



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 health and safety protection and accident prevention

Summary

The maritime labour instruments under review include **one Convention and one Recommendation concerning health and safety protection and accident prevention:**

- [Prevention of Accidents \(Seafarers\) Convention, 1970 \(No. 134\)](#);
- [Prevention of Accidents \(Seafarers\) Recommendation, 1970 \(No. 142\)](#).

Status of the instrument under review

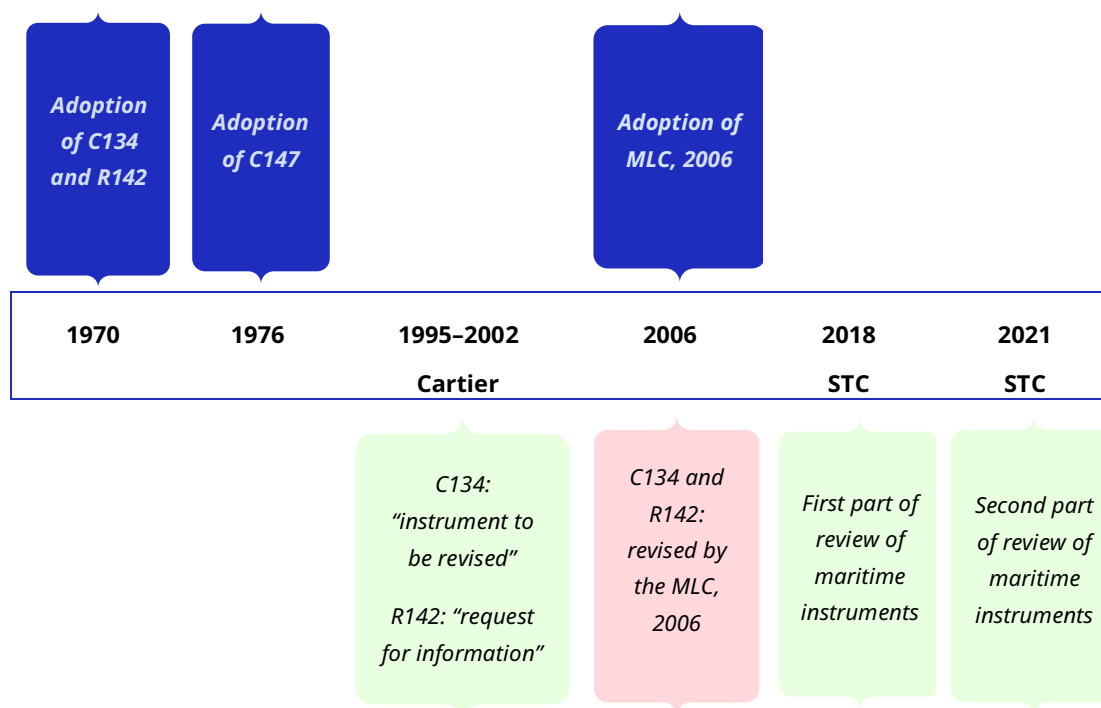
Convention No. 134	Instrument to be revised	(Revised by the MLC, 2006)
Recommendation No. 142	Request for information	(Revised by the MLC, 2006)

Possible action to consider

To classify Convention No. 134 as “outdated” and propose its abrogation at the 118th Session (2030) of the International Labour Conference.

To classify Recommendation No. 142 as “outdated” and propose its withdrawal as soon as possible.

► Instruments relating to health and safety protection and accident prevention (seafarers) – Chronology



I. Regulatory approach of the ILO with regard to health and safety protection and accident prevention (seafarers)

A. Protection provided by ILO instruments

1. The [Prevention of Accidents \(Seafarers\) Convention, 1970 \(No. 134\)](#), applies to seafarers, defined as all persons who are employed in any capacity on board a ship, other than a ship of war, registered in a territory for which the Convention is in force and ordinarily engaged in maritime navigation. The Convention concerns the reporting, investigation and prevention of occupational accidents. It provides that "the competent authority in each maritime country shall take the necessary measures to ensure that occupational accidents are adequately reported and investigated, and comprehensive statistics of such accidents kept and analysed". Convention No. 134 provides for the appointment, from among the crew of the ship, of a suitable person or committee responsible, under the Master, for accident prevention. Additionally, it states that "programmes for the prevention of occupational accidents shall be established by the competent authority with the co-operation of shipowners' and seafarers' organisations".
2. The [Prevention of Accidents \(Seafarers\) Recommendation, 1970 \(No. 142\)](#), was adopted at the same time as Convention No. 134 and supplements it, including by listing the subjects to be investigated. Recommendation No. 142 states that in giving effect to the obligation to endeavour to achieve the greatest possible measure of uniformity in the action for the prevention of occupational accidents (Article 10 of Convention No. 134), Members should have due regard to relevant Model Codes of Safety Regulations or Codes of Practice published by the ILO and the appropriate standards of international organizations for standardization. Likewise, it recommends that, in giving effect to

Convention No. 134, account should be taken of the Guarding of Machinery Convention, 1963 (No. 119).¹

