



MINISTRY OF
INFRASTRUCTURE
OF UKRAINE



INTERNATIONAL
MARITIME
ORGANIZATION

Law-making process and implementation of IMO conventions in the Ukrainian legislation (general overview)



Legislative system in Ukraine

The legal system of Ukraine by its nature belongs to *the Civil law system*.

This means that:

is based on a *pandect system* (main legislation sources are codified laws);

it has a well *structured hierarchy of normative acts*.



Legislative system in Ukraine

Legislative system consists of the following normative – legal acts:

Constitution

International treaties

Laws and Codified laws

Acts of the President of Ukraine

Acts of the Cabinet of Ministers of Ukraine

Normative legal acts of central executive authorities of Ukraine



The Constitution of Ukraine

the **principal source** of Ukrainian law;

the provisions of the Constitution of Ukraine are norms of a **direct effect**;

laws and other normative legal acts should **conform to it**.



International treaties of Ukraine

Article 9 of the Constitution of Ukraine:

“International treaties in force, consented by the Verkhovna Rada of Ukraine as binding, shall be an integral part of the national legislation of Ukraine. Conclusion of international treaties, contravening the Constitution of Ukraine, shall be possible only after introducing relevant amendments to the Constitution of Ukraine.”



VIENNA CONVENTION ON THE LAW OF TREATIES SIGNED AT VIENNA on May 23, 1969

Article 27 Internal law and observance of treaties

A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. This rule is without prejudice to article 46.



International treaties of Ukraine

- ✓ Duly ratified international treaties cannot conflict with the provisions of the Constitution of Ukraine.
- ✓ In case of conflict with other legal acts the provisions of international treaties will prevail.



Laws and Codified laws

Codified Laws

As Ukrainian legal system is code-based there are a number of codified laws in the main areas of national legislation.

Laws

Only the Verkhovna Rada (Parliament) is entitled to issue the legal acts in the form of laws.



Secondary Legislation

Different **normative acts** in the form of decrees, resolutions, orders, etc, issued by the President, the Cabinet of Ministers, the Ministries and other state agencies **are adopted on the basis and in realization of the general provisions of laws.**



Ministry of Infrastructure of Ukraine

The Ministry of Infrastructure of Ukraine:

takes part in activities of international organizations, develops and concludes international agreements, and **performs functions of the Maritime Administration of Ukraine***

in accordance with the legislation, the Ministry of Infrastructure, in order to organize its activities, **facilitates the fulfillment of international agreements of Ukraine**

takes measures, within its authority, on the implementation of the international agreements provisions, to which Ukraine is a Party, in the national legislation



Ratification of /accession to the IMO Treaty

- ✓ After adoption of the treaty by IMO, the Ministry, according to the Law of Ukraine *“On the international treaties of Ukraine”* takes measures in order to ratify/access to the Convention by Ukraine (in order to become a Party to the relevant Convention).
- ✓ The Ministry sends the proposition with the necessary documents (as described in the Law of Ukraine *“On the international treaties of Ukraine”*) to the Ministry of Foreign Affairs, which in its turn sends this proposition to the President of Ukraine



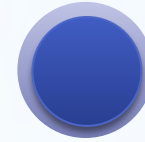
Implementation mechanism



*Ratification of
/accession to
international
treaty*



*Implementation
of international
treaty's
requirements into
primary law
+Adoption of
secondary law*



*Control and
surveillance over
compliance with
requirements of
national
legislation*



Implementation mechanism

- ✓ an **international treaty ratified** by the Ukraine has the priority over national law and **can be applied directly** (STEP I)
- ✓ issuance of separate law in **exceptional cases** (where it follows from international treaty provisions) (STEP II)



Implementation mechanism

1 Ratification of /accession to international treaty

Stage 1. Approval with involved central executive authorities of Ukraine the expediency of ratification of international treaty

Stage 2. Development of the draft law on ratification of/accession to the international treaty, including translation full text of the treaty into Ukrainian language

Stage 3. Approval of the draft law with the Ministry of Foreign Affairs of Ukraine and other interested central executive authorities of Ukraine

Stage 4. Approval of the draft law with the Ministry of Justice of Ukraine



Implementation mechanism

1 Ratification of /accession to international treaty

Stage 5. Introduction of the draft law to the Cabinet of Ministers of Ukraine (Government) for taking by the Government a decision on introducing the draft law to the Verkhovna Rada of Ukraine (Parliament).

Stage 6. Consideration of the draft law in the Parliament and adoption of the draft law.

Stage 7. After signing of the law it is published it in the official periodicals, legal base and website determined by Ukraine legislation.



