

**Third meeting of the Special Tripartite Committee
of the MLC, 2006**Geneva
23–27 April 2018**Instruments relating to seafarers' wages,
hours of work and hours of rest, and
manning of ships****Summary**

The maritime labour instruments under review include **five Conventions and three Recommendations concerned with wages, hours of work and hours of rest, and manning:**

- [Hours of Work and Manning \(Sea\) Convention, 1936 \(No. 57\)](#);
- [Hours of Work and Manning \(Sea\) Recommendation, 1936 \(No. 49\)](#);
- [Wages, Hours of Work and Manning \(Sea\) Convention, 1946 \(No. 76\)](#);
- [Wages, Hours of Work and Manning \(Sea\) Convention \(Revised\), 1949 \(No. 93\)](#);
- [Wages, Hours of Work and Manning \(Sea\) Convention \(Revised\), 1958 \(No. 109\)](#);
- [Wages, Hours of Work and Manning \(Sea\) Recommendation, 1958 \(No. 109\)](#);
- [Seafarers' Hours of Work and the Manning of Ships Convention, 1996 \(No. 180\)](#);
- [Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 \(No. 187\)](#).

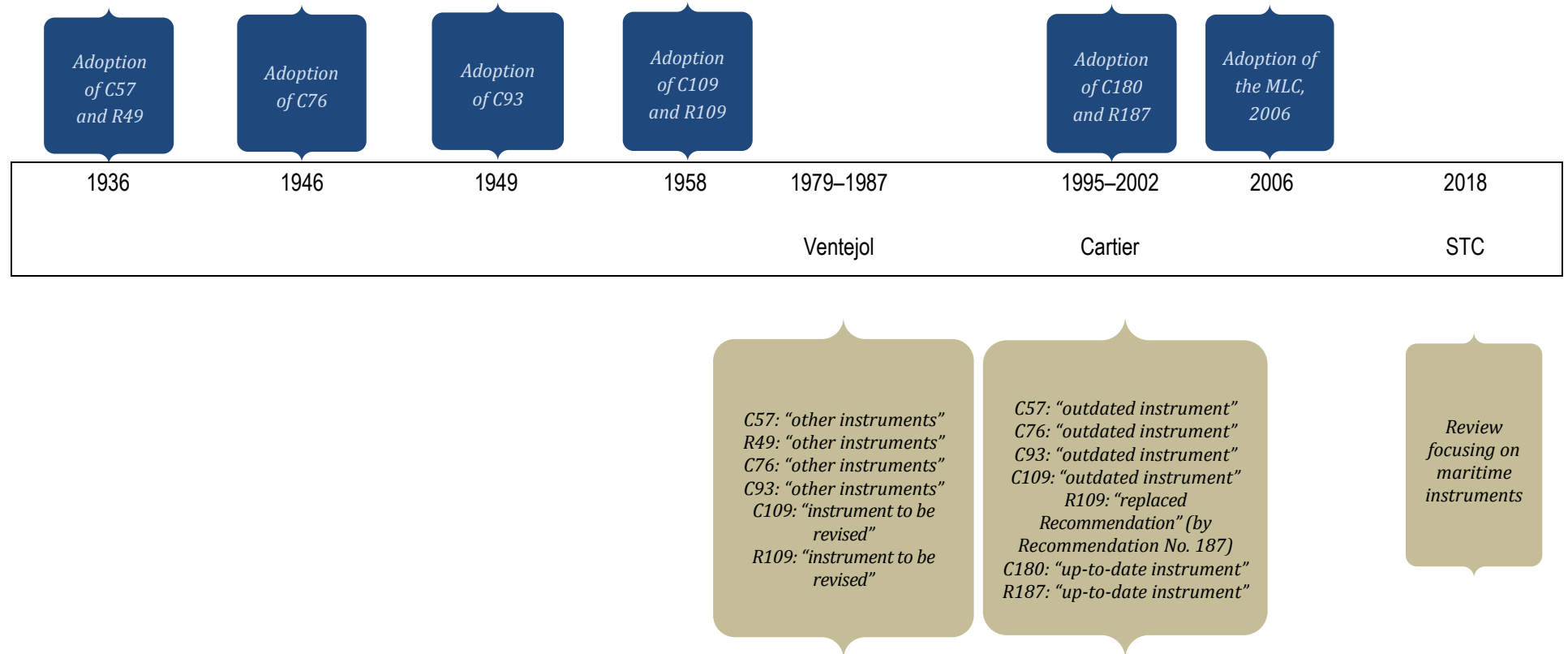
Status of the instrument under review

	Recommendation of the Cartier Working Party	Follow-up since the Cartier Working Party
Convention No. 57	Outdated instrument	Revised by the MLC, 2006
Recommendation No. 49	Outdated instrument	Revised by the MLC, 2006
Convention No. 76	Outdated instrument	Revised by the MLC, 2006
Convention No. 93	Outdated instrument	Revised by the MLC, 2006
Convention No. 109	Outdated instrument	Revised by the MLC, 2006
Recommendation No. 109	Replaced Recommendation	Revised by the MLC, 2006
Convention No. 180	Up-to-date instrument	Revised by the MLC, 2006
Recommendation No. 187	Up-to-date instrument	Revised by the MLC, 2006

Possible action to consider

1. To classify Conventions Nos 57, 76, 93, 109 and 180 and Recommendations Nos 49 and 187 as "outdated instruments" and propose their withdrawal.
2. To recommend that the Governing Body take note of the juridical replacement of Recommendation No. 109 by Recommendation No. 187.

Instruments relating to wages, hours of work and hours of rest, and manning – Chronology



.I Regulatory approach of the ILO with regard to wages, hours of work and hours of rest, and manning

A. Protection provided by ILO instruments

1. The [Hours of Work and Manning \(Sea\) Convention, 1936 \(No. 57\)](#), applies to every seagoing vessel employed in the transport of cargo or passengers for the purpose of trade and engaged on an international voyage. It does not apply to fishing vessels. This Convention establishes maximum hours of work for seafarers,¹ which vary according to several criteria: the size of the vessel, the duties carried out on board, the composition of the crew and whether the vessel is at sea or in port (Articles 4 to 8). It sets limits of 56 hours per week and eight hours per day, while providing for exceptions. Overtime must be compensated. The Convention prohibits work at night for seafarers under the age of 16 years. Articles 13 to 17 of the Convention lay down certain requirements regarding the minimum composition of the crew.
