

**SUBMISSION**  
of the  
**CANADIAN MERCHANT SERVICE GUILD**  
to the  
**INTERNATIONAL COMMISSION ON SHIPPING (ICONS)**

The Canadian Merchant Service Guild (C.M.S.G.) was originally established by an Act of Parliament in 1919 essentially to unite fraternally Canadian seamen and also initially to provide those seamen, as well as their dependants, with insurance protection. In 1980 the Guild was re-incorporated by Act of Parliament. Its present day objectives are to promote the social, economic, cultural, educational and material interests of its members.

Through some forty collective agreements, the Guild represents the vast majority of Masters, Mates, Pilots, and Engineers across the Canadian-flag Shipping Industry. Its 3000 members are largely employed in the private sector, but membership also includes ships' officers employed by federal government departments, one of which is the Canadian Coast Guard.

The Guild has been an active affiliate of the ITF since 1968. The ITF has already submitted a detailed submission to ICONS, which the Guild wholeheartedly endorses.

**SUMMARY**

A sustainable Shipping Industry will be crucial for trade and commerce in the increasingly globalized world economy. However, the operation of substandard shipping with substandard crews serves to exacerbate the challenges the Shipping Industry faces with respect to an ageing fleet and a critical shortage of qualified seafarers.

The use of substandard ships creates competitive distortions amongst flags and amongst ship owners/operators; it undermines crew training and upgrading, and distorts the functioning of the maritime labour market; is detrimental to safety at sea and the marine environment; and it distorts investment. Most alarming of all are the deplorable consequences for human and trade union rights that too frequently arise in the operation of such ships.

The Shipping Industry operates within an international regulatory framework. However, numerous strategies have been devised whereby operators of substandard ships are able to easily evade that framework, sometimes with government sanction.

Concerted action by the industry is urgently needed to meet the threats posed by substandard shipping. Seafarers and shipowners will want to act in unison, sometimes jointly, and governments will be called upon for a renewed commitment and willingness for resolute action if substandard shipping is to be eliminated.

THE STAKES ARE HIGH!

## **INTRODUCTION**

The Canadian Merchant Service Guild is vitally interested in the work of the International Commission on Shipping (ICONS), and especially as it relates to the human dimensions of the Shipping Industry.

The Guild agrees with the Commission that elimination of substandard shipping will require an innovative and determined approach by the international industry. It is also felt that any such strategy or related institutional arrangements, needs to be based on an holistic approach that accounts for economic interests, and encompasses human factors alongside environmental considerations. These three elements, while distinctive in certain regards, are at the same time inter-linked and together inter-act in ways that bear importantly on the broader question of the long-term future and viability of the Shipping Industry. Most importantly, however, that strategy at the same time also needs to be cognizant of two key issues -- an ageing fleet and a critical shortage of qualified crews.

Undoubtedly national administrations, ideally working in close conjunction with seafarer and shipowner organizations, will be pursuing the question of substandard shipping. However, given that there are imposing international complexities and inter-relationships involved, effective action will in certain respects need to transcend national boundaries.

This is a fact which highlights the vital nature of the leadership role to be played by organizations such as the Intergovernmental Maritime Organization (IMO) and the International Labour Organization (ILO). Indeed, the existence of those agencies and their activities can be explained by the exceptional nature of ownership, operation and crewing in the Shipping Industry and the practical limitations on national administrations to exert significant control and discipline over the industry.

Canada has played an historically important role in the work of these international agencies. It has been vigorous in embracing and applying IMO and ILO Conventions and implementing other initiatives such as those concerning port state control; as a consequence, some of the more flagrant malpractices, and the exploitation and abuse of seafarers noted so comprehensively by the ITF in its submission to ICONS do not generally arise within the Canadian-flag jurisdiction or in the operation of the Canadian-flag fleet where our members are employed.

Nevertheless, because of our long association with international standard-setting and conversancy with training and manning issues, along with our familiarity with the unacceptable conditions that many of our fraternal brothers and sisters must work under, the Guild makes this submission to provide the Commission with another perspective on the issues and challenges before it, and hopefully, some useful ideas.

### **COMPETITIVE ENVIRONMENT**

The annals of maritime commerce suggest that flag-of-convenience ships all too often are sub-standard and pose serious threats to the safety of life at sea and to the environment. Moreover, the tax havens, the possibility of cheap but substandard crewing arrangements, and the likelihood of minimal enforcement of standards that are some of the features offered by convenience registries serve to threaten the sustainability of the industry as a whole.

In spite of the international regulatory regime noted above, there are a number of flag states which do not follow its rules or apply them vigorously, thereby giving ships flying their flag an unfair competitive edge.

