Ivane Abashidze[1]

The Mandatory Nature of International Maritime Organization Conventions and the Principle of Tacit Acceptance in International Law

Abstract

International maritime and shipping law heavily relies on legal instruments developed to regulate the global maritime industry, primarily through conventions and resolutions adopted by the International Maritime Organization (IMO). Their binding nature is crucial for maintaining maritime order, ensuring safety at sea, environmental protection, and promoting interstate cooperation. This article critically analyses the "Tacit Acceptance" procedure—a key mechanism within the IMO—designed to address the dynamic needs of global maritime governance. Under this procedure, treaty amendments automatically enter into force unless explicitly rejected by member States within a defined period. The paper explores its relevance and growing importance in modern maritime transport.

Key words: *IMO, tacit acceptance, ratification, International treaty, safety at sea*

Introduction

International maritime and shipping law[2] largely relies on legal frameworks established to govern the global maritime industry, often embodied in the conventions of the International Maritime Organization (hereinafter "IMO"[3]) or resolutions of its governing bodies. Their binding nature is crucial for maintaining international maritime order, ensuring maritime safety, guaranteeing a robust marine environmental protection system, and promoting and facilitating interstate cooperation. In this context, a critical analysis of the so-called "Tacit Acceptance" procedure, established within the IMO, becomes highly significant. This mechanism is specifically designed to meet the constantly evolving and multidimensional needs of global maritime governance.

Under the tacit acceptance rule, amendments to conventions are automatically adopted unless all member states explicitly reject them within a timeframe stipulated by the convention itself. This paper examines how mandatory maritime treaties relate to the tacit acceptance principle and highlights its growing importance in the ever-evolving field of maritime transport.

---

[1] PhD Candidate, Faculty of Law, Ivane Javakhishvili Tbilisi State University; Master of International Maritime Law. Email: ivaneabashidze@gmail.com.

[2] **Admiralty or Shipping Law** regulates private maritime relations, including matters such as contracts for the carriage of goods by sea and disputes arising from maritime commerce. Primarily, it concerns the rights and obligations of private individuals engaged in maritime activities. See *Tetley, W.*, International Maritime and Admiralty Law,Yvon Blais, 2002, 1In contrast, **the Law of the Sea** is a branch of public international law that establishes the legal framework for the use of seas and oceans by states and their jurisdiction over maritime zones, such as the territorial sea, exclusive economic zones (EEZ), and the high seas. It is primarily codified in the United Nations Convention on the Law of the Sea (UNCLOS), which regulates state responsibilities in areas such as maritime resource management and environmental protection. See *Churchill, R. and Lowe*, *A.*, The Law of the Sea,Manchester University Press, 1999, 1-3.

[3] "About IMO," International Maritime Organization, <https://www.imo.org/en/About/Pages/Default.aspx> [27.01.2025]

This study analyzes how international maritime treaties become legally binding for states and how the tacit acceptance principle accelerates the entry into force of treaty amendments. The research elucidates the principle's impact on the sustainability of legal systems, maritime safety, state sovereignty, and the effectiveness of maritime governance in the context of climate change, new technologies, and increased maritime navigation[4]. This study also benefits Georgia's maritime transport sector and the industry in general. Georgia aims to meet the standards of the European Union and several international organizations as part of its broader integration goals, including its aspirations for EU membership.
This research contributes to the academic discourse on international law, emphasizing the interplay between international treaty law and innovative mechanisms like tacit acceptance and their recognition as binding obligations.
The findings aim to inform policymakers and maritime practitioners, particularly in Georgia, which seeks to harmonize domestic practices with international obligations effectively.

Key questions:

- How does the tacit acceptance principle operate within the framework of international maritime law?
- What legal impact does the tacit acceptance principle have on the binding nature of international treaties?
- To what extent does this principle balance state sovereignty with the need for collective action in maritime governance?

Chapter 1: Theoretical foundations of international maritime conventions and their binding nature

1.1. The Origin of Maritime Safety

Safety at sea has extremely deep roots and has existed since humans invented mechanisms for waterborne movement. It has evolved over centuries alongside the development of maritime trade.
Primitive waterproof floating objects, due to their stable nature (maintaining stability on the water's surface), can be regarded as the first step toward the development of maritime safety technology, enabling humans to use the sea for specific purposes such as trade, warfare, and more. However, from ancient times, navigation at sea has always been synonymous with "maritime perils"[5].
The development of maritime safety standards has always been influenced by the consequences of accidents and catastrophes, shaping human understanding of the sea and the

[4] **Maritime navigation** encompasses the process of vessel movement and control across oceans, seas, rivers, and ports, including route planning, maneuvering, the use of navigational instruments, and compliance with maritime legal regulations. Its primary goal is to ensure the safe and efficient movement of ships. See: *Reeds, A. J.*, Reeds Nautical Almanac 2023, Bloomsbury Publishing, 2023, p. 12.
[5] Boisson P. Safety at Sea, Policies Regulations & International Law, Edition Bureau Veritas, Paris, 1999, p. 45

need to devise new standards and regulations reflecting the safety of life, cargo[6], and ships[7]. It can be said that in ancient times, due to the relatively primitive nature of the floating devices used in navigation, the severity of catastrophes was comparatively minor. However, this was an extremely dangerous and vulnerable mode of transport[8]. Accordingly, since antiquity, maritime safety—regardless of its official recognition as a term—has not been distinct from maritime security, and its understanding was broader, encompassing piracy as a component of navigation or maritime safety.

The most authoritative ancient source on maritime safety, Lex Rhodia, recognized that "periculum maris"[9] is common to all who engage in maritime transport. Thus, provisions related to general average and mandatory contributions in cases of "avaria" (average)[10] were known even in ancient Roman law[11].

There is no internationally recognized definition of the terms "maritime security" and "maritime safety." However, "maritime security" differs from "maritime safety." "Maritime security" refers to a set of preventive and responsive measures to protect the maritime domain from threats and illegal activities. "Maritime safety" represents a set of preventive and responsive measures aimed at protecting the maritime domain from accidental or natural hazards, damage, environmental harm, risks, or losses, and mitigating their impact.[12]

Since 1980, the IMO has addressed maritime safety and security issues within the framework of the Maritime Safety Committee[13] (hereinafter "MSC"). In this context, for the purposes of our research, a distinction has been made between maritime safety and security. Maritime safety is influenced by many actors, a summary of which is provided in Figure 1.

---

[6] *Ibid.*

[7] This work does not address warships or related matters. The definition of warships is provided in Article 29 of the 1982 United Nations Convention on the Law of the Sea. When the terms "ship" or "vessel" are used, they refer exclusively to commercial ships.

[8] *Boisson P.*; op. cit., p.45.

[9] dangers of the sea.

