

# 1988年制止危及大陸礁層固定平台安全非法行為議定書 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 Protocol For The Suppression of Unlawful Acts Against The Safety of Fixed Platforms Located on The Continental Shelf Done at London 14 October 2005; entry into force 28 July 2010

### SUA Protocol 2005

THE STATES PARTIES to this Protocol,

BEING PARTIES to 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,

RECOGNIZING that the reasons for which the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation was elaborated also apply to fixed platforms located on the continental shelf,

TAKING account of the provisions of those Protocols,

HAVE AGREED as follows:

#### ARTICLE 1

For the purposes of this Protocol:

1. "1988 Protocol" means 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.
2. "Organization" means the International Maritime Organization.
3. "Secretary-General" means the Secretary-General of the Organization.

#### ARTICLE 2

Article 1, paragraph 1, of the 1988 Protocol is replaced by the following text:

1. The provisions of article 1, paragraphs 1(c), (d), (e), (f), (g), (h) and 2(a), of articles 2*bis*, 5, 5*bis* and 7, and of articles 10 to 16, including articles 11*bis*, 11*ter* and 12*bis*, of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, as amended by the Protocol of 2005 to the Convention

本議定書各當事國，

作為1988年3月10日於羅馬所通過之「制止危及大陸礁層固定平台安全非法行為議定書」之當事國，

認識到「制止危及海上航行安全非法行為公約2005年議定書」亦將適用於大陸礁層固定平台之同樣理由，

考量諸多議定書規定，

謹協議如下：

#### 第1條

於本議定書，

1. "1988年議定書"係指1988年3月10日於羅馬訂定之「制止危及大陸礁層固定平台安全非法行為議定書」。
2. "本組織"係指國際海事組織。
3. "秘書長"係指本組織秘書長。

#### 第2條

以下列條文取代「1988年議定書」第1條第1項：

1. 經「制止危及海上航行安全非法行為公約之2005年議定書」修正之「制止危及海上航行安全非法行為公約」第1條第(1)(c)、(d)、(e)、(f)、(g)、(h)及2(a)項、第2條之二、第5、第5條之

for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, shall also apply *mutatis mutandis* to the offences set forth in articles 2, 2bis and 2ter of this Protocol where such offences are committed on board or against fixed platforms located on the continental shelf.

## ARTICLE 3

### 1. Article 2, paragraph 1(d) of the 1988 Protocol is replaced by the following text:

(d) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety.

### 2. Article 2, paragraph 1(e) of the 1988 Protocol is deleted.

### 3. Article 2, paragraph 2 of the 1988 Protocol is replaced by the following text:

2. Any person also commits an offence if that person 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 paragraphs 1(b) and (c), if that threat is likely to endanger the safety of the fixed platform.

## ARTICLE 4

### 1. The following text is inserted as article 2bis:

#### Article 2bis

Any person commits an offence within the meaning of this Protocol if that person unlawfully and intentionally, when the purpose of the act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act:

- (a) uses against or on a fixed platform or discharges from a fixed platform any explosive, radioactive material or BCN weapon in a manner that causes or is likely to cause death or serious injury or damage; or
- (b) discharges, from a fixed platform, oil, liquefied natural gas, or other hazardous or noxious substance, which is not covered by subparagraph (a), in such quantity or concentration that causes or is likely to cause death or serious injury or damage; or
- (c) threatens, with or without a condition, as is provided for under national law, to commit an offence set forth in subparagraph (a) or (b).

