



Fourth meeting of the Special Tripartite Committee of the Maritime Labour Convention, 2006, as amended (MLC, 2006)

Geneva, 19–23 April 2021

► Instruments classified as “outdated” in 2018 and submitted for further review

Summary

The **five Conventions** classified as “outdated” in 2018 and submitted for further review include:

- Seamen’s Articles of Agreement Convention, 1926 (No. 22)
- Repatriation of Seamen Convention, 1926 (No. 23)
- Minimum Age (Sea) Convention (Revised), 1936 (No. 58)
- Seafarers’ Annual Leave with Pay Convention, 1976 (No. 146)
- Repatriation of Seafarers Convention (Revised), 1987 (No. 166)

Status of the instrument under review

Convention No. 22	Outdated instrument	Revised by the MLC, 2006
Convention No. 23	Outdated instrument	Revised by the MLC, 2006
Convention No. 58	Outdated instrument	Revised by the MLC, 2006
Convention No. 146	Outdated instrument	Revised by the MLC, 2006
Convention No. 166	Outdated instrument	Revised by the MLC, 2006

Possible action to consider

To propose the abrogation of Conventions Nos 22, 23, 58, 146 and 166 (classified as “outdated” in 2018 by the STC) at the 118th Session (2030) of the International Labour Conference.

Conventions classified as “outdated” in 2018 and submitted for further review

1. In accordance with the recommendations adopted at the third meeting of the STC in April 2018, five Conventions are submitted for further review to reconsider their status and decide on their withdrawal or abrogation: the Seamen’s Articles of Agreement Convention, 1926 (No. 22); ¹ the Repatriation of Seamen Convention, 1926 (No. 23); ² the Minimum Age (Sea) Convention (Revised), No. 58 (1936); ³ the Seafarer’s Annual Leave with Pay Convention, 1976 (No. 146); ⁴ and the Repatriation of Seamen Convention (Revised), 1987 (No. 166). ⁵

A. Seamen’s Articles of Agreement Convention, 1926 (No. 22)

2. **Convention No. 22** applies to all seagoing vessels. ⁶ It provides that maritime articles of agreement should be drawn up and signed by the shipowner or their representative and the seafarer. Article 6 of the Convention specifies the minimum content of these articles of agreement. Safeguards must be established to ensure that seafarers understand the content of the agreement. The Convention also provides for the keeping of a crew list and the issuing of a document containing a record of the seafarer’s employment on board the vessel. Lastly, the Convention contains several provisions concerning termination of the agreement, in particular regarding the notice period.
3. Convention No. 22 appears in the Appendix to the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147). Member States that have ratified this Convention undertake to verify that their legislation is substantially equivalent to the Conventions or Articles of Conventions referred to in the Appendix, in so far as they are not otherwise bound to give effect to the Conventions concerned.
4. Convention No. 22 was revised by the Maritime Labour Convention, 2006, as amended (MLC, 2006). The MLC, 2006 maintains its objective, namely the obligation to ensure that seafarers have a fair employment agreement. The incorporation of Convention No. 22 into Regulation 2.1 of the MLC, 2006 was accompanied by a real drive to ensure modernization. The objective was to adapt to the practices and terminology in use in the various maritime countries (for self-employed workers, evidence of contractual or similar arrangements; the employment agreement constituted wholly or partially by a collective agreement, etc.) It should be added that the requirements of the MLC, 2006 relating to seafarers’ employment agreements fall within the scope of seafarers’ living and working conditions that have to be inspected and approved by the flag State. For ships concerned by the compulsory certification stipulated by the MLC, 2006, observance of these requirements must be taken into account.

¹ See [Technical Note 5](#).

² See [Technical Note 8](#).

³ See [Technical Note 1](#).

⁴ See [Technical Note 7](#).

⁵ See [Technical Note 8](#).

⁶ Article 2 states: “the term *vessel* includes any ship or boat of any nature whatsoever, whether publicly or privately owned, ordinarily engaged in maritime navigation”. The Convention does not apply to fishing vessels (Article 1(f)).

