

# 2001 年管制船舶有害防污系統國際公約

1973 年 11 月 02 日 倫敦，2008 年 9 月 17 日生效實施

## International Convention on the control of Harmful Anti-Fouling Systems on Ships, 2001

London, 05 October, 2001; Entered into Force on 17 September, 2008

### AFS 2001

生效門檻：25 國  $\geq$  25% + 12 個月

(2019.3)締約國數：85 國

簡介：為避免海洋生物，例如藤壺等，附著於船底，造成船殼腐蝕或影響船舶航行速度，目前商船水線下船體多會塗裝含有 Tributyl tin (TBT)物質之防腐塗料。經某些國家研究顯示，這類 TBT 複合塗料會對海洋生態，特別是沿海水域，造成長期毒素累積之不良影響。IMO MPEC 曾經於 1990 年通過一決議，建議各國政府先減少或禁止船長 25 公尺以下船舶 TBT 塗料之使用。IMO 於 2001 年 10 月 15 日通過「船舶有害防腐系統控制國際公約。公約全文 21 條，除序言外，包括各國義務、定義、適用範圍、防腐系統之控管、有害物質之控管、技術團隊之設立、科技研究、資訊交換、檢驗及證書、船舶檢查及違反時之扣留、違反時之處置、不應造成船舶不合理的遲延及爭端解決等。

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The Parties to these Convention,

**NOTING** that scientific studies and investigations by Governments and competent international organizations have shown that certain anti-fouling systems used on ships pose a substantial risk of toxicity and other chronic impacts to ecologically and economically important marine organisms and also that human health may be harmed as a result of the consumption of affected seafood,

**NOTING IN PARTICULAR** the serious concern regarding anti-fouling systems that use organotin compounds as biocides and being convinced that the introduction of such organotins into the environment must be phased-out,

**RECALLING** that Chapter 17 of Agenda 21 adopted by the United Nations Conference on Environment and Development, 1992, calls upon States to take measures to reduce pollution caused by organotin compounds used in anti-fouling systems,

**RECALLING ALSO** that resolution A.895(21), adopted by the Assembly of the International Maritime Organization on 25 November 1999, urges the Organization's Marine Environment Protection Committee (MEPC) to work towards the expeditious development of a global legally binding instrument to address the harmful effects of anti-fouling systems as a matter of urgency,

**MINDFUL OF** the precautionary approach set out in Principle 15 of the Rio Declaration on Environment and Development and referred to in resolution MEPC.67(37) adopted by MEPC on 15 September 1995,

**RECOGNIZING** the importance of protecting the marine environment and human health from adverse effects of anti-fouling systems,

**RECOGNIZING ALSO** that the use of anti-fouling systems to prevent the build-up of organisms on the surface of ships is of critical importance to efficient commerce, shipping and impeding the spread of harmful aquatic organisms and pathogens,

**RECOGNIZING FURTHER** the need to continue to develop anti-fouling systems which are effective and environmentally safe and to promote the substitution of harmful systems by less harmful systems or preferably harmless systems,

本公約各締約國，

**注意到**各國政府及相關國際組織之科學研究及調查顯示，某些使用於船舶上的防污系統，對於具有重要生態及經濟價值之海洋生物，構成嚴重毒性危險及其他慢性影響，且由於消費海產食品，導致人類健康可能受到危害，**特別注意到**人們對採用有機錫作為防污系統之嚴重影響，確信必須逐步禁止此類有機錫進入環境，

**回顧**1992 年聯合國環境與發展大會所通過之第 21 項議程第 17 章，呼籲各國採取措施減少因防污系統中使用有機錫化合物所造成之污染，

**亦回顧**國際海事組織大會更於 1999 年 11 月 25 日通過第 A.895(21)號大會決議，敦促本組織海洋環境保護委員會(簡稱 MEPC)儘快制訂針對防污系統有害影響之一全球強制性法律文件應作為一緊急事項處理。

**意識到**「里約環境與發展宣言」第 15 條確立相關預防管制規定，並於 1995 年 9 月 15 日 MEPC 會議通過 MEPC.67(37)號決議，

**承認**保護海洋環境及人類健康免受防污系統不利影響之重要性，

**亦承認到**使用防污系統防止有機體附著在船舶表面，對於商業效率、航運及阻止有害水中有機體及病原體傳播之重要作用，

**進一步承認到**，繼續開發有效且對環境安全之防污系統之必要性及倡導使用毒性較小系統或最好是無害系統來代替有害系統之必要性，

HAVE AGREED as follows:

