



Fourth meeting of the Special Tripartite Committee of the Maritime Labour Convention, 2006, as amended (MLC, 2006)

Geneva, 19–23 April 2021

► Instruments relating to social security

Summary

The maritime labour instruments under review include **three Conventions and three Recommendations concerning social security**:

- Sickness Insurance (Sea) Convention, 1936 (No. 56);
- Social Security (Seafarers) Convention, 1946 (No. 70);
- Social Security (Seafarers) Convention (Revised), 1987 (No. 165);
- Unemployment Insurance (Seamen) Recommendation, 1920 (No. 10);
- Seafarers' Social Security (Agreements) Recommendation, 1946 (No. 75);
- Seafarers (Medical Care for Dependents) Recommendation, 1946 (No. 76).

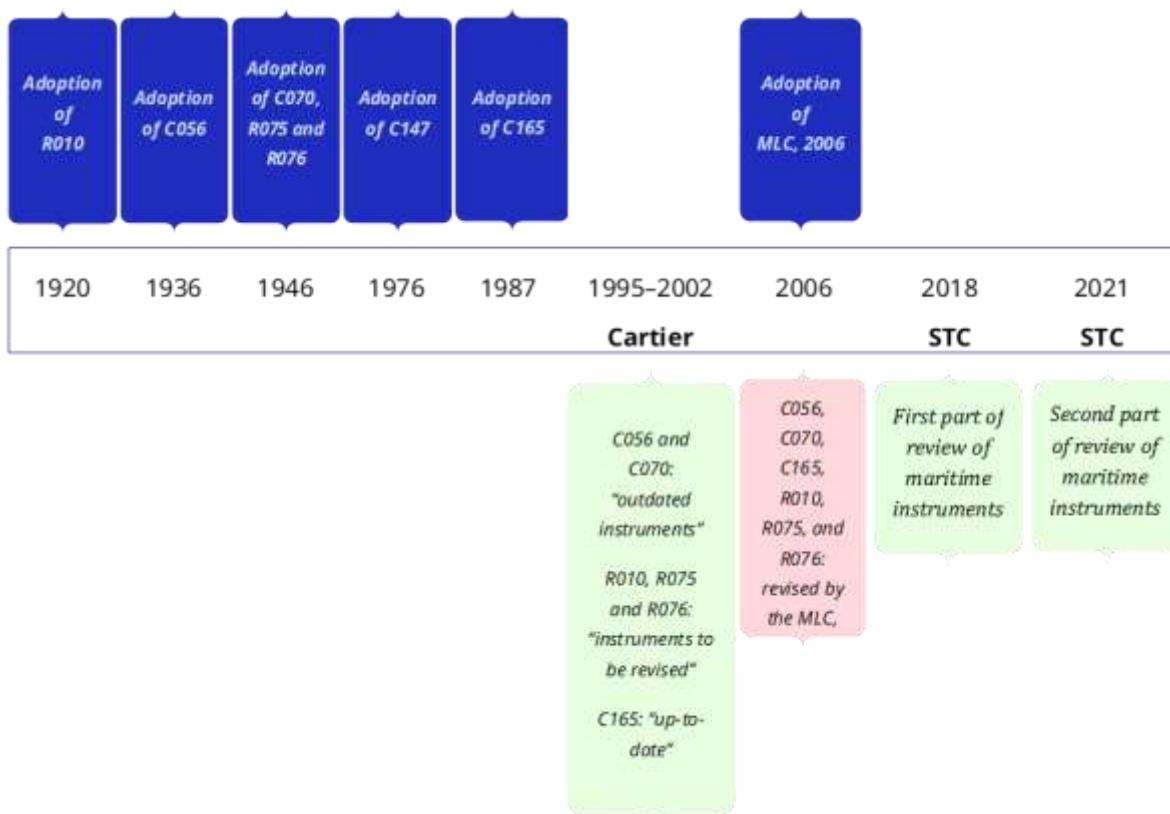
Status of the instrument under review

Convention No. 56	Outdated instrument	(Revised by the MLC, 2006)
Convention No. 70	Outdated instrument	(Revised by the MLC, 2006)
Convention No. 165	Up-to-date instrument	(Revised by the MLC, 2006)
Recommendation No. 10	Instrument to be revised	(Revised by the MLC, 2006)
Recommendation No. 75	Instrument to be revised	(Revised by the MLC, 2006)
Recommendation No. 76	Instrument to be revised	(Revised by the MLC, 2006)

Possible action to consider

- 1 To classify Convention No. 56 as "outdated" and propose its abrogation at the 118th Session (2030) of the International Labour Conference.
2. To classify Conventions Nos 70 and 165 and Recommendations Nos 10, 75, and 76 as "outdated" and propose their withdrawal as soon as possible.