5. In 2018, the STC recommended that:

Convention No. 22 be classified as “outdated”. In this regard, the STC recommends:

- (a) to encourage Member States still bound by this Convention to ratify the MLC, 2006. This would involve the automatic denunciation of Convention No. 22;
- (b) to encourage States that have already ratified the MLC, 2006 but remain bound by Convention No. 22 with respect to non-metropolitan territories to extend the application of the MLC, 2006 to those territories;
- (c) to review the status of this Convention at the next meeting of the STC in order to decide on its possible withdrawal or abrogation.

6. It should be recalled that [Convention No. 22](#) was adopted in 1926, and 60 ratifications were registered. The ratification of the [MLC, 2006](#) has involved the automatic denunciation of this instrument by 45 States to date.⁷ Fifteen Member States remain bound by this Convention⁸ and four Member States remain bound only regarding non-metropolitan territories.⁹ The Convention is still a source of obligations for eight Member States,¹⁰ including for five non-metropolitan territories, through the application of Convention No. 147.¹¹
7. It appears that the ILO’s efforts to promote the MLC, 2006 have not resulted in any noticeable real progress in respect of the implementation of the recommendations adopted by the STC in 2018. The number of Member States that remain bound to Convention No. 22 is relatively stable.¹²
8. It should be noted that the 2018 amendments to the Code of the MLC, 2006, which entered into force on 26 December 2020 and have been accepted by the vast majority of States that ratified the MLC, 2006,¹³ continued the modernization effort that accompanied Regulation 2.1, which reproduces the core content of Convention No. 22. They provide that a seafarer’s employment agreement shall continue to have effect while a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, regardless of whether the date fixed for its expiry has passed or either party has given notice to suspend or terminate it.¹⁴

⁷ To be noted that Convention No. 22 remains in force for Brazil only until 7 May 2021, when the ratification of the MLC, 2006 will enter into force for this Member State.

⁸ Colombia, Cuba, Dominica, Egypt, Iraq, North Macedonia, Mauritania, Mexico, Pakistan, Papua New Guinea, Peru, Sierra Leone, Somalia, Uruguay and the Bolivarian Republic of Venezuela.

⁹ Convention No. 22 remains applicable to nine non-metropolitan territories and therefore reporting obligations continue to apply to the Member States concerned: Macao Special Administrative Region (China), French Polynesia (France), French Southern and Antarctic Territories (France), Aruba (Netherlands), Caribbean Part of the Netherlands, Sint-Maarten (Netherlands), Anguilla (United Kingdom of Great Britain and Northern Ireland), Guernsey (United Kingdom) and Jersey (United Kingdom).

¹⁰ This concerns the following States: Azerbaijan, Costa Rica, Israel, Kyrgyzstan, Tajikistan, Trinidad and Tobago, United States of America and Ukraine.

¹¹ Notably Guam (United States), Northern Mariana Islands (United States), United States Virgin Islands, Puerto Rico (United States), and American Samoa (United States).

¹² Since 2018, the MLC, 2006 was declared applicable to two non-metropolitan territories that had been bound by Convention No. 22: Hong Kong Special Administrative Region (China) and the Falkland Islands (Malvinas) (United Kingdom). A dispute exists between the Governments of Argentina and the United Kingdom concerning the sovereignty over the Falkland Islands (Malvinas).

¹³ With the exception of Estonia, France, Netherlands, Portugal and Slovenia (for other States, the statement of acceptance is awaiting receipt).

¹⁴ Standard A2.1, new para. 7.