## ARTICLE 1 General Obligations

- (1) Each Party to this Convention undertakes to give full and complete effect to its provisions in order to reduce or eliminate adverse effects on the marine environment and human health caused by anti-fouling systems.
- (2) The Annexes form an integral part of this Convention. Unless expressly provided otherwise, a reference to this Convention constitutes at the same time a reference to its Annexes.
- (3) No provision of this Convention shall be interpreted as preventing a State from taking, individually or jointly, more stringent measures with respect to the reduction or elimination of adverse effects of anti-fouling systems on the environment, consistent with international law.
- (4) Parties shall endeavour to co-operate for the purpose of effective implementation, compliance and enforcement of this Convention.
- (5) The Parties undertake to encourage the continued development of anti-fouling systems that are effective and environmentally safe.

## ARTICLE 2 Definitions

For the purposes of this Convention, unless expressly provided otherwise:

- (1) "Administration" means the Government of the State under whose authority the ship is operating. With respect to a ship entitled to fly a flag of a State, the Administration is the Government of that State. With respect to fixed or floating platforms engaged in exploration and exploitation of the sea-bed and subsoil thereof adjacent to the coast over which the coastal State exercises sovereign rights for the purposes of exploration and exploitation of their natural resources, the Administration is the Government of the coastal State concerned.
- (2) "Anti-fouling system" means a coating, paint, surface treatment, surface, or device that is used on a ship to control or prevent attachment of unwanted organisms.
- (3) "Committee" means the Marine Environment Protection Committee of the Organization.
- (4) "Gross tonnage" means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 to the International Convention on Tonnage Measurement of Ships, 1969, or any successor Convention.
- (5) "International voyage" means a voyage by a ship entitled to fly the flag of one State to or from a port, shipyard, or offshore terminal under the jurisdiction of another State.
- (6) "Length" means the length as defined in the International Convention on Load Lines, 1966, as modified by the Protocol of 1983 relating thereto, or any successor Convention.
- (7) "Organization" means the International Maritime Organization.
- (8) "Secretary-General" means the Secretary-General of the Organization.

謹協議如下：

## 第 1 條 一般義務

- (1) 為減少或消除防污系統對於海洋環境及人類健康的不利影響，本公約各締約國承諾全面且充分地實行本公約規定。
- (2) 附件與本公約構成一體。除另有明文規定外，述及本公約同時意指數及其附件。
- (3) 本公約任何規定，均不得被解釋為阻礙一國於符合國際法前提下，獨自或與他國聯合就減少或消除防污系統，對於環境之不利影響所採取之更嚴格措施。
- (4) 締約國須為有效實施、符合及執行本公約通力進行合作。
- (5) 締約國承諾鼓勵繼續開發有效且對環境安全之防污系統。

## 第 2 條 定義

除另有明文規定外，為本公約之目的：

- (1) “主管機關”係指船舶於其權限下營運之國家政府。對於有權懸掛某國國旗之船舶而言，主管機關係指該國政府。對於沿海國行使自然資源勘探及開發擁有主權之海岸附近水域，從事海床及底土勘探及開發之固定式或浮動式平臺，主管機關係指有關沿海國政府。
- (2) “防污系統”係指用於船舶以管制及防止有機體附著之塗裝、油漆、表面處理、表面或裝置。
- (3) “委員會”係指本組織海上環境保護委員會。
- (4) “總噸位”係指依據「1969 年國際噸位丈量公約」附件 1 或任何後續公約中的噸位丈量規定計算出之總噸位。
- (5) “國際航線”係指懸掛一國國旗之船舶到另一國管轄下之港口、造船廠或近海裝卸航站之往來路線。
- (6) “長度”係指經 1988 年議定書修訂的「1966 年國際載重線公約」或任何後續公約所定義的船舶長度。
- (7) “本組織”係指國際海事組織。
- (8) “秘書長”係指本組織之秘書長。

