

**RESPONSE TO THE LETTER FROM THE CMI PRESIDENT OF 11 APRIL
2013 WITH A REQUEST FOR INFORMATION RELATING TO THE STATUS OF
RATIFICATION OF 11 DESIGNATED CONVENTIONS**

INTRODUCTION.

Responses below have been prepared on the basis of meetings arranged with officials of state authorities of Ukraine and official letters received by UMBA concerning ratification of international treaties, mentioned in the letter of the CMI President of 11 April 2013.

As soon as ratification and implementation of international treaties into national legislation take a significant amount of time, UMBA will continue its work on this project in 2014.

RESPONSES.**1. United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partially by Sea (Rotterdam Rules) 2009**

1.1. If the government of your country has not yet ratified or acceded to any of the conventions listed above, is it considering to take the necessary steps in order that your country become party to any of them?

Due to the fact that at present the Rotterdam rules have not yet come into force and are actually ratified by a small number of States, the Ministry of Infrastructure of Ukraine is of the opinion that accession to this Convention is premature.

1.2. If so, what is the likely procedure and time frame for such ratification to take place?

Unknown.

1.3. Has your government already considered the possible ratification of any of the conventions listed above and come to the conclusion that such ratification is not available?

Unknown.

1.4. If so, please give briefly the reasons (bullet points will suffice)

N/A

1.5. If the government in your country is undecided as to whether to ratify a Convention is there anything that your Maritime Law Association or other industry body in your country can do to assist the government reaching a decision?

Ukraine is not a party to the Hague rules, Hague-Visby rules, or Hamburg rules, although some provisions of these international treaties are incorporated in the Merchant Shipping Code of Ukraine. The Rotterdam rules (RR), being aimed to replace the abovementioned treaties, are more complex, thus in order to ratify them, Ukraine needs to spent a significant amount of time to assess all pro and contra of RR as well as to draft all capacity of amendments to the current legislation.

UMBA will discuss this issue with the Ministry of Infrastructure of Ukraine. However, due to such reasons, as the complexity of RR, the lack of their wide ratification by other States and the absence of the judicial practice examining their separate provisions, we believe that Ukraine will not ratify this Convention during the next several years.

2. Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea 1974

2.1. *If the government of your country has not yet ratified or acceded to any of the conventions listed above, is it considering to take the necessary steps in order that your country become party to any of them?*

Unknown.

2.2. *If so, what is the likely procedure and time frame for such ratification to take place?*

Unknown.

2.3. *Has your government already considered the possible ratification of any of the conventions listed above and come to the conclusion that such ratification is not available?*

Unknown.

2.4. *If so, please give briefly the reasons (bullet points will suffice)*

N/A

2.5. *If the government in your country is undecided as to whether to ratify a Convention is there anything that your Maritime Law Association or other industry body in your country can do to assist the government reaching a decision?*

Ukraine is a party to the main Convention and we believe that it is possible to ratify the Protocol 2002. UMBA will discuss this issue with the Ministry of Infrastructure of Ukraine.

3. International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances by Sea 1996 and Protocol of 2010

3.1. *If the government of your country has not yet ratified or acceded to any of the conventions listed above, is it considering to take the necessary steps in order that your country become party to any of them?*

Due to the fact that at present both the Convention and the Protocol do not come into force and are actually ratified by a small number of States, the Ministry of Infrastructure of Ukraine is of the opinion that accession to the Convention and Protocol is premature.

3.2. *If so, what is the likely procedure and time frame for such ratification to take place?*

Unknown.

3.3. *Has your government already considered the possible ratification of any of the conventions listed above and come to the conclusion that such ratification is not available?*

Unknown.

3.4. *If so, please give briefly the reasons (bullet points will suffice)*

N/A.

- 3.5. *If the government in your country is undecided as to whether to ratify a Convention is there anything that your Maritime Law Association or other industry body in your country can do to assist the government reaching a decision?*

UMBA will discuss this issue with the Ministry of Infrastructure of Ukraine.

