

1977 年托列莫利諾斯國際漁船安全公約 1993 年議定書

1993 年 04 月 02 日 通過，尚未生效

Protocol of 1993 relating the Torremolinos International Convention for the Safety of Fishing Vessels, 1977

Adopted at Torremolinos on 2 April, 1993, Not yet in force

SFV 1993

THE PARTIES TO THE PRESENT PROTOCOL,
RECOGNIZING the significant contribution which can be made by the Torremolinos International Convention for the Safety of Fishing Vessels, 1977, to the safety of ships in general and to the safety of fishing vessels in particular,

ACKNOWLEDGING HOWEVER that certain provisions of the Torremolinos International Convention for the Safety of Fishing Vessels, 1977, have given rise to difficulties in their implementation by a number of States with substantial fishing fleets under their flags and that this has prevented the entry into force of the Torremolinos International Convention for the Safety of Fishing Vessels, 1977, and consequently the implementation of the regulations contained therein,

DESIRING to establish in common agreement the highest practicable standards for the safety of fishing vessel which can be implemented by all States concerned,

CONSIDERING that this objective may best be achieved by the conclusion of a Protocol relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977,

HAVE AGREED as follows:

Article 1 General obligations

- (1) The Parties to the present Protocol shall give effect to the provisions of:
 - (a) the articles of the present Protocol; and
 - (b) the regulations contained in the annex to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977 (hereinafter referred to as "the Convention"), subject to the modifications set out in the annex to the present Protocol.
- (2) The articles of the present Protocol and the regulations of the annex to the Convention shall, subject to the modifications set out in the annex to the present Protocol, be read and interpreted as one single instrument.
- (3) The annex to the present Protocol shall constitute an integral part of the Protocol and a reference to the present Protocol shall

本議定書締約國，

認識到「1977年托列莫利諾斯國際漁船安全公約」對船舶安全，特別是對漁船安全所能作出的重大貢獻，

但注意到「1977年托列莫利諾斯國際漁船安全公約」的若干規定將對一些擁有龐大漁船隊的國家在實施上造成困難，從而可能阻礙「1977年托列莫利諾斯國際漁船安全公約」的生效及該公約條款在全球的實施，

希望以共同協議確定擁有漁船船隊的所有國家均可加以實施的可行的最高漁船安全標準，

認為達到這一目標的最好辦法是締結「1977年漁船安全公約」的議定書，特達成協議如下：

第1條 一般義務

- (1) 本議定書締約國須實施下述規定：
 - (a) 本議定書的條款；及
 - (b) 經本議定書附則中所載內容修正後的「1977年托列莫利諾斯國際漁船安全公約」(以後稱為“本公約”)附則中的條款。
- (2) 本議定書的條款及經本議定書附則中所載內容修正後的公約附則的規定須作為單一文書予以理解及解釋。
- (3) 本議定書的附則須構成本議定書的組成部分，述及本議定書，即述及其附則。

constitute at the same time a reference to the annex hereto.

Article 2 Definitions

For the purpose of the present Protocol, unless expressly provided otherwise:

- (a) *Party* means a State for which the present Protocol has entered into force.
- (b) *Fishing vessel* or *vessel* means any vessel used commercially for catching fish, whales, seals, walrus or other living resources of the sea.
- (c) *Organization* means the International Maritime 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.
- (f) *Regulations* means the regulations contained in the annex to the Convention as modified by the present Protocol.

Article 3 Application

- (1) The present Protocol shall apply to seagoing fishing vessels including vessels also processing their catch entitled to fly the flag of a Party.
- (2) The provisions of the annex shall not apply to vessels exclusively used:
 - (a) for sport or recreation;
 - (b) for processing fish or other living resources of the sea;
 - (c) for research and training; or
 - (d) as fish carriers.
- (3) Unless expressly provided otherwise, the provisions of the annex shall apply to fishing vessels of 24 metres in length and over.
- (4) In a case where a limit of the vessel's length is prescribed as greater than 24 metres in a chapter for the application of that chapter, the Administration shall determine which regulations of that chapter should apply, wholly or in part, to a fishing vessel of 24 metres in length and over but less than the length limit prescribed in that chapter and entitled to fly the flag of that State, having regard to the type, size and mode of operation of such a vessel.
- (5) Parties shall endeavour to establish, as a matter of high priority, uniform standards to be applied by Administrations to fishing vessels referred to in paragraph (4), which operate in the same region, taking into account the mode of operation, sheltered nature and climatic conditions in such region. Such uniform regional standards shall be communicated to the Organization for circulation to other Parties for information.

