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December 21, 2016

Via email: Minister@cic.gc.ca

The Honourable John McCallum, P.C., M.P.
Minister of Immigration, Refugees and Citizenship Canada
365 Laurier Avenue West
Ottawa, ON K1A 1L1

Dear Minister:

Re: Electronic Travel Authorizations and Dual Citizenship

I am writing on behalf of the Canadian Bar Association Immigration Law Section (CBA Section) to draw your attention to several areas of concern with the recent implementation of the Electronic Travel Authorization (eTA) and the impact of related policies on Canadian citizens. We commend your commitment to reviewing immigration policy and legislation to ensure that it meets the ever-changing and diverse needs of our country. We agree with changes in policy and process that help to ensure identity and security, while facilitating trade, tourism and immigration.

The CBA is a national association representing over 36,000 jurists, including lawyers, notaries, law teachers and students across Canada. Our primary objectives include improvement in the law and in the administration of justice. The CBA Section's mandate covers citizenship and immigration law issues, including legislative changes, administration and enforcement.

With the eTA requirement for visa-exempt travellers who are not U.S. citizens or permanent residents now in force, Canadian citizens with dual nationalities are now required to travel on their Canadian passports or risk being denied boarding. Unlike the eTA requirement itself, this change has not been well advertised, and sufficient notice has not been given to ensure that the majority of affected Canadians are aware of this change. Canadians have been taken by surprise, and we believe that many more will be affected, especially over this holiday season.

The CBA Section encourages you to defer enforcement of this requirement, and extend the availability of electronic special authorization for Canadians with dual citizenship, until a broader notification and advertisement campaign can take place. Many dual nationals choose to travel on their alternate passport for a variety of reasons, including safety reasons, and these travellers should not be denied the right to re-enter Canada for failure to meet a requirement of which they may not have been aware due to lack of sufficient notice.

This brings us to a larger set of concerns about the new requirement for Canadians with dual citizenship to travel on their Canadian passports. The first is that this policy is inconsistent with the government's legal recognition of dual citizenship, and practical facilitation of a Canadian citizen's

right to enter Canada. Canadian laws support both, and by mandating that a Canadian citizen travel only on a Canadian passport when re-entering Canada, they would likely see their right to enter Canada countered in certain settings. For example, Canadians who have travelled on a passport representing their second citizenship in the past may rely on this practice, only to have their right to enter Canada questioned.

Secondly, in implementing this policy, the government has created different sets of rules for different types of dual citizens. Since the eTA requirement does not apply to U.S. citizens, Canadian citizens who hold dual citizenship with the U.S. are treated differently. They can choose to enter on either passport, without risk of being denied boarding on an air flight. This policy is discriminatory and inconsistent with this Government's declaration that "*a Canadian is a Canadian, is a Canadian*".

Lastly, this change has also affected Canadian citizens with children born abroad. These children could previously enter Canada with proof of a right to Canadian citizenship (for example, a long form birth certificate and the ID of the Canadian parents). These children are not eligible for an eTA and, depending on a variety of factors, there may not be sufficient time for their parents to obtain a Canadian passport for them before they are due to travel. Implementation of a facilitation visa to allow these children to travel may again catch Canadians unaware, as parents may not appreciate their children have a right to enter Canada as a Canadian citizen or that they have a right to a Canadian passport. They may not even be aware of the new policy for Canadians holding dual nationalities to travel only on a Canadian passport.

In summary, we are concerned that without further consideration and additional notification this policy may frustrate the legitimate entry of Canadian citizens to Canada, against the spirit and the letter of our *Citizenship Act*.

The CBA Section recommends that:

- a moratorium be placed on the requirement for dual citizens to travel on their Canadian passport until additional advertising and notification efforts are conducted;
- further consideration be given to the unintended result that the policy discriminates against non Canadian-U.S. dual citizens;
- additional outreach and advertising be done to ensure parents of children born abroad understand the right of Canadian citizenship for their child, as well as the best way to facilitate their reentry to Canada (passport or facilitation visa); and
- the special authorization be available indefinitely, and not cease being issued after January 31, 2017, to ensure that Canadian citizens are able to return to Canada in a timely manner in the event a Canadian passport for them is delayed or unavailable.

We thank you for the opportunity to offer our recommendations on eTAs and dual citizenship, and would be pleased to discuss them with you further.

Yours truly,

(original letter signed by Kate Terroux for Vance P. E. Langford)

Vance P. E. Langford
Chair, CBA Immigration Law Section