The existence of flags-of-convenience registries and the use of substandard ships and substandard crews, along with strategies of shippers and their political influence in government circles combine to put the Canadian-flag fleet under constant competitive pressure. Even the cabotage regime within which the Canadian-flag fleet operates permits the use of foreign-flag, foreign-crewed ships under the so-called waiver system. As a result, there have been no new-buildings for the Canadian-flag fleet in some 15 years and, as critical, potential investment into a much discussed Canadian-flag deep sea fleet continues to be undermined, as are needed measures for aggressive recruitment into the industry and investment in human resources more generally.

In respect to the above-noted waiver system, while recognizing it as a necessary component of Canada's coasting trade laws, it is the Guild's view that the process and guidelines for deciding on whether to approve waivers must not be dominated by the notion of commercial necessity; this is an argument too often allowed as an excuse for circumventing the essential purpose of the coasting trade law itself.

The Guild fully recognizes the importance of the industry being viable and competitive, and indeed has championed that cause in various fora, including Parliamentary Committees examining the industry's future. Towards that end, in recent years the Canadian Shipping Industry has witnessed a degree of industry restructuring, investments in modification and modernization of ships, and a large decrease in the number of ships in the fleet as well as in employment levels. It is notable that these changes were achieved with virtually no labour-management conflict.

In the Guild's view and experience, the quality of labour-management relations and associated institutional arrangements, and especially the resulting stability of labour and predictability of labour costs are critical to successful ship operations. Many positive outcomes including competitive viability are associated with a progressive labour relations climate, and perhaps most notable are the benefits accruing to the industry's clients--shippers who are able to rely on uninterrupted, safe, and economic transport of their product.

### **HUMAN RESOURCE CHALLENGE**

In Canada, as across the world, the Maritime Industry will be facing critical shortages of qualified crews. The strategic importance that a skilled workforce, their ability to adapt, and the quality of their commitment to seafaring as a career have for the effectiveness of the industry's operations is beyond dispute.

A number of forces--such as the availability of new and sophisticated ship-board technology, sweeping changes to regulatory training, and the pursuit of enhanced safety and the operational health of the industry--are putting a premium on crew skills and the adoption of a training and safety culture in the industry. These pressures are occurring amidst manning reductions and a lessened interest in seafaring as a career due to negative perceptions of the industry and competitive conditions and opportunities in shore-based industries.

The Guild draws attention, as does the ITF, to the importance of employment continuity and stability for seafarers in any training, recruitment or career path initiatives as well as those for instituting a safety culture on board ships. Work needs to be done in this matter, through collective bargaining and trade union activity or, in its absence, measures to bring about greater possible adherence to ILO Convention 145 and Recommendation 139, instruments having to do with employment of seafarers.

Marine training has been a subject of much review and consideration in Canada, and especially such questions as funding, institutional arrangements, standards of certification, and matching training supply with industry's needs. Importantly, seafarer organizations and shipowners have jointly, along with government, been involved in initiatives respecting some of those issue-areas.

Particular note is made of the Guild's active involvement in an intensive study of the industry's human resources, carried out several years ago. Through the development of age profiles, retirement rates and training needs projections, that study confirmed looming crew shortages and especially of qualified senior deck and engineering officers; called for a recruitment strategy and standards to ensure entrants possess appropriate aptitudes, urged measures be adopted to project a positive image for the industry; and identified the need for cooperation and coordination, and a policy environment in which the industry can flourish and provide potential entrants with some assurance that they can enjoy stable employment and reasonable career opportunities. This latter point would seem to have relevance to international-level initiatives dealing with the emerging critical shortages of crews.

A key outcome of that study was the initiation of a process respecting the possible establishment of a National Marine Training Council. Essentially that Council would have sought to mobilize a national effort respecting marine training through cooperation and harmonization amongst all parties involved, and by the pursuit of strategic objectives of which the following are of particular note: establish channels for effective liaison and coordination of activities of the stakeholders; promotion of seafaring as a career; fostering of an industry training culture and career development programs; and serving as a forum for stakeholders, industry-wide.

The concept received considerable support from stakeholders, however, due to the fact that sufficiently broad support from the industry itself has not been forthcoming, the proposal still remains unfulfilled.

## **ROLE OF GOVERNMENTS**

The Guild makes its comments and observations about "the governmental role" in the context of a firm conviction that reliance on self-regulation has no part to play in the eradication of substandard shipping/substandard crews.

From our review of developments at both the national and international levels, the Guild is of the opinion that governments, on whom international action is dependent, need to show more enthusiasm and commitment for dealing with substandard shipping and in applying internationally-set standards. If such concerted action were to evolve, the Guild believes that due stimulus would emerge for fleet renewal and for initiatives or investments into training and upskilling that will be called for.

