

**Third meeting of the Special Tripartite Committee
of the MLC, 2006**Geneva
23–27 April 2018**Instruments relating to the minimum age (seafarers)****Summary**

The maritime labour instruments under review include **two Conventions and one Recommendation concerned with the minimum age for seafarers:**

- [Minimum Age \(Sea\) Convention, 1920 \(No. 7\);](#)
- [Minimum Age \(Sea\) Convention \(Revised\), 1936 \(No. 58\);](#)
- [Protection of Young Seafarers Recommendation, 1976 \(No. 153\).](#)

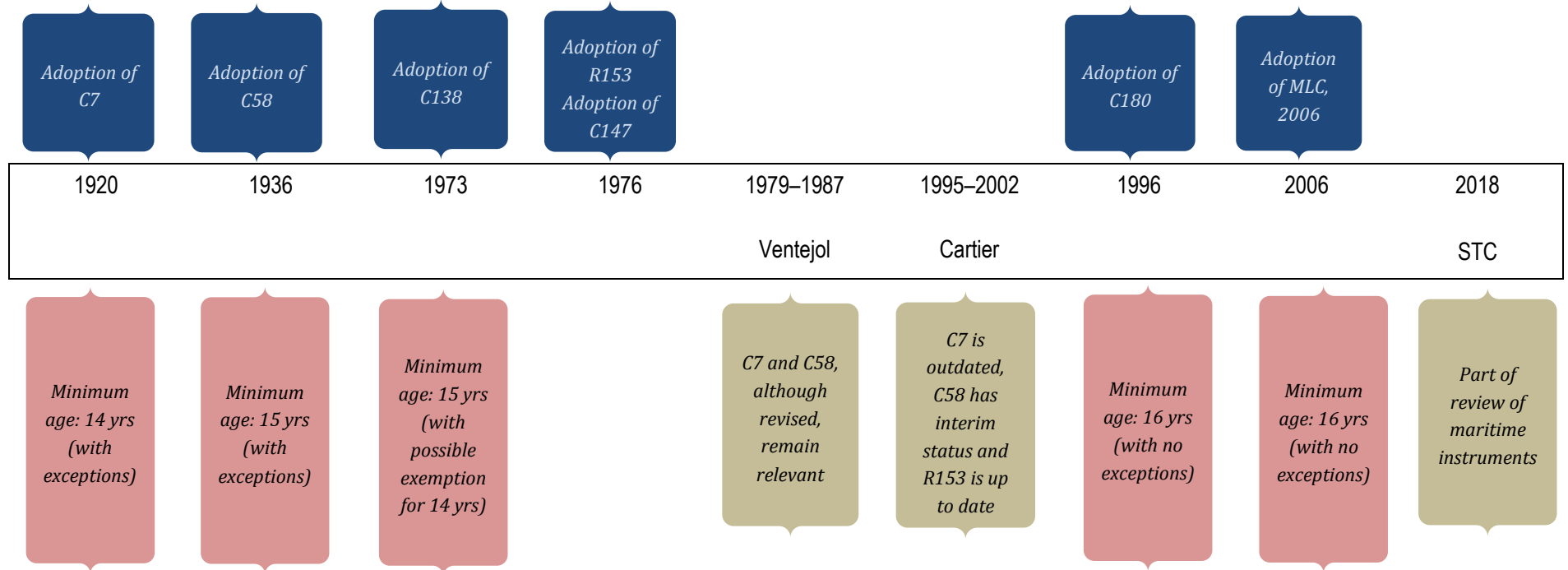
Status of the instrument under review

	Recommendation of the Cartier Working Party	Follow-up since the Cartier Working Party
Convention No. 7	Outdated instrument	Revised by the MLC, 2006
Convention No. 58	Instrument with interim status	Revised by the MLC, 2006
Recommendation No. 153	Up-to-date instrument	Revised by the MLC, 2006

Possible action to consider

1. To classify Convention No. 7 as “outdated” and propose its withdrawal.
2. To classify Convention No. 58 as “outdated” and consider its possible withdrawal or abrogation at a later date.
3. To classify Recommendation No. 153 as “outdated” and propose its withdrawal.

