



Tacit Vs Explicit Acceptance Procedure - Implications for IMO's Net Zero Framework

Procedural choices that can shape entry into force of the IMO NZF | March 2026

1. Introduction

During the Marine Environment Protection Committee (MEPC) Extraordinary Session (ES.2) discussions in October 2025, a delegation proposed to use the explicit acceptance procedure (also known as the 'rejected unless accepted' procedure) as part of the process to adopt the International Maritime Organization's (IMO) Net-Zero Framework (NZF).¹ The explicit procedure requires States to actively confirm acceptance by completing domestic legal processes before an amendment can enter into force. The tacit acceptance procedure (also known as 'accepted unless rejected') works like automatic enrolment and instead places the burden on objecting States to formally opt out of the amendment.

Tacit acceptance procedure has been the primary mechanism used at the IMO since the 1970s for bringing amendments into force, including for the International Convention for the Prevention of Pollution from Ships (MARPOL)², under which Annex VI hosts the proposed NZF. Prior to this date, the explicit acceptance procedure was the norm (more info can be found in section 2.4.1). When MEPC reconvenes in 2026 to negotiate adoption of the NZF, there will likely be discussions and a formal vote on the acceptance procedure. The choice between tacit and explicit acceptance procedure will have direct implications for the effective implementation and enforcement of the NZF.

¹ International Maritime Organization, 11th April 2025, Circular Letter no.5005, Draft revised MARPOL Annex VI, available on IMO Docs

² International Maritime Organization, Adopting a convention, Entry into force, Accession, Amendment, Enforcement, Tacit acceptance procedure, available at: <https://www.imo.org/en/about/conventions/pages/default.aspx>

2. The acceptance procedures explained

2.1 How amendments are adopted at MEPC

The NZF was ‘approved’ by a majority vote at MEPC 83 in April 2025³ and is intended to be included as an amendment to MARPOL Annex VI. Currently a ‘draft amendment’, the framework must now be formally ‘adopted’ as an amendment before entering into force, per Article 16 of the MARPOL Convention. The adoption stage was expected to occur six months after MEPC 83, at MEPC ES.2 in October 2025, but was adjourned for one year.⁴

The choice between tacit and explicit acceptance procedure forms part of the substantive content of the draft amendment. A Member State wishing to propose explicit acceptance would typically do so by introducing or amending draft text at the adoption stage, so that the proposed acceptance procedure is reflected in the final draft text to be adopted. Countries can then express their positions during MEPC debate on the draft text, before proceeding to a vote.

Voting decisions at the IMO are usually taken by consensus, based on the Chair’s assessment. If consensus isn’t reached, the decision will go to a formal vote. In line with the MARPOL Convention, amendments (of which acceptance procedure is part of) can only be voted on and adopted by a two-thirds majority of Parties to the Convention present and voting- in the case of the NZF this will include Parties who have ratified Annex VI MARPOL. ⁵ Other IMO members may participate in discussions on the acceptance procedure but cannot formally vote.

The MEPC Rules of Procedure⁶ outlines (in Rule 38 on method of voting) that normally a vote is cast by show of hands however, anyone entitled to vote may request a roll-call which shall be taken in alphabetical order (in English) starting with a State chosen by lot.

Although the acceptance procedure forms part of the substantive draft amendment, there will likely be one vote to decide to proceed with tacit or explicit (unless the Chair has already determined consensus), and another vote to officially adopt the amendment.

2.2 Implications of gross tonnage

³ International Maritime Organization, 2025, Marine Environment Protection Committee (MEPC 83), 7 to 11 April 2025, available at: <https://www.imo.org/en/mediacentre/meetingsummaries/pages/mepc-83rd-session.aspx>

⁴ Opportunity Green, 2025, Adjournment of the IMO’s Net-Zero Framework, available at: <https://opportunitygreen.org/shipping/briefings/imo-net-zero-framework-adjournment-oct-2025-implications/>

⁵ International Convention for the Prevention of Pollution from Ships, 1973, available at: <https://www.imo.org/en/knowledgecentre/conferencesmeetings/pages/marpol.aspx>

⁶ International Maritime Organization, 2025, MEPC.1/Circ/919: Rules of Procedure of the Marine Environment Protection Committee

Both tacit and explicit acceptance procedures under MARPOL Annex VI incorporate gross tonnage thresholds that can impact the viability of an amendment after adoption. This means that the entry into force of an amendment depends not only on achieving a two-thirds majority of Party votes, but also on whether those States represent at least 50% of total registered ship tonnage of the world's merchant fleet.

