



## 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 crew accommodation and recreation facilities

#### Summary

The instruments under review include **three Conventions and three Recommendations relating to crew accommodation and recreation facilities:**

- Accommodation of Crews Convention, 1946 (No. 75)
- Accommodation of Crews Convention (Revised), 1949 (No. 92)
- Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133)
- Bedding, Mess Utensils and Miscellaneous Provisions (Ships' Crews) Recommendation, 1948 (No. 78)
- Crew Accommodation (Air Conditioning) Recommendation, 1970 (No. 140)
- Crew Accommodation (Noise Control) Recommendation, 1970 (No. 141)

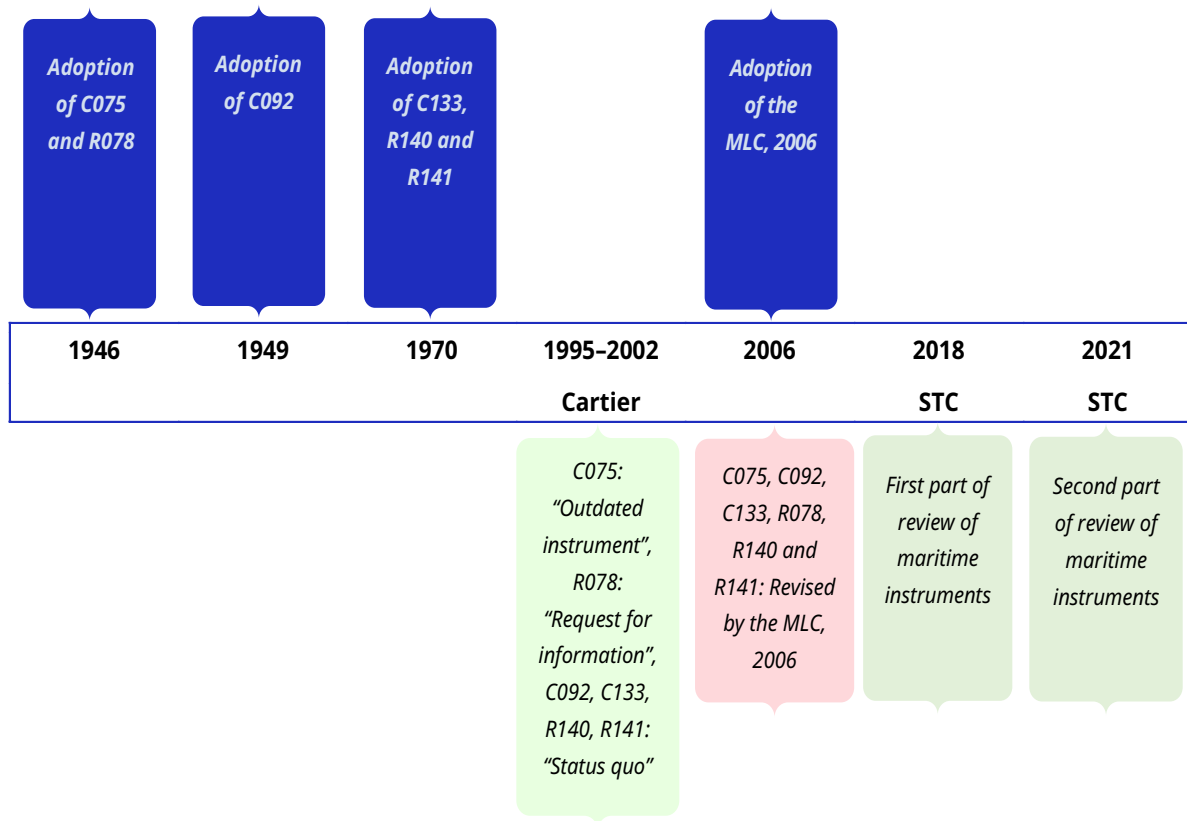
#### Status of the instrument under review

Convention No. 75	Outdated instrument	(Revised by the MLC, 2006)
Convention No. 92	Instrument with interim status	(Revised by the MLC, 2006)
Convention No. 133	Instrument with interim status	(Revised by the MLC, 2006)
Recommendation No. 78	Request for information	(Revised by the MLC, 2006)
Recommendation No. 140	Instrument with interim status	(Revised by the MLC, 2006)
Recommendation No. 141	Instrument with interim status	(Revised by the MLC, 2006)

#### Possible action to consider

1. To classify Convention No. 75 as “outdated” and propose its withdrawal as soon as possible;
2. To classify Conventions Nos 92 and 133 as “outdated” and propose their abrogation at the 118th Session (2030) of the International Labour Conference;
3. To classify Recommendations Nos 78, 140 and 141 as “outdated” and propose their withdrawal as soon as possible.