2. The [Hours of Work and Manning \(Sea\) Recommendation, 1936 \(No. 49\)](#), notes the exceptions provided for by Convention No. 57 and the fact that it does not regulate hours of work or manning in vessels engaged only in national coasting trade. It therefore recommends that member States that have not already regulated hours of work and manning in these different classes of vessel should investigate the conditions on board such vessels and take all necessary measures to prevent overwork and insufficient manning.
3. The [Wages, Hours of Work and Manning \(Sea\) Convention, 1946 \(No. 76\)](#), revises Convention No. 57 and has a comparable scope. However, it is not limited to vessels engaged on international voyages and it excludes vessels of less than 500 gross register tons. It does not apply to all persons working on board.² This Convention deals firstly with wages and sets a minimum wage. In relation to hours of work, the Convention establishes, on the basis of several criteria, normal hours of work (in excess of which compensation is due, with a 25 per cent increase in the hourly wage). It also introduces the idea of maximum hours of work, with compensatory periods of rest being granted if such hours are exceeded. With regard to manning, it requires vessels to be sufficiently and efficiently manned for the purposes of ensuring the safety of life at sea, preventing excessive strain upon the crew, and avoiding or minimizing as far as practicable the working of overtime.
4. The [Wages, Hours of Work and Manning \(Sea\) Convention \(Revised\), 1949 \(No. 93\)](#), has a comparable scope and, subject to some rewording, assures a similar level of protection to Convention No. 76. It also revises Convention No. 57.
5. The [Wages, Hours of Work and Manning \(Sea\) Convention \(Revised\), 1958 \(No. 109\)](#), has a comparable scope and, subject to some rewording, assures a similar level of protection to Convention No. 93. It contains a reservation clause, however, that enables ratifying States not to be bound by Part II of the Convention, which relates to wages. It revises Conventions Nos 57, 76 and 93.
6. The [Wages, Hours of Work and Manning \(Sea\) Recommendation, 1958 \(No. 109\)](#), encourages member States to improve some of the protections afforded by Convention

¹ Certain persons are excluded, such as officers in charge of departments who do not keep watch.

