



The Protection of the
Underwater Cultural Heritage

2 MSP

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**UNITED NATIONS EDUCATIONAL, SCIENTIFIC
AND CULTURAL ORGANIZATION**

CONVENTION ON THE PROTECTION OF THE UNDERWATER CULTURAL HERITAGE

**MEETING OF STATES PARTIES TO THE
CONVENTION ON THE PROTECTION OF THE UNDERWATER CULTURAL HERITAGE**

Second session
Paris, UNESCO Headquarters, Room IV
1 to 3 December 2009

This document contains the draft summary record of the first session of the Meeting of States Parties to the Convention on the Protection of the Underwater Cultural Heritage (Paris, UNESCO Headquarters, 26-27 March 2009). The States Parties may submit, before 6 November 2009, comments by email to u.guerin@unesco.org and/or in hard copy to the Secretariat of the Convention.

Item 4 of the Provisional Agenda:

Adoption of the summary record of the first session of the Meeting of States Parties

Decision required : paragraph 3

1. The first session of the Meeting of States Parties to the Convention on the Protection of Underwater Cultural Heritage took place at UNESCO Headquarters in Paris, from 26 to 27 March 2009.
2. According to Rule 26.4 of the Rules of Procedure of the Meeting the Secretariat shall prepare a summary record of the Meeting's session, for approval at the opening of the next session.
3. The Meeting of States Parties may therefore consider the annexed draft summary record, as prepared by the Secretariat, and may wish to adopt the following resolution:

DRAFT RESOLUTION 4 / MSP 2

The Meeting of States Parties, in its second session,

1. Having examined the draft summary record of the first session of the Meeting of States Parties to the Convention on the Protection of the Underwater Cultural Heritage set out in the Annex of document UCH/09/2.MSP/220/4;

2. Adopts the record, as contained therein.

ANNEX

DRAFT SUMMARY RECORD

OF THE FIRST SESSION OF THE MEETING OF STATES PARTIES TO THE CONVENTION ON THE PROTECTION OF THE UNDERWATER CULTURAL HERITAGE

The First Session of the Meeting of States Parties (hereinafter the “**Meeting**”) to the Convention on the Protection of Underwater Cultural Heritage (hereinafter “**the 2001 Convention**”) took place at UNESCO Headquarters in Paris, from 26 to 27 March 2009. The Meeting was attended by participants from 19 States Parties to the Convention and delegations from Albania, Grenada, Slovakia and Tunisia, participating in the capacity of observers, having ratified the Convention less than three months before the Meeting¹. Furthermore the Meeting was attended by observers from 71 States not party to the Convention, 5 intergovernmental organizations (IGOs) and 23 non-governmental organizations (NGOs). The UNESCO Section of Museums and Cultural Objects provided the Secretariat for the Meeting.

I. Official opening ceremony of the first session of the Meeting of States Parties to the Convention

The Meeting opened on Thursday 26 March 2009 at 10 a.m. with an official ceremony chaired by **Mr Koïchiro Matsuura, Director-General of UNESCO**.

In his welcome address, the **Director-General** greeted the representatives of the States Parties, observer States and various inter-governmental and non-governmental organizations and thanked those of them that had played a significant role during the 2001 Convention’s drafting phase. He expressed his gratitude to the guests of honour and to all those who contributed to UNESCO’s long-standing efforts to make the Convention a reality. He concluded that the Meeting constituted a truly historic moment for the safeguarding of cultural heritage and in particular underwater cultural heritage.

Statements by the guests of honour:

As first guest of honour, **H. Exc. Mr Javier Pérez de Cuellar, Former Secretary General of the United Nations** greeted the Meeting in person and addressed it with a written statement read on his behalf by Ms Françoise Rivière, Assistant Director-General for Culture. He acknowledged the importance of the 2001 Convention as an instrument to safeguard common cultural heritage and recalled the important role the United Nations had played during his mandate in codifying the law of the sea in the United Nations Convention on the Law of the Sea (“**UNCLOS**”). However, he also acknowledged that UNCLOS only briefly refers to cultural heritage and that the 2001 Convention can be seen as a completion of its efforts, a vital legal instrument to protect underwater cultural heritage. He concluded that in the same manner in which UNCLOS

¹ Article 27 of the Convention foresees a delay of 3 months for the Convention to enter into force for a State that deposits its instrument of ratification.

took time to be ratified and commonly accepted, he hoped the 2001 Convention will meet with the same success.