► Instruments relating to crew accommodation and recreation facilities – Chronology



## I. Regulatory approach of the ILO with regard to crew accommodation and recreation facilities

### A. Protection provided by ILO instruments

1. The [Accommodation of Crews Convention, 1946 \(No. 75\)](#), applies to seagoing mechanically propelled vessels, whether publicly or privately owned, which are engaged in the transport of cargo or passengers for the purpose of trade, with the exception of vessels of less than 500 tons. Where reasonable and practicable, it shall be applied to vessels of between 200 and 500 tons. Ratifying States undertake to adopt laws or regulations which ensure the application of its detailed requirements relating to crew accommodation, the establishment of construction plans for ships, and inspections. The ships concerned are those constructed subsequent to the coming into force of the Convention and, to a certain extent, existing ships, when the ships are reregistered or major alterations are made.
2. The [Bedding, Mess Utensils and Miscellaneous Provisions \(Ships' Crews\) Recommendation, 1946 \(No. 78\)](#), provides for the supply by the shipowner to the crew of bed linen, blankets, bedspreads, mess utensils and other articles. In the event that articles are not returned in good condition, the member of the crew concerned should pay cost price.
3. The [Accommodation of Crews Convention \(Revised\), 1949 \(No. 92\)](#), revises Convention No. 75 and its scope of application is comparable to the earlier Convention, with the exception of a provision permitting variations, after consultation with organizations of shipowners and of seafarers, where they provide conditions that are not less favourable

than those which would result from the full application of the provisions of the Convention. The protection afforded is similar to that under Convention No. 75.

4. The [Accommodation of Crews \(Supplementary Provisions\) Convention, 1970 \(No. 133\)](#), takes into consideration the rapidly changing characteristics of the construction and operation of modern ships and supplements Convention No. 92 by providing for further improvements in crew accommodation. It applies to ships of 1,000 tons and over, while also providing that certain of its provisions may be applied to ships of between 200 and 1,000 tons. Specific exceptions are provided for, among others, in relation to ships engaged on short voyages which allow members of the crew to go home each day, and seagoing ferries which are not continuously manned with one permanent crew. In comparison with Convention No. 92, Convention No. 133 provides for an increased minimum floor area per person of sleeping rooms. It envisages the provision of individual sleeping rooms under certain conditions, as well as specific requirements for officers. It pays particular attention to certain common areas (mess rooms, sanitary facilities and recreation accommodation). The case of crews with differing religious and social practices is also envisaged.
5. The [Crew Accommodation \(Air Conditioning\) Recommendation, 1970 \(No. 140\)](#), recommends the equipment with air conditioning of all 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. It also recommends to the competent authority to envisage the possibility of installing air conditioning in ships of less than 1,000 tons. It provides certain specifications concerning requirements for the design of air conditioning systems.
6. The [Crew Accommodation \(Noise Control\) Recommendation, 1970 \(No. 141\)](#), encourages Member States to establish provisions for the prevention of risks related to noise on board ships, based on research and the adoption of protection measures.
7. The [Maritime Labour Convention, 2006, as amended \(MLC, 2006\)](#), modernizes and consolidates, essentially under Regulation 3.1, the content of the earlier instruments adopted in 1949 and 1970.<sup>1</sup> It provides for a higher level of protection in relation to certain aspects of crew accommodation, such as the floor area per person of sleeping rooms, while consolidating certain provisions of Conventions Nos 92 and 133 in a series of very detailed guidelines (for example, on the equipment of mess rooms). Emphasis should also be placed on the broader scope of application of the MLC, 2006, which 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.”<sup>2</sup> “Ship” means a ship other than one which navigates exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply. More specifically, Regulation 3.1 applies primarily to ships constructed on or after the date when the Convention comes into force for the Member concerned. However, it recalls that all ships, including those constructed before the entry into force of the Convention, shall provide and maintain decent accommodations and recreational facilities for seafarers working or living on board in order to promote their health and well-being. For existing ships, “the requirements relating to ship construction and equipment that are set out in [Convention No. 133] shall

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<sup>1</sup> With the exception of Recommendation No. 142, the content of which relating to the protection of safety and health and accident prevention is consolidated in Regulation 4.3.

