

International Labour Conference, 109th Session, 2020

Report VII(1)

**Abrogation of eight international labour
Conventions and withdrawal of nine
international labour Conventions and
11 international labour Recommendations**

Seventh item on the agenda

International Labour Office, Geneva

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Introduction

At its 331st Session (October–November 2017) and at its 334th Session (October–November 2018), the Governing Body of the International Labour Office decided to place on the agenda of the 109th Session (2020) of the International Labour Conference the question of the abrogation of eight Conventions as well as the withdrawal of nine Conventions and 11 Recommendations.¹

The following Conventions were placed on the agenda for abrogation: the Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8); the Placing of Seamen Convention, 1920 (No. 9); the Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16); the Officers' Competency Certificates Convention, 1936 (No. 53); the Medical Examination (Seafarers) Convention, 1946 (No. 73); the Certification of Able Seamen Convention, 1946 (No. 74); the Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91); and the Continuity of Employment (Seafarers) Convention, 1976 (No. 145).

The following Conventions and Recommendations were placed on the agenda for withdrawal: the Minimum Age (Sea) Convention, 1920 (No. 7); the Holidays with Pay (Sea) Convention, 1936 (No. 54); the Hours of Work and Manning (Sea) Convention, 1936 (No. 57); the Paid Vacations (Seafarers) Convention, 1946 (No. 72); the Wages, Hours of Work and Manning (Sea) Convention, 1946 (No. 76); the Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949 (No. 93); the Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958 (No. 109); the Recruitment and Placement of Seafarers Convention, 1996 (No. 179); the Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180); the Repatriation (Ship Masters and Apprentices) Recommendation, 1926 (No. 27); the Prevention of Industrial Accidents Recommendation, 1929 (No. 31); the Hours of Work and Manning (Sea) Recommendation, 1936 (No. 49); the Seafarers' Engagement (Foreign Vessels) Recommendation, 1958 (No. 107); the Vocational Training (Seafarers) Recommendation, 1970 (No. 137); the Employment of Seafarers (Technical Developments) Recommendation, 1970 (No. 139); the Protection of Young Seafarers Recommendation, 1976 (No. 153); the Continuity of Employment (Seafarers) Recommendation, 1976 (No. 154); the Repatriation of Seafarers Recommendation, 1987 (No. 174); the Recruitment and Placement of Seafarers Recommendation, 1996 (No. 186); and the Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187).

The decision of the Governing Body was based on the recommendations formulated at the third meeting of the Standards Review Mechanism Tripartite Working Group (SRM TWG) held from 25 to 29 September 2017 and at the third meeting of the Special Tripartite Committee (STC) established under the Maritime Labour Convention, 2006, as amended

¹ [GB.331/INS/2\(Add.\)](#); [GB.334/INS/2/1](#).

(MLC, 2006),² held from 23 to 27 April 2018. The STC was tasked with the review of 68 maritime instruments by the SRM TWG.³

This will be the third time that the International Labour Conference will be called upon to decide on the possible abrogation of international labour Conventions. Pursuant to the new paragraph 9 of article 19 of the Constitution of the International Labour Organisation that took effect on 8 October 2015 upon the entry into force of the 1997 constitutional amendment, the Conference is now empowered, by two-thirds majority and upon recommendation by the Governing Body, to abrogate a Convention in force if it appears that it has lost its purpose or that it no longer makes a useful contribution to attaining the objectives of the Organization. The ability to abrogate Conventions is an important tool of the Standards Review Mechanism process which is aimed at ensuring that the Organization has a robust and up-to-date body of international labour standards.

