

THE SEAMEN'S CHURCH INSTITUTE

# Maritime Labour Convention, 2006

CENTER FOR SEAFARERS' RIGHTS

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October 22, 2015



# Maritime Labor Convention, 2006

The most significant achievement in history of seafarers' rights law!

It will improve seafarers' lives and work by:

- Setting minimum standards for working on ships
- Establishing standards for conditions of employment
- Promoting compliance through flexible implementation
- Strengthening enforcement



# Maritime Labor Convention, 2006

Created by the International Labor Organization

- Tripartite structure (unique for UN agency)
  - Governments
  - Employers (shipowners)
  - Workers (seafarers)
- Initiated by Social Partners (ISF & ITF) in the “Geneva Accord” of 26 January 2001
- Consolidating 67 ILO Instruments: Five Year’s work
- 85 different countries participated



# Maritime Labor Convention, 2006

## Key MLC 2006 Concepts

- The 4<sup>th</sup> Pillar with SOLAS, STCW & MARPOL
- No More Favorable Treatment
- Rights Based Convention
- Firm on Rights: Flexible on Implementation (Substantial equivalence)



# Maritime Labor Convention, 2006

- 20 August 2013: MLC, 2006 came into force.
- 67 Ratifying nations (not USA)
- > 80% of world gross tonnage of ships



# MLC, 2006 Application

Ship: All commercial vessels except:

- Navigating exclusively in inland waters, sheltered waters or where port regulations apply
- Fishing vessels
- Traditional vessels such as dhows and junks
- Warships and naval auxiliaries

Seafarer: Any person working in any capacity on a ship



# MLC, 2006 Structure

1<sup>st</sup> level - **Articles** (*core rights*)

2<sup>nd</sup> level - **Regulations** (*basic obligations*)

3<sup>rd</sup> level **Code** (Parts A and B)

- **Standards** (*mandatory “shall”*)
- **Guidelines** (*non-mandatory “should”*)



# MLC, 2006 Structure example

## Regulation 1.2 – Medical certificate

Purpose: To ensure that all seafarers are medically fit to perform their duties at sea

1. Seafarers shall not work on a ship unless they are certified as medically fit to perform their duties.

## Standard A1.2 – Medical certificate

1. The competent authority shall require that, prior to beginning work on a ship, seafarers hold a valid medical certificate attesting ...

## Guideline B1.2.1 – International Guidelines

1. The competent authority ... should follow... ILO/WHO Guidelines. . . and . . .





# MLC, 2006 Contents

Title I. Minimum requirements for seafarers to work on a ship;

Title II. Conditions of employment;

Title III. Accommodation, recreational facilities, food and catering;

Title IV. Health protection, medical care, welfare, and social security protection;

Title V. Compliance and enforcement.



