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Educational, Scientific and  
Cultural Organization



The Protection of the  
Underwater Cultural Heritage

**3 MSP**

**UCH/11/3.MSP/220/7REV**

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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**

**Third session  
Paris, UNESCO Headquarters, Room IV  
13 – 14 April 2011**

**Item 7 of the Provisional Agenda:  
Consideration and possible adoption of the Operational Guidelines**

**Decision required : paragraph 4**

1. In its first session and by its Resolution 7 / MSP 1, the Meeting of States Parties requested the Secretariat to prepare, on the basis of a consultation with the States Parties, a preliminary draft of Operational Guidelines for the Convention on the Protection of the Underwater Cultural Heritage and to submit at the second ordinary session of the Meeting of States Parties the results of its work for consideration and approval.
2. A draft of Operational Guidelines was duly prepared and in its general structure discussed during the second session of the Meeting of State Parties. The Meeting then decided by Resolution 5 / MSP 2 to establish a working group consisting of representatives of 14 States Parties to look more closely into the text. The working group consulted and met on 9 and 10 February 2011. It amended the original draft, which is attached to the present document in its amended form.
3. The Meeting might wish to consider this draft and to adopt the following resolution:

### **DRAFT RESOLUTION 7 / MSP 3**

The Meeting of States Parties, in its third session,

1. *Having examined* document UCH/11/3.MSP/220/7Rev ;
2. *Adopts* the Operational Guidelines for the Convention on the Protection of the Underwater Cultural Heritage, as contained in the Annex to this document.

### **ANNEX**

**DRAFT OPERATIONAL GUIDELINES**  
as prepared by the Working Group and submitted on 8 March 2011

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	<b>CHAPTER I. INTRODUCTION</b>
	<b>A. THE CONVENTION</b>
	<b>1. Context and Content of the Convention</b>
	<p>a.) The Convention on the Protection of the Underwater Cultural Heritage (hereinafter "<b>the Convention</b>") was elaborated by the UNESCO Member States as a response to the growing damage done by human activities endangering submerged archaeological sites, <a href="#">[Spain: that might arise from activities under its jurisdiction incidentally affecting underwater cultural heritage. These are for instance dredging, pipe line construction, mineral extraction, trawling and port works. The Convention also responds]</a> to the deep concerns by the increasing commercial exploitation of underwater cultural heritage, and in particular by certain activities aimed at the sale, acquisition or barter of underwater cultural heritage.</p> <p>b.) The Convention intends to enable States to better protect underwater cultural heritage, by setting high protection standards and by facilitating State cooperation. The protection standards of the Convention are comparable to that granted by other UNESCO Conventions or national legislation on cultural heritage on land. Nevertheless, they are specifically tailored to the treatment of traces of human existence found under water, having a cultural, historical or archaeological character and respect their peculiarities regarding, among others, their fragility, accessibility and underwater environment.</p> <p>c.) In the long term the Convention is intended to achieve the appropriate legal protection of underwater archaeological sites wherever they are located. It should enable States Parties to collaborate and adopt a common approach to heritage preservation and ethical scientific management of submerged sites. It is its goal to harmonize the protection of submerged heritage with that of heritage on land and provide archaeologists, State authorities and site management institutions with norms on how to treat it.</p> <p>d.) The Convention contains minimum requirements. Each State Party, if it so wishes may choose to develop even higher standards of protection, for example by also protecting on a national level remains submerged less than 100 years. Among others.</p>

	<p>the Convention:</p> <ul style="list-style-type: none"> <li>• sets out basic principles for protecting underwater cultural heritage;</li> <li>• contains provisions for an international cooperation scheme; and</li> <li>• provides practical Rules on how to intervene on and research underwater cultural heritage sites.</li> </ul>
<p><i>Article 3 of the Convention</i></p>	<p>e.) The Convention does not regulate the ownership of underwater cultural heritage nor does it prejudice the rights, jurisdiction and duties of States Parties under international law, including the United Nations Convention on the Law of the Sea (hereinafter “<b>UNCLOS</b>”). When a doubt arises with regard to the interpretation and the application of the Convention, the latter shall be interpreted and applied in the context of and in a manner consistent with international law, including UNCLOS.</p>
	<p><b>2. The Scope of Application of the Convention</b></p>
<p> </p>	<p>a.) The Convention applies, as regulated in its text and with the limitations contained therein, to the entire jurisdiction of its States Parties, unless a reservation is made under its Article 29. It applies therefore to all kinds of waters, including inland waters not of maritime character (for instance flooded caves, lakes and rivers), internal waters of maritime character (for instance bays and gulfs), [<b>Spain: (for instance bays, estuaries and ports and gulfs)</b>], archipelagic waters, the territorial seas of States Parties, their exclusive economic zones, [<b>Spain: their contiguous zone</b>], (hereinafter “<b>EEZ</b>”), and continental shelves. It also applies to the Area (the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction). The Convention protects as well heritage that has been or is only periodically submerged by water, partially or totally, as for instance, wrecks or remains of human dwellings located on land, but periodically inundated by the tides.</p>
<p><i>Article 33 of the Convention</i></p> <p><i>Article 28 of the Convention</i></p>	<p>b.) The Rules concerning activities directed at underwater cultural heritage, contained in the Annex of the Convention (hereinafter “<b>the Rules</b>”), are an integral part of the Convention. They apply automatically on entry into force of the Convention for a State Party to <del>all kinds of</del> [<b>Spain: maritime</b>] waters as provided in the Convention. Any State Party or territory may declare at any time that the Rules shall apply to its inland waters not of a maritime character.</p>

<p><i>Article 29 of the Convention</i></p>	<p>c.) At the time of expressing its consent to be bound by the Convention, a State or territory may make a declaration to the Director-General of UNESCO that the Convention shall not be applicable to specific parts of its territory, internal waters, archipelagic waters or territorial sea, and shall identify therein the reasons for such declaration. Such State shall, to the extent practicable and as quickly as possible, promote conditions under which this Convention will apply to the areas specified in its declaration, and to that end shall also withdraw its declaration in whole or in part as soon as that has been achieved.</p>
	<p><b>B. STATES PARTIES TO THE CONVENTION</b></p>
	<p><b>1. General Remarks</b></p>
	<p>a.) States are encouraged to become party to the Convention by ratifying, accepting, approving (legal acts open to Member States of UNESCO) or acceding to (legal act open to States not members of UNESCO and territories as defined by Article 26.2 (b)) the Convention. A list of States Parties to the Convention as well as of declarations and reservations made is available on the UNESCO website <a href="http://www.unesco.org/en/underwater-cultural-heritage">www.unesco.org/en/underwater-cultural-heritage</a>.</p> <p>[Spain: a.) States are encouraged to become party to the Convention by ratifying, accepting, approving (legal acts open to Member States of UNESCO) or acceding to (legal act open to States not members of UNESCO and territories as defined by Article 26.2 (b)) the Convention. All these States and territories are referred to as “States Parties” in this Operational Guidelines. A list of States Parties to the Convention as well as of declarations and reservations made is available on the UNESCO website <a href="http://www.unesco.org/en/underwater-cultural-heritage">www.unesco.org/en/underwater-cultural-heritage</a>.]</p>
	<p>b.) While fully respecting the sovereignty or jurisdiction of the States or territories where the underwater cultural heritage is situated, States Parties to the Convention recognize the collective interest of the international community to cooperate in the protection of this heritage. States Parties to the Convention, have, among others, the responsibility to:</p>
<p><i>Article 2.4 of the Convention</i></p>	<p>i. individually or jointly, take all appropriate measures in conformity with the</p>

