

# PHILIPPINES' IMPLEMENTATION OF MARITIME LABOR CONVENTION, 2006

**European Maritime Safety Agency (EMSA)**  
**International Workshop on Maritime Labour Convention, 2006**  
**Director Ria Corazon Lano**  
**18 – 20 February 2020**  
**Lisbon, Portugal**

**Presentation by:**  
**Philippine Overseas Employment Administration**



**Philippine  
Overseas  
Employment  
Administration**

The Philippines - 30th country  
that ratified MLC in 20 August  
2012

The Convention entered into  
force on 20 August 2013 with the  
ratification of the first 30  
members

# OFWs GLOBAL PRESENCE

- Overseas Filipino workers (OFWs) can be found in about 194 countries/destinations and 50,000 ocean going vessels.
- Employed by about 22,000 foreign principals accredited to 1,354 licensed recruitment agencies.
- About 3,000 workers are deployed overseas daily.

# TOTAL DEPLOYMENT - 2019

- Total 2019 (Preliminary data): 1,974,884
  - Landbased: 1,504,949 (76%)
  - Seabased: 469,935 (24%)

## Licensed Agencies

- Landbased: 829
- Seabased: 363

# Top 10 Type of Vessels

Type of Vessels	2019
1. Passenger	118,699
2. Bulk Carrier	103,930
3. Container	45,213
4. Oil/Product Tanker	34,685
5. Chemical Tanker	25,778
6. Tanker	20,132
7. General Cargo	17,350
8. Gas Tanker	11,532
9. Supply Vessel	10,814
10. Fishing Boat	10,751
Other Type of Vessels	71,051
<b>Total</b>	<b>469,935</b>

Source: ICT Branch, POEA

# Top 10 Flags of Registry

FLAG OF REGISTRY	2019
1. Bahamas	69,009
2. Panama	65,951
3. Marshall Islands	47,510
4. Liberia	43,905
5. Malta	38,879
6. Singapore	25,563
7. Bermuda	17,556
8. Italy	14,780
9. Netherlands	14,572
10. Cyprus	11,500
Other Flags of Registry	120,710
<b>Total</b>	<b>469,935</b>

Source: ICT Branch, POEA

# Top 10 Skills

SKILL CATEGORY	2019
1. Able Seaman	66,650
2. Ordinary Seaman	32,477
3. Oiler	30,386
4. Bosun	16,641
5. Chief Cook	15,552
6. Waiter/Waitress	15,393
7. Second Mate	15,338
8. Third Engineer Officer	14,004
9. Messman	12,904
10. Third Mate	12,722
Other Skills	237,868
<b>Total</b>	<b>469,935</b>

Source: ICT Branch, POEA

# Philippine Compliance to MLC, 2006

**1. Issuance of Department Order (DO) 181, S2017** - Guidelines on the provision of financial security (in compliance with the Amendments Implementing regulations 2.5 & 4.2 and appendices of MLC

DO 181-A - extension on the grant of dispensation

DO 181-B - procedural guidelines relative to the provision of financial security

**2. Creation of the Maritime Industry Tripartite Council (MITC)** - consultative body represented by labor, management and government sectors

**3. Issuance of Department Order No. 130 and 130-A, Series of 2013**

DO 130 - governs the employment of Filipino seafarers onboard Philippine-registered ships

DO 130- Guidelines on the authorization of Recognized Organizations (Ros) to conduct inspection and certification of Philippine Registered Ships engaged in international voyage.

198 Phil-registered ships in MARINA Registry issued with DMLC Part I

178 Ships -issued by MLC by ROs

Labor Supplying Responsibilities



4. Dispute Settlement - SENA Law (Single Entry Approach) - mandatory conciliation arising from employer-employee relationship

## **Legal Framework**

### **The Philippine Labor Code**

**Republic Act 8042 (Migrant Workers and Overseas Filipinos Act of 1995)**

**Republic Act No. 9422 (Amending RA 8042)** - strengthening the regulatory functions of the POEA

**Republic Act No. 10022 (Amending RA 8042)** - further improved the standard of protection of the welfare of migrant workers and their families

# Standard Employment Contract (SEC) for Seafarers and its continuous review

- ▶ Reference made to MC 10, S2010: minimum terms, approved POEA SEC, copy furnished to seafarers, Pre-departure Orientation Seminar to include the amended terms and conditions
- ▶ Costs:
  - ▶ 1. Manning Fees -
  - ▶ 2. Processing fees - pre-employment medical examination, POEA & OWWA fees, Principal's required trainings - Principal/Employer
  - ▶ 3. Documentation Costs- passport, seafarer's Idrecord book (SIRB), police clearance, seafarer's registration certificate, birth certificate

