

**Third meeting of the Special Tripartite Committee  
of the MLC, 2006**Geneva  
23–27 April 2018**Instruments relating to training and  
qualifications (seafarers)****Summary**

The maritime labour instruments under review include **two Conventions concerned with the training and qualifications of seafarers:**

- [Officers' Competency Certificates Convention, 1936 \(No. 53\)](#);
- [Certification of Able Seamen Convention, 1946 \(No. 74\)](#).

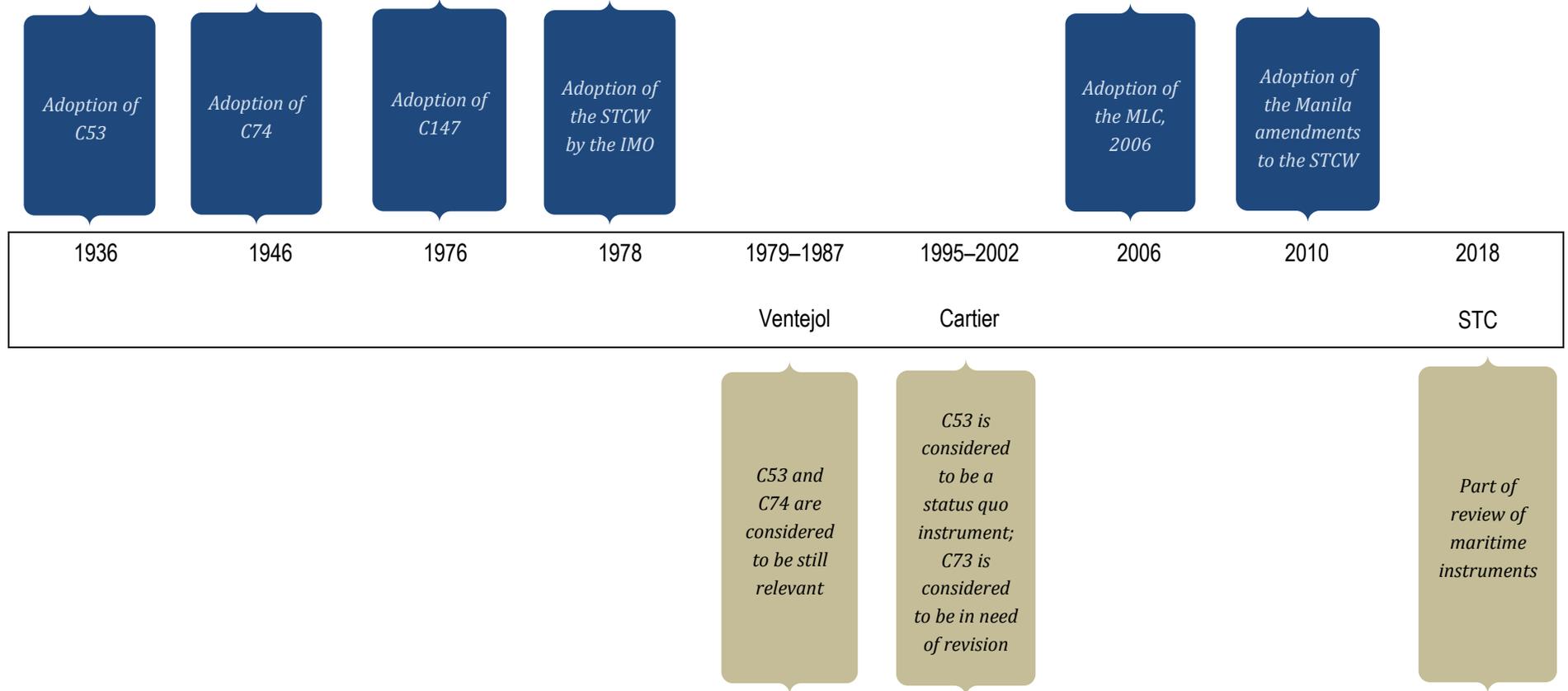
**Status of the instruments under review**

	Recommendation of the Cartier Working Party	Follow-up since the Cartier Working Party
Convention No. 53	Instrument with interim status	Revised by the MLC, 2006
Convention No. 74	Instrument to be revised	Revised by the MLC, 2006

**Possible action to consider**

1. To classify Convention No. 53 as "outdated" and propose its abrogation.
2. To classify Convention No. 74 as "outdated" and propose its abrogation.