9. In the context of the review to decide on the actions to recommend with regard to Convention No. 22, the following should be considered:
 - The MLC, 2006 is the up-to-date instrument that reflects tripartite consensus on this matter. It provides comprehensive protection for seafarers and ensures a level playing field for shipowners through its unique enforcement mechanism.
10. In the light of the foregoing, the Special Tripartite Commission may wish:

To propose the abrogation of Convention No. 22 at the 118th Session (2030) of the International Labour Conference and, in this regard, to:

- (a) to encourage once again the States still bound by this Convention to ratify the MLC, 2006. This would result in the automatic denunciation of Convention No. 22;
- (b) to encourage once again the States which have already ratified the MLC, 2006 but remain bound by Convention No. 22 in respect of non-metropolitan territories, to extend the application of the MLC, 2006 to those territories.

B. Repatriation of Seamen Convention, 1926 (No. 23) and Repatriation of Seamen Convention (Revised), 1987 (No. 166)

11. [Convention No. 23](#) applies to seagoing vessels, with the exception of ships of war and pleasure yachts, fishing vessels, and certain vessels of less than 100 tons gross registered tonnage or 300 cubic metres engaged in home trade. Captains, pilots, pupils on training vessels and apprentices with a special training contract are also excluded from the protection established. It affirms the right of all seafarers, during the term of their engagement or on its expiration, to be repatriated either to their own country, or to the port at which they were engaged, or to the port at which the voyage commenced. National legislation is used to determine who will bear the cost of repatriation. Expenses must not be charged to the seafarer if he has been left behind by reason of injury sustained in the service of the vessel, shipwreck, illness not due to his own wilful act or default, or discharge for any cause for which he cannot be held responsible. Repatriation expenses must include passage, accommodation and food for the seafarer during the journey. They must also include the maintenance of seafarers up to the time fixed for their departure. The vessel's flag State is responsible for the repatriation of all seafarers, regardless of their nationality, and where necessary for giving them their expenses in advance.
12. [Convention No. 166](#) applies to all seagoing vessels that are ordinarily engaged in commercial navigation. This Convention may also be extended to commercial maritime fishing vessels. It establishes protection for seafarers, defined as any person employed in any capacity on board a seagoing vessel. It sets out the circumstances in which a seafarer is entitled to repatriation. It specifies that the destination of the repatriation should be determined by national law and should include at least the place where the seafarer has accepted to enter into the agreement, the place stipulated by collective agreement, the seafarer's country of residence, or any other place mutually agreed at the time of engagement. The shipowner is responsible for arranging the repatriation and bears its cost (seafarer's passage, accommodation and food, pay and allowances until reaching the destination, transport of personal luggage, and medical treatment when necessary). The Convention prohibits the seafarer from being required to pay advances or the cost of the repatriation. The only exception is in the event of the seafarer being found to be in serious default of his employment obligations, in which case the

shipowner may recover the costs of repatriation. The flag State is required to intervene when a shipowner fails to meet his obligations.