Article 4 Certification and port State control

第2條 定義

除另有明文規定外，就本議定書而言：

- (a) 締約國係指本議定書已對其生效的國家；
- (b) 漁船或船舶係指商業上用於捕撈魚類、鯨、海豹、海象或其他海洋生物資源的任何船舶；
- (c) 本組織係指國際海事組織；
- (d) 秘書長係指本組織秘書長；
- (e) 主管機關係指船舶有權懸掛其船旗的國家的政府；
- (f) 條款係指經本議定書修改的本公約附件所載的條款。

第3條 適用範圍

- (1) 本議定書須適用於遠洋漁船，包括對其捕獲物進行加工的、有權懸掛締約國船旗的船舶。
- (2) 本附件的規定不得適用於僅用於下述目的的專用船舶：
 - (a) 運動或娛樂；
 - (b) 加工魚類或其他海洋生物資源；
 - (c) 研究及培訓；或
 - (d) 運魚船。
- (3) 除另有明文規定外，本附件的規定須適用於長度等於或大於24m的漁船。
- (4) 如在某章中，就該章的適用範圍而言，船舶的長度限制被規定為大於24m，則主管機關須依據此種船舶的船型、尺寸及營運方式，確定該章中的哪些條款須全部或部分地適用於長度等於及大於24m但小於該章規定的長度限制的、有權懸掛其船旗的船舶。
- (5) 對於在同一地區中營運的、第4項所述的漁船，各締約國須作為高度優先事項，依據此類地區內的營運方式、遮蔽性及氣象條件，努力制定統一標準，由主管機關適用於此類漁船。此類地區標準須送交本組織，以分發給其他締約國參考。

第4條 證書及港口國監督

- (1) Every vessel required to hold a certificate in accordance with the provisions of the regulations is subject, when in a port of another Party, to control by officers duly authorized by the Government of that Party in so far as this control is directed towards verifying that the certificate issued under the provisions of the relevant regulations is valid.
- (2) Such certificate, if valid, shall be accepted unless there are clear grounds for believing that the condition of the vessel or of its equipment does not correspond substantially with the particulars of that certificate or that the vessel and its equipment are not in compliance with the provisions of the relevant regulations.
- (3) In the circumstances given in paragraph (2) or where a certificate has expired or ceased to be valid, the officer carrying out the control shall take steps to ensure that the vessel shall not sail until it can proceed to sea or leave the port for the purpose of proceeding to the appropriate repair yard without danger to the vessel or persons on board.
- (4) In the event of this control giving rise to an intervention of any kind, the officer carrying out the control shall forthwith inform, in writing, the Consul or, in his absence, the nearest diplomatic representative of the State whose flag the vessel is entitled to fly, of all the circumstances in which intervention was deemed necessary. In addition, nominated surveyors or recognized organizations responsible for the issue of the certificates shall also be notified. The facts concerning the intervention shall be reported to the Organization.
- (5) If the port State authority concerned is unable to take steps as specified in paragraph (3) or if the vessel has been allowed to proceed to the next port of call, the port State authority concerned shall notify all relevant information about the vessel to the Party mentioned in paragraph (4) and to the authorities of the next port of call.
- (6) When exercising control under this article, all possible efforts shall be made to avoid a vessel being unduly detained or delayed. If a vessel is thereby unduly detained or delayed, it shall be entitled to compensation for any loss or damage suffered.
- (7) With respect to vessels of non-Parties to the present Protocol, Parties shall apply the requirements of the present Protocol as may be necessary to ensure that no more favourable treatment is given to such vessels.

Article 5 Force majeure

- (1) A vessel which is not subject to the provisions of the present Protocol or which is not required to hold a certificate in accordance with the provisions of the present Protocol 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

- (1) 依照各條款的規定需持有證書的每一船舶，當在另一締約國港口時，應接受經該締約國政府正式授權的官員的監督，但此種監督僅限於旨在核證依照有關條款的規定頒發的證書的有效性。
- (2) 這種證書如有效，須得到承認，除非有確鑿的依據相信該船舶或其設備的狀況與該證書所載項目有重大不符或該船及其設備不符合有關條款的規定。
- (3) 在第(2)項所述情況下或如證書已到期或失效，實行監督的官員須採取措施保證該船不得航行；直止可以出海或離開港口以便駛往適當的修船廠而不會對船舶或船上人員造成危險。
- (4) 如這種檢查引起任何種類的干預，則實行監督的官員須立即將被視為必須進行干預的所有情況書面通知該船有權懸掛其船旗的國家的領事。如領事不在，則須立即通知該國的最近外交代表。此外，還須通知負責簽發該證書的指定驗船師或被認可的組織。須將干預的實情報告本組織。
- (5) 如有關的港口國當局不能採取第(3)項規定的措施或者如船舶已被允許駛往下一掛靠港，則有關的港口國當局須將所有有關該船的資料通知第(4)項所述締約國及下一掛靠港當局。
- (6) 在按本條進行監督時，須作出所有可能的努力避免船舶受到不適當的扣留或延誤。船舶如為此受到不適當的扣留或延誤，則有權為造成的任何損失或損害得到賠償。
- (7) 對非本議定書締約國的船舶，在必要時，締約國須採用本議定書的要求，以確保不給予這種船舶更優惠的對待。

第5條 不可抗力

- (1) 不受本議定書規定約束的船舶或按本議定書在任何航程啟航時不要求持有證書的船舶，在因惡劣天氣或任何其他不可抗力而偏離預定航線時，不可因此而使其受這些規定的約束。
- (2) 就確定是否須將本議定書的任何規定適用於船舶而言，不得計入因

persons shall not be taken into account for the purpose of ascertaining the application to the vessel of any provisions of the present Protocol.