² Article 3 of Convention No. 76 lists persons excluded from its scope, such as the master.

No. 109. For instance, it raises the minimum level of remuneration (for the able seafarer, to 70 dollars in currency of the United States of America or 25 pounds in currency of the United Kingdom of Great Britain and Northern Ireland). It also provides that the normal hours of work should be eight hours per day for all departments, including on smaller vessels.

7. The [Seafarers' Hours of Work and the Manning of Ships Convention, 1996 \(No. 180\)](#), revises all previous Conventions on the subject: Conventions Nos 109, 93, 76 and 57. It applies to seagoing ships engaged in commercial maritime operations and may be extended to cover commercial maritime fishing. Regarding hours of work, it requires each member State to set either a maximum number of hours of work that must not be exceeded in a given period, or a minimum number of hours of rest that must be provided in a given period. The limits are as follows: the hours of work on board must not exceed 14 hours in any 24-hour period or 72 hours in any seven-day period, and the hours of rest must not be less than ten hours in any 24-hour period or 77 hours in any seven-day period. Exemptions may be permitted if they are established by collective agreement. Normal hours of work are defined as eight hours per day with one day of rest per week. The Convention also specifies the documents required on board (records of daily hours) to ensure that seafarers are kept informed and to facilitate the application of the Convention. It extends the prohibition on night work to young seafarers under 18 years of age (subject to exceptions for training). In relation to manning, Convention No. 180 provides that all ships must be sufficiently, safely and efficiently manned, in accordance with the minimum safe manning document or an equivalent issued by the competent authority.
8. The [Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 \(No. 187\)](#), deals with seafarers' wages. It provides a number of guidelines relating to overtime which vary according to the wage payment method (hourly rate or consolidated wage). It affirms that the principle of "equal remuneration for work of equal value" should apply to all seafarers employed upon the same ship without discrimination based upon race, colour, sex, religion, political opinion, national extraction or social origin; wages should be paid monthly or at some other regular interval; and on termination of engagement all remuneration due should be paid without undue delay. It recommends setting a national minimum wage and puts in place an ILO mechanism to determine an international minimum reference wage for able seafarers.
9. The [Maritime Labour Convention, 2006, as amended \(MLC, 2006\)](#) very closely reproduces the content of the instruments adopted in 1996, under several regulations (Regulation 1.1 on the minimum age and night work; Regulation 2.2 on wages; Regulation 2.3 on hours of work and hours of rest; and Regulation 2.7 on manning levels). This consolidation has essentially added certain protections and strengthened others by making them mandatory: the principle of paying wages at intervals of no greater than one month and providing seafarers with a monthly account of payments is made mandatory (Standard A2.2, paragraphs 1 and 2); a system for transmitting seafarers' earnings to their families is added (Standard A2.2, paragraphs 3 to 5); ³ the use of an easily accessible table of the shipboard working arrangements is added (Standard A2.3, paragraphs 10 and 11); and a reference to food and catering is added to the requirements relating to manning (Standard A2.7, paragraph 3). The MLC, 2006 incorporates the mechanism put in place by Recommendation No. 187 vis-à-vis the fixing of an international minimum wage. Therefore, according to Guideline B2.2.4, the basic pay or wages for a calendar month of service for an able seafarer should be no less than the amount periodically set by the Joint Maritime Commission or another body authorized by the Governing Body of the International Labour Office. Upon a decision of the Governing Body, the Director-General shall notify any revised amount to the Members

³ This updates the mechanism provided for in Paragraph 28 of the [Seafarers' Welfare Recommendation, 1987 \(No. 173\)](#).