It is recognized that there can be genuine difficulties to be experienced by flag states in ratifying internationally agreed Conventions, such as those encountered in Canada because of the division of federal-provincial responsibilities, or in applying measures to comply with those instruments. However the lack of wide-based compliance with key instruments seems more a question of political will than one of failure of the current international regulatory framework itself.

At the international level, the Guild sees the regulatory regime of the IMO and the ILO, supported by port state control initiatives as generally adequate; however, several comments are offered with respect to ILO Convention 147. That Convention is about the human side of shipping, seeking in a broad sense, improved safety of navigation and advancement of seafarer's interests in the fields of health and safety, working conditions and trade union rights.

It is noted that the ILO's interest in substandard ships and their adverse implications for crews dates back to 1933 when, at a session of the ILO's Joint Maritime Commission there was considerable discussion over concerns about re-flagging of ships to non-traditional registries. The emerging increased use of flags-of-convenience alongside crew size reductions and questionable ship management practices continued to exert pressures for international action against substandard ships and the consequent adverse implications for conditions of work, shipboard life and safety; ultimately Convention 147 was adopted in 1976.

Since then, continuing attention has been devoted by the ILO to the promotion of more widespread ratification of the instrument. These efforts included the convening of a Meeting of Experts in 1989 to draw up a set of practical guidelines intended to assist in the uniform implementation of this complex Convention and which could serve as an adjunct to national laws on procedures to be followed by ship inspectors, including those working within port state control systems. In this regard, the Guild would underline the importance of port state inspections paying due and concerted regard to the human elements involved.

It is also suggested that the ILO, in seeking to foster ratification and compliance with its maritime instruments and notably Convention 147, might consider ways to further the practice of tripartism in the face of an increasingly unregulated (maritime) labour market, a practice which, incidentally, has been a hallmark of the ILO's maritime activities from the start.

### **CLOSING POINTS**

While this submission has already touched on a number of issues identified by ICONS as needing examination, further specific commentary on several of them would seem in order.

On the matter of possible establishment of an international enforcement mechanism, one of the key determinants will be whether "users of shipping" buy into the notion of eliminating the use of sub-standard ships and thereby, effectively undermine their reason for existence. Addressing that determinant will be an imposing task and will call for a strong governmental presence.

As an initial step, consideration might be given to establishment of a joint seafarer-shipowner advisory and information agency respecting substandard shipping and crews, one that would draw on input world-wide and whose authoritative outputs would serve for both advocacy and monitoring purposes. As one of its specific endeavours, the agency could identify substandard registries and substandard classification societies. Its work would give rise to greater transparency and coordination on this matter; it could also be of potential benefit to flag states needing assistance to implement minimum standards and follow "best practices", and as to the malpractices to discourage.



On the question of how the financial and welfare interests of the crew could be more effectively protected, the Guild's simple response is that this end can likely best be achieved through the extension of trade union organization and collective bargaining rights where they do not already exist, and through determined government action to ensure compliance with internationally-agreed social and labour instruments. Part of the approach here may be to seek ways to ensure a broader understanding of the institutions and practices of collective bargaining in the Shipping Industry.

And lastly, on the theme of the need for an innovative approach, the Guild has had a particular experience it believes might be of interest to ICONS.

The Guild has referred on several occasions in this submission, to its view that consensus-building and joint labour-management approaches offer significant potential for discussion, clarification and resolution of issues facing the industry. Following is a brief overview of a unique Canadian initiative in which the Guild played a lead role and which, under the right circumstances, might offer some of the elements of a framework for any international-level initiative/strategy respecting substandard ships and crews.

Recognizing that a number of human resource issue areas a) were shared in common, b) did not lend themselves to resolution at the bargaining table, nor c) could not be adequately addressed through unilateral action, the Guild and several other seafarer organizations along with a grouping of Canadian-flag shipowners in the early 1990's concluded that the industry needed an innovative process and forum to deal effectively with certain human resource issues such as training and upgrading, health and safety, and adaptation to technological and structural change.

As a result, a joint body known as the Council of Maritime Affairs (COMA) was established and had as its broad objectives the achievement of a comprehensive, broad-based understanding of the human resource issue areas impacting on ships crews and ship operators; addressing such issues in a structured and consensual manner; undertaking initiatives in training; ensuring an effective forum and process for effective industry input into legislation/policy measures that bear upon the industry; and promoting the development and adoption of maritime policy which fosters viable career prospects for Canadian seafarers and investment in fleet renewal.

