

# PIANI MIRATI DI PREVENZIONE E BUONE PRASSI

## STRUMENTI PER IL MIGLIORAMENTO DELLA SICUREZZA NEL LAVORO PORTUALE

Con il patrocinio di

*Ministero dell'Interno*



Società Nazionale Operatori della Prevenzione



In collaborazione con



Ispettorato territoriale  
del lavoro di Trieste-Gorizia



**INAIL**  
ISTITUTO NAZIONALE PER L'ASSICURAZIONE  
CONTRO GLI INFORTUNI SUL LAVORO



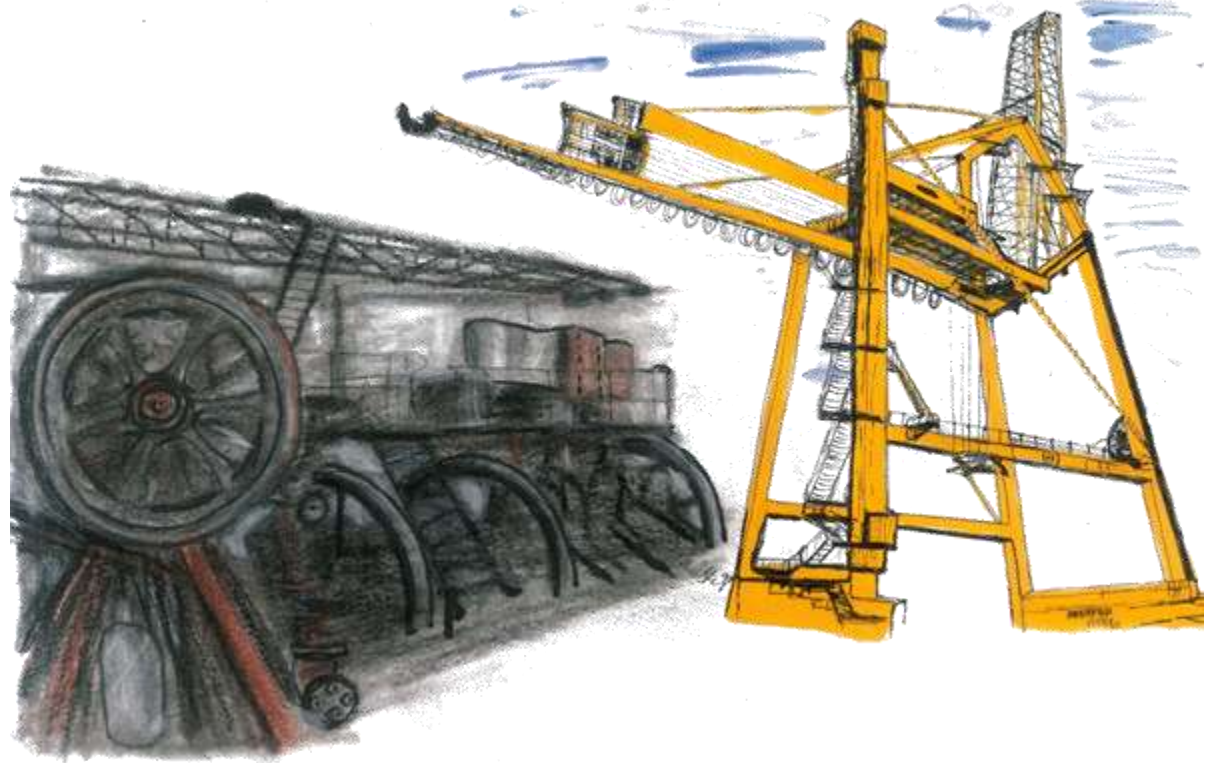
Azienda di Servizi Portuali  
del Friuli Venezia Giulia  
Porto di Trieste

## CONVEGNO NAZIONALE PORTI

Trieste 19 settembre 2017

Nuove indicazioni OIL

Decreto Legislativo 15 febbraio 2016, n.32



Grafica G. Borsoi

Referenze relatore

# FOUR PILLARS



# MLC, 2006 & Italian Coast Guard

Law 23.9.2013 No. 113 (Convention Ratification)

Legislative Decree 15.2.2016 No. 32 (Dir. 2013/54/EU)



**Flag State Control  
FSC**

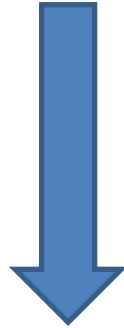


**Port State Control  
PSC**



**Reg. 5.1.1** states that, it is  
**“Responsibility of each member State”**

Fully implement & enforce **the Convention**



- Law 23.9.2013 No. 113 (Convention Ratification)
- Legislative Decree 15.2.2016 No. 32 (Transposition of Directive 2013/54/EU)
- Executive Decree 17.6.2013 No. 13 and related Guidelines



**Trough.....**

- ✓ **National Legal Framework;** and
- ✓ **Convention.**



Why ?





**INSPECTION AND CERTIFICATION PROCESS**



# **ALL SHIPS covered by the MLC, 2006**

are subject to inspection

MLC,2006: Article II para 4 & 1 (i); Regulation 5.1.4 para 1 & A5.1.4 para 4

Legislative Decree No. 32/2016 articles 4 and 6

## **Only some ships will be certified**

Regulation 5.1.3 para 1

Legislative Decree No. 32/2016 articles 4 , 6 and 8



# Authorization of Recognized Organizations (ROs)





# Any Member State

May authorize Recognized Organizations (ROs) to carry out (Reg 5.1.1 para 3 – 5.1.2):

- Inspections;
- issue certificates;
- or both.