► Instruments relating to social security (seafarers) – Chronology



I. Regulatory approach of the ILO with regard to social security

A. Protection provided by ILO instruments

1. The [Unemployment Insurance \(Seamen\) Recommendation, 1920 \(No. 10\)](#), recommends that Member States "establish for seamen an effective system of insurance against unemployment arising out of shipwreck or any other cause" with a view to securing the application of Part III of the [Unemployment Recommendation, 1919 \(No. 1\)](#).
2. The [Sickness Insurance \(Sea\) Convention, 1936 \(No. 56\)](#), states that "every person employed as master or member of the crew or otherwise in the service of the ship, on board any vessel, other than a ship of war, registered in a territory for which the Convention is in force and engaged in maritime navigation or sea-fishing, shall be insured under a compulsory sickness insurance scheme". Member States may exempt certain categories of persons, including, for instance, persons whose wages or income exceed a prescribed amount; persons who are not paid a money wage; persons not resident in the territory of the Member; and persons below or above prescribed age limits. The Convention establishes the entitlement of a cash benefit for insured persons rendered incapable of work and deprived of their wages by reason of sickness. It is a contributory scheme, which may be completed by a financial contribution of the public authorities. The Convention provides for maternity benefit to insured women, which may also include the wife of an insured man. Additionally, it provides for a cash benefit to be paid on the death of the insured person.
3. The [Social Security \(Seafarers\) Convention, 1946 \(No. 70\)](#), applies to seafarers, defined as every person employed on board or in the service of any seagoing vessel, other than a

ship of war, which is registered in a territory for which this Convention is in force, and their dependants, as defined by national laws or regulations. Unless an exception is made, the scope of application on the Convention encompasses fishers. The Convention specifies that seafarers and their dependants who are resident and present in the territory of a Member shall be entitled, in virtue of the seafarer's employment on board or in the service of vessels registered in the territory of that Member, to the following benefits: (i) medical benefits to seafarers and their dependants; (ii) cash benefits to seafarers in respect of incapacity for work (whether due to employment injury or not) as well as in respect of unemployment and old age; and (iii) cash benefits to the dependants of seafarers due to their death. The benefits provided to seafarers and their dependants shall not be less favourable than those enjoyed by industrial workers. In addition, Convention No. 70 provides protection for the seafarer resident in the territory in which the vessel is registered who is left behind in another territory by reason of injury in the service of the ship or sickness not due to his own wilful act, which includes medical care, board and lodging, repatriation, and wages.

4. The [Seafarers' Social Security \(Agreements\) Recommendation, 1946 \(No. 75\)](#), recommends that Member States enter into agreements so as "to ensure that seafarers belonging to one country and employed on board or in the service of a vessel of another country either remain subject to the schemes of compulsory social insurance or workmen's compensation of their own country or are subject to the corresponding schemes of the other country". It also makes recommendations as to what such agreements might provide for.
5. The [Seafarers \(Medical Care for Dependents\) Recommendation, 1946 \(No. 76\)](#), recommends that Member States "endeavour to provide proper and sufficient medical care for the dependants of seafarers pending the development of a medical care service which would include within its scope workers generally and their dependants".
6. The [Social Security \(Seafarers\) Convention \(Revised\), 1987 \(No. 165\)](#), applies to all seafarers and, where applicable, their dependants and their survivors. Seafarers are defined as persons employed in any capacity on board a seagoing ship which is engaged in the transport of cargo or passengers for the purpose of trade, is utilized for any other commercial purpose or is a seagoing tug, with the exception of persons employed on small vessels including those primarily propelled by sail, whether or not they are fitted with auxiliary engines and vessels such as oil rigs and drilling platforms when not engaged in navigation. The application of the Convention shall be extended to cover commercial maritime fishing, to the extent that the competent authority deems practicable. The Convention provides that seafarers and, where applicable, their dependants and survivors who are protected by the legislation of a Member shall be entitled to social security benefits in respect of at least three of the following branches: medical care; sickness benefit; unemployment benefit; old-age benefit; employment injury benefit; family benefit; maternity benefit; invalidity benefit; and survivors' benefit. The protection provided for seafarers shall be not less favourable than that enjoyed by shoreworkers.
7. The [Maritime Labour Convention, 2006, as amended \(MLC, 2006\)](#), provides, under Regulation 4.5 on social security, that "each Member shall ensure that all seafarers and, to the extent provided for in its national law, their dependants have access to social security protection", which shall include at least three of the following nine branches: medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivors' benefit. Such social security protection shall be no less favourable than that enjoyed by shoreworkers. Member States shall take steps, according to their national circumstances, to provide the

complementary social security protection foreseen in Standard A4.5, paragraph 1, to all seafarers ordinarily resident in their territories. Members may determine, through bilateral agreements, multilateral agreements or provisions adopted in the framework of regional economic integration organizations, other rules concerning social security legislation applicable to seafarers. Member States shall cooperate, through bilateral or multilateral agreements or other arrangements, to ensure the maintenance of social security rights, provided through contributory or non-contributory schemes, which have been acquired, or are in the course of acquisition, by all seafarers regardless of residence.