4. The Nairobi International Convention on the Removal of Wrecks 2007, including extension of its scope of application to the territory of States Parties under Art. 3(2)

- 4.1. *If the government of your country has not yet ratified or acceded to any of the conventions listed above, is it considering to take the necessary steps in order that your country become party to any of them?*

Due to the same reasons mentioned above with regards to previous Conventions, the Ministry of Infrastructure of Ukraine is of the opinion that accession to this Convention is premature.

- 4.2. *If so, what is the likely procedure and time frame for such ratification to take place?*

Unknown.

- 4.3. *Has your government already considered the possible ratification of any of the conventions listed above and come to the conclusion that such ratification is not available?*

Unknown.

- 4.4. *If so, please give briefly the reasons (bullet points will suffice)*

N/A

- 4.5. *If the government in your country is undecided as to whether to ratify a Convention is there anything that your Maritime Law Association or other industry body in your country can do to assist the government reaching a decision?*

UMBA will discuss this issue with the Ministry of Infrastructure of Ukraine once again.

5. Protocol of 1996 to the Convention on Limitation of Liability for Maritime Claims 1976

- 5.1. *If the government of your country has not yet ratified or acceded to any of the conventions listed above, is it considering to take the necessary steps in order that your country become party to any of them?*

At present this Convention goes through the coordinated approval process within state authorities.

- 5.2. *If so, what is the likely procedure and time frame for such ratification to take place?*

Unknown.

- 5.3. *Has your government already considered the possible ratification of any of the conventions listed above and come to the conclusion that such ratification is not available?*

N/A.

5.4. *If so, please give briefly the reasons (bullet points will suffice)*

N/A.

5.5. *If the government in your country is undecided as to whether to ratify a Convention is there anything that your Maritime Law Association or other industry body in your country can do to assist the government reaching a decision?*

UMBA will keep under control the ratification of this Convention and assist state authorities, if it is required.

6. Maritime Labour Convention 2006

6.1. *If the government of your country has not yet ratified or acceded to any of the conventions listed above, is it considering to take the necessary steps in order that your country become party to any of them?*

At present this Convention goes through the coordinated approval process within state authorities.

6.2. *If so, what is the likely procedure and time frame for such ratification to take place?*

UMBA believes that this Convention can be ratified in 2014.

6.3. *Has your government already considered the possible ratification of any of the conventions listed above and come to the conclusion that such ratification is not available?*

N/A.

6.4. *If so, please give briefly the reasons (bullet points will suffice)*

N/A.

6.5. *If the government in your country is undecided as to whether to ratify a Convention is there anything that your Maritime Law Association or other industry body in your country can do to assist the government reaching a decision?*

UMBA will keep under control the ratification of this Convention and assist state authorities, if it is required.

7. MARPOL Protocol of 1997 (MARPOL Annex VI – Prevention of Atmospheric Pollution by Ships)

7.1. *If the government of your country has not yet ratified or acceded to any of the conventions listed above, is it considering to take the necessary steps in order that your country become party to any of them?*

Ukraine is a party to this Protocol.

7.2. *If so, what is the likely procedure and time frame for such ratification to take place?*

N/A.

7.3. *Has your government already considered the possible ratification of any of the conventions listed above and come to the conclusion that such ratification is not available?*

N/A.

7.4. *If so, please give briefly the reasons (bullet points will suffice)*

N/A.

7.5. *If the government in your country is undecided as to whether to ratify a Convention is there anything that your Maritime Law Association or other industry body in your country can do to assist the government reaching a decision?*

N/A.

8. Convention on Facilitation of International Maritime Traffic 1965

8.1. *If the government of your country has not yet ratified or acceded to any of the conventions listed above, is it considering to take the necessary steps in order that your country become party to any of them?*

Ukraine is a party to this Convention.

8.2. *If so, what is the likely procedure and time frame for such ratification to take place?*

N/A.

8.3. *Has your government already considered the possible ratification of any of the conventions listed above and come to the conclusion that such ratification is not available?*

N/A.

8.4. *If so, please give briefly the reasons (bullet points will suffice)*

N/A.

8.5. *If the government in your country is undecided as to whether to ratify a Convention is there anything that your Maritime Law Association or other industry body in your country can do to assist the government reaching a decision?*

N/A.

