

## **LEGISLATIVE COUNCIL BRIEF**

Adoption Ordinance  
(Chapter 290)

### **Intercountry Adoption (Contracting States) Order 2010**

#### **INTRODUCTION**

The Secretary for Labour and Welfare (the Secretary) made the Intercountry Adoption (Contracting States) Order 2010 (the Order) at Annex on 2 July 2010 under section 20D of the Adoption Ordinance (Cap. 290) (the Ordinance) to declare that the Republic of Cape Verde (Cape Verde) and the Togolese Republic (Togo) are Contracting States to the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption (the Convention).

#### **JUSTIFICATIONS**

2. The Convention sets out a framework for international cooperation in intercountry adoptions and provides safeguards to ensure that intercountry adoptions are made in the best interest of the child. It is currently in force in 81 States. From time to time, there are new States acceding to the Convention. According to Article 44 of the Convention, such accession shall have effect only as regards the relations between the acceding State and those Contracting States which have not raised an objection to its accession in the six months after the receipt of the notification of the accession issued by the depositary of the Convention (i.e. the Ministry of Foreign Affairs of the Kingdom of the Netherlands).

3. Cape Verde and Togo acceded to the Convention on 4 September 2009 and 12 October 2009 respectively. In accordance with Article 46 of the Convention<sup>1</sup>, the Convention has entered into force for Cape Verde and Togo on 1 January 2010 and 1 February 2010 respectively. Since the Central People's Government (CPG) has not raised objection to their accession, the Convention has entered into force

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Note <sup>(1)</sup> Under Article 46(2) of the Convention, the Convention shall enter into force for an acceding or ratifying State on the first day of the month following the expiration of the three months after the deposit of its instrument of accession or ratification.

between the People's Republic of China (including the Hong Kong Special Administrative Region (HKSAR)) and Cape Verde on 1 January 2010, and Togo on 1 February 2010.

4. Pursuant to section 20D of the Ordinance, the Secretary may, by order published in the Gazette, declare that a State is a Contracting State to the Convention and specify the date of the coming into effect of the Convention between HKSAR and the State. Accordingly, the Secretary made the Order to declare that Cape Verde and Togo are Contracting States, and to specify 1 January 2010 and 1 February 2010 as the dates of the coming into effect of the Convention between HKSAR and the two States respectively.

## **THE ORDER**

5. The Order declares that Cape Verde and Togo are Contracting States to the Convention so that the Convention can apply to an application for adoption between Hong Kong and either of the two States made pursuant to the Convention.

## **LEGISLATIVE TIMETABLE**

6. The legislative timetable will be –

Publication in the Gazette	9 July 2010
Tabling at the Legislative Council for negative vetting	14 July 2010

## **IMPLICATIONS OF THE PROPOSAL**

7. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the current binding effect of the Ordinance and has no economic, productivity, environmental or sustainability implications.

8. As for the financial and civil service implications, since the number of cases involving Cape Verde and Togo is expected to be very few, the additional workload, if any, on the Social Welfare Department and the Judiciary will be absorbed from within their existing resources.

## **PUBLIC CONSULTATION**

9. Since this is a routine updating exercise, public consultation on the Order is considered unnecessary.

## **PUBLICITY**

10. A press release will be issued on 9 July 2010. A spokesman from the Labour and Welfare Bureau will be available to answer media enquiries.

## **BACKGROUND**

11. CPG signed the Convention in 2000 and ratified it on 16 September 2005. The Convention entered into force for China (including HKSAR) on 1 January 2006. The Intercountry Adoption (Contracting States) Order was first made in December 2005 and took effect in January 2006.

## **ENQUIRIES**

12. Any enquiries on this brief should be addressed to Mr Parson LAM, Assistant Secretary for Labour and Welfare (Welfare)1A, at 2810 3932.

**Labour and Welfare Bureau**  
**7 July 2010**

## INTERCOUNTRY ADOPTION (CONTRACTING STATES) ORDER 2010

(Made by the Secretary for Labour and Welfare under section 20D of the Adoption Ordinance (Cap. 290))

### 1. Contracting States

(1) For the purposes of section 20D of the Adoption Ordinance (Cap. 290), it is declared that the Republic of Cape Verde and the Togolese Republic are Contracting States.

(2) The Convention (as defined by section 20A(1) of the Ordinance) came into effect –

- (a) between Hong Kong and the Republic of Cape Verde on 1 January 2010; and
- (b) between Hong Kong and the Togolese Republic on 1 February 2010.

### 2. Schedule amended

Part 1 of the Schedule to the Intercountry Adoption (Contracting States) Order (Cap. 290 sub. leg. C) is amended –

- (a) by adding –

“The Republic of Cape Verde	1 January 2010”
after	
“The Kingdom of Cambodia	1 August 2007”;
- (b) by adding –

“The Togolese Republic	1 February 2010”
after	
“The Kingdom of Thailand	25 January 2006”.

Secretary for Labour and Welfare

2 July 2010

### Explanatory Note

This Order declares that the Republic of Cape Verde and the Togolese Republic are Contracting States so that the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption done at the Hague on 29 May 1993 applies to an adoption between Hong Kong and either of those two states in relation to an application made pursuant to that Convention.