	Convention and with international law that are necessary to protect underwater cultural heritage, using for this purpose the best practicable means at their disposal, in particular those foreseen in the Rules, and in accordance with their capabilities;
<i>Article 2.2 of the Convention</i>	ii. cooperate in the protection of underwater cultural heritage;
<i>Article 2.7 and 16 of the Convention</i>	iii. prevent intrusive activities directed at underwater cultural heritage aiming at commercial exploitation.
	c.) States Parties to the Convention are encouraged to ensure the participation of a wide variety of professionals, site managers, local and regional governments, local communities, underwater archaeologists, conservation specialists, non-governmental organizations (NGOs) and the public at large in the protection of the underwater cultural heritage and the implementation of the Convention.
<i>Article 22.1 of the Convention</i>	d.) States Parties are encouraged to bring together their underwater cultural heritage experts at regular intervals to discuss the implementation of the Convention.
	<b>2. Competent Authorities</b>
<i>Article 22.1 of the Convention</i>	1. States Parties shall establish competent authorities or reinforce the existing ones where appropriate, with the aim of providing for the establishment, maintenance and updating of an inventory of underwater cultural heritage, the effective protection, conservation, presentation and management of underwater cultural heritage, as well as research and education to ensure the proper implementation of the Convention.
<i>Article 22.2 of the Convention</i>	2. States Parties shall communicate to the Director-General the names and addresses of their competent authorities relating to underwater cultural heritage. They should immediately inform him/her about any change in the details communicated.
	3. The Director-General shall make available to all States Parties an updated list with the name and addresses of the competent authorities of all the States Parties to the Convention, through the website <a href="http://www.unesco.org/en/underwater-cultural-heritage">www.unesco.org/en/underwater-cultural-heritage</a> .
<i>Articles 8 – 13 of the Convention</i>	4. All reports, notifications or information to be sent to States Parties, as provided in the Convention, should <del>{Spain:–should}</del> <b>shall</b> be addressed to the competent national authorities through diplomatic channels.



	<b>C. THE MEETING OF STATES PARTIES</b>
<i>Article 23 of the Convention</i>	<p>a.) The Meeting of States Parties to the Convention is its main organ. It is convened in ordinary session by the Director-General at least once every two years. At the request of a majority of States Parties, the Director-General convenes an extraordinary session. The agenda for an extraordinary session includes only those questions for which the session has been convened.</p> <p>b.) The functions and responsibilities of the Meeting and the management of its session are regulated by the Convention complemented by its Rules of Procedure, which are available in electronic format at the website: <a href="http://www.unesco.org/en/underwater-cultural-heritage">www.unesco.org/en/underwater-cultural-heritage</a>, or in paper version through the Secretariat.</p>
	<b>D. SUBSIDIARY BODIES OF THE MEETING OF STATES PARTIES</b>
	<b>1. The Scientific and Technical Advisory Body</b>
<i>Article 23.4 of the Convention</i>	<p>The first Meeting of States Parties to the Convention established a Scientific and Technical Advisory Body to the Meeting of States Parties to the Convention (hereinafter “<b>the Advisory Body</b>”), in accordance with Article 23.4 of the Convention. Its functions and responsibilities are regulated by its Statutes available in electronic format at the website: <a href="http://www.unesco.org/en/underwater-cultural-heritage">www.unesco.org/en/underwater-cultural-heritage</a>, or in paper version through the Secretariat.</p>
	<b>2. Other Subsidiary Bodies</b>
<i>Rule 4 of the Rules of Procedure of the Meeting of States Parties</i>	<p>Further subsidiary bodies may be established by the Meeting of States Parties as deemed necessary. They will be composed of States Parties. Their composition and their terms of reference, including their mandate and duration of office, will be defined at the time of their establishment.</p>
	<b>E. THE SECRETARIAT</b>
<i>Article 24 of the Convention</i>	<p>The Secretariat for the Convention is ensured by UNESCO. It organizes the sessions of the Meeting of States Parties and its Advisory Body and assists States Parties in the implementation of the decisions taken. The working languages of the Secretariat are</p>

	English and French.
	<b>F. THE OPERATIONAL GUIDELINES</b>
<p data-bbox="168 947 305 1016"><i>Articles 26 and 29 of the Convention</i></p> <p data-bbox="185 1356 305 1425"><i>Article 12.2 of the Convention</i></p>	<p data-bbox="375 342 1500 573">a.) The present Operational Guidelines can neither be understood as a subsequent agreement nor as rewriting, amending or interpreting the Convention. They merely aim to facilitate its implementation by giving practical guidance. In case of doubt, the text of the Convention prevails as interpreted according to the general rules of interpretation codified in the Vienna Convention of the Law of Treaties of 1969.</p> <p data-bbox="375 611 1500 688">b.) The Operational Guidelines may be revised by the Meeting of States Parties to the Convention whenever deemed necessary.</p> <p data-bbox="375 726 1500 1539">c.) The key users addressed by the present Operational Guidelines are:</p> <ul style="list-style-type: none"> <li data-bbox="456 793 1500 871">i. States Parties to the Convention and the territories, to which Article 26 of the Convention refers;</li> <li data-bbox="456 909 773 940">ii. the Advisory Body;</li> <li data-bbox="456 978 1500 1056">iii. any subsidiary body that the Conference of the States Parties might create;</li> <li data-bbox="456 1094 1154 1125">iv. UNESCO and the Secretariat to the Convention;</li> <li data-bbox="456 1163 980 1194">v. the International Seabed Authority;</li> <li data-bbox="456 1232 1500 1310">vi. concerned international organisations (IGOs) and/or their specialised agencies or organs;</li> <li data-bbox="456 1348 1500 1425">vii. concerned non-governmental organisations (NGOs), in particular those accredited to work with and be consulted by the Advisory Body; and</li> <li data-bbox="456 1463 1500 1541">viii. site managers, archaeologists, interested parties and partners in the protection of underwater cultural heritage.</li> </ul> <p data-bbox="375 1577 1500 1759">d.) Irrespective of its legal nature or denomination, any entity dedicated to <b>[Mexico: dedicated to supporting]</b> the commercial exploitation of the underwater cultural heritage shall not be considered a user addressed by the present Operational Guidelines.</p>
	<b>CHAPTER II. STATE COOPERATION</b>

