



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 access to shore-based welfare facilities

Summary

The maritime labour instruments under review include **one Convention and three Recommendations concerning access to shore-based welfare facilities:**

- [Seafarers' Welfare Convention, 1987 \(No. 163\)](#)
- [Seamen's Welfare in Ports Recommendation, 1936 \(No. 48\)](#)
- [Seafarers' Welfare Recommendation, 1970 \(No. 138\)](#)
- [Seafarers' Welfare Recommendation, 1987 \(No. 173\)](#)

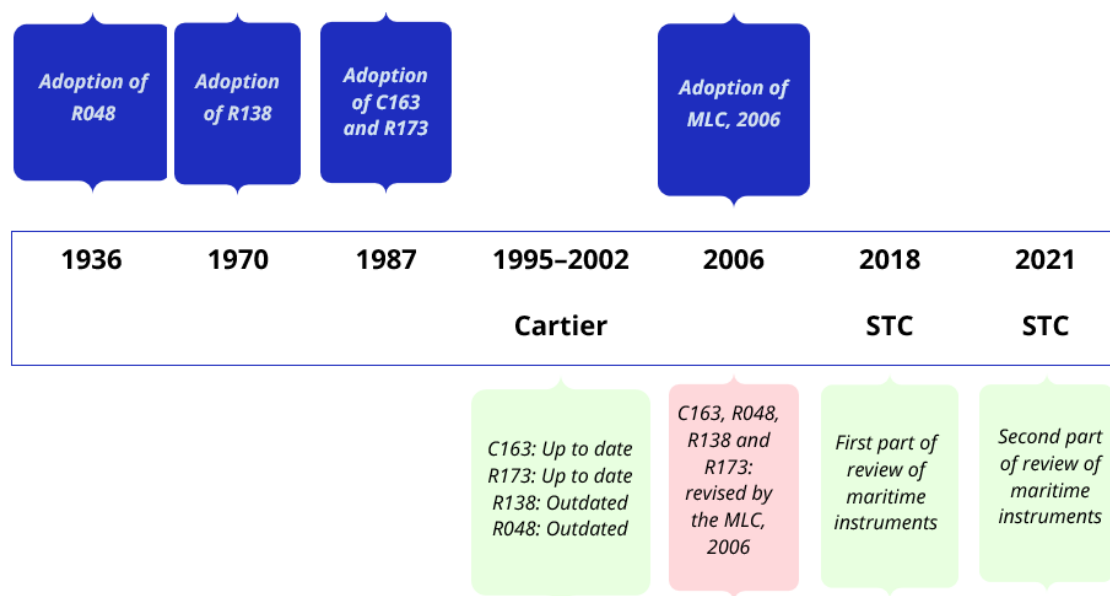
Status of the instrument under review

Convention No. 163	Up-to-date instrument	(Revised by the MLC, 2006)
Recommendation No. 48	Outdated instrument	(Revised by the MLC, 2006)
Recommendation No. 138	Outdated instrument	(Revised by the MLC, 2006)
Recommendation No. 173	Up-to-date instrument	(Revised by the MLC, 2006)

Possible action to consider

1. To classify Convention No. 163 as “outdated” and propose its abrogation as soon as possible.
2. To classify Recommendations Nos 48, 138 and 173 as “outdated” and propose their withdrawal as soon as possible.

► Instruments relating to access to shore-based welfare facilities – Chronology



I. Regulatory approach of the ILO with regard to access to shore-based welfare facilities

A. Protection provided by ILO instruments

1. The [Seamen's Welfare in Ports Recommendation, 1936 \(No. 48\)](#), provides that it is desirable to create in every important port an official or officially recognized body, which might comprise representatives of shipowners, seamen, national and local authorities and the chief associations concerned, for the purposes, in particular, of advising the competent departments, authorities and associations as to the adoption, adaptation and coordination of measures for the improvement on the conditions for seamen in the port. Recommendation No. 48 provides examples of the types of measures that could be adopted to ensure adequate protection for seamen, including health, accommodation and recreation, savings and remittance of wages, and information for seamen. Governments, authorities and organizations which may have to administer funds for the welfare of seamen are urged not to concern themselves solely with seamen of a particular nationality in the spirit of international solidarity.
2. The [Seafarers' Welfare Recommendation, 1970 \(No. 138\)](#), deals with welfare facilities both in port and on board ship. It makes reference to national, regional and/or port welfare boards, composed of representative shipowners' and seafarers' organizations, competent authorities and, where desirable and appropriate, voluntary organizations and social bodies concerned. Their functions are to survey the need for, and assisting and coordinating, welfare facilities. Recommendation No. 138 states that access to facilities in ports should be given to seafarers of all nationalities, irrespective of colour, race or creed.
3. The [Seafarers' Welfare Convention, 1987 \(No. 163\)](#), incorporates part of the content of Recommendation No. 138 in a binding instrument. It applies to "seagoing ships", as determined by national laws or regulations, after consultation with the representative organizations of shipowners and seafarers. Each Member State undertakes to ensure that adequate welfare facilities and services are provided for seafarers both in port and

on board ship and that the necessary arrangements are made for financing the welfare facilities and services. Convention No. 163 states that welfare facilities and services shall be provided in appropriate ports of the country for all seafarers, irrespective of nationality, race, colour, sex, religion, political opinion or social origin and irrespective of the State in which the ship on which they are employed is registered. To the extent it deems practicable, after consultation with the representative organizations of fishing vessel owners and fishermen, the provisions of this Convention shall be applied to commercial maritime fishing.