Should the Conference decide to abrogate or withdraw the above-referenced Conventions and Recommendations, they would be removed from the ILO's body of standards and, as a result, Members that have ratified and are still bound by the Conventions concerned will no longer be obliged to submit reports under article 22 of the Constitution and they may no longer be subject to representations (article 24) or complaints (article 26) for non-observance. For their part, the ILO supervisory bodies will not be required to examine the implementation of these Conventions and the Office will take the necessary steps to ensure that abrogated or withdrawn instruments are no longer reproduced in any collection of international labour standards or referred to in new instruments, codes of conduct or similar documents.⁴

In accordance with article 45bis(2) of the Standing Orders of the International Labour Conference, when an item on abrogation or withdrawal of Conventions and Recommendations is placed on the agenda of the Conference, the Office must communicate to the governments of all member States not later than 18 months before the opening of the session of the Conference at which the item is to be discussed, a short report and questionnaire requesting them to indicate within a period of 12 months their position on the subject of said abrogation or withdrawal. In this respect, the governments are requested to consult the most representative organizations of employers and workers before finalizing their replies. On the basis of the replies received, the Office shall draw up a report containing a final proposal which shall be distributed to governments four months before the opening of the session of the Conference at which the item is to be discussed.

As the Governing Body has placed this item on the agenda of the 109th Session (2020) of the International Labour Conference, governments are requested, after having duly consulted the most representative organizations of employers and workers, to transmit their replies to the questionnaire below so that they reach the Office no later than 30 November 2019.

This report and the questionnaire are available on the ILO website at: https://www.ilo.org/ilc/ILCSessions/109/reports/reports-to-the-conference/WCMS_650823/lang-en/index.htm. Governments are encouraged, where possible, to complete the questionnaire

² The STC is responsible for keeping the working of the MLC, 2006 under continuous review and provide advice on this subject to the Governing Body, or through the Governing Body, to the International Labour Conference.

³ This decision was endorsed by the Governing Body at its 326th Session (March 2016). See [GB.326/PV](#), para. 514.

⁴ Further information on the significance, effects and procedure of abrogation can be found in document [GB.325/LILS/INF/1](#).

in electronic format and to submit their replies electronically to the Office of the Legal Adviser (jur@ilo.org).

Status of Conventions Nos 8, 9, 16, 53, 73, 74, 91 and 145

Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8)

1. Convention No. 8 was adopted in 1920 with a view to ensuring that seafarers are indemnified when unemployed as a result of loss or foundering of a vessel. Convention No. 8 was ratified by 60 member States, most recently by Montenegro in 2006. To date, ratification of the MLC, 2006 has resulted in the denunciation of Convention No. 8 by 46 States while 14 member States still remain bound by it.
2. The MLC, 2006 contains similar wording to that of Convention No. 8. Although the protection offered to seafarers under that Convention still appears relevant, its scope is rather limited as compared to all the other elements of protection that are consolidated in the MLC, 2006. The STC recommended to classify Convention No. 8 as “outdated”, propose its abrogation and encourage States which have already ratified the MLC, 2006, but remain bound by Convention No. 8 in respect of non-metropolitan territories, to extend the application of the MLC, 2006 to those territories.

Placing of Seamen Convention, 1920 (No. 9)

3. Convention No. 9 was adopted in 1920 to prohibit placement of seafarers for pecuniary gain. Convention No. 9 was ratified by 41 member States, most recently by Montenegro in 2006. To date, ratification of Convention No. 179 and of the MLC, 2006 has resulted in the denunciation of Convention No. 9 by 30 member States while ten States still remain bound by it.
4. Since the adoption of Convention No. 9, practices related to maritime employment have evolved considerably due to the internationalization of crews and regular use of recruitment and placement agencies. The MLC, 2006, through consolidation of Convention No. 179 and Recommendation No. 186, recognizes the evolution of the practice in this area and provides for strict supervision of recruitment and placement agencies. The STC recommended to classify Convention No. 9 as “outdated”, propose its abrogation, encourage States which remain bound by Convention No. 9 to ratify the MLC, 2006 and encourage States which have already ratified the MLC, 2006, but remain bound by Convention No. 9 in respect of non-metropolitan territories, to extend the application of the MLC, 2006 to those territories.

Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16)

5. Convention No. 16 was adopted in 1921 in order to set out an obligation to produce a medical certificate, signed by a doctor who had to be approved by the competent

authority, attesting fitness to work for all children and young seafarers under 18 years of age employed on vessels, ships or boats engaged in maritime navigation. Convention No. 16 was ratified by 82 member States, most recently by Montenegro in 2006. To date, ratification of the MLC, 2006 has resulted in the denunciation of Convention No. 16 by 57 States while 25 member States still remain bound by it.

