



**The Canadian  
Chamber of Commerce  
in Hong Kong**

La Chambre de Commerce Canadienne à Hong Kong  
香港加拿大商會

## **Position Paper on Recent Changes to Laws Governing Heritability of Canadian Citizenship from Canadians Born Abroad**

This position was adopted by the Executive Committee of The Canadian Chamber of Commerce in Hong Kong on 23 October, 2009 after extensive consultation with the membership of The Chamber.

The Canadian Chamber of Commerce in Hong Kong is Canada's largest business community abroad with over 1000 members that form the core of the Hong Kong Canada business community. Founded in 1977, it represents members ranging from multinationals to individuals and their interests.

### **Our Position**

**Canadians born abroad should attain the ability to have Canadian children abroad after completing the same residency requirements as Permanent Residents seeking citizenship. This includes allowing minors to be considered under application by their parents or legal guardians.**



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## **Executive Summary**

### **The Concern**

- Canadians abroad are strong contributors to Canadian interests.
- The current state of legislation demeans citizenship for Canadians born abroad to Canadian expatriates or for Canadians adopted from abroad (and acquire their citizenship through the ‘direct route’) and lives in and/or contributes to Canada.
- The membership acknowledges concerns about citizenship being diminished through its granting to subsequent generations of persons with no Canadian connection.

### **Additional Concerns**

- Children born to Canadians abroad risk having stateless children themselves should they give birth in a country that does not recognize the place of birth as grounds for citizenship.
- Uncertainty about children’s status could have a chilling effect on Canadian business, government, educational and military placements abroad and recruitment for work that could involve foreign postings.
- This law is especially discriminatory against women.
- Bill C-37’s enactment contravenes principles of not applying laws retroactively.

### **Our Position**

- Canadians born abroad should attain the ability to have Canadian children abroad after completing the same residency requirements as Permanent Residents seeking citizenship. This includes allowing minors to be considered under application by their parents or legal guardians.



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### **The Issue**

It has come to the attention of members of The Canadian Chamber of Commerce in Hong Kong, most of whose members could be referred to as Canadian expatriates, that recent changes to citizenship rules would deny them or their children citizenship the ability of to pass on citizenship to subsequent generations born abroad.

### **The Concern**

The membership **acknowledges concerns about citizenship being demeaned through its granting to subsequent generations of persons with no Canadian connection** who may choose to exercise all the rights therein with no sense of the obligations of citizenship or motivation to support Canada and Canadians.

However, Canadians abroad are strong contributors to Canadian interests. They help market and sell Canadian goods and services abroad, improving the Canadian economy and making Canadians wealthier. They promote our diplomatic, military, cultural, sports and educational goals. Many of these people have children abroad and contribute mightily to Canadian interests.

However, the current standing of legislation denies Canadians born abroad the ability to pass citizenship to their children even in the event of their significant contribution to Canada and Canadians.

For committed Canadians abroad, this has a variety of outcomes which we find objectionable. However, we believe there is a reasonable solution that should be acceptable to the vast majority of Canadians.



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## **By Way of Clarification**

There is no connection between citizenship and contribution to Canada. Unfortunately, contribution is difficult to quantify for large numbers of people, although it is recognized by schools, local, provincial and federal governments, businesses and other civic organisations for individuals through awards such as The Order of Canada.

It is sometimes believed that citizenship and its associated rights and obligations are strongly correlated with residency. Recent events and the current legislative situation show where this is not true.

Full citizenship, including the ability to pass citizenship to children born abroad, was recently granted to a child who never set foot in Canada and whose parents were not Canadian and have no Canadian ancestry. This is, of course, the well documented case of Baby Sasha, born to Ugandan parents on a Northwest flight in Canadian airspace from Amsterdam to Boston on New Year's Eve (Jan. 31, 2008)<sup>1</sup>.

Many committed Canadians abroad have not had Canadian residency for decades, but continue to contribute to the spread of Canadian cultural, political, educational, business and sports interests around the globe. Our organisation is replete with such individuals.