- (9) "Ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft, fixed or floating platforms, floating storage units (FSUs) and floating production storage and off-loading units (FPSOs).
- (10) "Technical Group" is a body comprised of representatives of the Parties, Members of the Organization, the United Nations and its Specialized Agencies, intergovernmental organizations having agreements with the Organization, and nongovernmental organizations in consultative status with the Organization, which should preferably include representatives of institutions and laboratories that engage in antifouling system analysis. These representatives shall have expertise in environmental fate and effects, toxicological effects, marine biology, human health, economic analysis, risk management, international shipping, anti-fouling systems coating technology, or other fields of expertise necessary to objectively review the technical merits of a comprehensive proposal.
- (9) “船舶”係指航行於海洋環境之任何類型船舶，包括水翼船、氣墊船、潛水艇、浮動艇筏、固定或浮動式平臺、浮動式儲存裝置(FSU)及浮動式生產、儲存及卸貨裝置(FPSO)。
- (10) “技術小組”係指由締約國、本組織成員、聯合國及其專門機構、與本組織有協定之政府間國際組織及在本組織享有諮詢地位之非政府國際組織之代表所組成之一機構，其中最好包括從事防污系統分析研究機構及實驗室之代表。這些代表應具有環境行為及效應、毒性效應、海洋生態、人類健康、經濟分析、風險管理、國際航運、防污系統塗裝技術方面之專業背景，或客觀審議其全面提議之技術價值所需之其他專業背景。

### ARTICLE 3 Application

- (1) Unless otherwise specified in this Convention, this Convention shall apply to:
- ships entitled to fly the flag of a Party;
  - ships not entitled to fly the flag of a Party, but which operate under the authority of a Party; and
  - ships that enter a port, shipyard, or offshore terminal of a Party, but do not fall within subparagraph (a) or (b).
- (2) This Convention shall not apply to any warships, naval auxiliary, or other ships owned or operated by a Party and used, for the time being, only on government noncommercial service. However, each Party shall ensure, by the adoption of appropriate measures not impairing operations or operational capabilities of such ships owned or operated by it, that such ships act in a manner consistent, so far as is reasonable and practicable, with this Convention.
- (3) With respect to the ships of non-Parties to this Convention, Parties shall apply the requirements of this Convention as may be necessary to ensure that no more favourable treatment is given to such ships.

### ARTICLE 4 Controls on Anti-Fouling Systems

- (1) In accordance with the requirements specified in Annex 1, each Party shall prohibit and/or restrict:
- the application, re-application, installation, or use of harmful anti-fouling systems on ships referred to in article 3(1)(a) or (b); and
  - the application, re-application, installation or use of such systems, whilst in a Party's port, shipyard, or offshore

### 第 3 條 適用範圍

- (1) 除本公約中另有特別規定外，本公約適用於：
- 有權懸掛締約國國旗之船舶；
  - 無權懸掛締約國國旗，然於該締約國權限下營運之船舶；及
  - 進入締約國港口、造船廠或近海裝卸站而不屬於第(a)或(b)款之船舶。
- (2) 本公約不適用於任何軍艦、軍事輔助船舶，或締約國所擁有或營運僅用於政府非商業服務目的之其他船舶。然各締約國須透過採取不妨礙其所擁有或營運此類船舶之營運或營運能量之適當措施，確保此類船舶能合理且實際上地符合本公約規定。
- (3) 有關非本公約締約國之船舶，各締約國於必要時可適用本公約規定，確保不給予該種船舶更優惠之對待。

### 第 4 條 防污系統之管制

- (1) 依據附件 1 所規定之要件，各締約國應禁止及/或限制：
- 於第 3 條第 1 項(a)或(b)款所述之船舶上施塗、重塗、安裝或使用有害防污系統；及
  - 於締約國港口、造船廠或近海裝卸站內，於第 3 條第(1)項(c)

terminal, on ships referred to in article 3(1)(c), and shall take effective measures to ensure that such ships comply with those requirements.