H. Exc. Mr Georges Anastassopoulos, President of the General Conference then took the floor, stressing the place of the 2001 Convention in the body of normative instruments of UNESCO and stated that it constitutes a missing piece of protection for tangible cultural heritage, effectively harmonizing the protection of submerged archaeological sites with that of similar sites based on land. He concluded that the Convention guarantees practical legal protection to underwater sites and provides effective scientific guidelines for the developing science of underwater archaeology.

Finally, **Prof. Thijs Maarleveld, president of the ICOMOS International Committee for the Underwater Cultural Heritage (ICUCH)** addressed the audience and referred to the vital role the professional archaeologists can play in assisting the States Parties of the 2001 Convention with their expertise in underwater cultural heritage. He recalled the role ICUCH had played in the elaboration of the text of the Convention and underlined that its text was the result of discussions among professionals to find the common denominator of what is acceptable and what is not, when dealing with heritage in an underwater environment worldwide. He furthermore proposed the services of ICUCH to advise the Meeting.

II. Election of a Chairperson, the Vice-Chairpersons and a Rapporteur of the Meeting of States Parties

(Item 1 of the Agenda)

Mrs Françoise Rivière, Assistant Director-General for Culture, representing the Director-General in the further course of the Meeting, addressed Agenda Item 1, the election of the Bureau, stating that it was the responsibility of the Meeting to elect a Chairperson, Vice-Chairpersons (preferably four to accommodate the desire for an equitable geographical distribution) and a Rapporteur, each ideally belonging to a different electoral group. The nomination of the following was put forward:

Chairperson: H. Exc. Mr Marcelo Vazquez Bermudez, Ecuador
Vice-Chairpersons: Croatia, Lebanon, Nigeria and Portugal
Rapporteur: Mr Long Ponnasinrivath, Cambodia

The delegation of **Cuba** took the floor on behalf of the Latin American and Caribbean group to support the proposal of **H. Exc. Mr Marcelo Vazquez Bermudez** (Ecuador) as **Chairperson** of the Meeting on the basis that the nomination was well founded, given his professional competence and previous experience in the areas of international law and the law of the sea. The candidature was endorsed by the delegation of **Spain**.

The representative of the Director-General noted that there was consensus, and the Meeting then formally appointed the bureau unanimously and by acclamation as Item 1 of its provisional agenda, adopted in **Resolution Item 1 /MSP 1**.

III. Admittance of invited observers

After the Chairperson had taken his place on the podium, he thanked the delegations for their confidence and assured them of his commitment to contribute to fulfilling the tasks and obligations of the Meeting of State Parties at this session in the best possible way. He welcomed the number of Observer States and organizations that were present to follow with interest the work of the Meeting. He then suggested the **admittance of the invited observers**, as the Rules of Procedure usually regulating this point had yet to be adopted. This suggestion was unanimously accepted.

IV. Official statements by States Parties

The Chairperson then invited States Parties, wishing to make official statements, to take the floor.

Delegations from **Mexico, Saint Lucia, Panama, Portugal, Croatia, Nigeria, Spain, Cuba, Paraguay, and Bulgaria** took the opportunity to address the Meeting. The statements collectively underlined the great value of the 2001 Convention as a legal instrument to protect the underwater cultural heritage. Reference was also made to steps being taken nationally to implement the Convention and the great significance of submerged archaeological sites for the different States. The delegations also acknowledged the gradual ratification process and the efforts that had been made during the initial negotiations of the Convention text to accommodate the concerns of some States.

The delegation of **Mexico** particularly noted that some of the many Observer States present had expressed reservations regarding the 2001 Convention supposedly undermining the provisions of UNCLOS, but stressed that in Article 3 the text of the Convention explicitly states that none of its elements would in any way infringe upon any other rights pursuant to UNCLOS.