B. Key dates for the instruments under review: Adoption and ratification

8. Recommendation No. 10, adopted in 1920 is an autonomous recommendation (that is, it does not accompany a Convention).
9. Convention No. 56 was adopted in 1936, and 20 ratifications were registered. The ratification of the MLC, 2006 has resulted in the denunciation of Convention No. 56 by 16 States to date. Four Member States remain bound by this Convention.¹ Two Member States remain bound only in respect of non-metropolitan territories.² There is one comment by the Committee of Experts on the Application of Conventions and Recommendations (CEACR) awaiting a response as regards implementation issues.³
10. Convention No. 70 was adopted in 1946. It never entered into force.⁴
11. Recommendations Nos 75 and 76 were adopted in 1946 to complement Convention No. 70.
12. Convention No. 165 was adopted in 1987, and revised Conventions Nos 56 and 70. It has received three ratifications, however all three States parties to the Convention subsequently ratified the MLC, 2006, which led to the "automatic" denunciation of Convention No. 165. It is therefore no longer into force.

II. Evolution of the instruments: From adoption to 2021

13. Following the work of the **Cartier Working Party**, the Governing Body decided to classify Conventions Nos 56 and 70 in the "outdated instruments" category and Recommendations Nos 10, 75 and 76 in the "instruments to be revised" category. As Convention No. 165 was adopted after 1985, it did not fall into the scope of the examination of the Working Party, and was therefore considered as "up-to-date".⁵ The Governing Body decided that the revision of Recommendations Nos 10, 75, and 76 should be considered along with

¹ Namely Egypt, Mexico, North Macedonia and Peru. The Government of [Egypt](#) indicated that "work is under way to bring national legislation into conformity with the relevant provisions of the MLC, 2006, in preparation for its effective implementation before ratification". The Government of [North Macedonia](#) indicated that "in the absence of any ships registered under its flag, there is no legislation giving effect to the requirements of this Convention".

² This Convention was declared applicable to the following non-metropolitan territories: Guernsey (United Kingdom), Jersey (United Kingdom) and French Polynesia (French). It therefore entails reporting obligations for the Member States concerned.

³ This concerns [Mexico](#) (comments on coverage of the compulsory sickness insurance scheme; and right to the insurance benefit after the termination of the engagement).

⁴ Article 12(2) provides for specific conditions for the initial entry into force of Convention No. 70, namely that it "shall come into force six months after the date on which there have been registered ratifications by seven of the following countries: United States of America, Argentina, Australia, Belgium, Brazil, Canada, Chile, China, Denmark, Finland, France, United Kingdom, Greece, India, Ireland, Italy, Netherlands, Norway, Poland, Portugal, Sweden, Turkey and Yugoslavia, including at least four countries each of which has at least one million gross register tons of shipping."

⁵ See [GB.283/LILS/WP/PRS/1/2](#).

Convention No. 165, and the other maritime instruments "in the context of the elaboration of a draft framework instrument on labour standards in the maritime sector".⁶