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 present Protocol;
 - (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 present Protocol; and
 - (c) a sufficient number of specimens of their certificates issued under the provisions of the present Protocol.
- (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 paragraphs (1)(b) and (1)(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 present Protocol, when it judges that such an investigation may assist in determining what changes in the present Protocol might be desirable.
- (2) Each Party shall supply the Organization with pertinent information concerning the findings of such investigations 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 the present Protocol shall prejudice 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 present Protocol shall remain open for signature at the Headquarters of the Organization from 1 July 1993 until 30 June 1994 and shall thereafter remain open for accession. All States may become Parties to the present Protocol by:

不可抗力而登上船舶的人員或由於有義務運輸遇險船舶人員或其他人員而在船上的人員。

第6條 資料通報

- (1) 締約國須將下述情況通知本組織：
 - (a) 已頒佈的有關本議定書範圍內的各種事項的法律、命令、法令、規則及其它法律性文書；
 - (b) 被授權依照本議定書規定在船舶設計、構造及設備等事項方面代其行事的非政府機構的名單；及
 - (c) 依據本議定書規定簽發的證書的足夠數量的樣本。
- (2) 本組織須將依照第1(a)項收到的任何通報通知所有締約國，並須將依照第(1)(b)及(1)(c)項向其通報的任何資料分發給它們。

第7條 漁船事故

- (1) 對於其須受本議定書規定約束的任何船舶所發生的任何事故，每一締約國在其認為調查此種事故有助於確定本議定書需作出何種修改時，須安排此種調查。
- (2) 每一締約國須向本組織提供關於這種調查結果的有關資料，以便轉發給所有締約國。本組織依據這些資料作出的任何報告或建議均不得透露有關船舶的身份或國籍，或以任何方式把責任歸咎於任何船舶或人員或暗示其負有責任。

第8條 其它條約與解釋

本議定書的規定不得損害目前及今後的索賠及任何國家對海洋法及對沿海國及船旗國管轄權的性質及範圍所持的法律意見。

第9條 簽署、批准、接受、核准及加入

- (1) 本議定書自1993年7月1日至1994年6月30日在本組織總部開放供簽署，並在此後開放供加入。所有國家可以下列方式成為本議定書的

- (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) Each State which has either signed the present Protocol without reservation as to ratification, acceptance or approval or has deposited the requisite instruments of ratification, acceptance, approval or accession in accordance with this article shall transmit to the Secretary-General, at the time of deposit of the above instrument and by the end of each year, information on the aggregate number of fishing vessels of 24 metres in length and over entitled to fly the flag of that State.

Article 10 Entry into force

- (1) The present Protocol 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 number of whose fishing vessels of 24 metres in length and over is not less than 14,000.
- (2) For States which have deposited an instrument of ratification, acceptance, approval or accession in respect of the present Protocol 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 present Protocol or three months after the date of deposit of the instrument, whichever is the later date.
- (3) For States which have deposited an instrument of ratification, acceptance, approval or accession after the date on which the present Protocol entered into force, the present Protocol shall become effective three months after the date of deposit of the instrument.
- (4) After the date on which an amendment to the present Protocol is deemed to have been accepted under article 11, any instrument of ratification, acceptance, approval or accession deposited shall apply to the present Protocol as amended.

Article 11 Amendments

- (1) The present Protocol may be amended by either of the procedures specified in this article.
- (2) Amendment 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

締約國：

- (a) 簽署並對批准、接受或核准無保留；或
 - (b) 簽署而有待批准、接受或核准，隨後予以批准、接受或核准；或
 - (c) 加入。
- (2) 批准、接受、核准或加入，須向秘書長交存一份文書方為有效。
- (3) 簽署本議定書而對批准、接受或核准無保留或依照本條交存批准、接受、核准或加入的必要文書的每個國家，須在交存上述文書時及每年年底向秘書長提交有關有權懸掛該國船旗、長度等於或大於24m的漁船的總數的資料。

第10條 生效

- (1) 本議定書將在不少於15個國家，其長度等於及大於24m的漁船隊的合計數目不少於14,000艘，簽署本議定書並對批准、接受或核准無保留或依照第9條交存批准、接受、核准或加入的必要文書之日後12個月生效。
- (2) 對於在本議定書達到生效條件之後但在其生效之日前交存本議定書的批准、接受、核准或加入文書的國家，其批准、接受、核准或加入將在本議定書生效之日或在交存該文書之日後3個月生效，以遲者為準。
- (3) 對在本議定書生效之日後交存批准、接受、核准或加入文書的國家，本議定書將在交存文書之日後3個月生效。
- (4) 在本議定書修正案依照第11條視為已被接受之日後，任何交存批准、接受、核准或加入文書須適用於經修正的本議定書。

第11條 修正

- (1) 本議定書可按本條規定的任一程序進行修正。
- (2) 經本組織內審議後通過的修正案：
- (a) 締約國提出的任何修正案須提交給秘書長，然後秘書長在對其審議前至少6個月將其分發給本