

# 1988年制止危及海上航行安全非法行為公約 之2005年議定書

2005年10月14日訂於倫敦，2010年7月28日生效

## Protocol of 2005 to The Convention for The Suppression of Unlawful Acts Against The Safety of Maritime Navigation Signed at London 14 Oct 2005 , Entered into force July, 28, 2010

### SUA 2005

#### Preamble

**THE STATES PARTIES to this Protocol,**

**BEING PARTIES** to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation done at Rome on 10 March 1988,

**ACKNOWLEDGING** that terrorist acts threaten international peace and security,

**MINDFUL** of resolution A.924(22) of the Assembly of the International Maritime Organization requesting the revision of existing international legal and technical measures and the consideration of new measures in order to prevent and suppress terrorism against ships and to improve security aboard and ashore, and thereby to reduce the risk to passengers, crews and port personnel on board ships and in port areas and to vessels and their cargoes,

**CONSCIOUS** of the Declaration on Measures to Eliminate International Terrorism, annexed to United Nations General Assembly resolution 49/60 of 9 December 1994, in which, *inter alia*, the States Members of the United Nations solemnly reaffirm their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States,

**NOTING** United Nations General Assembly resolution 51/210 of 17 December 1996 and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism annexed thereto,

**RECALLING** resolutions 1368 (2001) and 1373 (2001) of the United Nations Security Council, which reflect international will to combat terrorism in all its forms and manifestations, and which assigned tasks and responsibilities to States, and taking into account the continued threat from terrorist attacks,

**RECALLING ALSO** resolution 1540 (2004) of the United

#### 前言

本議定書各會員國，

作為1988年3月10日於羅馬所制訂之制止危及海上航行安全非法行為公約之會員國，

認知恐怖主義行為威脅國際和平及保安，

注意到國際海事組織第A.924(22)號大會決議，該決議要求針對現有國際立法及技術措施為見檢討修訂，並考慮引進新措施以避免或制止針對船舶之恐怖活動，以增進船上或岸上安全，降低於船上或岸上旅客、船員及港口人員及船舶及其貨物之危險。

意識到聯合國1994年12月9日第49/60號大會決議附錄之「降低國際恐怖活動措施宣言」，於該附錄，聯合國各會員國慎重地再次確認其對於恐怖活動，無論於何地或由孰所違犯，包括任何危害各會員國間及人民間之友好關係及危及各國領土完整及安全之所有作為、方式及作法為犯罪及不公義之嚴正譴責，

注意到聯合國1996年12月17日第51/210號大會決議及其補充有關1994年「降低國際恐怖活動措施宣言」之附錄，

回顧聯合國安全理事會第1368(2001)及1373(2001)號決議，此兩決議反映打擊各類型及表現形式之恐怖主義之國際意志，對各國提出任務及責任，並考慮到恐怖主義襲擊之持續威脅，

另回顧聯合國安全理事會第

Nations Security Council, which recognizes the urgent need for all States to take additional effective measures to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery,

**RECALLING FURTHER** the Convention on Offences and Certain Other Acts Committed on Board Aircraft, done at Tokyo on 14 September 1963; the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970; the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971; the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973; the International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979; the Convention on the Physical Protection of Nuclear Material, done at Vienna on 26 October 1979 and amendments thereto adopted on 8 July 2005; the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988; the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988; the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991; the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997; the International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999, and the International Convention for the Suppression of Acts of Nuclear Terrorism adopted by the General Assembly of the United Nations on 13 April 2005,

**BEARING IN MIND** the importance of the United Nations Convention on the Law of the Sea done at Montego Bay, on 10 December 1982, and of the customary international law of the sea,

**CONSIDERING** resolution 59/46 of the United Nations General Assembly, which reaffirmed that international co-operation as well as actions by States to combat terrorism should be conducted in conformity with the principles of the Charter of the United Nations, international law and relevant international conventions, and resolution 59/24 of the United Nations General Assembly, which urged States to become parties to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and its Protocol, invited States to participate in the review of those instruments by the Legal Committee of the International Maritime Organization to strengthen the means of combating such unlawful acts, including terrorist acts, and also urged States to take appropriate measures to ensure the effective implementation of those instruments, in particular through the adoption of legislation, where appropriate, aimed at ensuring that there is a proper framework for responses to incidents of armed robbery and terrorist acts at sea,

1540(2004)號決議，該決議確認所有國家亟需採取更多有效措施，防止核生化武器及其運載工具之擴散，

**進一步回顧** 1963年9月14日訂於東京之「關於在航空器內犯罪及犯有某些其他行為公約」、1970年12月16日訂於海牙之「關於制止非法劫持航空器公約」、1971年9月23日訂於蒙特利爾之「關於制止危害民用航空安全非法行為公約」、1973年12月14日聯合國大會通過之「關於防止及懲處侵害應受國際保護人員包括外交人員及外交代表罪行公約」、1979年12月17日聯合國大會通過之「反對劫持人質國際公約」、1979年10月26日訂於維也納之「核材料實質保護公約」及其2005年7月8日所通過之修訂議定書、1988年2月24日訂於蒙特利爾作為「關於制止危害民用航空安全非法行為公約」補充之「關於制止民用航空國際機場非法武力行為議定書」、1988年3月10日訂於羅馬之「制止危及大陸礁層固定平台安全非法行為議定書」、1991年3月1日訂於蒙特利爾之「關於用於探測目的塑膠爆炸物標誌公約」、1997年12月15日聯合國大會通過之「制止恐怖主義爆炸事件國際公約」、1999年12月9日聯合國大會通過之「制止向恐怖主義提供資助國際公約」及2005年4月13日聯合國大會所通過之「制止核子恐怖主義行為國際公約」，

