

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 綜合文本(1998~2005)

SUA 1998:

生效門檻：15 國 + 90 日

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SUA 2005 :

生效門檻：12 國 + 90 日

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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 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 ²⁰⁰⁵

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
 - (iii) substantial damage to the environment, including air, soil, water, fauna, or flora.
 - (d) "BCN weapon" means:
 - (i) "biological weapons", which are:

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

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) 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) 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:
- (a) the terms “place of public use”, “State or government facility”, “infrastructure facility”, and “public transportation system” have the same meaning as given
- (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) 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

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.

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.

Article 2bis 2005

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.

Article 3

1. Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally: 2005
 - (a) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation; or

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。

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。

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」之締約國根據這些公約所擁有之權利、義務及責任。

第 3 條

1. 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：
 - (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