	<b>A. THE STATE COOPERATION MECHANISM - GENERAL OVERVIEW</b>
<p data-bbox="175 310 305 384"><i>Article 2.2 of the Convention</i></p> <p data-bbox="175 684 305 758"><i>Article 7.1 of the Convention</i></p> <p data-bbox="175 1058 305 1131"><i>Article 7.3 of the Convention</i></p> <p data-bbox="185 1465 305 1539"><i>Articles 8 – 13 of the Convention</i></p>	<p data-bbox="331 275 1344 306">States Parties shall cooperate in the protection of underwater cultural heritage.</p> <p data-bbox="337 342 1500 674">a.) States Parties, in the exercise of their sovereignty, have the exclusive right to regulate and authorize activities directed at underwater cultural heritage in their inland waters, internal waters, archipelagic waters and territorial sea. In consequence, <del>[Spain: consequence these zones]</del> no specific cooperation scheme is provided by the Convention. As a general rule, States are expected to cooperate, but they are not obliged to transmit any notification of discoveries or activities in these zones to UNESCO or to other States.</p> <p data-bbox="337 709 1500 993">b.) Within their archipelagic waters and territorial sea, in the exercise of their sovereignty and in recognition of general practice among States, States Parties, with a view to cooperating on the best methods of protecting State vessels and aircraft, should inform the flag State Party to the Convention and, if applicable, other States with a verifiable link, especially a cultural, historical or archaeological link, with respect to the discovery of such identifiable State vessel or aircraft.</p> <p data-bbox="337 1029 1500 1312">c.) Within the EEZ, the continental shelf and the Area, the Convention establishes an international cooperation scheme based on a common share of information and a cooperative protection effort. It seeks to allow an effective protection of underwater cultural heritage in the frame of the international law of the sea. States Parties use in a common effort their respective power to prevent undesired activities and regulate desired ones. The scheme stipulates that:</p> <ul style="list-style-type: none"> <li data-bbox="375 1348 1500 1478">i. States Parties are required to request reports of discoveries and intended activities directed at underwater cultural heritage from their nationals and vessels flying their flag (reporting);</li> <li data-bbox="375 1514 1500 1644">ii. States Parties notify UNESCO, and in the Area also the Secretary-General of the International Seabed Authority, of such discoveries and planned activities (notification);</li> <li data-bbox="375 1680 1500 1759">iii. notified in turn by UNESCO, States Parties may then declare their interest to be consulted (declaration of interest);</li> <li data-bbox="375 1795 1500 1875">iv. under the coordination of the Coordinating State the consulting States Parties agree together on the measures to be taken (consultation); and</li> </ul>

	v. the Coordinating State takes the measures agreed upon by all consulting States (taking of measures).
	<b>B. MEASURES AND AUTHORIZATIONS IN THE CONTIGUOUS ZONE</b>
	<b>Spain proposes to transfer this section from previous E. to B.</b> In conformity with Article 8 of the Convention, States Parties may regulate and authorize activities directed at underwater cultural heritage within their contiguous zone. <b>[Spain: In so doing, they shall require that the Rules be applied.]</b>
	<b>C. REPORTS, NOTIFICATIONS AND DECLARATIONS OF INTEREST IN THE EEZ, ON THE CONTINENTAL SHELF AND IN THE AREA</b>
	<b>1. Reports</b>
<b>Article 8 – 13 of the Convention</b>	<ol style="list-style-type: none"> <li>1. Each State Party adopts the necessary measures to require its nationals or masters of vessels flying its flag to report to it discoveries and intended activities directed at underwater cultural heritage which are located in its own EEZ, on its continental shelf and in the Area.</li> <li>2. When the concerned heritage is located in the EEZ or on the continental shelf of another State Party: <ol style="list-style-type: none"> <li>a) States Parties shall require the national or the master of the vessel to report such discovery or activity to them and to that other State Party;</li> <li>b) alternatively, a State Party shall require the national or master of the vessel to report such discovery or activity to it and shall ensure the rapid and effective transmission of such reports to all other States Parties.</li> </ol> <p>On depositing its instrument of ratification, acceptance, approval or accession, each State Party declares the choice it makes regarding the manner in which the reports will be transmitted.</p> </li> <li>3. The following measures are recommended regarding the reports and their transmission: <ol style="list-style-type: none"> <li>a) the harmonization of national legislation in general; and</li> <li>b) in particular, the enacting of domestic rules obliging national authorities, ministries and departments undertaking activities on the seabed or riverbed</li> </ol> </li> </ol>

<p><i>Article 13 of the Convention</i></p>	<p>(as for instance coast guards, the navy, dredging services, research services, fishery monitoring services, hydrographic services etc.) to confidentially communicate information on underwater cultural heritage found or on activities concerning or affecting such heritage to the competent national authorities.</p> <p>4. A special regime for the reporting requirement applies to warships and other government ships or military aircraft with sovereign immunity, operated for non-commercial purposes and undertaking their normal mode of operations. These vessels, when they are not engaged in activities directed at underwater cultural heritage, are not obliged to report discoveries under the Convention. However, States Parties must ensure that these ships and aircraft comply, as far as is reasonable and practicable, with the protection and reporting system envisaged in the Convention for the EEZ, the continental shelf and the Area.</p>
	<p><b>2. Notifications</b></p>
<p> </p>	<p>A State Party which receives a report on a discovery or an activity notifies the Director-General of UNESCO. When the concerned underwater cultural heritage is located in the Area, it notifies in addition, the Secretary-General of the International Seabed Authority. The Director-General makes any information notified to him/her promptly available to all States Parties.</p>
	<p><b>3. Declarations of Interest</b></p>
	<p>1. Any State Party may declare its interest in being consulted on how to ensure the protection of a specific underwater cultural heritage. It sends its declaration through diplomatic channels:</p>
<p><i>Article 9.5 of the Convention</i></p>	<p>a.) to the Coastal State Party if the heritage is located in the EEZ or on the continental shelf of that State;</p>
<p><i>Article 11.4 of the Convention</i></p>	<p>b.) to the Director-General of UNESCO if the heritage is located in the Area.</p>
	<p>2. The respective declaration needs to be based on a verifiable link, especially a cultural, historical or archaeological link, to the underwater cultural heritage concerned. For the Area, particular regard is paid to the preferential rights of States resulting from the</p>

