

# 1988 年 制止危及海上航行安全非法行為公約

1988 年 10 月 3 日通過 羅馬，1992 年 3 月 1 日生效

## Convention for The Suppression of Unlawful Acts Against The Safety of Maritime Navigation 1988

Signed at Rome, Oct 3, 1988, Entered into force March, 1, 1992

### SUA 1998

#### THE STATES PARTIES TO THIS CONVENTION,

**HAVING IN MIND** the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of friendly relations and co-operation among States,

**RECOGNIZING** in particular that everyone has the right to life, liberty and security of person, as set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights,

**DEEPLY CONCERNED** about the world-wide escalation of acts of terrorism in all its forms, which endanger or take innocent human lives, jeopardize fundamental freedoms and seriously impair the dignity of human beings,

**CONSIDERING** that unlawful acts against the safety of maritime navigation jeopardize the safety of persons and property, seriously affect the operation of maritime services, and undermine the confidence of the peoples of the world in the safety of maritime navigation,

**CONSIDERING** that the occurrence of such acts is a matter of grave concern to the international community as a whole,

**BEING CONVINCED** of the urgent need to develop international co-operation between States in devising and adopting effective and practical measures for the prevention of all unlawful acts against the safety of maritime navigation, and the prosecution and punishment of their perpetrators,

**RECALLING** resolution 40/61 of the General Assembly of the United Nations of 9 December 1985 which, *inter alia*, "urges all States unilaterally and in co-operation with other States, as well as relevant United Nations organs, to contribute to the progressive elimination of causes underlying international terrorism and to pay special attention to all situations, including colonialism, racism and situations involving mass and flagrant violations of human rights and fundamental freedoms and those involving alien occupation, that may give rise to international terrorism and may endanger international peace and security",

#### 本公約各締約國，

考慮到聯合國憲章有關維護國際和平與安全及促進國家間友好關係與合作之宗旨及原則，

認識到正如世界人權宣言及公民權利及政治權利國際公約所言，任何人均有生活、人身自由及人身安全之權利，

深切關注到任何形式的恐怖主義行為為全球性氾濫，該行為危及或奪取無辜性命，危害人之基本自由並嚴重損害人的尊嚴，

考慮到危及海上航行安全之非法行為為危及人身及財產安全，嚴重影響海上服務之經營並損及全球人們對海上航行安全之信心，

考慮到整個國際社會對此行為發生之高度關注，

深信迫切需要在國家間進行國際合作，擬定及採取確實有效措施，防止一切危及海上航行安全之非法行為，並對嫌疑犯起訴及加以懲罰，

回顧 1985 年 12 月 9 日聯合國大會第 40/61 號決議，該決議特別“敦促一切國家(片面或與其他國家合作)及聯合國相關機構，為逐步消弭造成國際恐怖主義之根本原因作出貢獻，並特別注意可能導致國際恐怖主義及可能危及國際和平與安全之一切態勢，包括殖民主義、種族主義、以及大規模肆意侵犯人權及基本自由及外國佔領之態勢”，

**RECALLING FURTHER** that resolution 40/61 "unequivocally condemns, as criminal, all acts, methods and practices of terrorism wherever and by whomever committed, including those which jeopardize friendly relations among States and their security",

**RECALLING ALSO** that by resolution 40/61, the International Maritime Organization was invited to "study the problem of terrorism aboard or against ships with a view to making recommendations on appropriate measures",

**HAVING IN MIND** resolution A.584(14) of 20 November 1985, of the Assembly of the International Maritime Organization, which called for development of measures to prevent unlawful acts which threaten the safety of ships and the security of their passengers and crews,

**NOTING** that acts of the crew which are subject to normal shipboard discipline are outside the purview of this Convention,

**AFFIRMING** the desirability of monitoring rules and standards relating to the prevention and control of unlawful acts against ships and persons on board ships, with a view to updating them as necessary, and, to this effect, taking note with satisfaction of the Measures to Prevent Unlawful Acts against Passengers and Crews on Board Ships, recommended by the Maritime Safety Committee of the International Maritime Organization,

**AFFIRMING FURTHER** that matters not regulated by this Convention continue to be governed by the rules and principles of general international law,

**RECOGNIZING** the need for all States, in combating unlawful acts against the safety of maritime navigation, strictly to comply with rules and principles of general international law,

**HAVE AGREED as follows:**

## Article 1

For the purposes of this Convention, "ship" means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles, or any other floating craft.