一及第7條以及第10至16條,包括第11條之一、11條之二及12條之一之規定,經必要修改後,亦應適用於本議定書第2條、2條之一及2條之二所載於大陸礁層固定平台上或針對此類平台所犯之罪行。

## 第3條

### 1. 以下列條文取代1988年議定書第2條第1(d)款:

(d) 以任何手段將可能毀壞固定平台或危及其安全之裝置或物質放置或使之放置於固定平台上。

### 2. 刪除1988年議定書第2條第1(e)款。

### 3. 以下列條文取代「1988年議定書」第2條第2項:

2. 任何人如以從事第1(b)及(c)款所載任何罪行之威脅,迫使某自然人或法人從事或不從事某種行為,而該威脅有可能危及固定平台的安全,則無論國內法對威脅是否已有條件規定,其均構成犯罪。

## 第4條

### 1. 插入下列條文,作為第2條之一:

#### 第2條之一

任何人如非法故意以下列行為,恐嚇某群體或強迫某政府或國際組織從事或不從事任何行為時,無論其行為目的從其性質或背景為何,即構成本公約意義中之犯罪:

- (a) 使用任何爆炸物、放射性材料或BCN武器針對固定平台,或在固定平台上使用或從固定平台上排放此類物質,其方式會造成或可能造成死亡、嚴重損傷或損害;或
- (b) 從固定平台上排放油、液化天然氣,或未包括第(a)項中之其他有害或有毒物質,其數量或濃度會造成或可能造成死亡、嚴重損傷或損害;或
- (c) 無論國內法對威脅是否已有條件規定,威脅進行第(a)或(b)項所載犯罪。

**2. The following text is inserted as Article 2ter:**

**Article 2ter**

Any person also commits an offence within the meaning of this Protocol if that person:

- (a) unlawfully and intentionally injures or kills any person in connection with the commission of any of the offences set forth in article 2, paragraph 1, or article 2bis; or
- (b) attempts to commit an offence set forth in article 2, paragraph 1, article 2bis, subparagraph (a) or (b), or subparagraph (a) of this article; or
- (c) participates as an accomplice in an offence set forth in article 2, article 2bis or subparagraph (a) or (b) of this article; or
- (d) organizes or directs others to commit an offence set forth in article 2, article 2bis or subparagraph (a) or (b) of this article; or
- (e) contributes to the commission of one or more offences set forth in article 2, article 2bis or subparagraph (a) or (b) of this article, by a group of persons acting with a common purpose, intentionally and either:
  - (i) with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence set forth in article 2 or 2bis; or
  - (ii) in the knowledge of the intention of the group to commit an offence set forth in article 2 or 2bis.

**ARTICLE 5**

**1. Article 3, paragraph 1 of the 1988 Protocol is replaced by the following text:**

- 1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in articles 2, 2bis and 2ter when the offence is committed:
  - (a) against or on board a fixed platform while it is located on the continental shelf of that State; or
  - (b) by a national of that State.

**2. Article 3, paragraph 3 of the 1988 Protocol is replaced by the following text:**

- 3. Any State Party which has established jurisdiction mentioned in paragraph 2 shall notify the Secretary-General. If such State Party subsequently rescinds that jurisdiction, it shall notify the Secretary-General.

**3. Article 3, paragraph 4 of the 1988 Protocol is replaced by the following text:**

**2. 插入下列條文，作為第2條之二：**

**第2條之二**

任何人從事下列活動，亦構成本議定書所定義之犯罪：

- (a) 非法故意致使從事第2條第1項或第2條之一所載任何犯罪相關之任何人員受傷或死亡；或
- (b) 試圖從事第2條第1項、第2條之一第(a)或(b)項或本條第(a)項所載任一犯罪；或
- (c) 作為共犯參與第2條、第2條之一或本條第(a)或(b)項所載任一犯罪；或
- (d) 組織或指揮他人從事第2條、第2條之一或本條第(a)或(b)項所載任一犯罪；或
- (e) 故意及於下列二種情況之一促成以共同行為目的之集團從事第2條、第2條之一或本條第(a)或(b)項所載一項或多項犯罪；
  - (i) 旨在促進該集團之犯罪活動或犯罪目的，而此類活動或目的涉及第2條或第2條之一所載任一犯罪；或
  - (ii) 知道該集團有從事第2條或第2條之一所載任一犯罪之意圖。

