

1977 年托列莫利諾斯國際漁船安全公約

1977 年 04 月 02 日於西班牙托列莫利諾斯通過，尚未生效

Torremolinos International Convention for the Safety of Fishing Vessels, 1977

Adopted at Torremolinos on 2 April, 1977, Not yet in force

SFV 1977

THE PARTIES TO THE CONVENTION,

DESIRING to promote the safety of ships in general and the safety of fishing vessels in particular,

BEARING IN MIND the outstanding contribution of the International Conventions for the Safety of Life at Sea and also the International Conventions on Load Lines in promoting the safety of ships,

RECOGNIZING that fishing vessels are exempt from almost all the requirements of those International Conventions,

DESIRING therefore to establish in common agreement uniform principles and rules concerning the construction and equipment of fishing vessels directed to the safety of such vessels and their crews,

CONSIDERING that this end may best be achieved by the conclusion of a Convention,

HAVE AGREED as follows:

各締約國，

本著增進所有船舶，特別是漁船安全的願望；

銘記國際海上人命安全公約及國際船舶載重線公約對促進船舶安全的顯著貢獻；

鑒於這些國際公約的全部要求幾乎均不包括漁船；

為此，希望共同商訂有關漁船的構造及裝備的統一原則及規則，藉以指導漁船及其船員的安全；

一致認為締結一個公約，可以最好地達到這一目的。

現協議如下：

Article 1 General obligations under the Convention

The Parties shall give effect to the provisions of the Convention and the Annex thereto, which shall constitute an integral part of the Convention. Unless expressly provided otherwise, a reference to the Convention constitutes at the same time a reference to the Annex.

第 1 條 公約的一般義務

各締約國應實施本公約及其附則的各項規定，該附則應構成本公約的組成部分。除另有明文規定外，凡引用本公約時，同時也就是引用該附則。

Article 2 Definitions

For the purpose of the Convention, unless expressly provided otherwise:

- (a) "Party" means a State for which the Convention has entered into force.
- (b) "Fishing vessel" or "vessel" means any vessel used commercially for catching fish, whales, seals, walrus or

第 2 條 定義

除另有明文規定外，就本公約而言：

- (a) “締約國”係指本公約已對其生效的國家。
- (b) “漁船”或“船舶”係指用於商業性捕捉魚類、鯨魚、海豹、海象或其他海洋

- other living resources of the sea.
- (c) "Organization" means the Inter-Governmental Maritime Consultative Organization.
 - (d) "Secretary-General" means the Secretary-General of the Organization.
 - (e) "Administration" means the Government of the State whose flag the vessel is entitled to fly.

Article 3 Application

The Convention shall apply to sea-going fishing vessels entitled to fly the flag of a State which is a Party.

Article 4 Certification and control

- (1) Subject to the provisions of paragraph (2), a certificate issued under the authority of a Party in accordance with the provisions of the Convention shall be accepted by the other Parties and regarded for all purposes covered by the Convention as having the same validity as a certificate issued by them.
- (2) Every vessel holding a certificate issued under Regulation 7 or 8 is subject, in the ports of other Parties, to control by officers duly authorized by such Parties in so far as this control is directed towards verifying that there is on board a valid certificate. Such certificate shall be accepted unless there are clear grounds for believing that the condition of the vessel or its equipment does not correspond substantially with the particulars of that certificate. In that case, or if there is not a valid certificate, the officer carrying out the control shall forthwith inform the Consul or, in his absence, the diplomatic representative of the Party whose flag the vessel is entitled to fly, of all the circumstances for which corrective action by that Party would be deemed necessary and the facts shall be reported to the Organization. The officer carrying out the control shall take such steps as will ensure that the vessel shall not sail until it can proceed to sea without danger to the vessel or persons on board.