	cultural, historical or archaeological origin of the concerned heritage.
	<p>3. In declaring its interest to be consulted, a State Party informs on its link to the underwater cultural heritage concerned by accompanying its declaration by:</p> <ul style="list-style-type: none"> <li>a.) the results of scientific expertises;</li> <li>b.) historic documentation; or</li> <li>c.) any other adequate documentation.</li> </ul> <p>4. Upon confirmation of the verifiable link, any declaration of interest based on Articles 9.5 and 11.4 is to be considered valid and entails the consultation of the interested State Party on the protection of the underwater cultural heritage referred to. Any possible dispute concerning such a declaration shall be subject to negotiations among the States concerned.</p>
	<b>4. Transmission of Notifications and Declarations of Interest to UNESCO</b>
<i>Article 8 – 13 of the Convention</i>	The submission of notifications under Articles 9.3 and 11.2 and declarations of interest under Article 11.4 of the Convention should be made through diplomatic channels using, amongst others, the electronic <a href="#">[Spain: -electronic]</a> forms provided by UNESCO.
	<b>5. Transmission of Notifications and Declarations of Interest by UNESCO</b>
	UNESCO will transmit to the competent national authorities the notifications received as foreseen by the Convention, through diplomatic channels.
	<b>6. Formatting of Notifications and Declarations of Interest</b>
<i>Article 8 – 13 of the Convention</i>	<p>Amongst others, the forms, annexed to the present Guidelines, could be used for transmissions:</p> <ul style="list-style-type: none"> <li>i. for notifications to be transmitted to UNESCO and notifications emitted by UNESCO: <b>Form 1</b></li> <li>ii. for declarations of interest under Article 11.4: <b>Form 2</b> – As far as possible, a similar form should be used for declarations of interest under Article 9.5.</li> </ul>
<i>Articles 10 and 12 of the Convention</i>	<b>[SPAIN-C. D.] SELECTION OF THE COORDINATING STATE AND STATE CONSULTATIONS</b>

	<p>The Coordinating State must act on behalf of all States Parties and in the Area also for the benefit of humanity as a whole. Actions in the EEZ or the continental shelf do not in themselves constitute a basis for the assertion of any preferential or jurisdictional rights not provided for by international law.</p>
	<p><b>1. Appointment of a Coordinating State in the EEZ or the Continental Shelf</b></p>
<p><i>Article 8-10 of the Convention</i> <i>Article 9.5 of the Convention</i></p>	<p>1. Where there is a discovery of underwater cultural heritage or it is intended that an activity will be directed at underwater cultural heritage in a State Party's EEZ or on its continental shelf, that State Party consults, as "Coordinating State", all other States Parties which have declared an interest under Article 9.5 on how best to protect the underwater cultural heritage.</p> <p>2. In the case that the concerned State Party decides not to act as Coordinating State, it should declare this as soon as possible to all States Parties that expressed an interest under Article 9.5 and to the Director-General of UNESCO. It should at the same time inform about the declarations of interest it has already received.</p> <p>[Spain: 3. In order to preserve its sovereign or jurisdictional rights under international law, including UNCLOS, the Coastal State not acting as a Coordinating State shall be notified of any activity directed to underwater cultural heritage located in its EEZ or continental shelf.]</p> <p>[3. In the case mentioned under paragraph 2 above, the following criteria should, amongst others, be taken into consideration for the appointment of a Coordinating State by the States Parties that have declared an interest:</p> <ul style="list-style-type: none"> <li>i. the readiness and expressed capacity of a State to act as Coordinating State;</li> <li>ii. the likelihood to achieve a consensus among the involved States Parties on the protection of the underwater cultural heritage in question; and</li> <li>iii. the strength of the cultural or historical links of a State with the concerned heritage.</li> </ul> <p>4. Once the declaration of the Coastal State mentioned in paragraph 2 is made, national authorities of the consulting States Parties are invited to appoint as soon as possible the Coordinating State upon consultations among them in a spirit of</p>

	<p><b>consensus.] [Spain and Mexico support this drafting]</b></p>
	<p><b>2. Consultation concerning Heritage in the EEZ or on the Continental Shelf</b></p>
<p><i>Article 9.5 and 10.3 of the Convention</i></p>	<ol style="list-style-type: none"> <li>1. States Parties which declared an interest in being consulted on how to best protect a specific underwater cultural heritage under Article 9.5 of the Convention should be consulted by the Coordinating State as soon as possible.</li> <li>2. The consulted States Parties must be informed by the Coordinating State of any other declarations of interest, which were received.</li> <li>3. Consultations shall be coordinated by the Coordinating State in any language agreed upon among the States Parties involved in the consultation process.</li> <li>4. The decision on how to best protect the concerned underwater cultural heritage should be taken by consensus and in due consideration of the cultural, historical or archaeological origin of the concerned heritage and the links to the consulted States Parties.</li> </ol>
	<p><b>3. Appointment of a Coordinating State in the Area</b></p>
<p><i>Article 11.4 and 12.2 of the</i></p>	<ol style="list-style-type: none"> <li>1. The Director-General invites, as soon as possible, all States Parties which have</li> </ol>



**Convention**

declared an interest under Article 11.4 of the Convention to appoint among them a State Party as Coordinating State.

**[2. States Parties should indicate in their response if they would be ready and capable to take over the function of Coordinating State or which other consulted State Party they would like to suggest for a appointment. The following criteria should be taken into consideration by the States Parties in making their decision:**

**i. the readiness and expressed capacity of a State Party to act as Coordinating State;**

**ii. [Spain: the likelihood to achieve a consensus among the involved States Parties on the protection of the underwater cultural heritage in question];**  
**and**

**iii. the preferential rights of the consulted States Parties resulting from the cultural, historical or archaeological origin of the concerned underwater cultural heritage.] [SPAIN SUPPORT THIS DRAFTING]**

**~~[ Mexico: iii. the preferential rights of the consulted States Parties resulting from the cultural, historical or archaeological origin of the concerned underwater cultural heritage.]~~ The strength of the cultural or historical links of a State with the concerned heritage]**

3. The appointment of the Coordinating State should take place by consensus and with the consent of the State Party appointed. The nomination of the new Coordinating State shall be made as soon as possible, as regulated in paragraph 1 above.

4. The Director-General should inform all States Parties about the State Party appointed as Coordinating State and the declarations made by the consulted parties on how to

	ensure the effective protection of the concerned underwater cultural heritage.
	<b>4. Consultation concerning Heritage located in the Area</b>
	The Director-General shall invite all States Parties which have declared an interest under Article 11.4 to consult on how best to protect the underwater cultural heritage. The Director-General shall also invite the International Seabed Authority to participate in such consultations. From the date of its appointment, the Coordinating State leads the consultation of the consulting States Parties and the coordination of the implementation of the protection measures decided. The guidelines under C.2 apply <i>mutatis mutandis</i> .
	<b>[SPAIN:D. E.] MEASURES IN THE EEZ, ON THE CONTINENTAL SHELF AND IN THE AREA]</b>
	<p><b>1. Immediate Danger to Underwater Cultural Heritage</b></p> <p>Immediate danger refers to a situation caused by any activity that incidentally or directly affects the underwater cultural heritage, putting it at imminent risk of damage, destruction or looting.</p> <p>[Mexico: Immediate danger refers to a situation caused by any activity that incidentally or directly affects the underwater cultural heritage, putting it at imminent risk of damage, destruction, <del>or</del> looting or affecting its natural and/or archaeological context]</p>
	<b>[The Working Group wished to consider this whole Section again in possibly introducing a general reference (chapeau) to Articles 10.7 and 12.7, if wished and as far as applicable. [Mexico supports this suggestion]</b>
Article 10.4 and 12.3 of the Convention	<p><b>1. When a specific underwater cultural heritage is in immediate danger of being damaged, destroyed or looted: [Spain proposes to del etc: being damaged, destroyed or looted as immediate danger includes « damage, destruction and</b></p>