Many significant issues were in fact addressed by COMA and successes registered on a number of fronts, the most important of which was that its operations opened up a process for new dimensions of dialogue and participation for the Shipping Industry in the consultative agenda of the government and its agencies and even with the commercial sector of the Canadian economy. This was important because typically government consultations respecting our industry were being targeted specifically for seafarers on the one hand, or for shipowners; the introduction of a joint industry approach under COMA forced new thinking by the government about its consultation strategy and process in the face of a unified industry-level position and voice. We would underline this last point; should joint seafarer-shipowner arrangements emerge as a result of the work of ICONS, new attitudes and arrangements for consultation by the IMO, ILO and others will be called for.

While initially facilitated by government, COMA was totally independent from it. COMA is not presently in operation, due in the main to changes that have been taking place within shipowner organizations. It was a unique initiative, both in the Canadian transportation sector and across the World Shipping Industry.

## **CONCLUSIONS**

Whatever strategy emerges for addressing the competitive distortions and malpractices associated with substandard shipping, it will need to meet the overall tests of increased sustainability for the industry and competitive viability, improved life and safety at sea and for the environment, and establish a fair "playing field" for responsible operators.

Ultimately, regulatory responsibility for ship safety is that of the flag state. Flag states must accept that they are both key player and stakeholder in the operations and future directions of the Shipping Industry, and act responsibly to minimize the use of substandard shipping and crews. Shippers too, must eventually need to come to the realization that it is in their long-term interests to support such efforts.

With an ageing workforce the industry faces a replacement problem that will be especially problematic at the senior certification levels. The challenge will be one of how to attract and retain sufficient numbers of highly trained, qualified, and motivated personnel in the context of a changing demographic environment and an unfavourable image of the industry and life at sea. The challenge in Canada, at least, is double-edged as training involves not only academic achievement, but requires sea service, access to which is becoming a growing problem in light of the economic uncertainties which much of the industry faces.

The Guild is convinced that a supportive policy framework for the industry at both the national and international level will be crucial to any training, recruitment or other human resource measures, as it will be for investment to replace an ageing fleet. Such objectives would, it is felt, also benefit from partnership and consensus-building, jointly undertaken by seafarers and shipowners.

The World's Shipping Industry is by any measure, a global industry. It clearly benefits from the regulatory framework and activities of the ILO and IMO, as it does from actions on the part of individual member states to deal with the excesses associated with the use of substandard shipping. While the industry glaringly stands out in stark, favourable comparison with other industries that have embraced globalization in terms of the consideration, if any, given to "human" aspects, there is clearly more serious work to be done. Hence, the vital nature of ICONS' work.

## **RECOMMENDATIONS**

The Canadian Merchant Service Guild endorses the conclusions presented by the ITF in its submission to ICONS and the unified set of recommendations which embrace the varied and complex issues involved in dealing with substandard shipping. Several of those points warrant reiteration in the context of this submission.

- Flag states must meet all their international obligations.
- A "genuine link" must exist between the ownership of a vessel and the flag it flies.
- A port state detention should result in the imposition of appropriate punitive fines and delay of unloading until remedial action has been taken and the vessel found to be in full compliance with international requirements.
- The port state control system must pay more attention to the human dimensions involved and rigorously enforce applicable instruments.
- Codes of best practice or voluntary initiatives and agreements should complement regulatory frameworks and other policy instruments RATHER THAN SEEK TO REPLACE THEM.
- Seafarers must be considered as valued professionals, afforded suitable employment security and continuous training and be adequately protected from unfair commercial pressures.
- Free and fair competition must be underpinned by a set of norms which prevent inadequate manning levels, unfair or substandard employment policies and practices, and the avoidance of training by shipowners/operators.

Respectfully submitted,

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(Annex 1)



## ANNEX

This submission to the International Commission on Shipping has been prepared by John Fuchs.

His extensive background in the maritime labour field is particularly relevant to the work of the Commission;

- Industrial Relations Specialist for the Shipping Industry, Canada Department of Labour, 1968-1990
- Coordinator of project on "Strategic Factors in Industrial Relations in the Shipping Industry", International Institute for Labour Studies, I.L.O., 1971-1976
- Research Director, Federal Mediation and Conciliation Service, Canada, 1976-1990
- Government delegate and Head of delegation, ILO Maritime Conferences, 1970-1987
- Government expert, and Chairman, 1989 tripartite ILO meeting of Experts on guidelines for inspection of labour conditions on board ship
- Shipowner delegate, 1991 session of the Joint Maritime Commission (ILO), and to the 1994 I.L.O. Maritime Preparatory Conference
- Seafarer delegate, 1996 I.L.O. Maritime Conference
- Chairman of the Steering Committee, 1992 Study of Human Resources in the Canadian Marine Transportation Industry
- Executive Director, Council of Maritime Affairs

Mr. Fuchs now serves as an international maritime labour consultant