<sup>2</sup> Article II, paragraph 4. The MLC, 2006, does not apply to warships or naval auxiliaries.

continue to apply to the extent that they were applicable, prior to that date, under the law or practice of the Member concerned.”<sup>3</sup> Although exemptions may be made, after consultation with shipowners’ and seafarers’ organizations, they may only be made where they are expressly permitted by the Convention, which is the case, for example, of ships of less than 200 gross tonnage in relation to certain aspects of crew accommodation.<sup>4</sup>

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

8. Convention No. 75 was adopted in 1946. Five ratifications were registered,<sup>5</sup> but it never entered into force. It has been denounced by the five Member States, and does not therefore have any ratifications.
9. Convention No. 92 was adopted in 1949, and 47 ratifications were registered. It entered into force in 1953. The Convention has been denounced by 32 Member States and 15 Member States therefore remain bound by this instrument.<sup>6</sup> Two Member States remain bound by the Convention in non-metropolitan territories.<sup>7</sup> Five comments by the Committee of Experts on the Application of Conventions and Recommendations (CEACR) are awaiting a response regarding implementation issues.<sup>8</sup>
10. Convention No. 133 was adopted in 1970 and 32 ratifications have been registered. The Convention has been denounced by 22 Member States, and ten Member States therefore remain bound by the instrument.<sup>9</sup> One Member State remains bound by the

<sup>3</sup> Regulation 3.1, paragraphs 1 and 2.

<sup>4</sup> Standard A3.1, paragraphs 20 and 21.

<sup>5</sup> Namely Bulgaria, Finland, France, Norway and Sweden.

<sup>6</sup> Namely Angola, Azerbaijan, Costa Rica, Cuba, Egypt, Guinea-Bissau, Equatorial Guinea, Iraq, Israel, Kyrgyzstan, North Macedonia, Republic of Moldova, Tajikistan, Turkey and Ukraine. To be noted that Convention No. 92 remains in force for Brazil, but only until 7 May 2021, when the MLC, 2006, will enter into force for this Member State. The Government of [Egypt](#) indicates that “work is under way to bring national legislation into conformity with the relevant provisions of the Maritime Labour Convention, 2006, as amended (MLC, 2006), in preparation for its effective implementation before ratification”. The Government of [Kyrgyzstan](#) indicates that there are “no seagoing ships registered in Kyrgyzstan and that therefore this Convention is without object”. The Government of [North Macedonia](#) indicates that “the country has no maritime fleet or ships under its flag and no legislation regarding the matters dealt with in the Convention.” The Government of [Tajikistan](#) indicates that “at present the country does not have a maritime fleet and that [...] this Convention [...] is not applied in law or practice.”

<sup>7</sup> Convention No. 92 has been declared applicable to the Macao Special Administrative Region (China) and the French Southern and Antarctic Territories (France). Regarding the [French Southern and Antarctic Territories \(TAAF\)](#), the [Government](#) indicates that, “since the implementation of Act No. 2005-412 of 3 May 2005, commercial vessels are registered in the French International Register (RIF) and that therefore only a few fishing boats are still registered in the TAAF”. Concerning the [Macao Special Administrative Region, China](#), the Government indicates that there are no ships to which the Convention is applicable “among those registered in the Macao Special Administrative Region (SAR)”.

<sup>8</sup> These concern [Azerbaijan](#) (legislative shortcomings relating to certain provisions of the Convention, ship inspection in case of complaint, exceptions in relation to sanitary facilities), [Egypt](#) (absence of the necessary legislation), [Equatorial Guinea](#) (failure to provide a report to the Committee), [Iraq](#) (absence of the necessary legislation) and [Republic of Moldova](#) (absence of the necessary legislation).

<sup>9</sup> Namely Azerbaijan, Côte d’Ivoire, Guinea, Israel, Kyrgyzstan, Republic of Moldova, Tajikistan, Turkey, Ukraine and Uruguay. To be noted that Convention No. 133 remains in force for Brazil, but only until 7 May 2021, when the MLC, 2006, will enter into force for this Member State. With regard to the situation of Egypt, Kyrgyzstan, North Macedonia and Tajikistan, see footnote 6.

Convention in one non-metropolitan territory.<sup>10</sup> There are four comments by the CEACR awaiting a response with regard to implementation issues.<sup>11</sup>

