



► Abrogation of one international labour Convention and withdrawal of four Conventions, one Protocol and 18 Recommendations

International Labour Conference
111th Session, 2023

Report VII (1)

▶ **Abrogation of one international labour Convention and withdrawal of four Conventions, one Protocol and 18 Recommendations**

Seventh item on the agenda

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► Introduction

At its 343rd Session (November 2021), the Governing Body of the International Labour Office decided to place on the agenda of the 111th Session (2023) of the International Labour Conference an item on the abrogation of one Convention and the withdrawal of four Conventions, one Protocol and 18 Recommendations.¹

The Seafarers' Welfare Convention, 1987 (No. 163) was placed on the agenda for abrogation. The following Conventions, Protocol and Recommendations were placed on the agenda for withdrawal: Social Security (Seafarers) Convention, 1946 (No. 70); Accommodation of Crews Convention, 1946 (No. 75); Social Security (Seafarers) Convention (Revised), 1987 (No. 165); Labour Inspection (Seafarers) Convention, 1996 (No. 178); Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976; National Seamen's Codes Recommendation, 1920 (No. 9); Unemployment Insurance (Seamen) Recommendation, 1920 (No. 10); Labour Inspection Recommendation, 1923 (No. 20); Labour Inspection (Seamen) Recommendation, 1926 (No. 28); Seamen's Welfare in Ports Recommendation, 1936 (No. 48); Seafarers' Social Security (Agreements) Recommendation, 1946 (No. 75); Seafarers (Medical Care for Dependents) Recommendation, 1946 (No. 76); Bedding, Mess Utensils and Miscellaneous Provisions (Ships' Crews) Recommendation, 1946 (No. 78); Ships' Medicine Chests Recommendation, 1958 (No. 105); Medical Advice at Sea Recommendation, 1958 (No. 106); Social Conditions and Safety (Seafarers) Recommendation, 1958 (No. 108); Seafarers' Welfare Recommendation, 1970 (No. 138); Crew Accommodation (Air Conditioning) Recommendation, 1970 (No. 140); Crew Accommodation (Noise Control) Recommendation, 1970 (No. 141); Prevention of Accidents (Seafarers) Recommendation, 1970 (No. 142); Merchant Shipping (Improvement of Standards) Recommendation, 1976 (No. 155); Seafarers' Welfare Recommendation, 1987 (No. 173); and Labour Inspection (Seafarers) Recommendation, 1996 (No. 185).

With the exception of Recommendation No. 20,² the decision of the Governing Body was based on the recommendations formulated by the Special Tripartite Committee (STC) established under the Maritime Labour Convention, 2006, as amended (MLC, 2006),³ at the first part of its fourth meeting (19–23 April 2021). The STC had been tasked with the review of 68 maritime instruments by the Standards Review Mechanism Tripartite Working Group (SRM TWG).⁴ A first group of 34 instruments was examined at its third meeting in 2018⁵ and the second group of 34 instruments was presented to its fourth meeting.

¹ [GB.343/INS/2\(Rev.1\)/Decision](#) and [GB.343/INS/2\(Rev.1\)](#).

² The withdrawal of Recommendation No. 20 was originally placed by the Governing Body on the agenda of the 111th Session (2022) of the Conference ([GB.334/PV](#), para. 42(d)). This decision was based on the recommendations formulated at the fourth meeting of the Standards Review Mechanism Tripartite Working Group (September 2018). In light of the impact on the setting of the Conference agenda of the deferral of its 109th Session, resulting in the deferral of agenda items to later sessions of the Conference, the Governing Body decided at its 343rd Session (November 2021), to place this item on the agenda of the 111th Session of the Conference that will now be held in 2023.

³ The STC is responsible for keeping the working of the MLC, 2006, under continuous review and providing advice on this subject to the Governing Body, or through the Governing Body, to the International Labour Conference.

⁴ This decision was endorsed by the Governing Body at its 326th Session (March 2016). See [GB.326/PV](#), para. 514.

⁵ As a result, at its 109th Session, the Conference took a number of decisions as regards the abrogation and withdrawal of instruments; see [ILC.109/Instruments](#).