6. The MLC, 2006, which updated and furthered certain basic principles contained in Convention No. 16, offers broader protection for seafarers and contains more detailed provisions governing the qualifications of the medical practitioner issuing the medical certificate and stricter provisions for derogations from its obligations in urgent cases. While 25 States remain bound by this Convention, 20 of them are parties to the IMO's International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, as amended, which contains similar provisions on this matter. It is noted that compliance with the STCW is considered to give effect to the relevant provisions of the MLC, 2006. The STC recommended to classify Convention No. 16 as "outdated" and propose its abrogation; encourage States which have already ratified the MLC, 2006, but remain bound by Convention No. 16 in respect of non-metropolitan territories, to extend the application of the MLC, 2006 to those territories; and request the Office to launch an initiative to promote ratification on a priority basis of the MLC, 2006 among those countries still bound by Convention No. 16.

Officers' Competency Certificates Convention, 1936 (No. 53)

7. Convention No. 53 was adopted in 1936 to ensure that officers performing their duties on board vessels would hold a certificate of competency issued or approved by the public authorities of the flag State. Convention No. 53 was ratified by 37 member States, most recently by Montenegro in 2006. To date, ratification of the MLC, 2006 has resulted in the denunciation of Convention No. 53 by 25 States, while 12 member States still remain bound by it.

8. Convention No. 53 was revised by the MLC, 2006 and appears to be outdated in terms of modern standards, which derive from the STCW. Additionally, the ILO transferred to the IMO the responsibility for provisions relating to training and certification for able seafarers, with the exception of ships' cooks. All but one State from among those that remain bound by Convention No. 53 have already ratified the STCW. The STC recommended to classify Convention No. 53 as "outdated" and propose its abrogation; encourage States which have already ratified the MLC, 2006, but remain bound by Convention No. 53 in respect of non-metropolitan territories, to extend the application of the MLC, 2006 to those territories; and request the Office to launch an initiative to promote ratification on a priority basis of the MLC, 2006 among those countries still bound by Convention No. 53.

Medical Examination (Seafarers) Convention, 1946 (No. 73)

9. Convention No. 73 was adopted in 1946 to ensure that a medical practitioner certifies fitness for work of seafarers. Convention No. 73 was ratified by 46 member States, most recently by Montenegro in 2006. To date, ratification of the MLC, 2006 has resulted in the denunciation of Convention No. 73 by 35 States while 11 member States still remain bound by it.

10. The provisions of Convention No. 73 were incorporated into the MLC, 2006 which improved the effectiveness of the ILO requirements on the medical examination of seafarers through inspection. In addition, only three States remaining bound by Convention No. 73 are not parties to the STCW, compliance with which is considered to implement the relevant provisions of the MLC, 2006. The STC recommended to classify Convention No. 73 as “outdated” and propose its abrogation; encourage States which have already ratified the MLC, 2006, but remain bound by Convention No. 73 in respect of non-metropolitan territories, to extend the application of the MLC, 2006 to those territories; and request the Office to launch an initiative to promote ratification on a priority basis of the MLC, 2006 among those countries still bound by Convention No. 73.

Certification of Able Seamen Convention, 1946 (No. 74)

11. Convention No. 74 was adopted in 1946 to complement the ILO’s standards on the training of seafarers by prohibiting the engagement of seafarers who were not deemed to be competent to perform certain duties and did not hold a certificate of competency. Convention No. 74 was ratified by 29 member States, most recently by Montenegro in 2006. To date, ratification of the MLC, 2006 has resulted in the denunciation of Convention No. 74 by 24 member States while five still remain bound by it.

