibilities of the Stakeholders in the Ethiopian Program

The concerns have highlighted complexities in roles, responsibilities and relationships of those involved in the Ethiopian program. The key stakeholders include the Australian Central Authorities, MOLSA, the Representatives and AACASA.

4.1.1 Australian Central Authorities for Intercountry Adoption

The Australian Central Authorities are required to comply with the Hague Convention and the Bilateral Agreement with MOLSA to ensure that the adoption of a child from Ethiopia is in the child's best interests and only occurs when no other family is available in their country of origin. The States and Territories are responsible for approval of applicants, the sending of the adoption applications, approval of allocations, post placement supervision and support, and finalisation of the adoption process.

4.1.2 Ethiopian Ministry of Labour and Social Affairs (MOLSA)

MOLSA is the Ministry responsible for adoption services in Ethiopia.

The role of MOLSA in regard to adoption is to receive and scrutinise adoption applications, gather information on children needing families and refer this information to representatives or agencies to place these children with intercountry adoptive families.

This process has now changed with the implementation Article 192 of the *Revised Family Code 2000* (the Code). Adoption applications are now held by the representative / agent until such time as a child requiring an adoptive family is identified. Article 192 of the Code states:

- 1) *Government or private orphanages may give any child under their custody to adopters.*
- 2) *The above mentioned orphanages shall, before giving the child for adoption, provide sufficient information to the government organ having authority to follow up the wellbeing of children as to the identity of the child, how the orphanage received him and about the personal, social and economic position of the adopter.*

In November 2004, the Head of Child, Family and Youth Affairs (CYFAD) in MOLSA, confirmed that processes relating to adoption practice in Ethiopia were being modified in line with the requirements of the Code.

In 2002, the Ethiopian Department of Justice commenced a registration process for agents of foreign non-government adoption agencies working in Ethiopia. The Australian Representatives were not included in the registration process as responsibility for the program falls under MOLSA as the authority nominated under the Ethiopian - Australian Bilateral Agreement for Intercountry Adoption.

In 2003, the Minister for MOLSA, His Excellency Ato Hassen Abdella advised the delegation of officers from Queensland, South Australia and Victoria, that he was committed to the principles of the Bilateral Agreement between Ethiopia and Australia and thought it was timely to review the Annexures of the agreement.

4.1.3 The Representatives

The roles and responsibilities of the Representatives in relation to the operation of the adoption program are articulated in the Service Agreement. The Representatives' duties are to facilitate the adoption process for prospective adoptive parents in Ethiopia according to Ethiopian and Australian adoption legal and policy requirements.

The Representatives are required to act as the Power of Attorney for Australian prospective adoptive parents in the Ethiopian adoption process.

The Representatives are authorised by MOLSA to operate Koala House as a transition centre for children who are awaiting placement with their Australian adoptive families. Originally Koala House was established in the home compound of the Representatives with funding and support provided by AACASA. In late 2004, the AACASA Executive Committee advised the Queensland Department of Child Safety that it now only makes occasional one-off grants for specified program related purposes to contribute to the child caring activities of Koala House and that these funds are not for the personal use of the Representatives.

The Representatives are responsible for the delivery of aid and support for AACASA's philanthropic activities in Ethiopia. Provision was made in the Service Agreement to clarify the role of the Representatives in relation to AACASA.

Under the provisions of the Code, it is understood that MOLSA requires agents/representatives to work with orphanages and out-posted government authorities in Ethiopia to assist in meeting the placement needs of children who cannot be cared for in their own communities. The revised process requires further clarification.

4.1.4 Australian-African Children's Support Association (AACASA)

Australian-African Children's Support Association (AACASA) was instrumental in the establishment of the Ethiopian - Australian Intercountry Adoption Program.

AACASA supports Australian families in adopting African children and provides aid and support to African children in need.