Press. \_\_\_\_\_  
RB No.: \_\_\_\_\_ SRC No. \_\_\_\_\_ License No. \_\_\_\_\_  
hereinafter referred to as the Seafarer \_\_\_\_\_  
and \_\_\_\_\_  
Name of Agent: \_\_\_\_\_  
Name of Principal / Shipowner : \_\_\_\_\_  
Address of Principal / Shipowner: \_\_\_\_\_  
For the following vessel:  
Name of Vessel: \_\_\_\_\_  
IMO Number: \_\_\_\_\_ Gross Registered Tonnage (GRT): \_\_\_\_\_ Year Built: \_\_\_\_\_  
Flag: \_\_\_\_\_ Type of Vessel: \_\_\_\_\_ Classification Society: \_\_\_\_\_  
hereinafter referred to as the Employer

**WITNESSETH**

That the seafarer shall be employed on board under the following terms and conditions:

- 1.1 Duration of Contract: \_\_\_\_\_
- 1.2 Position: \_\_\_\_\_
- 1.3 Basic Monthly Salary: \_\_\_\_\_
- 1.4 Hours of Work: \_\_\_\_\_
- 1.5 Overtime: \_\_\_\_\_
- 1.6 Vacation Leave Pay: \_\_\_\_\_
- 1.7 Point of Hire: Manila, Philippines
- 1.8 Collective Bargaining Agreement, if any: \_\_\_\_\_

The herein terms and conditions in accordance with POEA Governing Board Resolution No. 09 and Memorandum Circular No. 10, both series of 2010, shall be strictly and faithfully observed.

Any alterations or changes, in any part of this Contract shall be evaluated, verified, processed and approved by the Philippine Overseas Employment Administration (POEA). Upon approval, the same shall be deemed an integral part of the Standard Terms and Conditions Governing the Employment of Filipino Seafarers On-Board Ocean Going Vessels.

# Standard Terms & Conditions of Employment governing Seafarers

1. Duties of Manning Agencies/Principal/Employer/Company
  - \* Extend coverage under Phil. Social Security System (SSS), Employees Compensation Commission, Philippine Health Insurance Corp. (PHILHEALTH), Home Development & Mutual Fund (PAG-IBIG)
2. Duties of a Seafarer
3. Free Passage from Point of Hire to Point of Embarkation
4. Wages
5. Allotment and Remittances
5. Final Wage Account and Certificate of Employment
6. Overtime and Holidays, Leave Pay, Shore Leave
7. Grievance Machinery
8. Compensation and Benefits for Illness and Death
9. War and Warlike Operations Allowance
9. Dispute Settlement Procedure
10. Schedule of Disability, impediment for injuries suffered, Diseases including Occupational diseases or illness contracted

**POEA Governing Board Resolution (GBR) 5, S 2016 -  
Adoption of Basic Wage based on MLC 2006  
Guidelines on the Computation of applicable benefits  
for seafarers whose vessels are transiting through  
areas with war like and high risk destinations and the  
IBF list of warlike and high risk designations**

**GBR 7 - Requiring first time seafarers to undergo  
mandatory Pre-Employment Orientation Seminar**

**GBR 14 :2016 Revised POEA Rules and  
Regulations Governing the  
Recruitment and Employment of  
Seafarers**

# **The Philippine Overseas Employment Administration (POEA)**

- ▶ The POEA is an agency attached to the Department of Labor and Employment and is the government's arm in managing the migration of Filipino workers overseas.
- ▶ Four operating offices and a support group provide the systematic delivery of services for the recruitment and deployment of Filipino workers, namely:
  1. Pre-Employment Services Office - seminars PEOS and PDOS
  2. Welfare and Employment Office - monitoring of welfare of workers; repatriation mechanisms
  3. Adjudication Office (AO) -
  4. Licensing and Regulation Office
  5. Regional Centers

# Policies in Labor Migration Management

## A. Policies to Regulate Recruitment Practices

### **1. Licensing System for Participation of the Private Sector**

-qualifications, escrow deposit, regular and spot inspection, medical examination

### **2. Registration of Employers and Documentation of Workers**

- verification/authentication of documents of Principal/employer (POLO/embassy): SPA,

- accreditation of Principal/Employer and enrollment of ship

- SPA, Manning Agreement, crew complement, license, escrow  
USD 10,000



## B. Promotion of Continuing Professionalism of the Private Recruitment Industry

- a. The Agency Education Program
- b. The Agency Performance Evaluation  
Program

# Policies in Labor Migration Management

## C. Measures to Combat Fraud and Recruitment Malpractices (continuation)

1. Free Legal Assistance
3. Information Campaign
4. Anti-illegal Recruitment and Anti-Human Trafficking Program

## D. Protection of Filipino Migrant Workers

1. Employment Standards – tripartite consultation, freedom to stipulate
2. Dispute Settlement System – SENA LAW
3. On-site Welfare Assistance
4. Repatriation

