



Citizenship and
Immigration Canada

Citoyenneté et
Immigration Canada

CP 14

Grant of Canadian Citizenship for Persons Adopted by Canadian Citizens

Canada

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Updates to Chapter

Listing by date

2015-06-30

This chapter has been updated to reflect the legislative amendments contained in the SCCA by removing references to the requirement that the adoption must have taken place on or after January 1, 1947 and by including information on the new legislative requirement under paragraphs 5.1(1)(c.1) and 5.1(2)(b) of the *Citizenship Act* concerning circumvention of international adoption requirements and the amendments to the factors for consideration set out in the *Citizenship Regulations*.

2014-06

This chapter has been updated to include information on the extension of the exception to the first generation limit to the children of Crown servants.

2012-04

This chapter has been completely reviewed. All previous versions should be discarded.

1. What this chapter is about

1.1. This chapter is about

This chapter explains how to assess and process applications for a grant of Canadian citizenship under section A5.1 (grant of Canadian citizenship for persons adopted by Canadian citizens).

Note:

Where the term 'Canada' is referenced throughout this chapter it references Canada further to the union of Newfoundland and Labrador with Canada and reference to the terms 'province/territory' and 'provincial/territorial adoption authority' also include Newfoundland and Labrador. Where this chapter references 'adopted by a Canadian citizen', this reference includes those adopted prior to January 1, 1947 by a parent who became a Canadian citizen on January 1, 1947 (or April 1, 1949, in the case of Newfoundland and Labrador for adoptions that took place prior to April 1, 1949).

1.2. Where to find other related policies and guidelines

For information on other related policies and guidelines, see the appropriate references below.

Related policies and guidelines	Link
Adoptions (Immigration)	See OP 3
Proof of Citizenship	See Proof and certificates of citizenship

2. Program objectives

Bill C-14, an Act to amend the *Citizenship Act* (adoption), received Royal Assent on June 22, 2007 and came into force on December 23, 2007.

These adoption provisions under the *Citizenship Act* allowed persons born abroad and adopted by a Canadian citizen after February 14, 1977 to become Canadian citizens without first having to become permanent residents. As a result, the difference in treatment between persons born abroad and adopted by Canadian citizens and persons born abroad to Canadian citizens was minimized.

Bill C-37, an Act to amend the *Citizenship Act*, received Royal Assent on April 17, 2008 and came into force on April 17, 2009. These amendments expanded the eligibility for access to a grant of Canadian citizenship under the adoption provisions of the *Citizenship Act* to include persons adopted by Canadian citizens on or after January 1, 1947 and limited Canadian citizenship by descent to the first generation born outside Canada. Bill C-37's first generation limit also applies to adopted persons. As such, persons born outside Canada and adopted by a Canadian citizen

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are **not** eligible for a grant of Canadian citizenship under the adoption provisions of the *Citizenship Act* if:

- their adoptive Canadian citizen parent was born outside Canada to a Canadian citizen; or
- their adoptive Canadian citizen parent was granted Canadian citizenship under the adoption provisions of the *Citizenship Act*.

Bill C-37 also contained exceptions to the first generation limit. They are as follows:

- the first generation limit did not apply in the case of a person who was already a Canadian citizen immediately before the coming into force of Bill C-37;
- the first generation limit does not apply to an adopted person if one or both of the adoptive parents, were, at the time of the adoption, employed outside Canada in or with the Canadian Armed Forces, the federal public administration or the public service of a province, other than as a locally engaged person.

Bill C-24, *Strengthening Canadian Citizenship Act*, received Royal Assent on June 19, 2014 and several of the legislative amendments impacting the adoption provisions of the *Citizenship Act* came into force on that day. It contained amendments which entrenched the first generation limit in the adoption provisions of the *Citizenship Act* to prohibit the granting of Canadian citizenship to an adopted person under A5.1 where the Canadian citizen parent is subject to the first generation limit unless they meet one of the exceptions to the first generation limit. It also extended the exception to the first generation limit to allow the children of Crown servants to pass on Canadian citizenship to any foreign-born children they have or adopt (i.e., the grandchildren of Crown servants). This would also allow an adopted person who is the grandchild of a Crown servant to have access to Canadian citizenship under A5.1 of the *Citizenship Act*.

Exceptions to the first generation limit

There are exceptions to the first generation limit for a grant of Canadian citizenship under the adoption provisions of the *Citizenship Act* [A5.1]:

1) at the time of the person's adoption, one (or both) of the adoptive parents was employed outside Canada in or with the Canadian Armed Forces, the federal public administration or the public service of a province or territory, other than as a locally engaged person; or

2) at the time of the adoptive parent's birth or adoption outside Canada, one of their parents (their child's grandparents) was employed outside Canada in or with the Canadian Armed Forces, the federal public administration or the public service of a province or territory, other than as a locally engaged person.

Note: If the adoption occurred prior to April 1, 1949 and one adoptive parent was a Canadian citizen by descent at the time of the adoption or became a Canadian citizen by descent on January 1, 1947 and the other adoptive parent (who is a Canadian citizen other than by descent) became a Canadian citizen as of April 1, 1949, the adopted person would still be eligible for a grant of Canadian citizenship under section 5.1, the adoption provisions of the *Citizenship Act*.

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For the purposes of consistency with the provisions of the *Citizenship Act* relating to Canadian citizenship by descent, an adopted person who is granted Canadian citizenship under section A5.1 of the *Citizenship Act* is considered the first generation born abroad. As such, the adopted person is not be eligible to pass on Canadian citizenship to any foreign-born children born to them or adopted by them (unless they fall under one of the exceptions to the first generation limit listed above). Such children would have to obtain permanent resident status in Canada and then apply for a grant of Canadian citizenship under subsection 5(1) or 5(2) of the *Citizenship Act*, depending upon their age on the date that they apply. The *Important Notice* (CIT 0493 or CIT 0539) must be issued to the applicant with the citizenship certificate.

Note: Section A5.2 of the *Citizenship Act* deems the adopted grandchild of a Crown servant who received a grant of Canadian citizenship prior to the coming into force of this section to have been granted Canadian citizenship under section A5.1 of the *Citizenship Act*. As such, these persons will be subject to the first generation limit. This applies to those persons who received a grant of Canadian citizenship under either previous or current legislation. This deeming occurs as of the coming into force of section A5.2 of the *Citizenship Act* on June 19, 2014. As a result, the provision applies prospectively, protecting those who have already been granted Canadian citizenship. This means that the great grandchildren of Crown servants born abroad after the coming into force of this provision are subject to the first generation limit (i.e., they do not have access to Canadian citizenship under A5.1 unless their other parent is born or naturalized in Canada). However, it protects any great grandchildren of Crown servants born abroad who are adopted and granted Canadian citizenship prior to the coming into force of this provision (they remain Canadian citizens).

Bill C-24, *Strengthening Canadian Citizenship Act*, also contained amendments which expanded the eligibility for access to a grant of Canadian citizenship under the adoption provisions of the *Citizenship Act* to persons adopted prior to January 1, 1947 by a person who became a Canadian citizen on January 1, 1947 and persons adopted prior to April 1, 1949 by a person who became a Canadian citizen on April 1, 1949, further to the union of Newfoundland and Labrador with Canada. It also introduced a new requirement under paragraphs A5.1(1)(c.1) and A5.1(2)(b) specifying that the adoption must not have occurred in a manner that circumvented the legal requirements for international adoptions.

Two processing streams are available to adoptive parents to obtain status in Canada for their adopted child:

1) the immigration process via the *Immigration and Refugee Protection Act* and its *Regulations* (IRPA/IRPR) (see section 2.1 of this chapter for more details on the immigration process), or

2) the direct grant of Canadian citizenship under the adoption provisions of the *Citizenship Act*.

Grant of Canadian citizenship for persons adopted as minors under A5.1(1)

The adoption must have been carried out taking into consideration the following requirements:

- it must have been in the best interests of the child;
- it must have created a genuine parent-child relationship;

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- it must have been carried out in accordance with the laws of the place where the adoption took place and the laws of the country of residence of the adoptive parents at the time of the adoption;
- it must not have occurred in a manner that circumvented the legal requirements for international adoptions; and
- it must not have been entered into primarily for the purpose of acquiring a status or privilege in relation to immigration or citizenship (i.e., an adoption of convenience).

Grant of Canadian citizenship for persons adopted as adults under A5.1(2)

With respect to adult adoptions, a person adopted by a Canadian citizen while they were 18 years of age or older is eligible for a grant of Canadian citizenship if:

- a genuine parent-child relationship existed before the person turned 18 years of age and at the time of the adoption; and
- the adoption meets the requirements provided for adopted minors [A5.1(1)], with the exception of the best interests of the child.

The intention of the citizenship process is to complement the current immigration process, while minimizing differential treatment of persons born abroad and adopted by Canadian citizens and persons born abroad to Canadian citizens.

Foreign-born persons adopted by a Canadian citizen are not subject to criminal and security prohibitions with respect to an application for Canadian citizenship under A5.1 of the *Citizenship Act*, nor are they required to take the Oath of Citizenship.

Canadian citizenship is effective the same day that the decision maker (the visa or citizenship officer) grants citizenship to the adopted person. Canadian citizenship is **not** retroactive to the date of the adoption. Once Canadian citizenship is granted, a citizenship certificate is issued to the adopted person.

2.1. Immigration process

The immigration process is still an option for persons adopted by Canadian citizens, but is the only option for persons adopted by Canadian citizens who are unable to pass on Canadian citizenship to their adopted child as a result of the first generation limit to Canadian citizenship by descent.

An adoptive parent may still choose to sponsor their adopted child as a permanent resident under the IRPA and apply for Canadian citizenship (under either A5(2) or A5.1) at a later date.

Cases where the adoption is not completed outside Canada but where the country of habitual residence of the adopted person allows them to travel to Canada with the intention of being adopted are processed under the IRPA, through sponsorship and permanent residence applications (FC6).

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Once the adoption has been completed according to P/T adoption laws and an adoption order has been issued by the relevant court, an application for Canadian citizenship under section A5.1 or under subsection A5(2) can be made on the adopted child's behalf. If the adopted person is 18 years of age or older, they can also make an application for Canadian citizenship under subsection A5(1).

The criteria for granting Canadian citizenship to foreign-born adopted children of Canadian citizens under the *Citizenship Act* and *Citizenship Regulations* are similar to those for granting permanent resident status to adopted persons under the IRPA/IRPR.

First generation limit and permanent residence followed by Canadian citizenship under subsection A5(1) or A5(2)

Persons who are granted Canadian citizenship under subsection A5(1) or A5(2) of the *Citizenship Act* are not subject to the first generation limit. As such, they would be eligible to pass on Canadian citizenship to any foreign-born children born to them or adopted by them.

Note: Adopted persons who are granted Canadian citizenship under the adoption provisions of the *Citizenship Act* are subject to the first generation limit. As such, adopted persons who have permanent resident status in Canada should **not** be encouraged to apply for Canadian citizenship under subsection A5.1 of the *Citizenship Act*; instead, they should be encouraged to apply for Canadian citizenship under subsection A5(1) or A5(2) of the *Citizenship Act*, depending upon their age on the date that they apply, as they would not be subject to the first generation limit.

3. The Citizenship Act and Citizenship Regulations (CR) and Citizenship Regulations Number 2 (CR2)

Note: Factors of consideration are outlined in the *Citizenship Regulations* while the evidentiary requirements in support of an application are listed in *Citizenship Regulations Number 2*

Provision	Reference in Act (A) or Regulations (R)
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<p>Canadian citizen parent at the time of adoption or parent became a Canadian citizen on January 1, 1947 if adoption took place before January 1, 1947 or parent became a Canadian citizen on April 1, 1949 if adoption took place before April 1, 1949 (Newfoundland and Labrador)</p>	<p>A5.1(1) A5.1(2) A5.1(3) Citizenship Regulations Number 2 R5.(c)(ii)R6 (b) R7 (b) R8 (c) (ii) R9 (b)</p>
<p>Adoption took place</p>	<p>A5.1(1) A5.1(2) A5.1(3) Citizenship Regulations Number 2 R5.(c)(v) R6.(c) R7.(c) R8 (c) (v) R9.(c)</p>
<p>Adopted person was a minor at the time of adoption</p>	<p>A5.1(1) Citizenship Regulations Number 2 R5.(c)(v) R6 (c)</p>

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Adopted person was an adult at the time of adoption	A5.1(2) Citizenship Regulations Number 2 R.7(c)
Best interests of the child	A5.1(1)(a)
Genuine parent-child relationship	A5.1(1)(b)
Genuine parent-child relationship before the child turned 18 and at the time of adoption	A5.1(2)(a)
Adoption was done in accordance with the laws of the place where the adoption took place and the laws of the country of residence of the adopting citizen	A5.1(1)(c) A5.1(2)(b)
Adoption did not occur in a manner that circumvented the legal requirements for international adoptions	A5.1(1)(c.1) A5.1(2)(b)
Adoption not entered into primarily for the purpose of acquiring a status or privilege in relation to immigration or citizenship	A5.1(1)(d) A5.1(2)(b) A5.1(3)(b)
Adoption subject to Quebec law	A5.1(3) A5.1(3)(a)
First generation limit	A5.1(4)
Exceptions to the first generation limit	A5.1(5) A5.1(6)

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<p>Adoptions completed in Canada</p> <p>Hague</p> <p>Notification in writing from the P/T authority responsible for international adoption where adoptive parents reside that the adoption conforms to the Hague Convention and that it does not object to the adoption</p> <p>Non-Hague</p> <p>Notification in writing from the P/T authority responsible for international adoption where adoptive parents reside that it does not object to the adoption</p> <p>Adult adoptions</p> <p>Notification in writing from the P/T competent authority where adoptive parents reside that it does not object to the adoption</p>	<p>Citizenship Regulations</p> <p>R5.1(a)(i)</p> <p>R5.1(b)(i)</p> <p>R5.2(a)(i)</p> <p>R5.2(b)(i)</p> <p>R5.3(a)(i)</p>
<p>Adoptions completed outside Canada</p> <p>Hague to Hague</p> <p>Notification in writing from the competent authorities responsible for international adoption in the person's country of habitual residence at the time of the adoption and in the country of the intended destination that the adoption conforms to the Hague Convention and that they do not object to the adoption</p> <p>Non-Hague</p> <p>Notification in writing from the competent authority of the country of intended destination at the time of the adoption that it does not object to the adoption</p> <p>Adult adoptions</p> <p>Notification in writing from the competent authorities of the person's country of habitual residence at the time of the adoption and in the country of the intended destination that they do not object to the adoption</p>	<p>Citizenship Regulations</p> <p>R5.1)(c)(i)</p> <p>R5.2(c)(i)</p> <p>R.5.1(d)(i)</p> <p>R.5.2(d)(i)</p> <p>R5.3(b)(i)</p>

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<p>Pre-existing legal parent-child relationship permanently severed by the adoption</p>	<p>Citizenship Regulations</p> <p>R5.1(a)(ii) R5.1(b)(iii) R5.1(c)(ii)</p> <p>R5.1(d)(iii)</p> <p>R5.2(a)(ii)</p> <p>R5.2(b)(iii)</p> <p>R5.2(c)(ii)</p> <p>R5.2(d)(iii)</p> <p>R5.3(a)(ii)</p> <p>R5.3(b)(ii)</p>
<p>Home study</p>	<p>R5.1(d)(i)</p> <p>R5.2(d)(i)</p>
<p>Free and informed consent in writing of the adopted person's parents</p>	<p>Citizenship Regulations</p> <p>R5.1b)(ii)</p> <p>R5.1(d)(ii)</p> <p>R5.2(b)(ii)</p> <p>R5.2 (b)(ii)</p>
<p>Not for the purpose of child trafficking or undue gain</p>	<p>Citizenship Regulations</p> <p>R5.1(b)(iv)</p> <p>R5.1(d)(iv)</p> <p>R5.2(b)(iv)R5.2(d)(iv)</p>

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Eligibility for adoption	Citizenship Regulations R.5.1(b)(v) R.5.1(d)(v) R.5.2(b)(v) R.5.2(d)(v)
Includes Newfoundland and Labrador	Citizenship Regulations R5.4

3.1. Forms required

Each applicant must submit an *Application for Canadian Citizenship for a person adopted by a Canadian citizen*.

Form Title	Number
Part 1 – Confirmation of Canadian citizenship of the adoptive parent(s)	CIT 0010
Part 2 – Adoptee’s application	CIT 0012
Canadian Citizenship Certificate Preparation Form	CIT 0480

3.2. Fees

Each application must include the non-refundable processing fee. See Fees and refunds.

Processing fee: A processing fee of \$100 (Canadian funds) is charged for each adopted person’s application if they are under 18 years of age at the time of application. A processing fee of \$530 (Canadian funds) is charged for each adopted person’s application if they are 18 years of age or older at the time of application. Once application processing begins, this amount is not refundable.

Right of Citizenship fee: An amount of \$100 (Canadian funds) is charged for each adopted person’s application if they are 18 years of age or older at the time of application. The Right of Citizenship fee is only refundable if the application is refused or if Citizenship and Immigration Canada (CIC) receives a withdrawal notice from the applicant before the grant of Canadian citizenship.

4. Instruments and delegations

4.1. Delegated powers

Under the provisions of the *Citizenship Act*, the Minister is responsible for granting Canadian citizenship, issuing citizenship certificates and for exercising other powers related to Canadian citizenship status. A citizenship officer is a person who is authorized by the Minister in writing to perform the duties of a citizenship officer as prescribed by the *Citizenship Regulations*.

4.2. Delegates/designated officers

Section 2 of the *Citizenship Regulations* defines various terms used in the *Citizenship Regulations*. The term “citizenship officer” is used throughout the *Citizenship Regulations*.

The authority to determine who may perform the duties of a citizenship officer on the Minister’s behalf within Canada is delegated to the Registrar of Canadian Citizenship and the Director of Citizenship Program Delivery Division. Individuals, and not positions, are delegated as citizenship officers. Individuals obtain this delegation upon successful completion of a training session and an examination designed to assess their knowledge and understanding of the relevant provisions of the legislation, and following the request of their manager/supervisor to the Registrar for said delegation and the Registrar’s granting of the request (see the delegation instrument for more details).

Additionally, the delegated authority to grant Canadian citizenship under section A5.1 is conferred on citizenship officers in CIC local offices, the Case Processing Centre in Sydney, Nova Scotia (CPC-S), Case Management Branch (CMB) and Operational Management and Coordination Branch (OMC) upon successful completion of a training session and an examination specific to section A5.1, the adoption provisions of the *Citizenship Act*, and following the request of their manager/supervisor to the Registrar of Canadian Citizenship for said delegation and the Registrar’s granting of the request. The only exception to this pertains to immigration officers stationed in visa offices (visa officers) who are delegated to grant Canadian citizenship under section A5.1 **by position**.

4.2.1. Delegation process for section A5.1 (adoption)

The Citizenship Delegation Grants - Section 5 (861N) course is a prerequisite to the Citizenship Delegation for Grants – Section 5.1 (Adoption) (582N) course.

In order to be delegated for section A5.1 (adoption), the citizenship officer must take the three-day adoption training course delivered by CIC.

Following the course, an examination is administered to evaluate the citizenship officer’s knowledge, interpretation and application of the relevant sections of the legislation. The delegation exam is made up of two parts: part one consists of short answer questions, and part two of writing a decision letter. In order to pass the examination, the individual must achieve a mark of 70% or higher.

5. Departmental policy

5.1. Eligibility to apply under section A5.1

An application under subsection A5.1(1) may be made by:

- an adoptive parent or legal guardian on behalf of a minor (under 18 years of age); and
- persons who were adopted as minors but who are now adults (18 years of age or older).

An application under subsection A5.1(2) may be made by:

- persons 18 years of age or older who were adopted as adults.

An application under subsection A5.1(3) (Quebec adoptions) may be made by

- an adoptive parent or legal guardian on behalf of a minor (under 18 years of age);
- persons who were adopted as minors but who are now adults (18 years of age or older); and
- persons 18 years of age or older who were adopted as adults.

5.2. Eligibility for a grant of Canadian citizenship for persons adopted as minors under subsection A5.1(1)

All of the following requirements must be met in order for an adopted person to be granted Canadian citizenship under subsection A5.1(1):

- a full adoption must have taken place (for more information, see section 6 of this chapter);
- at least one adoptive parent was a Canadian citizen at the time of the adoption or, if the adoption took place prior to January 1, 1947, became a citizen on that day (or April 1, 1949 in the case of Newfoundland and Labrador for adoptions that took place prior to April 1, 1949);
- the adopted person must have been under 18 years of age at the time of the adoption;
- the adoption must have been in the best interests of the child [A5.1(1)(a)];
- the adoption must have created a genuine parent-child relationship [A5.1(1)(b)];
- the adoption must have been in accordance with the laws of the place where the adoption took place and the laws of the country of residence of the adopting citizen [A5.1(1)(c)];
- the adoption must not have occurred in a manner that circumvented the legal requirements for international adoptions [A5.1(1)(c.1)]; and
- the adoption was not entered into primarily for the purpose of acquiring a status or privilege in relation to immigration or citizenship [A5.1(1)(d)].