The Representatives are nominated by AACASA as the organisation's representatives in Ethiopia. A member of the AACASA Executive Committee maintains regular contact with them in relation to the provision of sponsorship and aid projects, as well as offering support for AACASA's Ethiopian Adoption Support Package members in Ethiopia. The President of AACASA wrote to the Queensland Department of Child Safety in December 2004, advising that newly appointed Executive Committee of AACASA was committed to improving the working relationships between their organisation and the Central Authorities. Additionally, he confirmed the organisation's commitment to the principles of the Hague Convention.

4.2 Accuracy of Information at Allocation

The file audit provided some detail about the following issues. Of the 117 files that were audited, 37% (44 files) were identified as having an issue of concern. In 13 cases, multiple issues were identified while another 31 cases had evidence of a single issue being documented

At first glance the number of files with apparent irregularities appears disproportionately high. However on closer analysis, a number of cases had multiple issues, which were represented in one or more of the categories of concern. Of particular significance is that in 61% of the cases

the issue related to a discrepancy between the stated age of the child at allocation and the child's developmental age.

For some families the irregularities were noted but accepted without concern, taking into account the particular circumstances applicable to the individual child's medical, social or family history and environmental considerations in Ethiopia itself.

4.2.1 Assessed age differs from age given at allocation

Of the 117 files, 12% (14 files) were identified where the child's age appears to differ from age given at allocation by less than 12 months.

Of the 117 files, 11% (13 files) were identified where the child's age appears to differ from age given at allocation by greater 12 months.

There are possibly a range of reasons for the discrepancies in the child's estimated age such as:

- Possible errors in the translation from the Ethiopian (Julian) calendar to the Gregorian calendar
- When a child is abandoned, often no birth information is available and the age of the child is estimated and a birth date assigned accordingly. The initial estimation of a child's age may be undertaken by a police official, orphanage worker or other persons who may not be suitably qualified/experienced to accurately estimate a child's age
- Although formal registration of births is required in Ethiopia, this does not occur in many areas. It is not until a child is abandoned or brought into care that the child becomes "known" to the relevant government body
- Inconsistencies were identified which suggested a variation between the stated birth date and the date estimated when the child returned to Australia by days or weeks. However, in some cases the difference was significant, being twelve months or more

Some families have verified their child's age in Australia which has included developmental, educational, medical and dental assessments.

In other instances, information became available at a later date with the provision of baptismal certificates or statements from Ethiopian family members or family friends after the adoptive families have travelled to Ethiopia or arrived back in Australia.

The impact of an inaccurate birth date on the children and families has varied. Some families have reported to their respective Central Authority that the matter had affected their child's socialisation and enrolment in school. Other adoptive families indicated that they were satisfied to accept that this was a nuance of the program and did not appear to disadvantage the child.

In some cases the adoptive family has sought the assistance of the Central Authority or relevant Court to change the date on their child's official Australian birth records when seeking an adoption order. In other cases a decision has been made to leave the date unchanged.

4.2.2 Inaccurate Information about Birth Parents and Extended Family

Of the 117 files, 8.5% (10 files) showed that information provided at placement about birth parents and extended family was later found to be inaccurate.

There have been a variety of issues and concerns relating to provision of limited family and background information including

- Lack of information in the case of children who are abandoned where nothing is known of the child, their family or birth history
- Incorrect information stated on allocation documents provided to MOLSA about a child's history and circumstances. The person who found the child, the person relinquishing the child or a regional officer of MOLSA, may have provided the information.
- Omission/change of information provided to officials by family and/or community member to hide the identity of the child and their birth parents

It is acknowledged that in some cases the information given at allocation was substantially different from what families stated they subsequently discovered to be the case when they travelled to Ethiopia.

In other cases, mention is made of extended family in the allocation documents. For some families further information became available when the adoptive family was introduced to the child's relatives while in Ethiopia, which has lead to families needing to manage some very complex situations.