Instruments relating to the minimum age – Chronology



I. Regulatory approach of the ILO with regard to the minimum age for seafarers

A. Protection provided by ILO instruments ¹

1. The [Minimum Age \(Sea\) Convention, 1920 \(No. 7\)](#), focuses primarily on defining a minimum age for work on board ships and boats engaged in maritime navigation. This is set at 14 years, subject to two exceptions. The first concerns vessels on which only members of the same family are employed. The second concerns work done by children on school ships or training ships. A crew register must be kept on board to facilitate the enforcement of the Convention.
2. The [Minimum Age \(Sea\) Convention \(Revised\), 1936 \(No. 58\)](#), revises the previous Convention by setting the minimum age at 15 years. The scope is the same. A third exclusion was introduced, which allows national laws or regulations to provide for the issue in respect of children of not less than 14 years of age of certificates permitting them to be employed in cases in which an educational or other appropriate authority designated by such laws or regulations is satisfied, after having due regard to the health and physical condition of the child and to the prospective as well as to the immediate benefit to the child of the employment proposed, that such employment will be beneficial to the child.
3. The [Protection of Young Seafarers Recommendation, 1976 \(No. 153\)](#), has a broader purpose in that it deals with the working conditions of young seafarers and all young persons under 18 years of age employed in any capacity on board a seagoing ship other than warships or ships engaged in fishing or in operations directly connected therewith or in whaling or similar pursuits. However, the scope excludes young seafarers undergoing training. The Recommendation provides guidance on occupational safety and health, education, vocational guidance and training, working hours and repatriation.
4. The [Minimum Age Convention, 1973 \(No. 138\)](#), requires member States to specify a minimum age for admission to employment or work within its territory and on means of transport registered in its territory, which shall not, subject to certain exceptions, be less than the age of completion of compulsory schooling, and in any case not less than 15 years. However, any member State whose economy and educational facilities are insufficiently developed may, after consultation with the employers' and workers' organizations concerned, initially specify a minimum age of 14 years.
5. The [Seafarers' Hours of Work and the Manning of Ships Convention, 1996 \(No. 180\)](#),² concerns seagoing ships ordinarily engaged in commercial maritime operations. It may be extended to fishermen. Article 12 stipulates that no person under 16 years of age may work on a ship.

¹ The question of the minimum age of fishers is covered by the Minimum Age (Fishermen) Convention, 1959 (No. 112), and the Work in Fishing Convention, 2007 (No. 188).

² Further to the ratification of the MLC, 2006, by all the States that had previously ratified Convention No. 180 – a ratification that resulted in the denunciation of the latter Convention – no member State remains bound by this Convention.

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6. The [Maritime Labour Convention, 2006, as amended \(MLC, 2006\)](#), provides that, under Regulation 1.1 concerning the minimum age, no person below 16 years of age may be employed or engaged or work on a ship to which this instrument applies. Note should also be taken of the broader scope of the MLC, 2006, which provides protection for the seafarer, defined as “any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies”, and applies to “all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing or in similar pursuits and ships of traditional build such as dhows and junks”.³

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

7. Convention No. 7 was adopted in 1920, and 53 ratifications were registered. The ratifications of Convention No. 138 and the MLC, 2006,⁴ have resulted in the denunciation of Convention No. 7 by 52 States to date. Only one member State remains bound by this instrument.⁵ There are no comments by the Committee of Experts on the Application of Conventions and Recommendations (CEACR) awaiting a reply.
8. Convention No. 58 was adopted in 1936, and 51 ratifications were registered. The ratification of Convention No. 138 and of the MLC, 2006, involved the denunciation of this instrument by 45 States to date. Only six member States remain bound by this Convention,⁶ five of which have ratified Convention No. 138 specifying a minimum age of 14 years.⁷

³ Article II(4). The MLC, 2006, does not apply to warships or naval auxiliaries.

