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The Protection of the
Underwater Cultural Heritage

2 STAB

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

CONVENTION ON THE PROTECTION OF THE UNDERWATER CULTURAL HERITAGE

SCIENTIFIC AND TECHNICAL ADVISORY BODY

Second Meeting

Paris, UNESCO Headquarters, Room IV

15 April 2011

Final Report &

Recommendations and Resolutions

The second meeting of the Scientific and Technical Advisory Body (hereinafter '**the Advisory Body**') for the Convention on the Protection of the Underwater Cultural Heritage (hereinafter '**the Convention**') took place at UNESCO Headquarters, Paris, on **15 April 2011**. It was attended by 10 of its 12 members, namely: Ms Dolores Elkin (Argentina), Ms Annalisa Zarattini (Italy), Mr Vladas Zulkus (Lithuania), Ms Pilar Luna Erreguerena (Mexico), Augustus Babajide Ajibola (Nigeria), Mr Hugo Eliecer Bonilla Mendoza (Panama), Mr Constantin Chera (Romania), Mr Andrej Gaspari (Slovenia), Ms Carmen García Rivera (Spain), and Ms Ouafa Ben Slimane (Tunisia). H.E. Mr Jasen Mesic (Croatia) and Mr Ovidio Juan Ortega Pereyra (Cuba) were not able to attend. Nevertheless, observers participated from Croatia. Also present were observers from four States Parties to the Convention but not members of the Advisory Body, 11 States not party to the Convention, and four NGOs. UNESCO representatives served as the Secretariat. Simultaneous interpretation was provided in English and French. Simultaneous interpretation in Spanish was also available as the result of a generous contribution from Spain. As no Rules of Procedure have been adopted for the Advisory Body, the Rules of Procedure of the Meeting of States Parties were applied *mutatis mutandis*.

I. Opening, Election of the Bureau and Adoption of the Agenda

Item 1 (UCH/11/2.STAB/220/1) and Item 2 (UCH/11/2.STAB/220/2)

The session was opened on 15 April 2011 at 10 am with an introduction by Ms Ulrike Guérin of the Secretariat. She provided information on the composition of the newly elected Advisory Body, elected by the Meeting of States Parties on 14 April 2011 and recalled that the Chair of the prior Advisory Body was Ms Carmen García Rivera (Spain) and the Vice-Chair was Ms Pilar Luna Erreguerena (Mexico).

Via **Resolution 1/STAB 2**, the Advisory Body elected Mr **Constantin Chera (Romania)** as Chairperson and Ms **Ouafa Ben Slimane (Tunisia)** as Vice-Chairperson. The newly elected Chairperson reminded the Advisory Body of its tasks and confirmed the presence of a quorum. He also informed the Advisory Body that the meeting was open to admitted observers, such as those observers from States Parties and UNESCO Member States. The Chair also informed the Advisory Body that a representative of the International Council on Monuments and Sites - International Committee on Underwater Cultural Heritage ((ICOMOS - ICUCH) was present and had a special status as an NGO already accredited for cooperation with the Advisory Body under Article 1(e) of the Statutes of the Advisory Body¹. The International Congress for Underwater Archaeology (IKUWA), the Deutsche Gesellschaft für Unterwasserarchäologie (German Society for Underwater Archaeology - DEGUWA), the Society for Historical Archaeology (SHA) and the Joint Nautical Archaeology Policy Committee (JNAPC), UK, had also applied for observer admission to the Advisory Body meeting. Because the formal accreditation of NGOs was not on the agenda, the Chair

¹ Article 1 (e) The Advisory Body shall consult and collaborate with non-governmental organizations (NGOs) having activities related to the scope of the Convention, namely ICUCH, as well as other competent NGOs accredited by the Meeting of States Parties.

proposed to admit these observers under Article 4(b) of the Statutes of the Advisory Body.² This was unanimously accepted.

The Chair then asked the Secretariat to present the agenda, which had been made available in document *UCH/11/2.STAB/220/2*.