## Article 2

1. This Convention does not apply to:
  - (a) a warship; or
  - (b) a ship owned or operated by a State when being used as a naval auxiliary or for customs or police purposes; or
  - (c) a ship which has been withdrawn from navigation or laid up.
2. Nothing in this Convention affects the immunities of warships and other government ships operated for non-commercial purposes.

**進一步回顧**到第 40/61 號決議“嚴厲譴責在任何地方由任何人所進行恐怖主義之一切行動、方式及作法，包括危害國家間友好關係及其安全之恐怖主義行動、方式及作法之所有犯罪行為”，

**另回顧**第 40/61 號決議要求國際海事組織“研究於船上發生或針對船舶之恐怖主義行為問題，以便針對適當措施提出建議”，

**考慮**到國際海事組織大會 1985 年 11 月 20 日第 A.584(14)號決議要求擬定防止威脅船舶及其旅客及船員安全之非法行為措施，

**注意到**，接受一般船上紀律約束之船員行為不在本公約適用範圍，

**確認**需要檢查關於防止及控制危及船舶及船上人員非法行為之規則及標準，以便作出必要之更新，並為此充分注意國際海事組織海事安全委員會所建議之防止危及船上旅客及船員非法行為的措施，

**進一步確認**本公約未規定之事項仍應按照一般國際法的規劃及原則處理，

**認識**到在防止危及海上航行安全非法行為方面需要所有國家嚴格遵守一般國際法規則及原則，

**茲協議如下：**

## 第 1 條

就本公約而言，“船舶”係指任何種類非永久附著於海床之船舶，包括動力航具、潛水器或任何其他水上船艇。

## 第 2 條

1. 本公約不適用於：
  - (a) 軍艦；或
  - (b) 國家所有或用作海軍輔助船或用於海關或警用目的之船舶；或
  - (c) 已除役航行或停航之船舶。
2. 本公約任何規定不影響軍艦及專用於非商業目的之其他政府船舶之豁免權。

### Article 3

1. Any person commits an offence if that person unlawfully and intentionally:
  - (a) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation; or
  - (b) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship; or
  - (c) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship; or
  - (d) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship; or
  - (e) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if any such act is likely to endanger the safe navigation of a ship; or
  - (f) communicates information which he knows to be false, thereby endangering the safe navigation of a ship; or
  - (g) injures or kills any person, in connection with the commission or the attempted commission of any of the offences set forth in subparagraphs (a) to (f).
2. Any person also commits an offence if that person:
  - (a) attempts to commit any of the offences set forth in paragraph 1; or
  - (b) abets the commission of any of the offences set forth in paragraph 1 perpetrated by any person or is otherwise an accomplice of a person who commits such an offence; or
  - (c) threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraph 1, subparagraphs (b), (c) and (e), if that threat is likely to endanger the safe navigation of the ship in question.

### Article 4

1. This Convention applies if the ship is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single State, or the lateral limits of its territorial sea with adjacent States.
2. In cases where the Convention does not apply pursuant to paragraph 1, it nevertheless applies when the offender or the alleged offender is found in the territory of a State Party other than the State referred to in paragraph 1.