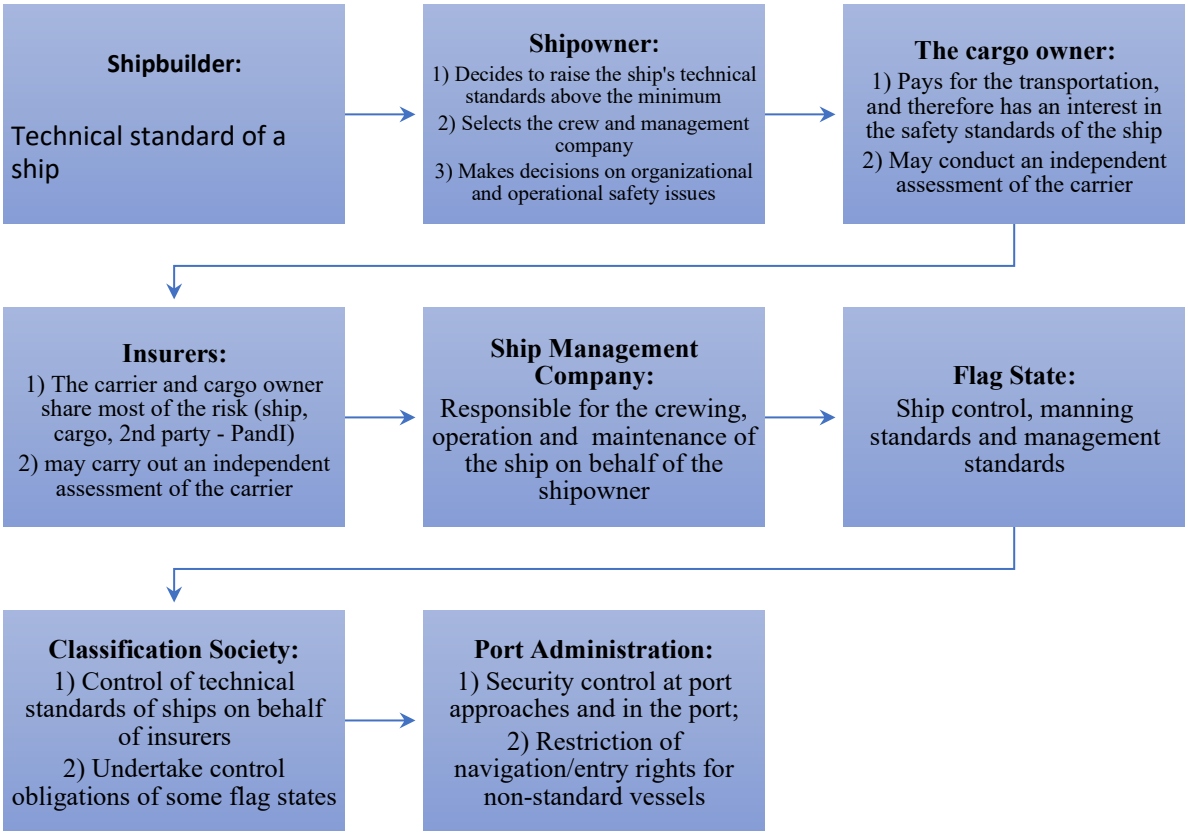
[10] *Boisson P.*; op. cit., p.123

[11] This principle is reflected in Article 152, Part 2 of the Maritime Code of Georgia:
"2. The consignee is obliged to pay the freight upon receipt of the cargo (unless it has been paid earlier), the demurrage fee (if applicable), and cargo-related expenses. In the event of a general average, the consignee must pay the general average contribution or provide appropriate security."

[12] *Feldt L., Dr. Roell P., Thiele R. D.*; ISPSW Strategy Series: Focus on Defense and International Security Maritime Security – Perspectives for a Comprehensive Approach, Issue No. 222.

[13] The **Maritime Safety Committee (MSC)** of the **International Maritime Organization (IMO)** is the organization's highest technical body responsible for developing and updating measures related to ship safety. Decisions adopted by the MSC cover areas such as navigational safety, fire protection systems, emergency response management, and technical improvements to international conventions. See: "Maritime Safety Committee (MSC)," International Maritime Organization, available at: <https://www.imo.org/en/OurWork/MSC/Pages/Default.aspx>. [27.01.2025]

Figure 1. Actors in the field of maritime security.[14]



In the aforementioned context, the key issue is not to identify actors and their responsibilities, but to determine who influences what and what factors determine their role in enhancing maritime security.[15]

All international, regional or local maritime actors, whether based on the 1982 United Nations Convention on the Law of the Sea or deriving from the principles of customary law reflected in this fundamental treaty, must ensure or, in critical situations, enforce compliance with safety rules within the norms and frameworks set out therein.

1.2. The Responsibility of the Flag State in International Law

To determine the responsibility of the flag State for controlling its vessels, it is vital to analyze the issue of jurisdiction over ships and who exercises it under what circumstances. Ships themselves cannot bear responsibility under international law, as they are not subjects of international law. Instead, the flag State is obligated to comply with international law. Thus, ships derive their rights and obligations from the States whose flags they fly.

[14] *Kristiansen S.*; Maritime Transportation Safety Management and Risk Analyses, Elsevier Butterworth-Heinemann, Oxford, 2005, 4.
[15] Ibid.

1.2.1. Nationality of Ships

Traditionally, jurisdiction over a ship is tied to its flag State[16]. Article 91(1) of the 1982 United Nations Convention on the Law of the Sea (UNCLOS)[17] stipulates:
"[E]very State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly."
Thus, the right of States to grant their flag to a ship is unconditional. The only limitation imposed by the 1982 Convention is that "there must exist a genuine link between the State and the ship."[18]
Unfortunately, there is no definitive, globally accepted definition of a "genuine link." Neither the 1958 High Seas Convention[19], the 1982 Convention, nor the United Nations Convention on Conditions for Registration of Ships[20] effectively defines what constitutes a genuine link. This current ambiguous situation has, in fact, been affirmed by the International Tribunal for the Law of the Sea (ITLOS).[21][22]
Moreover, it is not specified what consequences arise if a genuine link cannot be established. In summary, attempts to define the "genuine link" have not been successful.

---

[16] *Dr. Özcayir Z. O.;* Flag State Implementation, Journal of International Maritime Law, Vol. 9, Issue 3, 2003, 297.
[17] UNCLOS has been ratified by 170 states. Among its contracting parties are 164 United Nations member states, a UN observer state (Palestine), the European Union, the Cook Islands, and Niue. One of the most significant states that has neither signed nor ratified the convention is a permanent member of the UN Security Council—the United States. See: <https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&clang=_en>.
[18] Article 91(1) of the 1982 Convention (UNCLOS).
[19] The treaty was signed 29 April 1958 and entered into force 30 September 1962, <http://legal.un.org/ilc/texts/instruments/english/conventions/8_1_1958_high_seas.pdf>
[20] The **United Nations Convention on Conditions for Registration of Ships**, opened for signature on 1 May 1986, has not yet entered into force ("Registration Convention"). While the convention would undoubtedly enhance flag state control, its entry into force remains doubtful. Notably, **Georgia ratified this convention in 1995**. See: <https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XII-7&chapter=12&lang=en>.
[21] Meeting Report of the Expert Workshop on Flag State Responsibilities: Assessing Performance and Taking Action, 25-28 March 2008, Part 3.1, February 2009, Fisheries and Oceans Canada <http://www.dfo-mpo.gc.ca/overfishing-surpeche/documents/flag-State-eng.htm>
[22] In the Saint Vincent and Grenadines v. Guinea The **M/V "Saiga" (No. 2)** [1999]ICGJ 335, ITLOS. ITLOS determined that the concept of a genuine link between the flag state and the ship, as required by Article 91 of UNCLOS, aims to ensure the effective jurisdiction and control of the flag state. However, the tribunal did not question the ship's right to fly the flag or its nationality. The tribunal emphasized that the genuine link does not affect the authenticity of the ship's registration. See: Saint Vincent and Grenadines v. Guinea The M/V "Saiga" (No. 2) [1999]ICGJ 335, ITLOS, 68–71.
In the Panama v. Guinea-Bissau, The **M/V „Virginia G“** [2014] ICGJ452, ITLOS. ITLOS reiterated that the requirement for a genuine link primarily concerns the flag state's functional obligation to exercise effective jurisdiction and control over its vessels. The tribunal concluded that the absence of such a link does not give other states the right to deny the ship's nationality or interfere with its rights. See: Panama v. Guinea-Bissau, The M/V „Virginia G“ [2014] ICGJ452, ITLOS. 108–112.
These cases clearly demonstrate that the genuine link represents a regulatory obligation, rather than a basis to challenge the ship's nationality or the rights associated with the flag.

Consequently, global efforts have focused more on defining and enforcing technical requirements established by the flag State.

2.3. Exclusive Jurisdiction of the Flag State

The nationality of a ship becomes even more significant when considering the concept of "exclusive jurisdiction of the flag State." Article 92(1) of the 1982 Convention establishes that flag States have exclusive jurisdiction[23] over their ships (except in cases expressly provided for in international treaties or the 1982 Convention itself). "Jurisdiction" in the 1982 Convention refers to "competence" or "authority," which may be exercised by a state's legislative body (legislative jurisdiction), executive bodies (executive jurisdiction), or courts (judicial jurisdiction)[24].