3. The [Maritime Labour Convention, 2006, as amended \(MLC, 2006\)](#), revises and consolidates the main elements of Convention No. 134 and Recommendation No. 142, substantially complementing and modernizing them. Indeed, Regulation 4.3 and the Code of the MLC, 2006 are for the most part new text, derived from more recent ILO and IMO instruments and guidelines. Its purpose is to ensure that seafarers' work environment on board ships promotes occupational safety and health. It includes requirements for reporting accidents, as part of a system for monitoring ongoing compliance and conditions on board ship, which is foreseen in more detail in Title 5 on compliance and enforcement.
4. It is also worth noting the extended scope of the MLC, 2006, which defines a seafarer as "any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies", namely "ships, whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing or similar pursuits and ships of traditional build such as dhows and junks".² A ship is defined as 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. Thus, the MLC, 2006, as opposed to Convention No. 134, does not limit its scope of application only to persons employed on board a ship.

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

5. Convention No. 134 was adopted in 1970, and 29 ratifications were registered. The ratification of the MLC, 2006 has resulted in the denunciation of this instrument by 19 States to date.³ Ten Member States remain bound by this instrument⁴ and one remains bound in respect of a non-metropolitan territory.⁵ There are seven comments by the Committee of Experts on the Application of Conventions and Recommendations (CEACR) awaiting a response as regards implementation issues.⁶

¹ In 2017, the SRM TWG agreed that Convention No. 119 required revision to ensure continued and future relevance. See [GB.331/LILS/2](#) and [GB.331/PV](#).

² Article II(4). The MLC, 2006 does not apply to warships or naval auxiliaries.

³ Pursuant to Article X of the MLC, 2006.

⁴ Namely Azerbaijan, Costa Rica, Egypt, Guinea, Israel, Kyrgyzstan, Mexico, Tajikistan, Turkey, and Uruguay. It may also be noted that Convention No. 134 remains in force for Brazil but only until 7 May 2021, the date on which the MLC, 2006 will enter into force for that Member State. 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 [Kyrgyzstan](#) indicated that "there were no seagoing ships registered in Kyrgyzstan and that therefore this Convention is without object".

⁵ This Convention was declared applicable to the following non-metropolitan territory involving reporting obligations for the Member State concerned: French Southern and Antarctic Territories (France). For the [French Southern and Antarctic Territories \(TAAF\)](#), the Government has indicated that the registered fleet in these territories is composed of only a few fishing vessels and, in accordance with Act No. 2005-412 of 3 May 2005 on the establishment of the French International Register (RIF), commercial vessels can no longer be registered in the TAAF.

⁶ These concern [Guinea](#) (comments on prevention of occupational accidents to seafarers), [Uruguay](#) (comments on statistics of occupational accidents; research; prevention of accidents; obligation of seafarers to comply with accident prevention provisions; and programmes for the prevention of occupational accidents), [Turkey](#) (comments on statistics and research; prevention of accidents peculiar to maritime employment; system of inspection; and accident prevention programmes), [Mexico](#) (comments on statistics on occupational accidents on board; research into general trends and hazards of maritime employment; measures for the prevention of occupational accidents; and programmes for the prevention of occupational accidents), [Azerbaijan](#) (comments on research undertaken into general trends as brought out by statistics), [Costa Rica](#) (comments on investigations of occupational accidents) and

6. Recommendation No. 142 was adopted in 1970 to complement Convention No. 134.

II. Evolution of the instruments: From adoption to 2021

7. Following the work of the **Cartier Working Party**, the Governing Body decided to classify Convention No. 134 as “instrument to be revised” and Recommendation No. 142 under the “request for information” category.⁷
8. Convention No. 134 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 equivalent⁸ to the Conventions or Articles of Conventions referred to in the Appendix to this Convention, insofar as the Member is not otherwise bound to give effect to the Conventions in question. In this regard, of the 12 Member States⁹ which remain bound by Convention No. 147, six have ratified Convention No. 134.¹⁰ Therefore, six Member States are bound¹¹ to ensure substantial equivalence of their legislation to Convention No. 134 (Articles 4 and 7), in accordance with Article 2(a) of Convention No. 147. Additionally, two Member States have referred to fishing vessels when reporting to the ILO on the application of Convention No. 134.¹²
9. Likewise, Convention No. 134 is included in the Appendix of the [Merchant Shipping \(Improvement of Standards\) Recommendation, 1976 \(No. 155\)](#). Recommendation No. 155 serves to extend the corpus of instruments that could be implemented under the conditions provided for by Convention No. 147 (substantial equivalence).¹³
10. The MLC, 2006 revises Recommendation No. 142 and Convention No. 134, the latter no longer being open to ratification.
11. During the review carried out by **Cartier Working Party**, it was recommended that Convention No. 134 be revised taking into account the corresponding IMO instruments. Reference was made to the relevance to accident prevention of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (“STCW”).¹⁴ It is worth noting that Convention No. 134 preceded the adoption of the most recent ILO instruments on occupational safety and health, which shifted the emphasis from the prescription of protection measures to preventive measures.¹⁵ On the contrary, Regulation 4.3 of the MLC, 2006 has been informed by the

[French Southern and Antarctic Territories](#) (comments on statistics and investigations into maritime occupational accidents).

