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American Chamber of Commerce  
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American Immigration Lawyers  
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American Society of Association  
Executives

Bellingham/Whatcom Chamber of  
Commerce

Binational Tourism Alliance

Business for Economic Security,  
Tourism and Trade

Canadian/American Border Trade  
Alliance

Canadian American Business  
Council

Canadian Association of Importers  
and Exporters

Canadian Trucking Alliance

Coalition for Employment Through  
Exports

Detroit Regional Chamber

International Association of  
Amusement Parks and Attractions

International Association of  
Exhibitions and Events

Marriott International, Inc.

Mid-Atlantic Hispanic Chamber of  
Commerce

NAFSA: Association of  
International Educators

National Foreign Trade Council

National Restaurant Association

National Tour Association

Pacific Corridor Enterprise Council

Plattsburgh-North Country  
Chamber of Commerce

Quebec-New York Corridor  
Coalition

Victoria San Juan Cruises

Visit Canada

August 27, 2007

U.S. Customs and Border Protection  
Office of International Trade  
Office of Regulations and Rulings  
Border Security Regulations Branch (Mint Annex)  
1300 Pennsylvania Avenue, NW  
Washington, DC 20229

**Re: Reg. Info. No. 1651-AA69 (Docket No. USCBP 2007-0061)  
Documents Required for Travelers Arriving in the United States  
at Sea and Land Ports-of-Entry From Within the Western  
Hemisphere**

Dear Secretary Chertoff and Undersecretary Fore:

On behalf of the Americans for Better Borders Coalition (“ABB”), we respectfully submit these comments on the Notice of Proposed Rulemaking (“NPRM”) cited above pertaining to the implementation of the sea and land portions of the Western Hemisphere Travel Initiative (“WHTI”).

**I. The Americans for Better Borders Coalition**

ABB unites regional business organizations and a wide array of companies and national trade associations, representing manufacturing, hospitality, tourism, transportation, recreation and other industry sectors, in working to ensure the efficient flow of tourism and goods across our borders while addressing national security concerns. ABB was originally founded in 1998 out of concern for the impact of implementation of the original entry-exit provision of Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

**II. U.S. Citizen Cruise Ship Passengers**

In our comments, submitted September 25, 2006, on the proposed regulations regarding “Documents Required for Travelers Arriving in the United States at Air and Sea Ports-of-Entry From Within the Western Hemisphere” ABB concentrated on the sea travel portion due to the significant economic impact the proposed regulations would have had on the cruise ship industry. ABB is pleased that the Department of Homeland Security (“DHS”) and the Department of State (“DOS”) took notice of the

difference in demographics between the international airline traveler and those traveling in an uninterrupted-loop cruise originating in the U.S. While international airline travelers generally have a high level of passport ownership, the ratio of passport ownership for sea cruise travelers is closer to the U.S. population at large, which is significantly lower, especially for those travelers taking short (two to five days) Caribbean cruises.

ABB supports the alternative document requirements in the NPRM for U.S. citizens departing and reentering U.S. territory on board the same cruise ship. ABB also supports the clarification in the NPRM that the alternative procedure does not apply to passengers embarking in foreign ports. As ABB stated in September of last year regarding cruise line travelers, only “those starting their trip by boarding at a U.S. port and finishing at a U.S. port—hence, ‘uninterrupted-loop’” should benefit from the alternative document requirement. ABB had “no objection to having those starting their trip by boarding abroad being subject to different requirements.”

### **III. Travel by Children Under Age 16**

Since 2005, when WHTI was first announced, ABB has been calling for flexibility in the document requirements for children. Children in both the United States and Canada have the lowest passport ownership rate of any demographic. ABB was concerned that, for example, legitimate travel by families with children, children on school day trips, or children participating in cross-border sport activities would be disproportionately affected by this regulation. ABB strongly supports the alternative document requirements created for U.S. and Canadian citizen children under the age of 16. **However, we recommend that the alternative be applied to children “Age 16 and Under,” and not as currently stated “Under Age 16.”**

As DHS and DOS recognize, “it is difficult for the majority of children under 16 to obtain a form of government-issued photo identification” and also “age 16 is the age that DOS begins to issue adult passports, valid for 10 years, instead of 5 years for children.” Given that neither government-issued photo identifications nor adult passports are given automatically to children on their 16<sup>th</sup> birthday, allowing children age 16 to travel under the alternative procedure would give them the time needed to apply for the appropriate documentation.

### **IV. Travel by Groups of Children Under Age 19**

ABB successfully called for language found in Section 546 of the Department of Homeland Security Appropriations Act of 2007 requiring the certification by DHS and DOS that an alternative procedure for groups of children be created. ABB supports the alternative procedure found in the NPRM for “Children Under Age 19” traveling as part of school groups, religious groups, social or cultural organizations, or teams associated with youth sport organizations. **However, this alternative procedure should be**

**applicable to groups traveling by air, not just those arriving at U.S. sea or land ports-of-entry.**

The language found in Section 546 clearly calls for an alternative procedure to be developed for groups of children traveling across “an international border.” Section 546 makes clear distinctions when the requirements are to apply only to land and sea ports-of-entry. For example, while subsection (iv) calls for the alternative procedure “for groups of children traveling across an international border,” subsection (vi) calls for the passport card to be made available for the purpose of international travel “through land and sea ports of entry.” The statute clearly calls for availability of the passport card only for use at land and sea ports-of-entry before final WHTI implementation, but it also clearly calls for an alternative procedure “for groups of children traveling across an international border” with no restriction based on ports-of-entry type.