It appears established that if a flag State has exclusive jurisdiction over its ships, it must also exercise that jurisdiction to enforce internationally binding rules to which it is subject. The 1958 High Seas Convention, in Article 5(1), provides that "each State shall effectively exercise its jurisdiction and control in administrative, technical, and social matters over ships flying its flag."

Despite the decision to leave the primary enforcement responsibility to the flag State, the 1982 Convention includes a provision that seems to signal dissatisfaction with many flag States. Article 228(1) of the 1982 Convention states that if a flag State "has repeatedly disregarded its obligation to effectively enforce applicable international rules and standards with respect to violations committed by its ships," a port or coastal State should not suspend its legal proceedings against the ship.[25]

2.4. Development of Flag State Responsibility and Maritime Safety in the Context of the 1982 Convention, International, and Supranational Organizations

Maritime safety is undoubtedly one of the primary concerns of the 1982 Convention in a much broader sense, and it accordingly seeks to emphasize the necessity for flag States to effectively exercise jurisdiction over their ships.

The 1982 Convention addresses flag State duties in the areas of safety, as well as pollution prevention and marine environment protection. It outlines flag State obligations in greater detail than previous conventions, particularly the High Seas Convention. Above all, Article 94(1) mandates that every State "shall effectively exercise its jurisdiction and control in administrative, technical, and social matters over ships flying its flag." However, the 1982 Convention goes further, specifying in subsequent paragraphs of Article 94 that flag States are obliged to:

- Conduct regular inspections regarding the seaworthiness of ships,

[23] Exceptionally, international treaties, whether bilateral or multilateral, may provide for concurrent jurisdiction in given circumstances. See*: Nordquist M. H. et al (eds)*; United Nations Convention on the Law of the Sea 1982 – A Commentary, Martinus Nijhoff Publishers, The Hague, 1995, Volume III, 126.

[24] *Sohn L.B., Noyes J. E.* Cases and Materials on the Law of the Sea, Transnational Publishers, New York, 2004, 157.

[25] *Anderson D., Nijhoff M.*; Modern Law of the Sea: Selected Essays, Martinus Nijhoff publishers, Boston, 2008, 256.

- Ensure the appropriate qualifications of crews,
- Conduct proper investigations into maritime incidents/accidents,
- Maintain a register of ships,
- Take measures to ensure safety at sea concerning ship construction, equipment, and seaworthiness,
- Ensure the safe manning of ships,
- Provide adequate labor conditions,
- Prevent collisions by establishing maritime signals and traffic rules.[26]

Similarly, Article 217 of the 1982 Convention establishes the flag State's obligation to effectively enforce international rules, standards, and regulations, regardless of where a violation occurs. However, a coastal State cannot exercise jurisdiction over a foreign ship that has caused pollution outside the territorial jurisdiction of any State. Thus, Article 218 of the 1982 Convention includes port State jurisdiction to address this gap.[27]

In recent years, the scope of responsibilities of maritime administrations has significantly expanded, partly through new international conventions developed primarily by the IMO, but also by the International Labour Organization (hereinafter "ILO")[28], and partly through the development of technical standards in the shipping industry. To adequately meet these demands, maritime administrations of member States shall review their internal structures to promote maritime safety standards and environmentally friendly ships. The European Union has also developed supporting legislation in this regard.[29]

To measure the effective implementation of the aforementioned standards, IMO member States have developed an audit regime to assess how individual member States fulfill their obligations arising from various IMO instruments. This audit regime is based on the IMO Code for the Implementation of Mandatory IMO Instruments[30]. Initially voluntary, this regime became mandatory as of January 1, 2016, through the implementation of the IMO Member State Audit Scheme (IMSAS), based on IMO Resolution A.1070(28)[31].

---

[26] **Article 94, Paragraph 1** is derived from the final part of Article 5(1) and Paragraphs 3 and 5 of Article 10 of the **Convention on the High Seas**. However, the other paragraphs of **Article 94** do not have corresponding provisions in the **Convention on the High Seas** and, as such, represent an innovation. See: *Sohn L. B. , Noyes J. E.* op. cit., p. 148.

[27] *Dr.Özcayir Z. O.*; Flag State Implementation, op. cit., 298.

[28] International Labour Organization (ILO), "About the ILO," International Labour Organization. <https://www.ilo.org/global/about-the-ilo/lang--en/index.htm>. [03.02.2025]

[29] European Commission, "Directive 2009/21/EC of the European Parliament and of the Council of 23 April 2009 on Compliance with Flag State Requirements," Official Journal of the European Union, L 131/132, 28 May 2009, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32009L0021>.

[30] The Code for the Implementation of Mandatory IMO Instruments, 2011 (IMO Res. A.1054(27)) establishes the obligations for IMO Member States to ensure effective implementation and compliance with IMO instruments. See IMO, Resolution A.1054(27), 2011, available at: <https://www.imo.org>.

[31] The IMO Member States transitioned from a voluntary audit regime (VIMSAS) to the mandatory IMO Member State Audit Scheme (IMSAS) on January 1, 2016. See IMO, Resolution A.1067(28), "Framework and Procedures for the IMO Member State Audit Scheme," 2013, available at: <https://www.imo.org>.

The European Union, through Directive 2009/16/EC on port State control[32], supports the indirect audit of flag States in line with the requirements of the IMSAS audit scheme, while also establishing a port State control regime[33] as an additional criterion for evaluating flag State performance. Additionally, Directive 2009/21/EC[34] on compliance with flag State requirements obliges EU member States to adhere to the IMSAS framework, ensuring compliance with IMO requirements and enhancing flag State conformity and compatibility with continuously updated technical standards.

Another critically important element of the flag State's core obligations is provided in Article 94 of the 1982 Convention, which mandates the flag State's duty to take necessary measures to ensure safety at sea, consistent with "generally accepted international regulations, procedures, and practices" (hereinafter "GAIRS") (Article 94(3), (4), and (5)). The following IMO conventions[35] may be considered to meet the GAIRS requirement, given their ratification rates:

[32] The Directive on Port State Control 2009/16/EC outlines the EU's commitment to supporting the IMSAS by considering compliance efforts within the Port State Control targeting system. See European Parliament and Council, Directive 2009/16/EC, "On Port State Control," Official Journal of the European Union, L131/57, 28 May 2009, available at: <https://eur-lex.europa.eu>.

[33] International Maritime Organization (IMO), "Port State Control," IMO, accessed February 3, 2025, <https://www.imo.org/en/OurWork/Safety/Pages/Port-State-Control.aspx>. „Port State Control is a critical mechanism for enforcing the provisions of IMO conventions and ensuring compliance with safety, environmental, and labor regulations. Under the Paris Memorandum of Understanding (MoU), which groups the majority of the world's maritime nations, port states conduct PSC inspections to identify substandard ships, deter unsafe practices, and provide safer and more environmentally responsible shipping practices. The implementation of Port State Control is instrumental in promoting maritime safety and protecting the marine environment."

[34] The Directive on Compliance with Flag State Requirements 2009/21/EC requires EU Member States to adhere to the IMSAS framework to strengthen Flag State compliance and safety oversight. See European Parliament and Council, Directive 2009/21/EC, "On Compliance with Flag State Requirements," Official Journal of the European Union, L131/132, 28 May 2009, available at: <https://eur-lex.europa.eu>.

[35] The following are key mandatory IMO instruments, along with their ratification status and sources:

1. International Convention for the Safety of Life at Sea, 1 November 1974, 1184 UNTS 3. See IMO, <http://www.refworld.org/docid/46920bf32>.
2. International Convention for the Prevention of Pollution from Ships (MARPOL), IMO, 2 November 1973 .
3. International Convention on Load Lines, 1966. See IMO, <http://www.imo.org/About/Conventions/ListOfConventions/Pages/International-Convention-on-Load-Lines.aspx>.
4. International Convention on Tonnage Measurement of Ships, 1969. See IMO, <http://www.admiraltylawguide.com/conven/tonnage1969.html>.
5. Convention on the International Regulations for Preventing Collisions at Sea, 1972. See IMO, <http://www.imo.org/About/Conventions/ListOfConventions/Pages/Default.aspx>.
6. International Convention on Standards of Training, Certification and Watchkeeping, 1978. See IMO, <http://www.imo.org/blast/mainframemenu.asp?topic_id=418>.
7. International Convention on Maritime Search and Rescue, 1979, 1403 UNTS. See IMO, <http://www.refworld.org/docid/469224c82.html>.