Strict procedures in 5.1.2

## Ships flying Italian flag

Coast Guard: Art. 4 and 5 Legislative Decree 32/2016



# Satisfactory Inspection

1. All the relevant requirements of the convention must be inspected

**INSPECTION**

.....but

2. The relevant national provisions implementing the requirements of the MLC, 2006, in **the 14/16 areas must be certified**, for some ships

**Passed**

**Failed**

Any inspection is a SAMPLING PROCESS



**1. Maritime Labour Certificate;**

**2. DMLC Part I and Part II;**

**NOT  
always**

**3. Report of Inspection (always)**

MLC,2006:

- Reg. 5.1.3 / Stand A5.1.3 (certification)
- A5.1.4 (Report)

Legislative Decree No. 32/2016:

- articles 4 , 6 and 8 (Certification)
- article 7 (Report)



In case  
of.....



**COMPLAINT**

TO:	HOUR	MINUTE	SECOND
WHOSE FAULT: <input type="checkbox"/> MINE <input type="checkbox"/> OURS	MONTH	DAY	YEAR
<input type="checkbox"/> YOURS <input type="checkbox"/> OTHER:			
DESIRED OUTCOME: <input type="checkbox"/> APOLOGY <input type="checkbox"/> LITIGATION <input type="checkbox"/> RESTITUTION			
<input type="checkbox"/> EXPLANATION <input type="checkbox"/> PROMOTION <input type="checkbox"/> CHANGE			
COMPLAINANT: <input type="checkbox"/> ANONYMOUS			

**On-board complaint procedure**

**And**

**Onshore complaint procedure**

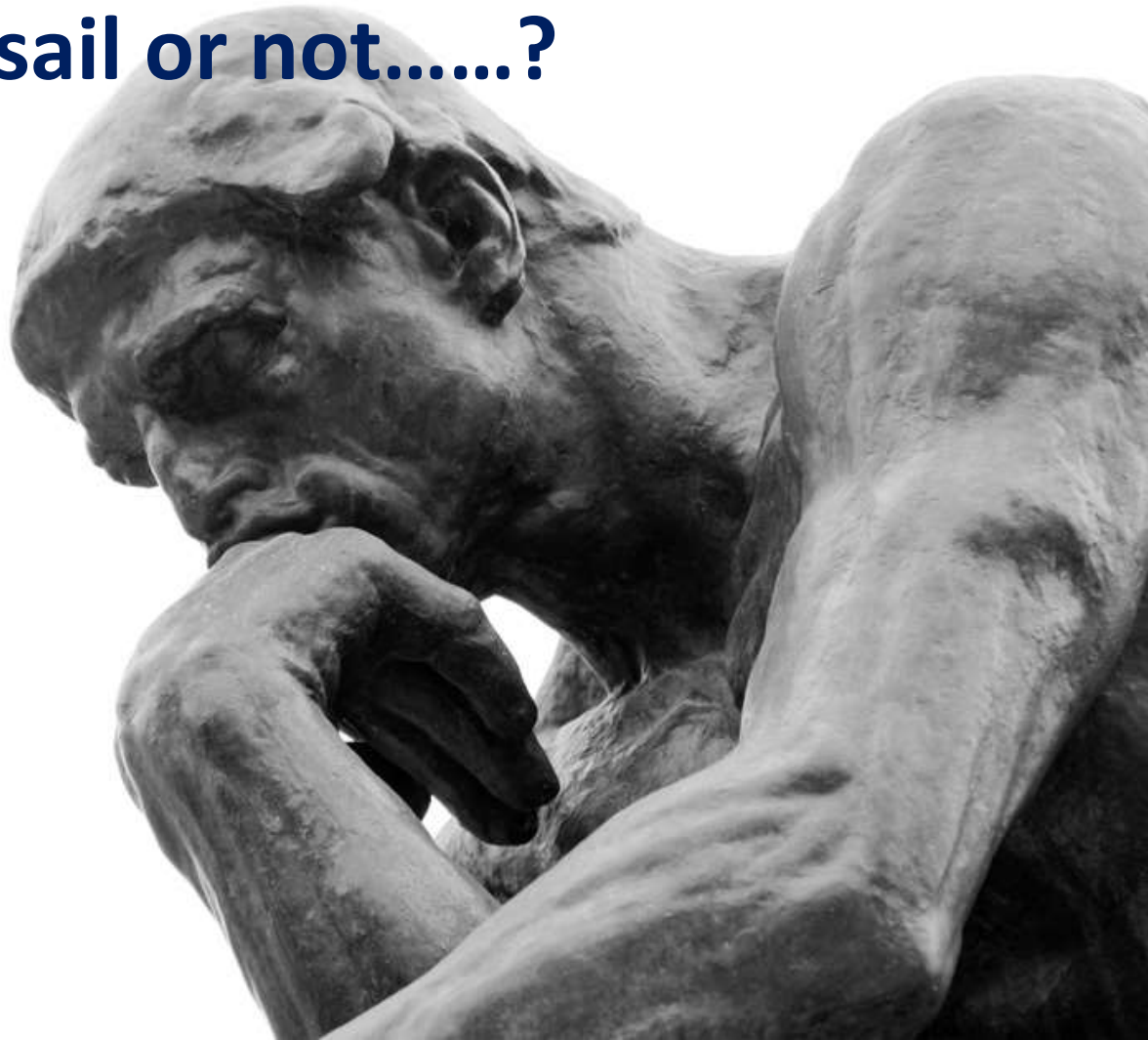
Regulation 5.1.5 - Regulation 5.2.2  
Standard A5.2.1 para 3  
Legislative Decree No. 32/2016 Art. 9



# DEFICIENCIES!!

Ship allowed to sail or not.....?