13. Convention No. 23 appears in the Appendix to the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147). States that have ratified Convention No. 147 undertake to satisfy themselves that their laws and regulations are substantially equivalent to the Conventions or Articles of Conventions referred to in the Appendix to this Convention, in so far as they are not otherwise bound to give effect to the Conventions in question. Convention No. 23 was revised by Convention No. 166.¹⁵
14. Conventions Nos 23 and 166 were revised by the MLC, 2006 and the latter is closed to any further ratifications. The MLC, 2006 incorporates the main content of Convention No. 166 into Regulation 2.5, which provides that seafarers have the right to be repatriated at no cost to themselves in the circumstances and under the conditions specified in the Code. Standard A2.5.1 outlines the circumstances in which seafarers are entitled to repatriation. National legislation is used to determine the rights to be accorded by shipowners. Shipowners may recover the costs of repatriation from seafarers only when the latter have been found to be in serious default of their employment obligations. Pursuant to Regulation 2.5, paragraph 2, each Member shall require ships that fly its flag to provide financial security to ensure that seafarers are duly repatriated. The extent of that financial security is clarified in the amendments to the Convention, which were adopted in June 2014 and entered into force on 18 January 2017. It ensures seafarers' protection in the event of their abandonment and establishes who should cover the costs of repatriation, maintenance and support, as well as, in part, unpaid wages. While repatriation did not initially figure among the elements to be inspected in order to obtain a maritime labour certificate, the financial security introduced as a result of the 2014 amendments now appears on the list of these elements (see Appendix A5-I of the MLC, 2006).
15. In 2018, the STC recommended:
 1. To classify Convention No. 23 as "outdated" and to review its status at the next meeting of the STC to decide on its possible withdrawal or abrogation. In addition, the STC recommends:
 - (a) to encourage States still bound by Convention No. 23 to ratify the MLC, 2006. This would involve the automatic denunciation of Convention No. 23;
 - (b) to encourage States that have already ratified the MLC, 2006 but remain bound by Convention No. 23 in respect of non-metropolitan territories to extend the application of the MLC, 2006 to those territories.
 2. To classify Convention No. 166 as "outdated". In this regard, the STC recommends:
 - (a) to encourage States still bound by Convention No. 166 to ratify the MLC, 2006;
 - (b) to note that Convention No. 166 provides that States may extend its application to commercial maritime fishing, and to draw the attention of the Standards Review Mechanism Tripartite Working Group to any issues this may raise;
 - (c) to review the status of this Convention at the next meeting of the STC in order to decide on its possible withdrawal or abrogation.
16. It should be recalled that Convention No. 23 was adopted in 1926, and 47 ratifications were registered. It was subsequently denounced by 34 Member States, primarily as a result of the entry into force of the MLC, 2006. Thirteen Member States remain bound by

¹⁵ Article 13 of Convention No. 166.

Convention No. 23¹⁶ and four Member States remain bound only regarding non-metropolitan territories¹⁷. The Convention is still a source of obligations for five Member States, through the application of Convention No. 147.¹⁸

17. Convention No. 166 was adopted in 1987, and 14 ratifications were registered. It was subsequently denounced by ten Member States as a result of the entry into force of the MLC, 2006. Four Member States remain bound by Convention No. 166.¹⁹
18. It appears that the ILO's efforts to promote the MLC, 2006 have not resulted in any noticeable real progress in respect of the implementation of the recommendations issued by the STC in 2018. The number of States and non-metropolitan territories that remain bound by Conventions Nos 23 and 166 is unchanged.
19. In the context of the review of the actions to recommend with regard to Conventions Nos 22 and 166, the following should be considered:
 - The MLC, 2006 is the up-to-date instrument that reflects tripartite consensus on this matter. It provides comprehensive protection for seafarers and ensures a level playing field for shipowners through its unique enforcement mechanism.
20. In the light of the foregoing, the STC may wish:

To propose the abrogation of Conventions Nos 23 and 166 at the 118th Session (2030) of the International Labour Conference and, in this regard:

- (a) to encourage once again States still bound by this Convention to ratify the MLC, 2006. This would result in the automatic denunciation of Conventions Nos 23 and 166;
- (b) to encourage once again States that have already ratified the MLC, 2006 but remain bound by Convention No. 23 in respect of non-metropolitan territories to extend the application of the MLC, 2006 to those territories.

C. Minimum Age (Sea) Convention (Revised), 1936 (No. 58)

21. [Convention No. 58](#) aimed to partially revise a previous Convention, adopted in 1920.²⁰ It sets the minimum age at 15 years for work on ships and boats of any nature whatsoever engaged in maritime navigation. However, States may provide for the issue, under strict conditions, of certificates to children of 14 years of age permitting them to be employed.
22. Convention No. 58 appears in the Appendix to the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147). The States that have ratified it undertake to

¹⁶ Notably Azerbaijan, Colombia, Cuba, Egypt, Iraq, Kyrgyzstan, North Macedonia, Mauritania, Peru, Somalia, Tajikistan, Ukraine and Uruguay.