The delegation of **Saint Lucia** called on the States Parties to use the opportunity to build a strong viable consensus agenda and effective implementation strategy for the Convention. It also referred to the need to support smaller States in regional development networks and the possible provision of technical support from an Advisory Body and recalled the large support given to the Quito declaration supporting the 2001 Convention by the Caribbean States.

The delegation of **Panama** stated that it hoped that many other States would join in ratifying the 2001 Convention in the near future and that the Meeting would develop mechanisms to make it possible to implement the aims and objectives of the Convention. The potential of the Convention as an international standard-setting framework for the protection of underwater cultural heritage was stressed by many of the delegations, as was the importance of cooperation in all of these areas among all stakeholders.

The observers were then invited by the **Chairperson** to take the floor. Three Observer States took the opportunity to speak. The delegation of **Italy** stated that the ratification of the 2001 Convention was in preparation and expressed its conviction that the Convention constituted the best available tool to combat looting of underwater cultural heritage. **Greece** wished the States Parties success in the upcoming work of the Meeting but took the opportunity to express some reservations regarding the system of

reporting of sites. Finally the delegation of **Algeria** informed the Meeting of the steps the Algerian authorities were taking towards ratification of the Convention.

V. Adoption of the agenda of the first session of the Meeting of States Parties

(Item 2 of the Agenda)

On invitation of the Chairperson, the representative of the Director-General then introduced Agenda Item 2 outlining the proposed items for the session and the related documents prepared by the Secretariat. The **Agenda of the Meeting** was adopted unanimously in **Resolution Item 2 / MSP 2**.

VI. Discussion of the Rules of Procedure of the Meeting

(Item 3 of the Agenda)

The Chairperson introduced Agenda Item 3, namely the discussion and adoption of the Rules of Procedure of the Meeting of States Parties to the Convention. The Representative of the Director-General, Mrs Rivière, explained on behalf of the Secretariat that draft Rules of Procedure for the Meeting of States Parties to the 2001 Convention had been prepared and distributed based on the Rules of Procedure of the General Assembly of the States Parties to the 2003 Convention and the Conference of Parties of the 2005 Convention.

Mrs Rivière noted that there were two main points of discussion to be addressed: According to Article 23.2 of the 2001 Convention, the Meeting needed to decide on its functions and responsibilities and according to Article 23.4, it needed to discuss if it wished to establish a Scientific and Technical Advisory Body.

Mrs Rivière explained that the draft of the Provisional Rules of Procedure comprised seven sections, as follows:

- I. Participation;
- II. Functions and Responsibilities of the Meeting of States Parties;
- III. Organization of the Meeting;
- IV. Conduct of Business;
- V. Nomination of the Members of the Scientific and Technical Advisory Body;
- VI. Secretariat of the Meeting; and
- VII. Adoption and Amendment of the Rules of Procedure.

Mrs Rivière informed the Meeting that the Secretariat had received a written proposal for amendments to the draft Rules of Procedure signed by **Barbados, Croatia, Cuba, Ecuador, Lithuania, Mexico, Nigeria, Panama, Paraguay, Saint-Lucia and Slovenia**. Copies of the proposed amendments were distributed to the States Parties for their consideration.

Following an intervention from the delegation of the **United States of America** as an observer (see Annex to the present Report), the Meeting took up its work on the

elaboration of the Rules of Procedure in the afternoon discussing the draft and the proposed amendments.

Section I was adopted by consensus with the relatively minor amendments.

Also adopted by consensus was Section II with the proposed amendments. Rule 3, clarifying the functions and responsibilities of the Meeting of States Parties, was adopted with the following additions to the functions suggested for the Meeting:

- (i) to examine reports submitted to the Meeting by the Advisory Body;
- (ii) to examine, discuss and decide on recommendations submitted to the Meeting by the Advisory Body; and
- (iii) to seek means for raising funds and to take the necessary measures to this end.

A new Rule 4 concerning the possible future establishment of subsidiary bodies to the Meeting composed of States Parties was added.

Under Section III, amendments regarding the convening of an extraordinary meeting, the adoption of the agenda for ordinary sessions and extraordinary sessions of the Meeting of States Parties as well as the conformity with the principle of equitable geographic representation of members of the bureau were discussed and adopted.