12. Convention No. 74 was revised by the MLC, 2006. As in the case of Convention No. 53, it appears to be outdated in light of more recent regulations, which derive from the STCW. It is recalled that the ILO transferred to the IMO the responsibility for provisions relating to training and certification for able seafarers, with the exception of ships’ cooks. All but one State from among those that are still bound by Convention No. 74 have already ratified the STCW. The STC recommended to classify Convention No. 74 as “outdated” and propose its abrogation; encourage States which have already ratified the MLC, 2006, but remain bound by Convention No. 74 in respect of non-metropolitan territories, to extend the application of the MLC, 2006 to those territories; and request the Office to launch an initiative to promote ratification on a priority basis of the MLC, 2006 among those countries still bound by Convention No. 74.

Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91)

13. Convention No. 91 was adopted in 1949 and slightly revises Convention No. 72 with regard to the calculation of the usual remuneration payable during the holiday. Convention No. 91 was ratified by 25 member States, most recently by Montenegro in 2006. To date, ratification of Convention No. 146 and of the MLC, 2006 have resulted in the denunciation of Convention No. 91 by 18 member States while seven still remain bound by it.

14. Convention No. 91 was revised by the MLC, 2006. The protection afforded by this Convention is no longer considered to correspond to the requirements of the most recent instruments. The STC recommended to classify Convention No. 91 as “outdated”, propose its abrogation and encourage States still bound by this Convention to ratify the MLC, 2006.

Continuity of Employment (Seafarers) Convention, 1976 (No. 145)

15. Convention No. 145 was adopted in 1976 to ensure continuous or regular employment for qualified seafarers and, in so doing, to provide shipowners with a stable and competent workforce. Convention No. 145 was ratified by 12 member States, most

recently by Brazil in 1990. To date, ratification of the MLC, 2006 has resulted in the denunciation of Convention No. 145 by 12 member States while five still remain bound by it.

16. While maintaining the objective of Convention No. 145, the MLC, 2006 has adopted an approach which is considered to be more suitable to today’s maritime sector. The MLC, 2006 remains, therefore, the only instrument that reflects the tripartite consensus on the question of continuity of employment. The STC recommended to classify Convention No. 145 as “outdated”, propose its abrogation and encourage States which have already ratified the MLC, 2006, but remain bound by Convention No. 145 in respect of non-metropolitan territories, to extend the application of the MLC, 2006 to those territories.

Do you consider that the eight above-referenced Conventions should be abrogated?

Yes No

If you replied “no” to the above question, please indicate which Convention or Conventions among the above-listed instruments you consider has not lost its purpose or that still makes a useful contribution to attaining the objectives of the Organization and the reasons thereof.

Status of Conventions Nos 7, 54, 57, 72, 76, 93, 109, 179 and 180

Minimum Age (Sea) Convention, 1920 (No. 7)

17. Convention No. 7 was adopted in 1920, setting, with two exceptions, the minimum age to work on board ships and boats engaged in maritime navigation at 14. Convention No. 7 was ratified by 53 member States. To date, ratification of Convention No. 138 and of the MLC, 2006 has resulted in the denunciation of Convention No. 7 by 52 States. Convention No. 7 provides for a minimum age which is no longer considered suitable in light of the ILO's most modern standards. The STC recommended to classify this Convention as "outdated" and propose its withdrawal.

Holidays with Pay (Sea) Convention, 1936 (No. 54)

18. Convention No. 54 was adopted in 1936 setting the minimum annual holiday with pay for masters and officers at 12 working days against nine days for other seafarers. The Convention also seeks to render void any agreement to relinquish the right to holidays. Having received only six ratifications, Convention No. 54 never met the conditions for its entry into force. It has been denounced by two member States. Annual leave with pay is now covered under the MLC, 2006 which provides for stronger protections for seafarers. The STC recommended to classify Convention No. 54 as "outdated" and propose its withdrawal.

Hours of Work and Manning (Sea) Convention, 1936 (No. 57)

19. Convention No. 57 was adopted in 1936 fixing the maximum hours of work for seafarers at 56 hours per week and eight hours per day. Having received only three ratifications, Convention No. 57 never met the conditions for its entry into force. It has been denounced by two member States. The MLC, 2006 is the only up-to-date instrument concerning hours of work and wages. The STC recommended to classify this Convention as "outdated" and propose its withdrawal.