5.3. Factors to be considered for subsection A5.1(1)

When assessing applications against the requirements under subsection A5.1(1), the following factors must be considered (for more details on how to assess these factors of consideration, see section 12 of this chapter).

Note: The factors of consideration under section R5.1 pertain to adopted persons who are under 18 years of age at the time of application, while the factors of consideration under section R5.2 pertain to persons who were adopted as children but who are 18 years of age or older at the time of application.

Adoptions completed in Canada

Hague

In cases where the adoption occurred in Canada, and at the time of the adoption, the adopted person was habitually resident outside Canada in a country that is a party to the Hague Convention on Adoption (refer to the Hague Convention website for the list of contracting states):

- whether the provincial authority responsible for international adoption has stated in writing that in its opinion the adoption was in accordance with the Hague Convention on Adoption and that it does not object to the adoption [R5.1(a)(i) and R5.2(a)(i)];
- whether the pre-existing legal parent-child relationship was permanently severed by the adoption [R5.1(a)(ii) and R5.2(a)(ii)].

Non-Hague

In cases where the adoption occurred in Canada, and at the time of the adoption, the adopted person was habitually resident outside Canada in a country that is not a party to the Hague Convention on Adoption (refer to the Hague Convention website for the list of contracting states):

- whether the provincial authority responsible for international adoption has stated in writing that it does not object to the adoption [R5.1(b)(i) and R5.2(b)(i)];
- whether before the adoption, the person's parent or parents, as the case may be, gave their free and informed consent in writing to the adoption [R5.1(b)(ii) and R5.2(b)(ii)];
- whether the pre-existing legal parent-child relationship was permanently severed by the adoption [R5.1(b)(iii) and R5.2(b)(iii)];
- whether there is no evidence that the adoption was for the purpose of child trafficking or undue gain [R5.1(b)(iv) and R5.2(b)(iv)]; and
- whether the person was eligible for adoption in accordance with the laws of the person's country of habitual residence at the time of the adoption [R5.1(b)(v) and R5.2(b)(v)].

Adoptions completed abroad

Hague to Hague

In cases where the adoption occurred abroad, and at the time of the adoption, the adopted person was habitually resident in a country that is a party to the Hague Convention on Adoption (refer to the Hague Convention website for the list of contracting states) and whose intended destination at the time of the adoption is another country that is also a party to the Hague Convention on Adoption:

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- whether the competent authorities responsible for international adoption in the person's country of habitual residence at the time of the adoption and in the country of the intended destination have stated in writing that in their opinion the adoption was in accordance with the Hague Convention on Adoption and that they do not object to the adoption [R5.1(c)(i) and R.5.2(c)(i)]; and
- whether the pre-existing legal parent-child relationship was permanently severed by the adoption [R5.1(c)(ii) and R.5.2(c)(ii)].

In all other cases being assessed under subsection A5.1(1):

- whether a competent authority of the country of intended destination at the time of the adoption conducted or approved a home study of the parent or parents, as the case may be, and has stated in writing that it does not object to the adoption [R5.1(d)(i) and R.5.2(d)(i)];
- whether before the adoption, the person's parent or parents, as the case may be, gave their free and informed consent in writing to the adoption [R5.1(d)(ii) and R.5.2(d)(ii)];
- whether the pre-existing legal parent-child relationship was permanently severed by the adoption [R5.1(d)(iii) and R.5.2(d)(iii)];
- whether there is no evidence that the adoption was for the purpose of child trafficking or undue gain [R5.1(d)(iv) and R.5.2(d)(iv)]; and
- whether the person was eligible for adoption in accordance with the laws of the person's country of habitual residence at the time of the adoption [R5.1(d)(v) and R.5.2(d)(v)].

5.4. Eligibility for a grant of Canadian citizenship for persons adopted as adults under subsection A5.1(2)

All of the following requirements must be met in order for an adopted person to be granted Canadian citizenship under subsection A5.1(2):

- a full adoption must have taken place (for more information, see section 6 of this chapter);
- at least one adoptive parent was a Canadian citizen at the time of the adoption or, if the adoption took place prior to January 1, 1947, became a citizen on that day (or April 1, 1949 in the case of Newfoundland and Labrador for adoptions that took place prior to April 1, 1949);
- the adopted person was 18 years of age or older at the time of the adoption;
- there was a genuine relationship of parent and child between the person and the adoptive parent before the person attained the age of 18 years and at the time of the adoption [A5.1(2)(a)];
- the adoption was in accordance with the laws of the place where the adoption took place and the laws of the country of residence of the adopting citizen [A5.1(2)(b)];
- the adoption must not have occurred in a manner that circumvented the legal requirements for international adoptions [A5.1(2)(b)]; and
- the adoption was not entered into primarily for the purpose of acquiring a status or privilege in relation to immigration or citizenship [A5.1(2)(b)].

Note: As the Hague Convention refers to the protection of children, it does not apply to adult adoptions.

5.5. Factors to be considered for subsection A5.1(2):

When assessing applications against the requirements under subsection A5.1(2), the following factors must be considered (for more details on how to assess these factors of consideration, see section 12 of this chapter).

Adoptions completed in Canada

In cases where the adoption occurred in Canada:

- whether a provincial competent authority has stated in writing that it does not object to the adoption [R5.3(a)(i)]; and
- whether the pre-existing legal parent-child relationship was permanently severed by the adoption [R5.3(a)(ii)].

Adoptions completed abroad

In all other cases being assessed under subsection A5.1(2):

- whether the competent authorities of the person's country of habitual residence at the time of the adoption and in the country of the intended destination have stated, in writing, that they do not object to the adoption [R5.3(b)(i)]; and
- whether the pre-existing legal parent-child relationship was permanently severed by the adoption [R5.3(b)(ii)].

Note: These factors of consideration (sections R5.1 to R5.3) are not requirements; therefore, the presence or absence of any one or more of these factors would not automatically result in the approval or refusal of an application for a grant of Canadian citizenship under section A5.1. For guidance on how to assess these factors of consideration, see section 12 of this chapter.

5.6. Eligibility for a grant of Canadian citizenship for adopted persons destined to Quebec under subsection A5.1(3)

All of the following requirements must be met in order for an adopted person to be granted Canadian citizenship under subsection A5.1(3):

- a full adoption (for more information, see section 6 of this chapter) took place abroad;
- at least one adoptive parent was a Canadian citizen at the time of the adoption (or, if the adoption took place prior to January 1, 1947, became a citizen on that day) and that parent was subject to Quebec law governing adoptions;
- the Quebec authority responsible for international adoptions advises, in writing, that in its opinion the adoption meets the requirements of Quebec law governing adoptions [A5.1(3)(a)]; and
- the adoption was not entered into primarily for the purpose of acquiring a status or privilege in relation to immigration or citizenship [A5.1(3)(b)].

5.7. Factors of consideration are not exhaustive

While subsections R5.1, R5.2 and R5.3 set out a list of factors to be considered in determining whether or not the requirements listed under subsections A5.1(1) and A5.1(2) have been met, these factors of consideration are not exhaustive (see section 12 of this chapter for a more detailed explanation of the regulatory factors of consideration).

5.8. Names policy

For information on CIC's names policy, see IM 1 – Procedures for Establishing Name Records in CIC Systems.

5.9. Medical condition of the adopted person

There are no requirements pertaining to the medical condition of the adopted person in section A5.1. Although it is not a requirement, in consideration of the best interests of the child, adoptive parents are encouraged to seek a medical examination through a paediatrician or a physician of their choice prior to going ahead with the adoption in order to ensure that they are able to provide their adopted child with the care he or she requires. Adoptions have failed in the past and have even resulted in child abandonment in situations where the prospective adoptive family was ill-equipped to deal with the particular medical condition of the child.

6. Definitions

The following definitions are intended to be used for the purpose of this chapter and the application of its procedures:

Term	Definition
Adopted person	For the purpose of this chapter, the term "adopted person" includes minors, persons who were adopted as minors and are now adults and persons who were adopted as adults, but should be understood to include cases where the adoption has been completed and cases where the adoption is in process (prospective adopted person).

<p>Adoptive parents</p>	<p>For the purpose of this chapter, the term “adoptive parents” will be used uniformly but should be understood to include cases where the adoption has been completed and cases where the adoption is in process (prospective adoptive parents).</p> <p>Unless otherwise stated, the adoptive parent refers to the Canadian citizen adoptive parent, and in the case of two Canadian citizen adoptive parents, it refers to both adoptive parents. For adoptions that took place prior to January 1, 1947, it refers to the adoptive parent that became a Canadian citizen on January 1, 1947. For adoptions that took place prior to April 1, 1949, it refers to the adoptive parent that became a Canadian citizen on April 1, 1949, further to the union of Newfoundland and Labrador with Canada.</p>
<p>Applicant</p>	<p>In the case where the adopted person is under 18 years of age at the time of application, the applicant is the parent or legal guardian who is making the application on their behalf.</p> <p>If the adopted person is 18 years of age or older at the time of application, the adopted person is the applicant.</p>
<p>Biological parent</p>	<p>The term “biological parent” refers to the natural and legal parent of the adopted person at birth.</p>
<p>FC6</p>	<p>Family Class permanent residence application under the IRPA for an adoption to be completed in Canada. Persons sponsored under FC6 are not eligible for a grant of Canadian citizenship under A5.1 or A5(2) until they have arrived in Canada as a permanent resident and the adoption has been finalized in Canada.</p> <p>For more information, refer to 117(1)(g) of the IRPR</p>
<p>FC9</p>	<p>Family Class permanent residence application under the IRPA for an adoption completed outside Canada. Adopted persons enter Canada as permanent residents after the adoption has been finalized. Once in Canada and a permanent resident, they are immediately eligible for a grant of Canadian citizenship under A5.1 or, if under 18 years of age, under A5(2).</p> <p>For more information, refer to 117(2) and 117(3) of the IRPR.</p>

<p>Full adoption</p>	<p>An adoption that creates a permanent legal parent-child relationship between the adoptive parents and the adopted person and permanently severs the pre-existing legal parent-child relationship between the biological parents and the adopted person, with the exception of an adoption by a stepparent.</p> <p>In the case of an adoption by a stepparent, it is not expected that the relationship with the remaining biological or legal parent be permanently severed; only the ties with the parent whose parenting role will be assumed by the stepparent upon adoption must be permanently severed.</p>
<p>Guardianship</p>	<p>“Legal guardian” in respect of a child who has not attained the age of 18 years, means a person who has custody of the child or who is empowered to act on the child’s behalf by virtue of a court order or written agreement or by operation of law.</p> <p>Note: Guardianship does not constitute an adoption and therefore does not meet the requirements of A5.1.</p>
<p>Habitual residence</p>	<p>The place where a person normally resides on a permanent basis. Very brief periods of residence cannot normally be considered as habitual residence, regardless of the person’s intentions, as habitual residence implies a significant period of presence together with an intention to live in a place.</p>
<p>Hague Convention</p>	<p>The <i>Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption</i> sets minimum standards and procedures for adoptions between countries. The Hague Convention is intended to ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights, and to prevent the abduction, the sale of, or traffic in children. It also promotes co-operation between countries and puts in place procedures as safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights as recognised in international law. For more information regarding the <i>Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption</i>, see the Hague Convention website.</p>

<p>Probationary Adoptions</p>	<p>Probationary adoption orders provide for a guardianship relationship or 'probationary adoption' for the purpose of a trial relationship between the adoptive parents and the person to be adopted. Probationary adoptions are generally supervised by a social worker, with a requisite number of satisfactory placement reports to be filed in the person's country of origin prior to issuance of an adoption order by that country.</p>
<p>Simple adoption</p>	<p>An adoption that does not fully sever the legal relationship between the adopted person and the individuals who were, immediately before the adoption, the person's legal parents.</p> <p>A simple adoption does not meet the requirements of A5.1.</p>

7 Procedures for the submission of a citizenship application for an adopted person

7.1. Application process

The citizenship application kit for a foreign-born person adopted by a Canadian citizen is titled *Application for Canadian citizenship for a person adopted by a Canadian citizen*.

This application is made up of two parts: **Part 1 – Confirmation of Canadian citizenship of the adoptive parent(s)** (CIT 0010) and **Part 2 – Adoptee's application** (CIT 0012).

Applicable fees or proof of payment must be submitted with Part 1 of the application (see section 3.2 of this chapter for details on fees).

7.1.1. Part 1 – Confirmation of Canadian citizenship of the adoptive parent(s) is used to gather information about the adoptive parents and confirm that at least one of them is a Canadian citizen at the time of the adoption or, if the adoption took place prior to January 1, 1947, became a citizen on that day (or April 1, 1949 in the case of Newfoundland and Labrador for adoptions that took place prior to April 1, 1949). Part 1 of the application is also used to assess the first generation limit to determine whether or not the adopted person is prevented from being granted Canadian citizenship under A5.1 due to the first generation limit. It is also used to gather information about the adoption itself (e.g., whether the adoption took place or whether it is in process, whether it involves a Canadian province or territory, etc.). Canadian citizenship cannot be granted to the adopted person based upon Part 1 of the application alone. Part 1 of the application may be submitted after the adoption has been completed or during the process of adoption. However, if it is determined during the assessment of Part 1 of the application that there is no Canadian citizen adoptive parent for the adoption in process – or at the time of the adoption for completed adoptions (or for adoptions that took place prior to January 1, 1947, the adoptive parent did not become a Canadian citizen on January 1, 1947 (or for adoptions that took place prior to April 1, 1949, the adoptive parent did not become a Canadian citizen on April 1, 1949, in the case of Newfoundland and Labrador)) — the adopted person is ineligible for citizenship under

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A5.1 and the application **must** be refused (see section 8.4 of this chapter). The applicant must mail the completed Part 1 of the application to CPC-S. If Part 1 of the application is approved, a letter is sent to the applicant indicating where and when to submit Part 2 of the application.

7.1.2. Part 2 – Adoptee’s application is used to assess the adoption and may be processed at CPC-S, at a visa office or a CIC local office, depending on the circumstances of the case. The adoption must have been completed before Part 2 of the application can be submitted and the adoption must be assessed before a decision on the adopted person’s application can be made.

Neither CPC-S, the visa office nor the CIC local office will process Part 2 of the application if Part 1 of the application has not been submitted or has been refused. In such cases, Part 2 of the application will be returned to the applicant with a letter explaining why it has been returned.

Once the adoption has been finalized, Part 2 of the application may be submitted to the visa office or CPC-S, according to the instructions included in the approval letter for Part 1 of the application from CPC-S. This letter also requests applicants to submit the *Canadian Citizenship Certificate Preparation Form* directly to CPC-S in order for the adopted person’s certificate of Canadian citizenship to be prepared if, and as soon as, citizenship has been granted to them. Adoptive parents have two (2) years from the date of the decision letter for Part 1 of the application to submit Part 2 of the application to the appropriate office. If adoptive parents do not submit Part 2 of the application within two years, and absent a reasonable explanation for not doing so, the file will be closed (see section 9.1 of this chapter for more details).

The application process is the same for minors (A5.1(1)), adults (A5.1(2)) and Quebec adoptions (A5.1(3)).

7.2. Multiple adoptions

Where adoptive parents are adopting more than one person, a separate application must be submitted and fees paid for each adopted person. For example, if there are two persons being adopted, two separate Part 1 application forms and two separate Part 2 application forms are required, along with supporting documentation and the payment of fees for both applications.

7.3. Submitting information regarding a person to be adopted and subsequently adopting a different person

If adoptive parents have submitted information regarding a person to be adopted but subsequently adopt a different person, there is no need to submit another Part 1 application form as long as Part 2 of the application is submitted within the two-year window. In such a case, a new Part 2 application form would have to be submitted to the office handling the file so that it can record the particulars of the adopted person.

7.4. Simultaneously submitting citizenship and permanent residence applications

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Simultaneous applications for the same adopted person under both the *Citizenship Act* and the IRPA may be submitted and received. They will not, however, be processed simultaneously.

If simultaneous applications are received, CPC-S will request that the applicant specify with which application they wish to proceed using the ***Multiple Applications Insert***. The insert will be included with the decision letter for Part 1 of the application.

If the applicant chooses to continue with both applications or does not return the completed and signed *Multiple Applications Insert* to CPC-S, CIC will assess the citizenship application before the permanent residence application. If citizenship is granted to the adopted person, CIC will consider the application for permanent residence as withdrawn at that point, and no fees associated with the permanent residence application will be refunded to the applicant. If the permanent residence application is withdrawn by the applicant prior to the commencement of processing by the visa office, a partial refund may apply; however, once processing has commenced, a refund of the processing fee will not be possible.

If the applicant chooses to withdraw the citizenship application and continue with the permanent residence application only, the adopted person will be required to make a new citizenship application at a later date if they wish to become a Canadian citizen. Applicants who have paid the Right of Citizenship fee will be eligible for a refund of this fee if they withdraw their citizenship application or if it is refused.

8. Processing of Part 1 of the application

8.1. Review of the application by CPC-S

CPC-S is responsible for assessing Part 1 of the application.

Applicants submit Part 1 of the application to CPC-S, where a file is created. Part 1 of the application and supporting documentation are reviewed to verify that:

- the correct fee is included;
- the forms are completed and signed (including by the minor if 14 years of age or older);
- at least one of the adoptive parents is a Canadian citizen at the time of the adoption or, if the adoption took place prior to January 1, 1947, became a citizen on that day (or April 1, 1949 in the case of Newfoundland and Labrador for adoptions that took place prior to April 1, 1949); and
- the adopted person is not (or will not be) prevented from being granted Canadian citizenship under the adoption provisions of the *Citizenship Act* by the first generation limit.

8.2. Confirming the adoptive parent's Canadian citizenship

The procedures followed to confirm the Canadian citizenship of an adoptive parent for an application for citizenship for an adopted person under section A5.1 are similar to those for a proof application. See CP 10 – Proof of Citizenship.

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Part 1 of the application is considered received on the date a completed Part 1 application form is received by CPC-S (stamped).

Part 1 of the application is stamped with the date of receipt by CPC-S, which will then send an acknowledgement of receipt letter to the applicant.

The date of signature of the applicant as marked on Part 1 of the application is the date of the application. However, if the application is post-dated, stale-dated (older than 3 months) or not dated, CPC-S will return the application to the applicant as incomplete.

8.3. If Part 1 of the application is approved

If Part 1 of the application is approved, CPC-S sends a letter to the applicant confirming the approval of Part 1 of the application with instructions on where and when to submit Part 2 of the application. If applicable, CPC-S will also send a letter to the P/T adoption authority requesting the issuance of a Certificate of Conformity and a letter of no objection (Hague cases) or a letter of no objection (non-Hague cases) for the proposed adoption. This/these letter(s) is/are necessary for the assessment of Part 2 of the application.

8.4. When is Part 1 of the application refused?

If the adoptive parent is not a Canadian citizen (or was not a Canadian citizen at the time of the adoption), or for adoptions that took place prior to January 1, 1947, the adoptive parent did not become a Canadian citizen on January 1, 1947 (or for adoptions that took place prior to April 1, 1949, the adoptive parent did not become a Canadian citizen on April 1, 1949, in the case of Newfoundland and Labrador) or the adopted person is prevented from being granted Canadian citizenship under the adoption provisions of the *Citizenship Act* by the first generation limit, CPC-S will refuse the application.

Adopted children of permanent residents are not eligible for a grant of Canadian citizenship under section A5.1. They may apply for permanent residence for their adopted child and then subsequently apply for Canadian citizenship for the child under subsection A5(2) at the same time that they apply for their own citizenship. Alternatively, the adoptive parents may apply for Canadian citizenship under subsection A5(2) for their adopted child after they themselves have become Canadian citizens. For more information, see the program delivery instructions Granting citizenship.

8.5. Multiple IDs in FOSS

Before creating a new file in the Global Case Management System (GCMS), CPC-S will conduct a search in FOSS to see if the applicant already has a FOSS ID. Where a file is being referred to a visa office (either for processing of Part 2 of the application or for a follow-up), CPC-S will inform the visa office in question if the applicant has an existing FOSS ID. Where multiple IDs exist for an applicant (for example, the issuance of a facilitation visa may create a new FOSS ID), the Operations Support Centre (OSC) must be advised so that the IDs can be merged.

