

F-5307

**MEMORANDUM TO THE MINISTER**

**RESPONSE TO PROCEDURAL QUESTIONS ON POSSIBLE AMENDMENTS TO BILL**

**C-37**

**FOR DECISION**

**SUMMARY**

- Further to the Bill C-37 briefing on November 22, you asked whether potential Opposition amendments to the first generation limit may be considered in scope during Standing Committee (CIMM) review of the bill.
- There is a risk that such potential amendments to the first generation limit may be considered in scope at Committee stage, given that the Bill already opens the appropriate clauses of the *Citizenship Act*. The decision on whether such amendments are within the scope of the Bill would be left to the Chair of the Committee. The decision on whether an amendment is admissible or not could be overturned by the Committee on a simple majority.
- This memo also considers whether Bill C-37 potential amendments presented in memo F-4975 on the first generation limit and "Lost Canadians" would be considered in scope at CIMM. These amendments could be considered in scope, given that they would amend sections of the Act that have already been opened by Bill C-37. This decision would be made by the Chair of the Committee and the Department cannot definitively predict how he would decide.

**BACKGROUND:**

- Bill C-37, *Strengthening the Value of Canadian Citizenship Act*, was tabled June 10, 2010, and is awaiting Second Reading.
- Following from the 2009 Standing Committee on Citizenship and Immigration (CIMM) recommendations to relax the first generation limit to citizenship by descent for those born abroad, we expect this will be a key area of pressure regarding amendments to Bill C-37.

- We also understand that Ms. Olivia Chow has signalled that passage of Bill C-37 may hinge on whether the government is prepared to be flexible in this area. Mr. Justin Trudeau has publically commented on the need to address the issue of remaining “Lost Canadians”.
- The proposed amendments provided in memo F-4975 could address concerns with regard to those who do not have access to citizenship and could provide an opportunity to facilitate passage of the Bill.

**CURRENT STATUS:**

- Bill C-37 contains minor amendments to section 3 and 5.1 of the *Citizenship Act* to support implementation of the first generation limit as well as amendments to expand the existing Crown servant exception.
- The general rule regarding scope is that the Committee is limited to proposing amendments that are relevant to the clause of the bill under consideration.
- When studying an amendment to a subsection under section 3 of the *Citizenship Act*,  
[ Opposition members of the Committee could theoretically open up another subsection, such as the first generation limit, under the same section.
- The Chair of the Committee, in consultation with the Legislative Clerk advising him, would be responsible for deciding whether such an amendment is admissible. The Department cannot say with certainty, how the Chair would rule. However, the Chair’s ruling could be challenged by Committee members. A simple majority would be required to overturn the Chair’s decision.
- For this reason, there is a risk that the first generation limit may be amended at Committee stage. If Opposition amendments to the first generation limit were ruled admissible, the Government could seek to overturn the decision with the support of one other party. Conversely, a decision that such amendments were inadmissible could be also be overturned by the Opposition members of the Committee.
- If the Chair were to rule Opposition amendments to the first generation limit in scope, or should the Opposition seek to overturn a decision by the Chair to rule them as inadmissible, it may be useful to have possible government amendments prepared to address Opposition concerns.
- Government amendments to Bill C-37 presented in memo F-4975 could be considered in scope at CIMM, given that they would amend sections of the *Citizenship Act* that have already been opened by Bill C-37. Again, this decision would be made by the Chair of the Committee and the Department cannot definitively predict how he would decide.

- If the Chair rules Opposition amendments in scope, the issue then becomes to what extent the government amendments would address Opposition concerns. The options presented in F-4975 were designed to address these concerns. Option 1 (maintain the first generation limit and extend citizenship to the second generation born abroad in cases where the parent meets connection test) was designed to address CIMM recommendations and option 2(a) (pre-1947 cases in first generation) to address some of the remaining "Lost Canadian" cases.
- Given these amendments would require a Memorandum to Cabinet; your direction is requested by early December.
- Clause by clause study of Bill C-35 was completed on November 22. For consistency with amendments adopted during Standing Committee review of Bill C-35, the similar consultant provisions of C-37 will also need to be amended. If an MC on amendments to C-37 is prepared, authority for these amendments could also be sought.
- Bill C-467, the private member's Bill extending the first generation limit regarding Crown servants will be reviewed by CIMM in December. This will provide an opportunity to gauge CIMM's ongoing interest in first generation issues.

**RECOMMENDATION:**

- We recommend you pursue option 1 and 2(a) with regard to the first generation limit and "Lost Canadians".
- At this time, we are also requesting your direction on Memo F-4987 "*Possible Other Amendments to Bill C-37 (Citizenship Act) to Support Passage*" which outlines other possible options for amendments with regard to residence. With regard to residence, we recommend you pursue option 1.

Neil Yeates

I concur

- OPTION 1 (first generation limit)
- OPTION 2(a) (Lost Canadians)
- OPTION 1 (residence)

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The Hon. Jason Kenney, PC, MP

Attachments (2):

1. Memo F-4975: *Possible Amendments to Bill C-37 to Support Passage and Address Concerns about Access to Citizenship* ]
2. Memo F-4987: *Possible Other Amendments to Bill C-37 (Citizenship Act) to Support Passage* }

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