Pursuant to article 19, paragraph 9, of the Constitution of the International Labour Organization, the Conference is empowered, by a 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 capacity to propose the abrogation of 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. This will be the fourth time that the International Labour Conference will be called upon to decide on the possible abrogation of international labour Conventions. Article 52 of the Standing Orders of the Conference provides for the procedure to be followed in the event of the abrogation or withdrawal of Conventions and Recommendations.

Should the Conference decide to abrogate or withdraw the above-referenced instruments, 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 Convention 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 alleged non-observance. For their part, the ILO supervisory bodies will not be required to examine the implementation of these instruments 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.⁶

In accordance with article 52(1) of the Conference Standing Orders, when an item on abrogation or withdrawal is placed on the agenda of the Conference, the Office shall communicate to the governments, so as to reach them not less 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, and the reasons for their position, on the subject of the proposed abrogation or withdrawal, along with the relevant information. 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 111th Session (2023) of the 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 2022**.

This report and the questionnaire are available on the [ILO website](#). Governments are encouraged, where possible, to complete the questionnaire in electronic format and to submit their replies electronically to the Office of the Legal Adviser (jur@ilo.org).

⁶ More detailed information on the significance, effects and procedure of abrogation can be found in document [GB.325/LILS/INF/1](#).

► Status of the international labour Convention proposed for abrogation

Seafarers' Welfare Convention, 1987 (No. 163)

1. Convention No. 163 was adopted in 1987. It requires that adequate welfare facilities and services be provided for seafarers both in port and on board ship and that necessary arrangements be made for financing such welfare facilities and services. Convention No. 163 has been ratified by 18 Member States, last by Morocco in 2012. To date, the Convention remains in force for four Member States while the ratification of the MLC, 2006, has resulted in the denunciation of Convention No. 163 by 14 Member States.
2. Convention No. 163 has been revised by the MLC, 2006, and is no longer open to ratification. The MLC, 2006, is the up-to-date instrument that reflects in Regulations 3.1 and 4.4 the international standards applicable in terms of welfare facilities and services provided for seafarers, both in port and on board ship. The STC recommended to classify Convention No. 163 as "outdated" and propose its abrogation as soon as possible. The STC also recommended that the Office should launch an initiative to promote ratification on a priority basis of the MLC, 2006, among those countries still bound by Convention No. 163.

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

Yes No

If you replied "no" to the above question, please indicate the reasons why you consider that the above-referenced Convention has not lost its purpose or that it still makes a useful contribution to attaining the objectives of the Organization.

Double-click to type comments.

► Status of the four Conventions and the Protocol proposed for withdrawal

Social Security (Seafarers) Convention, 1946 (No. 70)

3. Convention No. 70 was adopted in 1946. It provides that seafarers and their dependants who are resident and present in the territory of a Member are entitled, in virtue of the seafarer's employment on board or in the service of vessels registered in the territory of that Member, to medical benefits, cash benefits in respect of incapacity for work, and old age, and cash benefits to the dependants due to the seafarer's death. 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. Convention No. 70 has been ratified by seven Member States and has accordingly never met the conditions for its entry into force. It has been denounced by one Member State. Convention No. 70 has been revised by the MLC, 2006, which contains under Regulation 4.5 core and up-to-date principles for the social security of seafarers. The STC recommended to classify Convention No. 70 as "outdated" and propose its withdrawal as soon as possible.

Accommodation of Crews Convention, 1946 (No. 75)

5. Convention No. 75 was adopted in 1946. It requires flag States to adopt laws or regulations that ensure the application of detailed requirements with respect to crew accommodation, the establishment of construction plans for ships, and inspections. The Convention covers ships constructed subsequent to its coming into force, and to a certain extent, existing ships when these ships are reregistered or major alterations are made.
6. Convention No. 75 has been ratified by five Member States and has accordingly never met the conditions for its entry into force. Convention No. 75 has been revised by the MLC, 2006, which sets out under Regulation 3.1 the only relevant and up-to-date international standard in relation to crew accommodation and recreation facilities. Moreover, under the terms of Title 5 of the MLC, 2006, the protection that it affords in relation to crew accommodation is one of the elements that has to be taken into account within the framework of the inspection and certification of ships under the responsibility of flag States, as well as the elements that may give rise to further inspection by an authorized officer of the port State. The STC recommended to classify Convention No. 75 as "outdated" and propose its withdrawal as soon as possible.