- The 1974 International Convention for the Safety of Life at Sea, with Protocols of 1978/1988 (SOLAS 1974, Protocols from 1978/1988);
- The 1973 International Convention for the Prevention of Pollution from Ships, with the 1978 Protocol (MARPOL 1973/1978);
- The 1966 International Convention on Load Lines and its 1988 Protocol (Load Lines 1966 Protocol 1988);
- The 1969 International Convention on Tonnage Measurement of Ships (TONNAGE 1969);
- The 1972 International Convention for Preventing Collisions at Sea (COLREG 1972);
- The 1978 International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers (STCW 1978); and
- The 1979 International Convention on Maritime Search and Rescue (SAR 1979).

In its current form, the framework convention SOLAS is the most significant among other international treaties addressing navigation safety and the minimum technical standards for ship construction, equipment, and operation. SOLAS provisions constitute GAIRS under Article 211 of the 1982 Convention. Moreover, with ratification by over 167 states, representing nearly the entire global maritime tonnage (99% of world tonnage), many SOLAS provisions can be said to have attained the status of customary international law.

MARPOL is the primary international convention aimed at preventing and minimizing ship-related pollution from both accidental and routine maritime operations. Initially, MARPOL covered pollution from oil, chemicals, and harmful substances in packaged form. Its current version includes six technical annexes. MARPOL provisions also constitute GAIRS under Article 211 of the 1982 Convention[36]. Furthermore, with ratification by over 158 states, accounting for nearly the entire maritime shipping tonnage, many MARPOL provisions have also achieved the status of customary international law.[37]

The Load Lines Convention regulates ship load lines, or so-called cargo marks, to ensure adequate stability and prevent capsizing or sinking due to overloading. Its technical annex includes several additional safety measures related to cargo hatches, ports, and other matters. The convention has been ratified by 162 states.

In addition to the named conventions, the IMO also relies on non-binding instruments such as guidelines and recommendations, known as soft law. The implementation of these resolutions is not mandatory unless their rejection is based on analysis and a reasoned decision.[38]

---

[36] ILA London Conference 2000, Committee on Coastal State Jurisdiction Relating to Marine Pollution, Final Report, available at <https://www.ila-hq.org/en_GB/documents/conference-report-london-2000-7>, 39; *Posselt J.*, Umweltschutz in umschlossenen und halbumschlossenen Meeren, 1995, 268.

[37] *Dr. Proelß A.,* MeeresschutzimVölker- und Europarecht: Das Beispiel des Nordostatlantiks, 2004, 139.

[38] **International Maritime Organization (IMO), "Non-Mandatory Guidelines and Resolutions," IMO**, <https://www.imo.org/en/OurWork/Safety/Pages/Non-Mandatory-Guidelines-and-Resolutions.aspx>. [3.02.2025]

The IMO issues various non-mandatory guidelines and resolutions to assist member states in implementing safety, environmental, and operational standards. These include, but are not limited to:

- **Resolution A.1050(27)** – Guidelines for Ships Operating in Polar Waters
- **Resolution A.912(22)** – Guidelines for the Control and Management of Ships' Ballast Water to Minimize the Transfer of Harmful Aquatic Organisms and Pathogens

Chapter 2: The Evolution of the Tacit Acceptance Principle in International and Maritime Law

As previously noted, the International Maritime Organization has played a decisive role in shaping the international legal framework for maritime safety through the development of multilateral binding instruments, including conventions, agreements, protocols, and codes. Since its establishment in 1958, the IMO has facilitated the creation of over fifty treaties, alongside numerous non-binding documents[39]. Key conventions such as SOLAS 1974, MARPOL 1973/78, and STCW 1978 have marked significant milestones, laying the foundation for more effective global regulation of shipping. These achievements hold a prominent place in the IMO's portfolio, despite the IMO's lack of direct authority to implement and enforce conventions.

Treaties, as instruments of international legal regulation, have played a significant role in realizing the IMO's status as a "competent international organization.[40]" By developing

- **MSC.1/Circ.1406** – Guidelines on the Application of SOLAS Chapter II-2
- **Resolution A.802(19)** – Guidelines for the Prevention and Control of Air Pollution from Ships
- **MEPC.1/Circ.834** – Guidelines for the Implementation of MARPOL Annex VI
- **Resolution A.1175(40)** – Guidelines for the Safe Carriage of Dangerous Goods in Containers

Although these resolutions and guidelines are not legally binding, they provide a valuable framework for enhancing the safety and sustainability of maritime transport in global cargo shipping operations.

[39] **International Maritime Organization (IMO), "Structure of IMO Treaties, Resolutions, Codes, and Guidelines," IMO**, <https://www.imo.org/en/OurWork/Legal/Pages/Treaties.aspx>. [3.02.2025]

The structure of IMO instruments is categorized based on their type and usage, each serving a different role in regulating international maritime activities:

- **Treaties**: Binding international agreements, often referred to as conventions, adopted by the IMO, establishing legal obligations for states.
- **Resolutions**: Non-binding recommendations or decisions adopted by the governing bodies of the IMO. These may provide guidance on the implementation of conventions or set specific standards and practices. Resolutions may be adopted by the IMO Assembly, the Maritime Safety Committee (MSC), or the Marine Environment Protection Committee (MEPC). An example is Resolution A.1023(26) on the implementation of the Maritime Labour Convention.
- **Codes**: Detailed technical standards that complement conventions. Codes provide more specific operational guidelines and are frequently updated to keep up with technological advances. An example is the International Ship and Port Facility Security (ISPS) Code, which strengthens security measures.
- **Guidelines**: Non-binding recommendations issued to assist governments, organizations, and stakeholders in the implementation of IMO conventions. While not legally enforceable, they offer best practices and suggestions for compliance. An example is the Guidelines for the Control and Management of Ships' Ballast Water (Resolution A.868(20)).

These instruments work in tandem with conventions to provide comprehensive regulatory frameworks.

[40] UN General Assembly, Convention on the Law of the Sea, 10 December 1982. <https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf> [3.02.2025]. The 1982 UNCLOS refers to a "competent international organization" in several articles, including:

- **Article 56** – Coastal State rights and obligations in the Exclusive Economic Zone (EEZ), which include the role of competent international organizations in regulating the use of marine resources.
- **Article 61** – Conservation of living resources in the EEZ, involving cooperation with competent international organizations to establish conservation measures.
- **Article 67** – Protection of the marine environment from fishing, calling for cooperation with competent international organizations in monitoring and control.

mandatory instruments, the role of the IMO has evolved from a consultative and technical organization to one with "quasi-legislative" authority.[41]

As a global organization, the IMO faces significant challenges in making an effective contribution to ocean governance. Focusing solely on the shipping sector is no longer sufficient for the organization. Shipping must be considered as part of a broader picture, incorporating more comprehensive measures. This means that the IMO must closely collaborate with other organizations and various international cooperation platforms to make decisions that go beyond the traditional boundaries of international shipping. This primarily includes cooperation in the field of technology[42].

Another challenge in this context is that ocean governance is not just about treaties and laws. It is a complex network of formal rules, informal practices, institutions, and concepts that influence the use, monitoring, and protection of maritime spaces. To remain relevant and effective, the IMO must consider what types of measures—whether mandatory or non-mandatory—will work more efficiently on specific issues and how these measures align with other existing global frameworks.

Over the years, the IMO has refined its processes to ensure that changes to legally binding international documents, particularly annexes to conventions, can be implemented more swiftly. One of the most effective innovations in this regard is the tacit acceptance procedure. Under this process, when an amendment to an annex is adopted by a majority vote, the adopting body simultaneously sets the date for the amendment's entry into force and the

- **Article 116** – Fishing on the high seas, which includes the obligation to cooperate with competent international organizations to ensure the sustainable use of fishery resources.
- **Article 118** – Cooperation in the conservation and management of marine living resources, requiring states to cooperate with competent international organizations.
- **Article 205** – Environmental monitoring and reporting, which highlights the obligation for coordination with competent international organizations to ensure marine environmental protection.