of the Organization. Of note is that this notification concerns all member States and not only those that have ratified the MLC, 2006.⁴ Also of note is 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 in similar pursuits and ships of traditional build such as dhows and junks”.⁵

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

10. Convention No. 57 was adopted in 1936. It has received three ratifications and has never entered into force. It has been denounced by two member States.⁶
11. Convention No. 76 was adopted in 1946. It has received no ratifications and has therefore never entered into force.
12. Convention No. 93 was adopted in 1949. It has received five ratifications but has never entered into force.⁷
13. Convention No. 109 was adopted in 1958. It has received 15 ratifications, including two making use of the reservation clause. However, it has never entered into force. Ten member States subsequently denounced it.⁸
14. Convention No. 180 was adopted in 1996. It has received 21 ratifications. All 21 States parties to the Convention subsequently ratified the MLC, 2006, which led to the “automatic” denunciation of Convention No. 180. This Convention is now closed to any further ratifications.
15. Recommendation No. 49 was adopted in 1936. Recommendation No. 109 was adopted in 1958. The latter was replaced by Recommendation No. 187, adopted in 1996.

⁴ The most recent meeting of the Subcommittee on Wages of Seafarers of the Joint Maritime Commission took place in April 2016. At that meeting, it was confirmed that the minimum basic monthly pay would remain at US\$614 until a future meeting, which was scheduled for the first half of 2018. See the [final report](#) of that meeting.

⁵ Article II(4). The MLC, 2006 does not apply to warships or naval auxiliaries.

⁶ Of the three member States that have ratified Convention No. 57, two have now ratified the MLC, 2006. The United States is the only member State not to be bound by any other relevant ILO instrument on the subject.

⁷ Of the five member States to have ratified Convention No. 93, the Philippines has now ratified the MLC, 2006. Brazil and Iraq have ratified Convention No. 109, which revises Convention No. 93. Cuba and Uruguay are the only member States not to be bound by any other relevant and more up-to-date ILO instrument on the subject.

⁸ Of the 15 member States to have ratified Convention No. 109, ten have now ratified the MLC, 2006. Brazil, the former Yugoslav Republic of Macedonia, Guatemala, Iraq and Mexico are the only member States not to be bound by any other relevant and more up-to-date ILO instrument on the subject. With respect to the former Yugoslav Republic of Macedonia, the Committee of Experts has noted the Government’s indication that the country has no maritime fleet, no ships registered under its flag, and no legislation relating to the issues covered by the ILO maritime Conventions.

II. Evolution of the instruments: From adoption to 2018

A. Status

16. When the **Ventejol Working Party** began its work, it was noted that Conventions Nos 57, 76 and 93 and Recommendation No. 49 were “obsolete”, having been superseded by Convention No. 109 and Recommendation No. 109.⁹ However, the need to revise the minimum wage for seafarers led the Ventejol Working Party, in 1979, to classify these two instruments (Convention No. 109 and Recommendation No. 109) as “instruments to be revised”. The previous Conventions and Recommendations were classified as “other instruments”. This classification was confirmed in 1987.¹⁰
17. In the work of the **Cartier Working Party**, it became clear that none of the Conventions prior to Convention No. 180 had entered into force, and that the entry into force of Convention No. 180 would have the effect of closing them to any further ratifications.¹¹ The Joint Working Group recommended the withdrawal of Conventions Nos 57, 76 and 93. Convention No. 109 was revised by Convention No. 180, and ratification of the latter was therefore encouraged.¹² Following the work of the Cartier Working Party, the Governing Body decided that Conventions Nos 57, 76, 93 and 109 and Recommendation No. 49 were outdated instruments, Recommendation No. 109 had been replaced by Recommendation No. 187, and Convention No. 180 and Recommendation No. 187 were up-to-date instruments.