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If the applicant does not exist in GCMS, but the individual has multiple IDs in FOSS, OSC must be notified so that the IDs can be merged. After a merge is completed, the FOSS record can be converted into GCMS .

If the FOSS record has been converted into GCMS and another FOSS ID is found or is created afterwards, this FOSS ID should be added to the FOSS ID field in GCMS. As well, OSC should be asked to merge multiple FOSS IDs so that they may be converted into GCMS.

8.6. The identity of the adopted person is unknown or incomplete adoptions

In some cases, the identity or the name of the adopted person may not be known before the adoptive parents are ready to begin the citizenship application process. Adoptive parents may submit Part 1 of the application with or without including the identity of the adopted person. They must state on Part 1 of the application where the adoption will take place.

Applications for which the identity of the adopted person is not included are processed by CPC-S in the same manner as those for which the identity of the adopted person is included.

Part 2 of the application, however, can only be submitted once the adoption has been finalized.

9. Processing of Part 2 of the application

Applicants are responsible for submitting a fully completed Part 2 application form once the adoption has been finalized. Applicants may need to obtain information from the legal guardian of the adopted person, an orphanage or an agency involved in the adoption in order to complete Part 2 of the application and provide accurate details of the adopted person's personal information.

The office responsible for assessing Part 2 of the application (CPC-S, the visa office or CIC local office; see section 10 of this chapter for details) must verify that:

- Part 1 of the application has been approved;
- Part 2 of the application is fully completed and signed by the applicant;
- all requested documentation has been submitted; and
- a photograph of the adopted person has been included.

9.1. Time limit for submitting Part 2 of the application

If Part 1 of the application is approved, included in the decision letter for Part 1 of the application from CPC-S are instructions for submitting Part 2 of the application. The instructions state that Part 2 of the application must be submitted to the appropriate office (CPC-S, the visa office or CIC local office) within two (2) years of the date of the decision letter for Part 1 of the application. After sending the letter, CPC-S will put the application on hold for twenty-one (21) months or until Part 2 of the application has been submitted (if submitted before twenty-one (21) months has elapsed). If Part 2 of the application is still outstanding after twenty-one (21) months, CPC-S will

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send a letter to the applicant reminding them of the deadline to submit Part 2 of the application and explaining that the application could be closed if it is not received and the applicant has not contacted CPC-S to request an extension. Following the reminder letter from CPC-S, applicants who request an extension and who provide a reasonable explanation for not submitting Part 2 of the application within the two-year deadline (for instance, delays in the adoption process) should be given an extension (for a maximum of six (6) months). Officers are expected to exercise their best judgement based on the circumstances of the case before closing an application due to incomplete information/documentation.

Persons applying for Canadian citizenship under the adoption provisions of the *Citizenship Act* are responsible for complying with all requests for necessary documentation and for appearing, when requested, for an interview. Sections 13.2. and 23.1 of the *Citizenship Act* outline the specific authorities for deeming citizenship applications abandoned. As a result of these provisions, a citizenship application under the adoption provisions of the *Citizenship Act* can be treated as abandoned when the applicant does not respond to requests for documentation or does not attend an interview, when requested, without a reasonable excuse.

Once an application has been closed or abandoned, a new Part 1 and Part 2 application form must be submitted with the supporting documentation and fees before an adopted person can be granted Canadian citizenship under section A5.1.

The application date to be entered in GCMS is the date that the office receives Part 2 of the application or the date a case is referred to the visa office for follow-up.

9.2. The adopted person is a permanent resident

Every year, permanent resident visas are issued to persons whose adoptions are to be completed in Canada under P/T adoption laws (FC6 cases under the IRPA). That is, the adoption is not yet complete when they enter Canada. Therefore, they must acquire permanent resident status to enter Canada in order for the adoption to be completed. At that point, they are not eligible for a grant of Canadian citizenship under A5.1 because the adoption has not yet been finalized. Once the adoption has been completed and the parent-child relationship has been created in law, an application for Canadian citizenship under A5.1 can be made on their behalf. As they obtained permanent resident status in order to be adopted in Canada and their permanent resident applications were processed outside Canada, the adoptions should meet the requirements that apply under the IRPR, many of which are the same or similar to the requirements of A5.1. Upon receipt of an application for a grant of Canadian citizenship under A5.1 and confirmation that the adoption has been completed in Canada, CPC-S will review the application and may grant Canadian citizenship to the adopted person if no adverse information or new elements regarding the adoption come to light.

Also, adopted persons whose adoptions were completed outside Canada may have entered Canada as permanent residents either before A5.1 came into force or because their adoptive parent chose to apply for permanent resident status on their behalf instead of applying directly for Canadian citizenship under A5.1. In these cases, too, unless adverse information comes to light, CIC may grant Canadian citizenship to the adopted person if the requirements of the *Citizenship Act* are met.

9.3. High profile or contentious cases

High-profile, contentious and sensitive cases arise in many circumstances. The media attention generated by these types of cases underscores the need to deal with them in a timely and discerning manner. The purpose of this directive is to assist officers in identifying and handling these cases as they arise. High profile, contentious and sensitive cases should all be treated in the same manner as outlined below.

CMB is responsible for managing effective communication about specific case-related matters. Officers must report all cases which are potentially high profile to CMB.

If, after reviewing a file or following an event, an officer determines that a case is or may become high profile, they must follow the procedures outlined below to inform NHQ. Conversely, should it be determined in Canada that an overseas case is or may become high profile, NHQ must advise the relevant visa office.

Procedures

1. Inform and consult with your immediate supervisor/manager once it is suspected that the case has the potential to become a high profile, contentious or sensitive case (for instance, the case has the potential to generate media attention).
2. Inform NHQ by **sending an e-mail to the appropriate general e-mail boxes and distribution lists.**

The email **must include** the following information:

- **“High Profile Case”** in the subject line;
 - the name, date of birth, file number and/or client identification number (if applicable) of the applicant;
 - a case chronology, including case-specific details and a summary of the reason(s) the case is, or has the potential to be, high profile;
 - any action taken and/or recommendations proposed to resolve the case (if applicable) or assistance requested.
3. Prepare an initial case report and follow up, as necessary, with CMB to keep it apprised of any new information as it becomes available; ensure case notes are detailed and suitable for feeding into briefing documents, if required.
 4. After consultation with CPC-S, the visa office, or the CIC local office and CMB (if necessary), render a decision on the application. The decision may be rendered by CPC-S, the visa office or the CIC local office or CMB.

It is critical that potentially high profile, contentious or sensitive cases be brought to the attention of CMB as soon as possible to ensure that the Department is prepared to explain or justify the treatment given to any specific case. CMB will determine if and when a briefing of senior management is warranted.

10. Processing and moving files from visa offices to CPC-S and to CIC local offices

A citizenship application for an adopted person under section **A5.1** requires that the adoption be finalized before citizenship can be granted. The *Citizenship Act* does not state where the adoption must be completed. Officers may need to make determinations on cases where the adoption has been finalized in Canada and/or where the adopted person is already in Canada.

In assessing whether the adoption meets the requirements of the *Citizenship Act*, cases where the adopted person is already in Canada and/or where they have been adopted in a P/T court in Canada require slightly different handling than those where the adoption has been completed abroad.

10.1. The adoption was completed abroad and the adopted person is outside Canada

When the adoption has been completed abroad and the adopted person is abroad, Part 2 of the application will be assessed by the visa office nearest to the country of habitual residence of the adopted person at the time of the adoption. Once Part 1 of the application has been approved, CPC-S will send a letter to the applicant indicating to which visa office they are to send Part 2 of the application. Once a decision has been made, the visa officer will enter the decision in GCMS, as well as on the physical file in the appropriate section of Part 2 of the application.

10.2. The adoption was completed abroad and the adopted person is in Canada

When the adoption has been completed abroad but the adopted person is already residing in Canada, Part 2 of the application will be assessed by the visa office nearest to the country of habitual residence of the adopted person at the time of the adoption. If, however, the visa officer assessing the file determines that an interview is required, the file may be transferred to CPC-S for a referral to the CIC local office nearest to where the applicant is residing in Canada for an interview and final decision.

Requirements for the file to be returned to Canada:

IF the applicant is already in Canada,

AND the visa officer assessing the file has determined that an interview is required in order to make a decision on the file,

AND the visa officer has convoked the applicant for an interview,

AND the applicant is unwilling/unable to travel to the visa office to attend the interview,

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THEN the file will be transferred to CPC-S, which will forward the file to the CIC local office nearest to where the adopted person resides in Canada, where a citizenship officer will assess the file, conduct the interview, and make a decision.

When returning the file to Canada, the visa officer must ensure that the physical file includes all relevant notes (including print-outs of electronic notes in the Global Case Management System (GCMS), if applicable). As well, the visa officer must ensure that they have made the most complete assessment possible based upon the information available to them, and that it has been included in the notes section of GCMS, with a particular focus on:

- whether or not the documents from the source country appear to be genuine;
- whether or not there are any regional fraud or misrepresentation concerns which a citizenship officer may need to consider in making a decision on the file;
- whether or not the adoption order from the source country meets the standards of a full adoption.

A memo must be added to the file stating:

- a. that this file meets the requirements for processing at a CIC local office in Canada;
- b. the applicant's name, Client ID and Case ID;
- c. the name and address of the adoptive parent(s);
- d. the name and contact information of the visa officer who conducted the initial assessment in case the citizenship officer at the CIC local office in Canada has questions.

A note must also be made in GCMS to explain why the file is being transferred to Canada.

10.3. The adoption was completed in Canada and the adopted person is in Canada

In the event that the adoption is completed in a P/T court in Canada and the adopted person is already residing in Canada, CPC-S will send the file to the CIC local office nearest to where the applicant resides. The visa office nearest to the adopted person's country of habitual residence at the time of the adoption will remain available for investigative support if needed by the citizenship officer.

10.4. Processing of Part 2 of the application at CPC-S

Some Part 2 applications are only processed at CPC-S. In addition to the application having to meet the criteria below, the adoption must have been completed in one of the countries listed at the end of this section in order for CPC-S to assess Part 2 of the application:

The adoption has been completed and the adopted person is residing in Canada on permanent resident status;

OR

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The adoption has been completed, the adopted person and the parents are residing outside of Canada and the person is not destined to Canada within 3 to 6 months, and:

- a) the final adoption predates the Interim Measure (July 2001) (see note below for more information on the Interim Measure);
- b) the adopted person was under the age of 5 at the time the adoption was finalized;
- c) the adopted person is not a relative of the adoptive parent(s) by blood or by marriage;
- d) the adoption is a full adoption, and is not subject to a probationary waiting period;
- e) falsification of documentation is **not** a concern; and
- f) there are no other concerns regarding the status of the adoption.

Note: The Interim Measure, introduced in July 2001, was intended to facilitate a discretionary grant of Canadian citizenship for adopted persons who did not have access to the immigration process due to residency overseas and had no alternative option for becoming Canadian citizens. This measure ended on December 22, 2007 with the coming into force of Bill C-14.

If, at any point during the processing of Part 2 of the application by CPC-S, the application raises complex or problematic issues and can no longer be considered a straightforward case, CPC-S will transfer the file to a visa office or CIC local office to complete the assessment. Visa offices and CIC local offices will work closely with CPC-S to ensure that all citizenship applications under **A5.1** are processed effectively.

List of countries where CPC-S will process Part 2 of the application (the adopted person is not destined to Canada within 3 to 6 months)

Australia, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, the Netherlands, the United Kingdom and the United States of America.

11. Decision making: assessing the requirements under subsections A5.1(1) and A5.1(2)

11.1. Types of scenarios where Canadian citizenship may be granted

The following are some typical scenarios that occur where Canadian citizenship may be granted:

- the adoption was recently completed abroad. The parents reside in Canada and wish to bring the adopted person to Canada;
- the adoption is in the process of completion. The parents reside in Canada and wish to bring the adopted person to Canada once the adoption has been completed;
- the adoption was completed abroad and the adopted person is in Canada. The adopted person is a permanent resident and may be a minor or an adult at the time of applying for Canadian citizenship;
- the adoption was completed abroad and the adopted person and adoptive parents continue to reside outside Canada. The adopted person may be a minor or an adult at the time of the adoption;

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- the adoption is in the process of completion, and the parents and the adopted person reside outside Canada.

Note: In the majority of cases, the adoptive parents are living in Canada and the P/T authority responsible for intercountry adoption for their place of residence does not object to the adoption. The country of habitual residence of the adopted person at the time of the adoption must also approve the adoption (and issue an adoption order) before Canadian citizenship can be granted to the adopted person. However, the application process for a grant of Canadian citizenship under A5.1 allows the applicant to submit Part 1 of the application prior to the completion of the adoption.

11.2. Types of scenarios where Canadian citizenship may not be granted

The following are the types of scenarios that occur where Canadian citizenship may **not** be granted as the legal ties between the adopted person and the biological parents may not have been permanently severed and/or a new permanent parent-child relationship has not been created :

- Adoption has not been finalized;
- Simple adoptions or guardianships; and
- Probationary adoptions.

11.3. Best interests of the child – A5.1(1)(a)

The “best interests of the child” is a concept found in many international legal instruments that deal with children's issues such as the United Nations Convention on the Rights of the Child and the Hague Convention. Thought must be given to the factors of consideration provided in the *Citizenship Regulations* when assessing an application for a grant of Canadian citizenship under A5.1(1) (see applicable subsections and paragraphs under R5.1 and R5.2).

All factors of consideration set out in the *Citizenship Regulations* are intended to support the assessment of an adoption with respect to the “best interests of the child”.

These factors of consideration include:

- the presence or absence of a Hague Convention Certificate of Conformity (for Hague cases) and/or a P/T letter of no objection (for Hague and Non-Hague cases);
- whether or not there is evidence that the pre-existing legal parent-child relationship was permanently severed by the adoption;
- whether or not a home study of the adoptive parents was conducted or approved by a competent authority of the country of intended destination at the time of the adoption;
- whether or not the person was eligible for adoption in accordance with the laws of the person's country of habitual residence at the time of the adoption;

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- whether or not the person's biological parents gave their free and informed consent in writing (if applicable) prior to the adoption (note: biological parents do not need to give consent where the child was adopted as a ward of the State);
- whether or not there is evidence of child trafficking or undue gain.

11.4. Genuine parent-child relationship – A5.1(1)(b) and A5.1(2)(a)

In order to meet this requirement, the adoption must create a genuine parent-child relationship **in law and in fact**.

In order to assist officers in assessing whether or not an adoption has created a genuine relationship between parent and child, they are encouraged to look closely at the nature of the adoption in order to determine:

Whether it was a **full** adoption, meaning an adoption that completely severed the adopted person's legal ties with his or her biological parents or previous legal parents and created a new legal and factual parent-child relationship between the adoptive parents and the adopted person;

Arrangements other than a full adoption, such as a simple adoption or a guardianship, do not sever the adopted person's legal ties with his or her biological parents. Arrangements which are not "full adoptions" do not satisfactorily demonstrate that a genuine parent-child relationship has been established as is required in A5.1(1)(b) and A5.1(2)(a).

Note: In the case of an adoption by a stepparent, it is not expected that the relationship between the adopted person and the remaining biological or legal parent be severed; only the ties with the parent whose parenting role will be assumed by the stepparent upon adoption must be fully severed (for instance, if a stepfather adopts his spouse's child, then the ties between that person and their biological father must be fully severed, as the stepfather is assuming the parenting role of the biological father upon adoption).

The authenticity of the relationship between the adoptive parents and the adopted childperson. The primary purpose of the adoption should be to establish a genuine parent-child relationship and not of assisting the child person in gaining admission to Canada or Canadian citizenship. This should be assessed in conjunction with A5.1(1)(d) and A5.1(2)(b) (see section 11.10 of this chapter for information on adoptions of convenience).

For adult adoptions, a genuine parent-child relationship between the adopted person and the adoptive parents must have existed before the person attained the age of 18 years and at the time of the adoption.

An example of an adult adoption is where an individual is adopted as a foster child by their foster parents after they turn 18 years of age.

Applicants may be requested to provide additional evidence under A23.1 to prove that there was a genuine parent-child relationship before the adopted person turned 18 years of age and at the time they were adopted. In light of A13.2 and A23.1, applications can be treated as abandoned

when an applicant does not respond to requests for documentation or does not attend an interview, when requested, without a reasonable excuse.

11.5. In accordance with the laws of the country of adoption and of the place of residence – A5.1(1)(c) and A5.1(2)(b)

Laws of the place where the adoption took place

The onus is on the adoptive parents to provide evidence that establishes that the adoption was in accordance with the laws of the place where it took place. In most cases, this evidence will be in the form of an adoption order issued by the competent authority where the adoption took place. It is important for officers to examine the circumstances which led to the adoption in order to ensure that the adoption order was not obtained fraudulently. Correspondingly, the adoption order itself should be examined to ensure that the document is not fraudulent and that it conforms to the laws of the country in which the adoption took place.

An adoption petition is not considered satisfactory evidence to establish that an adoption has been completed or is in accordance with the laws where the adoption took place. The adoption petition is a court document in which the adoptive parents make a formal request for permission to adopt a person. The adoption order is the final court document granting the adoption and creating a permanent legal parent-child relationship between the adopted person and his or her adoptive parents.

Officers should be particularly vigilant in assessing adoptions where:

- registration of the adoption order is not a legal requirement in the country where the adoption took place;
- the requirements of the country's adoption laws are not followed strictly;
- the country does not authorize international adoptions; or
- the country's adoption laws do not provide for full adoptions.

In any of these circumstances, the officer must carefully consider whether or not the adoption complies with the laws of the country where it took place, creates a genuine parent-child relationship between the adoptive parents and the adopted person, is fraudulent or is otherwise an adoption of convenience.

Laws of the country of residence of the adopting citizen

A5.1(1)(c) and A5.1(2)(b) also require that the adoption be in accordance with the laws of the country of residence of the adopting citizen. In the majority of cases it will be readily apparent that the adoptive parents reside in a province or territory of Canada. Where there is doubt that the adoptive parents are considered residents of Canada, officers must contact the province or territory in question to seek confirmation from the P/T adoption authority (i.e., request a Certificate of Conformity and/or a letter of no objection regarding the adoption). When it is clear that the adopting citizen's country of residence is not

Canada, officers will have to determine their country of habitual residence based on an assessment of all the circumstances of the case.

Note: The applicant should not be involved in requesting a letter from the P/T adoption authority.

11.6. Did not occur in a manner that circumvented the legal requirements for international adoptions – A5.1(1)(c.1) and A5.1(2)(b)

All adoptions must occur in a manner that conforms with the legal requirements for international adoptions. This requirement is aimed at deterring applicants from attempting to circumvent the intercountry adoption process (e.g., by bringing a child to Canada without the involvement of the competent foreign and/or P/T authorities responsible for international adoptions and obtaining an adoption order directly from a P/T court). If it is determined that the legal requirements for international adoptions have been circumvented, the citizenship application of the adopted person **must** be refused.

Sections 5.1, 5.2 and 5.3 of the *Citizenship Regulations* provide a non-exhaustive list of factors to be considered for different circumstances related to the adoption. For example, in the case of an intercountry adoption which has occurred in Canada, and at the time of the adoption, the adopted person was **habitually resident** in a country **that is a party to the Hague Convention on Adoption**, one of the factors of consideration outlined in paragraphs 5.1(a) and 5.2(a) of the *Citizenship Regulations* includes whether or not the P/T authority responsible for international adoption has stated in writing that in its opinion the adoption was in accordance with the Hague Convention on Adoption (i.e., it provided a Certificate of Conformity) and that it does not object to the adoption.

In the case of an intercountry adoption which has occurred in Canada and at the time of the adoption, the adopted person was **habitually resident** in a country **that is not a party to the Hague Convention on Adoption**, one of the factors of consideration outlined in paragraphs 5.1(b) and 5.2(b) of the *Citizenship Regulations* includes whether or not the P/T authority responsible for international adoption has stated in writing that it does not object to the adoption. Other factors include whether or not the adopted person was eligible for adoption in accordance with the laws of their country of habitual residence at the time of the adoption and whether or not there is no evidence that the adoption was for the purpose of child trafficking or undue gain (note that these factors of consideration in the *Citizenship Regulations* apply only to citizenship applications under the adoption provisions of the *Citizenship Act* of persons who are under 18 years of age at the time of the adoption). In the case of an intercountry adoption which has occurred abroad, and at the time of the adoption, the adopted person was **habitually resident** in a country **that is a party to the Hague Convention on Adoption and their country of intended destination is also a party to the Hague Convention on Adoption**, one of the factors of consideration outlined in A5.1(c) and A5.2(c) the *Citizenship Regulations* includes whether or not the competent authorities responsible for international adoption in both the adopted person's country of habitual residence at the time of the adoption and their country of intended destination have stated in writing that in their opinion the adoption was in accordance with the Hague Convention on Adoption (i.e., it provided a Certificate of Conformity) and that they do not object to the adoption.