⁷ See [GB.283/LILS/WP/PRS/1/2](#).

⁸ 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.

⁹ It may also be noted that Convention No. 147 remains in force for Brazil but only until 7 May 2021, date on which the MLC, 2006 will enter into force for that Member State.

¹⁰ Namely Azerbaijan, Costa Rica, Egypt, Israel, Kyrgyzstan and Tajikistan.

¹¹ Namely Dominica, Iraq, Peru, Trinidad and Tobago, Ukraine and United States of America.

¹² See CEACR comments on: [Costa Rica](#) (2019), and [French Southern and Antarctic Territories](#) (France) (2019).

¹³ 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.

¹⁴ See [GB.277/LILS/WP/PRS/1/2](#).

¹⁵ It is worth noting that Convention No. 134 and Recommendation No. 142 are listed in the Appendix of the [Occupational Safety and Health Recommendation, 1981 \(No. 164\)](#), among the instruments concerning occupation safety and health and the working environment adopted by the International Labour Conference since 1919. They

concepts and standards referred to in both IMO instruments and more modern ILO instruments on occupational safety and health, such as the [Occupational Safety and Health Convention, 1981 \(No. 155\)](#) and its [Protocol of 2002 to the Occupational Safety and Health Convention, 1981](#).

12. Regulation 4.3 includes the obligation to develop and promulgate national guidelines for the management of occupational safety and health on board ships, after consultation with representative shipowners' and seafarers' organizations. It requires that shipowners conduct risk evaluation in relation to management of occupational safety and health and contains specific requirements concerning the protection of seafarers' personal data. It covers a wide range of human elements affecting occupation safety and health, such as fatigue, drug and alcohol abuse, and other concerns, such as exposure to chemicals, noise, vibration, and other workplace risks. The provisions of Regulation 4.3 need to be understood against the backdrop of contemporary approaches in the ILO to occupational safety and health and the shift from accidents to a focus on prevention, using risk assessment policies, and covering a much broader range of matters such as stress-related factors and ambient factors affecting worker health and safety. In this sense, the 2016 amendments to the Code of the MLC, 2006 refer to the latest version of the [Guidance on eliminating shipboard harassment and bullying](#) jointly published by the International Chamber of Shipping and the International Transport Workers' Federation.
13. As to on-board occupational safety and health, the text of Regulation 4.3 and the related provisions of the Code take into account and adopt the general approach proposed in the [Guidelines on Occupational Safety and Health Management Systems ILO-OSH, 2001](#). In 2015, an ILO tripartite meeting adopted Guidelines for implementing the occupational safety and health provisions of the MLC, 2006.¹⁶
14. One of the recurring issues concerning the application of maritime labour Conventions, including Convention No. 134, is their possible extension to categories of workers other than seafarers as defined by the MLC, 2006. This rationale for optional extension, which allows the same international labour Convention to be applied to seafarers and fishers, is not adopted by the MLC, 2006, which explicitly excludes fishers from its scope of application. The Work in Fishing Convention, 2007 (No. 188) contains a specific section on occupational safety and health and accident prevention¹⁷.

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

15. In reviewing the status of Convention No. 134 and Recommendation No. 142 relating to health and safety protection and accident prevention, the following considerations are particularly relevant:
 - (1) Convention No. 134 has been revised by the MLC, 2006, and the protection it provides with regard to health and safety protection and accident prevention no longer corresponds with the requirements of the most recent instruments.

were not however included in the Annex to the [Promotional Framework for Occupational Safety and Health Recommendation, 2006 \(No. 197\)](#), which refers to the instruments of the ILO relevant to the promotional framework for occupational safety and health.

¹⁶ ILO, [Guidelines for implementing the occupational safety and health provisions of the Maritime Labour Convention, 2006](#), Geneva, 2015.

¹⁷ The Work in Fishing Recommendation, 2007 (No. 199), contains further guidance on this subject area.

- (2) Ten Member States remain bound by Convention No. 134. Convention No. 134 is referred to in the Appendix of Convention No. 147 and therefore remains a source of obligations for six States. It is possible that some Member States may have extended its application to fishers.
- (3) In the process of consolidation of ILO maritime instruments that led to the adoption of the MLC, 2006, account was also taken of Recommendation No. 142.
- (4) 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

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

1. To classify Convention No. 134 as "outdated" and propose its abrogation at the 118th Session (2030) of the International Labour Conference.
2. To request the Office to launch an initiative to promote ratification on a priority basis of the MLC, 2006 and Convention No. 188 among those countries still bound by Convention No. 134.
3. To encourage the Member State which has already ratified the MLC, 2006 but remains bound by Convention No. 134 in respect of a non-metropolitan territory, to extend the application of the MLC, 2006 to that territory.
4. To classify Recommendation No. 142 as "outdated" and propose its withdrawal as soon possible.