



The Company of Master Mariners of Canada

National Office

401 East Waterfront Road, Vancouver, B.C. V6A 4G9

The Honourable Rona Ambrose
Minister of the Environment
Environment Canada
Ottawa
Ontario

24.4.06

Dear Minister,

Migratory Birds Act – C.15 Amendment “The Criminalisation of Seafarers”

The above amendment, introduced by the Department of the Environment with the good intention of reducing oil spills at sea, is unfortunately becoming better known under its unofficial title as Canada's contribution to the general criminalisation of Seafarers and therefore also impacting on concerns of Transport Canada.

As a Company of professional mariners we are concerned that it will also have a profound and far reaching impact on the quality of future ships officers, thereby increasing the risk of a spill and defeating its very intention.

For Transport Canada, the decline in the quality of ships officers was noted by IMO some time ago and steps, such as the STCW convention and a crack down on "Flag of Convenience" states were undertaken to improve standards. Along with this decline in standards however is a large and growing worldwide shortage of officers which is increasing the pressure on those who remain and the owners. You have first hand proof of this situation in your own Departments where for some time you have had trouble filling jobs that require marine experience.

Our concern is that the very people that should be attracted to this career will be too bright to embark on a career where the most minor of mistakes, which occur in every profession, are not only heavily penalised but criminalised. This will not only undermine or defeat the good work that Canada and other states have done to improve the standards but exacerbate the shortage, resulting in too rapid promotions without the necessary experience.

The old saying of "Master under God" no longer applies as the authority of the Master has been significantly eroded and it also existed in a time where one worked for a Company "man and boy" with the subsequent knowledge of and confidence in, the ships and crews that you sailed with. These days are gone. Ships, officers and crews now change on hours notice before sailing with no time for extensive inspections or familiarisation. To be workable and fair, current regulations must adapt to this new reality or Governments must change the reality to match the regulations. Masters of ships cannot be expected to do it and should not be held accountable in the interim for situations that are beyond their control.

In the area of environment, there have been too many recent incidents where political expediency and inefficiency has resulted in the victimisation of officers, such as being jailed without charges of wrongdoing and without legal representation, who did their jobs well. This is of real concern as you will recall that this has happened in countries that normally respect the rule of law but use such laws to appease public reactions.

We would ask then, that you and your staffs consider carefully the larger picture involved in implementing and applying this amendment in Canada and also that delegations to international bodies whose mandates address these issues, be given suitably pragmatic instructions so that we may create a sensible environment where ships may still attract and be handled by, competent officers.

That is the only way, over time, to keep our waters clean.

Respectfully,

Captain Ian Marr
National Master



23 Jun 2006

Captain Ian Marr
National Master
The Company of Master Mariners of Canada
National Office
401 East Waterfront Road
Vancouver BC V6A 4G9

Dear Captain Man:

Thank you for your correspondence of April 24, 2006, to the Honourable Lawrence Cannon, Minister of Transport, Infrastructure and Communities, regarding Bill C-15. The Minister has asked me to reply on his behalf.

As you may be aware, Transport Canada is the lead department responsible for ship pollution prevention.

In May 2004, the Minister of the Environment introduced Bill C-34. The bill expanded powers to Environment Canada officials to redirect and inspect ships, arrest shipboard personnel and investigate alleged pollution incidents by ships out to Canada's 200 nautical mile exclusive economic zone limit. The bill did not pass before the 37th Parliament ended, but it was reintroduced as Bill C-15 to the 38th Parliament. It received Royal Assent on May 19, 2005, and was proclaimed into force on June 28, 2005.

In regard to the implementation of Bill C-15, Transport Canada and Environment Canada have agreed to develop a national Memorandum of Understanding (MOU) to outline the roles and responsibilities of each department and determine how they will cooperate when enforcing their respective pollution prevention and wildlife legislation.

Work began on the MOU in July 2005. The various drafts have undergone thorough reviews by program officials and legal services of both departments and have been amended accordingly. Transport Canada and Environment Canada have participated in joint meetings with industry representatives, who received copies of the draft MOU at the November 2005 and the May 2006 Canadian Marine Advisory Council meetings. The final version of the MOU is expected to be ready for approval in the near future.

Both Transport Canada and Environment Canada have stated in the MOU that enforcement actions must be administered in conformity with the *Canadian Charter of Rights and Freedoms* and take into account Canada's relevant treaty obligations, such as the International Convention for the Prevention of Pollution from Ships, the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the Paris Memorandum of Understanding on Port State Control and the Memorandum of Understanding on Port State Control in the Asia-Pacific Region.

Transport Canada is committed to working together with Environment Canada and other agencies to address oil pollution from ships and develop appropriate legislative provisions in accordance with existing international obligations and authorities.

I trust that the foregoing has addressed your concerns. Thank again for writing and providing your views.

Yours truly,

A handwritten signature in dark ink, appearing to read "Paul Fitzgerald". The signature is written in a cursive, slightly slanted style.

Paul Fitzgerald
Senior Policy Advisor