	<p><b>looting » as defined <i>supra</i>];</b></p> <p>a) i) if the concerned heritage is located in the EEZ or on the continental shelf of a State Party, the Coordinating State (which is normally the Coastal State) may take, or be informed by another State Party on the need to take, all practicable measures, including the issuing of the necessary authorizations in conformity with the Convention, to ensure the safeguarding of such heritage. Assistance may be requested from other States Parties. <b>[Spain: particularly to the flag State if the underwater cultural heritage in danger is an identified State vessel or aircraft.]</b></p> <p>ii) Safeguarding measures can be taken by the Coordinating State, if necessary prior to consultations with other States Parties.</p> <p>b) if the concerned heritage is located in the Area, all States Parties may take all practicable measures in conformity with the Convention to prevent the immediate danger. <b>[Spain: No measure directed at State vessels or aircraft will be adopted without the consent of the flag State.]</b></p>
<p><b>Article 10.5 (c) and 12.5 of the Convention</b></p>	<p><b>2. Preliminary Research</b></p>
	<p>1. The Coordinating State may conduct necessary preliminary research on underwater cultural heritage located in the EEZ, on the continental shelf and in the Area and shall issue the necessary authorizations therefore. The Coordinating State promptly informs the Director-General of the results, who in turn makes such information promptly available to other States Parties through diplomatic channels.</p> <p>2. No activity directed at identified State vessels and aircraft will be conducted without the agreement of the flag State. In the EEZ the collaboration of the Coordinating State is also required.</p>

	<p>[Spain: 2. No activity directed at identified State vessels and aircraft will be conducted without the agreement or consent of the flag State. In the EEZ and the continental shelf the collaboration of the Coordinating State is also required.]</p> <p>3. The submission and transfer of the results of preliminary researches under Article 10.5 (c) and 12.5 should [Spain should shall] take place by the use of electronic Form 3, which is annexed to the present Guidelines [Spain: through diplomatic channels].</p>
	<p><b>3. Measures and Authorizations</b></p>
<p><i>Article 10 and 12 of the Convention</i></p> <p><i>Article 8 of the Convention</i></p> <p><i>Articles 10 and 12 of the Convention</i></p>	<p>1. No authorization for an intervention directed at underwater cultural heritage located in the EEZ, on the continental shelf and in the Area should be granted by a State Party except in conformity with the provisions of Articles 10 and 12 of the Convention, respectively.</p> <p>2. <del>[Saint Lucia and Spain: delete this paragraph]</del> As States have, through international law including UNCLOS, certain sovereignty and jurisdictional rights in the EEZ and on the continental shelf, and as the Convention does not affect these rights, States Parties may in these maritime zones prohibit or authorize activities directed at underwater cultural heritage as far as this serves to prevent interference with their existing rights, in particular as far as Article 303.2 of UNCLOS applies.</p> <p><b>[Spain proposes to substitute the previous paragraph 2 by this text: In any case, the coastal State party in whose EEZ or continental shelf underwater cultural heritage has been located has the right to prohibit or authorize any activity directed at such heritage to prevent interference with its sovereign rights or jurisdiction as provided for by international law. However, that right shall be balanced with the general obligation to protect underwater cultural heritage and</b></p>

	<p><b><u>to cooperate in its protection as provided for in Article 303.1 of UNCLOS and Article 2 of the Convention.]</u> . <del>[Mexico: –as provided for in Article 303.1 of UNCLOS and Article 2 of the Convention.]</del></b></p> <p>3. In the EEZ, on the continental shelf and in the Area, the Coordinating State implements the measures of protection which have been agreed upon by the consulting States including itself and issues all necessary authorizations for them in conformity with the Convention, unless the consulting States agree that another State Party shall do so. Authorizations and measures must be in conformity with the Convention and the Rules.</p> <p>4. No activity directed at wrecks of State vessels and aircraft should be conducted in the EEZ, on the Continental Shelf or in the Area without the agreement of the flag State. In the EEZ also <b>[Spain: also]</b> the collaboration of the Coordinating State is <b>[Spain: also]</b> required.</p> <p><b>[Spain: 4. No measure or authorization directed at identified State vessels and aircraft will be adopted without the agreement or consent of the flag State. In the EEZ and the continental shelf the collaboration of the Coordinating State is also required.]</b></p>
	<p><b>4. Measures relating to nationals and vessels</b></p>
<p><i>Article 16 of the Convention</i></p>	<p>States Parties must take all practicable measures to ensure that their nationals and vessels flying their flag do not engage in any activity directed at underwater cultural heritage in a manner not in conformity with the Convention. Such measures are for instance the</p> <p>a.) adaptation <b>[Mexico: harmonization]</b> of national law; <b>[Modification supported</b></p>

	<p><b>by Spain]</b></p> <p>b.) empowerment of national competent authorities;</p> <p>c.) frontier controls;</p> <p>d.) monitoring of the art market and of the international press; and</p> <p>e.) cooperation with the other States Parties, UNESCO, Interpol and other appropriate organizations.</p>
	<p><b>E. MEASURES AND AUTHORIZATIONS IN THE CONTIGUOUS ZONE [Spain proposes to move this section as “B”]</b></p>
	<p>In conformity with Article 8 of the Convention, States Parties may regulate and authorize activities directed at underwater cultural heritage within their contiguous zone.</p>
	<p><b>CHAPTER III. OPERATIONAL PROTECTION</b></p>
	<p><b>A. THE PROTECTION OF UNDERWATER CULTURAL HERITAGE</b></p>
<p><i>Article 19.1 of the 2001 Convention</i></p>	<ol style="list-style-type: none"> <li>1. States Parties cooperate and assist each other in the protection and management of underwater cultural heritage, including, where practicable, collaborating in the investigation, excavation, documentation, conservation, study and presentation of such heritage. Such protection includes all necessary measures to avoid the commercial exploitation of underwater cultural heritage through trade, speculation or even barter. The underwater cultural heritage cannot be treated as commercial goods.</li> <li>2. States Parties should, in particular, endeavour to: <ol style="list-style-type: none"> <li>a.) share information about envisaged, ongoing and completed projects;</li> <li>b.) make available expertise and expert advice;</li> </ol> </li> </ol>

