

**HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON SOCIAL POLICY AND LEGAL AFFAIRS –
SURROGACY INQUIRY**

Question taken on Notice at 3 March 2016 inquiry hearing

Q. Has Australia made any representations to any other international body [*aside from the Hague Conference on International Law*] to consider surrogacy issues?

A. The Permanent Bureau of the *Hague Conference on Private International Law* has established an experts group to consider private international law issues surrounding the status of children, including issues arising from international surrogacy arrangements. As noted by the Attorney-General's Department at the surrogacy inquiry hearing held on 3 March 2016, in 2015 the Attorney-General appointed Chief Judge John Pascoe of the Federal Circuit Court as Australia's representative to this experts group.

Aside from Australia's engagement with the Hague Conference on International Law, DFAT is only aware of one other comment that Australia has made to any other international body regarding surrogacy issues. The Attorney-General's Department has advised that this representation took place in August 1994, during a meeting of a United Nations Intersessional Open-Ended Working Group on a draft Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. Australia suggested that the Working Group should consider how any optional protocol on those issues would interact with commercial surrogacy. In particular, Australia submitted:

'It may also be worthwhile to provide a definition of "trafficking" as it is not clear whether intercountry adoption or surrogacy for commercial gain would be covered' (United Nations Economic and Social Council, Comments on the guidelines for a possible draft optional protocol, UN Doc. E/CN.4/1994/WG.14/2, 30 September 1994, [13]).

DFAT is not aware of any subsequent consideration of commercial surrogacy issues by this Open-Ended Working Group following the comment described above. The *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography* was concluded on 25 May 2000, entered into force on 18 January 2002, and was ratified by Australia on 8 January 2007. An agreed definition of "trafficking in persons" was subsequently included in the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* (Trafficking Protocol). The Trafficking Protocol entered into force on 25 December 2003, and was ratified by Australia on 15 September 2005.