

January 30, 2025

**House of Commons**  
Ottawa, ON K1A 0A6

**ATTN:**

**The Honourable Steven MacKinnon, PC, MP**  
Minister of Employment, Workforce Development and Labour

401-160 de l'Hôpital Blvd  
Gatineau, Quebec J8T 8J1

**Via Email - [Steven.MacKinnon@parl.gc.ca](mailto:Steven.MacKinnon@parl.gc.ca)**

Dear Minister,

**RE: Potential Misuse of Temporary Foreign Workers in the Maritime Sector**

Please accept this correspondence regarding an issue of serious concern to the undersigned unions: potential misuse of the Temporary Foreign Worker (“TFW”) Program by maritime employers.

By way of background, our organizations represent seafarers aboard ships engaged in maritime activities of vital importance to Canada's supply chain. The officers and crew on these ships perform work that is essential to the country's security and prosperity. Historically, these jobs have provided family-sustaining wages, secured through generations of tireless collective action.

However, these historic gains are now under threat: increasingly, maritime employers have secured labour through the TFW Program, offering compensation far below the industry standard. This has resulted from gaps and ambiguities in the regulatory regime governing TFWs. Our organizations urge government to clarify these ambiguities and close these gaps.

This letter addresses three issues:

- 1) Loopholes for maritime sector employers;
- 2) Lack of clarity concerning the requirements of the TFW Program's high-wage stream;  
and,
- 3) Shortcomings of the existing Letter of Concurrence process.

Before addressing these issues, we will provide a brief overview of the current process governing the hiring of TFWs for work in the maritime sector.

**A. Current Process**

Prior to hiring TFWs through the “high-wage stream”, employers are required to obtain a positive Labour Market Impact Assessment (“LMIA”) from Employment and Social Development Canada (“ESDC”). ESDC should not issue a positive LMIA if “*the wages set out*

*in the offer of employment are not consistent with the prevailing wage rate for the occupation” (see s. 203(1.1)(a) of the *Immigration and Refugee Protection Regulations*, or “IRPR”).*

However, the meaning of “prevailing wage rate” is not defined in the *Regulations*; its interpretation and implementation falls to ESDC. Currently-applicable ESDC policy provides:

*For the purpose of the TFWP, you [i.e., employers] must pay the prevailing wage that is defined as the highest of either:*

- *the median wage on Job Bank*
- *the wage that is within the wage range that you're paying your current employees hired for the same job and work location, and with the same skills and years of experience*

*... Employers who hire TFWs for unionized positions must offer the same wage rates and forms of compensation as those established under the collective agreement.<sup>1</sup>*

Our organizations are concerned that this policy is not being applied consistently, or is being circumvented by some maritime employers.

### ***B. Loopholes for Maritime Sector Employers***

As noted, the policy defines the “prevailing wage rate” as the higher of either the median wage on the Government of Canada Job Bank, or a wage within the wage range that the employer pays to “*current employees hired for the same job and work location*”.

In the maritime sector, this language creates a potentially significant loophole.

The root of the problem seems to be that the current policies are poorly equipped to accommodate the web of relationships between ship owners, operators, charterers, etc. For example, it is easy to imagine a situation where Company A owns a vessel, Company B operates the vessel, and Company C chartered the vessel to move cargo owned by Company D: in that case, who “employs” the vessel’s crew? Logically, one would assume that the employer is Company B, the vessel operator; but what if Company B has no “*current employees*” in Canada? In that case, would it be required to match the wages paid by Company C (the charterer), or simply to match the median wage listed in the Job Bank? The policies do not clarify this question.

The problem is particularly acute when Company C (the charterer) is a unionized employer, bound by a collective agreement which sets specific wages for employees performing the relevant work. In that case, Company C could secure potentially significant cost savings by chartering a vessel owned and/or operated by a company with no Canadian employees. If the vessel operator does not have to pay collective agreement wages, this creates a strong incentive for unionized employers in the maritime sector to “contract out” union work, undermining the bargaining power of the union and the working conditions of its members.

The undersigned unions urge the Government of Canada to close this loophole. In our view, updating the existing policy would not be sufficient: the *Immigration and Refugee Protection*

---

<sup>1</sup> “Program requirements for high-wage positions”

*Regulations* should be amended to create clear, enforceable legal standards applicable to maritime employers.

### ***C. Need for Clarity Regarding the “Prevailing Wage Rate”***

The *Immigration and Refugee Protection Regulations* should also be amended to provide a clear, consistent meaning of “prevailing wage rate”, and to enshrine additional protections for unionized employees.

Under existing policy, a company with no current Canadian employees only needs to offer the median wage listed on the Government of Canada’s Job Bank. However, when combined with the loophole discussed above, this creates significant potential for abuse.

A particularly dire example of the issue is currently unfolding in British Columbia. In Canada, existing collective bargaining agreements commonly provide for hourly wages between **\$37.98** - **\$44.44** for a vessel’s cooks. In contrast, Job Bank lists a median hourly wage of **\$19.00** for a cook in British Columbia—*less than half* of what a vessel’s cook might earn under an applicable collective agreement.

Presently, a vessel operator with no Canadian employees could secure a positive LMIA if they intend to pay their BC-based cooks \$19.00 per hour or more. However, this raises two related issues.