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In the case of non-Hague adoptions that occurred abroad, one of the factors for consideration include whether the competent authority of the country of intended destination at the time of the adoption has stated in writing that it does not object to the adoption. Other factors include but are not limited to whether the person was eligible for adoption in accordance with the laws of the child's country of habitual residence at the time of the adoption and whether there is evidence of child trafficking or undue gain. Some circumstances related to the adoption that could assist officers in determining whether or not the legal requirements for intercountry adoption have been circumvented may include:

- The failure of the adoptive parents to involve the foreign or P/T adoption authority in the adoption proceedings when they should have been involved (e.g., assessment of the adoptive parents' suitability to adopt, parent-child matching process, child placement with the adoptive parents, post-placement reporting to the relevant adoption authority, request for the adoption authority's approval of the adoption, etc.);
- The failure of the adoptive parents to disclose their true country of habitual residence;
- The failure of the adoptive parents to declare in advance their intention to remove the adopted person from their country of habitual residence following the finalization of the adoption;
- The failure of the adoptive parents to declare in advance their intention to remove the person to be adopted from their country of habitual residence for the purpose of adoption;
- The failure of the adoptive parents to declare in advance to the receiving country their intention to complete the adoption in that country;
- The failure of the adoptive parents to provide evidence that the adopted person was eligible for adoption in accordance with the laws of their country of habitual residence at the time of the adoption (whether the adoption occurred in the country of habitual residence or outside the country of habitual residence);
- The adoption of a person through a P/T court who is residing in Canada on temporary status (e.g., study permit, temporary resident visa, etc.) despite the fact that the person was habitually resident in another country at the time of the adoption;
- A domestic adoption in a foreign country where the adoptive parents are citizens of that country (dual citizenship) but who are habitually resident in Canada at the time of the adoption;
- The failure of the adoptive parents to provide evidence of compliance with the Hague Convention, in cases where Hague Convention applies;
- Evidence of child trafficking or undue gain.

In cases where it appears that the adoption occurred in a manner in which the legal requirements for international adoptions were not followed, officers should request the expertise of foreign and P/T adoption authorities, as the case may be. This may include contacting the relevant adoption authority to request their opinion on the adoption, **whether or not they should have been involved** (in cases where they were not involved) and whether or not they wish to confirm or retract their stated position on the adoption in their notification letter.

Note: The Hague Convention applies where a child habitually resident in one Contracting State ("the State of origin") has been, is being, or is to be moved to another Contracting State ("the receiving State") either after their adoption in the State of origin by spouses or a person habitually

resident in the receiving State, or for the purposes of such an adoption in the receiving State or in the State of origin.

11.7. Intercountry Adoption Services (IAS)'s role with the P/Ts

Intercountry Adoption Services (IAS) is the federal organization responsible for intercountry adoption issues at the national and international levels. The IAS represents the P/Ts abroad on matters of intercountry adoption, except for Quebec, where the Secrétariat à l'adoption internationale (SAI) plays this role. The IAS facilitates the development of intercountry adoption protocols and promotes the best interests of children adopted from another country by Canadian citizens. It also manages and communicates intercountry adoption issues and information among the P/Ts, other federal departments, foreign authorities and non-governmental organizations and acts as Canada's federal central authority on intercountry adoption under the Hague Convention.

11.8. T Notification letters

P/T adoption authorities have no jurisdiction to consider adoptions that are completed outside of Canada and where, at the time of the adoption, the adoptive parents were not residing in Canada. Therefore, in such situations, P/T adoption authorities typically will not issue a letter of any kind. Officers are instructed not to request letters from P/T adoption authorities where the adoptive parents were not residents of a P/T of Canada at the time of the adoption.

There may be situations, however, where adoptive parents seek to avoid P/T adoption authority involvement in the adoption process, and therefore advise that they were not residing in Canada at the time of the adoption. In such cases, officers must be satisfied that, at the time of the adoption, the adoptive parents were not residents of a P/T of Canada, regardless of whether they were temporarily residing in another country at the time of the adoption. Where there is doubt that the adoptive parents were resident in Canada at the time of the adoption, officers must seek confirmation from the P/T adoption authority (i.e., request a Certificate of Conformity (Hague cases) and/or a letter of no objection (Hague and Non-Hague cases)).

Note: Some P/T letters have expiry dates. If a letter expires before a decision is rendered on the adopted person's citizenship application, the officer assessing the file must request a new letter from the P/T adoption authority.

Type of Letter	Description
<p>Letter of no objection</p>	<p>Where the Hague Convention does not apply and the adoption falls under the jurisdiction of a P/T adoption authority, the P/T adoption authority where the adoptive parents reside must state in writing that it does not object to the adoption. This letter is commonly called a "no objection letter".</p> <p>With respect to adoptions completed abroad, the requirement for a letter of no objection applies only to persons adopted abroad by adoptive parents residing in Canada. If the adoptive parents habitually reside abroad and an adoption takes place abroad, P/T adoption authorities typically will not provide a letter.</p>

<p>Notice (or letter) of Agreement and Certificate of Conformity</p>	<p>In Hague Convention cases, both contracting States must provide a “Notice of Agreement” before the adoption occurs (both contracting States are obligated pursuant to the Hague Convention to issue a Notice of Agreement). Once the adoption has been finalized, a “Certificate of Conformity” (which includes the two Notices of Agreement) must be issued by the State in which the adoption was finalized and this certificate must be provided to the other contracting State.</p> <p>Notice of Agreement (Before the adoption is completed)</p> <p>If the adoption is to be finalized in Canada or if the adoption is to be finalized outside of Canada and the adopted person is destined for Canada, the relevant P/T adoption authority will be asked to forward a Notice of Agreement to the relevant visa office, with a copy to the authority for intercountry adoption in the adopted person’s country of residence, indicating that the P/T adoption authority agrees to the adoption.</p> <p>If the adoption is to be completed outside of Canada and the adopted person was habitually resident in a country that is a party to the Hague Convention and the intended destination is another country that is also a party to the Hague Convention, both of the competent authorities responsible for international adoption of these States should be asked to provide a Notice of Agreement to the relevant visa office.</p> <p>Certificate of Conformity (After the adoption is completed)</p> <p>In cases where the adoption is subject to the Hague Convention and was completed in Canada or where the adoption was completed outside of Canada but where the child is destined for a province or territory in Canada, the relevant P/T adoption authority should either be issuing the Certificate of Conformity or obtain a copy of the certificate which was issued by the other contracting State.</p> <p>In cases where the adoption was completed outside of Canada and the adopted person was habitually resident in a country that is a party to the Hague Convention and the intended destination is another country that is also a party to the Hague Convention, the contracting State where the adoption was finalized must provide a Certificate of Conformity pursuant to the procedures set out in the Hague Convention.</p>
<p>Letter of no involvement</p>	<p>Some P/T adoption authorities issue a letter of no involvement (“no involvement letter”) if an adoption was finalized abroad prior to the adopted person’s arrival in Canada, or where the P/T adoption authority has no legislative authority with respect to the adoption or was otherwise not involved in the adoption.</p> <p>The purpose of the letter of no involvement is to indicate that the P/T adoption authority may not have assessed the criteria of the adoption, given that it is not under its jurisdiction or that the adoptive parents did not involve it when they should have.</p>

11.9. Country of residence of the adopting citizen: Canada

In Canada, P/T adoption authorities are responsible for adoptions in their province or territory. P/T legislation and procedures protect the rights and welfare of children. P/T laws on intercountry

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adoptions normally require that a home study be completed before a P/T adoption authority can approve an intercountry adoption, but not in all cases (i.e., relative adoptions in British Columbia and where the adoptive parents reside outside Canada).

Where the adoptive parents live in Canada, the adoption must comply with the applicable P/T adoption laws (whether it is a domestic or intercountry adoption). Evidence that the adoption complies with the adoption laws of the P/T where the adopting citizen resides (or intends to reside) will be in the form of an adoption order issued by a P/T court (if the adoption was completed in Canada) and/or in the form of a P/T notification letter. The P/T adoption authority is only involved in the adoption when the Canadian citizen parent was a resident of a P/T of Canada when the adoption took place.

11.10. Country of residence of the adopting citizen: not Canada

Where the adoptive parents were habitual residents of a country other than Canada, the officer must obtain the assurance from the competent adoption authorities of the country of residence of the adoptive parents that the adoption conforms to their adoption laws (including where the Hague Convention applies, that the adoption conformed to the Hague Convention). This is essential in order to ensure that the adopted person was eligible for adoption in accordance with the laws of their country of habitual residence.

Where the adoptive parents reside outside Canada, adopt a person while abroad and then return to Canada, officers are reminded to be cautious: some adoptive parents might attempt to circumvent P/T adoption laws by claiming to be not resident in Canada at the time of the adoption. For example, the adoptive parents live in Canada but left the country only temporarily, with the intention of returning to Canada after the adoption has been finalized. For instance, some foreign laws require that the adoptive parents only be in the country of origin of the adopted person for a short period of time (often 3 to 6 months) before the adoption may be finalized. Although the adoptive parents have left Canada temporarily, in such a case, they are still considered resident in Canada.

The officer must determine whether or not the adoptive parents were habitually residents of a P/T of Canada at the time of the adoption for the purpose of A5.1(1)(c), A5.1(1)(c.1) and A5.1(2)(b). Where the officer has any doubt as to whether the adoptive parents are considered residents of a P/T of Canada at the time of the adoption and thus subject to P/T adoption laws, they must seek confirmation by contacting the P/T adoption authority (see above).

11.11. Identifying an adoption of convenience/for the purpose of acquiring a status or privilege – A5.1(1)(d), A5.1(2)(b) and A5.1(3)(b)

If an officer determines that an adoption was entered into primarily for the purpose of acquiring a status or privilege in relation to immigration or citizenship (i.e., an adoption of convenience), the officer **must** refuse the application.

Officers must form their decision based upon factors of consideration which, taken together, could make a reasonably prudent person (balance of probabilities) conclude that the adoption has taken place in order to circumvent the requirements of the IRPA or the *Citizenship Act*.

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No formal criteria exist for deciding whether or not an adoption is *bona fide*. Rather, the officer must look at the relevant information of the case, which typically might include:

- the circumstances of the adoption;
- the whereabouts of the adopted person's biological parents and the nature of their personal circumstances;
- who was included in the adopted person's household before and after the adoption (i.e., did the adopted person continue to live in the same household as the biological parents even after the adoption);
- whether or not the adoptive parents are supplying financial and emotional support to the adopted person;
- the motivation or reasons for the adoption of the person given by the biological parents and the adoptive parents;
- the authority and influence of the adoptive parents over the adopted person;
- the arrangements and actions taken by the adoptive parents related to caring, providing and planning for the adopted person;
- the supplanting of the authority of the adopted person's biological parents by that of the adoptive parents, meaning that the adoptive parents play the "parenting role" in all aspects of the adopted person's life;
- the relationship between the adopted person and the biological parents before the adoption;
- the relationship between the adopted person and the biological parents after the adoption;
- the treatment of the adopted person versus that of the biological children by the adoptive parents;
- the prevailing social and legal practices governing adoption in the adopted person's country of origin;
- in a case where the adoption took place a long time ago, documentary evidence demonstrating that the adopted person has lived with the adoptive parents and that they cared for the adopted person.

This list of factors of consideration is not exhaustive. Some factors of consideration listed may not be applicable to a particular case, while other factors not included in this list may be relevant.

The officer must have evidence, documentary or otherwise, to support his or her decision on the application and, in cases of a refusal, must include reasons for the decision in the refusal letter. In cases of a refusal the adoptive parents may apply for leave for a judicial review of the decision with the Federal Court of Canada.

12. How to assess the factors of consideration related to the requirements of section A5.1 in the decision-making process

Sections R5.1, R5.2, and R5.3 provide a non-exhaustive list of factors to be considered in determining whether the requirements of subsections A5.1(1) and A5.1(2) have been met. These factors of consideration are not requirements; therefore, the presence or absence of any one or more of these factors would not automatically result in the acceptance/refusal of a particular application for a grant of Canadian citizenship under section A5.1. Rather, these factors are to be considered and weighed in each individual case, in order to assist officers in deciding whether or

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not the requirements of subsections A5.1(1) or A5.1(2) have been met for the purpose of granting or refusing an adopted person's application for Canadian citizenship.

The factors of consideration set out in the *Citizenship Regulations* are sufficiently precise so as to inform Canadian citizens who are contemplating adopting a person from another country of the considerations which will guide an officer's decision making when assessing an application for Canadian citizenship made under section A5.1.

The list of factors of consideration also allows officers the necessary flexibility to make appropriate decisions on a wide range of cases under subsections A5.1(1) and A5.1(2). For example, cases may range from an adult who applies for Canadian citizenship after having been adopted at birth to an infant who was recently adopted abroad by a Canadian citizen.

12.1. Home study

In cases where the adoption is not subject to the Hague Convention, the adoption was completed outside of Canada, the adoptive parents are not habitually residents of a P/T of Canada and the intended destination at the time of the adoption is not Canada, one of the factors of consideration is whether or not a home study was conducted or approved by a competent authority of the country of intended destination. This factor of consideration can be linked to one or more of the requirements set out in A5.1. In many jurisdictions, including Canada, an assessment of the prospective adoptive parents and their suitability to adopt is undertaken as a precondition to the adoption in order to uphold the best interests of the child. Therefore, officers are advised to consider whether or not a favourable home study was conducted or approved by a competent authority of the country of intended destination at the time of the adoption and, if not, why such home study was not conducted (e.g., not required by law and/or was not available). It is anticipated that there will be very few cases where a home study has not been conducted or is not available for the officer's consideration.

In the case of an adoption which is not subject to the Hague Convention and where the adoption was either completed in Canada or the intended destination at the time of the adoption is Canada, an officer will request a letter of no objection from the relevant P/T adoption authority, since they have jurisdiction over child welfare matters in Canada. The P/T letter of no objection should be considered an indication that a home study has been conducted and approved (i.e., that the prospective adoptive parents have been deemed suitable to adopt). However, sometimes private adoptions may take place without a proper home study being conducted, even when the adopted person is destined to Canada. This usually results in the relevant P/T adoption authority issuing a letter of no involvement. Where there are doubts as to the reliability of a home study, or in the absence of one, the officer must ensure that the best interests of the child are not at risk or that the legal requirements for international adoptions were not circumvented.

There is **no** need to request a home study if this has already been conducted or approved by a competent authority of the country of intended destination (see A5.1(1)(c)). If an officer has no evidence that a home study has been conducted, the officer may:

- if the parents reside outside Canada and adopt outside Canada, request that the parents provide proof that a home study was conducted and approved by the local child welfare authorities or accredited social workers of the country of intended destination.

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If no home study was conducted at all, the officer may:

- make a request to the competent authority or accredited social workers in the place of intended destination that a home study be conducted;
- if no such service is available, advise the adopting parents to contact International Social Services in the country of intended destination to request that a home study be conducted in order to determine their suitability as adopting parents.

Note: The absence of an approved home study, while an important consideration, would not in itself be automatic grounds for refusing a citizenship application under section A5.1. Rather, the **presence/absence** of an approved home study is a factor to be considered in assessing whether or not one or more of the requirements under section A5.1 have been met.

12.2. The Hague Convention

Under the Hague Convention, countries designate "central authorities" that administer inter-country adoptions in a manner consistent with the provisions of the Hague Convention. In the case of Canada, the P/T adoption authorities have been designated as such central authorities. It is the P/T adoption authorities who must determine whether or not the Hague Convention applies in a particular adoption case.

The Hague Convention requires:

- The central authority in the country where the child is habitually resident (country of origin) to ensure that:
 - ◆ the child is legally free for adoption;
 - ◆ an intercountry adoption is in the child's best interests;
 - ◆ the persons, institutions and authorities whose consent is necessary have been counselled on the effects of their consent and have consented freely and in an informed manner to the adoption and understand the consequences regarding their parental rights;
 - ◆ the decision to place the child for adoption is not motivated by financial gain; and
 - ◆ having regard for the age and degree of maturity of the child, that the child has been counselled on the effects of the adoption, consideration has been given to the child's wishes and opinions and the child's consent has been given freely and in an informed manner.
- The central authority in the adoptive parents' country of residence to which the child has been, is being, or is to be moved (receiving country) to ensure that:
 - ◆ the adoptive parents are eligible and suitable to adopt;
 - ◆ the adoptive parents have been duly counselled; and
 - ◆ the appropriate authorities have decided that the adopted child will be allowed to enter and live permanently in that country.

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In a Hague Convention adoption case, an adoption may be finalized only after the central authorities for adoption of the sending and receiving countries have verified the adoption according to the aforementioned criteria.

In Canada, P/T adoption authorities are responsible for determining whether or not the Hague Convention applies in a particular adoption case where the adoptive parents are residents of a P/T of Canada. If the Hague Convention does apply and the adopting citizen is subject to P/T law by virtue of being a resident of a P/T of Canada, the relevant P/T adoption authority will send a Notice of Agreement (or letter) to the other contracting state and is to provide a copy of this letter to CIC upon request. This Notice of Agreement confirms that the adoption can proceed. The Certificate of Conformity confirms that the adoption conforms to the Hague Convention.

Where the Hague Convention does not apply and the adoptive parents are residents of a P/T of Canada at the time of the adoption, the P/T adoption authority will be asked for a letter confirming that they do not object to the adoption (letter of no objection). The letter of no objection indicates that the P/T adoption authority agrees to the adoption, and that all of their requirements have been met with respect to that P/T's adoption laws.

The Hague Convention applies where both the country of origin and the receiving country are signatories to the Hague Convention (i.e., the Hague Convention has entered into force in both countries). Specifically, the Hague Convention sets out that the Hague Convention shall apply where a child habitually resident in one Contracting State ("the State of origin") has been, is being, or is to be moved to another Contracting State ("the receiving State") either after their adoption in the State of origin by spouses or a person habitually resident in the receiving State, or for the purposes of such an adoption in the receiving State or in the State of origin. Also, countries that are signatories to the Hague Convention are encouraged to apply, to the extent possible, the principles and safeguards of the Hague Convention in every intercountry adoption case, even in Non-Hague cases.

There are two principal regulatory factors that should be considered with respect to an adopted person's citizenship application when the Hague Convention applies in a particular adoption case. If the adoption occurs in Canada and, at the time of the adoption, the adopted person was habitually resident in a country that is a party to the Hague Convention, the P/T authority responsible for intercountry adoption must indicate in writing that the adoption conforms to the Hague Convention. If the adoption occurs outside Canada and, at the time of the adoption, the adopted person is habitually resident in a country that is a party to the Hague Convention and the country of their intended destination is also a party to the Hague Convention, both central authorities responsible for intercountry adoption must provide a statement in writing as to whether or not the adoption conforms to the Hague Convention and whether they do or do not object to the adoption.

Note: The Hague Convention applies when both the sending and receiving countries are signatories to the Hague Convention.

For more information on the Hague Convention, visit CIC's website.

12.3. Notice of agreement to the adoption – Hague Convention cases

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After reviewing Part 1 of the application, CPC-S sends a letter to the relevant P/T adoption authority requesting the issuance of either a letter of no objection (Hague and non-Hague Convention cases), or a Certificate of Conformity (Hague Convention cases) for the proposed adoption (see Annexes, sample letter 1 and 2). The P/T adoption authority must make the determination between the two types of cases and inform the visa office or CPC-S accordingly.

An officer cannot grant citizenship to an adopted child under section A5.1 in Hague Convention cases without a Certificate of Conformity from the competent authorities in the sending and receiving countries.

When an officer has been notified that the procedures for the adoption and/or the adopted child's transfer to the adoptive parents have/has been completed, the officer must verify that the adoptive parents have the right to take the adopted child to Canada (often an adoption order). When the officer has received the adoption order, confirmation that the adoption has been finalized, the officer may grant citizenship to the adopted child.

Report any problems with Hague Convention cases to OMC (Permanent Resident Program Delivery Division, Citizenship Program Delivery Division) when it is related to functional guidance and to CMB.

12.4. Pre-existing legal parent-child relationship

This factor of consideration concerns whether or not the adoption created a genuine parent-child relationship between the adoptive parents and the adopted person in place of the pre-existing parent-child relationship between the biological parents and the adopted child.