	<p>c.) facilitate the setting up of, and participation in, capacity-building programmes, the creation of specialized museums, the implementation of educational programmes (at an undergraduate, graduate and postgraduate level) and the exchange of exhibitions; and</p> <p>d.) put in place mechanisms and measures facilitating and enhancing the sharing of expertise and best practices.</p>
	<b>B. THE RULES</b>
<i>Article 33 of the Convention</i>	The Rules concerning activities directed at underwater cultural heritage are an integral part of the Convention. They set standards for all activities targeting traces of human existence in the sense of Article 1.1 of the Convention.
	<b>C. UNDERTAKING ACTIVITIES</b>
<i>Rule 22 and 23 of the Rules</i>	<ol style="list-style-type: none"> <li>1. Activities directed at underwater cultural heritage must only be undertaken under the direction and control of, and in the regular presence of, a qualified underwater archaeologist with scientific competence appropriate to the project.</li> <li>2. All persons on the project team must be qualified <b>[Spain: i n t heir r espective specialisation]</b> and have demonstrated competence appropriate to their role(s) in the project.</li> </ol>
	<b>D. RESEARCH</b>
	<ol style="list-style-type: none"> <li>1. An appropriate investigation is prerequisite for any decision concerning desired interventions and the establishment of a site protection plan.</li> <li>2. States Parties are encouraged to employ a variety of archaeological sciences for investigation purposes, as for instance archaeology, namely underwater, nautical and</li> </ol>

	<p>maritime archaeology, archaeo-botany, archaeo-zoology, chemistry, cultural anthropology, dendrochronology, geology, history, historical documentation, physical and information sciences and x-raying, as appropriate, for the gathering of archaeological data.</p> <p>3. They should consult appropriately qualified experts in the concerned fields.</p>
	<p><b>E. IN SITU PRESERVATION AND EXCAVATION</b></p>
<p><i>Article 2.5 of the Convention and Rule 1 of the Rules</i></p> <p><i>Rule 4 of the Rules</i></p>	<p>1. The preservation of underwater cultural heritage in situ shall be considered as the first option before allowing or engaging in any activities directed at it. Activities should be authorized in a manner consistent with protection, and for the purpose of making a significant contribution to protection, knowledge or enhancement.</p> <p>2. Before deciding on preservation measures or activities, an assessment should be made of:</p> <ul style="list-style-type: none"> <li>a.) the significance of the concerned site;</li> <li>b.) the significance of the expected result of an intervention;</li> <li>c.) the means available; and</li> <li>d.) the entirety of the heritage known in the region.</li> </ul> <p>3. Appropriate consideration needs to be given to the importance of inventories of sites.</p> <p>4. Activities directed at underwater cultural heritage must use non-destructive techniques and survey methods in preference over the recovery of objects. If excavation or recovery is necessary for the purpose of scientific studies or for the ultimate protection of the underwater cultural heritage, the methods and techniques used must be as non-destructive as possible and contribute to the preservation of the remains.</p>



	<p>5. Equally, any activity directed at underwater cultural heritage must balance the environmental impact or damage to be created, if any.</p>
	<p><b>F. DOCUMENTATION AND PREPARATION OF INVENTORIES</b></p>
	<ol style="list-style-type: none"> <li>1. Archaeological sites are fragile and sensitive to intrusion. It is important that information contained within the site is carefully recorded.</li> <li>2. It is recommended that States prepare inventories of their underwater cultural heritage. They should do so in due consideration of the desirability of common standards for all national inventories of States Parties and their inter-changeability to facilitate research.</li> <li>3. To inventory their underwater cultural heritage States Parties are encouraged to require all national authorities, in particular coast guards, the navy, dredging services, research services and fishery monitoring services, to cooperate with and forward acquired information to the national competent authorities in the sense of Article 22.2. States Parties may also request assistance from any international or national specialized body, as appropriate.</li> </ol>
	<p><b>G. PRESERVATION AND CONSERVATION</b></p>
<p><i>Article 2.6 of the Convention Rule 25</i></p>	<ol style="list-style-type: none"> <li>1. Site supervision and the physical protection of sites are recommended, where needed to dissuade intrusion and avoid the damaging of submerged archaeological sites, including looting. States Parties should establish site management plans in conformity with Rule 25 of the Rules and encourage all national authorities undertaking or supervising activities to take the existence of underwater cultural heritage into account.</li> <li>2. Recovered underwater cultural heritage shall be deposited, conserved and managed</li> </ol>

	<p>in a manner that ensures its long-term preservation. Particular regard should be given to the specific needs of the conservation of artefacts recovered from underwater, as for instance the effects of oxygen influence, the impact of drying and the development of damaging substances.</p>
	<p><b>H. ACTIVITIES INCIDENTALLY AFFECTING UNDERWATER CULTURAL HERITAGE</b></p>
<p><i>Article 5 of the Convention</i></p>	<ol style="list-style-type: none"> <li>1. Each State Party shall use the best practicable means at its disposal to prevent or mitigate any adverse effects that might arise from activities under its jurisdiction incidentally affecting underwater cultural heritage. These are for instance dredging, pipe line construction, mineral extraction, trawling and port works. <b>[Spain proposes the deletion of this paragraph]</b></li> <li>2. States should endeavour to set national rules for the authorization of interventions on underwater cultural heritage sites, which include also rules concerning activities only incidentally affecting them and areas where such sites could only possibly be located. They are encouraged to require the approval of their national competent authorities in the sense of Article 22.1 of the Convention for any such intervention.</li> <li>3. Where and when appropriate, local communities directly linked with the underwater cultural heritage sites should be engaged in any activity directed at this heritage.</li> </ol>
	<p><b>I. PUBLICATIONS FOR SCIENCE AND THE PUBLIC</b></p>
<p><i>Rule 10, 26 and 27 of the Rules</i></p>	<ol style="list-style-type: none"> <li>1. States Parties should require that any significant activity directed at underwater cultural heritage is accompanied by a scientific publication and that the public is appropriately informed about ongoing projects and the results of the research. No activity directed at underwater cultural heritage should be authorized without a programmed and affordable plan of publication according to the available financial</li> </ol>

	<p>resources. Such plan must include both information addressed to the scientific community as well as information addressed to the general public.</p> <p>2. Scientific publications should permit the evaluation of the activities undertaken and the knowledge obtained by them. They should be published after the end of the activity by a reasonable deadline according to the type and scale of the activity and of the researched site.</p>
	<p><b>J. CAPACITY-BUILDING</b></p>
<p><i>Article 21 of the Convention</i></p>	<p>1. States Parties shall cooperate in the provision of training in underwater archaeology, in techniques for the conservation of underwater cultural heritage and, on agreed terms, in the transfer of technology relating to underwater cultural heritage.</p> <p>2. They should endeavour inter alia to:</p> <ul style="list-style-type: none"> <li>a.) organize and participate in regional and international training programmes;</li> <li>b.) train specialists to work in the research and protection of underwater cultural heritage; and</li> <li>c.) create specialized national or international institutions for the training in underwater archaeology and research in underwater cultural heritage and material conservation.</li> </ul> <p>3. States Parties are encouraged to elaborate and adopt in so far as possible, common standards to promote qualifications and competences in underwater archaeology and to exchange information thereon.</p>
	<p><b>K. PUBLIC ENJOYMENT AND AWARENESS</b></p>
<p><i>Article 20 of the Convention</i></p>	<p>States Parties shall take all practicable measures to raise public awareness regarding the</p>