Social Security (Seafarers) Convention (Revised), 1987 (No. 165)

7. Convention No. 165 was adopted in 1987. It 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

Convention also requires the protection provided for seafarers to be no less favourable than that enjoyed by shore workers.

8. Convention No. 165 has been ratified by three Member States, which have subsequently denounced it as a result of the ratification of the MLC, 2006. Convention No. 165 is, therefore, no longer in force. Convention No. 165 has been revised by the MLC, 2006, which contains in its Title 4 a comprehensive and up-to-date framework for social security protection of seafarers. The STC recommended to classify Convention No. 165 as “outdated” and propose its withdrawal as soon as possible.

Labour Inspection (Seafarers) Convention, 1996 (No. 178)

9. Convention No. 178 was adopted in 1996. It requires States to maintain a system of inspection of seafarers’ working and living conditions under the authority of a central coordinating authority. Convention No. 178 has been ratified by 15 Member States and has subsequently been denounced by 14 Member States as a result of the ratification of the MLC, 2006. Convention No. 178 is, therefore, no longer in force. It has been revised by the MLC, 2006, which contains in its Title 5 the only relevant and up-to-date standards on compliance and enforcement, through ship certification, ship inspection and detailed on-board complaint procedures. The STC recommended to classify Convention No. 178 as “outdated” and propose its withdrawal as soon as possible. The STC also recommended that the ratification of the MLC, 2006, by the Member State still bound by Convention No. 178 should be encouraged.

Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976

10. The Protocol to Convention No. 147 was adopted in 1996. It extends the list of Conventions contained in the Appendix to Convention No. 147. The Protocol has been ratified by 24 Member States, which have all subsequently denounced it as a result of the ratification of the MLC, 2006. The Protocol is, therefore, no longer in force. The MLC, 2006, is the up-to-date instrument that reflects tripartite consensus in relation to compliance and enforcement. It provides comprehensive protection for seafarers and ensures a level playing field for shipowners through its elaborate provisions on ship certification, ship inspection and the detailed complaint procedures. The STC recommended to classify the Protocol as “outdated” and propose its withdrawal as soon as possible.

Do you consider that the four above-referenced Conventions and Protocol should be withdrawn?

Yes No

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

Double-click to type comments.

► The 18 Recommendations proposed for withdrawal

National Seamen's Codes Recommendation, 1920 (No. 9)

11. Recommendation No. 9 was adopted in 1920. It promotes a systematic codification of national laws relating to maritime labour so as to permit seafarers, whether engaged on ships of their own or foreign countries, to have a better comprehension of their rights and obligations. Recommendation No. 9 has been taken into account when drawing up the MLC, 2006. The STC recommended to classify Recommendation No. 9 as "outdated" and propose its withdrawal as soon as possible.

Unemployment Insurance (Seamen) Recommendation, 1920 (No. 10)

12. Recommendation No. 10 was adopted in 1920. It recommends that Member States should establish for seafarers an effective system of insurance against unemployment arising out of shipwreck or any other cause. The MLC, 2006, updated the guidance on social security contained in Recommendation No. 10. The STC recommended to classify Recommendation No. 10 as "outdated" and propose its withdrawal as soon as possible.

Labour Inspection Recommendation, 1923 (No. 20)

13. Recommendation No. 20 was adopted in 1923. It specifies general principles for the organization of labour inspection systems and provides guidance on the organization of such systems in practice to ensure the effective enforcement of legislation for the protection of workers. Its substantive provisions have been encapsulated in the Labour Inspection Convention, 1947 (No. 81) and the Labour Inspection (Agriculture) Convention, 1969 (No. 129). The SRM TWG recommended the withdrawal of Recommendation No. 20 and considered that its withdrawal would not create any gap in coverage.

Labour Inspection (Seamen) Recommendation, 1926 (No. 28)

14. Recommendation No. 28 was adopted in 1926. It promotes a series of general principles to assist Member States in the institution or reorganization of their systems of inspection of the seafarers' working conditions. The status and duties of inspectors are also set out with a view to ensuring their impartiality, competence and necessary powers. Recommendation No. 28 was replaced by the Labour Inspection (Seafarers) Convention (No. 178), and Recommendation (No. 185), 1996. These two instruments have been revised by the MLC, 2006, which in its Title 5 provides comprehensive protection for seafarers and ensures a level playing field for shipowners through its certification, inspection and complaint procedures under the responsibility of flag and port States. The STC recommended to classify Recommendation No. 28 as "outdated" and propose its withdrawal as soon as possible.

