

THE ROLE OF TREATIES IN THE NATIONAL LEGISLATION OF THE REPUBLIC OF UZBEKISTAN AND ITS TREATY-MAKING PRACTICE

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<https://doi.org/10.5281/zenodo.7042346>

Firstly, it is more important to explain the sources of international law, particularly, the role of treaties in international law and the legal system and legal framework of Uzbekistan, regulating law of treaties as well as relationship between national law and international law comprehensively.

There are probably few fields of international law where confusion and clarity reign more supreme than that of the sources . The sources of international law have been codified in the Statute of the International Court of Justice . Article 38 of the Statute provides that “the Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply..... international conventions, whether general or particular, establishing rules expressly recognized by the contesting States;.....”.

Much of the recent international law principles related to law-making treaties are codified in the 1969 Vienna Convention on the Law of Treaties (hereafter the VCLT). The VCLT sets forth a comprehensive set of rules governing the formation, interpretation, and termination of treaties .

The VCLT defines written treaties as follows:

“.....an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation.”

In regard to the main elements of the treaties, the VCLT provides the basic four elements of treaties, namely (1) an international agreement; (2) concluded among states; (3) in writing; (4) governed by international law as well as it lists two potential elements – the agreement’s designation and its number of instruments (See Duncan B. Hollis, *Defining Treaties // The Oxford Guide to Treaties* 19-30 (Duncan B. Hollis ed., 2012)).

In international law the terms “monism” and “dualism” are used to describe two different theories of the relationship between international law and national law. Monists accept that the internal and international legal systems form a unity. According to them, both national legal rules and international rules that a state has accepted, for example by way of a treaty, determine whether actions are legal or illegal.

On the other hand, dualists emphasize the difference between national and international law, and require the translation (incorporation, implementation, or transformation) of the latter into the former. If a state accepts a treaty, then it is required to adapt its national law in order to conform to the treaty, otherwise the treaty will not be binding on that state and will not be a part of its legal system.

From the nature of its legal system, the Republic of Uzbekistan is considered as a dualist-theory state. Article 3 of the Law of 2019 states that “International Treaties of the Republic of Uzbekistan along with generally recognized principles and norms of international law are an integral part of the legal system of the Republic of Uzbekistan”. It means that when Uzbekistan ratifies or accedes to any international agreement, it is required to enact implementation act in the form of law or presidential decree/resolution of the Parliament so that this international agreement can be binding on the state and can be a part of its legal system.

For example, the Republic of Uzbekistan joined the 1961 Vienna Convention on Diplomatic Relations based on the Decree of the Supreme Council of the Republic of Uzbekistan No. 1078-XII dated May 6, 1994.

After gaining independence on September 1, 1991, the Republic of Uzbekistan, as a full-fledged member of international relations and foreign economic relations, has formed a legal framework for mutually beneficial cooperation with foreign partners and is developing it in areas of mutual interest.

The preamble to the Constitution of the Republic of Uzbekistan stipulates that the republic recognizes the supremacy of universally recognized rules of international law.

The Concept of Foreign Policy of Uzbekistan also determines the strengthening and improvement of the legal framework of international cooperation, the conclusion of prospective bilateral and ratification/accession to multilateral agreements as one of the political and diplomatic tools of a unified state policy.

The first normative legal act regulating the law of treaties in Uzbekistan was the Law of the Republic of Uzbekistan “On International Treaties” adopted on December 22, 1995. Within the framework of ensuring the implementation of this law, several decisions of the Cabinet of Ministers have been adopted. With the development of law of treaties wholly, there was a need for renewal in national legislation as well. Therefore, on February 6, 2019, a new Law “On International Treaties of the Republic of Uzbekistan” (hereinafter “the Law”) was adopted. The new Law is an example of an implementation of the 1969

Vienna Convention on the Law of Treaties, to which 116 countries are parties as of April 2022 .

In order to ensure the “direct effect” of the Law, 5 normative legal documents - 2 laws and 3 other legislative documents - were merged into it.

For the first time in the Law, the rules for studying the practical importance of international agreements, legal, economic, ecological, linguistic and other types of examination of their texts were established which increased the demand for their quality.

During the past period, the practice itself shows how urgent and important it is to introduce a two-stage system of negotiating or drafting international agreements with the Ministry of Foreign Affairs in accordance with the Law.

The Law also clarified the legal status of international acts (declaration, joint statement, memorandum of understanding, etc.), and simplified the procedure for their adoption. International acts serve to ensure promptness and flexibility in the conditions of the activation of the country's international relations, and to reach preliminary agreements with the countries without delay.

As of August 2022, the legal framework of the Republic of Uzbekistan consists of more than 4,300 documents, of which about more than 500 are multilateral international agreements of universal and regional character. More than 3,800 are bilateral international documents.

Talking about the international legal framework of Uzbekistan, at this point, it is worth noting that Uzbekistan’s strategic partnership relations with neighboring and other partner countries are regulated by bilateral documents.

In particular, in recent years, relations with Turkmenistan (2017), Kyrgyzstan (2017), Turkey (2017), Tajikistan (2018), Hungary (2021), Pakistan (2021) have been raised to the level of strategic partnership, Joint Declaration on the Future Steps of Strategic Partnership with Pakistan (2022), Declaration on Eternal Friendship and Alliance with Tajikistan (2022), Declaration on Deepening Strategic Partnership and Development of Comprehensive Cooperation with Azerbaijan (2022) were signed. Moreover, international documents have been acting as a legal basis for the further strengthening of such relations with the USA, Japan, Azerbaijan, Russia, South Korea, India, China, and Kazakhstan, which previously established strategic partnership relations.

It is worth noting that within the framework of the Fourth Consultative Meeting of the Heads of States of Central Asia held on July 21, 2022 in the city of Cholponota (the Kyrgyz Republic), the Republic of Uzbekistan, the Kyrgyz Republic, the Republic of Kazakhstan, the Republic of Tajikistan, and the Republic of Tajikistan signed the Treaty establishing friendship, good

neighborliness and cooperation for the development of Central Asia in the 21st century.

Considering the above-mentioned opinions and facts, it can be supposed that treaties are the main sources of international law that form a legal basis of interstate relations and are a guarantor of their stability. The treaty-making practice of Uzbekistan has been gradually developing, particularly after the adoption of the new Law dated from 2019.

The use of legal mechanisms (creating legal norms of international law, that's, treaties) in the promotion of bilateral and multilateral cooperation, the timely resolution of problems, preventing conflicts and escalation of tensions play an important role in modern international relations.