Fact box: Gross Tonnage

For the purposes of MARPOL Annex VI, 'gross tonnage' is calculated based on the tonnage registered under each State's flag, in accordance with the tonnage measurement regulations contained in Annex I to the International convention on Tonnage Measurements of Ships 1969.

Figure 1: Gross tonnage definitions and calculations.

Because a relatively small number of States control a large proportion of global merchant tonnage (Liberia, Panama, and the Marshall Islands alone make up 46.5%⁷), the 50% threshold concentrates decisive influence among a limited group of flag states. Under the tacit acceptance procedure, this creates a vulnerability whereby a coalition representing sufficient fleet tonnage can prevent an amendment from entering into force for all Parties, even where a clear majority of countries supports the amendment.

Under the explicit acceptance procedure, the tonnage threshold applies to States accepting the amendment rather than objecting to it (i.e. States representing more than 50% of global gross tonnage must actively accept the amendment before it can enter into force). Whilst this may reduce the risk of a single blocking coalition it introduces a different risk of delayed entry into force due to uneven domestic ratification processes among major tonnage States.

In theory, the explicit acceptance procedure results in obligations applying only to accepting Parties. However, in practice, the NZF partly mitigates this effect as compliance requirements are triggered by port country jurisdiction, meaning ships travelling to ratifying States must comply irrespective of whether they have accepted the amendment.

2.3 Tacit acceptance

The tacit acceptance procedure ('accepted unless rejected') allows amendments to Annex VI to be deemed accepted at the end of a set period - to be determined by MEPC at the time of its adoption (but no less than ten months)⁸. The amendment will then be deemed accepted, unless, during that period an objection is communicated to the IMO, by at least one third of Parties to Annex VI or by a group of Parties whose combined

⁷ United Nations Trade and Development, 2025, Review of maritime transport: Staying the course in turbulent waters, available at: <https://unctad.org/publication/review-maritime-transport-2025>

⁸ MARPOL, Article 16(2)(f)(iii)

merchant fleets constitute no less than 50% of the gross tonnage of the world's merchant fleet.⁹ As acceptance is automatic in the absence of objection, Parties are not required to complete domestic ratification or legislative approval processes before the amendment enters into force.

Tacit acceptance creates a predictable pathway to entry into force by establishing a defined period between adoption and enforcement and reversing the burden of action from acceptance to objection. This enables amendments to become binding simultaneously for all Parties that have not formally objected, supporting uniform application of regulations across the global fleet relatively swiftly. States also retain the ability to object where they have substantive concerns, preserving national discretion within a structural timeline.

By removing the requirement for individual domestic ratification processes prior to entry into force, tacit acceptance reduces procedural delays associated with legislative scheduling, administrative capacity constraints, and variation in national approval frameworks. This feature has historically facilitated the timely updating of MARPOL's technical annexes in response to evolving environmental conditions. **Figure 2** shows how this procedure would work for the Net-Zero Framework.



Figure 2: The IMO's tacit acceptance procedure using the Net-Zero Framework as an example.

2.4 Explicit acceptance

The explicit acceptance procedure (also known as 'rejected unless accepted' procedure) means an amendment to an article of the Convention shall be deemed to have been accepted on the date on which it is accepted by two thirds of the Parties to Annex VI and which constitute at least 50% of the gross tonnage of the world's merchant fleet.¹⁰ The

⁹ MARPOL, Article 16 (2)(f)(iii)
¹⁰ MARPOL, Article 16(2)(f)(iii)

amendment shall then enter into force six months after the date of its acceptance with respect to the Parties which have declared that they have accepted it. However, explicit acceptance requires each Party to complete its domestic approval procedures before an amendment can become binding. As such, this requirement introduces significant variability in the timing of acceptance across Parties, because it is unable to establish a defined timeframe to achieve the two-thirds majority acceptance threshold needed to enter into force.