Implementation mechanism

2 Implementation of international treaty's requirements into primary law

Stage 1. The development of the concept of the draft law;

Stage 2. Preparation of a draft law and analysis of the regulatory impact of the draft law;

Stage 3. Approval of the draft law with the interested central executive authorities of Ukraine. Publication of the draft law on the official web-site of the developer for public discussion);

Stage 4. Approval of the draft law with the Ministry of Justice of Ukraine



Implementation mechanism

2

Implementation of international treaty's requirements into primary law

Stage 5. Introduction of the draft law to the Cabinet of Ministers of Ukraine (Government) for taking by the Government a decision on introducing the draft law to the Verkhovna Rada of Ukraine (Parliament).

Stage 6. Consideration of the draft law in the Verkhovna Rada of Ukraine (Parliament) and adoption of the draft law.

Stage 7. After signing of the law it is published in the official periodicals, legal base and website determined by Ukraine legislation

Implementation mechanism

2

Adoption of secondary law

Stage 1. The development of the normative legal act project by the Ministry

Stage 2. Preparation of the analysis of the regulatory impact of the normative legal act project

Stage 3. Approval of the normative legal act project with interested central executive authorities of Ukraine. Publication of the normative legal act project on the official web-site of the developer for public discussion

Implementation mechanism

2

Adoption of secondary law

Stage 4. The signing of the order by the Minister*

Stage 5. The order should be accepted by the Ministry of Justice of Ukraine

Stage 6. Registration of order in the Ministry of Justice of Ukraine.
After the registration the order included in the Unified State Register of Legal Acts of Ukraine

Stage 7. Publication of order in the official periodicals, legal base and website determined by Ukraine legislation



Law of Ukraine “On international treaties of Ukraine”

Decree of the Cabinet of Ministers of Ukraine of 17.03. 2006, №353, “On approval of the Procedure of the official translation of multi-lateral international treaties of Ukraine into Ukrainian”

Decree of the Cabinet of Ministers of Ukraine of 13.09.2002 № 1371 "On Procedures for Participation of Central Executive Authorities in the Activities of International Organizations, of which Ukraine is a Member“



Implementation of the amendments to the treaty

According to the national legislation of Ukraine:

The **international treaty** wherein the Ukraine is one of the parties **may be amendment** by an agreement of its parties in accordance with the conditions of the treaty and international law

An amendment to the treaty shall enter into force in a manner within the terms provided for by the treaty or otherwise agreed between the contracting parties

The **Ministry of Justice of Ukraine prepares the conclusions about the internal procedures** which are necessary for entry into force of this amendments for Ukraine



Ratification of/accession to the IMO treaties by Ukraine

the International Convention for the Safety of Life at Sea, 1974, as amended (*SOLAS 1974*);

the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended (*MARPOL 73/78*);

the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (*STCW 1978*);

the International Convention on Load Lines, 1966 (*LL 1966*);

the International Convention on Tonnage Measurement of Ships, 1969 (*TONNAGE 1969*);

the Convention on the International Regulations for Preventing Collisions at Sea, 1972, as amended (*COLREG 1972*)

Treaty	Ratification type	Date of treaty entry into force	Date of entry in force in country
IMO CONVENTION	Acceptance	1958-03-17	1994-03-28
AFS 2001	Accession	2008-09-17	2017-09-15
CLC PROT 1992	Accession	1996-05-30	2008-11-29
COLREG 1972	Accession	1977-07-15	1993-03-05
CSC 1972	Ratification	1977-09-06	1977-09-06
FAL 1965	Acceptance	1967-03-05	1993-12-24
IMSO C 1976	Acceptance	1979-07-16	1979-07-16
INMARSAT OA 1976	Signature	1979-07-16	1979-07-16
IMSO AMEND-94	Acceptance		
INTERVENTION 1969	Succession	1975-05-06	1993-12-17
LC 1972	Approval	1975-08-30	1976-03-06
LL 1966	Accession	1968-07-21	1994-01-25
MARPOL 1973/1978	Accession	1983-10-02	1994-01-25
MARPOL ANNEX III	Acceptance	1992-07-01	1994-01-25
MARPOL ANNEX IV	Acceptance	2003-09-27	2003-09-27
MARPOL ANNEX V	Acceptance	1988-12-31	1994-01-25
MARPOL PROT 1997	Accession	2005-05-19	2010-01-29
PAL 1974	Accession	1987-04-28	1995-02-09
PAL PROT 1976	Accession	1989-04-30	1995-02-09
SALVAGE 1989	Accession	1996-07-14	2018-06-15
SAR 1979	Accession	1985-06-22	1993-04-04
SOLAS 1974	Signature	1980-05-25	1980-05-25
SOLAS PROT 1978	Accession	1981-05-01	1992-10-16
SOLAS PROT 1988	Accession	2000-02-03	2006-01-07
STCW 1978	Accession	1984-04-28	1997-04-07
STCW-F 1995	Accession	2012-09-29	2012-09-29
SUA 1988	Ratification	1992-03-01	1994-07-20
SUA PROT 1988	Ratification	1992-03-01	1994-07-20
TONNAGE 1969	Accession	1982-07-18	1994-01-25



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THANK YOU FOR YOUR ATTENTION