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限量分发

联合国教育、科学及文化组织

《保护水下文化遗产公约》

《保护水下文化遗产公约》 缔约国会议

第二届会议

2009年12月1日至3日,巴黎,教科文组织总部,第IV号会议厅

本文件载有第一届《保护水下文化遗产公约》缔约国会议(2009年3月26-27日,巴黎,教科文组织)的简 要 记 录 详 细 草 案 。 缔 约 国 可 于 2009 年 11 月 6 日 前 以 电 子 邮 件 将 评 论 意 见 发 至 u.guerin@unesco.org, 也可向《公约》秘书处提交印本。

临时议程项目 4:

通过第一届缔约国会议简要记录

需要作出的决定: 第3段

# UCH/09/2.MSP/220/4 REV. - page 2

- 1. 第一届《保护水下文化遗产公约》缔约国会议于2009年3月26日至27日巴黎联合国教科文组织总部举行。
- 2. 根据会议议事规则第26.4条,秘书处将编写会议届会的简要记录,供在下届会议开幕式上核准。
- 3. 因此,缔约国会议可审议附件所载由秘书处编写的简要记录草案,可以考虑通过如下决议:

# 决议草案4/ MSP 2

缔约国会议第二届会议,

- 1. <u>审议了</u>UCH/09/2.MSP/220/4号文件附件所载第一届《保护水下文化遗产公约》缔约国会议的简要记录草案;
- 2. 通过了上述文件所载记录。

## 附 件

#### 第一届《保护水下文化遗产公约》缔约国会议简要记录草案

第一届《保护水下文化遗产公约》缔约国会议(以下简称"会议")2009 年 3 月 26 日至 27 日在巴黎教科文组织总部举行。十九个《公约》缔约国及阿尔巴尼亚、格林纳达、斯洛伐克和突尼斯的代表团以观察员身份出席了会议,它们在会议召开前不到三个月内批准了《公约》。<sup>1</sup>此外,71 个非《公约》缔约国、5 个政府间组织和 23 个非政府组织(NGOs)的观察员也出席了会议。

#### I. 第一届《公约》缔约国会议正式开幕式

会议于 2009 年 3 月 26 日上午 10 时开幕,正式仪式由**教科文组织总干事松浦晃一 郎先生**主持。

总干事欢在致欢迎词时,向缔约国、观察员国及政府间组织和非政府组织的代表表示问候,对他们当中在 2001 年《公约》起草阶段发挥重要作用的人士表示感谢。他对长期以来协助教科文组织努力使《公约》变为现实的嘉宾和所有人员表示感谢。他最后说,这次会议对于保护文化遗产、特别是水下文化遗产是一个真正的历史性时刻。

#### 嘉宾发言:

第一位嘉宾是前联合国秘书长**哈维尔·佩雷斯·德奎利亚尔先生阁下**,他本人向会议表示问候,教科文组织文化事务助理总干事弗朗索瓦·里维埃尔女士在会议上代表他宣读书面发言稿。他确认 2001 年《公约》是维护共同文化遗产的重要文书,回顾在他的任其内联合国对《联合国海洋法公约》("UNCLOS")海洋法的编纂工作发挥的重要作用。不过,他也承认《海洋法公约》只是扼要提及文化遗产,并承认 2001 年《公约》可被视为已完成其工作,是保护水下文化遗产的重要文书。他最后认为,应采取相同的方式批准和普遍接受《海洋法公约》,他希望 2001 年《公约》将取得同样的成功。

<sup>1《</sup>公约》第27条规定公约在缔约国交存批准文书后3个月后生效。

之后,大会主席乔治·阿纳斯塔西亚代斯发言,强调 2001 年《公约》在教科文组织规范性文书中的地位,指出《公约》是保护物质文化遗产的必要文书,有效地协调了水下考古遗址和地面类似遗址的保护工作。他最后说,《公约》可保障从法律上对水下遗址进行切实保护,对水下考古科学的发展提供了有效的科学指南。