The Secretariat informed that according to Article 4(a) of the Statutes of the Advisory Body, the Director-General of UNESCO had established the agenda for the sessions after consultation with both the Chairperson of the Meeting of States Parties and the Chairperson of the Advisory Body. The Meeting of States Parties requested the addition of two new items to the agenda: a Report by the Secretariat on the Results of the Meeting of States Parties; and a discussion of the Manual on the Annex. The agenda was amended and adopted with these additions (**Resolution 2/ STAB 2**).

II. Report of the Secretariat and Discussion of the Manual on the Annex

New Item 3 and 4 of the Agenda

The Secretariat reported on the Third Session of the Meeting of States Parties (13-14 April 2011), where nearly all recommendations of the first meeting of the Advisory Body had been adopted under Resolution 6 / MSP 3. The Secretariat also conveyed the Meeting of States Parties' wish that the Advisory Body review the Manual on the Annex of the Convention before its publication. Furthermore, the Secretariat reported that Resolution 9/ MSP 3 decided that the Secretariat should evaluate applications by NGOs for temporary accreditation for cooperation with the Advisory Body, as an interim measure prior to the adoption of Operational Guidelines. The Secretariat should make to the Bureau of the Meeting of the States Parties recommendations and the Meeting asked the Bureau to decide on temporary accreditations.

The Advisory Body then turned to the issue of the Manual on the Annex, which had been recently elaborated by the Secretariat. Its text had been made available to the Body in early spring 2011. Mr Andrej Gaspari, Slovenia, stressed his strong appreciation of the text; this sentiment was echoed by other members. He proposed the addition of further scientific references. Other members also indicated their interest in cooperating. The Advisory Body agreed on a text revision deadline of 15 May 2011 in order to allow for printing and publication in time for the 10th anniversary of the Convention on 2 November 2011. This was reflected in **Resolution 6/ STAB 2**.

III. Discussion of the most significant factors negatively affecting the conservation of underwater cultural heritage and identification of remedial measures

Item 5 (UCH/11/2.STAB/220/3)

The Advisory Body proceeded to the discussion of the most significant factors negatively affecting the conservation of underwater cultural heritage and the identification of possible remedial measures. At their first meeting, the Advisory Body recognized the importance of examining these factors (*Recommendation 5 / MAB 1*). Several Advisory Body members

²Article 4 (b): In addition to members, experts or representatives of organizations, whose duties and qualifications make them suitable for assisting the Advisory Body, may be invited by it to address a meeting of the Advisory Body.

thus launched the topical discussions with short addresses: Ms Pilar Luna on the issue of the commercial exploitation and looting, Mr Augustus Babajide Ajibola on resource extraction, Ms Carmen Garcia Rivera on the issue of infrastructure and construction projects and Ms Ouafa Ben Slimane on tourism and the public enjoyment of underwater cultural heritage.

a. Commercial exploitation

Ms Pilar Luna Erreguerena reported on the issue of commercial exploitation of underwater cultural heritage, which she identified as one of the main problems threatening submerged archaeological sites in South America. She called for clear resolutions and increased public awareness-raising. She also informed the Advisory Body of the recommendations taken at a recent UNESCO Regional Meeting in Cozumel, Mexico.

b. Resource Extraction

Mr Augustus Babajide Ajibola took the floor to report on resource extraction projects threatening underwater cultural heritage sites, highlighting Nigeria as an example. While noting the economic importance of oil-based revenue, he drew attention to issues coincident to such activities in Nigeria as the third largest supplier of crude oil in the world. He informed the Advisory Body that the effects of oil extraction, including frequent oil spillage in the Niger Delta, have been and are a threat to the aquaculture, fish, crop, communities, and the health of the population. Moreover, due to the transatlantic slave trade, it is a significant amount of submerged archaeological heritage that is threatened. The hazards incident to oil spillages and pollution will limit research and protection, despite the historic importance of finds, such as a recent discovery of an ancient canoe.

It was stressed that a main issue regarding resource extraction projects was legislation accounting for cultural and environmental issues in addition to economic benefit. Mr Ajibola underscored the importance of a cultural impact assessment request by the government prior to authorization of any industrial action (*e.g.*, drilling). He suggested also that there is a need to create protected zones and an improved balancing of policy, where activities are not solely dictated by economic interest.

