

1988 年制止危及大陸礁層固定平台安全非法行為公約 議定書

1988 年 10 月 3 日訂於羅馬，1992 年 3 月 1 日生效

Protocol for The Suppression of Unlawful Acts Against The Safety of Fixed Platforms Located on The Continental Shelf, 1998

Done at Rome, 10 March 1988; Entry into force 1 March 1992

SUA Protocol 綜合文本(1998~2005)

SUA PROT 1998:

生效門檻：3 國 + 90 日

(2019.3)締約國數：156 國

SUA PROT 2005 :

生效門檻：3 國 + 90 日

(2019.3)締約國數：39 國

簡介：1980 年代危及船舶及其上船員及旅客安全之非法行為屢見不鮮，例如綁架船員、武裝搶劫、故意擱淺、安置炸藥等。在美國的倡議下，IMO 先於 1986 年通過相關預防準則，隨後即於 1988 年分別通過制止危及海上航行安全非法行為公約及制止位於大陸礁層固定平台安全非法行為議定書。二公約之目的在確保各國能對於對海上航行安全非法行為之人船採取適當制止措施，包括將其扣押、逮捕，甚至將其摧毀等手段。

2001 年美國 911 事件發生後，人們擔憂恐怖份子會以航運作為攻擊目標或工具，因此 IMO 各會員國便密集會商針對 SUA 公約進行修正，此為 SUA 公約 2005 年修正議定書之基本背景。2005 年議定書主要是擴大「非法及故意行為」之適用範圍，包括人、運送、使用(含生化武器)，並課以及賦予船旗國及各締約國在登船檢查及防恐措施採行上的權利及職責。

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THE STATES PARTIES TO THIS PROTOCOL,
BEING PARTIES to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation,
RECOGNIZING that the reasons for which the Convention was elaborated also apply to fixed platforms located on the continental shelf,
TAKING ACCOUNT of the provisions of that Convention,
AFFIRMING that matters not regulated by this Protocol continue to be governed by the rules and principles of general international law,
HAVE AGREED as follows:

Article 1

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 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, 2*bis* and 2*ter* of this Protocol where such offences are committed on board or against fixed platforms located on the continental shelf. ²⁰⁰⁵
2. In cases where this Protocol 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 in whose internal waters or territorial sea the fixed platform is located.
3. For the purposes of this Protocol, "fixed platform" means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.

本議定書各締約國，
作為制止危及海上航行安全非法行為公約之締約國，
認識到制訂該公約之理由同樣地亦適用於大陸礁層固定平台，

考慮到該公約之規定，
確認本議定書未規定事項仍應依照一般國際法規則及原則處理，

經協議如下：

第 1 條

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。
2. 依照第 1 項本議定書不適用之情況，如罪犯或嫌疑人於固定平台位於其內水或領海內之國家以外之另一締約國領域內被發現者，本議定書仍適用之。
3. 就本議定書而言，“固定平台”係指用於自然資源之勘探或開發或用於其他經濟目的之永久附著於海床之人工島嶼、設施或結構。

Article 2

1. Any person commits an offence if that person unlawfully and intentionally:
 - (a) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation; or
 - (b) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety; or
 - (c) destroys a fixed platform or causes damage to it which is likely to endanger its safety; or
 - (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. ^[2005]
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. ^[2005]

Article 2bis ^[2005]

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).

Article 2ter ^[2005]

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

第 2 條

1. 任何人如非法故意從事下列活動，則構成犯罪：
 - (a) 以武力或武力威脅或任何其他恐嚇形式奪取或控制固定平台；或
 - (b) 對固定平台上之人員施用暴力，而該行為可能危及固定平台之安全者；或
 - (c) 毀壞固定平台或對固定平台造成可能危及其安全之損壞；或
 - (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. 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。

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) 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*.

- (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，而此類活動或目的之涉及第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。

Article 3

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: 2005
 - (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. 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;
 - (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. If such State Party subsequently rescinds that jurisdiction, it shall notify the Secretary-General. 2005
4. 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* 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. 2005
5. This Protocol does not exclude any criminal jurisdiction exercised in accordance with national law.