[41] *Chircop A.*, 'The International Maritime Organization' in *Rothwell D. R., Elferink A. G. O., Scott K. N., Stephens T.,* The Oxford Handbook of the Law of the Sea 416-438, 421.

[42] Technology transfer in the context of the 1982 United Nations Convention on the Law of the Sea (UNCLOS) refers to the obligation of states, particularly developed states, to share marine technologies and expertise with developing countries. This is crucial for enabling the latter to fully participate in the exploration, exploitation, conservation, and management of marine resources, especially in areas such as the Exclusive Economic Zone (EEZ) and the deep seabed of the high seas.

According to Part XIII of UNCLOS (Articles 144-149), the Convention establishes a framework for technology transfer to promote equitable use of marine resources and encourage cooperation in scientific research and environmental protection. It calls upon states and competent international organizations to facilitate the transfer of marine technologies under mutually agreed conditions, particularly to assist developing countries in fulfilling their rights and obligations in the maritime domain. This also extends to technology related to environmental protection, marine scientific research, and the sustainable use of ocean resources.

From a practical standpoint, technology transfer may include sharing data, research results, equipment, training programs, and technical expertise, which enables states to enhance their capabilities in marine science, resource management, and policy development. This is a fundamental part of the broader principle of equity that UNCLOS supports, ensuring that all states, regardless of their economic or technological capacity, can effectively contribute to the protection and utilization of the marine environment and benefit from the resources of the world's oceans.

period within which contracting parties can either reject the amendment or tacitly accept it by remaining silent.

If a State does not explicitly reject the amendment within the specified period, it is considered to have accepted the change. This means that the decision becomes binding even for those States that did not support it, provided they do not formally object within the given timeframe. This procedure has proven so effective that it has been used to introduce changes to several key IMO conventions, including MARPOL and SOLAS.

2.1. The Mandatory Nature of Tacit Acceptance in International Law

The concept of tacit acceptance has played a significant role in the evolution of international law.

Tacit acceptance, as a legal mechanism, emerged alongside the development of international treaties and gained widespread application in the 20th century, as states sought more efficient ways to respond to rapidly evolving global challenges[43]. Historically, the principle of consent has been central to international law, as reflected in the Vienna Convention on the Law of Treaties (VCLT),[44] which emphasizes the importance of explicitly expressed consent by States to be bound by treaty provisions. However, tacit acceptance modifies this traditional approach by establishing obligations through a State's silence or inaction, while ensuring procedural safeguards.

2.1.1. Legal Foundations

The binding nature of tacit acceptance is based on the principle of state sovereignty and the consensual nature of international law. Article 11 of the VCLT recognizes various means by which a State can express its consent to be bound by a treaty, including implicit acceptance. Tacit acceptance operates on this basis and requires States to act within a specified timeframe if they wish to reject an amendment or opt out of a treaty revision.

The International Court of Justice (ICJ) has affirmed the validity of tacit acceptance in cases such as the North Sea Continental Shelf Cases (1969 ICJ Rep 3) and the Fisheries Jurisdiction Case (United Kingdom v. Iceland, 1974 ICJ Rep 3)[45], where the court recognized that silence or the absence of protest in certain circumstances could indicate consent. These cases underscore the importance of clear procedural rules to ensure that states have a reasonable opportunity to express their position.

---

[43] *Nanda V. P. and Weissbrodt D. S.*, International Human Rights: Law, Policy, and Process, Thomson/West, 2005, 240-242. Tacit acceptance as a legal mechanism evolved alongside the drafting of international treaties and found widespread use in the 20th century, as States sought more efficient ways to respond to rapidly developing global issues.

[44] Vienna Convention on the Law of Treaties, United Nations, 1155 U.N.T.S. 331, 1980, <https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXIII-1&chapter=23&clang=_en>.

[45] North Sea Continental Shelf Cases (Germany v. Denmark; Germany v. Netherlands), [1969], 1969 ICJ Reports 3;
Fisheries Jurisdiction Case (United Kingdom v. Iceland), [1974], 1974 ICJ Reports 3.

2.1.2. Practical Application

Tacit acceptance is particularly effective in areas requiring rapid and coordinated international responses, such as environmental protection, trade, and maritime affairs. For example, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal[46] includes provisions for tacit acceptance to ensure the timely implementation of amendments. Similarly, the World Trade Organization (WTO) employs tacit acceptance mechanisms to streamline decision-making processes within its agreements[47].

2.1.3. Challenges and Criticism

Despite its effectiveness, tacit acceptance is often criticized for potentially undermining the principle of explicit State consent and sovereignty. Critics argue that the burden of monitoring and objecting to amendments is disproportionately high for States with limited administrative capacities. Moreover, the mandatory nature of tacit acceptance can lead to conflicts when States inadvertently fail to protest amendments that contradict their national interests.

Nevertheless, tacit acceptance represents a pragmatic approach in international law, balancing the necessity for effective decision-making with respect for State sovereignty. While challenges remain, its binding nature is firmly rooted in international legal principles and is supported by international judicial precedents. As global challenges continue to require collective action, tacit consent is likely to remain an important tool for facilitating international cooperation.

2.1.4. Tacit Acceptance in IMO Conventions

The International Maritime Organization (IMO) has been at the forefront of addressing dynamic and technical challenges in maritime governance through the implementation of the tacit acceptance procedure. This section examines the mandatory nature of tacit acceptance in IMO conventions[48], focusing on its application, legislative framework, and impact on maritime safety and environmental protection.

---

[46] Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, United Nations, 1992, <https://www.basel.int/The-Convention/Overview>.

[47] World Trade Organization (WTO), Decision-Making in the WTO, WTO, <https://www.wto.org/english/res_e/reser_e/decision_making_e.htm> [3.02.2025]. The WTO employs the tacit acceptance procedure in decision-making processes such as the Trade Policy Review Mechanism and certain amendments to agreements, where if no objection is made within a set timeframe, the decision is deemed accepted by all members.

[48] 1. SOLAS (International Convention for the Safety of Life at Sea, 1974)
Article VIII(b)(vi)(2)(bb):
This article introduces the tacit acceptance procedure for amendments to the annexes of the Convention (excluding Part I). It states that amendments adopted by the Maritime Safety Committee (MSC) will enter into force on the specified date unless objections are raised by a certain number of contracting governments within a certain period (usually two years or less).
2. MARPOL (International Convention for the Prevention of Pollution from Ships, 1973/78)
Article 16(2)(f)(ii):

The IMO introduced the tacit acceptance procedure to address the slow pace of traditional treaty amendment processes. This mechanism is codified in several key IMO conventions, including the International Convention for the Safety of Life at Sea (SOLAS), the International Convention for the Prevention of Pollution from Ships (MARPOL), and the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers (STCW).

SOLAS

The tacit acceptance procedure was first introduced in the 1960 version of SOLAS and was later refined in the 1974 revised text. Regulation 4 of Chapter I stipulates that amendments adopted by the Maritime Safety Committee (MSC) automatically enter into force unless a specified number of contracting parties object within a defined period. This has allowed SOLAS to evolve rapidly in response to maritime safety challenges, including fire protection, life-saving equipment, and electronic navigation systems.

MARPOL

MARPOL employs the tacit acceptance procedure for amendments to its technical annexes. This procedure enables swift responses to incidents of marine pollution and ensures that technological advancements are promptly reflected in the convention's operational text. For example, stricter limits on sulfur content in marine fuels under Annex VI were adopted using

---

This article outlines the tacit acceptance procedure for amendments to the annexes of MARPOL. Amendments adopted by the IMO will come into force on the specified date unless a certain portion of member states raises objections within the agreed time period.

3. STCW (International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended)

Article XII(1)(a):

This article specifies the tacit acceptance procedure for amendments to the annex of the STCW Convention. Amendments enter into force unless a certain number of contracting states notify their objection within the set time period (usually two years).