Amendments are likely to become accepted by States unevenly and as a result the framework's entry into force may remain pending for decades, even where there is broad international support for the measure- ultimately delaying the realisation of the NZF's intended effects.

Explicit acceptance is a very time-consuming process, as domestic approval procedures differ widely in complexity and sequencing, often involving inter-ministerial review, legislative scrutiny, and in some cases, new implementing legislation. Plus, because explicit acceptance depends on national legislative scheduling and administrative capacity, progress toward entry into force may be shaped by domestic political calendars and competing legislative priorities rather than by the technical substance of the amendment itself. At best, timelines for entry into force are extremely uncertain; in reality, amendments adopted in this way in practice very rarely enter into force at all¹¹. This results in so-called “zombie” regulations.

2.4.1 What is meant by a ‘zombie’ regulation?

A ‘zombie’ regulation is not legal terminology but is often used in policy analysis to refer to an international framework that has been formally adopted through multilateral agreement but never enters into force or does so only after such prolonged delay that it becomes obsolete, superseded, or politically irrelevant.

Where amendments are adopted at the IMO with the explicit acceptance procedure, these overwhelmingly result in “zombie regulations”. The result is a regulatory limbo, whereby amendments are formally adopted but remain legally non-binding as entry into force hinges on subsequent domestic approval processes. Historically, when explicit acceptance was the primary procedure at the IMO none of the amendments adopted to the 1960 International Convention for the Safety of Life at Sea (SOLAS) between 1966 and 1973 secured the acceptances required to enter into force¹².

¹¹ International Maritime Organization, Adopting a convention, Entry into force, Accession, Amendment, Enforcement, Tacit acceptance procedure, available at: <https://www.imo.org/en/about/conventions/pages/default.aspx>

¹² International Maritime Organization, Adopting a convention, Entry into force, Accession, Amendment, Enforcement, Tacit acceptance procedure, available at: <https://www.imo.org/en/about/conventions/pages/default.aspx>

By contrast, amendments adopted at the IMO using tacit acceptance typically enter into force within 18-24 months¹³. If objections to the amendment are submitted to the IMO by more than one third of the Parties to Annex VI or a group whose combined merchant fleets constitute no less than 50% of the gross tonnage of the world's merchant fleet, then the amendment would not enter into force (see Figure 3). This would require starting over again to design and agree a new instrument to fill the gap of the NZF.