⁴ Pursuant to Article X of the MLC, 2006.

⁵ Namely, Saint Lucia. In addition, Convention No. 7 was declared applicable to the following non-metropolitan territories: Anguilla (United Kingdom), British Virgin Islands (United Kingdom), Falkland Islands (Malvinas) (United Kingdom), Greenland (Denmark), Guernsey (United Kingdom), Jersey (United Kingdom), Montserrat (United Kingdom) and St Helena (United Kingdom).

⁶ The following States remain bound by Convention No. 58: Guatemala, Mauritania, Peru, Tanzania–Zanzibar, United States and Yemen. The instrument of ratification of the MLC, 2006, by the United Republic of Tanzania was received by the Office but has still not been registered (pending the declaration on social security). In addition, this Convention was declared applicable to the following non-metropolitan territories: American Samoa (United States), Anguilla (United Kingdom), British Virgin Islands (United Kingdom), Caribbean Part of the Netherlands, Falkland Islands (Malvinas) (United Kingdom), French Polynesia (France), French Southern and Antarctic Territories (France), Guam (United States), Montserrat (United Kingdom), Puerto Rico (United States), Sint-Maarten (Netherlands), St Helena (United Kingdom) and United States Virgin Islands (United States).

⁷ Namely, Guatemala, Mauritania, Peru, Tanzania–Zanzibar and Yemen. Article 10(4)(d) of Convention No. 138 provides that when the obligations of Convention No. 138 are accepted “in respect of maritime employment, by a Member which is a party to the Minimum Age (Sea) Convention (Revised), 1936 [Convention No. 58], and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention or the Member specifies that Article 3 of this Convention applies to maritime employment, this shall *ipso jure* involve the immediate denunciation” of Convention No. 58.

There is one comment by the CEACR awaiting a reply concerning a problem of application of the Convention.⁸

9. Recommendation No. 153 on the protection of young seafarers was adopted in 1976.

II. Evolution of the instruments: From adoption to 2018

A. Status

10. During the review carried out by the **Ventejol Working Party**, it was pointed out that Conventions Nos 7 and 58 had been revised by Convention No. 138 but that they remained open to ratification. Recognizing that States remained bound by these instruments, they were thus considered as remaining relevant.⁹

11. Following the work of the **Cartier Working Party**, the Governing Body decided that:

- Convention No. 7 should be classified as “outdated”;
- Convention No. 58 should be classified under “instruments with interim status”;
- Recommendation No. 153 should be classified under “up-to-date instruments”.

12. With regard to Conventions Nos 7 and 58, the replies to the questionnaires sent to States as part of the work of the Cartier Working Party highlighted the fact that these two instruments appeared to be outdated. Convention No. 138 and Convention No. 180 were cited as relevant and up-to-date instruments whose ratification should be encouraged. Convention No. 58 was therefore classified as an “instrument with interim status” by the Cartier Working Party¹⁰ in order to promote the ratification of Convention No. 138 or Convention No. 180.

B. Application and consolidation

13. Conventions Nos 7 and 58 are included 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 equivalent¹¹ to the Conventions or Articles of Conventions referred to in the

⁸ The comment concerns British Virgin Islands (United Kingdom) (possible exceptions to the minimum age).

⁹ See [GB.194/PFA/12/5](#), Appendix I, p. 74 (Office background paper, November 1974). The Ventejol Working Parties of 1979 and 1987 both classified Conventions Nos 7 and 58 in the “other instruments” category because they had been revised by other instruments (see [GB.273/LILS/WP/PRS/4](#) and *Official Bulletins Vol. LXII, Series A, 1979* and *Vol. LXX, Series A, 1987*).

¹⁰ See [GB.277/LILS/WP/PRS/1/2](#).

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*, Report III (Part 4B), International Labour Conference, 77th Session, Geneva, 1990, pp. 39 ff.