4.2.3 Identification of unknown siblings following adoptive family's travel to Ethiopia

Of the 117 files, 7.6% (9 files) identified unknown siblings following adoptive family's travel to Ethiopia.

It is not unusual for a child being placed into the care of an orphanage by another family member or third party, to have one or more siblings. In some cases the sibling may also be in care or their needs may be able to be met by their immediate or extended family.

There have been instances where the adoptive family while in Ethiopia has identified a sibling/s of the child. In some cases the sibling/s were subsequently adopted by the family, while in other cases the sibling/s has remained in Ethiopia often with ongoing contact and financial support from their sibling's adoptive family.

4.2.4 Identification of extended family / relatives at time of prospective adoptive parent's travel to Ethiopia

Of the 117 files, 4% (5) identified previously unknown family or relatives following adoptive family's travel to Ethiopia.

Families have reported finding extended family and relatives through their own investigations during their visit to Ethiopia.

Generally, families have considered this a positive experience as ongoing communication has been established to assist in maintaining their child/ren's relationship with their birth and extended family, as well as preserving their cultural identity. However, these situations are often extremely complex for families and raise many questions. For some families this has raised questions about the integrity of the program and the process of children being placed for overseas adoption.

There is evidence that suggests that the relinquishing family and/or community may have misrepresented the family situation and relationships in an effort to secure care for a child who

could not be cared for by the family or community for a range of reasons including extreme poverty.

4.2.5 Other Issues including health related matters

Of the 117 files audited 7% (8 files) raised a concern about other issues including health related issues for the child. The other concerns included in this category related to assessment and placement issues, and inappropriate conduct in Ethiopia by prospective adoptive parents.

One of the primary concerns was that health issues were not properly recorded in the allocation documents.

In most of these cases adoptive families reported to their Central Authority that their child was found to have medical and health issues when the family travelled to meet them that they were unaware of and that these matters were not included in the allocation documents. The cases reviewed were found to have limited information recorded in relation to the child's overall development. Additionally, very limited information was available about children who were abandoned or who had been relinquished into care by a person other than their birth parent.

Orphanages and care facilities may not be able to consistently record children's growth and development. Most orphanages are required to manage the care of large numbers of children under difficult circumstances with scarce resources and limited access to medical services. This was apparent in the several orphanages visited by the 2003 delegation, and supported by advice provided in discussion with orphanage staff.

Furthermore, it is possible that if a child were to be seen by a doctor, the doctor may not necessarily provide ongoing care for the child, depending on the child's health concern and the location, access and availability of the doctor for follow up treatment. Hence, the existence of a record of health and development for the child may be very limited.

4.3 Legality of Adoptions

The issue of the legality of some adoptions appears to have arisen following information in the AACASA newsletter published in June 2004 where the issue of post adoption contact and support for birth families of Ethiopian children placed with Australian families was discussed. In this newsletter it was suggested that an adoption order may be null and void if a relinquishing parent was later found. This unfortunately led to concerns being raised with the State and Territory Adoption authorities that the adoption process for particular children may not have been legal.

The Ethiopian Code makes provision for the relinquishment of children where the birth parent is unable to care for the child. Further, the adoption order made in an Ethiopian Court and in an Australian Court (before or after 2000) is a legal order. AACASA clarified this information in their March 2005 newsletter.

4.4 Children's Rights and Safety

Concerns were raised by the Victorian families about the process in Ethiopia by which children are referred as needing an intercountry adoption placement. Adoptive families were seeking confirmation that there are safeguards in place to ensure that there is no risk of children being removed illegally from their families for the purpose of adoption.

When the delegation of officers from Australian States and Territories travelled to Ethiopia in 2003, discussions involved clarification of the process for determining the care and placement needs of child/ren.