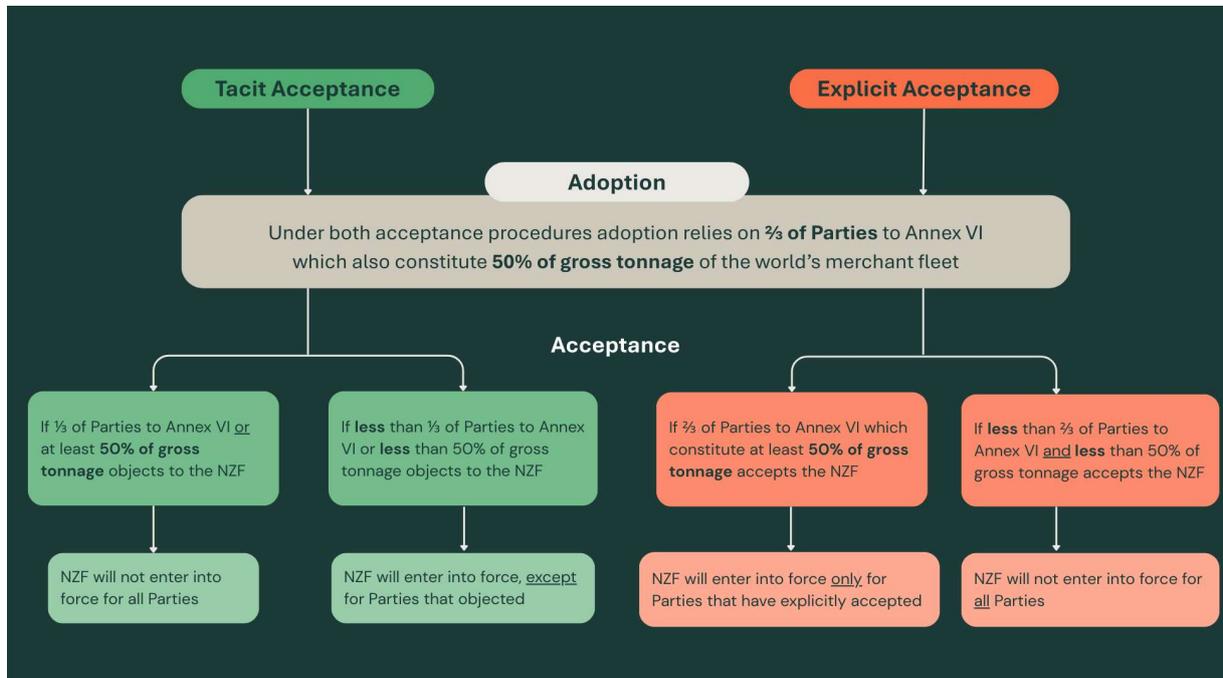


Figure 3: Possible outcomes for the Net-Zero Framework under different acceptance procedures.

The procedural barriers outlined in the HNS example below, indicate that the timeframe for entry into force under explicit acceptance is shaped primarily by domestic legal sequencing rather than by multilateral agreement. If the MEPC decides to adopt the NZF with the explicit acceptance procedure this could similarly result in a ‘zombie’ regulation.

In addition, the following case studies from Mexico, Ireland, and Kenya illustrate how these processes typically involve multiple stages of approval before a State can deposit its formal acceptance to the IMO, providing an indicative picture of the lengthy timelines that can arise in different jurisdictions.

¹³ International Maritime Organization, Adopting a convention, Entry into force, Accession, Amendment, Enforcement, Tacit acceptance procedure, available at: <https://www.imo.org/en/about/conventions/pages/default.aspx>

Case study: The HNS Convention

A widely cited IMO example of procedural failure under the explicit acceptance procedure is the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS Convention)¹⁴, an IMO treaty establishing a global liability and compensation regime for damage caused by the maritime transport of hazardous and noxious substances—adopted in 1996, but as of 2026 has still not entered into force. Although the HNS Convention had broad political support at the time of adoption, the failure stemmed directly from its explicit acceptance requirements, which created multiple compounding bottlenecks. For entry into force to occur, twelve States had to ratify the HNS Convention, four of which were each required to have at least 2 million gross tonnages of shipping, and once contributors in those States have received a combined total of at least 40 million tonnes of HNS cargo in the preceding year.¹⁵

Each State had to not only navigate its domestic legislative approval process but also establish complex administrative systems for tracking and reporting HNS cargo data across multiple substance categories. This combination of legislative hurdles and technical requirements proved insurmountable, resulting in the HNS Convention failing to enter into force.

When momentum re-emerged, the original HNS Convention had become effectively unusable. Its design flaws and the ratification barriers because of explicit acceptance necessitated the negotiation of a 2010 HNS Protocol¹⁶ to amend the acceptance framework. The Protocol simplified certain administrative requirements and adjusted some technical provisions in a direct attempt to overcome the previous challenges. Yet even this revised version has failed to gain traction. By the end of 2025, only eight States had ratified the 2010 HNS Protocol: Canada, Denmark, Estonia, France, Norway, South Africa, Slovakia, and Turkey. The cargo tonnage requirement remains critically unfulfilled at approximately 19.2 million tonnes¹⁷ against the 40 million tonne threshold, hence just like the original 1996 HNS Convention, the Protocol has not yet entered into force.