Regarding Section IV, a more detailed discussion of the now Rules 18 and 19 regarding the distinction between 'working' and 'official' languages to be used in future operations of the Meeting and its Bodies ensued. Following statements from several delegations, it was concluded that the official languages of the Meeting should be Arabic, Chinese, English, French, Russian and Spanish. Rule 19 was also amended so that as a general rule, no draft resolution or amendment shall be discussed or put to the vote unless it has been circulated reasonably in advance to all participants in at least the two working languages of the Secretariat: English and French. Finally it was concluded that resolutions shall be published and distributed within one month of the closure of the session in the six official languages.

Discussions moved on to the question of the establishment of a Scientific and Technical Advisory Body and the nomination and election of its Members pursuant to Section V of the draft Rules of Procedure. In consideration of the previously proposed amendments, further amendments were proposed. However, despite the general spirit of cooperation and compromise shown by the States Parties, the Meeting was not in a position to reach a full consensus on this issue on the first day. It was therefore decided to adjourn the discussion of these provisions to the following day, to allow the State Parties to consult in an informal manner in the evening.

The remainder of the draft Rules of Procedure, Sections VI and VII, were then discussed and all proposed amendments were adopted by consensus.

After this discussion of the draft Rules of Procedure and the provisional adoption of all Sections, with the exception of Section V, the Meeting decided to move on to the next agenda item.

VII. Discussion of the status of ratifications, of statutory and of other issues related to the entry into force of the Convention

(Agenda Item 4)

On invitation by the Chairperson, the Secretariat provided general information on the status of ratifications of the 2001 Convention. Reference was also made to the outstanding obligations of some States Parties concerning declarations to be made under the Convention, in particular under Article 9.2 of the Convention, and the necessity for all States to inform on their competent national authorities responsible for underwater cultural heritage (Article 22.2). The Secretariat presented to the States Parties possible options for the implementation of the States Cooperation System, for instance by the establishment of an external website, subpage to the UNESCO website, including an electronic database for the reporting required under the Convention. It also presented the project of the elaboration of a new reference publication on the Annex of the Convention. Finally it gave information on completed and upcoming operational activities related to underwater cultural heritage, namely regional meetings, capacity-building and the category II centre in Zadar, Croatia.

Two delegations addressed the Secretariat on steps being taken at the national level to implement the 2001 Convention. With the permission of the Chairperson and consent of the States Parties, the Meeting then opened the floor to observers and a general discussion followed.

VIII. Continuation of the discussion of the Rules of Procedure of the Meeting and adoption

(Item 3 of the Agenda)

On the morning of the second day, the Chairperson opened the Meeting with discussion of the remainder of Agenda Item 3, namely Section V of the draft Rules of Procedure, which had been adjourned from the day before. He noted that the Meeting was close to consensus on the draft and that a revised set of proposed amendments to Section V had been received.

Major changes introduced by the proposed amendments regarding this issue included the character of the experts, elected to the Advisory Body as representative of the nominating State. The procedure of election was also the subject of a proposed amendment in new Rule 25. Both points gave rise to a number of substantial revisions of the original draft text.

Attention was then focused on the expertise and professional standing of potential nominees as well as the appropriate number of members for such a body. Intense discussions followed. A consensus eventually emerged, and it was decided that the initial appropriate number of members would be twelve, with the possibility to expand their number up to twenty-four depending on the number of States Parties and requirements in the future. It was also decided that the experts, proposed for election, should have a scientific, professional and ethical background at the national and/or international level adequate to the task, in conformity with the objective and purpose of

the Convention. Furthermore it was decided that the procedure for elections would be by secret ballot pursuant to new Rule 25.1.

During the following discussions, it was agreed upon that in this first stage of the 2001 Convention, some of the Rules of Procedure should be implemented with flexibility. In particular, those rules concerning the notification of States Parties for the presentation of candidates for election to and the geographical representation of the Advisory Body, pursuant to Rules 24.1 and 22.1 respectively.

The Rules of Procedure, as amended and elaborated, were then adopted by the States Parties in consensus by **Resolution Item 3 / MSP 2** including the annexed **Rules of Procedure**.