### 第 3 條

1. 任何人如非法故意從事下列活動，即構成犯罪：
  - (a) 以武力或武力威脅或任何其他恐嚇形式奪取或控制船舶；或
  - (b) 對船上人員施用暴力，而該行為可能危及船舶航行安全；或
  - (c) 毀壞船舶或對船舶或其貨物造成可能危及船舶航行安全之破壞；或
  - (d) 以任何手段把某種裝置或物質放置或使之放置於船上，而該裝置或物質可能毀壞船舶或對船舶或其貨物造成損壞而危及或可能危及船舶航行安全；或
  - (e) 毀壞或嚴重損壞海事導航設施或嚴重干擾其運行，而此種行為可能危及船舶航行安全者；或
  - (f) 傳遞其明知是虛偽情報，從而危及船舶航行安全者；或
  - (g) 因從事(a)至(f)款所載任何罪行或從事該類罪行未遂而傷害或殺害任何人。
2. 任何人如從事下列活動，亦構成犯罪：
  - (a) 從事第 1 項所述任何罪行未遂者；或
  - (b) 教唆任何人從事第 1 項所述任何罪行或是從事該罪行者之共謀者；或
  - (c) 無論國內法對威脅是否有要件規定，如旨在迫使某自然人或法人從事或不從事任何行為，而該威脅可能危及船舶的航行安全者，即為第 1 項(b)、(c)及(e)款所載任何罪行之威脅。

### 第 4 條

1. 本公約適用於從一國領海外部界限或與之相鄰國家領海側面界限以外之水域，正在或準備駛入、通過或駛出之船舶。
2. 依第 1 項而本公約不適用時，如罪犯或嫌疑犯於非第 1 項所述國家之任一締約國領域被發現者，本公約仍應適用之。

## Article 5

Each State Party shall make the offences set forth in article 3 punishable by appropriate penalties which take into account the grave nature of those offences.

## Article 6

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 3 when the offence is committed:
  - (a) against or on board a ship flying the flag of the State at the time the offence is committed; or
  - (b) in the territory of that State, including its territorial sea; or
  - (c) by a national of that State.
2. A State Party may also establish its jurisdiction over any such offence when:
  - (a) it is committed by a stateless person whose habitual residence is in that State; or
  - (b) during its commission a national of that State is seized, threatened, injured or killed; or
  - (c) it is committed in an attempt to compel that State to do or abstain from doing any act.
3. Any State Party which has established jurisdiction mentioned in paragraph 2 shall notify the Secretary-General of the International Maritime Organization (hereinafter referred to as "the Secretary-General"). If such State Party subsequently rescinds that jurisdiction, it shall notify the Secretary-General.
4. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 3 in cases where the alleged offender is present in its territory and it does not extradite him to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 and 2 of this article.
5. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

## Article 7

1. Upon being satisfied that the circumstances so warrant, any State Party in the territory of which the offender or the alleged offender is present shall, in accordance with its law, take him into custody or take other measures to ensure his presence for such time as is necessary to enable any criminal or extradition proceedings to be instituted.
2. Such State shall immediately make a preliminary inquiry into the facts, in accordance with its own legislation.
3. Any person regarding whom the measures referred to in paragraph 1 are being taken shall be entitled to:
  - (a) communicate without delay with the nearest appropriate

## 第 5 條

任一締約國應使第 3 條所載罪行受到適當懲罰，此懲罰應考慮罪行之嚴重程度。

## 第 6 條

1. 於下列情況下，任一締約國應採取必要措施，以建立其對第 3 條所載罪行之管轄權：
  - (a) 罪行發生時是針對懸掛其旗幟之船舶或發生在該船上；或
  - (b) 罪行發生在其領域內，包括其領海；或
  - (c) 罪犯是其國民。
2. 於下列情況下，任一締約國亦可對任何該罪行建立其管轄權：
  - (a) 罪行係由慣常居所在其境內之無國籍人所違犯；或
  - (b) 違犯過程中，其國民被扣押、威脅、傷害或殺害；或
  - (c) 犯罪意圖是迫使該國從事或不從事某種行為。
3. 任何締約國於建立第 2 項所載管轄權後，應通知國際海事組織秘書長（以下稱秘書長）。該締約國日後撤銷該管轄權者，亦應通知秘書長。
4. 如犯罪嫌疑人出現於某締約國領域內，而該締約國又不將其引渡給依據本條第 1 及第 2 項具管轄權之任何國家，該締約國仍應採取必要措施，建立其對第 3 條所載罪行之管轄權。
5. 本公約不排除依據國內法所行使之任何刑事管轄權。