**V. Outer Continental Shelf Employees**

This issue was not raised in the original proposed regulations. However, ABB and member companies received differing and conflicting information with regard to document requirements for workers aboard Mobile Offshore Drilling Units (“MODUs”) attached to the United States Outer Continental Shelf (“OCS”) traveling from the U.S. to and from MODUs. Due to the confusion, the U.S. Chamber of Commerce, other ABB member organizations, and individual member companies sought the clarification and standardization of the procedures that now appear in the NPRM. Thus, while the original internal clarification provided to U.S. Customs and Border Protection was welcomed, ABB supports the more official clarification contained in the NPRM, plainly stating that the WHTI requirements do not apply when traveling from the U.S. to and from MODUs in the OCS.

**VI. Individual Cases of Passport Waivers**

Since 2005, ABB has also been calling for passport waivers to be provided in cases of emergencies, such as “volunteers responding to fires and emergencies across the border (an everyday occurrence).” ABB strongly supports the description in the NPRM of the possible waivers to be granted in a case-by-case basis. **However, we recommend that the passport waiver criteria be extended beyond U.S. citizens, particularly if we are dealing with “fire fighters responding to a call, emergency workers responding to a natural disaster, Medivac,” and other such emergencies were even a few minutes could make the difference between life and death.**

**VII. Approved Documents**

ABB supports the decision by DHS and DOS to announce officially that documentation such as the Border Crossing Card (“BCC”), the Secure Electronic Network for Travelers Rapid Inspection (“SENTRI”) card, NEXUS card, and the Free and Secure Trade (“FAST”) card will become acceptable substitutes for a passport.

However, as ABB has stated since 2005, these documents still require a special discretionary form of identification solely for border crossing purposes and, in the case of NEXUS, SENTRI and FAST, are significantly more difficult to obtain than a passport. **Thus, ABB continues to call for the acceptance of a “document that is as close to being non-discretionary as possible,” in particular, enhanced driver licenses.**

Thus, ABB applauds DHS and DOS continued commitment “to considering travel documents developed by the various U.S. States and the Governments of Canada and Mexico,” particularly since they can be issued by a “State, tribe, band, province, territory, or foreign government if developed in accordance with pilot program agreements.” We understand that following in the footsteps of the State of Washington, the State of Vermont just signed such an agreement with DHS. ABB looks forward to more states, provinces, and territories joining in.

### **VIII. Implementation Timeline**

ABB is, however, disappointed in the proposed implementation timeline. ABB and its members successfully petitioned Congress for an extension of the deadline until June 2009. The additional time is needed to ensure that WHTI-compliant documents are in place and widely available. As ABB warned, the WHTI requirements for air passengers created backlogs and delays of more than three months in both Canada and the U.S., which led to anxiety, confusion, and a recent push back of full implementation, due to the backlogs in the U.S. passport offices. With additional WHTI compliant documents being made available for land and sea border crossings, such as driver licenses, the extra time must be allowed to test and successfully implement the new alternatives.

Furthermore, the additional time granted by Congress will be needed to implement a vigorous public education campaign. A Zogby International poll commissioned by the BESTT coalition and funded in part by the US Chamber of Commerce, found that 87% of Americans and 82% of Canadians are either not very familiar or just somewhat familiar with the changes that have been taking place with regard to international travel documentation requirements. In fact, as ABB pointed out in prior comments, research has found that some Canadians already think that a passport-only requirement is in place for all ports-of-entry, leading to an estimated cumulative economic impact shortfall on total United States receipts from Canadian travel from 2005 until the end of 2008 of about \$667 million.

ABB joins its counterparts in Canada, as expressed by the Canadian Chamber of Commerce’s comments to the NPRM, that with a concerted effort, significant resources and planning, “WHTI can be efficiently implemented at land and sea ports-of-entry” by the deadline of June 2009, but not by the “summer of 2008” as envisioned by the NPRM.

## IX. Conclusion

ABB is optimistic that DHS and DOS will continue to address our concerns, as the NPRM shows they have been doing. Furthermore, additional steps need to be taken to avoid significant negative economic impacts to legitimate travel and trade by the full implementation of WHTI. **More emphasis needs to be placed on doing it right versus doing it fast.** The NPRM calls for full implementation of WHTI by the summer of 2008, however, there is consensus among stakeholders that an additional year is needed to secure a smooth and effective transition. The additional year should be used, as Congress expected, to develop, test, and implement alternative documentation to passports and to educate the public in the affected countries.

ABB greatly appreciates the excellent relationship we have developed with both DHS and DOS in this area and hope to continue to expand our partnership in the future. ABB looks forward to continuing our work with DHS and DOS to ensure proper implementation of WHTI that guarantees security without sacrificing our economy.

Sincerely,



Randel K. Johnson



Angelo I. Amador