Article 5 Force majeure

- (1) A vessel which is not subject to the provisions of the Convention or which is not required to hold a certificate in accordance with the provisions of the Convention at the time of its departure on any voyage shall not become subject to such provisions on account of any deviation from its intended voyage due to stress of weather or any other cause of *force majeure*.
- (2) Persons who are on board a vessel by reason of *force majeure* or in consequence of the obligation to carry shipwrecked or other persons shall not be taken into account

- 生物資源的船舶。
- (c)“本組織”係指政府間海事協商組織。
 - (d)“秘書長”係指本組織秘書長。
 - (e)“主管機關”係指船旗國政府。

第 3 條 適用範圍

本公約適用於經授權懸掛締約國國旗的遠洋漁船。

第 4 條 證書與監督

- 1. 依據本條 2 項規定，對締約國當局依本公約頒發的證書，包括各種用途的證書，其他締約國應予承認，並視為與該締約國所頒發的證書具有同等效力。
- 2. 持有依據本公約附則第 7 條或第 8 條所發證書的船舶，當停靠在其他締約國港口時，應受該國政府正式授權的官員監督，這種監督的目的，僅在於查明船上是否備有有效的證書。除有明顯的理由使人相信該船舶及其設備的情況實質上與證書所載情況不符外，此項證書應被承認。如發生上述與證書不符的情況，或船上沒有有效的證書，執行監督的官員應將認為必須由船旗國採取改正措施的一切情況，立即通知船旗國領事，若領事不在，應即通知其外交代表，並將實訊息知本組織。執行監督的官員應採取措施，以保證該船在符合出海時對船舶及船員都無危險的條件前不得啟航。

第 5 條 不可抗力

- 1. 不受本公約條款約束的船舶或在啟航時不要求持有本公約規定證書的船舶，在航行中由於天氣惡劣或其他不可抗力的原因而偏離預定航線時，不受本公約約束。
- 2. 在確定是否符合本公約的規定時，對來自遭遇不可抗力的他船人員，或有義務搭載失事船舶的人員，或其他人

for the purpose of ascertaining the application to the vessel of any provision of the Convention.

Article 6 Communication of information

- (1) The Parties shall communicate to the Organization:
 - (a) the text of laws, orders, decrees, regulations and other instruments which have been promulgated on the various matters within the scope of the Convention;
 - (b) a list of non-governmental agencies which are authorized to act on their behalf in matters relating to the design, construction and equipment of vessels in accordance with the provisions of the Convention; and
 - (c) a sufficient number of specimens of their certificates issued under the provisions of the Convention.
- (2) The Organization shall notify all Parties of the receipt of any communication under paragraph (1)(a) and shall circulate to them any information communicated to it under paragraph (1)(b) and (c).

Article 7 Casualties to fishing vessels

- (1) Each Party shall arrange for an investigation of any casualty occurring to any of its vessels subject to the provisions of the Convention, when it judges that such an investigation may assist in determining what changes in the Convention might be desirable.
- (2) Each Party shall supply the Organization with pertinent information concerning the findings of such investigation for circulation to all Parties. No reports or recommendations of the Organization based upon such information shall disclose the identity or nationality of the vessels concerned, or in any manner fix or imply responsibility upon any vessel or person.

Article 8 Other treaties and interpretation

Nothing in this Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to Resolution 2750(XXV) of the General Assembly of the United Nations nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction.

Article 9 Signature, ratification, acceptance, approval and accession

- (1) The Convention shall remain open for signature at the

員均不應計入。

第 6 條 訊息交流

1. 各締約國應將下列文件送交本組織：
 - (a) 已頒佈的涉及本公約範圍內各種事項的法律、命令、法令、規則及其他文書的文本。
 - (b) 依本公約的規定授權負責有關船舶設計、建造及裝備等事項的非政府機構的名單。
 - (c) 一全套依據本公約規定頒發的證書樣本。
2. 本組織應將依本條第 1 項第 a 款的規定所收到的所有文書通知所有締約國。並將及其交流的涉及本條第 1 項第 b 款及第 c 款內容的任何訊息，轉發給所有締約國。

第 7 條 漁船事故

1. 各締約國對其所屬的受本公約規定約束的任何漁船所發生的任何事故，當其認為調查該項事故有助於確定本規則可能需要的何種修改時，即應安排進行調查。
2. 各締約國應將有關此項調查所獲得的適當資料提供給本組織。本組織依據此項資料所作的報告或建議，一律不得洩露有關船舶的辨認特徵或國籍，或以任何方式確定或暗示任何船舶或個人承擔的責任。