最后,**国际古迹遗址理事会保护水下文化遗产国际委员会**(ICUCH)向与会者发了言,指出专业考古人员的水下文化遗产专门知识对于协助 2001 年《公约》缔约国发挥的重要作用。他回顾国际水下文化遗产委员会对《公约》案文的拟订工作发挥了作用,强调案文是专业人员讨论的结果,目的是在全球各地的水下环境中处理遗产时,在可以接受和不能接受的事宜上达成共识。他进一步提议由国际水下文化遗产委员会向会议提出建议。

## Ⅱ. 选举缔约国会议主席、副主席和报告员

(议程项目1)

文化事务助理总干事弗朗索瓦·里维埃尔女士代表总干事在会议上讨论议程项目 1:选举主席团,他说,会议应负责选举主席一名、副主席(最好是四名,以满足公平地域分配的愿望)和报告员一名,最好分别属于不同的选举组别。提名如下:

主席: Marcelo Vazquez Bermudez 先生阁下,厄瓜多尔

副主席: 克罗地亚、黎巴嫩、尼日利亚和葡萄牙

报告员: Long Ponnasinrivath 先生,柬埔寨

古巴代表团代表拉丁美洲和加勒比集团发言支持 Marcelo Vazquez Bermudez 先生阁下(厄瓜多尔)担任会议主席,认为提名理由充分,原因是他在国际法和海洋法领域的专业能力和以前的经验。西班牙代表团支持侯选人提名。

总干事代表指出取得了共识,会议随后以鼓掌方式一致正式任命主席团,作为**决议** 项目 1/MSP 1 通过的其临时议程项目 1。

#### Ⅲ. 接纳受邀请观察员

主席在主席台就座后感谢各代表团对他的信任,并向它们保证,他将尽最大努力协助履行缔约国会议本届会议的任务和义务。他对出席会议并关注会议工作的观察员国和组织的数量感到满意。他随后建议**接纳受邀观察员**,因为对此问题做出规定的议事规则尚未通过。这项建议获得一致认可。

## Ⅳ. 缔约国的正式发言

主席随后邀请希望作正式发言的各缔约国发言。

墨西哥代表团特别指出,在与会的许多观察国中,有些国家对可能违反《海洋法公约》规定的 2001 年《公约》提出保留意见,但强调《公约》案文第 3 条明确规定其所有条款不得以任何方式侵害《海洋法公约》赋予的任何其他权利。

**圣卢西亚**代表团吁请各缔约国借此机会制订可行的强有力共识议程和《公约》的有效实施战略。它还提到需要支持区域发展网络中的小国,以及有可能需要由一个咨询机构提供技术支持,并回顾加勒比国家给予支持 2001 年《公约》的基多声明的大力支持。

巴拿马代表团说,它希望其他许多国家不久将批准 2001 年《公约》,并希望本次会议将制定能够执行《公约》宗旨和目标的机制。许多代表团强调《公约》有可能作为保护水下文化遗产的国际标准制订框架,并强调各利益攸关方在所有这些领域开展合作的重要性。

其后**,主席**邀请各观察员发言。三个观察国借此机会发言。意大利代表团说,意 大利准备批准 2001 年《公约》,它深信《公约》将是制止掠夺水下文化遗产的现有最 佳工具。希腊希望各缔约国圆满完成本次会议的工作,但借此机会表示对若干遗址的报 告制度持保留意见。最后,阿尔及利亚代表团向会议通报阿尔及利亚当局为批准《公约》采取的步骤。

## V. 通过第一届缔约国会议的议程

#### (议程项目2)

应主席邀请,总干事代表随后介绍了议程项目 2,概述了本届会议的拟议项目和秘书处编写的相关文件。会议议程在**决议项目 2/MSP 2** 中一致获得通过。

# VI. 讨论会议议事规则

#### (议程项目3)

主席介绍了议程项目 3,即讨论和通过《公约》缔约国会议议事规则。总干事代表 里维埃尔夫人代表秘书处解释说,2001 年《公约》缔约国会议议事规则草案是根据 2003 年《公约》缔约方大会和2005 年《公约》缔约方大会的议事规则编写和散发的。