Legislation allows people to become full citizens following a 3 year Permanent Residency. These people have full ability to grant citizenship to their children born abroad. Under the new legislation adopted in 2008, Canadians born abroad who may have spent decades in Canada are denied this ability. This includes those who previously did have this ability – it has been taken away. Residency currently affords them no route to rectifying their ability to give birth to Canadians abroad.

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<sup>1</sup> <http://www.ottawacitizen.com/Life/Midair+baby+granted+Canadian+citizenship/1151176/story.html>



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## **Undesirable Outcomes**

**The current state of legislation demeans citizenship for Canadians born abroad to Canadian expatriates and for Canadians adopted from abroad (and acquire their citizenship through the ‘direct route’) who live in and/or contribute to Canada.**

In the case of expatriates, many parents are outside Canada temporarily. Many, including those in the Chamber membership, have been abroad for many years and have maintained ties and worked actively to support Canadian causes while abroad. Their children are raised Canadian, attend Canadian schools abroad, and return to Canada for primary, secondary or university education or working career. They self-identify as Canadians and would object to other Canadians suggesting they were in any way less Canadian than those born in Canada or those who immigrated from abroad.

**Children born to Canadians abroad could risk having stateless children themselves should they give birth in a country that does not recognize the place of birth as grounds for citizenship.**

Canadians, like the majority of humanity, care about their families and their connection to their Canadian identity and culture. Risking statelessness is undesirable and creates uncertainty for Canadian parents and grandparents-to-be abroad.

**Uncertainty about children’s status could have a chilling effect on Canadian business, government, educational and military placements abroad and recruitment for work that could involve foreign postings.**

Canadians considering postings abroad to advance Canadian interests would need to calculate their chance of having children of diminished citizenship if they were to begin a family or have additional children while abroad.

**This is especially discriminatory against women** who would need to choose between additional time off of work related to restrictions on air travel and less generous maternity benefits in most of the world compared to Canada.

*In addition...*

By applying the rules retroactively, many Canadians awoke to find their citizenship just a bit less than those of their native born compatriots or those who immigrated to Canada. This seems to **contravene principles of not applying laws retroactively**. For example, changes in capital gains laws apply to future capital gains – not as a tax on current assets previously amassed under old rules.



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## **The Resolution**

This document previously identified the distinction between contribution and citizenship and residency and citizenship. Again, contribution is difficult to quantify for large numbers of people, although it is recognized by schools, local, provincial and federal governments, businesses and other civic organisations for individuals.

However, residency is a well-documented means of establishing full citizenship in Canada.

**It is the position of The Canadian Chamber of Commerce in Hong Kong that Canadians born abroad be granted the ability to pass citizenship to their children upon making a statement of intent, either themselves or through their parents as legal guardians, to acquire full citizenship including the ability to confer citizenship to their children born abroad.**

**It is resolved that the Minister of Citizenship and Immigration direct appropriate resources to present a workable solution**, with appropriate bureaucratic mechanisms in place to enable Canadians born abroad to attain equal status with native-born Canadians and immigrant Canadians. This solution should be made in consultation with the Canadian people, in particular interested and affected parties, and presented for consideration by the appropriate Parliamentary Committee.

It is further resolved that the **relevant Parliamentary Committee and Parliament undertake to amend legislation to confer such ability to Canadians born abroad based on current rules of residency for Permanent Residents under consideration for citizenship**. Such legislative amendments should include provisions to apply resources to build the mechanism's real world interface in such a way as not to prove overly onerous for applicants living in Canada. In other words, **Canadians born abroad should attain the ability to have Canadian children abroad after completing the same residency requirements as Permanent Residents seeking citizenship. This includes allowing minors to be considered under application by their parents or legal guardians.**

The Canadian Chamber of Commerce in Hong Kong would like to propose this position and advocate its adoption and active support by the office of The Minister of Citizenship and Immigration, the Standing Committee on Citizenship and Immigration (CIMM), all political parties and other interested Canadians.