9. International Convention for the Safe and Environmentally Sound Recycling of Ships (Hong Kong), 2009

9.1. *If the government of your country has not yet ratified or acceded to any of the conventions listed above, is it considering to take the necessary steps in order that your country become party to any of them?*

Due to the same reasons mentioned above with regards to previous Conventions, the Ministry of Infrastructure of Ukraine is of the opinion that accession to this Convention is premature.

9.2. *If so, what is the likely procedure and time frame for such ratification to take place?*

Unknown.

9.3. *Has your government already considered the possible ratification of any of the conventions listed above and come to the conclusion that such ratification is not available?*

Unknown.

9.4. *If so, please give briefly the reasons (bullet points will suffice)*

N/A.

9.5. *If the government in your country is undecided as to whether to ratify a Convention is there anything that your Maritime Law Association or other industry body in your country can do to assist the government reaching a decision?*

UMBA will discuss this issue with the Ministry of Infrastructure of Ukraine.

10. Seafarer's Identity Documents Convention (Revised) (ILO 185), 2003

10.1. *If the government of your country has not yet ratified or acceded to any of the conventions listed above, is it considering to take the necessary steps in order that your country become party to any of them?*

Although Ukraine is not a party to this Convention, Ukraine takes steps to implement the main provisions of this Convention into national legislation.

10.2. *If so, what is the likely procedure and time frame for such ratification to take place?*

Unknown.

10.3. *Has your government already considered the possible ratification of any of the conventions listed above and come to the conclusion that such ratification is not available?*

Unknown.

10.4. *If so, please give briefly the reasons (bullet points will suffice)*

N/A.

10.5. *If the government in your country is undecided as to whether to ratify a Convention is there anything that your Maritime Law Association or other industry body in your country can do to assist the government reaching a decision?*

UMBA will discuss this issue with the Ministry of Infrastructure of Ukraine.

11. International Convention on Arrest of Ships 1999

11.1. *If the government of your country has not yet ratified or acceded to any of the conventions listed above, is it considering to take the necessary steps in order that your country become party to any of them?*

In 2011 Ukraine has acceded to the International Convention Relating to the Arrest of Sea-Going Ships of 1952 and now takes steps to implement its provisions in national legislation.

11.2. *If so, what is the likely procedure and time frame for such ratification to take place?*

Unknown.

11.3. *Has your government already considered the possible ratification of any of the conventions listed above and come to the conclusion that such ratification is not available?*

Unknown.

11.4. *If so, please give briefly the reasons (bullet points will suffice)*

N/A.

11.5. *If the government in your country is undecided as to whether to ratify a Convention is there anything that your Maritime Law Association or other industry body in your country can do to assist the government reaching a decision?*

UMBA is of the opinion that at present promotion of ratification of this Convention in Ukraine is not desirable for the following reasons.

The current regime of the arrest of ships on maritime claims in Ukraine is far from conventional. Thus, even after more that a year of the Convention 1952 being in force, the practice in the Ukrainian courts is inconsistent. Most of the times the judges dismiss arrest of ships claims, founding their decisions on the Civil and Commercial Procedural Codes of Ukraine, without taking into consideration the direct effect of the provisions of the International Convention 1952. In general, there is a lack of understanding by Ukrainian judges of the specifics of the maritime industry in whole, e.g. recognizing charterparties and e-mails as binding evidences, the nature of the maritime claims and possibility of arresting the ship without deciding the case on merits.

Therefore, we believe that Ukrainian courts shall have the time to set up a judicial practice of application of the International Convention Relating to the Arrest of Sea-Going Ships of 1952. From our point of view, this process will require several years.

Moreover, taking into account the fact that ratification of international treaties in Ukraine requires a significant amount of time only to ensure their approval by state authorities, we are also of the opinion that at present stage neither of Ukrainian state authorities will deal with this Convention referring to recent ratification of International Convention Relating to the Arrest of Sea-Going Ships of 1952.

Nevertheless, UMBA will try to collect and examine in detail the practice of ship arrest in Ukraine based on the International Convention Relating to the Arrest of Sea-Going Ships of 1952 as well as other relevant information needed to identify reasons for the following ratification of International Convention on Arrest of Ships 1999.