Firstly, Canadian citizens and permanent residents are unlikely to accept work at sea for such low wages. The TFW Program is intended to act as a stopgap, providing labour to employers who have tried to hire Canadian citizens and permanent residents, but cannot do so. In order to obtain a positive LMIA, an employer must satisfy ESDC that there are no Canadian citizens or permanent residents available to perform the work in question. To establish the lack of available Canadians, the employer is required to meet certain job advertising requirements (subject to a maritime sector-specific exemption, discussed in greater depth below).

In the example above, Canadian citizens and permanent residents are unlikely to accept work as a cook on board a vessel for a mere \$19.00 per hour. All employment opportunities in the maritime sector needs to be clearly identified as being subject to the provisions applicable to the “high wage stream”. If the vessel operator had offered a competitive rate of pay as per the requirements, it could likely have secured labour from Canadian citizens and permanent residents. But by offering uncompetitive wages, an employer is able to access the TFW Program, even though Canadian citizens and permanent residents are qualified and available to perform the required work. This is contrary to the spirit and intent of the TFW Program and its enabling legislation.

Secondly, the hiring of TFWs at this low hourly rate corrodes union bargaining power, undermining the ability of union members to bargain for better terms and conditions of employment. If employers are incentivized to reduce labour costs by relying on the TFW Program, unions are placed in a no-win situation: either they seek to preserve their members’ work by entering into suboptimal collective agreements, or they risk the erosion of their bargaining rights through contracting out.

With respect, the Government of Canada should clarify the meaning of “prevailing wage rate” under s. 203(1.1)(a) of the *Immigration and Refugee Protection Regulations*. Government

should adopt a definition which accounts for the unique context of maritime employment, in which many different companies may use a single pool of labour to engage in the same undertaking. Any amendment to the *IRPR* should meaningfully protect collectively-bargained wages for maritime employees.

#### ***D. Shortcomings of the Letter of Concurrence Process***

A third, significant issue relates to the “Letter of Concurrence” process, which is applicable to maritime-sector LMIA applications. In addition to the job advertising requirements applicable to other high-wage stream LMIA applications.

Currently, maritime employers are required to provide a “Letter of Concurrence” to ESDC as part of an LMIA application. When a maritime employer seeks to hire TFWs, it submits a request to the undersigned Seafarers’ International Union of Canada (“SIU”), as well as a recruitment letter, which must meet the advertising requirements of the high-wage stream (i.e., specifying the job description, rate of pay, etc.). The SIU then circulates the recruitment letter to other maritime trade unions, who have five (5) calendar days to advise whether or not there are any Canadian citizens or permanent residents available for the position(s) in question.

The five calendar day turnaround period for Letters of Concurrence is frequently infeasible and imposes a significant administrative burden on maritime unions. It is common practice for requests for a Letter of Concurrence to be received on a Friday afternoon; this leaves only three (3) business days for a union to contact potentially-available members and notify them of the position.

As well, the recruitment letter provided to SIU may advertise wages that are significantly lower than those payable under a collective bargaining agreement (see **Section C**, above). As noted, this deters available Canadian citizens and permanent residents from accepting the position(s) in question. In the result, maritime employers can actually *bolster* their LMIA application by offering uncompetitive wages: by offering wages Canadians are less likely to accept, the employer is more likely to receive a Letter of Concurrence indicating that there are no Canadians available to perform the work.

The undersigned unions submit that they should be given a minimum period at least **aligning with the required job advertising requirement which is for a minimum of 4 consecutive weeks within the 3 months prior to requesting an LMIA**. This is a more realistic timeframe to evaluate requests for a letter of concurrence and respond accordingly and allows for meaningful engagement with union members and is more likely to yield available Canadian citizens and permanent residents. Updating the existing ESDC policy may be sufficient to bring about this change.

#### ***E. Conclusion***

The undersigned unions have identified serious, interrelated shortcomings in relation to the current regulatory and policy regime for Temporary Foreign Workers in the maritime sector. Respectfully, we call on the Government of Canada to take urgent action to safeguard the employment of Canadian citizens and permanent residents, and to protect foreign seafarers from exploitation.

Thank you for your consideration of this matter.

Yours sincerely,

Signed by:



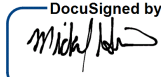
8FF724AD70AB4B2...

**Lana Payne**

**National President**

**Unifor**

DocuSigned by:




4A7AC11FE9904BE...

**Michael Given**

**President**

**Seafarers' International Union of Canada**

Signed by:



9BA5F1ED9EB04DE...

**Eric McNeely**

**Provincial President**

**BC Ferry & Marine Workers' Union**

Signed by:



6AA8652E88C7404...

**Jason Wood**

**President**

**I.L.W.U. Local 400 Marine Section and General Workers**

DocuSigned by:



C7352CC72D0445F...

**Mark Boucher**

**National President**

**Canadian Merchant Service Guild**

**CC: The Honourable David J. McGuinty, PC, MP, Minister of Public Safety - david.mcguinty@parl.gc.ca**

**Kyle Seeback, MP, Dufferin-Caledon, Shadow Minister for Labour - Kyle.Seeback@parl.gc.ca**

**Tracy Gray, MP, Kelowna-Lake Country, Shadow Minister for Employment, Future Workforce Development and Disability Inclusion - Tracy.Gray@parl.gc.ca**