Paid Vacations (Seafarers) Convention, 1946 (No. 72)

20. Convention No. 72 was adopted in 1946 slightly increasing seafarers' entitlement to leave with pay. Having received only five ratifications, Convention No. 72 never met the conditions for its entry into force. It has been denounced by four member States as a result of the ratification of Convention No. 91. The MLC, 2006 contains the most adequate

protection for seafarers with respect to annual leave with pay. The STC recommended to classify Convention No. 72 as “outdated” and propose its withdrawal.

Wages, Hours of Work and Manning (Sea) Convention, 1946 (No. 76)

21. Convention No. 76 was adopted in 1946 to revise Convention No. 57. Having received no ratifications, Convention No. 76 never entered into force. The MLC, 2006 is the only up-to-date instrument concerning hours of work and wages. The STC recommended to classify this Convention as “outdated” and propose its withdrawal.

Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949 (No. 93)

22. Convention No. 93 was adopted in 1949 to revise Conventions Nos 57 and 76 and provides for a similar level of protection to that of Convention No. 76. Having received only five ratifications, Convention No. 93 never met the conditions for its entry into force. The MLC, 2006 is the only up-to-date instrument concerning hours of work and wages. The STC recommended to classify this Convention as “outdated” and propose its withdrawal.

Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958 (No. 109)

23. Convention No. 109 was adopted in 1958 to revise Convention No. 93. It provides a level of protection comparable to that of Convention No. 93. Having received only 15 ratifications, Convention No. 109 never met the conditions for its entry into force. It has been denounced by ten member States. The MLC, 2006 is the only up-to-date instrument concerning hours of work and wages. The STC recommended to classify this Convention in the list of “outdated” standards and propose its withdrawal.

Recruitment and Placement of Seafarers Convention, 1996 (No. 179)

24. Convention No. 179 was adopted in 1996 to revisit the principle of the prohibition of the placement of seafarers for pecuniary gain and define the minimum framework that must regulate such activities. Convention No. 179 was ratified by ten member States, which have all subsequently denounced it as a result of the ratification of the MLC, 2006. Convention No. 179 is therefore no longer in force. The protective coverage of this Convention has been largely incorporated into the MLC, 2006 and has been rendered more effective through certification and inspection. The STC recommended to classify this Convention as “outdated” and propose its withdrawal.

Seafarers’ Hours of Work and the Manning of Ships Convention, 1996 (No. 180)

25. Convention No. 180 was adopted in 1996 to revise all previous Conventions dealing with wages, hours of work and manning at sea. Convention No. 180 was ratified by 21 member States, which have all subsequently denounced the Convention as a result of the ratification of the MLC, 2006. Convention No. 180 is therefore no longer in force. The protective coverage of this Convention has been largely incorporated into the MLC, 2006.

The STC recommended to classify this Convention as “outdated” and propose its withdrawal.

Do you consider that the nine above-referenced Conventions should be withdrawn?

Yes No

If you replied “no” to the above question, please indicate which Convention or Conventions among the above-listed instruments you consider has not lost its purpose or that still makes a useful contribution to attaining the objectives of the Organization and the reasons thereof.

Status of Recommendations Nos 27, 31, 49, 107, 137, 139, 153, 154, 174, 186 and 187

Repatriation (Ship Masters and Apprentices) Recommendation, 1926 (No. 27)

26. Recommendation No. 27 was adopted in 1926 to recommend that steps should be taken to provide for the repatriation of captains and duly indentured apprentices, who are not covered by the terms of Convention No. 23. This Recommendation was revised by Convention No. 166 and Recommendation No. 174. The STC recommended to classify this Recommendation as “outdated” and propose its withdrawal.

Prevention of Industrial Accidents Recommendation, 1929 (No. 31)

27. Recommendation No. 31 was adopted in 1929 to recommend principles and rules to be taken into consideration for the prevention of industrial accidents. Most of the principles contained in this Recommendation were included in more up-to-date instruments such as Convention No. 155 and its Protocol, Convention No. 161 and Convention No. 187 and the associated Recommendations. The SRM TWG recommended to classify Recommendation No. 31 as “outdated” and propose its withdrawal.