¹⁴ The International Oil Pollution Compensation Funds, The HNS Convention and the 2010 Protocol, available at: <https://www.hnsconvention.org/the-convention/>

¹⁵ International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996, available at: <https://www.hnsconvention.org/the-convention/>

¹⁶ An Overview of the 2010 HNS Convention, available at: <https://www.hnsconvention.org/the-convention/>

¹⁷ International Oil Pollution Compensation Funds, 2025, IOPC, APR25/8/1

Annex: Examples of domestic acceptance pathways under explicit acceptance

These case studies illustrate how explicit acceptance operates in practice at a national level and indicate the range of timelines that may arise before a State can formally submit its acceptance to the IMO. The following examples demonstrate how sequential executive, legislative, and administrative steps- each without uniform time limits- can stifle entry into force of regulations that have been internationally agreed upon, even when there is no substantive opposition to the measure at national level.

1. Mexico Case Study



Mexico's treaty acceptance framework illustrates how explicit acceptance can require multiple sequential approvals across the executive and legislature, with no fixed timeline. Under the Mexican Constitution¹⁸ (Articles 76 and 89), treaties must be approved by the Senate following executive review. The process, governed by the 2021 *National Law on the Acceptance of Treaties* and its accompanying Guidelines typically involves five core stages.

First, the Secretariat of Foreign Affairs conducts an initial evaluation to determine constitutional compatibility, alignment with national law, and consistency with the records submitted by treaty negotiators. If the proposal is deemed admissible, the Legal Counsel circulates the text for inter-ministerial consultation. Only when all participating Secretariats provide favourable opinions does the process advance.

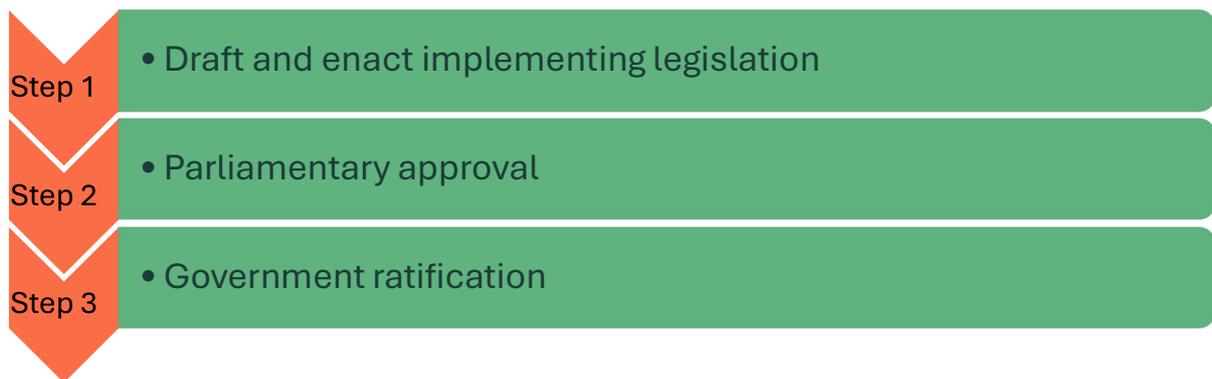
¹⁸ Constitution of Mexico, 1917, available in English at: https://www.oas.org/ext/Portals/33/Files/Member-States/en_mex-int-text-const.pdf

Next, the consolidated document undergoes final presidential review. Once approved, the treaty or amendment is formally transmitted to the Senate, where committee examination, potential hearings, and Plenary approval are required.

Lastly, if endorsed the Senate notifies the President, who must order the treaty's publication in the *Diario Oficial de la Federación*. Only upon publication does the treaty acquire legal force domestically. Following publication, the Secretariat of Foreign Affairs formally deposits the instrument internationally.

No statutory deadlines apply at any stage and legislative approval alone may take months or longer depending on parliamentary scheduling. The overall process introduces multiple veto points and timing uncertainties even where there is no substantive objection.

2. Ireland Case Study



Ireland's treaty acceptance framework illustrates how explicit acceptance procedures can introduce systemic delays even in states with strong legal institutions and a constructive approach to multilateralism.

