

Proinde Circular 30-11-2020: Brazil's immigration authority cracks down on seafarers identify documents

1. Seafarers' identity document

Under Brazilian immigration regulations, a seafarers' identity document (SID), often colloquially – and misleadingly – referred to as a "seaman's book" (seafarer discharge book/seaman's service book), is accepted as a stand-alone travel document with the same standing as a passport, laissez-passer, and other forms of personal identification¹.

In 2010, Brazil ratified Convention 185 of 2003 (C185)² of the International Labor Organization (ILO) on SIDs, which resulted in the automatic denunciation of ILO Convention 108 of 1958 (C108)³. The C185 with increased security eventually entered into force in 2015, having revoked the decree that regulated the previous Convention in the domestic legislation⁴.

Therefore, only SIDs issued by ILO C185 member states are legally valid in Brazil as a travel document to exempt working seafarers from the need for a visa, regardless of nationality. No crew change will be allowed by the immigration authority (Federal Police) without an ILO C185 SID (or a valid passport with a visa).

The list of countries that have ratified ILO C185 can be found in the ILO database.



Picture 1: Front and reverse side of a TD1-size specimen of ILO C185 SID in card format. Source: ILO/ICAO

 $^{^{1}}$ Art. 5, V, of the Migration Law (Law n $^{\circ}$ 13,445/2017, regulated by Decree 9,199/2017, as amended)

² ILO C185: Seafarers' Identity Documents Convention (Revised), 2003 (n° 185). Entry into force: February 2005. In 2016, C185 was amended to align it with "Document 9303 Machine Readable Travel Document 7th Edition", 2015, of the UN International Civil Aviation Organization (ICAO)

³ ILO C108: Seafarers' Identity Documents Convention, 1958 (n° 108), was introduced in the Brazilian domestic legislation by way of Decree n° 58,825 of June 1966. This Convention established that seafarers' identity documents could be issued by their home country, by the vessel's flag State or by the country where the seafarers' employer is domiciled

⁴ ILO C185 was adopted in June 2003 to revise C108 with the purpose of enhancing security and affording uniformity to the seafarer's identification document. Brazil ratified ILO C185 in 2010 and enacted it through Decree 8,605/2015 that expressly revoked Decree 58,825/1966

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Picture 2: Facing and biodata pages of a TD3-size specimen of ILO C185 SID in booklet format. Source: ILO/ICAO

2. Heightened immigration controls

Until recently, the immigration authority (Federal Police) continued to accept SIDs issued under the ILO C108 Convention to allow shore leave, transit and transfer of seafarers, even though only the C185 is legally in force in Brazil.

However, triggered by a new regulatory amendment by the National Immigration Council (CNIg), effective from October 2020⁵, the Federal Police adopted a rigorous approach to seafarers' documents. They reiterated that to enter, transit in or leave Brazil foreign seafarers working as crewmembers aboard cargo vessels, cruise ships or platforms in Brazilian jurisdictional waters will need:

a) When holding a valid C185 SID:

- Temporary Work Visa type 'V' (VITEM V)⁶ for stays exceeding 180 days aboard foreign ships or platforms⁷
- VITEM V visa for working onboard Brazilian-flagged ships or platforms, regardless of the term of employment⁸

⁵ Normative Resolution 06 of 2017, (RN 06/2017), was amended by RN CNIG MJSP no 43 of July 2020, which entered into force in October 2020

⁶ Work visas (VITEM V) are subject to prior approval by the Brazilian Ministry of Justice and Public Security (MJSP). The process is initiated in Brazil, by the sponsoring company (on behalf of the applicant). Once concluded and approved, the MJSP transmits the authorisation to the Consulate and it is only then that the applicant can lodge the visa application itself

⁷ Art. 29, § 7, I, of Decree 9,199/2017

⁸ Art. 29, § 7, II, 'a', of Decree 9,199/2017

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b) When NOT holding a valid C185 SID:

- Visitor Business Visa (VIVIS) for stays up to 90 days per migratory year, non-extendable⁹
- VITEM V visa for working onboard Brazilian-flagged ships or platforms, regardless of the term of employment
- VITEM V visa for stays exceeding 180 days aboard foreign cargo vessels and cruise ships¹⁰
- VITEM V visa for stays exceeding 90 days per year on platforms and aboard vessels other than cargo and cruise ships¹¹

The list of countries whose seafarers without a C185 SID need a visa to enter Brazil can be found on the website of the Brazilian Ministry of Foreign Affairs.

c) No visa will be required from:

- Crewmembers and other foreign shipboard professionals whose nationality exempts them from a VIVIS visa, for <u>stays of up to 90 days</u> per migratory year, when producing a passport valid for the duration of the stay
- ♦ Crewmembers holding a valid C185 SID, for a <u>maximum stay of 180 days</u> per migratory year, provided they enter the country on a vessel or demonstrate that the purpose of entry is to embark on a platform, a cargo vessel on an ocean-going voyage or a cruise ship sailing along the coast

Foreign seafarers carrying a SID not in conformity with ILO C185 standards may remain on board the vessel, but may not come ashore, at the discretion of the Federal Police¹².

Breach of the immigration regulations may subject the traveller or carrier to pecuniary fines¹³.

For detailed information, please consult our publication <u>Immigration Controls on Seafarers in Brazil</u>, available for free download on our secure website.

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⁹ Art. 29, § 7, II, of Decree 9,199/2017

¹⁰ Art. 38, § 2, VII, 'a', of Decree 9,199/2017

¹¹ Art. 38, § 2, VII, 'b', of Decree 9,199/2017

¹² Art. 173 Decree 9,199/2017

¹³ Fines for offences to the Immigration rules range from BRL 100 to BRL 10 thousand for individuals, and from BRL 1,000 to BRL 1 million for legal persons (Art. 108 of the Migration Law)