里维埃尔夫人指出,要处理的讨论要点有两个:根据第 2001 年《公约》第 23.2 条,会议必须确定其职能和责任;根据第 23.4 条,它需要讨论它是否希望建立科学和技术咨询机构。

里维埃尔夫人解释说,暂行议事规则草案包括以下七个部分:

- I. 与会;
- Ⅱ. 缔约方会议的职责和义务:
- Ⅲ. 会议安排;
- IV. 议事方式:
- V. 科学和技术咨询机构成员的提名:
- VI. 会议秘书处:和
- VII. 通过和修订议事规则。

里维埃尔夫人向会议通报说,秘书处已经收到议事规则草案修正案的书面提案,签署国是**巴巴多斯、克罗地亚、古巴、厄瓜多尔、立陶宛、墨西哥、尼日利亚、巴拿马、巴拉圭、圣卢西亚和斯洛文尼亚**。修正案提案的副本已散发给缔约国,供它们审议。

继**美利坚合众国**代表团作为观察员进行干预(见本报告附件)之后,下午的会议开始 进行议事规则的拟定工作,讨论草案和提议的修订案。

第I部分获得一致通过,修订之处很少。

<u>第Ⅱ部分</u>和提议的修订案也获得一致通过。澄清缔约方会议职责和义务的<u>第3条</u>获得通过,对建议会议负有的职责增补如下内容:

- (i) 审查咨询机构提交给会议的报告;
- (ii) 审查、讨论和确定由咨询机构提交给会议的建议;和
- (iii) 寻找筹措资金的办法,并为此采取必要的措施。

增补新的第4条,所涉内容是今后可能建立由各缔约方组成的会议附属机构。

第Ⅲ部分 讨论和通过以下方面的修订案: 召开一次特别会议; 通过缔约国会议常会和特别会议的议程; 以及遵循主席团成员公平地域分配原则。

关于第IV部分,更加详细地讨论了关于区分会议及其所属机构今后工作所使用的"工作"语文和"正式"语文的<u>第18条和19条</u>。若干代表团发言之后,得出的结论是这次会议的正式语文应为阿拉伯文、中文、英文、法文、俄文和西班牙文。另外还修订了<u>第19条</u>,以便作为一般规则规定,任何决议草案或修正案,如果没有起码以秘书处的英文和法文这两种工作语文事先合理地散发给全体与会者,不得予以讨论或付诸表决。最后确定,决议应于届会结束后一个月内以六种正式语文予以公布和散发。

会议继续讨论建立科学和技术咨询机构及根据议事规则草案<u>第5部分</u>提名和选举其成员的问题。在审议先前提出的修正案时,提议作出进一步修订。然而,尽管各缔约国表现出合作和妥协精神,第一天的会议没有能够就这一问题达成全面共识。因此,会议决定将这些条款的讨论推迟到第二天进行,以便允许缔约国晚上以非正式的方式进行协商。

随后讨论了议事规则草案的第6条和第7条,提出的所有修订案获得一致通过。

讨论议事规则草案和暂时通过除第五部分以外的各部分后,会议决定以进入下一个议程项目。

#### VII. 讨论与《公约》生效有关的法定问题和其他问题的批准情况

# (议程项目4)

应主席邀请,秘书处提供了关于2001年《公约》批准情况的一般信息。其中还提到一些缔约国未履行应根据《公约》、特别是《公约》第9.2条发表宣言的义务,以及向水下文化遗产的国家主管当局通报情况的必要性(第22.2条)。秘书处向各国介绍了实施国家合作系统的可能方案,例如建立一个外部网站,作为教科文组织网站子页面,包括根据《公约》要求提交报告的电子数据库。它还介绍了编制《公约》附件新的参考出版物的项目。最后,它介绍了与水下文化遗产有关的各项业务活动和即将开展的业务活动,即区域会议、能力建设和克罗地亚扎达尔的第11类中心。