第3條

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. 於下列情況下，締約國亦可以對任何此罪行建立其管轄權：
 - (a) 罪行係由慣常居所在其國內之無國籍人所犯；或
 - (b) 於違犯過程中，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。
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。
5. 本議定書不排除依據國內法所行使之任何刑事管轄權。

Article 4

Nothing in this Protocol shall affect in any way the rules of international law pertaining to fixed platforms located on the continental shelf.

第4條

本議定書任何規定在任何方面均不應影響有關大陸礁層固定平台之國際法規則。

Article 4bis 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.

Article 5

1. This Protocol shall be open for signature at Rome on 10 March 1988 and at the Headquarters of the International Maritime Organization (hereinafter referred to as "the Organization") from 14 March 1988 to 9 March 1989 by any State which has signed the Convention. It 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 Secretary-General.
4. Only a State which has signed the Convention without reservation as to ratification, acceptance or approval, or has ratified, accepted, approved or acceded to the Convention may become a Party to this Protocol.

Article 6

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 in respect thereof. However, this Protocol shall not enter into force before the Convention 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 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 7

1. This Protocol may be denounced by any State Party at any time after the expiry of one year from 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.

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。

第 5 條

1. 本議定書於 1988 年 3 月 10 日於羅馬並自 1988 年 3 月 14 日至 1989 年 3 月 9 日於國際海事組織(以下稱本組織)總部向任何已簽署公約之國家開放供簽字。此後繼續開放供加入。
2. 各國可以下列方式表示同意受本議定書之拘束：
 - (a) 簽字並對批准、接受或核准無保留；或
 - (b) 簽字但有待批准、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文件。
4. 僅有對公約簽字並對批准、接受或核准無保留之國家或已批准、接受、核准或加入公約之國家可以成為本議定書之締約國。

第 6 條

1. 本議定書於三個國家簽字並對批准、接受或核准無保留或已交存有關批准、接受、核准或加入書之日後九十天生效。然本議定書不得於公約生效之前生效。
2. 對於本議定書生效條件滿足後交存有關批准、接受、核准或加入書之國家，其批准、接受、核准或加入應於交存之日後九十天生效。

第 7 條

1. 任何締約國於本議定書對其生效之日起一年後，可隨時退出本議定書。
2. 退出應向秘書長交存一份退出文件方為有效。

3. A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the receipt of the instrument of denunciation by the Secretary-General.
4. A denunciation of the Convention by a State Party shall be deemed to be a denunciation of this Protocol by that Party.

Article 8

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 the 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 9

1. This Protocol shall be deposited with the Secretary-General.
2. The Secretary-General shall:
 - (a) inform all States which have signed this Protocol or acceded thereto, and all Members of the Organization, 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 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) the receipt of any declaration or notification made under this Protocol or under the Convention, concerning this Protocol;
 - (b) transmit certified true copies of this Protocol to all States which have signed this Protocol or acceded thereto.
3. As soon as this Protocol enters into force, a certified true copy thereof shall be transmitted by the Depositary to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article 10

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

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

DONE AT ROME this tenth day of March one thousand nine hundred and eighty-eight.

3. 退出本議定書，應在秘書長收到退出文件一年之後，或在退出文件所載明之較此更長之期限屆滿後生效。
4. 締約國退出公約應被視為亦退出本議定書。

第 8 條

1. 本組織可召開修訂或修正本議定書之會議。
2. 經三分之一或五個以上締約國之請求，以較多者為準，秘書長應召集修訂或修正本議定書之締約國會議。
3. 於本議定書修正案生效之日後交存之有關批准、接受、核准或加入之任何文件應被視為適用於經修正之議定書。

第 9 條

1. 本議定書由秘書長保存。
2. 秘書長應：
 - (a) 將下列事項通知所有已簽署或加入本議定書之國家以及本組織之所有會員國：
 - (i) 任一新之簽署或任一新之批准、接受、核准或加入書之交存及其日期；
 - (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收到日期及退出生效日期；
 - (iv) 收到依據本議定書或公約規定作出與本議定書有關之任何聲明或通知；
 - (b) 將本議定書核證無誤之副本分發給所有簽署或加入本議定書之國家。
3. 本議定書一經生效，其保存人應依照聯合國憲章第 102 條規定，將本議定書核證無誤之副本一份送交聯合國秘書長，俾供登記及公佈。

第十條

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

下列署名者，經各自政府正式授權，特簽署本議定書，以昭信守。

1988 年 3 月 10 日訂於羅馬。