Observers were then given the opportunity to comment on the morning's work.

IX. Discussion of the statutes of the Scientific and Technical Advisory Body

(Agenda Item 5)

Invited by the Chairperson, the Representative of the Director-General introduced Item 5 of the Agenda, namely the discussion on possible elaboration and adoption of Statutes of the Scientific and Technical Advisory Body to the Meeting. She remarked that the draft of such statutes, as provided for consideration of the States Parties by the Secretariat, had to be adapted to the decisions just taken by the Meeting and presented the draft to the audience. The Chairperson then opened the floor for discussion.

Article 1 of the draft stipulated that the Meeting of States Parties established a Scientific and Technical Advisory Body. States Parties felt however, that it was too early and that such decision should be taken by resolution and should not be relayed in the Statutes of such body. Consequently, it was decided that this issue should not be included in the Statutes.

Focusing on draft Article 2 (amended Article 1) in relation to the functions of a potential Scientific and Technical Advisory Body, several delegations took the floor to discuss a variety of issues in relation to the functions of such an Advisory Body and possible collaboration with NGOs, namely ICUCH. Discussion focused on the other types of NGOs that would be able to collaborate with the Advisory Body, and it was agreed in Article 1 (e) that only those accredited by the Meeting of States Parties would be allocated this privilege.

It was furthermore decided that the Advisory Body should not assist UNESCO in efforts to mediate disputes between two or more States Parties concerning the interpretation or application of the 2001 Convention in the framework of its Article 25.2.

Concerning the membership to the Advisory Body, regulated in new Article 2, the States Parties determined that they wished to exclude the draft regulation, which stated that nationals from States or territories not Party to the Convention may also be members of the Advisory Body, if they are proposed by a State Party and nominated by the Meeting of States Parties.

Concerning the nomination and election of members to the Advisory Body, regulated in the new Article 3, the Meeting decided to refer to Rules 22 to 25 of the Rules of Procedure, which already regulated this issue and needed therefore no repetition in the Statutes.

The previous draft Article 5 on the modus of operation of the Advisory Body was reduced and moved up to Article 1 (c).

The issue of financing, subject of new Article 7, was then the subject of intense discussions. The Secretariat underlined that, while it would do its best to support the travel costs of experts from developing countries, the Regular Budget of UNESCO, available for the functioning of the 2001 Convention, was very limited. Therefore, any extension of the use of this Regular Budget would need to be decided by the Executive Board and the General Conference of UNESCO. States Parties underlined the possibility of establishing an extrabudgetary fund in the future, as it is the case for other UNESCO Conventions in order to provide additional funding for the functioning of their governing bodies. A new regulation was then introduced in Article 7, stating that only the members of the Advisory Body from developing countries and countries in transition may benefit from financial assistance to participate in the meetings of the Body. It was also stated that, whenever possible, the members of the Advisory Body should work electronically.

By **Resolution 5 / MSP 1** and the annexed **Statutes of the Scientific and Technical Advisory Body** the Meeting then adopted the Statutes as amended by consensus and decided that a Scientific and Technical Advisory Body was established.

X. Discussion on the possible election of the members of the Scientific and Technical Advisory Body

(Agenda Item 6)

Following the proposal by the Secretariat and given the time constraints, it was decided to adjourn the election of Members to the newly established Advisory Body to the next session of the Meeting of States Parties.

XI. Discussion of the establishment of Operational Guidelines

(Agenda Item 7)

The next item on the Agenda was the discussion if Operational Guidelines to the 2001 Convention should be elaborated.

The Secretariat related that the Convention did not expressly foresee the establishment of Operational Guidelines, as this question was left to the discretion of the Meeting of States Parties. Many States had however expressed the opinion that the elaboration of such Guidelines might contribute to a better understanding and more effective implementation of the 2001 Convention. It suggested that such Operational Guidelines could:

- a.) clarify certain definitions in the Convention, without giving a legal interpretation;

- b.) give guidance to the State cooperation and consultation mechanism contained in Articles 8 to 13 of the Convention;
- c.) regulate the funding of measures undertaken under the Convention, as for instance in the application of measures taken by a group of consulting States and enforced by a coordinating State;
- d.) give guidance on the appointment of coordinating States in the Area;
- e.) elaborate on other issues of State cooperation (training in underwater archaeology, transfer of technology, exchange of knowledge etc.);
- f.) define the role of partners in the implementations process of the Convention; and
- g.) provide guidance in interpreting standards set by the Convention in aspects of the operational protection of underwater cultural heritage.