Only full adoptions that create a genuine parent-child relationship in law and in fact between the adoptive parents and the adopted person meet the requirements for a grant of Canadian citizenship under section A5.1. Other types of custody arrangements, such as guardianships or simple adoptions, do not terminate pre-existing legal ties between the adopted person and their biological parents. Moreover, guardianships do not have the legal effect of creating a new legal parent-child relationship. Officers must verify that the adoption order issued in the country where the adoption took place has the effect of not only creating a new permanent legal parent-child relationship between the adopted person and the adoptive parents but that it also has the effect of permanently severing the pre-existing legal parent-child relationship between the biological parents and the adopted person.

This is only applicable where one or both biological parents are still alive. This factor of consideration is not relevant in cases of orphaned or abandoned persons, where no pre-existing parent-child relationship exists. In cases where the biological parents are deceased, the officer may request a death certificate or other official document from the relevant local authorities certifying the parents' deaths.

12.5. General guidance on assessing the severance of a pre-existing legal parent-child relationship for grants of Canadian citizenship under subsections A5.1(1) or A5.1(2)

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The term “adoption” under A5.1(1) and A5.1(2) is intended to mean a full adoption which not only creates a new permanent legal parent-child relationship between the adopted person and the adoptive parents but which also permanently severs the pre-existing legal parent-child relationship between the biological parents or previous legal parents and the adopted person. R5.1, R5.2 and R5.3 provide factors of consideration to assist officers in determining whether or not the requirements of subsections A5.1(1) and A5.1(2) have been met. One such factor of consideration is whether or not the pre-existing legal parent-child ties between the biological parents and the adopted person have been permanently severed by the adoption. Specifically, this factor of consideration is listed in the following places in the *Citizenship Regulations*:

Reference to severance of the pre-existing legal parent-child relationship in the <i>Citizenship Regulations</i>			
A5.1(1)	Adopted person is a minor at the time of application	Adoption took place in Canada	R5.1(a)(ii)
			R5.1(b)(iii)
		Adoption took place outside Canada in a Hague Convention country	R5.1(c)(ii)
		In all other cases	R5.1(d)(iii)
	Adopted person is over 18 years of age at the time of application	Adoption took place in Canada	R5.2(a)(ii)
			R5.2(b)(iii)
Adoption took place outside Canada in a Hague Convention country		R5.2(c)(ii)	
	In all other cases	R5.2(d)(iii)	
A5.1(2)	Adoption took place in Canada		R5.3(a)(ii)
	In all other cases		R5.3(b)(ii)

Assessing the severance of the pre-existing legal parent-child ties between the biological parents and the adopted person serves several purposes. It ensures:

- that the best interests of the adopted child are respected;
- that immigration program integrity is upheld by preventing the future sponsorship of the biological parents by the adopted person; and
- that the adoption is a full adoption (as opposed to a simple adoption or guardianship) that meets the requirements of A5.1(1) or A5.1(2).

An assessment of the severance of ties will only apply where the biological parents of the adopted child, with whom they had a legal parent-child relationship prior to the adoption, are still living. This requirement is not relevant in cases of orphaned or abandoned children, where no pre-existing parent-child relationship exists.

12.5.1. No regulation requiring severance of the pre-existing parent-child relationship for citizenship applications under subsection A5.1(3)

There is no factor of consideration in the *Citizenship Regulations* for the severance of the pre-existing legal parent-child relationship for grants of citizenship under A5.1(3) (adoptions for which

the adoptive Canadian citizen parent is subject to Quebec law governing adoptions). The requirement for the dissolution/severing of the pre-existing legal parent-child relationship between the adopted person and their biological parents is found in the Quebec Civil Code and is assessed by the Secrétariat à l'adoption internationale (SAI).

12.5.2. New evidence forwarded to P/T adoption authorities

If, in the course of an assessment of a citizenship application under A5.1, an officer uncovers evidence that may lead the relevant P/T adoption authority to reconsider its statement with respect to the adoption, or where an officer receives new information related to the biological parents' consent to the adoption or child trafficking and/or undue gain issues, this information must be provided to the relevant P/T adoption authority so that it may be given the opportunity to confirm or revise its statement. The *Citizenship Act* and *Citizenship Regulations* do not contain provisions regarding new evidence similar to 117(8) of the IRPA, but a confirmation or revision of its statement by the P/T adoption authority would be a factor of consideration that the officer should take into account in deciding whether or not the requirements of A5.1 have been met. The officer must be satisfied that all relevant requirements of A5.1 have been met before granting citizenship to the adopted person, even if the P/T adoption authority confirms its original approval of or non-objection to the adoption.

12.5.3. Severance of the pre-existing legal parent-child relationship is not a requirement but rather a factor of consideration

An application for a grant of Canadian citizenship under A5.1 can only be refused if it does not meet the requirements of the *Citizenship Act*; a final decision should not be based solely on an assessment of the factors of consideration listed in the *Citizenship Regulations*. The factors of consideration listed in the *Citizenship Regulations* are intended to assist officers in determining whether or not the requirements of section A5.1 have been met.

As a regulatory factor of consideration, the severance of the pre-existing legal parent-child ties between the biological parents and the adopted person should be assessed as an indicator of whether or not an adoption meets the requirements of subsections A5.1(1) or A5.1(2).

However, it is important to note that only an adoption that is recognized in law as a full adoption, where the adoptive parents obtain full parental rights with respect to the adopted child and where the pre-existing legal parent-child relationship was permanently severed by the adoption, meets the requirements of A5.1(1) or A5.1(2). A simple adoption or a guardianship, where the pre-existing legal parent-child ties between the biological parents and the adopted child are not fully and permanently severed, does not meet the requirements for the granting of citizenship to an adopted child under A5.1(1) or A5.1(2).

12.5.4. Assessing the severance of pre-existing legal parent-child ties

Note: For the purpose of this instruction, the term “biological parent” refers to the legal parent with custody of the adopted person prior to the adoption. In rare instances, this person may not, in fact, be a biological parent of the person.

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The adoption laws of some countries indicate that an adoption will fully sever the pre-existing legal parent-child ties between the biological parents and the adopted person. However, where foreign adoption laws are unclear as to whether or not these ties are fully severed by an adoption, officers must determine whether or not the adoption meets the requirements of A5.1(1) or A5.1(2) based on the information available to them.

12.5.5. An example of assessing severance: inheritance rights

The maintenance of inheritance rights is not generally interpreted as prohibiting a full severance of the pre-existing legal parent-child ties between the biological parents and the adopted person with respect to the *Citizenship Act* and *Citizenship Regulations*. However, the maintenance of inheritance rights by an adopted person in relation to their biological parents is one of many possible factors of consideration that should be taken into account by an officer in determining whether or not the pre-existing legal parent-child relationship has been severed. Inheritance rights should therefore be assessed in the overall context of the specific adoption regime of the country in which the adoption took place.

12.6. Free and informed parental consent in writing

In foreign jurisdictions where adoption laws lack clarity about the full and permanent severing of the pre-existing legal parent-child ties between the biological parents and the adopted person, and where the cultural milieu embraces the sharing of parental responsibilities, it is particularly important to ensure that the biological parents fully comprehend that an adoption of a person by Canadian citizens is viewed in Canadian law as fully and permanently severing the pre-existing legal parent-child ties between the biological parents and the adopted person. There have been cases where a biological parent did not realize the consequences of the adoption. In these cases, if applicable, officers should consider whether or not evidence exists establishing that the biological parents of the adopted person have provided their free and informed consent in writing to the adoption. This serves to both assess whether or not the pre-existing legal parent-child ties between the biological parents and the adopted person have been severed, and to support a determination of whether or not the adoption is in the best interests of the child. Fundamentally, it is important that the biological parents understand that adoption entails the establishment of a lifelong, permanent legal relationship between the adoptive parents and the adopted person.

The parental consent process is intended to ensure that prior to the adoption, the biological parents were made aware that their legal ties with their child would be fully and permanently severed by the adoption (if that is the effect of the adoption in the country where the adoption took place or, if the adoption is a simple adoption and will later be converted from a simple adoption to a full adoption in a P/T court), and that they will have no further rights with respect to the parentage of the adopted person. This is particularly important in many countries where it is common practice to send children away in the care of others without the severing of the legal parental rights of the biological parents, and where biological parents do not understand the implications of intercountry adoption.

If an officer is not satisfied that such consent was obtained, the officer may:

interview the biological parents or any of the persons involved in the adoption process.

12.7. Relative adoptions

Where the adopted person is related to the adoptive parents, the pre-existing legal parent-child relationship should be severed under the law. While the biological parents should no longer be acting as parents to the adopted person after the adoption has taken place, an ongoing relationship and contact between the adopted person and the biological parents and extended family may still occur. However, the new parent-child relationship between the adopted person and the adoptive parents should be evident and not simply exist in law. Moreover, evidence that the biological parents fully comprehend the effects of a full adoption and that they have provided their consent to the adoption should also support a determination that the requirements of A5.1(1) or A5.1(2) have been met.

12.8. Open adoptions

In many legal systems, there are typically two main types of adoptions: full adoptions and simple adoptions. As previously mentioned, only full adoptions meet the requirements of A5.1(1) and A5.1(2). An **open adoption** is a variation of a full adoption arrangement where there is disclosure and ongoing contact between the biological parents and the adoptive parents, but where the pre-existing legal parent-child relationship has still been severed. The terms of disclosure and ongoing contact are defined in the adoption order/court document. Interaction between the adopted person and/or adoptive family and the natural family can vary in frequency and type of contact; it may include regular correspondence, telephone calls, or visits. In the case of older children adopted through an open adoption arrangement, the adopted person may have emotional attachments to one or more natural relatives with whom ongoing contact may be in their best interests. While in an open adoption, the adopted person may interact with his or her biological parents to varying degrees, the legal parent-child relationship between the adopted person and the biological parents must be severed. It is important not to confuse open adoptions with simple adoptions, which do not sever the legal link between biological parents and the adopted person.

12.9. Child trafficking and undue gain

Cases may arise where officers will have evidence that child abduction and/or fraud has occurred. There have been cases where adopted persons were abducted.

If an officer suspects that an adopted person was abducted, the officer may:

- interview the biological parents or any of the persons involved in the adoption process.

If the relevant P/T adoption authority is not involved (i.e., the P/T was not obligated to be involved in the adoption as it was completed outside of Canada, the adoption was not subject to the Hague Convention and the adopted person is not destined for Canada or, where the P/T should have been involved and the adoptive parents did not involve it) and the officer has evidence that child trafficking has taken place or that there was undue gain in the process (i.e., a child was sold or improper financial gain took place), the officer should consider refusal of the case on the basis of A5.1(1)(a) and/or A5.1(1)(c.1).

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Adoptions which were for the purpose of child trafficking and/or undue gain contravene international law, Canadian law and most foreign domestic adoption laws. If an officer is considering refusing a case on this basis, the officer **must** contact CMB by email.

12.10. Moratoria on adoptions

Moratoria on adoptions are imposed on countries where there is evidence that satisfactory infrastructure does not exist to ensure that the best interests of adopted children are respected. Of primary concern are situations of child abduction and trafficking, or the removal of children from their families without proper parental consent, and where prospects for improvement in the country in the absence of international pressure appear remote.

CIC does not have the authority to impose moratoria on adoptions on foreign countries. Rather, only the P/T adoption authorities, by virtue of their jurisdiction over adoption matters in Canada, can do so. IAS and CIC work together with the P/T adoption authorities to establish consensus on the imposition of moratoria, and the conditions under which they may be lifted.

When a moratorium on adoptions is imposed on a specific country, P/T adoption authorities will decline to issue letters outlined in the factors of consideration in the *Citizenship Regulations* (or the case of adoptions where the adopted person is destined for Quebec, A5.1(3)(a)) for a grant of Canadian citizenship to an adopted person under A5.1.

In cases where P/T adoption authority jurisdiction does not apply (e.g., the adoptive parents were not residents of a P/T of Canada at the time of the adoption, have undertaken a domestic adoption abroad and have not or will not be bringing the adopted person to Canada to reside), there will be no P/T adoption authority involvement, and a moratorium on adoptions will not be enforceable by P/T adoption authorities. In these instances, officers are responsible for assessing all criteria related to the adoption, and the adoption must be scrutinized carefully by the officer to ensure that all of the relevant requirements of A5.1 have been met and that the best interests of the child have been protected.

Note: OMC (Permanent Resident Program Delivery Division and/or Citizenship Program Delivery Division) will liaise with IAS and the P/T adoption authorities regarding countries upon which moratoria on adoptions have been imposed. To view current moratoria, visit CIC's website.

13 Quebec adoptions – A5.1(3)

Under the Civil Code of Quebec, adoptions from non-Hague countries can only be fully completed for the purpose of meeting the requirements of Quebec adoption laws once the adoption is recognized by a court in Quebec (reconnaissance du jugement d'adoption étranger), which takes place after the arrival of the adopted person in Quebec (this is not the same situation as an FC6 case – child to be adopted in Canada— as the adoption must have occurred abroad in order for an adopted person to be eligible for a grant of Canadian citizenship under A5.1(3)). Under A5.1(3)(a), citizenship can be granted to adopted persons destined to Quebec if the Quebec adoption authority notifies CIC, in writing, that the adoption meets the requirements of Quebec law governing adoptions. The Secrétariat à l'adoption internationale (SAI) is the adoption authority

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responsible for international adoptions in Quebec. An officer may grant citizenship if the following criteria have been met:

- a full adoption (for more information, see section 6 of this chapter) took place abroad;
- at least one adoptive parent was a Canadian citizen at the time of the adoption or, if the adoption took place prior to January 1, 1947, became a citizen on that day;
- the Quebec authority responsible for international adoptions advises, in writing, that the adoption meets the requirements of Quebec law governing adoptions (Déclaration en vertu de la Loi sur la citoyenneté canadienne); and
- the adoption was not entered into primarily for the purpose of acquiring a status or privilege in relation to immigration or citizenship.

Note: If Canadian citizenship is granted to an adopted person destined to Quebec prior to their arrival in Quebec, and the adoption is subsequently not recognized in a Quebec court (“jugement de reconnaissance de l’adoption”), the adopted person will not lose Canadian citizenship if it has already been granted under A5.1(3).

14 Establishing identity and relationships

Applicants may be requested to provide additional evidence under A23.1 to support their application. This includes information to establish identity and relationships. Applications can be treated as abandoned when an applicant does not respond to requests for documentation or does not attend an interview, when requested, without a reasonable excuse.

The parties to an application for a grant of Canadian citizenship under section A5.1 usually (but not exclusively) refer to the adoptive parents, the adopted person and, if applicable, the adopted person’s biological parents or legal guardian. At any point in the process, officers must be satisfied, on a balance of probabilities, with the evidence accompanying an application for a grant of Canadian citizenship for an adopted person made under A5.1.pertaining to the identities of the parties and the relationships between them.

The onus is on the applicant to provide evidence of the identities of and relationships between the parties to an application for a grant of Canadian citizenship under section A5.1. Applicants should be advised to answer officers’ questions truthfully, as well as to provide any necessary supporting information and/or documentation requested by an officer in order to allow them to make an informed decision on the application.

Examples of documents to help establish identity include government-issued documents such as a birth certificate, passport, driver’s licence, national identity card or health card. Non-governmental documents, such as bank records or employment records, may also be used to establish identity.

Applicants may provide evidence of their relationships with other people using, for example, birth, baptismal, marriage or adoption certificates.

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Where necessary, applicants may use other types of official records. These may include voter registration lists, military records, old passports, income tax forms, school records, household registries, hospital records, identity cards and old immigration records.

An officer may consider declarations made by bank officers, religious leaders, police officers or other civic or government officials as an indication of a person's identity or of a relationship. This declaration, however, cannot be made by relatives or friends. While an officer should consider all information presented, each piece of information should be carefully evaluated on its own merits in the context of the application in question. When considering these types of documents, officers should, at a minimum, consider the following:

- is the document genuine?;
- does it belong to the applicant, or does it come from a third party?;
- does it provide evidence of the person's identity or relationship to another person?;
- does it predate the application for citizenship?

Documents will vary depending on the applicant's country of residence. Any document on its own may fail to provide evidence of identity or relationship. Documents should be consistent with one another, and weighed according to their reliability and relevance. An officer may need to compare documents if earlier versions of, for example, household registries, hospital birth records or national identity cards exist. It is important to carefully examine identity or relationship documents which postdate interest in Canadian citizenship or immigration to Canada.

In cases where documents were issued to replace lost or stolen documents, it may help to compare documents, such as adoption decrees, identity cards, etc., with those provided by other applicants in the same or similar circumstances.

When in doubt, an officer may consult:

- the visa office in the country where the document was issued; and
- the agency which issued the document.

14.1. DNA testing

Where it is necessary to establish a biological relationship (e.g., to determine if the person giving the person up for adoption is the biological parent) and it cannot be established through documentation, officers may suggest that individuals undergo DNA testing.

CIC's policy is to accept positive DNA test results from laboratories accredited by the Standards Council of Canada as valid proof of a parent-child relationship. The test involves the comparison of DNA profiles based upon samples taken from persons claiming to be the natural father, mother or child(ren). If conducted properly, the test is considered a highly reliable means of certifying a genetic parent-child relationship (see CP3– Establishing Applicant's Identity, Section 5 and OP1, Sections 13 and 14 for details regarding DNA testing procedures and list of accredited laboratories in Canada).

14.2. Interviews

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When examining an application made under A5.1, officers may request that the applicant or another party to the adoption attend an interview. Officers should call people for an interview only when it is essential in assessing a citizenship application. Interviews can help to confirm a person's identity and relationships pertinent to the adoption and application. Interviews may also provide answers to questions or concerns raised by the application.

If an officer suspects an adoption of convenience, an interview with the adoptive parents should be conducted and, if applicable, a separate interview with the biological parents to identify discrepancies. The officer should ensure that the principles of natural justice and procedural fairness are followed when assessing the file. The officer should inform the applicant of their concerns and provide them the opportunity to respond to those concerns. The officer should record all questions posed to the applicant and their answers (see Annexes, letter template 10 for an interview request letter template).

14.3. The use of GCMS when processing an application

It is essential to record in GCMS any relevant processing information related to action taken on a file. The notes recorded in GCMS should include:

- documents requested and date requested;
- last action taken;
- any information as to why an application is on hold or processing of it is not yet finalized;
- the interview date, time and who attended, if an interview is scheduled;
- interview notes, if applicable;
- any information pending prior to a decision;
- if a final decision was made, file notes, thoughts and rationale for that decision.

14.4. Applying the principles of natural justice when assessing an application

As the delegated decision maker on behalf of the Minister for grants of Canadian citizenship pursuant to A5.1 of the *Citizenship Act*, the officer has to apply the principles of natural justice in the decision-making process. The principles of natural justice exist as a safeguard for individuals in their interactions with the state. These principles stipulate that whenever a person's "rights, privileges or interests" are at stake, there is a duty to act in a procedurally fair manner.

The principles of natural justice concern the general manner in which a decision is made. Essentially, procedural fairness does not concern the correctness of the decision. Rather, principles of natural justice help to ensure that the decision maker followed the proper procedure in arriving at their decision. The principles of natural justice and procedural fairness are based upon the theory that the substance of a decision is more likely to be fair if the procedure through which that decision was made has been just.

While the principles of natural justice embody several important rules of procedural fairness, the twelve most common rules are the following:

1) Notice

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The applicant must be given adequate notice of the nature of the proceedings and of the issue to be decided.

2) Disclosure

Depending on the nature of the case, all evidence to be used against an applicant must be disclosed.

3) Opportunity to present one's case

The applicant has the right to know the case against them and must be provided with an opportunity to present whatever evidence they wish to be considered. Note that where the credibility of the individual is at issue, the principles of natural justice and procedural fairness usually require an interview.

4) Opportunity to respond

When the decision maker uses extrinsic evidence not presented by the applicant, the finder of fact must allow the applicant an opportunity to know and respond to the evidence presented.

While an officer is not always required to draw perceived contradictions to the applicant's attention, there may be instances where a failure to do so may result in a breach of procedural fairness. For example, if a contradiction is so critical as to be decisive in the applicant's case, it is good practice to put the contradiction to the applicant and allow them an opportunity to respond.

5) Duty to consider all of the evidence

The decision maker is required to consider all of the relevant evidence and information pertaining to a specific case.

6) Right to counsel

In some cases, fairness will dictate that the applicant be granted the right to counsel.

7) Right to an interpreter

In some cases, fairness will dictate that the applicant be granted the right to an interpreter.

8) Legitimate expectation

Where a person has been assured by a statutory authority that a particular procedure will be followed, the individual is entitled to that procedure.