4. Ballast Water Management Convention (2004)

Article 19(2):

This article describes the use of the tacit acceptance procedure for amendments to the annexes. It follows the standard process where amendments enter into force after a specified period unless objections are raised by a certain percentage of contracting states.

5. International Convention on Load Lines (LL, 1966, as amended)

Article 29(b):

This article establishes the tacit acceptance mechanism for amendments to the annexes of the Load Lines Convention, ensuring that they will enter into force unless objections are raised by a certain number of contracting governments within the designated period.

6. Anti-Fouling Systems Convention (AFS, 2001)

Article 16(2):

The tacit acceptance procedure applies to amendments to this Convention. Amendments to the annexes are adopted and enter into force unless a certain number of states object within the specified time period.

7. International Convention for the Control and Management of Ships' Ballast Water and Sediments (BWM, 2004)

Article 19(2):

This article defines that amendments to the annexes follow the tacit acceptance procedure unless a certain percentage of contracting parties raises objections.

the tacit acceptance procedure, ensuring the timely enforcement of new standards to reduce environmental harm.

STCW

The STCW Convention incorporates tacit acceptance to update requirements for seafarer training and certification in response to advancements in ship technologies and changes in industry practices. The 2010 Manila Amendments, adopted through tacit acceptance, introduced new requirements for seafarer competence, rest hours, and safety training.

Legal Basis

The mandatory nature of tacit acceptance in IMO conventions is derived from the legal framework established by these conventions themselves. Each convention outlines procedural rules for adopting and implementing amendments, ensuring that contracting parties are given sufficient opportunity to object if necessary.

2.1.5. Legal Basis

The binding nature of the tacit acceptance procedure in IMO conventions arises from the legal framework established by the conventions themselves. Each convention sets out procedural rules for adopting and implementing amendments, ensuring that contracting parties receive sufficient notice and the opportunity to object. The IMO Assembly and its subsidiary bodies, such as the Maritime Safety Committee (MSC) and the Marine Environment Protection Committee (MEPC), play a central role in this process.

The legitimacy of tacit acceptance is further reinforced by the **pacta sunt servanda** principle enshrined in Article 26 of the **Vienna Convention on the Law of Treaties (VCLT)**, which obliges States to adhere to their treaty commitments. By agreeing to the procedural rules of IMO conventions, States implicitly recognize the binding nature of amendments adopted through tacit acceptance.

2.1.6. Impact and Effectiveness of the Procedure

The tacit acceptance procedure has significantly enhanced IMO's ability to respond to emerging challenges in the maritime sector. It has facilitated the timely adoption of measures to improve ship safety, prevent pollution, and enhance seafarer training. This efficiency has been particularly crucial in addressing urgent matters, such as the **phase-out of single-hull tankers under MARPOL** and the **implementation of Annex VI**.

2.1.7. Criticism

Despite its effectiveness, the tacit acceptance procedure has not been immune to criticism. Some States have expressed concerns about **transparency and inclusivity** in the amendment process. Additionally, the **automatic binding nature of amendments** can impose **a disproportionate burden on developing countries**, which may lack the resources to implement new requirements in a timely manner.

2.1.8. State Practice and Experience with the Tacit Acceptance Procedure in IMO Treaties

This section examines the impact of the tacit acceptance procedure at the national level, its dynamics, and an overview of how States interact with this mechanism. It also discusses instances where individual States have protested against amendments adopted through this procedure and how such disagreements have influenced the practical outcomes of the process.

2.1.8.1. State Practice Regarding the Tacit Acceptance Procedure

Since the introduction of the tacit acceptance procedure in IMO treaties, most member States have aligned their **regulatory frameworks** with this mechanism. States generally support tacit acceptance as it ensures the timely and effective implementation of amendments, which is crucial in addressing **rapidly evolving maritime challenges**.

General Trends:

1. **Supporting Practices**: Most IMO member states, including major maritime nations such as **Greece, Japan, and the United Kingdom**, have actively embraced the tacit acceptance mechanism to uphold international standards in **ship safety and environmental protection**. These countries frequently participate in IMO committee discussions on amendments and work to implement them at the national level.
2. **Adaptation of Administrative Procedures**: Many states have developed administrative mechanisms to ensure the **prompt implementation of IMO amendments**. These mechanisms typically involve cooperation between maritime administrations, industry stakeholders, and legislative bodies to integrate new requirements into national legislation and regulations.
3. **Challenges**: Developing countries (including **Georgia**) generally support the process but often face difficulties in implementing amendments due to **limited administrative and financial resources**. The IMO addresses these issues through **technical assistance and capacity-building programs**.[49]

2.1.8.2. State Protests Against Amendments Adopted by Tacit Acceptance

While the tacit acceptance procedure is generally successful, some states have rejected certain amendments and failed to implement them. A significant example involves the **United States and amendments to MARPOL Annex VI**.

In **2008**, the IMO adopted amendments to MARPOL Annex VI that introduced stricter **sulfur content limits for marine fuel**[50]. Although the amendments were widely supported and entered into force through tacit acceptance, the **United States initially expressed concerns** over the **technical and economic implications** of the new requirements. While the U.S. eventually

[49] The Integrated Technical Cooperation Programme (ITCP) is an initiative by the International Maritime Organization (IMO) aimed at enhancing the capacity of developing countries to effectively implement IMO instruments. It focuses on maritime safety, security, environmental protection, and the promotion of international maritime traffic through training, seminars, consultancy services, and institutional support.

[50] Amendments to MARPOL Annex VI, International Maritime Organization (IMO) 2010, Resolution MEPC.176(58), <https://www.imo.org/en/OurWork/Environment/Pages/Air-Pollution.aspx>.

complied with the amendments, the delay highlighted the challenges States face in reconciling **domestic policies with internationally agreed standards**.

2.1.8.3. Turkey and the 2004 International Convention for the Control and Management of Ships' Ballast Water and Sediments

An example of a State that chose not to comply with a specific amendment is **Turkey's position on the Ballast Water Management Convention (BWMC)**. Although Turkey is a party to the convention, it has not implemented certain amendments related to **compliance deadlines**. As a result, these amendments are **not binding on Turkey**, demonstrating the **procedural flexibility** that the tacit acceptance mechanism offers.[51]

2.1.9. Challenges Faced by Developing States

Developing countries often face **administrative, financial, and technical constraints** when implementing amendments adopted through the tacit acceptance procedure. For instance, **small island developing states (SIDS) and landlocked developing countries (LLDCs)** frequently cite difficulties in updating their legal frameworks and ensuring compliance with technical requirements.

The IMO's efforts, such as the **Integrated Technical Cooperation Programme (ITCP)**, have been instrumental in addressing these gaps. Through **regional seminars and direct consultations**, the IMO has supported **Pacific island States** such as **Fiji and Vanuatu** in implementing MARPOL and STCW amendments, allowing them to align with international standards despite limited resources.[52]

2.1.10. India's Initial Reservations on BWM Convention Amendments

India's experience with the Ballast Water Management Convention (BWMC) illustrates a balanced response to amendments adopted through the tacit acceptance procedure. Although India ratified the BWMC and supported its core objectives, it expressed concerns about the technical feasibility and economic implications of certain compliance measures introduced via amendments. India engaged in extensive consultations with the IMO and sought a more phased implementation timeline for its obligations. India's example demonstrates how states can negotiate within the framework of the tacit acceptance procedure.[53]

2.1.11. Example of Refusal to Implement an Amendment: Russia and Polar Code Amendments

---

[51] NorthStandard, New Decisions by the Turkish Ministry of Transportation Regarding BWM Compliance of the Vessels, <https://north-standard.com/insights-and-resources/resources/news/new-decisions-by-the-turkish-ministry-of-transportation-regarding-bwm-compliance-of-the-vessels>, and American Club, Turkey – Ballast Water Management Compliance, available at <https://www.american-club.com/files/files/MA_092524_Turkey_Ballast_Water_Management.pdf>.

[52] Integrated Technical Cooperation Programme (ITCP), IMO, <https://www.imo.org/en/OurWork/TechnicalCooperation/Pages/ITCP.aspx>.