第 8 條 其他條約與解釋

本公約將不損害依據第 25 屆聯合國大會第 2750 號決議召集的聯合國海洋法會議有關海洋法的編纂及發展。也不損害任何國家對有關海洋法及對沿岸國、船旗國管轄主權性質及程度的現在及將來的任何要求及法律見解。

第 9 條 簽署、批准、接受、核准及加入

1. 本公約從 1977 年 10 月 1 日起至 1978

Headquarters of the Organization from 1 October 1977 until 30 June 1978 and shall thereafter remain open for accession. All States may become Parties to the Convention by:

- (a) signature without reservation as to ratification, acceptance or approval; or
 - (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
 - (c) accession.
- (2) Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.
 - (3) The Secretary-General shall inform all States which have signed the Convention or acceded to it of any signature or of the deposit of any new instrument of ratification, acceptance, approval or accession and the date of its deposit.

Article 10 Entry into force

- (1) The Convention shall enter into force 12 months after the date on which not less than 15 States have either signed it without reservation as to ratification, acceptance, or approval or have deposited the requisite instruments of ratification, acceptance, approval or accession in accordance with Article 9, the aggregate of whose fleets of fishing vessels constitutes not less than 50 per cent by number of the world's fleet of fishing vessels of 24 metres in length and over.
- (2) The Organization shall inform the States which have signed the Convention or acceded to it of the date on which it enters into force.
- (3) For States which have deposited an instrument of ratification, acceptance, approval or accession in respect of the Convention after the requirements for entry into force thereof have been met but prior to the date of entry into force, the ratification, acceptance, approval or accession shall take effect on the date of entry into force of the Convention or three months after the date of deposit of the instrument, whichever is the later date.
- (4) For States which have deposited an instrument of ratification, acceptance, approval or accession after the date on which the Convention entered into force, the Convention shall become effective three months after the date of deposit of the instrument.
- (5) After the date on which all the conditions required under Article 11 to bring an amendment to the Convention into force have been fulfilled, any instrument of ratification, acceptance, approval or accession deposited shall apply to the Convention as amended.

Article 11 Amendments

- (1) The Convention may be amended by either of the procedures specified in this Article.

年 6 月 30 日止在本組織總部開放簽署，此後仍可加入。各國可依下列方式參加本公約：

- (a) 簽署並對批准、接受或核准無保留；
 - (b) 簽署而待批准、接受或核准，隨後再予批准、接受或核准；
 - (c) 加入。
2. 批准、接受、核准或加入本公約，應向秘書長交存一份相應的文件。
 3. 秘書長應將任何簽署，或者關於批准、接受、核准或加入的任何新文書的交存以及交存日期，通知所有簽署國或參加國。

第 10 條 生效

1. 本公約應在至少有 15 個國家，其長度為 24 米及 24 米以上的漁船合計艘數不少於世界擁有長度為 24 米及 24 米以上的漁船總艘數的 50%，依第 9 條規定簽署，並對批准、接受或核准無保留，或者已交存批准、接受、核准或加入本公約的必不可少的文書之日，經過 12 個月生效。
2. 本組織應將本公約生效日期通知簽署或加入本公約的國家。
3. 對於在本公約生效要求之後，但在本公約生效之前交存批准、接受、核准或加入文書的國家，則此批准、接受、核准或加入應於本公約生效之日或在交存文書之日起經過 3 個月生效，以晚者為準。
4. 在本公約生效日以後交存批准、接受、核准或加入文書的國家，應自上述文書交存之後經過 3 個月生效。
5. 依據第 11 條，對已生效的本公約作過修正以後交存的批准、接受、核准或加入的任何文書，應認為適用於修正後的公約。