B. Application and consolidation

18. The [Merchant Shipping \(Minimum Standards\) Convention, 1976 \(No. 147\)](#), does not refer to any of the instruments concerning wages, hours of work and hours of rest, or manning.
19. The [Protocol of 1996 to the Merchant Shipping \(Minimum Standards\) Convention, 1976](#), contains a reference to Convention No. 180 in its Appendix (Part A). It specifies under Article 1 that “[e]ach Member which ratifies this Protocol shall extend the list of Conventions appearing in the Appendix to the principal Convention [Convention No. 147] to include the Conventions in Part A of the Supplementary Appendix and such Conventions listed in Part B of that Appendix as it accepts, if any, in accordance with Article 3 below”. It should nevertheless be noted that, following the denunciation resulting from the ratification of the MLC, 2006, by the States that had previously ratified this Protocol, it is no longer binding on any State.
20. The MLC, 2006 revised Conventions Nos 57, 76, 93, 109 and 180, and Recommendations Nos 49, 109 and 187. The content of Recommendation No. 187 was reproduced in the MLC, 2006, including its provisions relating to the procedure for international collective bargaining on the basic minimum wage for able seafarers within the Joint Maritime Commission. The fact that it is contained in a guideline of the MLC, 2006, which has a

⁹ See document [GB.194/PFA/12/5](#), Appendix I, p. 75 (working document of the Office, November 1974).

¹⁰ See *Official Bulletins*, Vol. LXII, 1979, Series A and Vol. LXX, 1987, Series A.

¹¹ See document [GB.277/LILS/WP/PRS/1/2](#).

¹² See document [GB.273/LILS/WP/PRS/4](#).

similar legal status to a Recommendation, means that this mechanism retains its universal reach and its import is not limited to the member States that have ratified the Convention. Consequently, Recommendation No. 187 can also be considered outdated.

C. Situation in relation to international labour standards

21. The Conventions relating to wages, hours of work and manning that were adopted by the ILO before 1996 achieved a very low level of ratification and none met the conditions required for entry into force.¹³ Convention No. 180 and Recommendation No. 187 were largely reproduced in the MLC, 2006.
22. At the same time, regarding manning and fatigue on board, the International Maritime Organization (IMO) adopted several instruments on maritime safety establishing rules that have been very broadly accepted and implemented by State and non-State actors from the maritime transport sector.
23. The 2010 Manila Amendments to the Seafarers' Training, Certification and Watchkeeping Convention (STCW) aligned IMO and ILO standards on a number of aspects of hours of work, without necessarily eliminating all differences.
24. The MLC, 2006 is the only relevant instrument concerning hours of work and wages. It should be noted that its requirements regarding the payment of wages, hours of work and hours of rest, and the manning of ships form part of the living and working conditions of seafarers that must be inspected and approved by the flag State. For ships subject to mandatory certification under the MLC, 2006, the need to comply with these requirements must be taken into account. The consolidation carried out in 2006 therefore makes the ILO protections truly universal in scope and increases their effectiveness. It should therefore be noted that the application of the MLC, 2006 in practice extends beyond the circle of States that have ratified it to date.¹⁴

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

25. In the context of the review to determine the status of these instruments, account should be taken of the following considerations, which are particularly relevant:
 - (1) Conventions Nos 57, 76, 93, 109 and 180 are not in force and have been revised by the MLC, 2006.
 - (2) Recommendation No. 109 has been replaced.

¹³ On this point, it is clear that the ILO's constituents set very restrictive conditions, which is undoubtedly the reason for this failure. For example, Article 27(2) of Convention No. 109 required, for entry into force, nine ratifications from Members that each had not less than 1 million gross register tons of shipping. Furthermore, the aggregate tonnage of shipping possessed at the time of registration by the Members whose ratifications were registered could not be not less than 15 million gross register tons.

¹⁴ Through the flag State and port State inspection mechanisms that it governs, and also in view of the "no more favourable treatment" clause that it contains (Article V(7) of the MLC, 2006).

(3) Recommendations Nos 49 and 187 are outdated.

IV. Possible action to consider with respect to these instruments

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

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| <ol style="list-style-type: none">1. To classify Conventions Nos 57, 76, 93, 109 and 180 and Recommendations Nos 49 and 187 as “outdated instruments” and propose their withdrawal.2. To recommend that the Governing Body take note of the juridical replacement of Recommendation No. 109 by Recommendation No. 187. |
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