All actions involve  
professional  
judgment





# Actions to be taken

Require that any deficiency is remedied;

*(A5.1.4 para 7(c) MLC,2006 – Dlgs 32/2016 art. 10)*

or

A rectification plan has been provided by the owner and agreed by the inspector.

*(FSG para 110 – Dlgs 32/2016 art. 10)*



Dear Sir,

the Italian Coast Guard Headquarters,

**Having evidence** of the application submitted by [REDACTED], dated 31<sup>st</sup> August 2013;

**Having regard** to the medical report dated 30<sup>th</sup> August 2013, issued by a medical practitioner in Port Hedland (Australia), stating that Mr. [REDACTED] is not fit to work and should be repatriated home for urgent and full assessment plus further management;

**Having regard** to the ship's minimum safe manning document issued by Italian Coast Guard Headquarters, No. 156/011-A dated 24<sup>th</sup> October 2011;

**Having evidence** of the ship's crewlist;

**Having regard** to the following certification submitted by the Company related to Mr. [REDACTED]:

- Certificate of Completion issued by TRAM, No. FHS-HACCP B38-1107-C3491AM dated 23<sup>rd</sup> July 2011, on Food Hygiene and sanitation with HACCP;
- Certificate of Competency issued by Republic of Philippines – Department of Labour and Employment No. CLC-COC-104003, dated 16<sup>th</sup> March 2009, where it is reported he was assessed and he shown competence, also, in preparing food and maintaining galley equipment & utensils (expiring date 16<sup>th</sup> March 2014);
- Instruction received by Mr. [REDACTED] (ship's Chief Cook medically not fit for work) on 31<sup>st</sup> August 2013;

**Having regard** to the MLC,2006 - Standard A3.2 paragraph 6 (even if not yet ratified by the Italian Administration);

**Having regard** to Regulation V/14 of SOLAS'74 as amended;

#### GRANTS TO

M/v [REDACTED] – Italian Flag – IMO No. [REDACTED]

A dispensation to perform a single voyage from Port Hedland (Australia) to Fancheng (People's Republic of China);

- Having on board a non fully qualified cook;
- Without the messman.

At following conditions:

- The voyage shall be carried out within 15<sup>th</sup> September 2013;
- The Master shall employ the existing crew in an appropriate manner in planning and executing a safe voyage;
- Inform the PSC Authority accordingly.

Rome, 31<sup>st</sup> August 2013

Signed by

Luigi GIARDINO



# GUIDANCE ON MAKING DETERMINATIONS

Standard A.5.1.4 para 15 and FSG para 116

All reasonable efforts  
are to be made  
**to avoid unreasonably detained or delayed**



??

From: GIARDINO Luigi (C.V.) [mailto:luigi.giardino@mit.gov.it]

Sent: Tuesday, 26 August 2014 11:54 PM

To: PSC Notification

Cc:

Subject: M/v/ [REDACTED] IMO No. [REDACTED] Italian flag

??

Dear Sir,

??

With reference to the Port State Control inspection carried out by [REDACTED] on 2<sup>nd</sup> July 2014 (see Annex 1), on board on board M/v [REDACTED], please consider the following:

??

Preliminary, we apologize for our late reply and appeal related to the inspection in reference; however we would like to draw your attention to the nature of the unique deficiency identified, by your good PSCO, as ground for detention.

??

In particular:

**Deficiency 8203: Crew wages for May not paid full on time. Vessel unable to produce proof of full MLC payment of wages for May at the time of inspection.**

Taking into account the MLC, 2006 Convention (Standard A.2.2 paragraph 1) we agree that the evidence found on board lead to a deficiency.

Nevertheless, it is the opinion of the Italian flag State Administration that the same deficiency cannot be considered "ground for detention" and, therefore, contribute to justify the ship's detention.

The position of this Administration is based on the following considerations:

**----- ILO Guidelines for Port State Control Officers "at Chapter 5, point 5.2 Examples of circumstances that may require detention of ship" at paragraph 98 last bullet says: "repeated cases of non-payment of wages for the non-payment of wages over significant period or the falsification of wages accounts or the existence of more than one set of wages account (Standard A.2.2, paragraphs 2 and 2)" (see attachment).**

The above clearly gives the evidence that the deficiency found (accepted by this Administration) does not match the principles established by ILO in order to identify "clear ground for detention"; in fact only some seafarers were not paid on time and just for one month;

**----- furthermore it is considered important to highlight also that the inspection raised only another deficiency for which code 2.7 was assigned (total deficiencies only).** It can be deduced from this

objective evidence that ship has fair standard and this should be taken into consideration by the PSCO and your good Administration. -----

??