[53] Directorate General of Shipping (DGS) Circular No. 32 of 2020, available at; <https://www.irclass.org/technical-circulars/dgs-circular-no-32-of-2020-reg-ballast-water-convention>.

Russia's approach to amendments related to the Polar Code under MARPOL provides another notable case for analyzing the procedure[54]. Although Russia supports the overarching goals of the Polar Code, it has expressed reservations about certain provisions affecting its Arctic shipping operations. Specifically, driven by economic and geopolitical considerations, Russia delayed the implementation of amendments concerning environmental regulations. This example underscores the interplay between global maritime governance and national interests.

Russia's stance on these amendments exemplifies selective non-implementation driven by national interests. While Russia ratified the Polar Code and endorses its primary environmental objectives, it raised objections to specific provisions imposing stringent environmental regulations in the Arctic region. In particular, Russia postponed the adoption of amendments aimed at enhancing environmental protection in polar waters, citing economic and geopolitical factors. These provisions restricted the use of certain fuel types and introduced stricter pollution control measures for ships operating in Arctic waters. Russia's reluctance to fully implement these amendments reflects the tension between global maritime regulatory frameworks and the sovereign interests of states, particularly those with extensive maritime zones where local economic and strategic factors may overshadow the broader objectives of international conventions.

Chapter 3: Georgia's Law on International Treaties and the Legal Nature of Recognizing International Treaties as Binding for Georgia

The process of recognizing international treaties as binding for Georgia is regulated by the "Law of Georgia on International Treaties,[55]" which outlines the procedures and requirements for treaty negotiation, signing, ratification, and implementation. Although Georgia's legislative framework provides a structured approach to international treaties, the integration of modern practices such as tacit acceptance raises certain concerns regarding effectiveness, transparency, and the balance of sovereignty. This chapter examines this legislative framework and critically evaluates the implications of tacit acceptance within Georgia's treaty-making process.

The "Law of Georgia on International Treaties" was enacted to provide a legal basis for Georgia's engagement in international law. The law governs the processes of negotiating, concluding, and implementing international treaties, ensuring compliance with constitutional principles and state sovereignty.

Key provisions of the law include:

[54] IMEMO, Polar Code and Russia's National Interests, available at <https://www.imemo.ru/files/File/en/Articles/2020/PolarCode-Todorov2020.pdf>.

[55] Law of Georgia, "Law on International Treaties of Georgia", Parliamentary Bulletin, Issue 44, November 11, 1997.

Definition of Treaties: An agreement concluded in written form between Georgia and a foreign state or international organization, governed by international law norms, regardless of whether it is embodied in one or several related documents and irrespective of its specific title;

Competent Authorities: The Government of Georgia and the Parliament of Georgia play primary roles in concluding and ratifying treaties, while the Ministry of Foreign Affairs coordinates negotiations and procedural aspects.
Classification of Treaties:
a) On behalf of Georgia – interstate treaties;
b) On behalf of the Government of Georgia – intergovernmental treaties;
c) On behalf of a ministry of Georgia, the State Security Service of Georgia, or the Prosecutor's Office of Georgia – interdepartmental international treaties.

3.1. Treaty Becoming Binding

For a treaty to become legally binding for Georgia, the following steps are established:

3.1.1. Negotiation and Signing

Authorized representatives of Georgia conduct negotiations and sign the treaty, indicating an intent to accede, pending subsequent procedures.
Georgia's consent to recognize an international treaty as binding may be expressed through:
a) Signing the treaty;
b) Exchanging constituent documents (notes) of the treaty;
c) Ratifying the treaty;
d) Approving the treaty;
e) Acceding to the treaty;
f) Any other mutually agreed means of expressing consent.

Decisions regarding consent to recognize an international treaty as binding are made by Georgia's state authorities in accordance with their competencies as defined by the Constitution of Georgia and this law.

3.1.2. Publication and Implementation

Following ratification, treaties are published in the Legislative Herald, and under Georgia's monist legal approach, they automatically acquire the force of law.

3.2. Georgia's Experience with IMO Conventions

Georgia, as a maritime nation and a party to the core conventions of the International Maritime Organization (IMO), has demonstrated a commitment to international maritime standards. This chapter explores Georgia's experience with IMO treaties, the practical implications of the tacit acceptance mechanism, and potential challenges concerning the country's future engagement in global maritime governance.

3.2.1. Georgia's Engagement in IMO Treaties

Following its accession to the IMO in 1993, Georgia has ratified nearly all significant conventions, including SOLAS, MARPOL, and STCW. These treaties have played a crucial role in ensuring Georgia's maritime practices align with international standards. The Georgian Maritime Administration has achieved successes in meeting IMO requirements, particularly in maintaining compliance in safety and environmental protection, thereby enhancing its reputation as a responsible maritime State.

Georgia's approach to treaty-making process has already been described in this chapter, but for a brief recap, the process requires:

Parliamentary Approval: Major IMO conventions and amendments are subject to parliamentary ratification in accordance with the Law of Georgia on International Treaties.
Extended Timelines: The traditional legislative process often delays the adoption of IMO treaty amendments, as it requires detailed assessments and public discussions.
Limited Administrative Resources: The ability to expedite treaty implementation is further hampered by the limited resources within Georgia's maritime transport sector.

3.2.2. Significance of Article 27 of the Georgian Maritime Code

The primary legal provision shaping the foundations of Georgia's maritime governance is outlined in Article 27 of the Georgian Maritime Code, which establishes the framework for applying international maritime regulations. Although Part 1 states that civil, administrative, and other relations related to maritime navigation are governed by Georgian laws and general legislative principles, Part 2 plays a pivotal role by explicitly recognizing IMO resolutions as a regulatory framework for the maritime transport sector.

The significance of Article 27(2) lies in the following aspects:

Direct Applicability of IMO Resolutions: Unlike treaties requiring parliamentary ratification, resolutions of the IMO Assembly and its principal bodies are automatically recognized as regulatory sources, providing a degree of flexibility in adopting international standards.

Legal Basis for Compliance: This provision ensures that Georgia's maritime transport operations comply with globally accepted rules without the need for separate legislative action for each resolution. This is particularly vital for maintaining compliance with the IMO's continuously evolving regulations.

Support for Safety and Environmental Standards: By directly incorporating IMO resolutions, Georgia strengthens its capacity to enforce safety and environmental protection measures, minimizing regulatory gaps that might arise from delayed national legislation.

Reinforcement of International Obligations: Recognizing IMO resolutions as a governing source demonstrates Georgia's commitment to international maritime governance, enhancing its credibility as a responsible maritime state.

A similar approach is reflected in other Georgian legislative acts. For example, Article 3(5) of the Law of Georgia on Accounting, Reporting, and Auditing mandates the direct application of International Financial Reporting Standards (IFRS) without requiring individual translation or ratification processes. This interdisciplinary example highlights the efficiency of directly applying internationally recognized regulations, reducing administrative burdens and ensuring compliance with global standards. A similar approach in maritime law—integrating the tacit acceptance mechanism with the flexibility provided by Article 27(2)—could further enhance the effectiveness of Georgia's maritime transport regulation.

The absence of a tacit acceptance mechanism within Georgia's legislative framework poses challenges to the timely adoption of IMO treaty amendments, affecting regulatory alignment, shipping competitiveness, and international reputation. While Article 27(2) of the Georgian Maritime Code provides a significant legal foundation for applying IMO resolutions, additional legal reforms are needed to streamline the adoption of treaty amendments. By leveraging the flexibility offered by Article 27(2) and integrating the tacit acceptance mechanism, Georgia could enhance its regulatory efficiency, strengthen its role in global maritime governance, and maintain its position as a responsible maritime nation.
The principle of *lex specialis derogat legi generali* (a specific law prevails over a general law) is a fundamental rule in international and domestic legal systems, ensuring that specialized legal frameworks take precedence over more general laws in cases of conflict. In Georgia, this principle plays a critical role in implementing international standards. By recognizing specific laws as *lex specialis*, Georgia enhances regulatory effectiveness while keeping pace with evolving international norms.

