



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 medical care

Summary

The maritime labour instruments under review include **one Convention and two Recommendations concerning medical care on board ship and ashore:**

- Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164);
- Ships' Medicine Chests Recommendation, 1958 (No. 105);
- Medical Advice at Sea Recommendation, 1958 (No. 106).

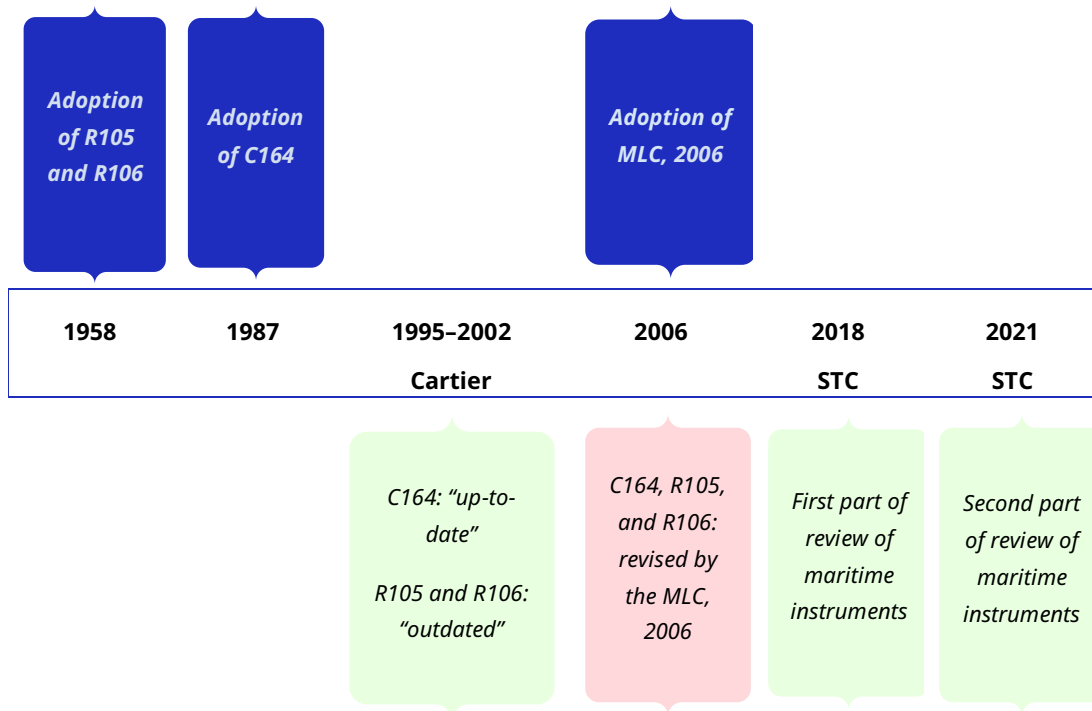
Status of the instrument under review

Convention No. 164	Up-to-date instrument	(Revised by the MLC, 2006)
Recommendation No. 105	Outdated instrument	(Revised by the MLC, 2006)
Recommendation No. 106	Outdated instrument	(Revised by the MLC, 2006)

Possible action to consider

- 1 To classify Convention No. 164 as “outdated” and propose its abrogation at the 118th Session (2030) of the International Labour Conference.
2. To classify Recommendations No. 105 and 106 as “outdated” and propose their withdrawal as soon as possible.

► Instruments relating to medical care (seafarers) – Chronology



I. Regulatory approach of the ILO with regard to medical care on board ship and ashore

A. Protection provided by ILO instruments

1. The [Ships' Medicine Chests Recommendation, 1958 \(No. 105\)](#) provides guidance on the requirement that every vessel engaged in maritime navigation carry a medicine chest. A Minimum List of Medicaments and Medical Equipment of Medicine Chests is appended to the Recommendation. Medicine chests should be inspected at intervals not normally exceeding 12 months.
2. The [Medical Advice at Sea Recommendation, 1958 \(No. 106\)](#) provides guidance on a pre-arranged system which seeks to ensure, among others, that medical advice by radio to ships at sea is available free of charge at any hour of the day or night.
3. The [Health Protection and Medical Care \(Seafarers\) Convention, 1987 \(No. 164\)](#) applies to every seagoing ship whether publicly or privately owned, which is registered in the territory of any Member for which the Convention is in force and which is ordinarily engaged in commercial maritime navigation. It shall be extended to cover commercial maritime fishing to the extent that the competent authority deems practicable. A seafarer is defined as any person who is employed in any capacity on board a seagoing ship to which the Convention applies. The aim of this Convention is to ensure that each Member adopts measures providing for health protection and medical care for seafarers on board ship, as comparable as possible to that which is generally available to workers ashore, including general provisions on occupational health protection and medical care. Health protection and medical care, in accordance with national law and practice, shall be provided free of charge to seafarers and the right to visit a doctor in ports of call shall be guaranteed. Measures of a preventive character shall be adopted, devoting attention to

the development of health promotion and health education programmes. Convention No. 164 provides that “every ship to which this Convention applies shall be required to carry a medicine chest” and that “the competent authority shall ensure by a prearranged system that medical advice by radio or satellite communication to ships at sea, including specialist advice, is available at any hour of the day or night”. Furthermore, all ships carrying 100 or more seafarers and ordinarily engaged on international voyages of more than three days' duration shall carry a medical doctor as a member of the crew responsible for providing medical care. All ships which do not carry a doctor shall carry as members of the crew one or more specified persons in charge of medical care and the administering of medicines as part of their regular duties. Such specified persons shall have satisfactorily completed a course approved by the competent authority of theoretical and applied training in medical skills. Convention No. 164 also contains requirements concerning on board hospital accommodations and a standard medical report form to be adopted by the competent authority.