¹⁷ Convention No. 23 was declared applicable to the following non-metropolitan territories and therefore reporting obligations continue to apply to the Member States concerned: Macao Special Administrative Region (China), French Polynesia (France), French Southern and Antarctic Territories (France), Aruba (Netherlands), Caribbean Part of the Netherlands, Sint-Maarten (Netherlands), Anguilla (United Kingdom), British Virgin Islands (United Kingdom) and Falkland Islands (Malvinas) (United Kingdom). A dispute exists between the Governments of Argentina and the United Kingdom concerning the sovereignty over the Falkland Islands (Malvinas).

¹⁸ Costa Rica, Dominica, Israel, Trinidad and Tobago and United States. The non-metropolitan territories concerned are: Guam (United States), Northern Mariana Islands (United States), United States Virgin Islands, Puerto Rico (United States) and American Samoa (United States).

¹⁹ Egypt, Guyana, Mexico and Turkey. To be noted that Convention No. 166 remains in force for Brazil only until 7 May 2021, when the ratification of the MLC, 2006 will enter into force for this Member State.

²⁰ Minimum Age (Sea) Convention, 1929 (No. 7), which the STC has recommended to be classified as "outdated" and withdrawn.

satisfy themselves that their laws and regulations are substantially equivalent to the Conventions or Articles of Conventions referred to in the Appendix to this Convention, in so far as they are not otherwise bound to give effect to the Conventions in question.

- 23.** Convention No. 58 was revised by the MLC, 2006, and is closed to any further ratifications. The MLC, 2006 maintains its objective, namely to protect young persons and set the minimum age for admission to employment on ships. Convention No. 58 is therefore closed to further ratification. The 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 any ship to which that instrument applies. With certain exceptions, night work of seafarers under the age of 18 shall be prohibited. The MLC, 2006, also provides that the work of seafarers under the age of 18 shall be prohibited where the work is likely to jeopardize their health or safety; the national legislation should be used to determine the types of such work.
- 24.** In 2018, the STC recommended:

To classify Convention No. 58 as “outdated”. In this regard, the STC recommends:

- (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 that have already ratified the MLC, 2006 but remain bound by Convention No. 58 in respect of non-metropolitan territories to extend the application of the MLC, 2006 to those territories;
- (c) to encourage States still bound by Convention No. 58 that have ratified the [Minimum Age Convention, 1973 \(No. 138\)](#) but have set a minimum age of 14 years:
 - (i) to set a minimum age of at least 16 years, in accordance with Standard A1.1, paragraph 1 of the MLC, 2006; or
 - (ii) for those that have set the minimum age for maritime labour at 18 years, to send a declaration to the office 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;
- (d) to review the status of this Convention at the next meeting of the STC to decide on its possible withdrawal or abrogation.

- 25.** The decision to submit Convention No. 58 for further review by the STC was taken on the grounds that some States that have ratified Conventions Nos 58 and 138 have maintained a minimum age of 14 years.²¹ This situation merits particular attention, as the perilous nature of maritime labour does not justify maintaining this minimum age for the kinds of commercial navigation now included in the scope of application of the MLC, 2006. It should be emphasized that in the commercial fishing sector, the Work in Fishing Convention, 2007 (No. 188) fixes a minimum age of 15 years.
- 26.** In addition, 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, 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 that Convention.” Article 3 of Convention No. 138 provides that the minimum age for admission to any type of

²¹ Guatemala, Mauritania, Peru and Yemen.

employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons should not be less than 18 years. If strict conditions are met, however, persons of 16 years of age may be admitted to employment in the work or sectors for which the State decides to apply Article 3. The States concerned that do not wish to ratify the MLC, 2006 may choose this course of action to provide seafarers with protection in line with the commonly accepted standard (minimum age of 16 years). In this case, any Member State wishing to apply Article 3 of Convention No. 138 to maritime labour must specify this in a declaration.

