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**The Current Status of Laws Governing Adoption of Haitian Children by U.S. Citizens—
Especially in Light of the January 12th Haiti Earthquake**

The standard requirements and procedures by both the United States and Haiti regarding the adoption of Haitian children by Americans are complex, lengthy, and often require a visit to Haiti. There are numerous procedures and hurdles for each step of the process, which roughly proceeds as follows: (1) Obtain a release by the Justice of Peace in Haiti; (2) Pass an investigation by the *Institut du Bien Etre Social et de Research* (“IBESR”) or Haitian Ministry of Social Affairs; (3) Obtain an official adoption decree from a civil court in Haiti; (4) File for and receive U.S. approval via the United States Citizenship and Immigration Services (“USCIS”); and (5) Obtain a Haitian passport and U.S. immigrant visa for the child. The process is explained in detail in Section B of this memorandum.

The United States Government has taken several steps and measures to expedite the adoption process in light of the January 12th earthquake. The most notable action includes the United States Department of State (“DOS”) working with the Department of Homeland Security (“DHS”) in an effort to extend travel documents (either immigrant visas or humanitarian parole authorizations) for children who fall into two specific categories. These categories encompass children who were already in the adoption process before January 12, 2010. This action was facilitated by extending humanitarian parole to orphans. Humanitarian parole is used sparingly to temporarily admit persons who are otherwise inadmissible into the United States due to a compelling emergency.

The U.S. Government has yet to decide eligibility criteria for Haitian children who were not in the adoption process before the earthquake and thus are not included in the two specific categories formulated by the DHS and the DOS. In fact, the DOS has specifically addressed the importance of not pursuing new adoptions during times of crisis, due to the extreme difficulty of fulfilling legal requirements for adoption, as well as the possibility of mistakenly identifying a child as an orphan.

THE POTENTIAL FOR FUTURE DEVELOPMENTS

It is important to note that the extension of humanitarian parole authorization to orphans was announced while this memorandum was being drafted. All of these policies are extremely new. Furthermore, there are news reports about congressional meetings and activities aimed at addressing the needs of these children, and it is likely that Congress will take further action in the near future. Therefore, it is important to continue to monitor the actions the Haitian and U.S.

governments are taking to implement new adoption policies. Some adoption advocates are pushing for emergency or refugee status for orphaned Haitian children. Additionally, the Haitian President has authority to waive or alter some criteria for adoptions, raising the possibility that there may be presidential discretion to expedite the adoption process.