- (2) Ships bearing an anti-fouling system which is controlled through an amendment to Annex 1 following entry into force of this Convention may retain that system until the next scheduled renewal of that system, but in no event for a period exceeding 60 months following application, unless the Committee decides that exceptional circumstances exist to warrant earlier implementation of the control.

## ARTICLE 5 Controls of Annex 1 Waste Materials

Taking into account international rules, standards and requirements, a Party shall take appropriate measures in its territory to require that wastes from the application or removal of an anti-fouling system controlled in Annex 1 are collected, handled, treated and disposed of in a safe and environmentally sound manner to protect human health and the environment.

## ARTICLE 6 Process for Proposing Amendments to Controls on Anti-Fouling Systems

- (1) Any Party may propose an amendment to Annex 1 in accordance with this article.
- (2) An initial proposal shall contain the information required in Annex 2, and shall be submitted to the Organization. When the Organization receives a proposal, it shall bring the proposal to the attention of the Parties, Members of the Organization, the United Nations and its Specialized Agencies, intergovernmental organizations having agreements with the Organization and non-governmental organizations in consultative status with the Organization and shall make it available to them.
- (3) The Committee shall decide whether the anti-fouling system in question warrants a more in-depth review based on the initial proposal. If the Committee decides that further review is warranted, it shall require the proposing Party to submit to the Committee a comprehensive proposal containing the information required in Annex 3, except where the initial proposal also includes all the information required in Annex 3. Where the Committee is of the view that there is a threat of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason to prevent a decision to proceed with the evaluation of the proposal. The Committee shall establish a technical group in accordance with article 7.
- (4) The technical group shall review the comprehensive proposal along with any additional data submitted by any interested entity and shall evaluate and report to the Committee whether the proposal has demonstrated a potential for unreasonable risk of adverse effects on non-target organisms or human health such that

款所述船舶上施塗、重塗、或使用此類系統，並採取有效措施確保此類船舶符合附件 1 之要求。

- (2) 除委員會決定因情況特殊而構成提早實施之理由外，塗有受到本公約生效後對附件 1 之修正案所管制之防污系統船舶，可保留該系統直至下一次預計換新塗裝之時，然於任何情況下不得超出施塗後 60 個月。

## 第 5 條 對附件 1 廢棄材料之管制

於考慮到國際規則、標準及要求，締約國應於其領域內採取適當措施要求以安全及對環境無害之方式，收集、操作、處理及處置在施塗或清除附件 1 所管制之防污系統時所產生之廢棄物，以保護人類健康及環境。

## 第 6 條 提出修正防污系統管制之程序

- (1) 任一締約國均可依據本條對附件 1 提出修正。
- (2) 初始提議必須包括附件 2 所要求之資料，並應提交給本組織。本組織收到提議後，須將該提議通知各締約國、本組織會員國、聯合國及其專門機構、與本組織有協定之政府間國際組織及於本組織享有諮詢地位之非政府國際組織，並向其提供該提議。
- (3) 委員會需依據初始提議就是否有必要對防污系統作進行更進一步審議為決定。如委員會決定有必要進行進一步審議，須要求提出該提議之締約國向委員會提出一份全面提議，該提議應包括附件 3 所要求之資訊，然初始提議也包含附件 3 所要求之全部資訊除外。如委員會認為該提議欠缺存在嚴重或不可逆轉損害之威脅之全面科學確定性，即不得作為阻止做出對提議繼續評估決定之理由。委員會必須依據第 7 條成立一技術小組。
- (4) 技術小組需對該全面提議連同任何相關機構提交之任何額外資料進行審議，並對該提議是否證明瞭對非目標生物或人類健康，有過度潛在不利影響之風險，因而構成修