Hours of Work and Manning (Sea) Recommendation, 1936 (No. 49)

28. Recommendation No. 49 was adopted in 1936 to recommend that member States should investigate the conditions on board vessels engaged only in national coasting trade and take all necessary measures to prevent overwork and insufficient manning. The STC recommended to classify Recommendation No. 49 as “outdated” and propose its withdrawal.

Seafarers’ Engagement (Foreign Vessels) Recommendation, 1958 (No. 107)

29. Recommendation No. 107 was adopted in 1958 to discourage seafarers from joining vessels registered in a foreign country unless adequate protection is offered. Its provisions seem to be completely outdated as regards the approach to maritime employment. The STC recommended to classify this Recommendation as “outdated” and propose its withdrawal.

Vocational Training (Seafarers) Recommendation, 1970 (No. 137)

30. Recommendation No. 137 was adopted in 1970 to provide guidance for the adoption of national policies for the training of seafarers. It was revised by the MLC, 2006. The STC recommended to classify this Recommendation as “outdated” and propose its withdrawal.

Employment of Seafarers (Technical Developments) Recommendation, 1970 (No. 139)

31. Recommendation No. 139 was adopted in 1970 to address the decline in seafaring jobs caused by technological developments. While the issue of technical developments is not addressed specifically by the MLC, 2006, the protection sought by the Recommendation is largely assured by various regulations. The STC recommended to classify this Recommendation as “outdated” and propose its withdrawal.

Protection of Young Seafarers Recommendation, 1976 (No. 153)

32. Recommendation No. 153 was adopted in 1976 to provide guidance on occupational safety and health, education, vocational guidance and training, working hours and repatriation with regard to the working conditions of young seafarers and all young persons under 18 years of age employed on board ships. Recommendation No. 153 was largely incorporated into the MLC, 2006. Provisions which are not covered by the MLC, 2006 have been embraced by other instruments of general scope. The STC recommended to classify this Recommendation as “outdated” and propose its withdrawal.

Continuity of Employment (Seafarers) Recommendation, 1976 (No. 154)

33. Recommendation No. 154 was adopted in 1976 to supplement Convention No. 145 and provide further guidance on continuity of employment. While maintaining the objective of Recommendation No. 154, the MLC, 2006 has adopted an approach which is considered to be more suitable to today’s maritime sector. The MLC, 2006 remains, therefore, the only instrument that reflects the tripartite consensus on the question of continuity of employment. The STC recommended to classify this Recommendation as “outdated” and propose its withdrawal.

Repatriation of Seafarers Recommendation, 1987 (No. 174)

34. Recommendation No. 174 was adopted in 1987 to provide guidance in case of failure of the shipowner or of the flag State to meet their obligations. The content of the Recommendation has been incorporated into the MLC, 2006. The STC recommended to classify this Recommendation as “outdated” and propose its withdrawal.

Recruitment and Placement of Seafarers Recommendation, 1996 (No. 186)

35. Recommendation No. 186 was adopted in 1996 to supplement Convention No. 179. Recommendation No. 186 was largely incorporated into the MLC, 2006, together with Convention No. 179 and its protective coverage has been rendered more effective through certification and inspection. The STC recommended to classify this Recommendation as “outdated” and propose its withdrawal.

Seafarers’ Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187)

36. Recommendation No. 187 was adopted in 1996 to provide guidance on a certain number of aspects of wages, hours of work and manning of ships which have been largely incorporated into the MLC, 2006. The STC recommended to classify this Recommendation as “outdated” and propose its withdrawal.

Do you consider that the 11 above-referenced Recommendations should be withdrawn?

Yes No

If you replied “no” to the above question, please indicate which Recommendation or Recommendations among the above-listed instruments you consider has not lost its purpose or that still makes a useful contribution to attaining the objectives of the Organization and the reasons thereof.
