



The Protection of the
Underwater Cultural Heritage

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

**26/27 March 2009, Paris, UNESCO Headquarters
Room IV**

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**ADDRESS BY
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*on the occasion of the first session of the Meeting of States Parties to the 2001 Convention on the
Protection of the Underwater Cultural Heritage*

UNESCO, Paris, 26 March 2009

Dear Director-General,

Dear President of the General Conference,

Dear Mr. Perez de Cuellar,

Excellencies, distinguished delegates, ladies and gentlemen,

For underwater cultural heritage this is a very important day and for me it is a great joy and honour to be in your midst and to address you all on behalf of the archaeological and heritage profession. I do so as representative of UNESCO's affiliate NGO, the International Council on Monuments and Sites, ICOMOS, in which I chair the International Committee on the Underwater Cultural Heritage, ICUCH.

This specialised committee has been intricately involved in the preparation and promotion of the Convention whose implementation we celebrate – we can rejoice – but more importantly address and discuss today.

The Annex, for instance, the integral part of the Convention that contains its 'operational rules' literally reflects the Charter on the Protection and Management of Underwater Cultural Heritage that the committee developed under the coordination of its first chairman, Graeme Henderson. He managed to gather specialist heritage professionals from every region of the world and made them discuss and formulate what exactly it was, what exactly it is that is the common denominator of what is acceptable and what is not, when dealing with heritage in an underwater environment, not just in each individual region, but everywhere in the world.

The world-wide network of ICOMOS has been essential for this preliminary work and remains to be so for the promotion of the 2001 Convention and the standard it promotes alike. The Charter was adopted by ICOMOS in 1996, the very year that the first exploratory meeting of government

representatives debating the feasibility of the present Convention was held here at UNESCO. During all subsequent negotiations, the substance of the Charter, the substance of what is to be considered acceptable and what not was discussed and discussed over and over again, but the Charter's text held its standard setting ground that resulted in the operational rules of the present Convention. Every negotiating and observing party, even those initially opposing the Convention agreed to support and implement these rules in their subsequent policies.

Does that mean that there is ample experience with those rules and their implementation? Does that mean that the States Parties who meet today can build on extensive prior experience? Yes, it does. There is ample experience, spread around the globe, with well-considered approaches to protect, manage, survey, consult and enjoy this heritage through research and recreational experience. Moreover, we can rely on an extensive network of professionals exchanging information, exchanging views, exchanging practitioners with a view to joint development of maritime archaeology and the management of this precious resource and with a view to training, awareness-raising and permanent education.

At the same time, however, there is also an unremitting and high-profile flow of experiences, incidents and litigation that derives from misunderstanding of a range of basic issues involved in archaeology and international heritage management,

- in which heritage of one group after all is considered heritage of humankind as each group has contributed to the past and present world; and
- in which public, joint and cooperative approaches, rather than exclusiveness and fighting over rights should be the norm.

Moreover, this unremitting flow of incidents feeds back to even more misunderstanding and confusion and – more seriously – into international tension and conflict. This can and should be avoided!

Heritage can be extremely contentious, explosive even, in international or intergroup relations. But there are ways to cope with that through cooperation and we should use them as ..."it is in the minds of men that the defences of peace must be constructed".

That is why the present meeting is so vitally important. The Convention bridges the gap between customary maritime rights and the inclusive protection and joint responsibility for heritage that has become the mainstay of heritage policies ever since the Hague Convention and the World Heritage Convention were concluded. It thereby puts heritage in a separate category, in regard to which contention can be avoided, through the deployment not only of the rules of the Convention, but of the associated concepts and rich international thinking on heritage. By putting them in a separate category, regulated by the Convention, underwater heritage sites are automatically outside the traditional sphere of maritime power politics, without in any way disturbing its balance or without in any way interfering with or affecting traditional rights.

From a point of view of archaeology and heritage this is an extremely important development. Obviously it is the challenge before you – States Parties to this Convention – to ensure that this development runs smoothly, smoothly between yourselves and smoothly between you and parties who have not, as yet, ratified. Agreeing on whom will be the coordinating State for heritage in a State's EEZ or Continental shelf is probably a major issue, agreeing on whom in each State will be the competent authority is equally important. The Convention, in Article 22, requires transparency in this matter and requires professional record keeping of archaeologically relevant data by this competent authority. The scientific significance of archaeological information is after all a function of its cumulative nature.

With regard to deciding on the coordinating State, there may occasionally be reasons of convenience for this to be another State than the coastal State. The Convention provides for that possibility. From a professional point of view, however, there is every reason to have the coastal State in this specific role, with a view especially to cumulative documentation. Other options seem to be logical as well, but they are not. No project will exclusively affect the remains it tries to identify.

Let me illustrate this with a fictional example rather than with one of those incidents that recently hit the international press.

The fictional example was formulated by H.G. Wells in 1933 in his futuristic novel "The shape of things to come". At the time Wells did not know that his associate Julian Huxley would one day be Mr. Koïchiro Matsuura's predecessor as Director-General of an organisation called UNESCO, but he describes a discovery taking place in the year 2104 – (by which time the Convention will of course have a very solid track record indeed). He describes the discovery as being important for the understanding of early attempts at aviation. It runs as follows: a deep sea survey is undertaken in the aftermath of an earthquake, and "interesting wreckage, ornaments and human remains [are] found ... in Mirabella Bay." Subsequently they are "sought and recovered" and according to Wells "They have now been identified by Professor Giulio Marinetti as the remains of the legendary glider of Daedalus and Icarus."

Today, in 2009, Giulio Marinetti has not yet been born, nor is he a professor. But we may be certain that he will share one characteristic with any professor alive today: he may be wrong.

His rapid identification or hypothesis may not be the correct one. That does not qualify or disqualify the significance of the discovered remains for humankind. On the contrary! But it means that there is little reason from a perspective of science and management of information to put the coordination in the hands of any other than the coastal State, who – of course – will cooperate with the wider interested community and any State with a verifiable link that may emerge during further assessment and research. Moreover, a range of other sites – 52 if I remember correctly – were also discovered during the survey, and keeping track of that information is equally important. From a practical and professional perspective, that should be coordinated by the coastal State.

Distinguished State Parties,

ICOMOS, representing the archaeology and heritage profession through a world-wide and heritage-wide network, with its track record in the preparation of the Convention, will assist you whenever you need independent scientific advice. It is our mission to do so.

ICOMOS advisers are mobilized across the regions in order to ensure independence according to strict rules of them not having a stake in the matter at hand. Although I am confident that you will find a good international practice amongst States Parties, I can nevertheless imagine that in general issues you can do with the independent advice and assistance that ICOMOS offered in the past and can offer in the future. You may even want to formalize that, as has been done in the context of the World Heritage Convention. In organizing the future need for such advice I would certainly recommend that you build on an organisation rather than on individual professors and individuals, who may not only be wrong, but who can never guarantee consistent continuity in a world-wide context. ICOMOS can and has it as its mission.

I wish you every success and lots of wisdom with your work in this important first meeting of States Parties.

Thank you.