# Recruitment Violations (RV)

- Overcharging, Non-issuance of OR, Misrepresentation, Substitution of Contract, \*Failure to deploy, Failure to reimburse

## Disciplinary Action against Employer (DAE)

- Breach of Contract, Grave violation of laws/rules on OE, Gross negligence resulting to serious physical injury/death, Serious misconduct

## Disciplinary Action against Worker (DAW)

Pre Employment Offenses: Misrepresentation, Unjustified Refusal to Depart

During Employment

- A. Commission of a crime
- B. Breach of Contract
- C. Embezzlement
- D. Violation of the Sacred Practices

# REPATRIATION

Legal Basis :Rule 13 IRR of the Omnibus Rules and Regulations Implementing the Migrant Workers Act of 1995 as amended by R.A. 10022

**Primary Responsibility of the Agency** (Sec. 1, Rule XIII, IRR R.A. No. 10022)

**Agency to advance cost of repatriation** (Sec. 2 Ibid)

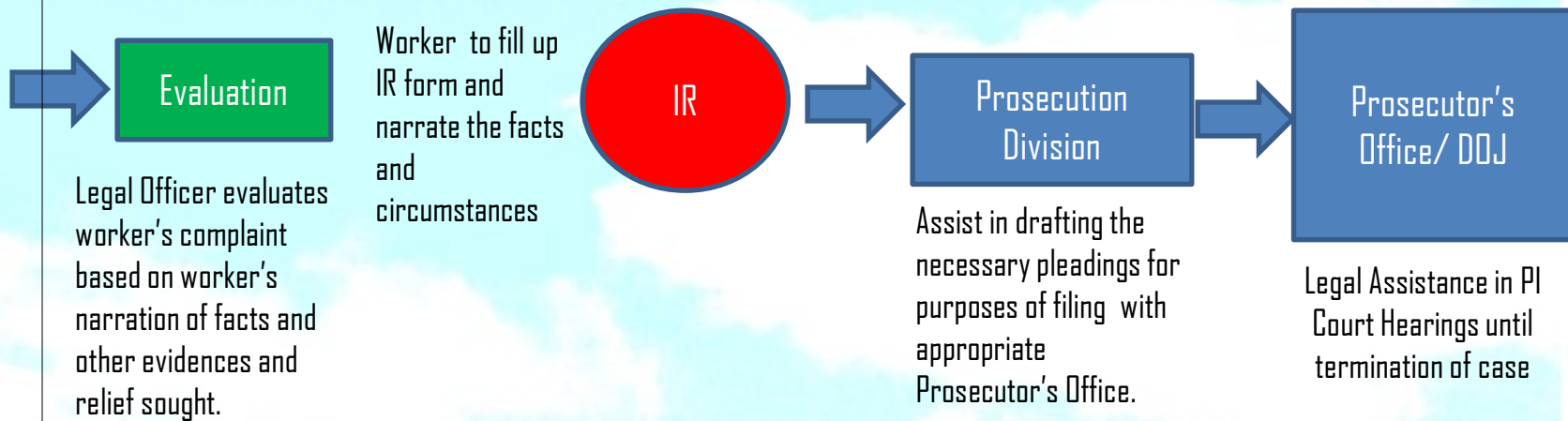
- 48 hrs notice rule – ready for repat
- 15 day rule – requires exit visa
- Duty of the agency in case visa is required – coordinate with the employer or principal in securing the visa

**Action on Non-Compliance (Sec. 4, Ibid)**

- Documentary suspension or impose such sanction as maybe necessary
- Suspension of the employer or principal
- Suspension of documentary processing if necessary

**Mandatory Repatriation of Underage Migrant Workers (Sec. 6, Ibid) Sanctions:**

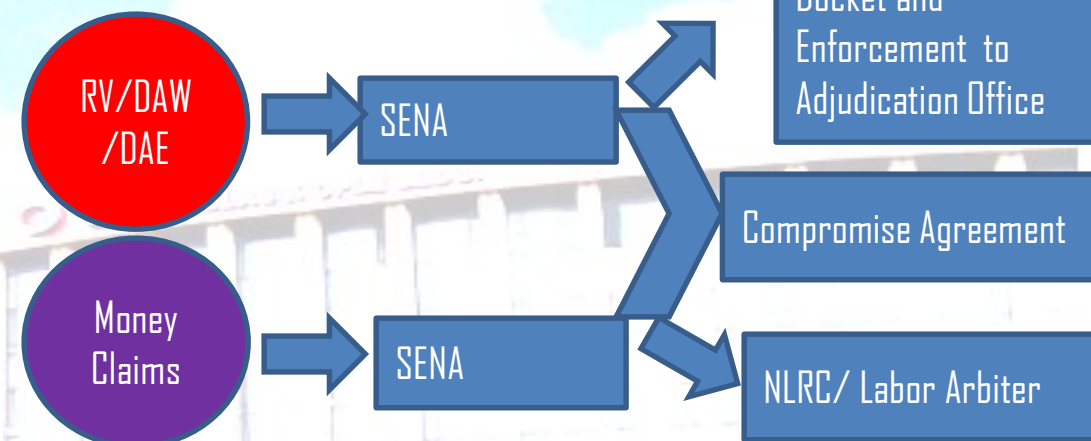
- Recruitment agency to pay or reimburse the costs of the repatriation
- Cancellation of the agency's license upon notice and hearing
- Fine of not less than P500,000.00 nor more than 1M
- Refund of pertinent fees + indemnification for damages