**第5條**

**1. 以下列條文取代「1988年議定書」第3條第1項：**

- 1. 於下列情況下，任一當事國應採取必要措施，建立其對第2條、2條之一及2條之二所載罪行之管轄權：
  - (a) 罪行係針對位於其大陸礁層上之固定平台或發生於該固定平台上；或
  - (b) 罪行係由其國民所違犯。

**2. 以下列條文取代「1988年議定書」第3條第3項：**

- 3. 任何當事國於建立第2項所載管轄權後，應通知秘書長。該當事國以後撤銷該管轄權者，亦應通知秘書長。

**3. 以下列條文取代1988年議定書第3條第4項：**

4. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in articles 2, 2*bis* and 2*ter* in cases where the alleged offender is present in its territory and it does not extradite the alleged offender to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 and 2.

4. 如犯罪嫌疑人出現於某當事國領域內，而該國又未將該嫌疑人引渡至依照第1及2項建立其管轄權之任何當事國，則該當事國仍應採取必要措施，建立其對第2條、2條之一及2條之二所載罪行之管轄權。

## ARTICLE 6 Interpretation and application

1. The 1988 Protocol and this Protocol shall, as between the Parties to this Protocol, be read and interpreted together as one single instrument.
2. Articles 1 to 4 of the 1988 Protocol, as revised by this Protocol, together with articles 8 to 13 of this Protocol shall constitute and be called the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 2005 (2005 SUA Fixed Platforms Protocol).

## 第6條 解釋及適用

1. 1988年議定書及本議定書在本議定書當事國之間應讀作並解釋為一單獨文件。
2. 本議定書所修訂之1988年議定書第1條至第4條，以及本議定書第8條至第13條，應構成並稱之為「2005年制止危及大陸礁層固定平台安全非法行為議定書」。

## ARTICLE 7

The following text is added as article 4*bis* of the Protocol:

### Final clauses of the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 2005

The final clauses of the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 2005, shall be articles 8 to 13 of the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf. References in this Protocol to States Parties shall be taken to mean references to States Parties to the 2005 Protocol.

## 第7條

增訂下列條文為公約第4條之一：

### 2005年制止危及大陸礁層固定平台安全非法行為議定書之最後條款

「2005年制止危及大陸礁層固定平台安全非法行為議定書」之最後條款為「制止危及大陸礁層固定平台安全非法行為議定書2005年修訂議定書」之第8條至第13條。述及本公約締約國者，具有與述及該2005年議定書締約國相同意義。

## FINAL CLAUSES

### ARTICLE 8 Signature, ratification, acceptance, approval and accession

1. This Protocol shall be open for signature at the Headquarters of the Organization from 14 February 2006 to 13 February 2007 and shall thereafter remain open for accession.
2. States may express their consent to be bound by this Protocol 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.
3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the

## 最後條款

### 第8條 簽署、批准、接受、核准及加入

1. 本議定書應於2006年2月14日至2007年2月13日於本組織總部開放供簽署；此後繼續開放供加入。
2. 各國可依下列方式表示同意受本議定書拘束：
  - (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，隨後再予批准、接受或核准；或
  - (c) 加入。
3. 批准、接受、核准或加入應向秘書長交存一份相應之文件。

Secretary-General.

4. Only a State which has signed the 1988 Protocol without reservation as to ratification, acceptance or approval, or has ratified, accepted, approved or acceded to the 1988 Protocol may become a Party to this Protocol.

## ARTICLE 9 Entry into force

1. This Protocol shall enter into force ninety days following the date on which three States have either signed it without reservation as to ratification, acceptance or approval, or have deposited an instrument of ratification, acceptance, approval or accession with the Secretary-General. However, this Protocol shall not enter into force before the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation has entered into force.
2. For a State which deposits an instrument of ratification, acceptance, approval or accession in respect of this Protocol after the conditions in paragraph 1 for entry into force thereof have been met, the ratification, acceptance, approval or accession shall take effect ninety days after the date of such deposit.