两个代表团向秘书处介绍了正在国家一级为执行2001年《公约》采取的步骤。经主席和缔约国许可,会议允许观察员随后进行一般性讨论。

# VIII. 继续讨论会议议事规则和通过议事规则

## (议程项目3)

第二天上午,主席宣布会议开幕,并讨论昨天停止讨论的余留议程项目3,即议事规则草案第v部分。他指出,这次会议几近就草案达成共识,并收到了拟修正第v部分的一系列订正案。

这个问题的拟议修订案提议的重大修改包括作为提名国代表当选咨询机构成员的 专家的特点。在新的<u>第25条</u>,选举程序也是拟议修订案的主题。这两个问题促使对原始 案文草案进行若干重大修订。

于是,注意力集中在潜在被提名人的专业知识和专业水平以及这样一个机构的成员的适当人数上。随后进行了激烈的讨论。最终达成共识,决定成员的最初适当名额将为十二人,并视缔约国的数量和今后的要求将其扩大为二十四人。会议还决定,根据《公约》的目标和宗旨,提议参加选举的专家应在国家和国际一级具有胜任工作的科学、专业和道德背景。此外,还决定选举程序将根据新的<u>第25.1条</u>以无记名投票方式进行。

在随后的讨论中,同意在2001年《公约》的第一阶段灵活实施部分议事规则。特别是关于分别根据<u>第24.1和22.1条</u>通知缔约国提出参加咨询机构选举的候选人和咨询机构地域代表性的规则。

于是,各缔约国根据**决议项目3 / MSP 2**一致通过经修订和拟订的议事规则,包括 所附的**议事规则**。

然后,观察员有机会就上午的工作发表评论意见。

#### IX. 讨论科学和技术咨询机构的章程

### (议程项目5)

应主席邀请,总干事代表在会议上介绍了议程项目5,即讨论是否可能制定和通过 科学和技术咨询机构的章程。她表示,这些章程的草案由秘书处提交各缔约国审议,必 须符合会议刚才所作的决定并须将草案提交与会者。然后,主席请大家进行讨论。

草案<u>第1条</u>规定,缔约国会议设立了一个科学和技术咨询机构。但是,各缔约国认为现在尚为时过早,这种决定应该根据决议作出,不应该在这些机构的章程转述。因此,决定在章程中不列入这个问题。

若干代表团重点针对与潜在的科学和技术咨询机构的职责有关的第2条草案(经修订的第1条),在会议上讨论与这类咨询机构的职责有关的各类问题以及可能与非政府组织,即国际水下文化遗产委员会进行的合作。讨论侧重于能够与咨询机构开展合作的其他类型的非政府组织,在第1 (e)条商定,只有那些由缔约国会议认可的组织才能获得这项特权。

会议还决定,根据<u>第25.2条</u>,咨询机构不应协助教科文组织调解两个或两个以上 缔约国在2001年《公约》的解释或适用方面产生的争端。

关于<u>新的第2条</u>规定的咨询机构的会员资格,各缔约国下定决心,希望排除规章草案,因为其中规定,未加入《公约》的国家或地区的国民,如果经某个缔约国提议以及经缔约国会议提名,也可成为咨询机构的成员。

关于<u>新的第3条</u>规定的咨询机构成员的提名和选举,会议决定在议事规则中提及<u>第</u> 22条至第25条,其中已对这一问题做出规定,因此,章程没有必要再重提这一问题。 以前关于咨询机构工作方式的第5条草案经缩减后归入第1(c)条。