27. Convention No. 58 was adopted in 1936, and 51 ratifications were registered. The ratifications of Convention No. 138 and the MLC, 2006 have resulted in the denunciation of this instrument by 45 States to date. Six Member States²² remain bound by this Convention and three Member States remain bound only regarding non-metropolitan territories²³. Four of these Member States have ratified Convention No. 138 specifying a minimum age of 14 years.²⁴ The 12 Member States which remain bound by Convention No. 147 have all ratified one of the minimum age Conventions listed in its Appendix. 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. 147.²⁵
28. As indicated in [Technical Note No. 1](#) on instruments relating to the minimum age, 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).²⁶
29. It should also be recalled that, during the discussion on Convention No. 58 at the third meeting of the STC, it was emphasized that the States which had not ratified the MLC, 2006 had applied the principle of a minimum age of 16 years for maritime labour (sometimes limited to work on seagoing ships), with the exception of Mauritania.
30. In the context of the review to decide on the actions to recommend with regard to Convention No. 58, the following considerations are particularly relevant:
 - Six Member States are bound by Convention No. 58. Of these, five already provide, in law or in practice, the protection required by the MLC, 2006, namely a minimum age of 16 years without exception.
 - Article 3 of Convention No. 138, which provides that the competent authority may determine that the minimum age for working on a ship should not be less than 18 years in view of the risks involved, reflects certain requirements of the MLC, 2006 relating to the protection of young seafarers. However, the MLC, 2006 is the up-to-date instrument that reflects tripartite consensus on the living and working conditions of seafarers under 18 years of age on ships. It provides comprehensive

²² Notably Guatemala, Mauritania, Mexico, Peru, United States and Yemen. The Convention was also declared applicable to the following non-metropolitan territories: American Samoa (United States), Guam (United States), Puerto Rico (United States) and United States Virgin Islands.

²³ Convention No. 58 remains applicable to French Polynesia (France), French Southern and Antarctic Territories (France), Caribbean Part of the Netherlands, Sint-Maarten (Netherlands), Anguilla (United Kingdom), Montserrat (United Kingdom) and St. Helena (United Kingdom).

²⁴ Guatemala, Mauritania, Peru and Yemen.

²⁵ With the exception of one non-metropolitan territory: Northern Mariana Islands (United States).

²⁶ As reflected in the Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180).

protection for seafarers and ensures a level playing field for shipowners through its unique enforcement mechanism.

31. In the light of the foregoing, the STC may wish:

To propose the abrogation of Convention No. 58 at the 118th Session (2030) of the International Labour Conference and, in this regard:

- (a) to encourage States still bound by this Convention to ratify the MLC, 2006. This involves the automatic denunciation of Convention No. 58;
- (b) to encourage States that have already ratified the MLC, 2006 but remain bound by Convention No. 58 in respect of non-metropolitan territories to extend the application of the MLC, 2006 to those territories;
- (c) to encourage States still bound by Convention No. 58 that have ratified the Minimum Age Convention, 1973 (No. 138) specifying a minimum age of 14 years to:
 - (i) set a minimum age of at least 16 years, in accordance with Standard A1.1, paragraph 1 of the MLC, 2006; 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. Following the recommendations under (i) and (ii) would result in the automatic denunciation of Convention No. 58.