**記及** 1982年12月10日於蒙特哥貝通過之「聯合國海洋法公約」及習慣國際海洋法之重要性，

**考量** 聯合國大會第59/46號決議，該決議重申打擊恐怖主義之國際合作及國家行動應依照「聯合國憲章」、國際法及相關國際公約原則；聯合國大會第59/24號決議，該決議敦促各國成為「制止危及海上航行安全非法行為公約」及其「議定書」之會員國，請各國參與國際海事組織法律委員會為加強打擊此類非法行為包括恐怖主義行為手段對這些公約文件進行審查，且還敦促各國採取適當措施確保這些公約文書之有效實施，特別是視情透過制定立法之方式，以確保具有應付海上武裝搶劫及恐怖主義行為之適當規範架構，

**CONSIDERING ALSO** the importance of the amendments to the International Convention for the Safety of Life at Sea, 1974, and of the International Ship and Port Facility Security (ISPS) Code, both adopted by the 2002 Conference of Contracting Governments to that Convention, in establishing an appropriate international technical framework involving co-operation between Governments, Government agencies, national and local administrations and the shipping and port industries to detect security threats and take preventative measures against security incidents affecting ships or port facilities used in international trade,

**CONSIDERING FURTHER** resolution 58/187 of the United Nations General Assembly, which reaffirmed that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law,

**BELIEVING** that it is necessary to adopt provisions supplementary to those of the Convention, to suppress additional terrorist acts of violence against the safety and security of international maritime navigation and to improve its effectiveness,

**HAVE AGREED** as follows:

## ARTICLE 1

For the purposes of this Protocol:

1. "Convention" means the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988.
2. "Organization" means the International Maritime Organization (IMO).
3. "Secretary-General" means the Secretary-General of the Organization.

## ARTICLE 2

**Article 1 of the Convention is amended to read as follows:**

### Article 1

1. For the purposes of this Convention:
  - (a) "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.
  - (b) "transport" means to initiate, arrange or exercise effective control, including decision-making authority, over the movement of a person or item.
  - (c) "serious injury or damage" means:
    - (i) serious bodily injury; or
    - (ii) extensive destruction of a place of public use, State or government facility, infrastructure facility, or public transportation system, resulting in major economic loss; or

並考慮到相關公約締約國於2002年會議所通過1974年海上人命安全國際公約之修訂及國際船舶級港口設施安全準則(ISPS)，於建立政府間、官署間、各國及地區行政官署及船運及港口工業間合作之適當國際技術架構以發見安全威脅並針對該可能會影響使用於國際貿易之船舶或港口之安全事件採取預防措施之重要性，

進一步考量聯合國大會第58/187號決議，該決議重申各國必須確保為打擊恐怖主義而採取之任何措施均應符合其所根據國際法，特別是國際人權、難民及人道主義所應承擔之義務，

相信需要通過補充本公約規定，以制止危及國際海上航行安全及保安之新增恐怖主義暴力行為及增進本公約效力，

茲協議如下：

## 第1條

於本議定書：

1. "公約"係指1988年3月10日訂於羅馬之「制止危及海上航行安全非法行為公約」。
2. "本組織"係指國際海事組織(IMO)。
3. "秘書長"係指本組織秘書長。

## 第2條

本公約第1條修正如下：

### 第1條

1. 於本公約，
  - (a) "船舶"係指任何類型之非永久附著於海床之船舶，包括以動力推動之船舶、可潛水或任何其他浮動船艇。
  - (b) "運輸"係指對人員或物品之移動為著手、安排或實行有效控制，包括決策權在內。
  - (c) "嚴重損傷或損害"係指
    - (i) 嚴重身體損傷，或
    - (ii) 公用場所、國家或政府設施、基礎設施或公共運輸系統之廣泛破壞，導致重大經濟損失，或

