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## Citizenship Act and the First Generation Limit

### Issue:

In preparation for your meeting with the Canadian Chamber of Commerce in Hong Kong, your office has requested information on citizenship by descent. In the past the Canadian Chamber of Commerce in Hong Kong has expressed concerns about the first generation limit to citizenship by descent.

### Key Messages

- Canadians recognize the significant economic and cultural contribution of their fellow citizens residing overseas.
- Under the previous law it was possible for Canadians to pass on their citizenship to endless generations born outside Canada, who had no real attachment to the country.
- The 2009 changes to the *Citizenship Act* strengthened the value of citizenship and simplified citizenship rules by limiting citizenship by descent to one generation born outside Canada.
- It is not the intent of the law to deny citizenship to children born outside Canada to Canadians. Families impacted by the first generation limit have other paths to citizenship.

### Background:

Bill C-37 (2008), *An Act to Amend the Citizenship Act*, was adopted unanimously by both Houses of Parliament and received Royal Assent on April 17, 2008. It came into force on April 17, 2009. The primary focus of the Bill was to restore or give citizenship to persons who lost or never had it due to outdated legislation.

The changes in 2009 also introduced a first generation limitation to citizenship by descent. Under the law as it existed up to April 17, 2009, citizenship could be passed on endlessly from generation to generation, without a person ever having set foot in Canada. Certain persons born in the second generation or beyond could lose their citizenship on their 28<sup>th</sup> birthday if they failed to take the necessary steps to retain their citizenship. Many stakeholders criticized these retention requirements for being confusing, complex and leading to loss of citizenship, sometimes without the person even realizing it.

A clear objective of the changes in 2009 was to achieve greater simplicity and transparency in citizenship laws as well as to preserve the value of citizenship by ensuring it could not be passed on endlessly to generations of Canadians living outside of Canada.

Children born outside Canada on or after April 17, 2009, to Canadian parents are only Canadian at birth if:

- one parent was born in Canada; or

- one parent became a Canadian citizen by immigrating to Canada and was later granted citizenship (also called naturalization).

If a Canadian who is born in the first generation outside Canada has children outside the country, those children would not be Canadian citizens at birth unless the child is eligible for citizenship through their other parent. Likewise, if they wish to adopt a child born outside Canada, their child would not be eligible for a grant of citizenship under the direct process for adopted persons unless the child is eligible through their other parent.

Children born to a Canadian parent outside Canada on or after April 17, 2009, who are not Canadian citizens at birth, may be sponsored in the Family Class, if their parents will return to live in Canada once the child becomes a permanent resident.

One exception to the first generation limitation exists and that is to ensure that children born outside Canada to serving Crown servants (of the province, federal government or armed forces) will be Canadian at birth, even if their Canadian parent is a citizen by descent; however, in common with all other citizens by descent, these Canadians are unable to pass on citizenship to any children they may have outside Canada, unless they themselves are crown servants serving outside of Canada.

As a safeguard against statelessness, the changes implemented 2009 also contain a new provision for a grant of citizenship to persons born outside Canada who have always been stateless and who were born to a Canadian.

On June 25, 2009, the Standing Committee on Citizenship and Immigration (CIMM) completed a review of the subject matter of Bill C-37 (2008) and tabled a report. The report contained three recommendations. The third recommendation called upon the Government of Canada to allow citizenship by descent where the parent had resided in Canada for a specific period of time, as established through legislation, before the child was born. Conservative Committee members issued a dissenting view with regard to that recommendation, saying that they did not believe this offered an improvement on the current situation.

#### *Bill C-37: Strengthening the Value of Canadian Citizenship Act*

On June 10, 2010, Bill C-37, *Strengthening the Value of Canadian Citizenship Act*, was introduced in the House. The Bill contains amendments which, as stated in the Speech from the Throne, will streamline the revocation process for those who have acquired citizenship by fraud. The full package of amendments would strengthen the process of applying for citizenship and improve measures to address citizenship fraud.

Among others, the Bill proposes amendments to ensure that the law supports the implementation of the first generation limit to passing on citizenship, to ensure that the law does not unintentionally bar applicants who are eligible for citizenship, and to ensure that the children of people serving Canada abroad – children of Crown servants – are not disadvantaged by their parent's service to Canada and are able to pass on citizenship to their children. This change would enable the children of Crown servants to pass on citizenship to any children that they may have or adopt abroad.

### Private Member's Bill C-467:

Related to the proposals in Bill C-37 (2010), Private Member's Bill C-467 was introduced by MP Ujjal Dosanjh on October 28, 2009. The objective of Bill C-467 is to treat children born or adopted abroad by Canadian Crown servants the same as children born in Canada, in other words to enable children of Crown servants to pass on citizenship to their children born abroad.

### Stakeholder Concerns

Many groups have expressed concern with the first generation limit. These groups include the Hong Kong Canadian Chamber of Commerce who claim the law denies them and their children the ability to pass on citizenship to subsequent generations born abroad. Last year they passed a resolution calling for legislative change.

Although Bill C-37 (2010) and Private Member's Bill C-467 will likely be welcomed by organizations representing Crown servants, it is anticipated that adoption and expatriate communities who have advocated for the expansion of the limit are likely to criticize the scope of the bills as they only address children of Crown servants.

The Canadian Chamber of Commerce in Hong Kong may question why the changes in the proposed bill only target Crown servants and exclude those Canadians working abroad in the private sector. If pressed, on a responsive basis only, you may wish to highlight the following:

- Canada values the contribution and sacrifices of Crown servants working abroad, and their families.
- Crown servants posted abroad maintain a strong connection to Canada.
- Unlike private sector employees who are residing abroad, Crown servants are considered as residents of Canada, pay taxes in Canada, and regularly rotate back to Canada. Crown servants are responsible for representing and delivering Canada's policy and program objectives and serving Canadians abroad not the interests of a privately owned company or organization.

### **Current Status:**

Bill C-37 and Private Members Bill C-467 do not propose to extend or change the first generation limit to groups other than Crown servants serving abroad. A legislative change would be required to change the first generation limit to citizenship by descent.

### **Next Steps:**

Officials will continue to review the impact of the first generation limit to see how the legislation might be improved.

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