A lively discussion ensued. Mr Constantin Chera raised the question of how to convince petroleum and other resource extraction companies to comply with cultural protection policies. The Secretariat informed the Advisory Body that the problem of quantifying the damage of the recent oil spill in the Gulf of Mexico had been brought to its attention and warranted further research. It also, however, drew attention to the recent pipeline laying in the Baltic, where the firm Nordstream paid for archaeological research; thus not every enterprise of this kind does harm underwater cultural heritage. Special attention was drawn to a proposal of the Intergovernmental Oceanographic Commission (IOC), which offered to help obtain data useful for the identification of sites prior to industrial intervention.

Ms Ouafa Ben Slimane called for the preparation of a charter concerning dredging, port development, and oil drilling projects and informed the Advisory Body that models of such charters concerning the environment already exist in Tunisia. It was suggested that issues related to underwater cultural heritage should be included as part of the application file for resource extraction companies, and that they should be obliged to fund site assessment and research.

Some members informed the Advisory Body about the legal situation in their countries. In some countries every intervention on the seabed must be approved by the Ministry of Culture. Ms Dolores Elkin suggested that proposals be submitted with a view to mitigate adverse consequences of interventions. This would be preferable to a practice where compensation is collected after the damage is done. She also suggested that a levy be imposed to establish a sustainable fund, which would fund research and preservation measures. Ms Carmen Garcia agreed that promoters should pay for environmental analyses and mitigation, as well as for valorization of the heritage affected by their activities. Mr Andrej Gaspari referred to the example of France, where a 2% tax on infrastructure development projects is used for site assessment and analysis before the intervention or development project.

c. Infrastructure Projects

Ms Carmen Garcia Rivera then presented issues relating to infrastructural projects that affect the seabed, coastal areas and associated underwater cultural heritage. She drew attention to the challenges of cable laying, port constructions, the creation of artificial islands, and aerosol power stations. While noting the economic importance of these projects, she stressed the need to balance economic interests with the interest in heritage protection. Developing knowledge and inventorying heritage in affected areas are steps to defining a solution to this task. She identified a need for mapping connected to legal measures, such as mandatory consultation and funding earmarked for the mitigation of projects enforced by sanctions. She drew attention to the need for appropriate administrative measures, such as ensuring that administrative services in charge of managing construction projects appropriately take into account underwater cultural heritage protection. Attention was also drawn to the issue where activities can change a current and indirectly erode or discover a site physically far removed from the activity itself.

There was also some discussion on how far trawling and deep sea fishing affected sites, and if physical protection measures would be able to protect affected areas.

Mr Hugo Bonilla inquired about the follow-up to decisions and recommendations of the Advisory Body. The Secretariat assured him of the best possible promotion for the recommendations, upon the Meeting of States Parties' endorsement; for instance, the new Code of Ethics for diving on submerged archaeological sites would now be disseminated widely with the help of partners, and an initiative would now be set up to make inventories interchangeable, as recommended by the Advisory Body in its last session.

d. Tourism and public enjoyment

Ms Ouafa Ben Slimane spoke on the importance of public enjoyment of underwater cultural heritage. Many initiatives had already been taken, such as the creation of dive trails and protected areas. There is, however, still a challenge to appropriately and adequately involve dive-clubs and leisure divers. She remarked that they could be made guardians of the heritage – in many cases the dive clubs had been guarding their discovered sites, albeit jealously, and for economically-motivated reasons.

Ms Carmen Garcia remarked that sites might not be as affected by professional dive clubs as by the divers to which the sites were shown, who might later return to pillage such a site. This question, and the idea of reimbursement for chance finds as a solution was discussed; it

was contended that while restitution for chance finds provided an incentive to disclose, it might also incentivize treasure-hunting for official restitution by authorities.

At the end of these discussions on the factors negatively affecting underwater cultural heritage, **Recommendation 3/STAB 2**, giving indications for remedial measures suggested to States Parties, was unanimously adopted.

IV. Discussion of the status of underwater archaeology

Item 6 (UCH/11/2.STAB/220/4)

Mr Constantin Chera opened the afternoon discussion with a presentation on the status of underwater archaeology projects. Romania was used as an example where investigation and awareness-raising projects were organized with minimal resourcing. Authorities organized meetings with stakeholders to inform them and he told also that there was an intention to appoint different NGO to be responsible for specific sites. A major issue was raised concerning the mapping of underwater cultural heritage. In the ensuing discussion the Secretariat inquired about the current needs of underwater archaeology and drew attention to the above-mentioned offer to facilitate data transmission by the IOC. It also informed the Advisory Body about a Bulgarian initiative to elaborate prediction models for areas and their content of underwater cultural heritage.