## Instruments relating to the training and qualifications of seafarers – Chronology



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# I. Regulatory approach of the ILO with regard to the training and qualifications of seafarers

## A. Protection provided by ILO instruments

1. The [Officers' Competency Certificates Convention, 1936 \(No. 53\)](#), applies to all vessels engaged in maritime navigation, with certain exceptions.<sup>1</sup> It provides that “no person shall be engaged to perform or shall perform on board any vessel to which this Convention applies the duties of master or skipper, navigating officer in charge of a watch, chief engineer, or engineer officer in charge of a watch, unless he holds a certificate of competency to perform such duties, issued or approved by the public authority of the territory where the vessel is registered. Exceptions to the provisions of this Article may be made only in cases of force majeure.” National laws or regulations are responsible for prescribing the minimum age and professional experience that are required of candidates to obtain a competency certificate, and also the conditions for examining and monitoring the competency necessary for performing the duties corresponding to the certificates for which they are candidates. A system of inspections and penalties must also be established.
2. The [Certification of Able Seamen Convention, 1946 \(No. 74\)](#), complemented the ILO's standards relating to the training of seafarers by placing the focus on able seamen. It provides that “no person shall be engaged on any vessel as an able seaman unless he is a person who by national laws or regulations is deemed to be competent to perform any duty which may be required of a member of the crew serving in the deck department (other than an officer or leading or specialist rating) and unless he holds a certificate of competency as an able seaman granted in accordance with the provisions of the following articles.” National laws or regulations are responsible for prescribing the minimum age, experience and qualifications required, while establishing a minimum requirement (minimum age of 18 years, minimum period of service at sea of 36 months, with certain exceptions). The conditions relating to qualifications are established in connection with the International Convention for the Safety of Life at Sea (SOLAS, 1929 version). The matter of recognition of certificates of qualification is also addressed.
3. The [Maritime Labour Convention, 2006, as amended \(MLC, 2006\)](#), incorporated the content of the previous instruments of 1936 and 1946 under Regulation 1.3. It requires that, in order to work on a ship, seafarers must be trained, certified as competent or be otherwise qualified to perform their duties. The link with the International Maritime Organization (IMO) instruments is explicit, as training and certification in accordance with the regulations established by these instruments are considered to meet the requirements of the MLC, 2006. Training for personal safety must have been completed successfully by all seafarers authorized to work on board ship. Note should also be taken of the broader scope of the MLC, 2006 which provides protection for the seafarer, defined as “any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies”, and applies to “all ships, whether publicly or privately owned, ordinarily engaged

<sup>1</sup> Article 1 of Convention No. 53 indicates that the following are excluded: ships of war, Government vessels or vessels in the service of a public authority, which are not engaged in trade; and wooden ships of primitive build such as dhows and junks. National laws or regulations may grant exceptions or exemptions in respect of vessels of less than 200 tons gross registered tonnage.

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in commercial activities, other than ships engaged in fishing or in similar pursuits and ships of traditional build such as dhows and junks”.<sup>2</sup>

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

4. Convention No. 53 was adopted in 1936, and 37 ratifications were registered. The ratification of the MLC, 2006 has involved the denunciation of this instrument by 24 States to date.<sup>3</sup> Thirteen member States remain bound by this Convention.<sup>4</sup> There is one comment by the Committee of Experts on the Application of Conventions and Recommendations (CEACR) awaiting a reply concerning problems of application of the Convention.<sup>5</sup>
5. Convention No. 74 was adopted in 1946, and 29 ratifications were registered. The ratification of the MLC, 2006 has involved the denunciation of this instrument by 24 States to date. Five member States remain bound by this Convention.<sup>6</sup> Four comments by the CEACR are awaiting replies concerning problems of application of the Convention.<sup>7</sup>

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

<sup>3</sup> Pursuant to Article X of the MLC, 2006.

<sup>4</sup> The following States remain bound by Convention No. 53: Brazil, Cuba, Djibouti, Egypt, Israel, Libya, Mauritania, Mexico, Peru, Syrian Arab Republic, the former Yugoslav Republic of Macedonia, Turkey and the United States. With regard to the former Yugoslav Republic of Macedonia, the Committee of Experts on the Application of Conventions and Recommendations (CEACR) noted the Government’s indication that the country does not have a shipping fleet, does not have any vessel registered under its flag, and does not have any legislation relating to matters covered by the ILO maritime Conventions. The ratification instrument for the MLC, 2006 from the Syrian Arab Republic has been received by the Office but has not yet been registered (pending the declaration relating to social security). Furthermore, the Convention was declared applicable to the following non-metropolitan territories: American Samoa (United States), French Polynesia (France), French Southern and Antarctic Territories (France), Guam (United States), Puerto Rico (United States) and United States Virgin Islands (United States).

Of the 13 States that remain bound by Convention No. 53, only the former Yugoslav Republic of Macedonia is not party to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, as amended, probably for the same reasons indicated above.