Seamen's Welfare in Ports Recommendation, 1936 (No. 48)

15. Recommendation No. 48 was adopted in 1936. It promotes the establishment in every important port of an official body which might comprise representatives of shipowners, seafarers and local authorities for advising the competent departments as to the adoption of measures for the improvement of the conditions of seafarers in port (e.g. health, accommodation, recreation). The Seafarers' Welfare Convention (No. 163) and Recommendation (No. 173), 1987, updated the international standards applicable in terms of welfare facilities and services provided for seafarers, both in port and on board ship. These standards have been further upgraded and are now reflected in Regulations 3.1 and 4.4 of the MLC, 2006. The STC recommended to classify Recommendation No. 48 as "outdated" and propose its withdrawal as soon as possible.

Seafarers' Social Security (Agreements) Recommendation, 1946 (No. 75)

16. Recommendation No. 75 was adopted in 1946. It supports the conclusion of bilateral agreements ensuring that seafarers who are nationals of one country and employed on board a vessel flying the flag 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. The MLC, 2006, updated the guidance on social security contained in Recommendation No. 75. The STC recommended to classify Recommendation No. 75 as "outdated" and propose its withdrawal as soon as possible.

Seafarers (Medical Care for Dependants) Recommendation, 1946 (No. 76)

17. Recommendation No. 76 was adopted in 1946. It 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. The MLC, 2006, updated the guidance on social security contained in Recommendation No. 76. The STC recommended to classify Recommendation No. 76 as "outdated" and propose its withdrawal as soon as possible.

Bedding, Mess Utensils and Miscellaneous Provisions (Ships' Crews) Recommendation, 1946 (No. 78)

18. Recommendation No. 78 was adopted in 1946. It addresses crew supplies to be provided by the shipowner, including bed linen, blankets, bedspreads, mess utensils and other articles. The MLC, 2006, modernizes and significantly expands the standards of decent accommodation for seafarers, especially under Regulation 3.1. The STC recommended to classify Recommendation No. 78 as "outdated" and propose its withdrawal as soon as possible.

Ships' Medicine Chests Recommendation, 1958 (No. 105)

19. Recommendation No. 105 was adopted in 1958. It provides guidance on the requirement that every vessel engaged in maritime navigation should carry a medicine chest. Medicine chests should be inspected at intervals not normally exceeding 12 months. The main elements of Recommendation No. 105 are reflected in the MLC, 2006, which also provides that all ships shall carry a medicine chest and that the competent authority shall ensure by a prearranged system that medical advice by radio or satellite communication to ships at sea is available 24 hours a day, free of charge. The STC recommended to classify Recommendation No. 105 as "outdated" and propose its withdrawal as soon as possible.

Medical Advice at Sea Recommendation, 1958 (No. 106)

20. Recommendation No. 106 was adopted in 1958. It contains guidance on a prearranged system which seeks to ensure, among others, that medical advice by radio to ships at sea is available free of charge at any hour of the day or night. The main elements of Recommendation No. 106 are reflected in the MLC, 2006, which also provides that the competent authority shall ensure by a prearranged system that medical advice by radio or satellite communication to ships at sea is available 24 hours a day, free of charge. The STC recommended to classify Recommendation No. 106 as "outdated" and propose its withdrawal as soon as possible.

Social Conditions and Safety (Seafarers) Recommendation, 1958 (No. 108)

21. Recommendation No. 108 was adopted in 1958. It seeks to reaffirm the obligations of flag States in relation to the effective exercise of jurisdiction and control for the purpose of the safety and welfare of seafarers on board seagoing merchant ships. Recommendation No. 108 has been taken into account when drawing up the MLC, 2006, which provides comprehensive protection through its certification, inspection and complaint procedures under the responsibility of flag and port States. The STC recommended to classify Recommendation No. 108 as "outdated" and propose its withdrawal as soon as possible.