Ms Dolores Elkin then gave a concise overview of the status of funding of underwater archaeology projects in Argentina. She indicated that Argentina's experience might be useful for others establishing investigation programmes. She informed the Advisory Body that her team of four persons was responsible for nearly 3,000 km of coastline; they currently are focused on the *HMS Swift* project with a budget of approximately 60,000 USD per year, including the cost of staff.

Mr Vladas Zulkus then informed the Advisory Body on the status of the legal and operational aspects of protection. He stressed the urgent need to solidify legal aspects first, before approaching operational aspects.

The Advisory Body discussed the problems currently faced in investigation projects. Focal points of the discussion were the harmonization of databases and mapping, qualification and teaching and scientific diver licensing. **Recommendation 4/STAB 2**, adopted by the Advisory Body, encompasses these issues.

Resolution 5/ STAB 2, also adopted by the Advisory Body, decided to collect best-practice examples to identify paradigms for application worldwide. Ms Annalisa Zarattini presented the Archaeomar project of the Italian Government and proposed its consideration as a best-practice example. The Advisory Body expressed its appreciation and requested the Secretariat establish a specialized "Best Practice Collection" page on the UNESCO website.

There was then a brief discussion on the advisability of the creation of an **Award for the Best Underwater Archaeology Project** should be created. There was, however, the concern that this prize might consistently be awarded to large heritage services and that geographical equality would not be achieved. The project was therefore not endorsed. Ms Pilar Luna Erreguerena stressed another issue: the need to do more work in **child and**

youth education. She expressed her warm appreciation for the new UNESCO underwater cultural heritage children's programme and requested more work in this area. The Secretariat informed the Advisory Body that it intended to elaborate, in close cooperation with the World Heritage Centre and the ICO, a Teachers Kit for the education of the youth to be introduced, ideally, in school schedules.

At the end of the discussion, the Advisory Body adopted **Resolution 7/ STAB 2**, deciding that it would meet again in April 2012 in Paris; work is to continue in the interim via electronic means.

Resolutions and Recommendations

RESOLUTION 1/ STAB 2

The Scientific and Technical Advisory Body to the Meeting of States Parties to the Convention on the Protection of the Underwater Cultural Heritage,

1. Elects Mr Constantin Chera (Romania) Chairperson of its second meeting;
2. Elects Ms Ouafa Ben Slimane (Tunisia) Vice-Chairperson of its second meeting.

RESOLUTION 2/ STAB 2

The Scientific and Technical Advisory Body,

1. Having examined document UCH/11/2.STAB/220/2;
2. Adopts the Agenda of its second meeting included in the above-mentioned document, as amended.

RECOMMENDATION 3/ STAB 2

The Scientific and Technical Advisory Body,

1. Having examined document UCH/11/2.MAB/220/3;
2. Recognizes the severe threats posed to the preservation of underwater cultural heritage by pillaging, commercial exploitation and activities indirectly affecting the underwater cultural heritage;
3. Acknowledges the need to balance the economic interest of development projects, resource extraction projects, and tourism with the need to preserve the underwater cultural heritage;
4. Recommends to the Meeting of States Parties to the Convention on the Protection of the Underwater Cultural Heritage to raise awareness among promoters of development and resource extraction projects, fishers, divers and other stakeholders;
5. Recommends to the Meeting of States Parties, with respect to **development and resource extraction projects**, to ensure that:

- a) development and resource extraction projects take into account the existence of underwater cultural heritage;
 - b) the project document submitted for the authorization of development and resource extraction projects includes mandatory assessment of the area and identification of underwater cultural heritage contained therein;
 - c) the competent national authorities for underwater cultural heritage are mandatorily consulted in the authorization of all development and resource extraction projects that concern coastal areas or the seabed; or, if such consultation is not possible, that the authorizing national authorities include special experts on underwater cultural heritage;
 - d) the evaluation criteria applied in the authorization of development and resource extraction projects include the project's impact on underwater cultural heritage;
 - e) the public and private developers of such projects should provide the funds and be responsible for:
 - i. the assessment of the project area and the identification of underwater cultural heritage therein;
 - ii. the prevention, to the extent possible, of impact to underwater cultural heritage caused by the project in the project area and its surrounding environment;
 - iii. the mitigation of negative effects caused by the project in the project area and its surrounding environment;
 - iv. the conservation of the affected underwater cultural heritage; and
 - v. the promotion of affected underwater cultural heritage and the dissemination of knowledge about it;
 - f) alternatively, a levy on all relevant infrastructure and resource extraction projects is imposed that feeds a fund dedicated to:
 - i. the preliminary assessment of all development areas;
 - ii. the identification or prediction of underwater cultural heritage sites in these areas; and
 - iii. the taking of the measures cited under paragraph e);
 - g) sanctions are imposed on developers of infrastructure and resource extraction projects that do not respect the provisions put in place for the protection of underwater cultural heritage;
 - h) the mapping and establishment of inventories of coastal areas and territorial waters is reinforced to allow for the elaboration of predictive models in order to recognize risk areas, identify underwater cultural heritage and establish impact prevention and mitigation policies; and
 - i) a Charter on development projects, infrastructure projects and their relation to the protection of underwater cultural heritage is elaborated.
6. Recommends to the Meeting of States Parties, with respect to **fishing and trawling activities**, to encourage:

- a) the creation of physical protection measures for underwater cultural heritage sites or related protection areas; and
 - b) the introduction of the issue of underwater cultural heritage protection in fishing policies and the establishment of specific protection areas where fishing is prohibited;
7. Recommends to the Meeting of States Parties, with respect to **leisure diving activities**, to encourage:
- a) the collaboration with and the sensitization of diving operators toward the protection of underwater cultural heritage, in undertaking activities such as promotion of the *UNESCO Code of Ethics for Diving on Submerged Archaeological Sites*; and
 - b) the possible introduction of incentives for the consignment of chance finds to the national competent authorities.

RECOMMENDATION 4/ STAB 2

The Scientific and Technical Advisory Body,

1. Having examined document *UCH/11/2.STAB/220/4*;
2. Recommends to the Meeting of States Parties to the Convention on the Protection of the Underwater Cultural Heritage, with respect to **national authorities**, to encourage:
 - a) the establishment of competent national authorities for underwater cultural heritage, in recalling Article 22.1 of the Convention; and
 - b) to provide such competent national authorities with the funds, personnel, technical means and facilities necessary to ensure the proper management, research and conservation of such heritage.
3. Recommends to the Meeting of States Parties, with respect to **research and capacity-building**, to encourage:
 - a) an increase of national science funding to provide financing for research activities directed at underwater cultural heritage;
 - b) international and regional capacity-building initiatives and specialist training;
 - c) the harmonization of academic qualification standards for underwater archaeologists; and
 - d) the harmonization of licensing for scientific divers including the related legal, health and safety requirements, to facilitate international collaboration on research projects;
4. Recommends to the Meeting of States Parties, with respect to **interventions**, to ensure decisions on whether a site is excavated or preserved *in situ* are based on analyses comparing their significance with that of other existing sites.

RESOLUTION 5/ STAB 2

The Scientific and Technical Advisory Body,

1. Decides to collect best practices, including those concerning: scientific diving licenses; national, regional and international research and cooperation projects; and cooperation projects between professional and recreational divers; and
2. Requests the Secretariat to provide on its webpage information on these best practices, as identified by the Advisory Body.

RESOLUTION 6/ STAB 2

The Scientific and Technical Advisory Body,

1. Having taken note of *Resolution 5 /MSP.3* of the Meeting of States Parties;
2. Decides to review the Manual on the Annex of the Convention, as elaborated by the Secretariat, and provide, at the latest, comments and suggestions for revision by 15 May 2011.

RESOLUTION 7/ STAB 2

The Scientific and Technical Advisory Body,

1. Having examined document *UCH/11/2.STAB/220/6*;
2. Invites the Director-General to convene the third meeting of the Scientific and Technical Advisory Body in April 2012 in Paris.