- 14.** Convention No. 56 is referred to in the Appendix to the [Merchant Shipping \(Minimum Standards\) Convention, 1976 \(No. 147\)](#). Each Member which has ratified Convention No. 147 has undertaken to satisfy itself that its laws and regulations are substantially equivalent⁷ to the Conventions or articles of Conventions referred to in the appendix to Convention No. 147, insofar as the Member is not otherwise bound to give effect to the Conventions in question. In this regard, of the 12 Member States⁸ which remain bound by Convention No. 147, only two have ratified Convention No. 56.⁹ Therefore, ten Member States are bound¹⁰ to ensure substantial equivalence of their legislation to Convention No. 56, in accordance with Article 2(a) of Convention No. 147.
- 15.** Convention No. 70 is included in the annex to Recommendation No. 155, which extends the corpus of instruments that could be implemented under the conditions provided for by Convention No. 147 (at least equivalent).¹¹
- 16.** The MLC, 2006 revises Conventions Nos 56, 70 and 165. These Conventions are no longer open to ratification. Regulation 4.5 (along with Regulation 4.2) maintains their objective, while modernizing them and widening their scope of application.
- 17.** The low ratification rate of Convention No. 165 was indicative of the difficulties it posed for most governments, due to the disparity between national social security systems covering workers in general and seafarers in particular. Nevertheless, Regulation 4.5 and the Code reflect the core principles of Convention No. 165, that is, efforts, including cooperation and bilateral arrangements, which must be made by governments to ensure that all seafarers are protected. As with Convention No. 165, the nine social security branches listed in Standard A4.5 correspond to the nine classical branches of social security laid down and defined in the Social Security (Minimum Standards) Convention, 1952 (No. 102).¹²
- 18.** One of the recurring issues concerning the application of the Conventions relating to maritime labour is their possible extension to categories of workers other than seafarers as defined by the MLC, 2006. In this regard, Convention No. 56 is applicable to persons employed or otherwise in the service of the ships (...) engaged in maritime navigation or sea-fishing. It should be noted that while the MLC, 2006 explicitly excludes fishers from its

⁶ See GB.283/LILS/WP/PRS/1/2, 3.

⁷ ILO: [General Survey of the Reports on the Merchant Shipping \(Minimum Standards\) Convention \(No. 147\) and the Merchant Shipping \(Improvement of Standards\) Recommendation \(No. 155\), 1976](#), Report III (Part 4B), International Labour Conference, 77th Session, Geneva, 1990, 39 ff.

⁸ It may also be noted that Convention No. 147 remains in force for Brazil but only until 7 May 2021, the date on which the ratification of the MLC, 2006, will enter into force for that Member State.

⁹ Namely [Egypt](#) and [Peru](#).

¹⁰ Namely [Azerbaijan](#), [Costa Rica](#), [Dominica](#), [Iraq](#), [Israel](#), [Kyrgyzstan](#), [Tajikistan](#), [Trinidad and Tobago](#), [Ukraine](#), and [United States of America](#).

¹¹ ILO: [General Survey of the Reports on the Merchant Shipping \(Minimum Standards\) Convention \(No. 147\) and the Merchant Shipping \(Improvement of Standards\) Recommendation \(No. 155\), 1976](#), 39 ff.

¹² Convention No. 102 expressly excludes seafarers and fishers from its scope of application. See Article 77(1): "This Convention does not apply to seamen or seafishermen; provision for the protection of seamen and seafishermen has been made by the International Labour Conference in the Social Security (Seafarers) Convention, 1946, and the Seafarers' Pensions Convention, 1946."

scope of application, the Work in Fishing Convention, 2007 (No. 188) contains provisions on the social security of fishers.¹³

III. Key points to consider in deciding the status of the instruments

- 19.** In reviewing the status of Conventions Nos 56, 70, and 165 and Recommendations Nos 10, 75, and 76 relating to social security, the following considerations are particularly relevant:
- (1) Recommendations Nos 10, 75 and 76 contain guidance on social security, including unemployment insurance, which the tripartite constituents decided to update in the MLC, 2006.
 - (2) Four Member States remain bound by Convention No. 56 and the protection it provides no longer corresponds with the requirements of the most recent instrument. Convention No. 56 is referred to in the appendix to Convention No. 147, which, in this context, remains a source of obligations for ten States. Convention No. 56 also applies to the fishing sector.
 - (3) Convention No. 70 never entered into force.
 - (4) Convention No. 165 is no longer in force.
 - (5) The MLC, 2006 is the up-to-date instrument that reflects the tripartite consensus on this issue. It provides comprehensive protection for seafarers and ensures a level playing field for shipowners through its unique enforcement mechanism.

IV. Possible action to consider with respect to the instruments

- 20.** In the light of the foregoing, the Special Tripartite Committee (STC) might wish:
1. To classify Convention No. 56 as "outdated" and propose its abrogation at the 118th Session (2030) of the International Labour Conference and:
 - (a) to request the Office to launch an initiative to promote the ratification on a priority basis of the MLC, 2006 and Convention No. 188 among those countries still bound by Convention No. 56; and
 - (b) to encourage the two States which have already ratified the MLC, 2006 and Convention No. 188 but remain bound by Convention No. 56 in respect of non-metropolitan territories, to extend the application of the MLC, 2006 and of Convention No. 188 to those territories.
 2. To classify Conventions Nos 70 and 165 and Recommendations Nos 10, 75 and 76 as "outdated" and propose their withdrawal as soon as possible.

¹³ See Articles 34–37 of Convention No. 188.