Appendix to this Convention, in so far as the Member is not otherwise bound to give effect to the Conventions in question. In this regard, the 14 member States which remain bound by Convention No. 147 have all ratified one of the minimum age Conventions listed in its Appendix.¹² Hence none is required to have laws and regulations that are substantially equivalent to the Conventions listed in the Appendix in accordance with Article 2(a) of Convention No. 147.

14. Conventions Nos 7 and 58 were revised by the MLC, 2006, which maintains the same objective, namely to protect young persons and set the minimum age for admission to employment on ships.¹³ Convention No. 7 remains open to ratification, which is not the case for Convention No. 58.¹⁴
15. Recommendation No. 153 was also revised by the MLC, 2006, which incorporated some of its content:

Subject areas	Recommendation No. 153	MLC, 2006
Normal working hours	Paragraph 4(1)(a) and (2)	Guideline B2.3.1, paragraphs 1(a) and (2)–(4)
Adequate breaks	Paragraph 4(1)(b) and (2)	Guideline B2.3.1, paragraphs (1)(b) and (2)–(4)
Night work	Paragraph 4(1)(c) and (2)	Standard A1.1, paragraphs 2 and 3
15-minute rest period following each two hours of continuous work	Paragraph 4(1)(d) and (2)	Guideline B2.3.1, paragraphs (1)(c) and (2)–(4)
Repatriation	Paragraph 6	Guidelines B2.5.2, paragraph 3, and B2.4.4, paragraph 1
Occupational safety and health	Paragraphs 7–11	Guideline B4.3.10
Vocational guidance/education/vocational training	Paragraphs 12–20	Partially incorporated into Regulation 2.8.

C. Situation in relation to international labour standards

16. These instruments were initially consolidated within the MLC, 2006. Their provisions were therefore recently the subject of an in-depth examination aimed at ensuring that they remained up to date and relevant in terms of the requirements and practices of the sector.
17. As shown in the work of the Cartier Working Party, Conventions Nos 7 and 58 provide protection with respect to the minimum age that no longer meets current ILO requirements. The various standard-setting initiatives on the minimum age have led to the gradual raising of the age from which it is possible to be employed, engaged or working on board a ship from 14 years (1920) to 16 years without exception (1996). The updated standards are now reflected in the MLC, 2006.

¹² All these member States have ratified Convention No. 138, except for the United States, which has ratified Convention No. 58.

¹³ See Regulation 1.1 of the MLC, 2006, and the associated provisions of the Code.

¹⁴ See the *Introductory Note* prepared for the third meeting of the Special Tripartite Committee (STC).

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18. Following a large number of automatic denunciations, Convention No. 7 is currently only ratified by one State. Given that the number of ratifications has therefore fallen below the required number of two ratifications for the Convention to take effect and that only one State remains bound by it, Convention No. 7 is no longer in force.
19. Of the six States still bound by Convention No. 58, Peru¹⁵ and Guatemala¹⁶ have classified working on the high seas as a dangerous occupation in which no young person under the age of 18 years may be employed and have indicated their wish to denounce the Convention. Yemen¹⁷ has also set 18 years as the minimum age for admission to maritime labour. Another State, the United Republic of Tanzania, has deposited the instrument of ratification of the MLC, 2006. The Office is currently awaiting the declaration on social security in order to register the ratification. In any event, the law prohibits the employment of persons under 18 years of age on any ship registered in Tanzania–Zanzibar.¹⁸ Furthermore, account should also be taken of the fact that the MLC, 2006, currently defines a minimum level of protection of the living and working conditions of seafarers (including the minimum age) which tends to be universally recognized and applied and in practice extends beyond the group of States that have ratified it to date.¹⁹ It should be noted here that the United States²⁰ has also set the minimum age in the maritime sector at 16 years.
20. The protection provided for in Recommendation No. 153 has also been incorporated into the MLC, 2006, primarily within the Guidelines (with the exception of night work). While some aspects concerning the issue of vocational guidance, education and vocational training for young seafarers have only been taken partially into account in the MLC, 2006,²¹ vocational training and guidance are extensively covered by two current ILO instruments of general

¹⁵ With respect to Peru, the CEACR noted that, under section 1 of Decree No. 003-2010-MIMDES of 19 April 2010, working on the high seas is listed as a dangerous occupation in which no young person under the age of 18 years may be employed, which implies that Convention No. 58 no longer serves any purpose in practice. In this regard, in its 2015 report submitted under article 22 of the ILO Constitution, the Government indicated that it wishes to denounce the Convention.