于是,新的第7条的主题一筹资问题成为激烈讨论的主题。秘书处强调,虽然它将尽最大努力为发展中国家专家的旅费提供支助,但教科文组织为2001年《公约》的运作编列的经常预算非常有限。因此,凡扩大经常预算的使用范围,均需由执行局和教科文组织大会决定。缔约国强调今后有可能设立预算外基金,教科文组织其他公约即属于这种情况,目的是为理事机构的运作提供更多资金。第7条介绍了一项新的规章,指出只有发展中国家和转型期国家的咨询机构成员可受益于为参加该机构的会议提供的财政援助。另外还指出,只要有可能,咨询机构成员就应以电子方式工作。

根据**第5/MSP 1号决议**和所附**科学和技术咨询机构的章程**,会议一致通过了经修订的章程,决定设立科学和技术咨询机构。

# X. 讨论是否可以当选科学和技术咨询机构成员的问题

## (议程项目6)

根据秘书处的提议,由于时间限制,决定暂停选举新成立的咨询机构的成员参加缔约国下届会议。

#### XI. 讨论制定执行准则问题

#### (议程项目7)

议程上的下一个项目是讨论是否应制订 2001 年《公约》的执行准则。

秘书处称,《公约》没有明确预见《执行准则》的制定,因为这个问题留给缔约国会议酌处。然而,许多国家表示认为,制订这类准则可能有助于更好地理解和更有效地执行 2001 年《公约》。它表示,这种《执行准则》可以:

- a) 明确《公约》中的某些定义,而无需做出合法的解释;
- b) 对《公约》第8至13条中包含的国家合作与协商机制给予指导;
- c) 规范为根据《公约》确定的措施筹措资金的活动,比如在实施由一些协商国制定 并由一个协调国执行的措施情况下;
- d) 指导"区域内"协调国的指定;

- e) 详细说明国家合作方面的其他问题(水下考古培训、技术转让、知识交流等);
- f) 确定《公约》执行过程中合作方的作用; 以及
- q) 对于如何解释《公约》所确定的水下文化遗产实际保护标准给予指导。

若干代表团作了发言,支持制订《执行准则》的提案,但表示遗憾的是,会议到最后才处理讨论《执行准则》这样的重大问题,并且表示,为了编写《准则》草案,秘书处必须能够考虑缔约国的意见。此外,他们表示认为,《执行准则》不应该澄清 2001 年《公约》的定义。但是,它们应该指导《公约》第 8 条至 13 条所载关于指定区域及必要时的专属经济区的协调国家的国家合作与协商机制。

随后进行了讨论,决定各缔约国将通过秘书处发给它们的问卷提出将在《执行准则》 草案中审议的内容。

缔约国会议随后通过了经修订的**第7 / MSP 1号决议**,请秘书处在与各缔约国协商的基础上编写 2001年《公约》执行准则初步草案,除其他外,优先关注 CLT/CIH/MCO/2009/ME/90号文件第3.b和3.d点;建议《执行准则》能够指导《公约》第8至13条所载关于指定区域协调国的国家合作与协商机制。草案应提交缔约国会议第二届常会审议和批准。

#### XII. 第二届缔约国会议的日期和地点

#### (议程项目8)

作为其议程上的最后一个项目,缔约国会议讨论了第二届缔约国会议的日期和地点,包括第二届会议应当是特别会议还是常会这一问题。在进行简短讨论后,决定这届会议应当是一次常会,其公开议程将于2009年12月在巴黎教科文组织总部举行。

由于时间已晚,大家一致决定报告员的报告将通过电子方式分发。

#### XIII. 会议闭幕

随后,主席宣布会议闭幕。总干事代表感谢主席的指导以及各缔约国和观察员所做的工作,对各缔约国和与会观察员一致赞扬的第一届缔约国会议的成就表示祝贺。

# 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 Papahanaumokuakea 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

UCH/09/2.MSP/220/4 REV. - page 14

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 <u>raising funds</u> 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 fundraising. 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 <u>for its purposes.</u>" The question is whether "for its purposes" is too openended or whether it might say something like "<u>as it deems necessary to enhance the goals and implementation of the Convention</u>."
- -- 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 "Notfest 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

UCH/09/2.MSP/220/4 REV. - page 16

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.