9) Right to impartial decision maker/freedom from bias

Procedural fairness is violated when the decision maker is biased or their conduct or statements raise a reasonable apprehension of bias.

10) Institutional independence/they who hears must decide

The decision maker must be independent. Institutional independence requires that the person entrusted with making a decision has sufficient decision-making independence such that there is a perception of independence and impartiality.

There is a general requirement that the person who hears the case is the only person that should make a final determination on the case.

11) Delay

The premise is that unreasonable delay may cause prejudice toward the applicant and may therefore breach procedural fairness.

12) The right to reasons

The right to reasons exists particularly where the applicant has a right to make an appeal or to seek judicial review regarding a decision on a case and needs to know the reasons for the decision in order to properly prepare for the appeal or judicial review. The reasons must be sufficiently clear, precise and intelligible to enable the individual to understand the basis of the tribunal's decision.

15. Adoptions finalized in Canada (in a P/T court)

A citizenship application for adopted persons under A5.1 requires that the adoption be finalized before citizenship can be granted to the adopted person. The *Citizenship Act* does not specify where the adoption must be completed. Officers may need to make determinations on cases where the adoption has been finalized in Canada by a P/T court.

In assessing whether or not an adoption meets the requirements of the *Citizenship Act* and *Citizenship Regulations*, cases for which adoptions have been completed in Canada require slightly different handling than those for which adoptions have been completed abroad.

15.1. Assessing the legality of the adoption

To meet the requirements of **A5.1(1)(c)**, an applicant must demonstrate that the adoption was in accordance with: 1) the laws of the place where the adoption took place, and 2) the laws of the country of residence of the adopting citizen.

In the case of an adoption finalized in Canada by a P/T court, both 1) and 2) will be the province or territory where the adoption order was issued.

The circumstances under which the adopted person became available for adoption in their country of habitual residence and whether or not the person was eligible for adoption in accordance with the laws of the country of habitual residence at the time of the adoption should be evaluated, but the focus of such an evaluation should be very clearly linked to requirements under **A5.1**.

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An officer may ask whether the circumstances in the country of habitual residence of the adopted person raise questions about the genuineness of the parent-child relationship, the motives for the adoption (e.g., was it an adoption of convenience?), the best interests of the child and whether or not they have an impact on the adoption's legality in the province or territory in which it was completed (e.g., the adopted person did not obtain the required exit permit from their country of habitual residence).

15.2. Receiving letters from the P/T adoption authority – “No involvement” rather than “No objection”

The *Citizenship Regulations* specify that for adoptions completed in Canada, the relevant P/T adoption authority should supply a “letter of no objection” regarding the adoption.

However, in cases where the adoption has been completed in the province or territory of residence of the adoptive parents as a domestic adoption (as opposed to an intercountry adoption), the relevant P/T adoption authority typically has not been involved in the adoption process and therefore has no ability to issue a “letter of no objection”. In these circumstances, the P/T adoption authority will typically issue a “letter of no involvement”.

Note that the “letter of no involvement” (when accompanying a P/T adoption order) is not the same as when a P/T adoption authority refuses to issue a “letter of no objection” because it suggests that the adoptive parents have not met their requirements regarding the adoption.

15.3. Adoptions in or outside Canada and the Hague Convention

Regarding adoptions subject to the Hague Convention which were completed outside of Canada, the *Citizenship Regulations* state that the competent authorities responsible for international adoption in the country of habitual residence of the adopted person and in the country of their intended destination must state in writing that in their opinion the adoption was in accordance with the Hague Convention on Adoption (a Certificate of Conformity). Here, if the country of intended destination is Canada, the P/T adoption authority of the province or territory of intended destination will be requested to provide a copy of the Certificate of Conformity issued by the central authority of the country where the adoption was completed.

However, in the case of an adoption subject to the Hague Convention which was completed in Canada, the *Citizenship Regulations* specify as a factor of consideration that only the provincial authority responsible for international adoption (i.e., the P/T adoption authority) has stated in writing that in its opinion the adoption was in accordance with the Hague Convention (a Certificate of Conformity). In accordance with the procedures set out in the Hague Convention, since the adoption was completed in Canada, it is Canada's obligation (which falls to the P/Ts because of their jurisdiction over adoptions in Canada) to provide a Certificate of Conformity to the country of habitual residence of the adopted person. It is a copy of this document that officers should request from the P/T adoption authority and which should be taken into consideration in determining whether or not the requirements of the adoption provisions of the Citizenship Act have been met, in particular whether or not the adoption circumvented the legal requirements for international adoptions (A5.1(1)(c.1) and A5.1(2)(b)).

15.4. The impact of a P/T adoption order regarding the requirements under A5.1(1) and A5.1(2)

When an adoption is finalized in Canada, a P/T adoption order can serve as strong prima facie evidence that the first three requirements of 5.1(1) (best interests of the child, genuine parent-child relationship, and that it was in accordance with the laws of the place where the adoption took place and the laws of the country of residence of the adopting citizen), as well as the first requirement of 5.1(2)(b) (that it was in accordance with the laws of the place where the adoption took place and the laws of the country of residence of the adopting citizen) of the *Citizenship Act* have been met.

Despite the value attached to a P/T adoption order, an officer may look beyond it to make an assessment on a citizenship application when circumstances warrant it (e.g., taking into account the particular facts of the case and/or the adoption laws of the P/T jurisdiction where the adoption order was issued; this should only occur where fraud is suspected). As with all refusal decisions, it is important that any refusal that may be made on such a case includes a strong and clear rationale for the decision.

The fifth requirement of A5.1(1) and the fourth of A5.1(2), that the adoption was not entered into primarily for the purpose of acquiring a status or privilege in relation to immigration or citizenship, is not considered by the P/T court. It is the only requirement that is solely considered and assessed by an officer.

A5.1(3) is not used for adoptions which are finalized in Canada. A5.1(3) pertains to adoptions completed outside of Canada and where the adoptive parent is subject to Quebec law governing adoptions. A5.1(3) **only** applies to intercountry adoptions (a person domiciled in Quebec who adopts a person domiciled outside of Quebec) that have either been completed outside of Canada or in Quebec. As such, where an adoption order has been obtained from a Quebec court and where the court has treated the adoption as a domestic adoption (i.e., both the adopting citizen and the adopted person were domiciled in Quebec), A5.1(3) will not apply. These cases are to be treated under either A5.1(1) or A5.1(2), depending upon the age of the adopted person at the time of the adoption.

Note: Part 2 of the application for an adopted person whose the adoption.

Guidelines for writing refusal letters for Part 2 of the application adoption was completed in a Quebec court as a domestic adoption (i.e., the adopted person was domiciled in Quebec) is to be assessed against the requirements of A5.1(1) or A5.1(2), depending upon their age at the time of

16. Recommendations to assist officers in writing refusal letters for citizenship applications subject to A5.1.

Sample refusal letters can be found in the attached Annexes.

When an officer makes the decision to refuse a citizenship application subject to A5.1, a letter is sent to the adoptive parents or the legal guardian of the adopted person (or directly to the

adopted person, in the case of adult applicants), informing them of the decision and the reasons for the decision.

Do not base refusals solely on the *Citizenship Regulations*

Unlike the IRPR for applications under the immigration stream, the *Citizenship Regulations* alone cannot be used to provide a ground for refusing a citizenship application subject to A5.1. The *Citizenship Regulations* provide officers with factors of consideration in determining whether or not the requirements of A5.1 have been met. However, **a failure to satisfy regulatory factors of consideration cannot be used as the sole basis for a decision to refuse a citizenship application.**

The decision on an application must be based on the legislative requirements of A5.1. The reasons for a refusal must be clearly explained to the applicant in a refusal letter. Officers may incorporate their assessment of the regulatory factors of consideration into the refusal letter, as long as those factors are clearly linked to the requirements of A5.1 that have not been met.

Do not use IRPA/IRPR terminology in a citizenship application refusal letter

While the requirements that must be met in order for an adopted person to obtain Canadian citizenship under A5.1 are similar to the requirements for adopted persons in obtaining permanent residence in Canada under the IRPA, officers must ensure that they use the correct terminology in writing refusal letters. IRPA/IRPR terminology and definitions may not be used when writing a refusal letter for an application made under the *Citizenship Act*.

Ensure accuracy in citing the *Citizenship Act*

All references to the *Citizenship Act* and *Citizenship Regulations* must be clearly and accurately cited in refusal letters. Judicial review is permitted for cases that have been refused and, in the past, some files have been returned to CIC for redetermination because the officer made a typing error when citing sections of the *Citizenship Act* and/or *Regulations*. Citing the correct section of the *Citizenship Act* in refusal letters is also extremely important. When using the sample refusal letters, be sure to use the correct template for the case at hand.

- If the adopted person was **under 18 years of age** when the adoption took place and was not destined to the province of Quebec, A5.1(1) should be cited. Paragraphs (a) through (d) outline the requirements.
- If the adopted person was **18 years of age or older** when the adoption took place and was not destined to the province of Quebec, A5.1(2) should be cited. Paragraphs (a) and (b) outline the requirements.
- If a decision regarding the adoption took place abroad and the adoptive parent is subject to Quebec law governing adoptions (regardless of age), A5.1(3) should be cited. Paragraphs (a) and (b) outline the requirements.

As previously stated, an assessment of the regulatory factors of consideration in the refusal letter must always be clearly linked to the relevant legislative requirements of the *Citizenship Act* that have not been met.

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A5.1(3) (pertaining to persons adopted abroad and where the adoptive parent is subject to Quebec law governing adoptions) does not have associated regulations within the *Citizenship Regulations* specifying the factors that need to be considered.

The *Citizenship Regulations Number 2* associated with applications under A5.1(3) specify the materials that must be submitted with an application subject to A5.1(3) (e.g., evidence of the date and place of birth of the adopted person, evidence that the adoptive parent was a Canadian citizen at the time of the decision that was made abroad in respect of the adoption or, if the adoption took place prior to January 1, 1947, evidence that they became a citizen on that day, etc.). However, unlike A5.1(1) and A5.1(2), A5.1(3) does not have corresponding factors of consideration in the *Citizenship Regulations* regarding informed consent by the birth parent(s) to the adoption or the severance of the pre-existing legal parent-child relationship, etc.

For more information on determining whether or not the pre-existing legal parent-child relationship has been permanently severed by the adoption, see section 12.5 of this chapter.

The relevant sections of the *Citizenship Regulations (CR)* and *Citizenship Regulations Number 2 (CR2)* include:

- R5.1 (CR), R5 (CR2) which applies to applications made under A5.1(1) where the adopted person is under 18 years of age on the date of the application;
- R5.2 (CR), R6 (CR2) which applies to applications made under A5.1(1) where the adopted person is 18 years of age or older on the date of the application, but was under 18 years of age at the time of the adoption;
- R5.3 (CR), R7 (CR2) which applies to applications made under A5.1(2)
- R8 (CR2), which applies to applications made under A5.1(3) where the adopted person is under 18 years of age on the date of the application; and
- R9 (CR 2), which applies to applications made under A5.1(3) where the adopted person is 18 years of age or older at the time of the application.

17. Final decision

17.1. Recording the final decision

After making a final decision on an application under A5.1, the officer must include their full name, the date and the place of the decision in the decision section of GCMS, as well as on Part 2 of the application as granted or refused. The date of the decision must be the same on Part 2 of the application and in GCMS.

It is essential that priority be given to entering decision information into GCMS so that it is not only available on the paper file. As well, officers are to attach their decision letters to GCMS records as Microsoft Word documents.

If the application is refused, prepare and send the appropriate refusal letter to the applicant (see Annexes)

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If the application is approved, send the approval letter to the applicant. This letter is used by applicants as part of the documentation to support an application for a Canadian passport at a consular office.

Note: The approval letter for Part 2 of the application is not a proof of citizenship and cannot be used as such. For applicants indicating that they will be applying for a Canadian passport for the adopted person, notification of the decision to grant Canadian citizenship to the adopted person should be sent to the appropriate consular office (see section 18 of this chapter for information on travel to Canada).

17.2. Signature of the officer

The officer must sign, date, print their name and indicate the place where the decision took place on Part 2 of the application in the designated section “**For Official Use Only**” at the top of the application. They must also indicate whether citizenship is granted or refused. If citizenship is granted, they must specify whether the citizenship certificate will be sent to a Canadian address or to a visa office outside of Canada.

17.3. Judicial review

An applicant may apply to the Federal Court of Canada for a judicial review of a negative decision on a citizenship application made under A5.1. As is the case for immigration applications under the IRPA, there is a leave provision for citizenship cases under the *Citizenship Act*. This means that if an applicant would like to request a judicial review of a negative decision on a citizenship application under A5.1, they must first apply to the Federal Court for leave and it must be granted before the case can proceed to an oral hearing before a Federal Court judge. The applicant has thirty (30) days from the date the decision was communicated to them to apply for leave for a judicial review of the decision on their citizenship application (for more information on judicial review, see the program delivery instructions Citizenship administration: Judicial review and appeals).

17.4. Preparation and distribution of citizenship certificates

CPC-S is responsible for the preparation of citizenship certificates for adopted persons. It will prepare the citizenship certificate once notification of the decision to approve the application is received from the officer, with the information and photo provided by the applicant on the **Canadian Citizenship Certificate Preparation Form**. Applicants are requested to submit the *Canadian Citizenship Certificate Preparation Form* and photographs in the letter from CPC-S notifying them of the approval of Part 1 of the application.

A citizenship certificate is not required prior to travel to Canada following a grant of Canadian citizenship. For applicants returning to Canada, they will likely travel back to Canada before receiving the citizenship certificate. As such, CPC-S will prepare and mail the citizenship certificate to the mailing address provided by the applicant. For applicants remaining outside of Canada, the citizenship certificate will be mailed to the visa office responsible for the applicant’s area of residence. The visa office will arrange to have the citizenship certificate sent to the

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applicant either by mail or by courier, depending on the visa office's current practice for distributing similar documents.

17.5. Transfer of the file to CPC-S for archiving

Once a final decision has been made on an application for a grant of Canadian citizenship under A5.1, the complete file must be sent to CPC-S for archiving. If Canadian citizenship is granted to the adopted person, the file must be sent to CPC-S immediately. Once the physical file and the *Canadian Citizenship Certificate Preparation Form (CIT0480)* are received at CPC-S, citizenship certificate preparation will be initiated.

If Canadian citizenship is refused, the visa office or CIC local office should keep the file in its possession for one hundred and eighty (180) days in the event that the applicant requests a judicial review of the application. The period of time allowed for submitting an application for leave for judicial review is thirty (30) days from the date the decision was first communicated to the applicant. In the case of a judicial review, the file should be kept by the visa office or CIC local office for the duration of the judicial review period before sending it to CPC-S for archiving.

The visa office should keep a certified photocopy of Part 2 of the application, prepared for CPC-S in the event that the original goes astray in the mail. This copy should be kept for two (2) years, as per the standard practice for file retention for other departmental paper files.

17.6. Refund of the Right of Citizenship fee in case of refusal

If an application is refused, the applicant has the right to a refund of the \$100 Right of Citizenship fee, if it was paid (the fee only applies to citizenship applications of adults; it does not apply to citizenship applications of minors). The refund will be processed and mailed directly to the applicant by CPC-S at the file archival stage.

18. Travel to Canada

Many cases involve families who intend to return to Canada once all adoption and citizenship processes have been finalized. Once Canadian citizenship has been granted to an adopted person, a citizenship certificate is issued; however, a citizenship certificate is not a travel document. Most applicants will likely want or need to travel to Canada before the citizenship certificate is issued. A Canadian passport or an immigration facilitation visa in the passport of the adopted person's country of origin is required in order to travel to Canada.

Depending on the country where the adopted person resides, it may or may not be possible for them to obtain a Canadian passport for travel to Canada. Some countries do not allow adopted persons to leave on any travel document other than their national passport, in which case a facilitation visa will be required.

In situations where it is possible for the adopted person to leave on a Canadian passport, and where consent has been received from the adoptive parents for the adopted person to travel on a Canadian passport, the officer will notify by e-mail the appropriate consular office. Applicants may apply for a Canadian passport for the adopted person at the consular office responsible for

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issuing Canadian passports in the country where the adopted person resides, or at the consular office where the visa office that processed the citizenship application is located. The officer will also provide the adoptive parents with a letter advising them that Canadian citizenship has been granted to the adopted person. Applicants may present this letter to consular officials when applying for a Canadian passport for the adopted person.

If the applicant has no intention of travelling in the near future and lives outside of Canada, the application can be processed in the same manner as any other citizenship application for a foreign-born adopted person and the citizenship certificate will be mailed by CPC-S to the visa office and forwarded by the visa office to the applicant.

18.1. Facilitation visa

In certain situations, it is not possible or would cause hardship for the adopted person to apply for and travel to Canada on a Canadian passport. If required, it is possible for the adopted person to obtain a facilitation visa through the visa office once they have been granted Canadian citizenship. The facilitation visa is placed in the passport of the adopted person's country of origin (or **the Single Journey Travel Document (SJTD)**, if the adopted person is unable to obtain a travel document from their country of origin), and will enable them to travel to Canada for the first time. A fee is charged for the processing of the facilitation visa. If the adopted person is from a visa-exempt country, then they would not require a facilitation visa (however, they would still require a valid travel document in order to be able to travel to Canada).

Applicants must indicate on Part 2 of the application (or in a separate letter) if they wish to obtain a facilitation visa. In situations where a facilitation visa is the only feasible option for the adopted person to leave their country of residence, visa offices should take appropriate steps to inform applicants of this fact in advance. Applicants should also be advised well in advance that a foreign passport is required in order for the facilitation visa to be issued. In situations where it is not possible for the adopted person to obtain a passport from their country of origin, an SJTD may be issued to them.

Note that the facilitation visa option is available to all adopted persons who are granted Canadian citizenship, as the applicant may not wish to apply for a Canadian passport. However, where an adopted person does not need to travel to Canada immediately and it is possible for them to leave their country of origin on a Canadian passport, they should obtain a Canadian passport. A facilitation visa should not normally be issued unless travel to Canada is imminent and necessary. The document has a one hundred and eighty (180) day validity and is a single-use document. It is important that the visa officer record in GCMS the Client ID number under which the facilitation visa was issued.

18.2. Exit permits

Some countries may require adopted persons to obtain an exit permit in order for them to leave their country of origin to travel to Canada. This is not a requirement for a grant of Canadian citizenship under A5.1; however, local procedures should be followed prior to travelling to Canada. The visa office may need to issue a letter confirming that the adopted person was granted Canadian citizenship to support an application for an exit permit.

Appendix A Letter sent to P/T adoption authorities (except for Quebec) from CPC-Sydney

Case Processing Centre – Sydney – ADOPTION

P.O. Box 10030

Sydney NS B1P 7C1

CLIENT ID:

Date:

(Insert P/T adoption authority address)

Dear Sir/Madam,

We received an *Application for Canadian citizenship for a person adopted by a Canadian citizen* on behalf of:

Name of the person (if known):

Date and place of birth (if known):

Country of residence of the person:

Date and place of adoption (if adoption has already taken place):

The adoptive parents' complete names and address are:

(Name and address (home and mailing) of the adoptive parents)

In order that we may make a determination on whether or not to grant Canadian citizenship to the person in question, we ask that you please confirm in writing:

- whether or not the adopting parent is a resident of your province or territory, and if so, please confirm whether or not the adoption is in accordance with the laws of your province or territory so what we may determine whether the applicant for Canadian citizenship meets the requirements of paragraph 5.1(1)(c) of the *Citizenship Act*;
- in the case of an adoption which is subject to the Hague Convention (which either occurred in Canada or outside of Canada where the adopted person is now residing or where they are

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destined to your province or territory), whether or not you object to the adoption for the purposes of subparagraph 5.1(a)(i), 5.1(c)(i), 5.2(a)(i) or 5.2(c)(i) of the *Citizenship Regulations* and provide a copy of the Certificate of Conformity;

- in the case of an adoption which was completed in Canada where, at the time of the adoption, the adopted person was habitually resident outside Canada in a country that is not a party to the Hague Convention, whether or not you object to the adoption for the purposes of subparagraph 5.1(b)(i) or 5.2(b)(i) of the *Citizenship Regulations*;
- in the case of an adoption of a person who is 18 years of age or older, whether or not you object to the adoption for the purposes of subparagraph 5.3(a)(i) or 5.3(b)(i) of the *Citizenship Regulations*.

Please send your letter(s) to the following address:

(Address and fax number of the office responsible for processing Part 2 of the application)

PLEASE CLEARLY INDICATE IN YOUR LETTER WHETHER OR NOT THE HAGUE CONVENTION APPLIES IN THIS CASE.