	<p>value and significance of underwater cultural heritage and the importance of protecting it under the Convention. They should, inter alia:</p> <ul style="list-style-type: none"> <li>a.) cooperate in regional or international awareness raising campaigns;</li> <li>b.) foster the publication of information on the protection and the value of underwater cultural heritage via the media and the Internet;</li> <li>c.) facilitate community, group or public events focusing on the enhancement or protection of the underwater cultural heritage, including, in particular, programs for divers, fishermen, sailors, coastal developers and marine spatial planners;</li> <li>d.) make available general information on underwater cultural heritage located on their territory, as appropriate;</li> <li>e.) inform the public about activities directed at underwater cultural heritage and the recovery of artefacts from sites, including about their final storage; and</li> <li>f.) take any other appropriate measures.</li> </ul>
	<p><b>L. INFORMATION-SHARING</b></p>
<p><i>Article 19 of the Convention</i></p>	<p>1. [Subject to Article 19.3 of the Convention], States Parties should share information with other States Parties concerning underwater cultural heritage, including its discovery and location, heritage excavated or recovered contrary to this Convention or otherwise in violation of international law, pertinent scientific methodology and technology, and legal developments relating to such heritage by:</p> <ul style="list-style-type: none"> <li>a.) sharing information on inventories and databases with authorized bodies;</li> <li>b.) publishing, if appropriate, information on the discovery and research concerning</li> </ul>

	<p>underwater cultural heritage;</p> <p>c.) making available to all other States Parties and UNESCO statistics on actions concerning underwater cultural heritage.</p> <p>2. Each State Party should take all practicable measures to disseminate information about underwater cultural heritage excavated or recovered contrary to this Convention or otherwise in violation of international law, including, where feasible, through appropriate international databases, and cooperate to this goal with UNESCO and other intergovernmental and governmental organizations, as for example, Interpol.</p>
	<p><b>M. PROMOTION OF BEST PRACTICES</b></p>
	<p>1. States Parties are encouraged to propose national, regional or international programmes, projects and activities for safeguarding underwater cultural heritage to the Meeting of States Parties for selection and endorsement by publication and designation as best practices and best reflecting the principles and objectives of the Convention. <b>[Spain: and the Annexed Rules.]</b></p> <p>2. In its selection and promotion of safeguarding programmes, projects and activities, the Meeting of States Parties should pay special attention to the needs of developing countries and to the principle of equitable geographic distribution.</p> <p>3. Such programmes, projects and activities may be completed, in progress, or planned at the time they are proposed for selection and promotion.</p>
	<p><b>N. MOBILIZATION OF NATIONAL AND INTERNATIONAL SUPPORT FOR THE CONVENTION</b></p>

	<p>States Parties should endeavour and cooperate to mobilize international support in favour of the Convention and its principles by facilitating:</p> <ul style="list-style-type: none"> <li>a.) the elaboration of publications on the underwater cultural heritage, including the publication of the results of related research work;</li> <li>b.) the expositions of or on underwater cultural heritage;</li> <li>c.) the making available of information to the media;</li> <li>d.) any other appropriate means.</li> </ul>
	<p><b>[Remained under discussion: CHAPTER IV. FINANCING]</b></p>
	<p><b>A. THE UNDERWATER CULTURAL HERITAGE FUND</b></p>
	<p>1. The Underwater Cultural Heritage Fund (“<b>the Fund</b>”) is managed as a Special Account pursuant to Article 1.1 of its Financial Regulations. The resources of the Fund consist of voluntary contributions as regulated in Article 4 of the above Financial Regulations.</p> <p>2. The Fund will be used as decided by the Meeting of States Parties and in conformity with the spirit and the provisions of the Convention and in complement of national efforts to finance in particular:</p> <ul style="list-style-type: none"> <li>a.) the functioning of the Convention and its State Cooperation Mechanism;</li> <li>b.) international cooperation projects in relation to the scope of the Convention;</li> <li>c.) the building of capacity in States Parties;</li> <li>d.) the enhancement of the protection of the underwater cultural heritage.</li> </ul> <p>3. States Parties, institutions and private parties are invited to provide support to the Convention by contributions paid to the Fund or direct financial and technical</p>

	<p>contributions to projects implemented by States Parties intended to ensure the protection of the underwater cultural heritage.</p>
	<p><b>B. FINANCIAL ASSISTANCE</b></p>
	<ol style="list-style-type: none"> <li>1. The Meeting of States Parties may receive, evaluate and approve requests for financial assistance from the Fund depending on the available resources.</li> <li>2. In its decision on the attribution of funds, priority is given to requests for assistance to developing States Parties and projects enhancing State cooperation involving more than two States Parties.</li> <li>3. The Meeting should base its decisions on granting assistance on the following criteria:       <ol style="list-style-type: none"> <li>a.) the amount of assistance requested is appropriate;</li> <li>b.) the proposed activities are well conceived and feasible and fully in line with the objectives of the Convention;</li> <li>c.) the project can be expected to have lasting results;</li> <li>d.) the beneficiary State Part(y/ies) share(s) the cost of the activities for which international assistance is provided, within the limits of its/their resources;</li> <li>e.) the assistance will build or reinforce capacities in the field of safeguarding underwater cultural heritage;</li> <li>f.) the beneficiary State Part(y/ies) has/have implemented previously financed activities, if any, in line with all regulations and any conditions applied thereto.</li> </ol> </li> <li>4. Requests for international assistance should be submitted, at the latest, 3 months before the next ordinary session of the Meeting of States Parties to the Secretariat, which verifies the completeness of the information provided regarding the above</li> </ol>