At that time the delegation was advised that an orphanage, a Bureau of Labour and Social Affairs (BOLSA) representative, a police officer or an officer of MOLSA presented the Secretary of the Adoption Committee in MOLSA with information that had been gathered about an individual child. If MOLSA was satisfied with the information provided and determined that an intercountry adoptive placement was required, it assigned the child's case to a particular overseas country. This was done on a rotational basis for countries with which Ethiopia had an active intercountry adoption program.

Additionally, before an adoption matter is able to be heard by the Ethiopian Court, the Ethiopian process requires that an advertisement be published inviting any interested person to lodge an objection to the placement of the child for adoption. At that time any family member who wishes to can lodge an objection to the placement of a child under the adoption program.

4.5 Recent Changes to the Ethiopian Adoption Process

In 2003, the Australian delegation clarified key steps of the adoption process as follows:

- File of a prospective adoptive family received by the Representatives
- File taken to the Ministry of Foreign Affairs for stamping with the official seal of the Foreign Office
- File taken to MOLSA and retained awaiting consideration of the placement of a child
- When a child is identified as requiring an adoptive placement, MOLSA ensures relevant searches and consents are undertaken and information about the child gathered to inform the placement decision
- If a child requires an adoptive family in an overseas country, the child's case is referred to the Representative of a country with which Ethiopia had an operational intercountry adoption program
- Representative advises MOLSA of a possible adoptive placement for the child
- The file of the family reviewed by the MOLSA social worker along with the available information about the child
- If MOLSA is satisfied that the child's interests are best served by placing him/her into the care of the prospective adoptive parents, the Head of Child, Family and Youth Affairs Department (CYFAD) in MOLSA endorses the placement (allocation) documentation
- Allocation documents are given to the Representative for forwarding to the relevant Australian Central Authority for discussion with the prospective adoptive family
- If a prospective adoptive family agrees to the placement proposal, the Australian Central Authority provides a formal notice of acceptance to MOLSA
- MOLSA subsequently prepares a report endorsing the placement for presentation at the Court Hearing, attends the hearing to confirm for the court that the placement is in the child's best interests and due process had been followed
- The prospective adoptive parents or their Power of Attorney attends the Court and present their credentials including confirmation that the relevant Central Authority in Australia has assessed them as being suitable as prospective adoptive parents.

Additionally, confirmation is sought that the State/Territory authority would ensure that the child's welfare will be supported and monitored when the child travels to Australia

- The Court makes the Ethiopian adoption order in favour of the prospective adoptive parents
- The Child's Birth Certificate and passport are issued and the process for the issuance of the visa and travel arrangements progressed

In August 2004, the Representative advised that MOLSA had changed the process for the receipt and registration of files of prospective adoptive parents. He advised that once the Ministry of Foreign Affairs had stamped the files, MOLSA required the Representatives to retain custody of the files.

The Representative advised that when a child needing a family placement is identified by the orphanage or the Representative, the file of the prospective adoptive parents is provided along with the information about the child to MOLSA for consideration and endorsement.

This change in process was confirmed in a letter from the Ethiopian Consul-General in Australia following his visit to Ethiopia and a meeting with MOLSA representatives in late 2004.

In October 2004, the Head of CYFAD, advised the Queensland Manager, Intercountry Adoption Unit that MOLSA was developing new government policies in relation to adoption services. He advised that MOLSA was implementing the Code and once the government's policy positions were defined, Ethiopia would be in a position to review the bilateral agreement between Australian and Ethiopia and its annexures.

4.6 Fees and Payments

The Australian Central Authorities have always required accountability and transparency in respect of fees paid for the care of a child and for the administration of the program.

In April 2004, a new schedule of fees for Australian prospective adoptive parents was endorsed by the Australian Central Authorities.

At the time of the child being placed into the care of their prospective adoptive parents, a Foster Care Fee is paid to the Representatives to cover the costs associated with the care of the child while he/she is living in Koala House. This fee covers the costs of caring for the children including salaries of staff, operational and infrastructure costs.