Taking into account the above, the deficiency found and comments given, the Italian Coast Guard - as

**Italian flag State Administration - kindly request the [REDACTED] to reconsider the detention assigned to the captioned ship due to deficiency No. 2 under code 2.8203 of the PSC inspection**

report dated 2<sup>nd</sup> July 2014.

-----

Luigi Giardino

[REDACTED]

**Capt. (ITCG) Luigi GIARDINO**

Italian Coast Guard Headquarters

Safety of Navigation Department

Chief of the Flag State Branch

Viale dell'Arte No. 16 - 00144 Rome

(Telephone: +390659084279)

Mobile: +393356650676

Fax: +390659084630

\*Mail: [luigi.giardino@mit.gov.it](mailto:luigi.giardino@mit.gov.it)



Da: [REDACTED]

Inviato: giovedì 11 settembre 2014 02:35

A: GIARDINO Luigi (C.V.)

Cc: [REDACTED]

Oggetto: RE: M/v "[REDACTED]" IMO No. [REDACTED] - Italian Flag [SEC=UNCLASSIFIED:FOR-OFFICIAL-USE-ONLY]

Dear Captain Giardino,

I refer to your email of August 26<sup>th</sup> relating to the detention of the "[REDACTED]" for non-payment of crew wages. The attending Surveyor noted that the crew wages for May were not paid fully and on time and that there was no available evidence on board in regard to the payment of these wages.

Whilst this would appear to be symptomatic of a potential issue with on time payment of wages, [REDACTED] agrees that the evidence available at the time does not substantiate "repeated cases of non-payment of wages" as stated in the "ILO Guidelines for Port State Control Officers" and as such the deficiency did not establish grounds for detention.

In noting that there was sufficient evidence found to warrant a deficiency being issued, [REDACTED] **will remove the detention notification and record a code 17 against the vessel.**

Thank you again for your email.

Regards

[REDACTED]  
PRINCIPAL MARINE SURVEYOR  
SHIP INSPECTION & REGISTRATION  
SHIP SAFETY DIVISION





# Paris MoU



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on Port State Control



Every foreign ship **MAY BE** subject to

a P.S.C. inspection (*V para 4 pg. 5 - 5.2.1*)

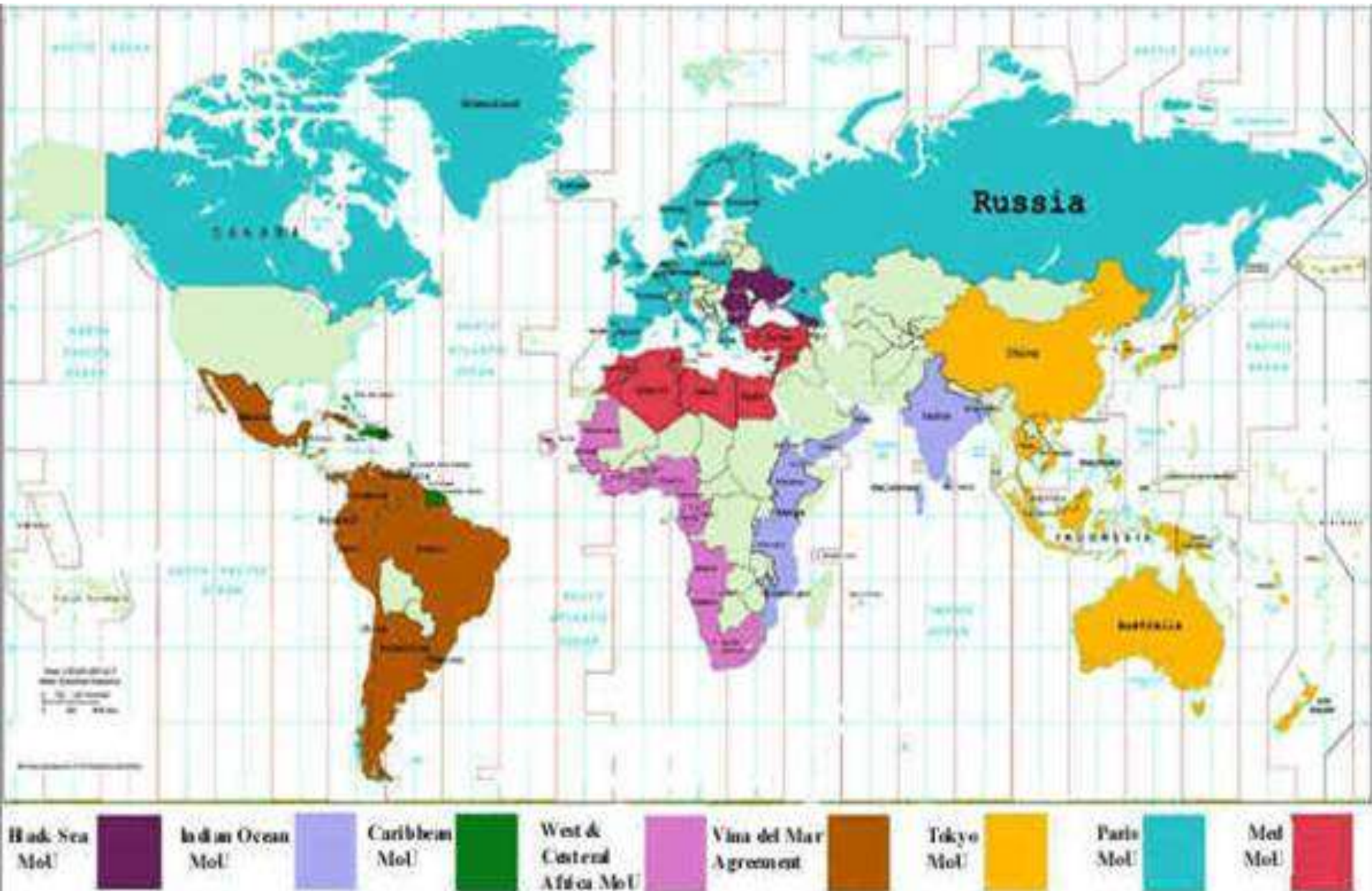
**in a port of a Member State** (*V para 4 pg. 5 - 5.2.1*)