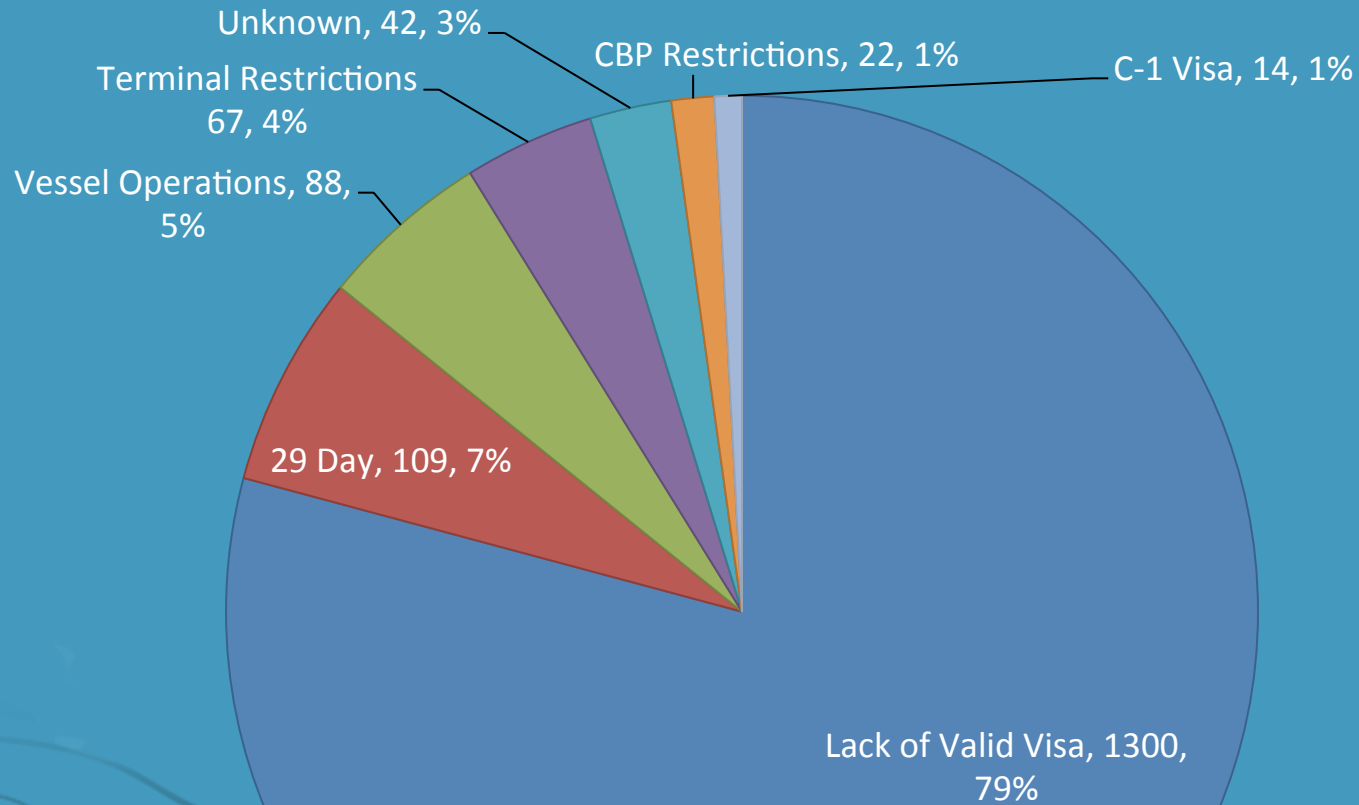
# MLC, 2006 Contents

## Title I. Minimum requirements for seafarers to work on a ship:

- Minimum age 1.1
- Medical certificate 1.2
- Training and qualifications 1.3
- Recruitment and placement 1.4
  - A1.4 ¶5(b) shipowner pays for visa.



# 2015 Reasons for Shore Leave Denials



# MLC, 2006 Contents

## Title II. Conditions of employment:

- Seafarers' employment agreements 2.1
- Wages 2.2
- Hours of work and hours of rest 2.3
- Entitlement to leave 2.4
- Repatriation 2.5
- Compensation for ship's loss or foundering 2.6
- Manning levels 2.7
- Career and skill development 2.8



# MLC, 2006 Contents

## Title III. Accommodation, recreational facilities, food and catering:

- Accommodation and recreational facilities 3.1
- Food and catering 3.2



# MLC, 2006 Contents

## Title IV. Health protection, medical care, welfare, and social security protection:

- Medical care on board ship and ashore 4.1
- Shipowners' liability (for medical care) 4.2
- Health and safety protection and accident protection 4.3
- Social Security 4.5



# MLC, 2006 Contents

## Title IV. Health protection, medical care, welfare, and social security protection:

- Access to shore-based welfare facilities 4.4
  - Facilities available to all seafarers A4.4.1
  - Promote development of welfare facilities A4.4.2
  - Encourage developing welfare boards
  - Not included in Title 5 enforcement



# MLC, 2006 Contents

## Title V. Compliance and enforcement:

- Flag State responsibilities 5.1
  - Maritime Labour Certificate (MLC) 5.1.3
  - Declaration of Maritime Labour Compliance (DMLC) 5.1.3
    - DMLC Part 1: Prepared by Flag State
    - DMLC Part 2: Prepared by shipowner
  - Inspection and Enforcement 5.1.4
  - On Board Complaint Procedure 5.1.5
  - Marine Casualties 5.1.6





# MLC, 2006 Contents

## Title V. Compliance and enforcement:

- Flag State responsibilities 5.1
  - Inspection and enforcement A5.1.4
    - Complaints must be investigated (unless manifestly unfounded) A5.1.4.5
    - Complaints confidential A5.1.4.10



# MLC, 2006 Contents

## Title V. Compliance and enforcement:

- Flag State responsibilities 5.1
  - On-board complaint procedures A5.1.5
    - Any breach of MLC, 2006 (including seafarers' rights)
    - Seafarers have right to complain to master or external authorities A5.1.5.3
    - Seafarers have right to be accompanied or represented during complaint procedure A5.1.5.3 (could be chaplain)
    - Seafarers must be protected against victimization A5.2.2.7



# MLC, 2006 Contents

## Title V. Compliance and enforcement:

- Port State responsibilities 5.2
  - Port State may inspect any foreign ship for compliance with MLC, 2006 (MLC) Regulation 5.2.1.1
  - PSC limited to MLC and DMLC
  - More detailed inspection must be made when
    - Serious breach of MLC A5.2.1.1
    - Clear hazard to safety, health, or security A5.2.1.1
  - Complaints may be made by any person with an interest in safety of ship and seafarers A5.2.1.1(d) and A 5.2.3



# MLC, 2006 Contents

## Title V. Compliance and enforcement:

- Labor Supplying State responsibilities 5.3
  - Certify private recruiting and placement services  
A5.3.1



# First Amendment

- Adopted in 2014, expected to come into force 2017
- Abandonment: maintain financial responsibility for
  - 4 months wages and entitlements
  - Repatriation expenses
  - Essential needs such as food, accommodation and medical care
- Claims for death & personal injury
  - Paid in full without delay
  - Interim payments if disability unclear
  - No pressure to accept lower amount
  - Right to direct action



# MLC, 2006 P&I Implications

MLC, 2006 requires Financial Security to be “in place” for:

- Injury, illness & death
  - Generally within scope of P&I
- Repatriation
  - Within scope of P&I for illness or shipwrecks
  - Not within scope of P&I for insolvency, SEA termination, or non-consent to war zone
    - Cover extended, BUT member indemnification required
- Certificate of Entry may be accepted as MLC security



# MLC, 2006 Prospects for U.S. Ratification

## The US and the ILO:

- 14 out of 189 ILO Conventions Ratified
- ILO-147 Forerunner to MLC, 2006
  - USCG COMDTINST 16711.12A (7/10/96)
- TAPILS Review Process – GAP Analysis
- MLC 2006 NVIC 02-13