## 第 7 條

1. 罪犯或嫌疑犯出現於其領域內之任何締約國，於確信情況有需要時，應依據其法律，將罪犯或嫌疑犯予以拘留或採取其他措施，確保其在提起刑事訴訟或引渡程序所需時間內能留置於其國內。
2. 該締約國應依照本國法律立即對事實進行初步調查。
3. 對其採取第 1 項所載措施之任何人，有權：
  - (a) 及時地與其國籍國或有權建立此

representative of the State of which he is a national or which is otherwise entitled to establish such communication or, if he is a stateless person, the State in the territory of which he has his habitual residence;

(b) be visited by a representative of that State.

4. The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or the alleged offender is present, subject to the proviso that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.
5. When a State Party, pursuant to this article, has taken a person into custody, it shall immediately notify the States which have established jurisdiction in accordance with article 6, paragraph 1 and, if it considers it advisable, any other interested States, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

## Article 8

1. The master of a ship of a State Party (the "flag State") may deliver to the authorities of any other State Party (the "receiving State") any person who he has reasonable grounds to believe has committed one of the offences set forth in article 3.
2. The flag State shall ensure that the master of its ship is obliged, whenever practicable, and if possible before entering the territorial sea of the receiving State carrying on board any person whom the master intends to deliver in accordance with paragraph 1, to give notification to the authorities of the receiving State of his intention to deliver such person and the reasons therefor.
3. The receiving State shall accept the delivery, except where it has grounds to consider that the Convention is not applicable to the acts giving rise to the delivery, and shall proceed in accordance with the provisions of article 7. Any refusal to accept a delivery shall be accompanied by a statement of the reasons for refusal.
4. The flag State shall ensure that the master of its ship is obliged to furnish the authorities of the receiving State with the evidence in the master's possession which pertains to the alleged offence.
5. A receiving State which has accepted the delivery of a person in accordance with paragraph 3 may, in turn, request the flag State to accept delivery of that person. The flag State shall consider any such request, and if it accedes to the request it shall proceed in accordance with article 7. If the flag State declines a request, it shall furnish the receiving State with a statement of the reasons therefor.

聯繫之國家之最近適當代表人聯繫；或如其為無國籍人時，與其慣常居所地國代表聯繫；

(b) 接受該國代表之探視。

4. 第 3 項所載權利應依照罪犯或嫌疑犯所在地國之法律及規章行使之，然該法律及規章必須能使第 3 項所賦予之權利之目的能得以被充分實現。
5. 締約國依據本條將規定將某人拘留時，應立即將該人被拘留之事實及應予拘留之情況通知已依據第 6 條第 1 項規定建立管轄權之國家；並於認為適當時，亦應立即通知其他有關國家。進行本條第 2 項所載初步調查之國家，應迅速將調查結果通報上述國家，並應表明其是否有意行使管轄權。

## 第 8 條

1. 任何締約國(船旗國)船舶之船長得將其有正當理由相信已犯下第 3 條所載任一罪行之任何人移交給任何其他締約國(接收國)當局。
2. 船旗國應確保其船長有義務，在船上載有船長意欲依據第 1 項規定移交之任何犯罪人員時，於可行及可能範圍內，於進入接收國領海前將其要移交該人員之意圖及理由向接收國當局予以通報。
3. 除有理由認為本公約不適用於引起移交行為之情況，接收國應接受移交並依據第 7 條規定進行處理，如拒絕接受移交，應說明拒絕理由。
4. 船旗國應確保該國船舶之船長有義務向接收國當局提供船長所掌握且與指稱罪行有關之證據。
5. 已依第 3 項規定接受移交之接收國，可再要求船旗國接受對於該人之移交。船旗國應考慮任何此類請求，若同意，則應依第 7 條規定為處理。如船旗國拒絕此要求，則應向接收國說明理由。