because of

**no more favourable treatment** (*V para 7*).



# PORT STATE CONTROL REGIONS



## Inspection limited

REVIEW (5.2.1 para 2):

- Maritime Labour Certificate (Mlc); and
- Declaration of Maritime Labour Compliance (DMLC);

*Prima facie* evidence

Except in the circumstances specified in the Code



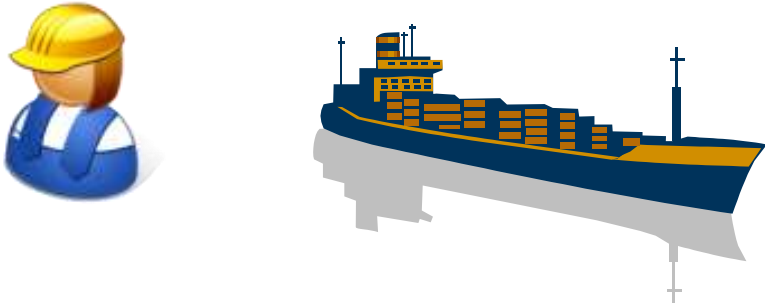
# PREPARING FOR INSPECTIONS

*(PSG para 48/-9)*



# BOARDING THE VESSEL

*(PSG para 56-58)*











**Look at SEAFARES.....**







FRATELLI D'AM...  
MARE...  
DORICO...  
MATORI-O

Estatura ..... 1..... m. .... 72..... cent.  
Height ..... metres ..... centimetres

Color de cabello ..... CASTANI .....  
Colour of hair

Nariz (chica, grande, regular, recta, etc.) ..... REGULAR .....  
Nose (small, large, regular, square, etc.)

Color de ojos ..... CASTANI .....  
Colour of eyes

Color de piel ..... ROSEO .....  
Complexion

Señas particulares .....  
Special marks

Impresiones digitales .....  
Finger prints

Mano Derecha  
Right hand



Mano Izquierda  
Left hand





Hipólito Yrigoyen 1534 - 4° Piso  
1089 BUENOS AIRES  
Argentina

# FICHA INDIVIDUAL IDENTITY CARD

Nº 3  
AS PER CREW LIST

Vapor ..... MARE DORICO  
Name of vessel  
Compañía ..... F. ILLI d'AMICO ARMATORI ROMA  
Company  
Fecha del tripulante ..... GIARDINO LUIGI  
Full name of seaman  
Nacionalidad ..... ITALIAN  
Nationality  
Hijo de ..... ANTONIO  
Name of father  
Estado civil ..... NO MARRIED  
Single or married

Fecha Nac. 7.8.58 años 25  
Date of birth Years

y de ..... CAROLINA  
Name of mother

¿sabe leer? SI  
Able to read? SI  
¿sabe escribir? SI  
Able to write? SI

Estatura 1 m 72 cent.  
Height metres centimetres

Color de cabello ..... CASTANI  
Colour of hair

Nariz (chica, grande, regular, recta,  
Nose (small, large, regular, square,

etc.) ..... REGULAR  
etc.)

Color de ojos ..... CASTANI  
Colour of eyes

Color de piel ..... ROSEO  
Complexion

Señas particulares .....  
Special marks

Impresiones digitales .....  
Finger prints



Mano Derecha  
Right hand



Mano Izquierda  
Left hand



Puesto que ocupa en el buque ..... 2 MATE  
Position occupied on board

Puerto en que se embarcó ..... PORT SAID (EGITTO)  
Port where signed on

Contratado por viaje (redondo) .....  
Contracted for (Round voyage)

hasta el puerto de ..... INDIA ..... o indefinidamente  
To the port of ..... Or indefinitely

Tiempo que navega ..... 4 YCOSTS.  
Time seaman has been at sea

Posee libreta de navegación expedida por las autoridades marítimas de .....  
Possesses a "Seamansbook" issued by the Marine Authorities of