- (iii)substantial damage to the environment, including air, soil, water, fauna, or flora.
- (d) “BCN weapon” means:
- (i)“biological weapons”, which are:
- (A)microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes; or
- (B)weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.
- (ii)“chemical weapons”, which are, together or separately:
- (A)toxic chemicals and their precursors, except where intended for:
- (I)industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes; or
- (II)protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons; or
- (III)military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare; or
- (IV)law enforcement including domestic riot control purposes,
- as long as the types and quantities are consistent with such purposes;
- (B)munitions and devices specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (ii)(1), which would be released as a result of the employment of such munitions and devices;
- (C)any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in subparagraph (ii)(2).
- (iii)nuclear weapons and other nuclear explosive devices.
- (e) “toxic chemical” means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. This includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.
- (f) “precursor” means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multicomponent chemical system.
- (g) “Organization” means the International Maritime Organization (IMO).
- (h) “Secretary-General” means the Secretary-General of the Organization.
2. For the purposes of this Convention:
- (iii)實質環境損害，包括空氣、土壤、水、動物或植物群。
- (d)“BCN武器”係指
- (i)“生化武器”係指：
- (A)微生物製劑或其他生物製劑或無論何種來源或生產方法製造之毒素，且其類型及數量無法證明係用於預防、防護或其他和平目的；或
- (B)為敵對目的或在武裝衝突中使用此類製劑而設計之武裝、設備或運載工具。
- (ii)“化學武器”，其共同或單獨為：
- (A)有毒化學品或其前體，然擬作下列用途者除外：
- (I)工業、農業、研究、醫療、制藥或其他和平目的；或
- (II)防護目的，即直接與防護有毒化學品及防護化學武器有關之目的；或
- (III)非與化學武器使用相關及非依賴使用化學品之有毒特性作為戰爭方法之軍事目的；或
- (IV)強力執法，包括控制國內暴亂之目的；
- 凡類型及數量與此類目的一致即可；
- (B)專門設計用於透過第(ii)(1)款中規定之有毒化學品中之毒性造成死亡或其他危害之軍火和裝置；此毒性會因此類軍火及裝置之使用而釋放；及
- (C)專門設計用於與第(ii)(2)款中規定之火藥及裝置之使用有直接關係之任何設備。
- (iii)核武器及其他核爆炸裝置。
- (e)“毒性化學品”係指透過其對生命過程之化學作用可造成人類或動物死亡、暫時無行為能力或永久性傷害之任何化學品。此包括所有此類化學品，不論其來源或生產方法，亦不論其產生於設施、軍火或其他處所。
- (f)“前體”係指以無論何種方法加入有毒化學品之任何生產階段之化學反應體。包括二元或多元化學物系之任何關鍵組成成分。
- (g)“本組織”係指國際海事組織。
- (h)“秘書長”係指本組織秘書長。
2. 於本公約，

- (a) the terms “place of public use”, “State or government facility”, “infrastructure facility”, and “public transportation system” have the same meaning as given to those terms in the International Convention for the Suppression of Terrorist Bombings, done at New York on 15 December 1997; and
- (b) the terms “source material” and “special fissionable material” have the same meaning as given to those terms in the Statute of the International Atomic Energy Agency (IAEA), done at New York on 26 October 1956.

- (a) 名詞“公用場所”、“國家或政府設施”、“基礎設施”及“公共運輸系統”之意義同於1997年12月15日訂於紐約之「制止恐怖主義爆炸的國際公約」用語，及
- (b) 名詞“來源物質”及“特種可裂變物質”之意義同於1956年10月26日訂於紐約之「國際原子能機構章程」之用語。

### ARTICLE 3

The following text is added as article *2bis* of the Convention:

#### Article *2bis*

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations and international human rights, refugee and humanitarian law.
2. This Convention does not apply to the activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, and the activities undertaken by military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law.
3. Nothing in this Convention shall affect the rights, obligations and responsibilities under the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London and Moscow on 1 July 1968, the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, done at Washington, London and Moscow on 10 April 1972, or the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, done at Paris on 13 January 1993, of States Parties to such treaties.

### 第3條

增加下列條文，作為公約第2條之一：

#### 第2條之一

1. 本公約任何規定均不應影響各國及個人依據國際法，特別是「聯合國憲章」及國際人權、難民及人道法律之目標及原則所擁有之其他權利、義務及責任。
2. 本公約不適用於由國際人道法律所規範之武裝衝突期間之武裝力量活動，此情況可依該法予以理解；亦不適用於某國家之軍事力量行使其官方職責所進行之活動，然以此活動係由其他國際法原則所規範。
3. 本公約任何規定均不應影響1968年7月1日訂於華盛頓、倫敦及莫斯科之「不擴散核武器條約」、1972年4月10日訂於華盛頓、倫敦及莫斯科之「禁止細菌(生物)及毒素武器之發展、生產及儲存及銷毀此類武器公約」或1993年1月13日訂於巴黎之「禁止化學武器之發展、生產、儲存及使用及銷毀此類武器公約」之會員國根據這些公約所擁有之權利、義務及責任。

### ARTICLE 4

1. The *chapeau* of article 3, paragraph 1 of the Convention is replaced by the following text:

Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally:

2. Article 3, paragraph 1(f) of the Convention is replaced by the following text:

(f) communicates information which that person knows to be false, thereby endangering the safe navigation of a ship.

### 第4條

- 1 下列條文取代公約第3條第1項前言部分：

任何人如非法故意從事下列活動，即構成本公約意義中之犯罪：

- 2 下列條文取代公約第3條第1(f)款：

(f)傳遞其明知為虛假之資訊，從而危及船舶之航行安全。