## ARTICLE 10 Denunciation

1. This Protocol may be denounced by any State Party at any time after the date on which this Protocol enters into force for that State.
2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.
3. A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the deposit of the instrument with the Secretary-General.

## ARTICLE 11 Revision and amendment

1. A conference for the purpose of revising or amending this Protocol may be convened by the Organization.
2. The Secretary-General shall convene a conference of States Parties to this Protocol for revising or amending the Protocol, at the request of one third of the States Parties, or five States Parties, whichever is the higher figure.
3. Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of an amendment to this Protocol shall be deemed to apply to the Protocol as amended.

## ARTICLE 12 Depositary

1. This Protocol and any amendments adopted under article 11 shall be deposited with the Secretary-General.
2. The Secretary-General shall:

4. 僅對1988年議定書進行簽署並對批准、接受或核准無保留或已批准、接受、核准或加入「1988年議定書」之國家方可成為本議定書之當事國。

## 第9條 生效

1. 本議定書應在三個國家簽署並對批准、接受或核准無保留或向秘書長交存批准、接受、核准或加入文件之日後九十天生效。然本議定書於制止危及大陸礁層固定平台安全非法行為議定書之2005年修訂議定書生效前，不應生效。
2. 對於第1項之本議定書生效條件滿足後交存有關批准、接受、核准或加入文件之國家，其批准、接受、核准或加入應在交存之日後九十天生效。

## 第10條 退出

1. 任何當事國於本議定書對其生效之日後，可隨時退出本議定書。
2. 退出應以向秘書長交存退出文件。
3. 退出應在向秘書長交存退出文件一年後或該文件可能規定之更長期限屆滿後生效。

## 第11條 修訂及修正

1. 本組織可召開修訂或修正本議定書之會議。
2. 秘書長應在三分之一當事國或五個當事國之請求下，以較高者為準，召開本議定書當事國會議，修訂或修正本議定書。
3. 在本議定書之修正生效之日後所交存之有關批准、接受、核准或加入之任何文件，應視為適用經修正之議定書。

## 第12條 保存

1. 本議定書及根據第11條通過之任何修正，應由秘書長保存。
2. 秘書長應：

- (a) inform all States which have signed this Protocol or acceded to this Protocol of:
- (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;
  - (ii) the date of the entry into force of this Protocol;
  - (iii) the deposit of any instrument of denunciation of this Protocol together with the date on which it is received and the date on which the denunciation takes effect;
  - (iv) any communication called for by any article of this Protocol; and
- (b) transmit certified true copies of this Protocol to all States which have signed or acceded to this Protocol.
3. As soon as this Protocol enters into force, a certified true copy of the text shall be transmitted by the Secretary-General to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.
- (a) 將下列事項通知所有簽署或加入本議定書之所有國家：
- (i) 任一新的簽署或批准、接受、核准或加入文件之交存及其日期；
  - (ii) 本議定書之生效日期；
  - (iii) 任何退出本議定書之文件之交存及其收到日期及退出生效日期；
  - (iv) 本議定書任何條款所要求之任何資訊；及
- (b) 將本議定書核證無誤副本發送給所有簽署或加入本議定書之國家。
3. 本議定書一經生效，秘書長即應依照「聯合國憲章」第102條將核證無誤副本發送給聯合國秘書長，以供登記及公佈。

### ARTICLE 13 Languages

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON this fourteenth day of October two thousand and five.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Protocol.

### 第13條 文字

本議定書正本一份，用阿拉伯文、中文、英文、法文、俄文和西班牙文寫成，各種文本均具同等效力。

2005年10月14日訂於倫敦。

下列具名者，均經各自政府正式授權，特簽署本議定書，以昭信守。