..... C/SEMBIA

Nación ..... ITALIA  
Country

Fecha ..... 20/06/72  
Date

Nº de Registro ..... 8835  
Number in the Ship Articles

Observaciones .....  
Observations

Lugar y fecha ..... ROSARIO, 25/01/83  
Place and date



*[Signature]*  
FIRMA DEL CAPITAN  
Signature of Captain

*[Signature]*  
FIRMA DEL TRIPULANTE  
Signature of Crewmember

SELLO  
Ship's Stamp





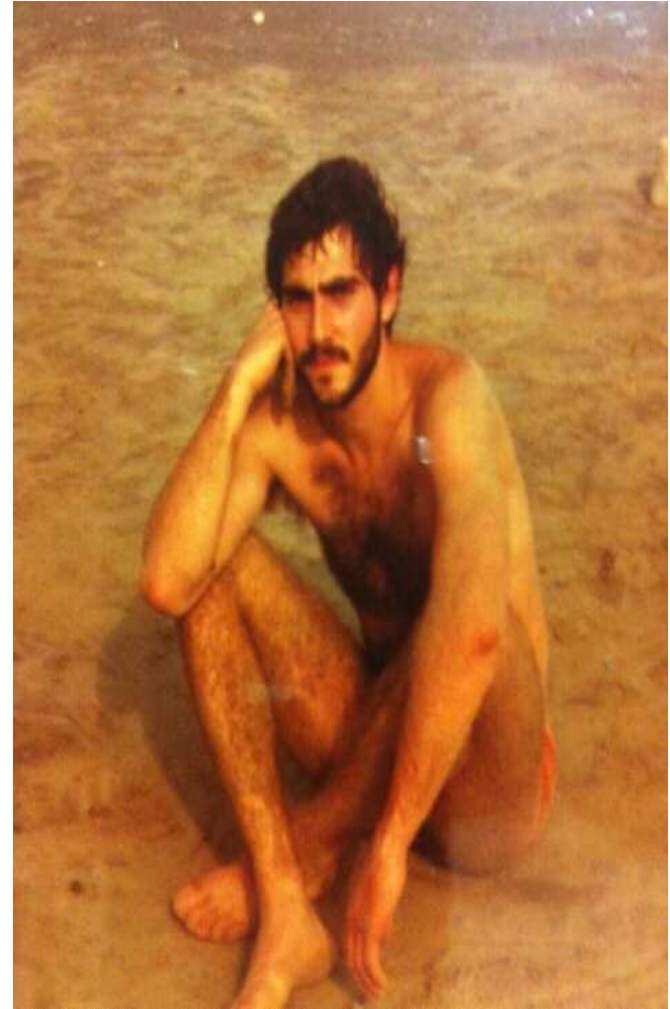


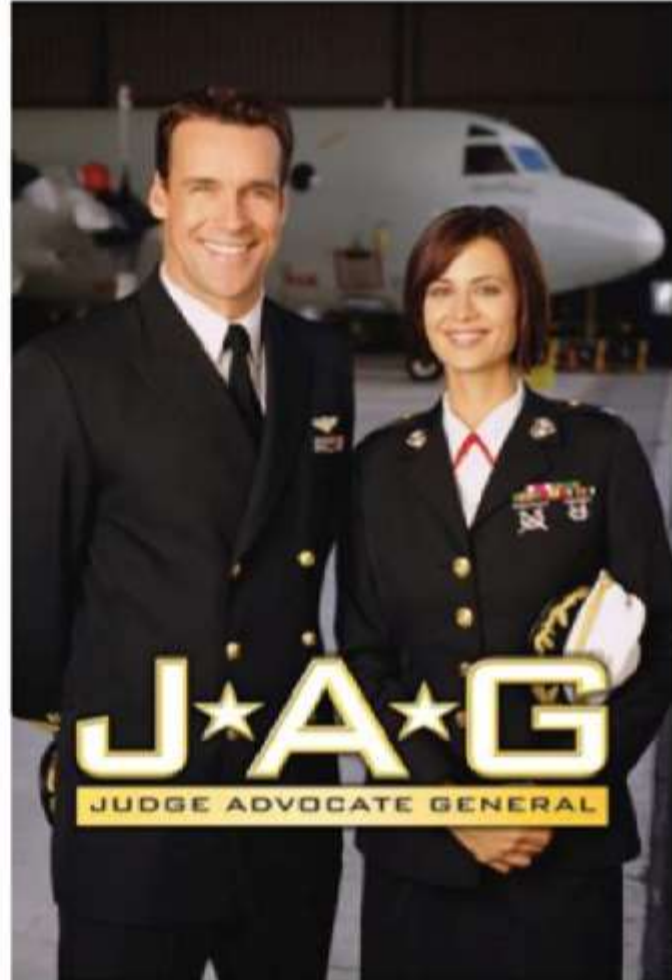
**ON BOARD**





## ASHORE





Standard A5.2.1

More Detailed Inspection

MAY be carried out

## When PSCO finds that:

- a) Required documents are not produced.....
- b) There are clear grounds for believing working and living not conform to...
- c) There are reasonable grounds to believe ship changed flag to avoiding compliance
- d) There is a complaint....





MORE DETAILED INSPECTION SHALL BE

CARRIED OUT

A5.2.1 para1



In any case where:

a) Working and living condition constitute a **clear hazard** to:

**Safety – Health – Security of seafarers ; or**

b) Any deficiencies constitute a **serious breach of Convention requirements** (including seafarers' rights) .





# DETENTION & Step 3

*(Standard A5.2.1 para 6)*





## Ship not conform:

- a) Condition are **clearly hazardous to safety, health or security** of seafarers;  
or
  
- b) Non conformity constitute a **serious or repeated breach** of the Convention requirements (including seafarers' rights).



Ship **CAN NOT SAIL** until:

- any non conformities have been **rectified**; or
  
- **plan of action**:
  - accepted by PSCO; and
  - implemented in an **expeditious manner** .