Several delegations took the floor, supporting the proposal to elaborate Operational Guidelines, but expressing regret that such an important issue as the discussion of the Operational Guidelines were left to the last hour of the Meeting and that it would be necessary for the Secretariat, in order to prepare a draft of such Guidelines, to be able to take into consideration the opinions of States Parties. Furthermore they expressed the opinion that the Operational Guidelines should not clarify definitions in the 2001 Convention. They should however give guidance to the State cooperation and consultation mechanism contained in Articles 8 to 13 of the Convention and regarding the appointment of coordinating States in the Area, and, if needed, in the Exclusive Economic Zone.

Discussions ensued, and it was decided that the States Parties would propose elements to be considered in the draft Operational Guidelines by means of a questionnaire to be sent to them by the Secretariat.

The Meeting of States Parties then adopted **Resolution 7 / MSP 1** as amended, requesting the Secretariat to prepare, on the basis of a consultation with the States Parties, a preliminary draft of Operational Guidelines for the 2001 Convention, giving priority attention to, among others, points 3.b and 3.d of document CLT/CIH/MCO/2009/ME/90; suggesting that Operational Guidelines could give guidance to the State cooperation and consultation mechanism contained in Articles 8 to 13 of the Convention and on the appointment of coordinating States in the Area. This draft should then be submitted at the second ordinary session of the Meeting of States Parties for consideration and approval.

XII. Date and place of the second session of the Meeting of States Parties

(Agenda Item 8)

As last item on its agenda, the Meeting of States Parties discussed the dates and the place of the second session of the Meeting of States Parties, including the question if this second session should be an extra-ordinary or an ordinary Meeting. Following a short discussion, it was decided that it should be an ordinary session with an open agenda to take place in December 2009 at UNESCO Headquarters in Paris.

Due to the late hour, it was unanimously decided that the Rapporteur's Report would be disseminated electronically.

XIII. Closure of the Meeting

The Chairperson then declared the Meeting closed. The representative of the Director-General thanked him for his guidance, the States Parties and the Observers for their work and greeted the achievements of the first session of the Meeting of States Parties unanimously applauded by the States Parties and Observers present.

**Annex to the
DRAFT SUMMARY RECORD
of the first session of the Meeting of States Parties to the Convention on the Protection
of Underwater Cultural Heritage (26/27 March 2009, Paris)**

OBSERVER STATEMENTS

1st Observer Statement by the United States of America

Thank you, Distinguished Chair,

The United States first wishes to express its congratulations to you on your selection to chair this first meeting of the States Parties to the UNESCO Convention on the Protection of Underwater Cultural Heritage. Further, we express our gratitude to you and to the States Parties to this Convention for the opportunity to participate in this meeting as an observer State delegation, and for the opportunity to make the following statement in that capacity. We would like to address several issues of importance to the United States.

Distinguished colleagues,

The United States uses this occasion to re-affirm its support of the overall goal of this UNESCO Convention to protect underwater cultural heritage. The United States fully supports the Annex of Rules concerning activities directed at underwater cultural heritage.

Since the conclusion of the negotiations on this Convention in 2001, the United States has taken several steps to protect underwater cultural heritage, in a manner consistent with customary international law, as reflected in the United Nations Convention on the Law of the Sea. For example, the United States enacted a new law, the Sunken Military Craft Act of 2004, to ensure protection of both sunken U.S. military craft, wherever located, and sunken foreign military craft located in U.S. waters (landward of the 24nm limit of the contiguous zone). The