Seafarers' Welfare Recommendation, 1970 (No. 138)

22. Recommendation No. 138 was adopted in 1970. It deals with seafarers' welfare facilities both in port and on board ship and specifies that access to facilities in ports should be given to seafarers of all nationalities, irrespective of colour, race or creed. The Seafarers' Welfare Convention (No. 163) and Recommendation (No. 173), 1987, updated the international standards applicable in terms of welfare facilities and services provided for seafarers, both in port and on board ship. These standards have been further upgraded and are now reflected in Regulations 3.1 and 4.4 of the MLC, 2006. The STC recommended to classify Recommendation No. 138 as "outdated" and propose its withdrawal as soon as possible.

Crew Accommodation (Air Conditioning) Recommendation, 1970 (No. 140)

23. Recommendation No. 140 was adopted in 1970. It contains a series of recommendations concerning air conditioning for ships of 1,000 gross register tons or over constructed after its adoption, except those regularly engaged in trades where temperate climatic conditions do not require air conditioning. The MLC, 2006, modernized and significantly expanded decent crew accommodation standards under Regulation 3.1 and Guideline B3.1.2. The STC recommended to classify Recommendation No. 140 as “outdated” and propose its withdrawal as soon as possible.

Crew Accommodation (Noise Control) Recommendation, 1970 (No. 141)

24. Recommendation No. 141 was adopted in 1970. It addresses the prevention of risks related to noise on board ships, based on research and the adoption of protection measures. The MLC, 2006, modernized and significantly expanded the relevant standards under Regulation 3.1 and Guidelines B3.1.12 and B4.3.2. The STC recommended to classify Recommendation No. 141 as “outdated” and propose its withdrawal as soon as possible.

Prevention of Accidents (Seafarers) Recommendation, 1970 (No. 142)

25. Recommendation No. 142 was adopted in 1970. It supplements the Prevention of Accidents (Seafarers) Convention, 1970 (No. 134), by listing the subjects to be investigated. It further specifies that States should have due regard to relevant model codes of safety regulations or ILO codes of practice. The MLC, 2006, revises and consolidates the main elements of Recommendation No. 142, substantially complementing and modernizing it under Regulation 4.3. The STC recommended to classify Recommendation No. 142 as “outdated” and propose its withdrawal as soon as possible.

Merchant Shipping (Improvement of Standards) Recommendation, 1976 (No. 155)

26. Recommendation No. 155 was adopted in 1976. It supplements the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) and calls for national laws and regulations or applicable collective agreements to be at least equivalent to the Conventions referred to in the Appendix to Convention No. 147. Recommendation No. 155 has been taken into account when drawing up the MLC, 2006. The STC recommended to classify Recommendation No. 155 as “outdated” and propose its withdrawal as soon as possible.

Seafarers’ Welfare Recommendation, 1987 (No. 173)

27. Recommendation No. 173 was adopted in 1987. It supplements the Seafarers’ Welfare Convention, 1987 (No. 163) and provides a number of guidelines, including keeping under review the adequacy of existing welfare facilities and monitoring the need for the provision of additional facilities or the withdrawal of underutilized facilities. Convention No. 163 and Recommendation No. 173 have been revised by the MLC, 2006, which contains the most relevant and up-to-date standards regarding seafarers’ welfare facilities and services, both

in port and on board ship, under Regulations 3.1 and 4.4. The STC recommended to classify Recommendation No. 173 as “outdated” and propose its withdrawal as soon as possible.

Labour Inspection (Seafarers) Recommendation, 1996 (No. 185)

28. Recommendation No. 185 was adopted in 1996. It supplements the Labour Inspection (Seafarers) Convention, 1996 (No. 178) and includes further specifications on the role of the central coordinating authority, the means made available to inspectors and their duties and powers. Recommendation No. 185 has been taken into account when drawing up the MLC, 2006, which in its Title 5 provides comprehensive protection for seafarers and ensures a level playing field for shipowners through its certification, inspection and complaint procedures under the responsibility of flag and port States. The STC recommended to classify Recommendation No. 185 as “outdated” and propose its withdrawal as soon as possible.

Do you consider that the 18 above-referenced Recommendations should be withdrawn?

Yes No

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

Double-click to type comments.