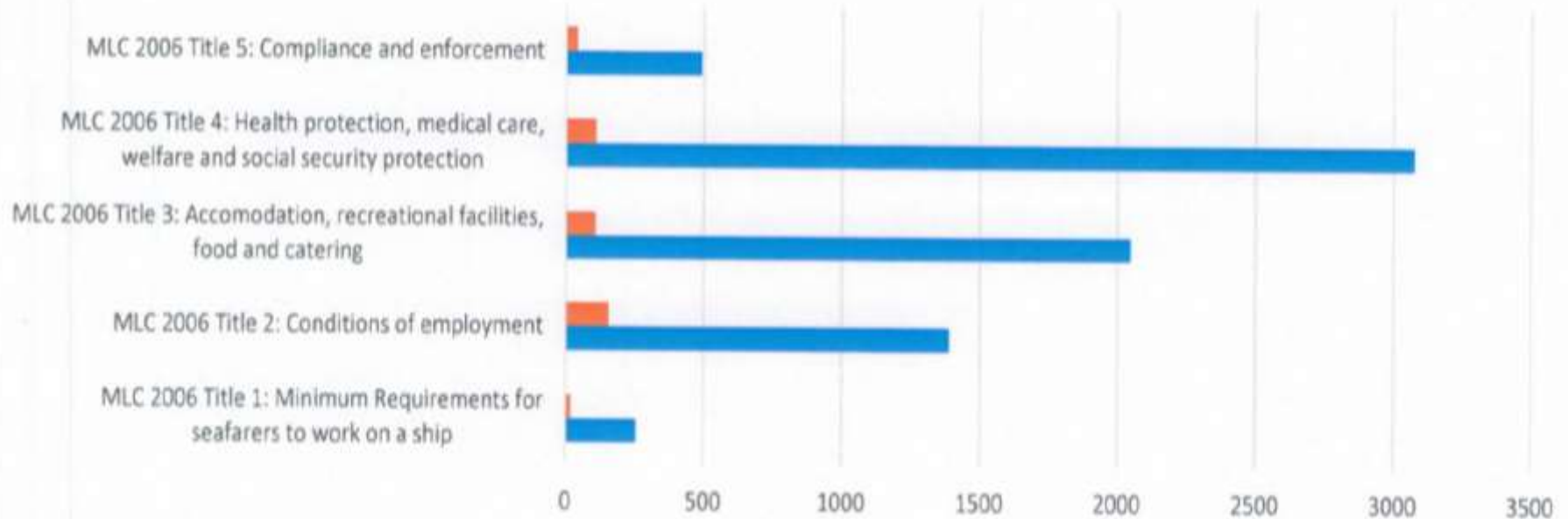




# **Italian Coast Guard on MLC, 2006 2016 - 2017**



## No of MLC, 2006 Deficiencies in 2016

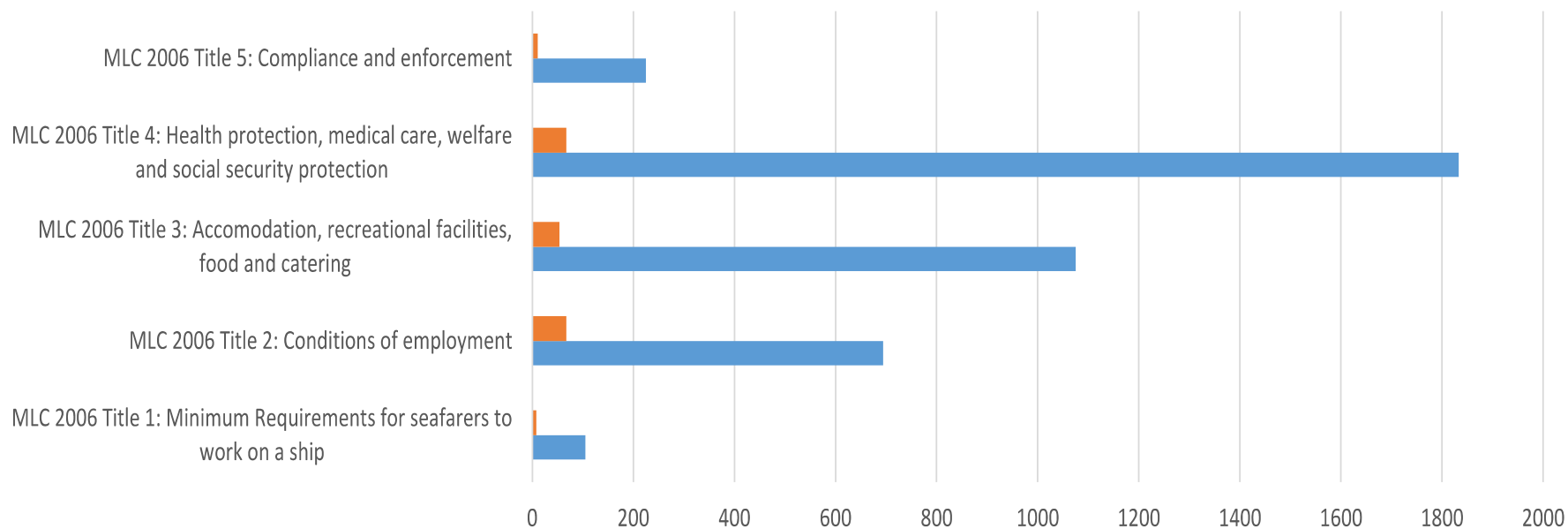


	MLC 2006 Title 1: Minimum Requirements for seafarers to work on a ship	MLC 2006 Title 2: Conditions of employment	MLC 2006 Title 3: Accomodation, recreational facilities, food and catering	MLC 2006 Title 4: Health protection, medical care, welfare and social security protection	MLC 2006 Title 5: Compliance and enforcement
■ Total of MLC, 2006, Grounds for Detention	21	157	107	108	40
■ Total of MLC, 2006 Deficiencies	256	1389	2048	3076	490