Sunken Military Craft Act provides that the law of finds does not apply to any U.S. sunken military craft, wherever located, or to any sunken foreign military craft located in U.S. waters, in a manner consistent with customary international law and the interests of Flag States. The law also extensively protects all U.S. sunken military craft and sunken foreign military craft in U.S. waters from the application of the law of salvage by prohibiting the issuance of any salvage rights or awards under salvage law, unless expressly authorized by the flag State of the sunken military craft. The Sunken Military Craft Act clarifies that sunken military craft of the United States remain U.S. property and that right, title, and interest of the United States are not extinguished except by express divestiture of title by the United States. Further, this U.S. law encourages the United States to negotiate bilateral and multilateral agreements to protect sunken military craft. To date, the United States has cooperated with several foreign nations on the protection of their sunken State craft in U.S. waters and has provided technical assistance for underwater cultural heritage research projects outside of U.S. waters.

Another example of measures the United States has taken to protect underwater cultural heritage is the negotiation, with Canada, France, and the United Kingdom, resulting in the International Agreement Concerning the Shipwrecked Vessel R.M.S. *Titanic*. The United States signed this Agreement in 2004 and has made considerable efforts toward promoting the protection of the sunken vessel, its wreck site, and its artifacts. This includes developing proposed implementing legislation for the Agreement consistent with the historic preservation principles in the UNESCO UCH Convention and its Annexed Rules. In addition, in 2001, the U.S. Department of Commerce's National Oceanic and Atmospheric Administration published Guidelines for Research, Exploration and Salvage of R.M.S. *Titanic* that are similar to the Annexed Rules of the UNESCO UCH Convention.

The Annexed Rules of the UNESCO UCH Convention are a valuable contribution to the protection of underwater cultural heritage. A number of United States federal and state agencies currently use the Annexed Rules as a guide in the protection and management of underwater cultural heritage located in national marine sanctuaries, national parks, and national monuments, including in the national marine monument in the Northwestern Hawaiian Islands, the Papahānaumokuākea National Monument.

These actions illustrate that the United States cares about and is actively taking steps to protect underwater cultural heritage. The United States believes that a broadly ratified Convention is a useful means through which to achieve the protection of underwater cultural heritage. The United States supported and actively participated in the negotiations here at UNESCO to develop a multilateral instrument to protect underwater cultural heritage. The resulting Convention, especially in the Annexed Rules, preamble, and general principles, reflects

substantial progress by the global community in developing means to protect submerged cultural heritage. However, the United States continues to have serious concerns with certain provisions in the Convention. These concerns have prevented our country from becoming a State Party. For example, the United States cannot join a convention that is not consistent with the jurisdictional regime set forth in the United Nations Convention on the Law of the Sea. The United States hopes that there will be future opportunities to discuss the concerns that have prevented our country, and others, from joining this Convention. We also look forward to opportunities to discuss some of the means by which States may cooperate, including through scientific and technical exchanges, to protect underwater cultural heritage.

Distinguished colleagues,

Again, thank you for this opportunity and for your attention. We will continue listening attentively to the discussions among the States Parties. Our delegation is open to further exchanges of views with other colleagues both at this meeting and in the future.

Mr. Chairman,

I respectfully request that this Statement be included in the official records of this meeting. Thank you.

2nd Observer Statement by the United States of America

Subject: Draft Rules of Procedure for Meetings of States Parties

-- Thank you, Distinguished Chairman and distinguished States Parties, for allowing the United States this opportunity to intervene as an observer State to offer a few brief comments regarding the draft rules of procedure under consideration.

-- We ask that this intervention be received in the same constructive spirit in which you heard from our delegation yesterday in which we re-affirmed the U.S. Government's support for the overall goal of this Convention, our full support for the Rules annexed to the Convention.

-- We assume that all in this room share our belief that the Rules of Procedure should be as unambiguous and carefully crafted as possible, and also flexible and pragmatic enough to easily accommodate future States Parties, which will help avoid the need to make multiple revisions to the Rules. The Rules should also be as similar as possible to the Rules of other UNESCO bodies.