D. Seafarers' Annual Leave with Pay Convention, 1976 (No. 146)

- 32.** **Convention No. 146** applies to seafarers, namely persons employed in any capacity on board a seagoing ship other than a ship of war or a ship engaged in fishing. However, each Member State, after consultation, may extend its application to fishers. Conversely, measures may be taken, after consultation, to exclude certain categories of persons employed on board. The Convention sets out the right to annual leave with pay of not less than 30 calendar days for one year of service. Where a seafarer's length of service is less than one year, the duration of leave may be reduced proportionally. The principle of maintaining usual remuneration is reaffirmed. In exceptional cases, compensation may be paid in lieu of leave. Any agreement to relinquish or forgo such leave is null and void.
- 33.** The Appendix to the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) does not include any of the instruments concerning paid annual leave for seafarers. However, Convention No. 146 appears in the Appendix to the Merchant Shipping (Improvement of Standards) Recommendation, 1976 (No. 155), which allows Member States to extend the protection granted to seafarers under Convention No. 147 by adopting provisions at least equivalent to those of the Conventions included in the Appendices of these two instruments.
- 34.** The MLC, 2006 revises Convention No. 146 and closes it to further ratification. It reproduces its main content, while moving part of the protections accorded to seafarers under Guideline B2.4. Standard A2.4 provides that seafarers are entitled to paid annual leave calculated on the basis of a minimum of 2.5 calendar days per month of employment (30 days for a period of 12 months). Except in cases provided for by the competent authority, agreements to forgo the minimum annual leave are prohibited. Regulation 2.4, paragraph 2, also provides that seafarers must be granted shore leave to benefit their health and well-being in so far as it is consistent with the operational requirements of their position. The guidelines incorporate the detailed provisions of Convention No. 146 on the calculation of entitlement, the taking of leave and the division

and accumulation of leave. One guideline specifically deals with the situation of young seafarers.

35. In 2018, the STC recommended:

To classify Convention No. 146 as “outdated” and to review its status at the next meeting of the STC to decide on its possible withdrawal or abrogation. In this regard, the STC recommends:

- (a) to encourage States still bound by Convention No. 146 to ratify the MLC, 2006. This would involve the automatic denunciation of Convention No. 146;
- (b) to encourage States that have already ratified the MLC, 2006 but remain bound by Convention No. 146 with respect to non-metropolitan territories to extend the application of the MLC, 2006 to those territories;
- (c) to recognize that Convention No. 146 provides that States may extend its application to persons excluded from the definition of seafarers in the Convention, or certain categories thereof, and draw the attention of the Standards Review Mechanism Tripartite Working Group to any issues this may raise.

36. Convention No. 146 was adopted in 1976, and 17 ratifications were registered. The ratification of the MLC, 2006 has resulted in the denunciation of this instrument by 14 Member States. Three Member States²⁷ remain bound by this Convention and two Member States remain bound only with respect to non-metropolitan territories.²⁸

37. As pointed out at the third meeting of the STC,²⁹ it is notable that Member States have shown little interest in instruments relating to paid annual leave for seafarers. The adoption, entry into force and extraordinary ratification status of the MLC, 2006 currently represent the best opportunity for extending to the majority of seafarers adequate protection with regard to paid annual leave. It is also significant that the States which remain bound by Convention No. 146 all enshrine in their legislation durations of leave in conformity with the minimum required by the MLC, 2006.

38. In the context of the review to decide on the actions to recommend with regard to Convention No. 146, the following considerations are particularly relevant:

- The MLC, 2006 is the up-to-date instrument reflecting tripartite consensus on the matter of seafarers’ annual leave with pay. It provides comprehensive protection for seafarers and ensures a level playing field for shipowners through its unique enforcement mechanism.
- Only three Member States are bound by Convention No. 146, which is closed to further ratification.

²⁷ Namely, Cameroon (specified duration of annual leave: 60 days for officers and 3 days per month for seafarers), Iraq (specified duration of annual leave: 36 days) and Turkey (specified duration of annual leave: 30 days). To be noted that Convention No. 146 remains in force for Brazil only until 7 May 2021, when the ratification of the MLC, 2006 will enter into force for this Member State.

²⁸ Convention No. 146 remains applicable to: French Polynesia (France), French Southern and Antarctic Territories (France) and Aruba (Netherlands).

²⁹ See [Technical Note 7](#).

39. In the light of the foregoing, the STC may wish:

To propose the abrogation of Convention No. 146 during the 118th Session (2030) of the International Labour Conference and, in this regard,:

- (a) to encourage States still bound by this Convention to ratify the MLC, 2006. This would result in the automatic denunciation of Convention No. 146;
- (b) to encourage States that have already ratified the MLC, 2006 but remain bound by Convention No. 146 only in respect of non-metropolitan territories to extend the application of the MLC, 2006 to those territories.