■ Total of MLC, 2006, Grounds for Detention      ■ Total of MLC, 2006 Deficiencies



## No of MLC, 2006 Deficiencies in 2017

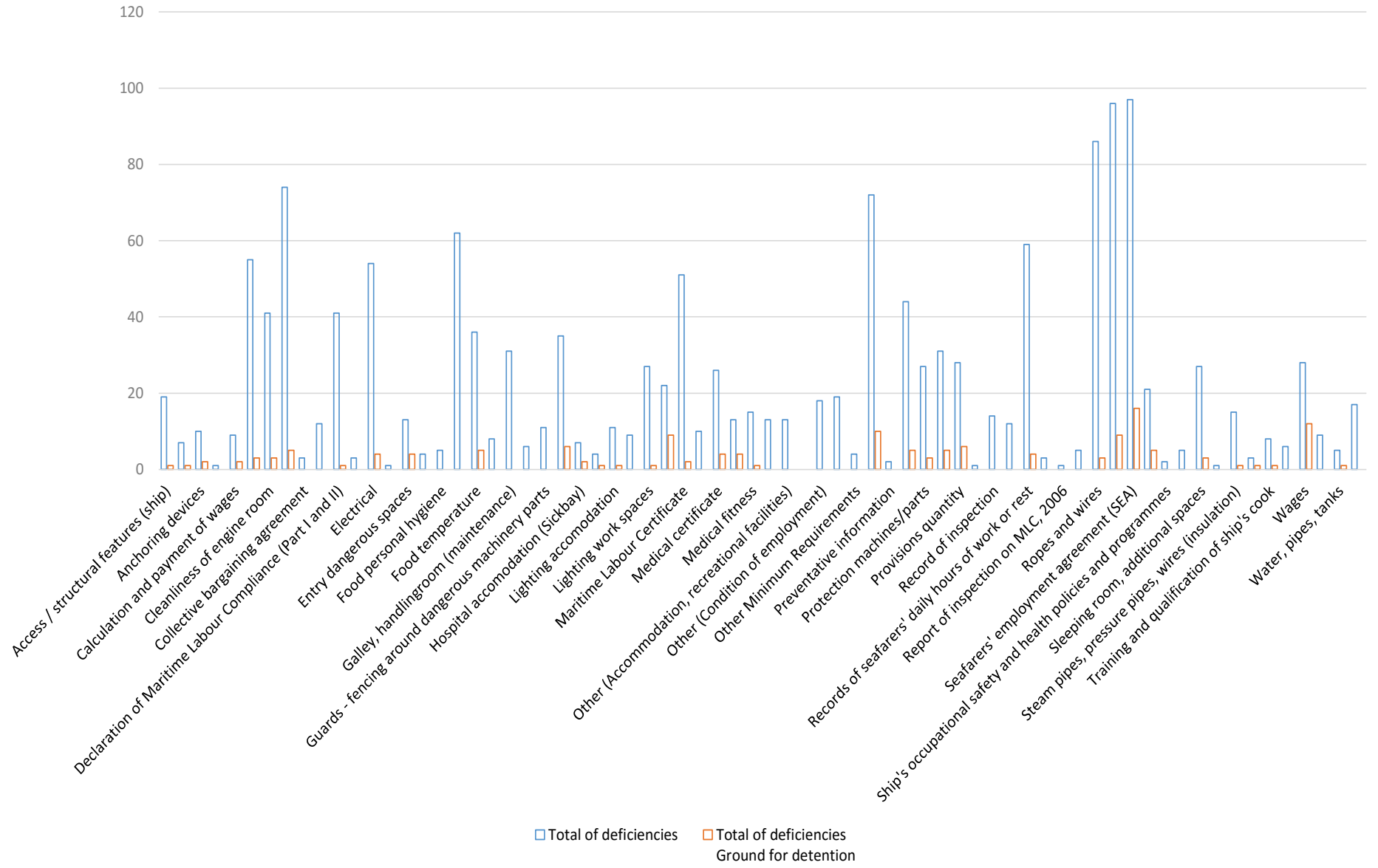


	MLC 2006 Title 1: Minimum Requirements for seafarers to work on a ship	MLC 2006 Title 2: Conditions of employment	MLC 2006 Title 3: Accommodation, recreational facilities, food and catering	MLC 2006 Title 4: Health protection, medical care, welfare and social security protection	MLC 2006 Title 5: Compliance and enforcement
■ Total of MLC, 2006 Deficiencies, Ground for Detention	8	67	54	67	11
■ Total of MLC, 2006 Deficiencies	105	694	1075	1833	225

■ Total of MLC, 2006 Deficiencies, Ground for Detention      ■ Total of MLC, 2006 Deficiencies



# MLC, 2006 Deficiencies per defective item description Year 2015 to 2017



# ANY QUESTIONS.....?







*ITALIAN COAST GUARD – SAFETY NAVIGATION DEPARTMENT*

# Thank you for listening



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