However the issue of a foster care fee being paid to an orphanage if the child remains there rather than being moved into care at Koala House requires clarification with MOLSA and the Representatives.

4.7 Post Adoption Search for and Contact with Birth Relatives of Children

The intercountry adoption program in Australia has a strong focus is placed on ensuring the rights of the child to information about their culture and their family of origin.

It has become apparent that increasing numbers of Australian adoptive families are contacting and maintaining ongoing communication with the birth family of the children they have adopted. While many families consider this as a valuable link for the children, there have been concerns

raised about the complexities that this contact raises and the emergence of the provision of financial support for Ethiopian family members.

It is apparent that in the interests of protecting all parties to an adoption, further investigation is required in relation to the safeguards in place in Ethiopia and Australia that ensures that the information provided at time of placement is accurate and that no party may misrepresent themselves or the facts in relation to a child.

Furthermore, in consultation with MOLSA, advice needs to be provided to prospective adoptive parents about a legitimate and appropriate process for establishing and maintaining contact with family members of the child who has been placed with them.

4.8 Falsification of Foreign Affairs Stamp

In August 2004 the Representative advised the Queensland Department of Child Safety that it was alleged a person, who was previously employed by him, fraudulently stamped documents in Ethiopia with a forged copy of an Ethiopian Department of Foreign Office seal.

It was understood that neither the Ministry of Social Affairs (MOLSA) nor the Representatives were aware of the alleged fraud until it was discovered in August 2004.

The Representative advised the Queensland Central Authority that a Police investigation had commenced and he was fully co-operating with the Police in relation to the investigation which had resulted in the employee being apprehended.

This resulted in several adoption cases in the Ethiopian Court between August 2004 and February 2005 being delayed. This issue was resolved by May 2005.

5. CONCLUSION

This review has demonstrated a number of complexities in relation to the Ethiopian adoption program. However, it is the view of the Commonwealth, State and Territory Central Authorities that the program should be maintained at this time.

This report clearly identifies that there is further investigation to be undertaken to ensure this program is functioning according to the principles of the *Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption*.

6. RECOMMENDATIONS

The following recommendations are made in relation to the Ethiopian program:

1. That this Interim Report be tabled at the CSMAC meeting on 9 March 2006, providing information about the issues identified in the report and the proposed process to respond to the issues. The Report will also make recommendations about the proposed review of the bilateral agreement. It is recommended that CSMAC bring these matters to the attention of CDSMC on 26 July 2006
2. That a delegation travel to Ethiopia in order to investigate issues identified in the review of the program. It is proposed that the delegation include representatives from the Queensland Central Authority, as the lead state for the Ethiopia program, and the

Commonwealth Government, subject to Ministerial approval. The delegation will meet with representatives from MOLSA, the Ethiopian Department of Justice and the Ethiopian Ministry of Foreign Affairs, as well as the Australian Representatives. The purpose of the delegation is as follows:

- Determine the compliance of the Ethiopian - Australian adoption program with the standards of the Hague Convention on Intercountry Adoption
- Determine the compliance of the Ethiopian - Australian adoption program with the Ethiopian law and policies for intercountry adoption in that country
- Clarify the new Ethiopian adoption processes in terms of legal requirements, administration, casework and accountability
- Determine the processes in place to protect the interests of children subject to intercountry adoption
- Determine MOLSA's position in relation to payment/level of foster care fees or reimbursement of care costs for a child
- Clarify MOLSA's requirements for the review of the Bilateral Agreement between Australia and Ethiopia and its annexures
- Discuss contact between adoptive families and birth relatives of children placed under the Ethiopian intercountry adoption program with MOLSA and develop policy guidelines regarding this issue
- Clarify particular case matters which require specific follow up
- Provide a report to the Community and Disability Services Ministers on the above matters

3. Queensland Central Adoption Authority, on behalf of the State and Territory Central Authorities, will keep AACASA informed of the progress and the outcome of this review