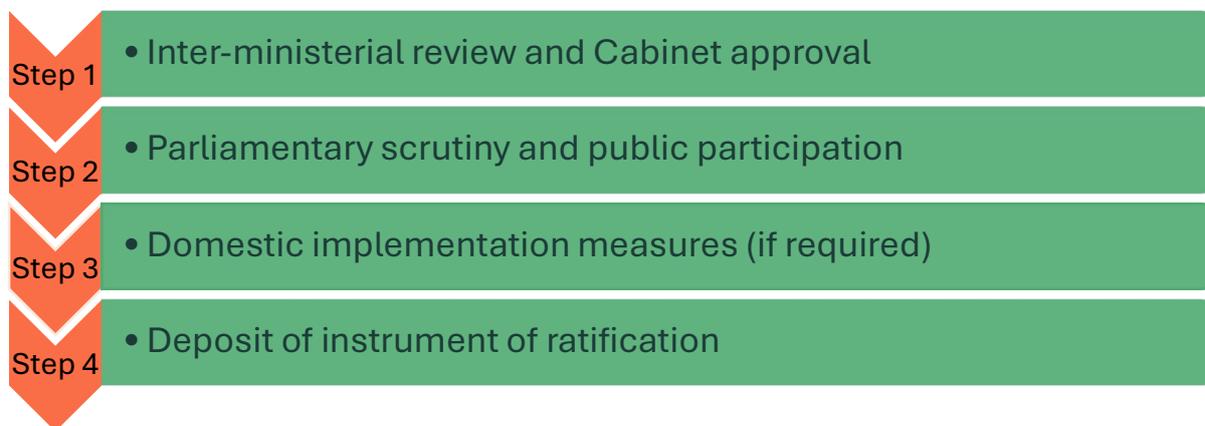
Under Article 29.6 of the Irish Constitution,¹⁹ international agreements cannot become part of domestic law unless expressly incorporated by or under an Act of the Oireachtas. Like other common law legal systems, the Irish legal system is dualist, meaning that the terms of an international agreement do not automatically become part of domestic law.

Firstly, the government must draft and enact implementing legislation to give effect to the treaty or amendment. The timing of this stage is contingent on parliamentary time, government prioritisation, and legislative sequencing, meaning even widely supported amendments can face delays. The legislation must also receive parliamentary approval. Draft laws are laid before the Dáil, reviewed by relevant committees, and then debated in Plenary. Then, once all necessary legislation has been enacted, Ireland can deposit its instrument of ratification, which can only occur when the State is legally positioned to meet

¹⁹ Constitution of Ireland, 1937, available at: <https://www.irishstatutebook.ie/eli/cons/en/html>

all treaty obligations. This can result in significant delays between international adoption and domestic enforcement.

3. Kenya Case Study



Kenya’s constitutional framework outlines that ratified treaties form part of domestic law (under Article 2(6) of Kenya’s 2010 Constitution²⁰), with procedures governed by the Treaty Making and Ratification Act, 2012.

Initially, the responsible ministry prepared a Cabinet memorandum assessing constitutional compatibility, national interest, financial implications, and implementation requirements. For maritime and environmental agreements, this stage typically requires coordination across several ministries, including Transport, Environment, Finance, Foreign Affairs, and the Attorney-General’s office. The timing depends on inter-ministerial consultation and administrative clearance processes.

Secondly, Cabinet approval is needed before the treaty is submitted for parliamentary consideration. Parliamentary scrutiny may include committee review and public participation processes, introducing further variability in timelines depending on legislative scheduling and consultation requirements.

Next, where implementation measures are necessary, additional legislative or administrative steps must be completed before ratification can proceed. Only after these processes are concluded can Kenya deposit its instrument. This process means that even where there is no substantive opposition, ratification may take months or years due to coordination demands, institutional capacity constraints, and legislative workload, delaying the domestic effect of internationally adopted maritime measures.

²⁰ The Republic of Kenya, 2010, Constitution of Kenya, available at: <https://new.kenyalaw.org/akn/ke/act/2010/constitution/eng@2010-09-03>