¹⁶ In 2010, the CEACR noted with interest the adoption of Governmental Order No. 416-2007 of 3 September 2007 by the President of Guatemala, containing the formal declaration relating to the application of Article 3 of Convention No. 138.

¹⁷ In 2006, the CEACR noted that section 132(2) of the Yemen Maritime Act (Presidential Decree No. 15 of 1994 on maritime labour) provides that the minimum age for the admission of persons to maritime labour on board ships is 18 years.

¹⁸ In 2011, the CEACR noted in this regard section 131 of Tanzania–Zanzibar Maritime Transport Act No. 5 of 2006.

¹⁹ Through the flag State and port State inspection mechanisms organized under the MLC, 2006, and also with respect to its clause on ensuring no more favourable treatment (Article V(7), MLC, 2006). An alignment of national legislation to a minimum age of 16 years had already been observed in the *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, p. 67.

²⁰ In 2017, the CEACR noted that the US Coast Guard had adopted Navigation and Vessel Inspection Circular (NVIC) No. 02-13 on guidance implementing the MLC, 2006. Section 6 of the Circular prohibits any person under the age of 16 years from working on board a ship.

²¹ These are primarily Regulations 1.3 and 2.8, as well as the associated provisions of the Code, which are of a very general nature and not specifically aimed at young seafarers.

scope, namely the Human Resources Development Convention, 1975 (No. 142), and the Human Resources Development Recommendation, 2004 (No. 195).

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

21. In the context of the review to determine the status of Conventions Nos 7 and 58, relating to the minimum age, and Recommendation No. 153, relating to the protection of young seafarers, account should be taken of the following considerations, which are particularly relevant:

- (1) Only one member State remains bound by Convention No. 7 and the protection it provides no longer meets current ILO requirements.
- (2) Convention No. 58 was revised by the MLC, 2006. With the exception of Mauritania, all countries for which Convention No. 58 remains in force have set a minimum age of 16 years or higher for maritime labour, which is therefore in conformity with the requirements of the MLC, 2006 in this area.
- (3) Recommendation No. 153 has largely been covered by the MLC, 2006. Some aspects that have not been covered (vocational guidance, education and vocational training for young seafarers) are to be found in ILO instruments of a general scope which are considered up to date.

IV. Possible action to consider with respect to the instruments

22. In the light of the foregoing, the Special Tripartite Committee (STC) might wish:

1. To classify Convention No. 7 as “outdated” and propose its withdrawal.²²
2. To classify Convention No. 58 as “outdated”. In this regard, the STC might wish:
 - (a) to encourage States still bound by this Convention to ratify the MLC, 2006. This would involve the automatic denunciation of Convention No. 58;
 - (b) to encourage States still bound by Convention No. 58 that have ratified Convention No. 138 but have set a minimum age of 14 years: (i) to set a minimum age of at least 15 years, in accordance with Article 2 of Convention No. 138; or (ii) for those that have set the minimum age for maritime labour at 18 years, to send a declaration to the Office stating that Article 3 of Convention No. 138 is applicable to maritime labour. Both these situations would also involve the automatic denunciation of Convention No. 58; and
 - (c) to review the situation of this Convention at the next meeting of the STC in order to decide on its possible abrogation or withdrawal.
3. To classify Recommendation No. 153 as “outdated” and propose its withdrawal.

²² See the *Introductory Note* prepared for the third meeting of the STC.