<sup>5</sup> The comment concerns Mauritania (request to take the necessary steps to ensure that the exceptions to the provisions of the Convention are only permitted in the event of force majeure).

<sup>6</sup> The following States remain bound by Convention No. 74: Angola, Egypt, Guinea-Bissau, the former Yugoslav Republic of Macedonia, and the United States. With regard to the former Yugoslav Republic of Macedonia, see the information provided above. Furthermore, the Convention was declared applicable to the following non-metropolitan territories: Aruba (Netherlands), Caribbean Part of the Netherlands (Netherlands), Hong Kong (China), Macau (China), French Southern and Antarctic Territories (France), Guam (United States), Guernsey (United Kingdom), Jersey (United Kingdom), Puerto Rico (United States), Sint-Maarten (Netherlands), and United States Virgin Islands (United States).

Of the five States that remain bound by Convention No. 74, only the former Yugoslav Republic of Macedonia is not party to the STCW.

<sup>7</sup> The comments concern: Angola (request for information on the manner in which the new laws on that subject give effect to the provisions of the Convention); Macau (China) (noting that the minimum period of service at sea outlined in legislation for seafarers employed on vessels engaged in local navigation is in line with the requirements of the Convention, the CEACR requests information on the steps taken to ensure that those conditions apply to the certification of able seamen for seafarers

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## II. Evolution of the instruments: From adoption to 2018

### A. Status

6. During the review carried out by the **Ventejol Working Party**, the Governing Body classified Conventions Nos 53 and 74 under “existing instruments, the ratification and application of which should be promoted on a priority basis”.<sup>8</sup>
7. Following the work of the **Cartier Working Party**, the Governing Body decided that Convention No. 53 should be classified under “other instruments” (status quo) and that Convention No. 74 should be classified under “instruments in need of revision”.<sup>9</sup> With regard to the latter, two issues were identified: the low number of ratifications registered, and the emergence of an instrument with a more modern approach which is regularly updated (the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW). Member States stressed the risk of overlap. A review taking into account, or even seeking alignment with, the STCW seemed to be called for by the States consulted.

### B. Application and consolidation

8. Convention No. 53 (Articles 3 and 4) appear in the Appendix to the [Merchant Shipping \(Minimum Standards\) Convention, 1976 \(No. 147\)](#). This is not the case for Convention No. 74. Each Member which has ratified Convention No. 147 has undertaken to satisfy itself that its laws and regulations are substantially equivalent<sup>10</sup> to the Conventions or Articles of Conventions referred to in the Appendix to this Convention, in so far as the Member is not otherwise bound to give effect to the Conventions in question. In this regard, of the 14 member States that remain bound by Convention No. 147, only five have ratified Convention No. 53. Nine States are therefore required to have laws and regulations that are substantially equivalent to Convention No. 53, in accordance with Article 2(a) of Convention No. 147.<sup>11</sup>
9. Conventions Nos 53 and 74 were revised by the MLC, 2006. These two Conventions are closed to ratification.<sup>12</sup> Only a limited number of elements of these instruments were retained in the MLC, 2006.<sup>13</sup>

employed on vessels not engaged in local navigation); Guinea-Bissau (request for information on the way in which the revised Labour Act gives effect to the Convention); and Jersey (United Kingdom) (request for clarification regarding the applicable legislation).

<sup>8</sup> See *Official Bulletins* Vol. LXII, Series A, 1979 and Vol. LXX, Series A, 1987.

<sup>9</sup> See [GB.277/LILS/WP/PRS/1/1](#).

<sup>10</sup> 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, pp. 46 ff.

<sup>11</sup> Namely, Azerbaijan, Costa Rica, Dominica, Iceland, Iraq, Kyrgyzstan, Tajikistan, Trinidad and Tobago and Ukraine.

<sup>12</sup> See the *Introductory Note* prepared for the third meeting of the Special Tripartite Committee (STC).

<sup>13</sup> See Regulation 1.3 of the MLC, 2006.