4. The [Maritime Labour Convention, 2006, as amended \(MLC, 2006\)](#) consolidates the main elements of Convention No. 164, while updating and furthering certain basic principles. Regulation 4.1 and the Code on medical care on board ship and ashore reaffirm the measures to be adopted by each Member, including general provisions on occupational health protection and medical care; health protection and medical care free of charge to the extent consistent with the Member's national law and practice; right to visit a doctor or dentist in ports of call; measures of a preventive character, such as health promotion and health education programmes. The MLC, 2006 also provides that “all ships shall carry a medicine chest” and that “the competent authority shall ensure by a prearranged system that medical advice by radio or satellite communication to ships at sea, including specialist advice, is available 24 hours a day”, free of charge. The requirements of Convention No. 164 concerning the obligation to carry on board a qualified medical doctor or a trained person in charge of medical care and the administering of medicines are also consolidated in the MLC, 2006. Regulation 3.1 and the Code provide for requirements for hospital accommodation.¹
5. 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, does not limit its scope of application only to persons “employed on board” a seagoing ship, as foreseen in Convention No. 164.

¹ See Standard A3.1, paragraph 12 and Guideline B3.1.8.

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

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

6. Convention No. 164 was adopted in 1987, and 15 ratifications were registered. The ratification of the MLC, 2006 has resulted in the denunciation of this instrument by 12 States to date. Three Member States remain bound by this instrument.³ There are two comments by the Committee of Experts on the Application of Conventions and Recommendations (CEACR) awaiting a response as regards implementation issues.⁴
7. Recommendations Nos 105 and 106 are autonomous (that is, Recommendations not linked to a Convention),⁵ and have both been adopted in 1958.

II. Evolution of the instruments: From adoption to 2021

8. Following the work of the **Cartier Working Party**, the Governing Body decided to classify Recommendations Nos 105 and 106 as “outdated” instruments. Convention No. 164 was adopted after 1985 and therefore was not examined by such Working Party, and as a result classified as “up-to-date”.⁶
9. Convention No. 164 is not included in the Appendices to the [Merchant Shipping \(Minimum Standards\) Convention, 1976 \(No. 147\)](#), or the [Merchant Shipping \(Improvement of Standards\) Recommendation, 1976 \(No. 155\)](#).
10. The MLC, 2006 revises Convention No. 164, which is no longer open to ratification.
11. The main issues covered by Convention No. 164 are reflected in the MLC, 2006, which also refers to international standards and the recommendations provided by international guides,⁷ such as the International Medical Guide for Ships developed by the ILO, International Maritime Organization and the World Health Organization. The provisions of Standard A4.1, paragraph 4, relating to the training of persons in charge of medical care on board who are not medical doctors, are aligned with the language of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW).
12. Unlike Convention No. 164, the MLC, 2006 also has a specific provision to ensure essential dental care and sets out the duty of coastal States to allow access to existing medical facilities for seafarers who are in need of immediate medical care. Additionally, Guideline B4.1.5 has a provision on medical care protection for dependents of seafarers domiciled in its territory, if they are not already covered, which was not foreseen neither in Convention No. 164 nor in Recommendations Nos 105 and 106.

³ Namely Czechia, Mexico and Turkey. It may also be noted that Convention No. 164 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. In the 2019 report under article 22 of the ILO Constitution the Government of [Czechia](#) indicated that “No seagoing merchant vessels are sailing under the Czech national flag and therefore the Convention is not applied in practice”.

⁴ These concern [Mexico](#) (comments on right to visit a medical doctor; inspection at regular intervals of the medicine chest; medical advice by radio or satellite communication; presence of a medical doctor on board ships; and hospital accommodation), and [Turkey](#) (comments on application to fishers; measures for the transport of dangerous cargo; and hospital accommodation).

⁵ See [GB.276/LILS/WP/PRS/4](#).

⁶ See [GB.283/LILS/WP/PRS/1/2](#).

⁷ For instance, in 2011, a Joint ILO/IMO Meeting on Medical Fitness Examinations of Seafarers and Ships' Medicine Chests revised the existing [ILO/WHO Guidelines on the medical examinations of seafarers](#). Also relevant here is the [International Medical Guide for ships](#).

13. Additionally, the main issues covered by Recommendations Nos 105 and 106 are also reflected in the MLC, 2006.
14. One of the recurring issues concerning the application of maritime labour Conventions, including Convention No. 164, is their possible extension to categories of workers other than seafarers as defined by the MLC, 2006. In particular, a number of national laws have established a common framework for fishers and seafarers on the basis of these Conventions applicable to the two sectors. Convention No. 164 provides that “to the extent it deems practicable, after consultation with the representative organizations of fishing-vessel owners and fishermen, the competent authority shall apply the provisions of this Convention to commercial maritime fishing”.⁸ 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. Both the MLC, 2006, and the Work in Fishing Convention, 2007 (No. 188), incorporate the content of Convention No. 164 but adopt different approaches on certain aspects. Furthermore, the Work in Fishing Recommendation, 2007 (No. 199), provides additional non-binding guidance on medical care on board.

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

15. In reviewing the status of Convention No. 164 and Recommendations Nos 105 and 106 relating to medical care, the following considerations are particularly relevant:
 - (1) Recommendations Nos 105 and 106 have been classified as outdated.
 - (2) Convention No. 164 was revised by the MLC, 2006, and the protection it provides with regard to medical care no longer corresponds with the requirements of the most recent instruments.
 - (3) Only three Member States remain bound by Convention No. 164.
 - (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. 164 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. 164.
 3. To classify Recommendations Nos 105 and 106 as “outdated” and propose their withdrawal as soon as possible.

⁸ Article 1(2) of Convention No. 164.