11. Recommendation No. 78 was adopted in 1946. Recommendations Nos 140 and 141 were adopted in 1970.

## II. Evolution of the instruments: From adoption to 2021

12. During the review carried out by the **Cartier Working Party**, Convention No. 75 was considered to be an “outdated” instrument. Conventions Nos 92 and 133, as well as Recommendations Nos 140 and 141, were classified as “status quo”.<sup>12</sup> Recommendation No. 78 was classified in the category of “request for information”.
13. Convention No. 92 is included in the Appendix to the [Merchant Shipping \(Minimum Standards\) Convention, 1976 \(No. 147\)](#). Among the States that have not ratified Convention No. 92, four are bound to verify that the provisions in their national legislation are substantially equivalent to this Convention, under the terms of Convention No. 147.<sup>13</sup>
14. Convention No. 133 is included in the Annex to the [Merchant Shipping \(Improvement of Standards\) Recommendation, 1976 \(No. 155\)](#), and in Part A of the Annex to the [Protocol of 1996 to the Merchant Shipping \(Minimum Standards\) Convention, 1976](#), which has been denounced by all the Member States that had ratified it.
15. Conventions Nos 75, 92 and 133 have been revised by the MLC, 2006, and are now closed for ratification. The MLC, 2006, consolidates the content of Conventions Nos 92 and 133 under Regulation 3.1, updates their provisions and improves the required level of protection. Even though the MLC, 2006, provides for possible exemptions for ships of less than 200 gross tonnage, its scope of application is broader and requires full effect to be given to its requirements in relation to crew accommodation for ships of between 200 and 1,000 gross tonnage, whereas the earlier instruments left it to Member States to decide whether or not such ships should be covered.
16. The MLC, 2006, also consolidates the content of Recommendations Nos 78 and 140 in the guidelines of Regulation 3.1.<sup>14</sup> Recommendation No. 141 is consolidated in Guideline B3.1.12, as well as in Guideline B4.3.2, which relates to health and safety protection and exposure to noise.
17. From the perspective of international regulation of maritime transport, it is ILO instruments which, in relation to the construction, design and equipment of ships, ensure decent accommodation and workplaces for seafarers.

<sup>10</sup> Convention No. 133 has been declared applicable to the French Southern and Antarctic Territories (TAAF) (France) and therefore reporting obligations continue to apply to the Member State concerned. With regard to the situation of the TAAF, see footnote 7.

<sup>11</sup> These concern [Azerbaijan](#) (legislative shortcomings relating to certain provisions of the Convention, including exceptions in relation to sanitary facilities) and [Republic of Moldova](#) (absence of the necessary legislation).

<sup>12</sup> See [GB.283/LILS/WP/PRS/1/2](#).

<sup>13</sup> Namely Dominica, Peru, Trinidad and Tobago and United States of America. The following non-metropolitan territories are also bound by Convention No. 147: French Polynesia (France), French Southern and Antarctic Territories (France), Aruba (Netherlands), American Samoa (United States), Guam (United States), Northern Mariana Islands (United States), Puerto Rico (United States) and United States Virgin Islands (United States).

<sup>14</sup> Guideline B3.1.10 for Recommendation No. 78; Standard A3.1, paragraph 7, and Guideline B3.1.2 for Recommendation No. 140.

18. The process of the consolidation of these standards within the MLC, 2006, required in-depth negotiation with a view, on the one hand, to modernizing the provisions applicable to accommodation and, on the other, offering the necessary flexibility to Member States for their implementation. In this respect, Regulation 3.1 of the MLC, 2006, is 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.
19. Regulation 3.1, paragraph 2, of the MLC, 2006, provides, for existing ships, that the requirements relating to ship construction and equipment that are set out in Conventions Nos 92 and 133 “shall continue to apply to the extent that they were applicable, prior to that date, under the law or practice of the Member concerned”. This provision does not mean that it is necessary to maintain Conventions Nos 92 and 133 in force in order to ensure a minimum level of protection for seafarers working on existing ships. It should be recalled that the withdrawal or abrogation of a Convention does not affect any national legislation that has been adopted with a view to giving effect to it, or in general prevent a State from continuing to apply the instrument if it wishes to do so.<sup>15</sup>

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

20. In the review of the status of Conventions Nos 75, 92 and 133, as well as Recommendations Nos 78, 140 and 141, the following considerations are particularly relevant:
  - (1) Convention No. 75 has never fulfilled the conditions to enter into force;
  - (2) The content of the other instruments relating to crew accommodation has been incorporated and modernized by the MLC, 2006. 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 compliance and enforcement mechanism.
  - (3) Fifteen Member States remain bound by Convention No. 92. Four Member States are bound to give it effect under the terms of Convention No. 147.
  - (4) Ten Member States remain bound by Convention No. 133.

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<sup>15</sup> See ILO, *Abrogation of Four and Withdrawal of Two International Labour Conventions*, Report VII(2) submitted to the International Labour Conference, 106th Session, 2017, 5.

## IV. Possible action to consider with respect to the instruments

21. In light of the foregoing, the Special Tripartite Committee (STC) may wish:

1. To classify Convention No. 75 as “outdated” and propose its withdrawal as soon as possible.
2. To classify Conventions Nos 92 and 133 as “outdated” and propose their abrogation at the 118th Session (2030) of the International Labour Conference and, in this regard:
  - (a) to encourage Member States that are still bound by Conventions Nos 92 and 133 to ratify the MLC, 2006, which would involve the automatic denunciation of Conventions Nos 92 and 133;
  - (b) to encourage Member States which have already ratified the MLC, 2006, but which remain bound by Conventions Nos 92 and 93 for non-metropolitan territories, to extend the application of the MLC, 2006, to those territories.
3. To classify Recommendations Nos 78, 140 and 141 as “outdated” and propose their withdrawal as soon as possible.