Georgia, as a developing maritime country, faces unique challenges in adopting and implementing IMO conventions through the tacit acceptance procedure. The country's limited administrative and technical resources create significant obstacles in processing, enforcing, and complying with the frequent amendments introduced by the IMO. These constraints complicate full engagement with the complex mechanisms of regulatory compliance, which require continuous monitoring, interpretation, and application of international maritime norms. Translating high-tech conventions and amendments into Georgian further exacerbates these challenges. While such translations may serve academic and theoretical purposes, they hold little practical value given that the universal working language of the maritime industry is English. Even after translation into Georgian for domestic legal formalization, these documents would ultimately require re-translation into English for use in international maritime operations, leading to inefficiency, potential inconsistencies in interpretation, and unnecessary financial burdens on the state budget.

Georgia maintains an open ship registry, meaning a portion of its registered vessels are foreign-owned and operated in accordance with international regulations, where English remains the

dominant language. This further diminishes the need to translate the technical annexes and voluminous amendments of IMO conventions into Georgian, as the regulatory, technical, and operational aspects of ship management require direct reference to the original English texts. Moreover, the Georgian language lacks a fully developed maritime and technological vocabulary capable of seamlessly integrating with international standards, complicating accurate translation and occasionally leading to inaccuracies. Without an established maritime terminological framework, there is an increased risk of misinterpreting critical safety and operational guidelines, which could ultimately impact compliance and enforcement efforts.

Considering these limitations, Georgia should adopt a more pragmatic and policy-oriented approach to fully integrating IMO conventions into its national context. Rather than investing scarce resources in comprehensive translations, emphasis should be placed on selectively translating only the essential provisions that directly affect national legal enforcement[56]. Simultaneously, the country should prioritize capacity-building by training maritime professionals, regulators, and legal experts to interpret and apply IMO conventions in their original English versions, while also using Georgian in legal proceedings when necessary. Strengthening institutional capabilities, deepening cooperation with international maritime organizations, and utilizing digital tools—such as the IMO's digital mechanisms for monitoring convention amendments—could help address gaps in the implementation process.

Furthermore, Georgia should work toward aligning its national regulatory framework directly with internationally recognized standards. By simplifying procedures, ensuring domestic laws reflect international obligations without unnecessary bureaucratic hurdles, and fostering

[56] For example, the implementation of the STCW Convention at the national level is assessed through two main mechanisms. First, compliance is evaluated through independent self-assessments, as established by Regulation I/7 of the STCW Convention, which requires each contracting party to periodically assess the effectiveness of its training, certification, and quality standards systems. This self-assessment process ensures that the national maritime administration maintains compliance with the minimum competency and qualification standards set by the IMO. Additionally, national legislation is an important instrument in measuring the effectiveness of this mechanism, specifically the Law on Seafarers' Education and Certification, as well as the framework documents in the maritime education and training sector, both in terms of officers and ratings.
Moreover, for countries that are part of the European Union or seek recognition according to EU maritime regulations, further monitoring of compliance with the STCW Convention is determined by the Directive 2008/106/EC on the minimum level of training of seafarers (recast) (Text with EEA relevance). See <https://eur-lex.europa.eu/eli/dir/2008/106/oj/eng>, (as amended by Directive (EU) 2019/1159). This directive establishes additional requirements for seafarer training and certification within the EU and imposes oversight obligations on the European Maritime Safety Agency (EMSA). EMSA conducts audits and inspections of national maritime education, training, and certification systems to ensure compliance with both the STCW Convention and EU regulations.
Furthermore, Regulation (EC) No 1406/2002 empowers EMSA to carry out independent assessments of non-EU countries that express a desire to have their STCW certification systems recognized in accordance with EU legislation (third-party audits). These assessments determine whether the seafarer training and certification standards in the applicant state meet the minimum and equivalence requirements specified in the STCW Convention and EU directives.
Thus, the national implementation of the STCW Convention is subject to internal self-assessment, as mandated by the Convention itself, as well as external oversight through EMSA's evaluations, ensuring adherence to international and EU maritime safety and training standards.

collaboration between industry stakeholders and government bodies, the country can achieve effective compliance and increase interest in the Georgian flag. The tacit acceptance procedure offers a means to transition more seamlessly to regulatory updates, but without a structured approach at the State level, Georgia risks falling behind international maritime industry standards. It is recommended that the government take decisive steps to ensure regulatory adaptation is both efficient and sustainable, avoiding unnecessary financial costs and bolstering the country's position in the global maritime industry.

Bibliography:

1. Law of Georgia, "Law on International Treaties of Georgia", Parliamentary Bulletin, Issue 44, November 11, 1997.
2. Resolutions of the International Maritime Organization (MEPC, MSC, Assembly Resolutions)
3. Core conventions of the International Maritime Organization (IMO) SOLAS, MARPOL, STCW)
4. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, United Nations, 1992
5. Convention on the Law of the Sea, United Nations 10 December 1982
6. Vienna Convention on the Law of Treaties, United Nations, 1155 U.N.T.S. 331, 1980
7. Convntion on the High Seas, United Nations 1962
8. *Anderson, D., Nijhoff M,* Modern Law of the Sea: Selected Essays. Martinus Nijhoff Publishers, Boston, 2008.
9. *Boisson, P.* Safety at Sea, Policies Regulations & International Law. Edition Bureau Veritas, Paris, 1999.
10. *Chircop, A.* 'The International Maritime Organization' in Rothwell D. R., Elferink A. G. O., K. N., Stephens T., The Oxford Handbook of the Law of the Sea.
11. *Churchill, R. and Lowe, A.* The Law of the Sea. Manchester University Press, 1999.
12. *Dr. Proelß, A.* Meeresschutz im Völker- und Europarecht: Das Beispiel des Nordostatlantiks. 2004.

13. *Feldt, L., Roell, P. Dr., and Thiele, R.* ISPSW Strategy Series: Focus on Defense and International Security: Maritime Security – Perspectives for a Comprehensive Approach, Issue No. 222.
14. *Kristiansen, S.* Maritime Transportation: Safety Management and Risk Analyses. Elsevier Butterworth-Heinemann, Oxford, 2005.
15. Meeting Report of the Expert Workshop on Flag State Responsibilities: Assessing Performance and Taking Action, 25-28 March 2008, Part 3.1, February 2009. Fisheries and Oceans Canada.
16. *Nanda, V. P. and Weissbrodt, D. S.* International Human Rights: Law, Policy, and Process. Thomson/West, 2005.
17. *Nordquist, M. H. et al. (eds.)* United Nations Convention on the Law of the Sea 1982 – A Commentary, Volume III. Martinus Nijhoff Publishers, The Hague, 1995.
18. *Özcayir, Z. O. Dr.* Flag State Implementation. Journal of International Maritime Law, Vol. 9, Issue 3, 2003.
19. *Posselt J.*, Umweltschutz in umschlossenen und halbumschlossenen Meeren, 1995
20. *Reeds, A. J.* Reeds Nautical Almanac 2023. Bloomsbury Publishing, 2023.
21. *Sohn, L. B. and Noyes, J. E.* Cases and Materials on the Law of the Sea. Transnational Publishers, New York, 2004.
22. *Tetley, W.* International Maritime and Admiralty Law. Yvon Blais, 2002.
23. Panama v. Guinea-Bissau, The M/V „Virginia G“ [2014] ICGJ452, ITLOS.
24. Saint Vincent and Grenadines v. Guinea The M/V "Saiga" (No. 2) [1999]ICGJ 335, ITLOS
25. Fisheries Jurisdiction Case (United Kingdom v. Iceland), 1974 ICJ Reports 3, 1974.
26. North Sea Continental Shelf Cases (Germany v. Denmark; Germany v. Netherlands), 1969 ICJ Reports 3, 1969.

Internet Resources:

1. Official website of the International Maritime Organization (IMO): https://www.imo.org/
2. United Nations Division for Ocean Affairs and the Law of the Sea: https://www.un.org/depts/los/
3. Official website of the World Trade Organization (WTO): https://www.wto.org/