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## C. Situation in relation to international labour standards

10. Matters relating to training and qualifications are covered under Regulation 1.3 of the MLC, 2006.<sup>14</sup> It specifically recognizes that training and certification in accordance with the provisions of the STCW are considered to meet the requirements of the MLC, 2006, and are therefore acceptable. It appears that when the MLC, 2006 was being drafted, the decision was made to reduce the role of the ILO and to authorize the IMO to establish regulations that would be internationally applicable in that regard. That decision was made following a communication from the IMO, which stated that it was ready to assume the responsibility for establishing provisions relating to training and the issuing of certificates for able seamen, if the ILO was willing to confer that responsibility upon it. That transfer was accepted, but it was agreed that it was necessary to include general provisions on training in the MLC, 2006, particularly in order to justify closing Conventions Nos 53 and 74 to ratification, and also to ensure that any person not covered by the provisions of the STCW Convention would be trained or hold a qualification. It is important to note that this transfer of duties does not extend to training for ships' cooks, which remains the responsibility of the ILO.<sup>15</sup>
11. Given that the amendments to the STCW were being drafted at the same time as the MLC, 2006, it was decided that a transitional provision should be added to take into account Members that had ratified Convention No. 74. Indeed, since the ratification of the MLC, 2006 involves the denunciation of revised Conventions, that would reduce existing protection during the period prior to the adoption and entry into force of appropriate arrangements under IMO instruments.<sup>16</sup> This led to the inclusion of paragraph 4 of Regulation 1.3:
4. Any Member which, at the time of its ratification of this Convention, was bound by the Certification of Able Seamen Convention, 1946 (No. 74), shall continue to carry out the obligations under that Convention unless and until mandatory provisions covering its subject matter have been adopted by the International Maritime Organization and entered into force, or until five years have elapsed since the entry into force of this Convention in accordance with paragraph 3 of Article VIII, whichever date is earlier.<sup>17</sup>
12. This transitional provision is no longer applicable since the entry into force of the Manila amendments to the STCW on 1 January 2012.

<sup>14</sup> Regulation 1.3 provides as follows: "1. Seafarers shall not work on a ship unless they are trained or certified as competent or otherwise qualified to perform their duties. 2. Seafarers shall not be permitted to work on a ship unless they have successfully completed training for personal safety on board ship. 3. Training and certification in accordance with the mandatory instruments adopted by the International Maritime Organization shall be considered as meeting the requirements of paragraphs 1 and 2 of this Regulation. 4. Any Member which, at the time of its ratification of this Convention, was bound by the Certification of Able Seamen Convention, 1946 (No. 74), shall continue to carry out the obligations under that Convention unless and until mandatory provisions covering its subject matter have been adopted by the International Maritime Organization and entered into force, or until five years have elapsed since the entry into force of this Convention in accordance with paragraph 3 of Article VIII, whichever date is earlier."

<sup>15</sup> ILO: *Adoption of an instrument to consolidate maritime labour standards*, Report I(1A), International Labour Conference, 94th Session (Maritime), 2006, p.33.

<sup>16</sup> *ibid.*

<sup>17</sup> The provisions of paragraph 4 of Regulation 1.3 are no longer applicable (see the information given in the following paragraph).

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13. One of the recurring issues concerning the application of the Conventions relating to maritime labour is their possible extension to categories of workers other than seafarers as defined by the MLC, 2006. In this regard, Conventions Nos 53 and 74, do not explicitly exclude fishermen from their scope of application. A number of national legislative systems have established a common framework for fishers and seafarers on this basis. It should be recalled that the possible abrogation or withdrawal of a Convention does not affect any national legislation that has been adopted to give effect to it, or in general prevent a State from continuing to apply the instrument if it wishes to do so.<sup>18</sup> It is also important to emphasize here that the issue of training for fishermen is covered by the Fishermen's Competency Certificates Convention, 1966 (No. 125), which has not been revised by the Work in Fishing Convention, 2007 (No. 188).

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

14. In the context of the review to determine the status of Conventions Nos 53 and 74 relating to the training and qualifications of seafarers, account should be taken of the following considerations, which are particularly relevant:
- (1) Conventions Nos 53 and 74 appear to be outdated in terms of current internationally accepted regulations, which derive from the instruments adopted under the auspices of the IMO (STCW), to which the MLC, 2006 refers.
  - (2) However, a limited number of States that have not ratified the MLC, 2006 remain bound by these instruments. In particular, they have been declared applicable to several non-metropolitan territories. Convention No. 53 is an instrument incorporated into the "system" of Convention No. 147 and, accordingly, remains relevant for nine States.
  - (3) During the drafting of the MLC, 2006, the ILO accepted to transfer to the IMO the responsibility for provisions relating to training and certification for able seamen, with the exception of ships' cooks. Furthermore, with the exception of the former Yugoslav Republic of Macedonia, all the States that remain bound by Conventions Nos 53 and 74 have already ratified the STCW Convention.

### IV. Possible action to consider with respect to the instruments

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

1. To classify Convention No. 53 as "outdated" and propose its abrogation.
2. To classify Convention No. 74 as "outdated" and propose its abrogation.

<sup>18</sup> ILO: *Abrogation of four and withdrawal of two international labour Conventions*, Report VII(2), International Labour Conference, 106th Session, Geneva, 2017, p. 5.