Thank you for your prompt attention and co-operation in this matter.

Citizenship Officer

Case Processing Centre – Sydney

Appendix B Letter sent from CPC-Sydney to *Le Secrétariat à l'adoption internationale* in Quebec

Centre de traitement des demandes – Sydney – ADOPTION - C.P. 10030

Sydney (Nouvelle-Écosse) B1P 7C1

N° du client :

Date :

(Adresse de l'autorité d'adoption provinciale/territoriale)

Madame, Monsieur,

Nous avons reçu une *Demande de citoyenneté canadienne pour une personne adoptée par un citoyen canadien assujetti à la législation québécoise régissant l'adoption. Les détails relatifs à la demande sont :*

Nom de la personne (si connu) :

Date et lieu de naissance de l'enfant (si connu) :

Pays de résidence de la personne :

Date et lieu de l'adoption :

Nom et adresse (résidentielle et postale) des parents adoptifs :

Tel qu'indiqué dans la *Loi sur la citoyenneté* à l'alinéa 5.1(3)(a), nous vous demandons de fournir une lettre nous indiquant que la décision rendue à l'étranger prononçant l'adoption est conforme aux exigences du droit québécois régissant l'adoption.

Veuillez faire parvenir cette lettre à l'adresse suivante

(Adresse et numéro de télécopieur du bureau responsable du traitement de la Partie 2 de la demande)

Merci de votre collaboration et de l'attention que vous porterez à cette demande.

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Agent(e) de citoyenneté

Centre de traitement des demandes – Sydney

Appendix C Multiple application insert

**** THIS DOCUMENT CONTAINS IMPORTANT INFORMATION THAT YOU MUST READ ****

Case Processing Centre – Sydney – ADOPTION

P.O. Box 10030

Sydney NS B1P 7C1

Client ID:

Immigration File Number (if applicable):

Date:

Dear (Applicant's name):

This is in reference to your *Application for citizenship for a person adopted by a Canadian citizen* **Part 1– Confirmation of Canadian citizenship of the adoptive parent(s)** that you submitted on (date). Our records indicate that you previously submitted an application for sponsorship and permanent residence for the adopted person under the *Immigration and Refugee Protection Act* (IRPA).

If you choose to withdraw your permanent residence application before processing has begun, you may be eligible for a partial refund. If you choose to withdraw the citizenship application and continue with the permanent residence application only, the adopted person will be required to make a new citizenship application if they wish to become a Canadian citizen at a later date. Only the Right of Citizenship fee will be refunded, if paid.

If you do not wish to continue with both citizenship and permanent residence applications, and would like to withdraw one of the applications, **please check the appropriate box below, sign where indicated, and return this letter to CPC-S at the address indicated above.**

I have submitted multiple applications as detailed above and would like to:

- a. withdraw the application for sponsorship and permanent residence; or
- b. withdraw the application for citizenship.

For more information on the differences between the immigration and the citizenship processes, visit www.cic.gc.ca.

Please note that if you do not give us instructions to act otherwise within thirty (30) days of the date of this letter, we will assess your citizenship application before assessing your permanent residence application. If

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citizenship is granted, we will consider your application for permanent residence as having been withdrawn at that point and no fees associated with the permanent residence application will be refunded.

I have read and fully understand the content of this form.

Signature of adoptive parent/legal guardian

Place (city/town)

Date

or the adopted person (if 18 years of age or older)

Print Name

Appendix D Refusal letter template – Part 1 of the application – Adoptive parent not a Canadian citizen – Minor

Case Processing Centre – Sydney – ADOPTION

P.O. Box 10030

Sydney NS B1P 7C1

Client ID:

Date:

(Insert applicant's address)

Dear (Applicant's name):

I have completed the assessment of the *Application for Canadian Citizenship for a person adopted by a Canadian citizen* **Part 1– Confirmation of Canadian citizenship of the adoptive parent(s)** that you submitted on (date). I am writing to inform you that your application has been refused as the child does not meet the requirements of subsection 5.1(1) OR 5.1(3) **[INSERT APPROPRIATE SUBSECTION]** of the *Citizenship Act* as neither of the adoptive parents was a Canadian citizen at the time the adoption took place or, if the adoption took place prior to January 1, 1947, neither of the adoptive parents became a citizen on that day (or April 1, 1949 in the case of Newfoundland and Labrador for adoptions that took place prior to April 1, 1949).

Subsection 5.1(1) of the *Citizenship Act* states that “the Minister shall, on application, grant citizenship to a person who, while a minor child, **was adopted by a citizen** on or after January 1, 1947, was adopted before that day by a person who became a citizen on that day, or was adopted before April 1, 1949 by a person who became a citizen on that later day further to the union of Newfoundland and Labrador with Canada, if the adoption”

OR

Subsection 5.1(3) of the *Citizenship Act* states that “...the Minister shall, on application, grant citizenship to a person in respect of whose adoption, **by a citizen** who is subject to Quebec law governing adoptions, a decision was made abroad on or after January 1, 1947 — or to a person in respect of whose adoption, by a person who became a citizen on that day and who is subject to Quebec law governing adoptions, a decision was made abroad before that day — if...”

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Children who are not eligible for a grant of Canadian citizenship under section 5.1 of the *Citizenship Act* may be eligible to be sponsored as permanent residents. For information on how to apply for permanent residence, please visit the CIC website at www.cic.gc.ca. An application for Canadian citizenship for a child under 18 years of age may be submitted under subsection 5(2) of the *Citizenship Act* as soon as the child becomes a permanent resident.

Yours sincerely,

Citizenship Officer

Case Processing Centre – Sydney

Appendix E Refusal letter template – Part 1 of the application – Adoptive parent not a Canadian citizen – Adult

Case Processing Centre – Sydney – ADOPTION

P.O. Box 10030

Sydney NS B1P 7C1

Client ID:

Date:

(Insert applicant's address)

Dear (Applicant's name):

I have completed the assessment of the *Application for Canadian Citizenship for a person adopted by a Canadian citizen* **Part 1– Confirmation of Canadian citizenship of the adoptive parent(s)** that you submitted on (date). I am writing to inform you that your application has been refused as you do not meet the requirements of subsection 5.1(1) OR 5.1(2) OR 5.1(3) **[INSERT APPROPRIATE SUBSECTION]** of the *Citizenship Act* as neither of your adoptive parents was a Canadian citizen at the time the adoption took place or, if the adoption took place prior to January 1, 1947, neither of the adoptive parents became a citizen on that day (or April 1, 1949 in the case of Newfoundland and Labrador for adoptions that took place prior to April 1, 1949).

Subsection 5.1(1) of the *Citizenship Act* states that "...the Minister shall, on application, grant citizenship to a person who, while a minor child, **was adopted by a citizen** on or after January 1, 1947, was adopted before that day by a person who became a citizen on that day, or was adopted before April 1, 1949 by a person who became a citizen on that later day further to the union of Newfoundland and Labrador with Canada, if the adoption..."

OR

Subsection 5.1(2) of the *Citizenship Act* states that "...the Minister shall, on application, grant citizenship to a person who, while at least 18 years of age, was adopted **by a citizen** on or after January 1, 1947, was adopted before that day by a person who became a citizen on that day, or was adopted before April 1, 1949 by a person who became a citizen on that later day further to the union of Newfoundland and Labrador with Canada, if..."

OR

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Subsection 5.1(3) of the *Citizenship Act* states that "...the Minister shall, on application, grant citizenship to a person in respect of whose adoption, **by a citizen** who is subject to Quebec law governing adoptions, a decision was made abroad on or after January 1, 1947 – or to a person in respect of whose adoption, by a person who became a citizen on that day and who is subject to Quebec law governing adoptions, a decision was made abroad before that day — if..."

Persons who are not eligible for a grant of Canadian citizenship under section 5.1 of the *Citizenship Act* may be eligible to be sponsored as permanent residents. For information on how to apply for permanent residence, please visit the CIC website at www.cic.gc.ca. An application for Canadian citizenship for a person 18 years of age or older may be submitted under subsection 5(1) of the *Citizenship Act* as soon as they are eligible.

Yours sincerely,

Citizenship Officer

Case Processing Centre – Sydney

Appendix F Refusal letter template for applicants applying for Canadian citizenship for the adopted child where the adoptive parent is subject to the first generation limit

Case Processing Centre – Sydney – ADOPTION
P.O. Box 10030
Sydney NS B1P 7C1

Client ID:

Date:

(Insert applicant's address)

Dear (Applicant's name):

I have completed the assessment of your *Application for Canadian Citizenship for a person adopted by a Canadian citizen* **Part 1– Confirmation of Canadian citizenship of the adoptive parent(s)** that you submitted on (date). I can confirm that the child's adoptive parent was a Canadian citizen at the time of the adoption or, if the adoption took place prior to January 1, 1947, became a citizen on that day (or April 1, 1949 in the case of Newfoundland and Labrador for adoptions that took place prior to April 1, 1949). However, I am writing to inform you that your application has been refused as the child does not meet the requirements of paragraph 5.1(4)(a) OR 5.1(4)(a.1) OR 5.1(4)(a.2) OR 5.1(4)(b) **[INSERT APPROPRIATE PARAGRAPH]** of the *Citizenship Act* as the adoptive parent is a Canadian citizen born abroad in the first or subsequent generation.

Since April 17, 2009, Canadian citizenship by birth outside Canada to a Canadian citizen (citizenship by descent) is generally limited to the first generation born outside Canada. This limitation to Canadian citizenship by descent also applies to foreign-born persons adopted by a Canadian citizen. This means that children born outside Canada and adopted by a Canadian citizen are **not** eligible for a grant of Canadian citizenship under the adoption provisions of the *Citizenship Act* if:

- their adoptive Canadian citizen parent was born outside Canada to a Canadian citizen;
or
- their adoptive Canadian citizen parent was granted Canadian citizenship under the adoption provisions of the *Citizenship Act*.

Our records confirm that your claim to Canadian citizenship was based on birth outside of Canada to a Canadian citizen OR birth outside of Canada and adoption by a Canadian citizen **[INSERT APPROPRIATE SCENARIO]**. Under current legislation, you are a Canadian citizen under paragraph **[INSERT APPROPRIATE PARAGRAPH]** of the *Citizenship Act*.

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Paragraph 5.1(4)(a) of the *Citizenship Act* states that no person who is adopted may be granted Canadian citizenship under section 5.1 of the *Citizenship Act* if only one of the adoptive parents is a Canadian citizen and they are a Canadian citizen under paragraph 3(1)(b), (c.1), (e), (g), (h), (o), (p), (q) or (r), or both of the adoptive parents are Canadian citizens under any of those paragraphs.

OR

Paragraph 5.1(4)(a.1) of the *Citizenship Act* states that no person who is adopted may be granted Canadian citizenship under section 5.1 of the *Citizenship Act* if the person was adopted before January 1, 1947 and, on that day, only one of the adoptive parents was a citizen and that parent was a citizen under paragraph 3(1)(o) or (q), or both of the adoptive parents were citizens under either of those paragraphs.

OR

Paragraph 5.1(4)(a.2) the *Citizenship Act* states that no person who is adopted may be granted Canadian citizenship under section 5.1 of the *Citizenship Act* if the person was adopted before April 1, 1949 and, on that day, only one of the adoptive parents was a citizen and that parent was a citizen under paragraph 3(1)(p) or (r), or both of the adoptive parents were citizens under either of those paragraphs.

OR

Paragraph 5.1(4)(b) the *Citizenship Act* states that no person who is adopted may be granted Canadian citizenship under section 5.1 of the *Citizenship Act* if at any time, only one of the adoptive parents was a citizen and that parent was a citizen under any of the provisions referred to in subparagraphs 3(3)(b)(i) to (viii), or both of the adoptive parents were citizens under any of those provisions.

There is no indication on your file that the following exceptions to the first generation limit for a grant of Canadian citizenship under the adoption provisions of the *Citizenship Act* are applicable to your case:

- 1) at the time of the child's adoption, one (or both) of the adoptive parents was employed outside Canada in or with the Canadian Armed Forces, the federal public administration or the public service of a province or territory, other than as a locally engaged person; or
- 2) at the time of the adoptive parent's birth or adoption outside Canada (if adopted by Canadian citizen parents and granted Canadian citizenship), one of their parents (their child's grandparents) was employed outside Canada in or with the Canadian Armed Forces, the federal public administration or the public service of a province or territory, other than as a locally engaged person.

Children who are not eligible for a grant of Canadian citizenship under section 5.1 of the *Citizenship Act* may be eligible to be sponsored as permanent residents. For information on how to apply for permanent residence, please visit the CIC website at www.cic.gc.ca. An application for Canadian citizenship for a child under 18 years of age may be submitted under subsection 5(2) of the *Citizenship Act* as soon as the child becomes a permanent resident.

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Yours sincerely,

Citizenship Officer

Case Processing Centre – Sydney

Appendix G Application returned – Part 2 of the application received while Part 1 of the application was never submitted

(Insert address of CPC-S, visa office or CIC local office)

Client ID (if applicable):

File Number (if applicable):

(Insert applicant's address)

Date:

Dear (Applicant's name):

We have received the *Application for Canadian citizenship for a person adopted by a Canadian citizen – Part 2 – Adoptee's Application* that you submitted on (date).

There is a two-part citizenship process for a grant of Canadian citizenship for an adopted person. **Part 1 – Confirmation of Canadian citizenship of the adoptive parent(s)** must be submitted along with the required documents and fees to the Case Processing Centre in Sydney, Nova Scotia by all applicants. After **Part 1** of the application has been assessed, we will send you the results of the assessment and, if approved, instructions regarding the submission of **Part 2** of the application.

We have no record that you submitted **Part 1** of the application. Therefore, we cannot process **Part 2** of the application that you submitted and are returning it to you.

The application form and corresponding instruction guide for **Part 1 – Confirmation of Canadian citizenship of the adoptive parent(s)** can be downloaded and printed from the CIC website at www.cic.gc.ca.

Yours sincerely,

(Insert officer's name)

Appendix H Application returned –Part 2 of the application received while Part 1 of the application was refused

(Insert address of CPC-S, visa office or CIC local office)

Client ID (if applicable):

File Number (if applicable):

(Insert applicant's address)

Date:

Dear (Applicant's name):

We have received the *Application for Canadian citizenship for a person adopted by a Canadian citizen* – **Part 2 – Adoptee's Application** that you submitted on (date).

There is a two-part citizenship process for a grant of Canadian citizenship for an adopted person. Our records indicate that **Part 1– Confirmation of Canadian citizenship of the adoptive parent(s)** that you submitted on (date) was refused. Please refer to the letter that was sent to you on (date of refusal letter for **Part 1** of the application) for more information about the reasons why the application was refused.

The refusal of **Part 1** of the application is a refusal of the entire application. Since your application received a refusal decision for **Part 1** of the application, we will not process **Part 2** of the application that you submitted and are returning it to you.

Persons who are not eligible for a grant of Canadian citizenship under section 5.1 of the *Citizenship Act* may be eligible to be sponsored as permanent residents. For information on how to apply for permanent residence, please visit the CIC website at www.cic.gc.ca. An application for Canadian citizenship for a person under 18 years of age may be submitted under subsection 5(2) of the *Citizenship Act* as soon as they become a permanent resident. An application for Canadian citizenship for a person 18 years of age or older may be submitted under subsection 5(1) of the *Citizenship Act* as soon as they are eligible.

Yours sincerely,

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(Insert officer's name)

Appendix I Interview request letter

(Insert address of CPC-S, visa office or CIC local office)

Client ID:

(Insert applicant's address)

Date:

Dear (Applicant's name),

I am now in the process of assessing your *Application for Canadian citizenship for a person adopted by a Canadian citizen – Part 2 – Adoptee's Application* that you submitted on (date). In order to complete my assessment, a personal interview is required. The following person(s) should be present at the interview (insert who should be at the interview, i.e., birth parent(s), adoptive parent(s), adopted person, etc.).

The interview will take place at (processing office address) on (date) at (time).

Please bring the following items to your interview (if applicable):

(Insert list of items)

If you are unable to attend this interview for any reason, please contact the office indicated above as soon as possible to reschedule.

If you are not present at the interview and do not make arrangements for an alternative interview date, you will be given a final notice to appear. Failing to respond to the final notice will result in your application being treated as abandoned.

Sincerely,

(Insert officer's name)

Appendix J Procedural fairness letter

(Insert address of CPC-S, visa office or CIC local office)

Client ID:

(Insert applicant's address)

Date:

Dear (Applicant's name),

I am now completing the assessment of your *Application for Canadian citizenship for a person adopted by a Canadian citizen – Part 2 – Adoptee's Application* that you submitted on (date) and I am not satisfied that you meet (OR the child meets) the requirements for a grant of Canadian citizenship under section 5.1 of the *Citizenship Act*.

(Explain why the applicant or the child (if the application is being made on their behalf) may not meet the requirements for a grant of Canadian citizenship under section 5.1 of the *Citizenship Act*. Give specific reasons why you are concerned that the application may be deficient.)

Before I make a final decision, I would like to give you the opportunity to submit additional information to address my concerns.

You have sixty (60) days from the date of this letter to submit any additional information to this office at the address noted above. Please ensure that you quote the file number indicated at the top of this letter on any correspondence you submit.

If you choose not to respond with additional information within the specified time period, you will be given a final notice to respond. Failing to respond to the final notice will result in your application being treated as abandoned.

Sincerely,

(Insert officer's name)

Appendix K Letter to P/T adoption authority for adoption concerns

(Because CIC has a presence outside Canada, officers may come across information which had not been made available to the P/T adoption authority when they were making their decision on issuing their letter of no objection regarding the adoption. If CIC uncovers information or evidence that may change the P/T adoption authority's position on approving the adoption (for instance, child trafficking), officers are to notify the P/T adoption authority of this information so that they may be given the chance to reconsider their letter. In such cases, this template is to be used.)

Client ID:

(Insert P/T adoption authority address)

Date:

Dear Sir/Madam,

Object: (Insert adopted person's name) adopted by (Insert adoptive parent(s) name(s))

This letter refers to an *Application for Canadian citizenship for a person adopted by a Canadian citizen* that we received for the person indicated above.

On (date), we received a letter from your Ministry approving the aforementioned adoption. However, while assessing this citizenship application, we discovered information that gives us serious concerns regarding the nature of the adoption.

(Detail your concerns about the adoption, i.e., child trafficking, undue gain, best interests of the child, etc. Note that an adoption of convenience should not be referred to a P/T adoption authority, as this is a matter solely within federal jurisdiction)

Given our concerns about this adoption and the documented evidence we have on file that this adoption does not meet the requirements of the Hague Convention, we would like to know whether or not you will be withdrawing your (insert Notice of Agreement and/or letter of no objection). The processing of the application will be suspended until we receive written notification of your decision in light of the new information contained in this letter.

We look forward to hearing from you at your earliest convenience.

Sincerely,

(Insert officer's name)

Appendix L Letter of approval for Part 2 of the application – Minor

(Insert address of CPC-S, visa office or CIC local office)

Client ID:

(Insert applicant's address)

Date:

Dear (Applicant's name),

I have completed the assessment of your *Application for Canadian citizenship for a person adopted by a Canadian citizen – Part 2 – Adoptee's Application* that you submitted on (date). This letter is to inform you that (insert adopted child's name) has been granted Canadian citizenship under section 5.1 of the *Citizenship Act* on (date).

Citizenship certificate

Now that the child is a Canadian citizen, a citizenship certificate will be mailed to the address indicated on the *Canadian Citizenship Certificate Preparation Form*. If you have not yet submitted the *Canadian Citizenship Certificate Preparation Form* to the Case Processing Centre in Sydney, Nova Scotia, the citizenship certificate cannot be prepared. Should you need to request the *Canadian Citizenship Certificate Preparation Form*, please visit the Citizenship and Immigration Canada (CIC) website at www.cic.gc.ca.

If there are any changes to the address that you provided at the beginning of the citizenship process, please contact the CIC Call Centre at 1-888-242-2100 if you reside in Canada or visit the CIC website at www.cic.gc.ca to update your address. You may also contact the visa office responsible for your application if you reside outside of Canada.

Travel to Canada

You must obtain a Canadian passport or other travel document for the child to enter Canada. To obtain a Canadian passport you will need to make an application at the appropriate Canadian government office abroad. A citizenship certificate is required to apply for a passport; however, if you are unable to wait for the citizenship certificate to be issued you may apply immediately and our office will facilitate the process by sending confirmation of the child's grant of Canadian citizenship to the appropriate Canadian government office abroad. Our records show that you will be applying at the office in _____ (insert the location and address of the consular office in the same country as the visa office that processed the application or the office in the country of the applicant's residence). You must also present this letter with the child's passport application and pay a fee. A waiting period for the passport may also be involved.