-- With those preliminary comments in mind, the U.S. offers in a constructive spirit the following brief observations that may be of assistance to the States Parties:

-- **Rule 3(g)** – “to seek means for raising funds and to take the necessary measures to this end” - The States Parties may wish to consider whether 3(g) should be amplified just a bit in order to state what would be the “purposes or intended goals” of such fund-raising. For instance, would it be helpful to expand that phrase to say something like: “*raising funds to help implement the provisions of the Convention and of the Annex*”, and then continue with the rest of the sentence. This might give greater focus and relevance to that clause in the rules.

-- Rule 4.1 – says “The Meeting may establish such subsidiary bodies as it deems necessary for its purposes.” The question is whether “for its purposes” is too open-ended or whether it might say something like “as it deems necessary to enhance the goals and implementation of the Convention.”

-- Finally, Rule 20, in general, and Rule 20.5, in particular, relate to the delicate issue of voting. We note that Rule 20, for some reason, says nothing about the importance of “consensus” which is usually UNESCO’s preferred means of deciding on substantive and/or policy issues. Usually, voting on such issues is used -- and then only reluctantly -- if consensus has become impossible.

-- The provision in Rule 20.5 for a “secret ballot” on substantive and policy issues is not common practice here at UNESCO. Normally, such voting takes place by a show of hands, or if necessary, by roll call. States Parties, even after this meeting, may want to give further consideration to whether it is wise to allow for “secret ballots” on substantive and policy issues. Indeed, one can envision some outside of this room who may consider that such secret voting goes against the spirit of certain aspects of the Convention, particularly the preambular paragraph of the Convention which “Not[es] growing public interest in and public appreciation of underwater cultural heritage.” This raises the question, how can the “publics” in the countries of States Parties truly know how their representatives have voted at Convention meetings on important policy or substance issues of underwater cultural heritage, unless there is a transparent public record for them to review for themselves? This is a relevant and practical question.

Before closing, Mr. Chairman, the U.S. would like to say that we have a number of serious concerns with regard to whether certain aspects of the Rules that relate to the Scientific and

Technical Advisory Body conform properly to the intent and the purposes of Articles 23(4) and 23(5) of the Convention, and also whether those aspects of the draft rules conform to the “travaux préparatoires” from the negotiations of the Convention.

So, in closing, Mr. Chairman, the United States would like to know whether there are any States Party delegations that may be prepared to endorse any of the points that we have raised with regard to Rule 3(g), Rule 4.1, and Rule 20.5?

Thank you, Mr. Chairman.

Observer Statement by Greece

Greece would like to address the First Meeting of States Parties to the UNESCO Convention on the Protection of the Underwater Cultural Heritage (2001) wishing every success in your difficult task.

Greece, being one of the most archaeologically-rich nations in the world, has an increased interest in protecting its underwater heritage. We, therefore, attach great importance to the elaboration of a comprehensive legal regime for the protection of the cultural heritage of the oceans, which is endangered by the development of advanced underwater technology and the devastating operations of treasure hunters/salvage companies.

One may, therefore, wonder why Greece is only an observer to the Convention. The reason for this, as was explained thoroughly in our statement on vote during the adoption of the Convention at the 31st Session of the General Conference of UNESCO (29 October 2001), lies primarily on our reservations with respect to the envisaged system of reporting and consultations for the protection of underwater cultural heritage (UCH) found on the continental shelf and in the Exclusive Economic Zone (EEZ) (c.f. articles 9 and 10).

Greece was in favour of a more straightforward provision on coastal jurisdiction over UCH found on the continental shelf/EEZ, which, in our view, could ensure a more effective scheme of protection. The same applies for the right of the coastal State to be informed of archaeological research carried out on its continental shelf/EEZ.

Similarly, we fail to understand the need for introducing the aforementioned system of consultations in the scheme of protection of UCH found in the contiguous/archaeological zone (c.f. article 8). In our view, this reference should be interpreted as simply accommodating the interests of States parties with a cultural, historical or archaeological link to the UCH concerned and not affecting the otherwise applicable jurisdiction of the coastal State.

Greece will be following closely the application in practice of the UNESCO Convention, in particular the aforementioned provisions. In this respect, we believe that the Operational Guidelines could offer valuable assistance in clarifying the role of the coastal State in the protection of UCH found on the continental shelf/EEZ as well as acknowledging a full-fledged 24-mile archaeological zone.