

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

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June 8, 2005

The Honorable Norm Coleman
Chairman
Western Hemisphere, Peace Corps
and Narcotics Affairs Subcommittee
Senate Committee on Foreign Relations

The Honorable Christopher Dodd
Ranking Member
Western Hemisphere, Peace Corps
and Narcotics Affairs Subcommittee
Senate Committee on Foreign Relations

**Re: Hearing on Safety and Convenience in Cross-Border Travel: An Analysis
of the Western Hemisphere Travel Initiative**

Dear Chairman Coleman and Ranking Member Dodd:

On behalf of the U.S. Chamber of Commerce, I would like to thank you for holding a hearing this week on “Safety and Convenience in Cross-Border Travel: An Analysis of the Western Hemisphere Travel Initiative.” The U.S. Chamber of Commerce is the world’s largest business federation, representing more than 3 million businesses of every size, sector and region. Thus, proper implementation of the Western Hemisphere Travel Initiative (WHTI) is of tremendous importance to us and we welcome the opportunity to submit these written comments in anticipation of the Advance Notice of Proposed Rulemaking expected to come out later this month. I would also like to take the liberty of requesting that this letter be included in the hearing record.

Our main concern with the WHTI is with the implementation of the land border crossing requirements to be phased in by 2008. It is impossible to quantify with any precision the commercial impact of the new document requirements under the WHTI because we still do not know what the new document requirements will be. However, it can be reasonably estimated that if the document requirements are too strict the impact on the American economy will be severe. Clearly, if documentation such as SENTRI, NEXUS, FAST, and BCC program cards are acceptable substitutes for a passport, the impact will be lessened.

The main debate, however, revolves around the acceptance of driver licenses together with birth certificates as a proper substitute to a passport in land border crossings. It is the Chamber’s position that if licenses and birth certificates comply with certain requirements—especially given the new requirements found in the REAL ID Act—they should also be authorized as appropriate substitutes to a passport. Section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004, the legal basis for

the new regulations, clearly states that a passport substitute should be another document “or combination of documents” that are “sufficient to denote identity and citizenship.”

This language would clearly allow for acceptance of a driver’s license with a birth certificate—the best known combination of documents that denote identity and citizenship. We understand that training costs for border personnel may be less under a restrictive program authorizing a very limited range of documents; however, the possible commercial costs of a restrictive program must also be weighed.

For example, Canadian visitation to the United States alone is far greater than from any other foreign nation. There were 34.5 million visits by Canadians to the United States in 2003, which had a \$10.9 billion impact on our national economy. At the same time, fewer than 40% of Canadians hold passports and even a smaller percentage of children hold passports.¹ Thus, communities that cater to family vacationers face the prospect of losing a substantial number of the market audience. Further, many older Canadians own, rent, or lease residences in the United States for extended periods of time. While it is possible they would go through the process of obtaining a passport, visits by vacationing younger relatives would very likely be diminished.

The Buffalo Niagara Partnership, the Detroit Regional Chamber, and the Bellingham/Whatcom Chamber, which together represent employers in three border states that conduct over \$60 billion in annual bilateral trade with Canada, are an integral part of the local efforts by chambers of commerce, from San Francisco to Baltimore, in seeking the continuation of driver’s licenses with birth certificates as substitutes to passports. As these groups pointed out last week in a letter to other chambers, a restrictive program would have an impact well beyond border communities.

Unfortunately, the Departments of Homeland Security and State have been dismissive of authorizing acceptance of a combination of a driver license and a birth certificate as a passport substitute. They acknowledge that a birth certificate and a driver license are sufficient to establish nationality and identity for the purpose of obtaining a passport. However, they argue that the difficulty of training border officers to determine the validity of these documents makes it impossible to allow them to be acceptable substitutes to passports. This determination seems to have been made without a discussion with the states/provinces, business interests, and other affected parties, on possible fixes to their concerns.

In fact, new laws, such as the REAL ID Act, are undermining the Departments’ position, given that driver’s licenses and birth certificates are becoming increasingly more secure. States have already been moving toward making these documents machine readable, coded with biometric identifiers, and other security and tamper resistant features. We are not advocating for the acceptance of “baptismal records, certificates of naturalization, [and] certificates of identity,”² which the Departments seem to be

¹ Data obtained from the Canadian Consulate in Buffalo, NY, by the Buffalo Niagara Partnership.

² Answer by U.S. Customs & Border Protection to “Frequently Asked Questions,” also available at www.customs.gov/xp/cgov/travel/vacation/kbyg/west_hem_init/west_hem_faqs/dhs_faqs.xml.

concerned about. We also understand that there are multiple state/provincial driver licenses and birth certificates. However, we believe the solution is in having reasonable prerequisites for the acceptance of driver licenses with birth certificates rather than to eliminate outright their acceptance, especially since they do, by the Departments own admission, serve to prove both identity and citizenship.

It is imperative that the Departments of Homeland Security and State reach out to all sectors affected by any change at the border and work with them to find solutions that facilitate trade and travel without jeopardizing national security. In the past private/public partnerships, such as the Data Management Improvement Act (DMIA) Task Force, which the Chamber served on, have been instrumental in reaching consensus on difficult border issues. Solutions will require flexibility and may well require different identification systems for different types of visitors. Taking reliable documents “off-the-table” without substantial and formalized discussions with affected businesses would lead to a program that unduly penalizes American business and the American economy.

We appreciate the opportunity to provide these comments on the topic covered at the hearing, and the U.S. Chamber looks forward to continuing our relationship with the Subcommittee and the Departments of Homeland Security and State to address these issues.

Sincerely,

A handwritten signature in black ink, appearing to read 'Randel K. Johnson', with a stylized flourish at the end.

Randel K. Johnson

cc: Members of the Senate Subcommittee on the Western Hemisphere, Peace Corps and Narcotics Affairs