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It is also possible for the child to travel to Canada using the passport of their country of origin with a facilitation visa. In this situation, the child's foreign passport must be presented to the Canadian visa office that processed the citizenship application to obtain a facilitation visa. A fee will be charged for processing the application for a facilitation visa.

Upon entry to Canada, the child's Canadian passport or their foreign passport and facilitation visa must be shown to a Canadian Border Services Officer.

Please retain a copy of this letter for your records. This letter **is not** proof of citizenship, nor is it a travel document. It may not be used to obtain social services in Canada.

On behalf of CIC, I would like to take this opportunity to welcome the child as a Canadian citizen and wish you every success.

Sincerely,

(Insert officer's name)

Appendix M Letter of approval for Part 2 of the application – Adult

Client ID:

(Insert applicant's address)

Date:

Dear (Applicant's name),

I have completed the assessment of your *Application for Canadian citizenship for a person adopted by a Canadian citizen – Part 2 – Adoptee's Application* that you submitted on (date). This letter is to inform you that you have been granted Canadian citizenship under section 5.1 of the *Citizenship Act* on (date).

Citizenship certificate

Now that you are a Canadian citizen, your citizenship certificate will be mailed to the address indicated on the *Canadian Citizenship Certificate Preparation Form*. If you have not yet submitted the *Canadian Citizenship Certificate Preparation Form* to the Case Processing Centre in Sydney, Nova Scotia, the citizenship certificate cannot be prepared. If you need to request the *Canadian Citizenship Certificate Preparation Form*, please visit the Citizenship and Immigration Canada (CIC) website at www.cic.gc.ca.

If there are any changes to the address that you provided at the beginning of the citizenship process, please contact the CIC Call Centre at 1-888-242-2100 if you reside in Canada or visit the CIC website at www.cic.gc.ca to update your address. You may also contact the visa office responsible for your application if you reside outside of Canada.

Travel to Canada

You must obtain a Canadian passport or other travel document to enter Canada. To obtain a Canadian passport you will need to make an application at the appropriate Canadian government office abroad. A citizenship certificate is required to apply for a passport; however, if you are unable to wait for the citizenship certificate to be issued you may apply immediately and our office will facilitate the process by sending confirmation of your grant of Canadian citizenship to the appropriate Canadian government office abroad. Our records show that you will be applying at the office in _____ (insert the location and address of the consular office in the same country as the visa office that processed the application or the office in the country of the

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applicant's residence). You must also present this letter with your passport application and pay a fee. A waiting period for the passport may also be involved.

It is also possible for you to travel to Canada using the passport of your country of origin with a facilitation visa. In this situation, your foreign passport must be presented to the Canadian visa office that processed the citizenship application to obtain a facilitation visa. A fee will be charged for processing the application for a facilitation visa.

Upon entry to Canada, your Canadian passport or your foreign passport and facilitation visa must be shown to a Canadian Border Services Officer.

Please retain a copy of this letter for your records. This letter **is not** proof of citizenship, nor is it a travel document. It may not be used to obtain social services in Canada.

On behalf of CIC, I would like to take this opportunity to welcome you as a Canadian citizen and wish you every success.

Sincerely,

(Insert officer's name)

Appendix N REFUSAL TEMPLATE # 1 - REFUSAL LETTER FOR 5.1(1) (Adopted person is under 18 years of age)

This template letter should be used for applications made under subsection 5.1(1) of the Citizenship Act:

- *Adoptee was under the age of 18 at the time of adoption;*
- *Adoptee is under the age of 18 at the time the application is submitted;*
- *Adoptee is not destined for the province of Quebec.*

Client ID:

[Insert applicant's address]

Date:

Dear **[Applicant's name]**:

I have completed the assessment of the child's *Application for Canadian citizenship for a person adopted by a Canadian citizen*. This letter is to inform you that the child's application has been refused for the reasons set out below.

If an interview took place:

You **[and, if applicable, [name of adopted child]]** were present in this office on **[date]** and were interviewed by me. During your interview, you provided me with the following details which I considered before making my decision on the application:

[Insert applicable, factual information provided]

If an interview did not take place:

I wrote to you on **[date]** requesting that you provide the following information: **[insert information requested]**. It was explained that this information is needed in order to make a decision on the application.

[I have received the information provided by you on [date] by [email/fax/letter].]

Section 5.1 of the *Citizenship Act* defines who is entitled to a grant of Canadian citizenship. Specifically, subsection 5.1(1) states:

"Subject to subsections (3) and (4), the Minister shall, on application, grant citizenship to a person who, while a minor child, was adopted by a citizen on or after January 1, 1947, was adopted before that day by a person who became a citizen on that day, or was adopted before April 1,

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1949 by a person who became a citizen on that later day further to the union of Newfoundland and Labrador with Canada, if the adoption

(a) was in the best interests of the child;

(b) created a genuine relationship of parent and child;

(c) was in accordance with the laws of the place where the adoption took place and the laws of the country of residence of the adopting citizen;

(c.1) did not occur in a manner that circumvented the legal requirements for international adoptions; and

(d) was not entered into primarily for the purpose of acquiring a status or privilege in relation to immigration or citizenship.”

Based upon the information you have provided [**and, if applicable, information provided during the interview**], the child does not meet the requirements of paragraph(s) [**quote relevant paragraph(s): 5.1(1)(a), 5.1(1)(b), 5.1(1)(c), 5.1(1)(c.1) and/or 5.1(1)(d)**] of the *Citizenship Act*. In coming to this decision I reviewed all of the evidence and the factors of consideration set out in subsection 5.1(3) [**specify relevant paragraph (a), (b), (c) or (d) and corresponding subparagraph(s)**] of the *Citizenship Regulations*.

[Fully explain why the application does not meet the requirements of the Citizenship Act. Officers may refer to the relevant Citizenship Regulations in their explanations. See the examples below.]

EXAMPLES:

I am not satisfied that the adoption was not entered into primarily for the purpose of acquiring a status or privilege in relation to immigration or citizenship. For example, the evidence indicates that...

I am not satisfied that the adoption has created a genuine relationship of parent and child. For example, the evidence indicates that the pre-existing legal parent-child relationship has not been permanently severed by the adoption. During the interview, XXXXX provided me with the following details...

I am not satisfied that the adoption was in accordance with the laws of [country where the adoption took place – note that in some cases it may be a Canadian province/territory]. For example, I have not received a letter from [country’s] central adoption authority indicating that it approves the adoption as conforming to the Hague Convention on Adoption...

I am not satisfied that the adoption was in accordance with the laws of [country of residence of the adopting parent – if adopting parent is residing in Canada, state the province/territory]. For example, I have not received a letter from the province/territory of XXXXX stating that it does not object to the adoption...

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I am not satisfied that the adoption was conducted in accordance with the legal requirements for international adoptions. For example, I have not received confirmation from the competent authorities responsible for international adoption in the adopted person's country of habitual residence at the time of the adoption and the country of their intended destination indicating that the adoption conforms to the Hague Convention on Adoption...

I am not satisfied that the adoption is in XXXXX's best interests. For example...

I also note that there are discrepancies in the evidence, such as...

As a result, you have failed to establish that the child meets the requirements for a grant of Canadian citizenship and therefore their application has been refused.

Sincerely,

[Insert officer's name]

Appendix O REFUSAL TEMPLATE # 2 - REFUSAL LETTER FOR 5.1(1) (Adopted person is 18 years of age or older)

This template letter should be used for applications made under subsection 5.1(1) of the Citizenship Act:

- *Adoptee was under the age of 18 at the time of adoption;*
- *Adoptee is 18 years of age or older at the time the application is submitted;*
- *Adoptee is not destined for the province of Quebec.*

Client ID:

[Insert applicant's address]

Date:

Dear **[Applicant's name]**:

I have completed the assessment of your *Application for Canadian citizenship for a person adopted by a Canadian citizen*. This letter is to inform you that your application has been refused for the reasons set out below.

If an interview took place:

You **[and, if applicable, [name of adoptive parent]]** were present in this office on **[date]** and were interviewed by me. During your interview, you provided me with the following details which I considered before making my decision on your application:

[Insert applicable, factual information provided]

If an interview did not take place:

I wrote to you on **[date]** requesting that you provide the following information: **[insert information requested]**. It was explained that this information is needed in order to make a decision on your application.

[I have received the information provided by you on [date] by [email/fax/letter].]

Section 5.1 of the *Citizenship Act* defines who is entitled to a grant of Canadian citizenship. Specifically, subsection 5.1(1) states:

“Subject to subsections (3) and (4), the Minister shall, on application, grant citizenship to a person who, while a minor child, was adopted by a citizen on or after January 1, 1947, was adopted

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before that day by a person who became a citizen on that day, or was adopted before April 1, 1949 by a person who became a citizen on that later day further to the union of Newfoundland and Labrador with Canada, if the adoption

(a) was in the best interests of the child;

(b) created a genuine relationship of parent and child;

(c) was in accordance with the laws of the place where the adoption took place and the laws of the country of residence of the adopting citizen;

(c.1) did not occur in a manner that circumvented the legal requirements for international adoptions; and

(d) was not entered into primarily for the purpose of acquiring a status or privilege in relation to immigration or citizenship.”

Based upon the information you have provided [**and, if applicable, information provided during the interview**], you do not meet the requirements of paragraph(s) [**quote relevant paragraph(s): 5.1(1)(a), 5.1(1)(b), 5.1(1)(c), 5.1(1)(c.1) and/or 5.1(1)(d)**] of the *Citizenship Act*. In coming to this decision I reviewed all of the evidence and the factors of consideration set out in subsection 5.2(3) [**specify relevant paragraph (a), (b), (c) or (d) and corresponding subparagraph(s)**] of the *Citizenship Regulations*.

[Fully explain why the application does not meet the requirements of the Citizenship Act. Officers may refer to the relevant Citizenship Regulations in their explanations. See the examples below.]

EXAMPLES:

I am not satisfied that the adoption was not entered into primarily for the purpose of acquiring a status or privilege in relation to immigration or citizenship. For example, the evidence indicates that...

I am not satisfied that the adoption has created a genuine relationship of parent and child. For example, the evidence indicates that the pre-existing legal parent-child relationship has not been permanently severed by the adoption. During the interview, XXXXX provided me with the following details...

I am not satisfied that the adoption was in accordance with the laws of [country where the adoption took place – note that in some cases it may be a Canadian province/territory]. For example, I have not received a letter from [country’s] central adoption authority indicating that it approves the adoption as conforming to the Hague Convention on Adoption.

I am not satisfied that the adoption was in accordance with the laws of [country of residence of the adopting parent – if adopting parent is residing in Canada, state the province/territory]. For example, I have not received a letter from the province/territory of XXXXX stating that it does not object to the adoption...

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I am not satisfied that the adoption was conducted in accordance with the legal requirements for international adoptions. For example, I have not received confirmation from the competent authorities responsible for international adoption in your country of habitual residence at the time of the adoption and the country of your intended destination indicating that the adoption conforms to the Hague Convention on Adoption...

I am not satisfied that the adoption is in XXXXX's best interests. For example...

I also note that there are discrepancies in the evidence, such as...

As a result, you have failed to establish that you meet the requirements for a grant of Canadian citizenship and therefore your application has been refused.

Sincerely,

[Insert officer's name]

Appendix P REFUSAL TEMPLATE # 3 - REFUSAL LETTER FOR 5.1(2)

This template letter should be used for applications made under subsection 5.1(2) of the Citizenship Act:

- *Adoptee was 18 years of age or older at the time of adoption;*
- *Adoptee is not destined for the province of Quebec.*

Client ID:

[Insert applicant's address]

Date:

Dear *[Applicant's name]*:

I have completed the assessment of your *Application for Canadian citizenship for a person adopted by a Canadian citizen*. This letter is to inform you that your application has been refused for the reasons set out below.

If an interview took place:

You *[and, if applicable, [name of adoptive parent]]* were present in this office on *[date]* and were interviewed by me. During your interview, you provided me with the following details which I considered before making my decision on your application:

[Insert applicable, factual information provided]

If an interview did not take place:

I wrote to you on *[date]* requesting that you provide the following information: *[insert information requested]*. It was explained that this information is needed in order to make a decision on your application.

[I have received the information provided by you on [date] by [email/fax/letter].]

Section 5.1 of the *Citizenship Act* defines who is entitled to a grant of Canadian citizenship. Specifically, subsection 5.1(2) states:

“Subject to subsections (3) and (4), the Minister shall, on application, grant citizenship to a person who, while at least 18 years of age, was adopted by a citizen on or after January 1, 1947, was adopted before that day by a person who became a citizen on that day, or was adopted before

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April 1, 1949 by a person who became a citizen on that later day further to the union of Newfoundland and Labrador with Canada, if

(a) there was a genuine relationship of parent and child between the person and the adoptive parent before the person attained the age of 18 years and at the time of the adoption; and

(b) the adoption meets the requirements set out in paragraphs (1)(c) to (d):

(1)(c) was in accordance with the laws of the place where the adoption took place and the laws of the country of residence of the adopting citizen;

(1)(c.1) did not occur in a manner that circumvented the legal requirements for international adoptions; and

(1)(d) was not entered into primarily for the purpose of acquiring a status or privilege in relation to immigration or citizenship.”

Based upon the information provided in your application [**and, if applicable, information provided during the interview**], you do not meet the requirements of paragraph(s) [**quote relevant paragraph(s): 5.1(2)(a) and/or 5.1(2)(b) [if quoting paragraph 5.1(2)(b), also specify which paragraph(s) of 5.1(1)(c), 5.1(1)(c.1) and/or 5.1(1)(d) is/are not met]**] of the *Citizenship Act*. In coming to this decision I reviewed all of the evidence and the factors of consideration set out in subsection 5.3(3) [**specify relevant paragraph (a) or (b) and corresponding subparagraph(s), if applicable**] of the *Citizenship Regulations*.

[Fully explain why the application does not meet the requirements of the Citizenship Act. Officers may refer to the relevant Citizenship Regulations in their explanations. See the examples below.]

EXAMPLES:

I am not satisfied that the adoption was not entered into primarily for the purpose of acquiring a status or privilege in relation to immigration or citizenship. For example, the evidence indicates that...

I am not satisfied that the adoption has created a genuine relationship of parent and child. For example, the evidence indicates that the pre-existing legal parent-child relationship has not been permanently severed by the adoption. During the interview, XXXXX provided me with the following details...

I am not satisfied that the adoption was in accordance with the laws of [country where the adoption took place – note that in some cases it may be a Canadian province/territory]. For example, I have not received a letter from [country’s] central adoption authority indicating that it approves the adoption as conforming to the Hague Convention on Adoption.

I am not satisfied that the adoption was in accordance with the laws of [country of residence of the adopting parent – if adopting parent is residing in Canada, state the province/territory]. For example, I have not received a letter from the province/territory of

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XXXXX stating that it does not object to the adoption...

I am not satisfied that the adoption was conducted in accordance with the legal requirements for international adoptions. For example, I have not received a letter from the competent authorities responsible for international adoption in your country of habitual residence at the time of the adoption and the country of your intended destination stating that they do not object to the adoption...

I also note that there are discrepancies in the evidence, such as...

As a result, you have failed to establish that you meet the requirements for a grant of Canadian citizenship and therefore your application has been refused.

Sincerely,
[Insert officer's name]

Appendix Q REFUSAL TEMPLATE # 4 - REFUSAL LETTER FOR 5.1(3) (Adopted person is under 18 years of age)

This template letter should be used for applications made under subsection 5.1(3) of the Citizenship Act:

- *Adoptee is destined for the province of Quebec;*
- *Adoptee is under the age of 18 at the time the application is submitted.*

Client ID:

[Insert applicant's address]

Date:

Dear **[Applicant's name]**:

I have completed the assessment of the child's *Application for Canadian citizenship for a person adopted by a Canadian citizen*. This letter is to inform you that the child's application has been refused for the reasons set out below.

If an interview took place:

You **[and, if applicable, [name of adopted child]]** were present in this office on **[date]** and were interviewed by me. During your interview, you provided me with the following details which I considered before making my decision on the application:

[Insert applicable, factual information provided]

If an interview did not take place:

I wrote to you on **[date]** requesting that you provide the following information: **[insert information requested]**. It was explained that this information is needed in order to make a decision on the application.

[I have received the information provided by you on [date] by [email/fax/letter].]

Section 5.1 of the *Citizenship Act* defines who is entitled to a grant of Canadian citizenship. Specifically, subsection 5.1(3) states:

"Subject to subsection (4), the Minister shall, on application, grant citizenship to a person in respect of whose adoption, by a citizen who is subject to Quebec law governing adoptions, a decision was made abroad on or after January 1, 1947 – or to a person in respect of whose

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adoption, by a person who became a citizen on that day and who is subject to Quebec law governing adoptions, a decision was made abroad before that day – if

(a) the Quebec authority responsible for international adoptions advises, in writing, that in its opinion the adoption meets the requirements of Quebec law governing adoptions; and

(b) the adoption was not entered into primarily for the purpose of acquiring a status or privilege in relation to immigration or citizenship.”

Based upon the information you have provided [**and, if applicable, information provided during the interview**], the child does not meet the requirements of paragraph(s) [**quote relevant paragraph(s): 5.1(3)(a) and/or 5.1(3)(b)**] of the *Citizenship Act*.

[Fully explain why the application does not meet the requirements of the Citizenship Act. See the examples below.]

EXAMPLES:

The Quebec authority responsible for international adoptions has not advised, in writing, that in its opinion the adoption meets the requirements of Quebec law governing adoptions.

I am not satisfied that the adoption was not entered into primarily for the purpose of acquiring a status or privilege in relation to immigration or citizenship. For example, the evidence indicates that... During the interview, XXXXX provided me with the following details...

I also note that there are discrepancies in the evidence, such as...

As a result, you have failed to establish that the child meets the requirements for a grant of Canadian citizenship and therefore their application has been refused.

Sincerely,

[Insert officer's name]

Appendix R REFUSAL TEMPLATE # 5 - REFUSAL LETTER FOR 5.1(3) (Adopted person is 18 years of age or older)

This template letter should be used for applications made under subsection 5.1(3) of the Citizenship Act:

- *Adoptee is destined for the province of Quebec;*
- *Adoptee is 18 years of age or older at the time the application is submitted.*

Client ID:

[Insert applicant's address]

Date:

Dear *[Applicant's name]*:

I have completed the assessment of your *Application for Canadian citizenship for a person adopted by a Canadian citizen*. This letter is to inform you that your application has been refused for the reasons set out below.

If an interview took place:

You [and, *if applicable, [name of adoptive parent]*] were present in this office on [date] and were interviewed by me. During your interview, you provided me with the following details which I considered before making my decision on your application:

[Insert applicable, factual information provided]

If an interview did not take place:

I wrote to you on [date] requesting that you provide the following information: *[insert information requested]*. It was explained that this information is needed in order to make a decision on your application.

[I have received the information provided by you on [date] by [email/fax/letter].]

Section 5.1 of the *Citizenship Act* defines who is entitled to a grant of Canadian citizenship. Specifically, subsection 5.1(3) states:

“Subject to subsection (4), the Minister shall, on application, grant citizenship to a person in respect of whose adoption, by a citizen who is subject to Quebec law governing adoptions, a decision was made abroad on or after January 1, 1947 – or to a person in respect of whose

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adoption, by a person who became a citizen on that day and who is subject to Quebec law governing adoptions, a decision was made abroad before that day – if

(a) the Quebec authority responsible for international adoptions advises, in writing, that in its opinion the adoption meets the requirements of Quebec law governing adoptions; and

(b) the adoption was not entered into primarily for the purpose of acquiring a status or privilege in relation to immigration or citizenship.”

Based upon the information provided in your application [**and, if applicable, information provided during the interview**], you do not meet the requirements of paragraph(s) [**quote relevant paragraph(s): 5.1(3)(a) and/or 5.1(3)(b)**] of the *Citizenship Act*.

[Fully explain why the application does not meet the requirements of the Citizenship Act. See the examples below.]

EXAMPLES:

The Quebec authority responsible for international adoptions has not advised, in writing, that in its opinion the adoption meets the requirements of Quebec law governing adoptions.

I am not satisfied that the adoption was not entered into primarily for the purpose of acquiring a status or privilege in relation to immigration or citizenship. For example, the evidence indicates that... During the interview, XXXXX provided me with the following details...

I also note that there are discrepancies in the evidence, such as...

As a result, you have failed to establish that you meet the requirements for a grant of Canadian citizenship and therefore your application has been refused.

Sincerely,
[Insert officer's name]