第 11 條 修正

1. 本公約可依本條各項規定的任一程序進行修正。

- (2) Amendments after consideration within the Organization:
- (a) Any amendment proposed by a Party shall be submitted to the Secretary-General, who shall then circulate it to all Members of the Organization and to all the Parties at least six months prior to its consideration.
 - (b) Any amendment proposed and circulated as above shall be referred to the Maritime Safety Committee of the Organization for consideration.
 - (c) Parties whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Maritime Safety Committee for the consideration and adoption of amendments.
 - (d) Amendments shall be adopted by a two-thirds majority of the Parties present and voting in the Maritime Safety Committee expanded as provided for in sub-paragraph (c) (hereinafter referred to as "the expanded Maritime Safety Committee") on condition that at least one-third of the Parties shall be present at the time of voting.
 - (e) Amendments adopted in accordance with sub-paragraph (d) shall be communicated by the Secretary-General to all the Parties.
 - (f)
 - (i) An amendment to an Article or to Regulations 1 and 3 to 11 shall be deemed to have been accepted on the date on which it is accepted by two-thirds of the Parties.
 - (ii) An amendment to the Annex other than to Regulations 1 and 3 to 11 shall be deemed to have been accepted:
 - (aa) at the end of two years from the date on which it is communicated to the Parties for acceptance; or
 - (bb) at the end of a different period, which shall not be less than one year, if so determined at the time of its adoption by a two-thirds majority of the Parties present and voting in the expanded Maritime Safety Committee.

However, if within the specified period either more than one-third of the Parties, or Parties the aggregate of whose fleets of fishing vessels constitutes not less than 50 per cent by number of the fleet of fishing vessels of all the Parties of 24 metres in length and over, notify the Secretary-General that they object to the amendment, it shall be deemed not to have been accepted.
 - (iii) An amendment to an Appendix to the Annex shall be deemed to have been accepted at the end of a period to be determined by the expanded Maritime Safety Committee at the time of its adoption, which period shall be not less than ten months, unless within that period an objection is communicated to the Organization by not less than one-third of the Parties, or Parties the aggregate of whose fleets of fishing vessels constitutes not less than 50 per cent by number of the fleet of fishing vessels of all the Parties of 24 metres in length and over.

2. 本組織內審議後的修正：

- (a) 某一締約國提議的任何修正案應提交給秘書長，隨後由其將該修正案在本組織審議前至少 6 個月分發給本組織所有會員國及所有締約國。
- (b) 依上述所提議的及分發的任何修正案，應提交本組織海上安全委員會審議。
- (c) 締約國不論是否本組織的會員國，均有權參加海上安全委員會對修正案進行審議及通過的會議。
- (d) 修正案應在依照本項 c 款所規定而擴大的海上安全委員會(以下稱“海上安全委員會擴大會議”)上，經到會並投票的締約國的 2/3 多數通過，但在表決時至少應有 1/3 的締約國出席。
- (e) 經依照本項 d 款通過的修正案，應由秘書長通知所有締約國，以供接受。
- (f)
 - (i) 對本公約條款或附則第 1 條及第 3 條至第 11 條的修正案，在其被 2/3 的締約國接受之日，應認為已被接受。
 - (ii) 對附則的修正案，除第 1 條及第 3 條至第 11 條外，在下列情況下，應認為已被接受：
 - (aa) 從通知締約國供其接受之日起的 2 年期限屆滿時；或
 - (bb) 在海上安全委員會擴大會議上，由到會並投票的締約國的 2/3 多數通過時所確定的不短於 1 年的不同期限屆滿時。

但如在上述期限內，1/3 以上的締約國或擁有長度等於及大於 24 米的漁船合計艘數不少於全體締約國所擁有長度等於及大於 24 米的漁船總艘數 50% 的締約國，通知秘書長反對該修正案，則應認為該修正案未被接受。
 - (iii) 對本公約附則附錄的修正案，在海上安全委員會擴大會議上通過時所確定的不短於 10 個月的期限屆滿時，則應認為已被接受。除非在上述期限內，有 1/3 及以上的締約國或擁有長度等於及大於 24 米的漁船合計艘數不少於全體締約國所擁有等於及大於 24 米的漁船總艘數 50% 的締約國通知本組織反對該修正案。