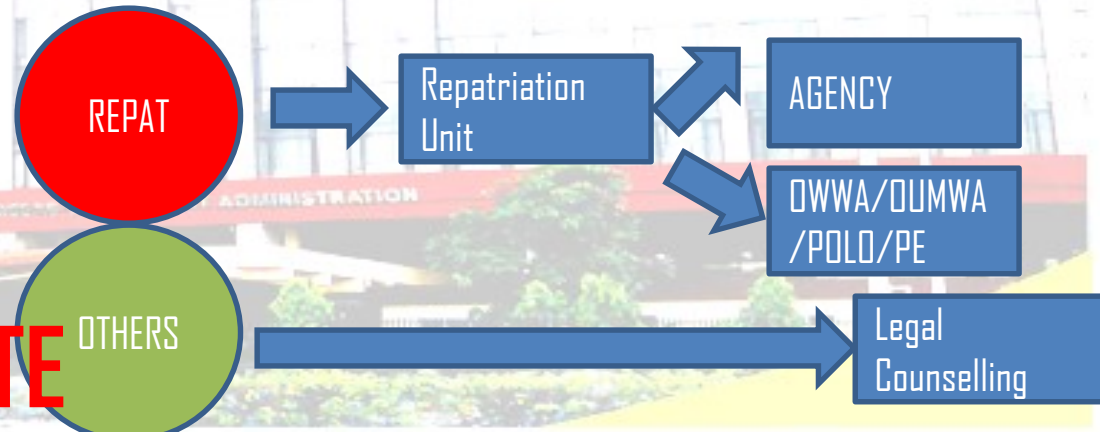
## COMPLAINT

- 1. IR
- 2. RV/ DAW/DAE
- 3. Money Claims
- 4. Others (Family And Support Cases Etc.)

Legal Officer assists DFW filling up forms for RV/DAE/DAW and assists DFW to execute sworn statements



Representative/ Next of Kin executes narration of facts



# LEGAL OPTIONS OFFSITE

15	Medically disembarked on Feb. 16; taken to hospital for further testing

*Lines did no submit any report*

/

ipino seafarers reported
s disembarked / COVID-
s disembarked and
s exposed/infected

*(as of 18 February 2020)*



# Policies in Labor Migration Management

## D. Integration and Reintegration of Overseas Filipino Workers

### 1. Integration Services

- a. Language Courses for OFWs
- b. On-site Support Services

### 2. Reintegration Program for OFWs

- a. Reintegration packages consist of loans, counseling, training, retraining, scholarships and entrepreneurship through families of OFWs organized into “OFW (s) Family Circles” as a vehicle to effectively implement reintegration services.
- b. National Reintegration Center for OFWs was established to further strengthen the National Reintegration Program

# Possible Way Forward for the Philippines

- Streamline procedures and practices with international standards
- Implementation of RA 10706 Act Protecting Seafarers Against Ambulance Chasing and Imposition of Excessive Fees and Providing Penalties
- Review the continued deployment of workers to countries, which are high and medium- risk areas, as well as the continued deployment of workers in high-risk occupations. (on-going)
- Create an efficient “one-stop shop” for processing applications for overseas work and seeking redress for grievances. (Implemented)
- Enhancement of MC implementation through cooperation with leading flag states



# Possible Way Forward for the Philippines

- Invest in the formal and regular skills training and upgrading of our overseas workers with TESDA and utilize returning OFWs to conduct training so that they may transfer skills learned abroad. (on-going)
- Third Party Medical Arbitration
- Development of Seafarers Employment Contract for: fishermen, cruise, offshore
- Assist OFWs in achieving financial stability through training, investment and savings programs. (on-going)
- Address the social costs of migration by working closely with communities and families of OFWs to provide effective social welfare services such as counseling and pre-departure orientation seminars. Support the creation or strengthening of community-based support groups for families of OFWs. (on-going)

# CONCLUSION

- The Philippine experience underscores the importance of involving both public and private stakeholders in both labor sending and receiving states.
- Global collaboration is a must in managing labor migration.

**THANK YOU FOR YOUR ATTENTION!**