4. The [Seafarers' Welfare Recommendation, 1987 \(No. 173\)](#), provides a number of guidelines to facilitate a coherent implementation of Convention No. 163. It reaffirms the functions of the welfare boards, as provided by Recommendation No. 138, which should include 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; and assisting and advising those responsible for providing welfare facilities and ensuring coordination between them.
5. The [Maritime Labour Convention, 2006, as amended \(MLC, 2006\)](#), incorporates the content of Convention No. 163 and of Recommendation No. 173 under Regulation 3.1 on accommodation and recreational facilities and Regulation 4.4 on access to shore-based welfare facilities. Standard A4.4 of the MLC, 2006, states that each Member shall encourage the establishment of welfare boards that shall regularly review welfare shore-based facilities and services to ensure that they are appropriate in the light of changes in the needs of seafarers resulting from technical, operational and other developments in the shipping industry. The reference to the necessary arrangements made for financing the welfare facilities, provided under article 2 of Convention No. 163 is incorporated under Guideline B4.4.4.

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

6. Convention No. 163 was adopted in 1987, and 18 ratifications were registered. The ratification of the MLC, 2006, has resulted in the denunciation of this instrument by 14 States to date. Four Member States remain bound by this instrument.¹ There are three comments by the Committee of Experts on the Application of Conventions and Recommendations (CEACR) awaiting a response as regards implementation issues.²
7. Recommendations Nos 48 and 138 are autonomous instruments (that is, Recommendations not linked to a Convention) and were adopted in 1936 and 1970.
8. Recommendation No. 173 is linked to Convention No. 163 and was adopted in 1987.

¹ Namely Czechia, Georgia, Guatemala and Mexico. It may also be noted that Convention No. 134 remains in force for Brazil, but only until 7 May 2021, date on which the ratification of the MLC, 2006, will enter into force for that Member State. The Government of [Czechia](#) indicated that "relevant provisions of the Convention are not applicable since the Czech Republic is a landlocked State" and that "the country does not have any seagoing ship registered in its territory".

² These concern [Georgia](#) (consultations, information on financial arrangements, cooperation with similar organizations), [Guatemala](#) (welfare facilities and services in port and on board ship) and [Mexico](#) (adoption of the necessary measures to give effect to the Convention).

II. Evolution of the instruments: From adoption to 2021

9. Following the work of the **Cartier Working Party**, the Governing Body decided to classify Recommendations Nos 48 and 138 as “outdated instruments”. Convention No. 163 and Recommendation No. 173 were classified as “up-to-date instruments”.³
10. The MLC, 2006, revises Convention No. 163, and Recommendations Nos 48, 138 and 173. Convention No. 163 is no longer open to ratification.
11. Recommendation No. 48, the first instrument adopted on the topic, only deals with seafarer’s welfare in ports. Since 1970 and the adoption of Recommendation No. 138, the ILO’s approach has been to encourage Member States to promote the development of welfare services and facilities on board ships and ashore, paying particular attention to ensuring that these services and facilities are available to all seafarers without discrimination. Convention No. 163 and Recommendation No. 173 have significantly updated the standards on welfare of seafarers on board ships and ashore, for example in relation to means of communication and means of transportation to reach urban areas from the port of call. Regulations 3.1 and 4.4 of the MLC, 2006, reflect these standards.
12. Convention No. 163 provides that Member States shall extend the protection afforded by its application to commercial maritime fishing to the extent they deem practicable.⁴ While the [Work in Fishing Convention, 2007 \(No. 188\)](#), does not contain provisions on access to shore-based welfare facilities for fishers, the 96th Session of the International Labour Conference adopted a resolution which covers this issue.⁵

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

13. In the review for deciding the status of Convention No. 163 and Recommendations Nos 48, 138 and 173 relating to access to shore-based welfare facilities, the following considerations are particularly relevant:
 - (1) Convention No. 163 and Recommendation No. 173 have been revised by the MLC, 2006.
 - (2) Four Member States remain bound by Convention No. 163. For one of them the Convention is not relevant as it is a landlocked country with no merchant ships flying its flag.⁶
 - (3) Recommendations Nos 48 and 138 have been overtaken by Convention No. 163 and Recommendation No. 173, which updated the international standards applicable in terms of welfare facilities and services provided for seafarers, both in port and on board ship, and which have been subsequently reflected in the MLC, 2006.
 - (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.

³ See [GB.283/LILS/WP/PRS/1/2](#).

⁴ According to the information available to the Office, none of the countries still bound by the Convention has made use of this possibility.

⁵ See the [Resolution concerning the promotion of welfare for fishers](#), which refers to “the need to encourage member States to strongly ensure that fishers on fishing vessels in their ports are able to have access to fishers’ and seafarers’ welfare facilities”.

⁶ Czechia.

IV. Possible action to consider with respect to the instruments

14. In the light of the foregoing, the Special Tripartite Committee might wish:

1. To classify Convention No. 163 as “outdated” and propose its abrogation as soon as possible.
2. To request the Office to launch an initiative to promote ratification on a priority basis of the MLC, 2006, among those countries still bound by Convention No. 163.
3. To classify Recommendations Nos 48, 138 and 173 as “outdated” and propose their withdrawal as soon as possible.