	<p>criteria and requests in case of need additional information. Only complete requests should be presented for consideration to the Meeting of States Parties.</p>
	<p><b><u>(the concrete formulation of the text was proposed by the Secretariat): [Spain supports this formulation]</u></b></p> <p><b><u>C. PROCEDURE AND FORMAT</u></b></p> <p><b><u>1. States Parties intending to apply for international assistance are encouraged to consult the Secretariat for the elaboration of requests. The Secretariat will provide them with a model application form. All information requested in this form must be provided. If appropriate or necessary, requests may be supplemented by additional information.</u></b></p> <p><b><u>2. Requests should be submitted in English or French, electronically or in hard copy. [Spain: electronically or in hard copy] They should be signed and transmitted by the National Commission for UNESCO, the State Party's Permanent Delegation to UNESCO and/or appropriate governmental Department or Ministry to the following address:</u></b></p> <p><b><u>UNESCO</u></b>  <b><u>Secretary of the Convention on the Protection of the Underwater Cultural Heritage</u></b>  <b><u>1, Rue Miollis, 75732 Paris cedex 15, France</u></b>  <b><u>Tel: + 33 (0) 145684406</u></b>  <b><u>Fax: + 33 (0) 145685596</u></b>  <b><u>E-mail: xxx]</u></b></p>
	<p><b><u>C. FINANCING THE IMPLEMENTATION OF THE STATE COOPERATION MECHANISM</u></b></p>
<p><i>Article 10.5, 12.4 and 12.5 of the Convention</i></p> <p><i>Rule 17 – 19 of the Annex to the</i></p>	<p><b><u>1. When a State Party implements measures of protection, issues authorizations or conducts necessary preliminary research agreed upon by a group of consulting States</u></b></p>



<p><i>Convention</i></p>	<p>in the framework of Article 10.5 or Article 12.4 and 5 of the Convention, the group of consulting States Parties should decide on the common financing of such measures.</p> <p>2. In deciding on the financing of measures, States Parties should take into consideration</p> <ul style="list-style-type: none"> <li>a) the capacity of the respective States;</li> <li>b) the strength of the link <b>[Mexico. verifiable link]</b> to the concerned heritage and the interest in its protection; and</li> <li>c) the location, <b>[Mexico: property and origin]</b> property and origin of the concerned heritage.</li> </ul> <p>3. No measure should be decided to be implemented if no adequate funding base is ensured beforehand.</p>
	<p><b>[Remained under discussion: CHAPTER V. PARTNERS]</b></p>
	<p><b>A. PARTNERS IN THE IMPLEMENTATION PROCESS OF THE CONVENTION</b></p>
	<p>Partners in the implementation process of the Convention may be</p> <ul style="list-style-type: none"> <li>a.) Governmental and government-related institutions established in the States Parties to the Convention working in activities related to the scope of the Convention;</li> <li>b.) Centres working in activities related to the scope of the Convention and under the auspices of UNESCO, granted by the General Conference;</li> <li>c.) non-governmental organizations consulted by and collaborating with the Advisory Body and having activities related to the scope of the Convention, as well as other competent NGOs, when they are accredited by the Meeting of States Parties; <b>[Mexico : NGOs accredited by the Meeting of States Parties]</b></li> </ul>

	<p><del>Parties consulted by and collaborating with the Advisory Body and those having activities related to the scope and spirit of the Convention; as well as other competent NGOs, when they are accredited by the Meeting of States Parties;</del> [Spain supports this amendment]</p> <p>d.) [Spain: scientific institutions, museums, universities and any other entity with a reputed relation to the protection of underwater cultural heritage under the principles set down by the Convention];</p> <p>e.) private parties working in [Spain: full] conformity with and in relation to the scope of the Convention.</p> <p>f.) Irrespective of its legal nature or denomination, any entity dedicated to [dedicated to supporting] MEXICO the commercial exploitation of the underwater cultural heritage is not a partner.</p>
	<p><b>B. PARTNERS AT THE NATIONAL LEVEL</b></p>
	<p>States Parties are encouraged to establish cooperation with and among non-governmental organizations, communities, groups and individuals, as well as experts, centres of expertise and research institutes to enhance the protection of the underwater cultural heritage,. States Parties are encouraged to facilitate their participation, in particular with respect to:</p> <p>a.) the identification, documentation and protection of underwater cultural heritage present on their territories;</p> <p>b.) the establishment of inventories;</p> <p>c.) the elaboration and implementation of programmes, projects and activities</p>

	<p>aiming at raising the awareness of the importance of underwater cultural heritage and ensuring its protection.</p>
	<p><b>[Remained under discussion: CHAPTER VI. ACCREDITATION OF NGOS [MEXICO: TO THE ADVISORY BODY]</b></p>
	<p><b>A. CRITERIA FOR THE ACCREDITATION TO THE ADVISORY BODY [MEXICO: TO THE ADVISORY BODY]</b></p>
<p><i>Article 1 (e) of the Statutes of the Scientific and Technical Advisory Body</i></p>	<p>To be accredited by the Meeting of States Parties to be consulted by and to collaborate with the Advisory Body according to Article 1 (e) of the Statutes of this body, Non-Governmental Organizations (hereinafter “NGO”) must comply with <b>[Spain: the following criteria the criteria set by the “Directives concerning UNESCO relations with NGO”, in their most recent version and in application <i>mutatis mutandis</i>]</b> the criteria set by the “Directives concerning UNESCO’ relations with NGO”, in their most recent version and in application <i>mutatis mutandis</i>. They need in addition to <b>[Grenada/St. Lucia: comply with the following criteria:]</b></p> <ul style="list-style-type: none"> <li>a.) have objectives <b>[Spain: and]</b>, activities <b>[Spain: statutes and by-laws]</b>, statutes and by-laws that are in <b>[Spain: full]</b> conformity with the principles and objectives of the Convention;</li> <li>b.) be engaged in activities and have <b>[Spain: a r eputed]</b> competence, expertise and experience in safeguarding underwater cultural heritage <b>[Grenada/St. Lucia: and belonging, inter alia, to one o r more specific domains];</b></li> <li>c.) <b>[Spain: not be (or have been) engaged in any activity dedicated to the commercial exploitation of the underwater cultural heritage.]</b></li> </ul>

	<p>d.) <b>[Grenada/St. Lucia: have a local, national, regional or international nature, as appropriate;]</b></p> <p>e.) <b>[Grenada/St. Lucia: possess operational capacities, including:</b></p> <ul style="list-style-type: none"> <li><b>i. a regular active membership;</b></li> <li><b>ii. an established domicile and a recognized legal personality as compatible with domestic law;</b></li> <li><b>iii. [Spain: be abide by applicable domestic and international legal and ethical standards; and]</b></li> <li><b>iv. having existed and having carried out appropriate activities for at least four years when being considered for accreditation]</b></li> </ul> <p><b>[The Secretariat suggests also the inclusion of a subjective criterion. This could read:</b></p> <p><b>f.) have a recognized reputation in the field for its excellence.</b></p> <p><b>or</b></p> <p><b>g.) of which one can expect a substantive contribution to the work of the Advisory Body.]</b></p>
	<p><b>[GRENADA/ST. LUCIA: INSERT A NEW 'B. MODALITIES OF ACCREDITATION'. THE ORIGINAL 'MODALITIES OF ACCREDITATION' ARE RENAMED INTO 'C. PROCEDURE FOR ACCREDITATION'.]</b></p>
	<p><b>B. MODALITIES OF ACCREDITATION</b></p>
<p> </p>	<p><b>[Grenada / Saint Lucia:</b></p> <p><b>1. The Meeting of States Parties asks the Secretariat to receive requests from NGOs and to submit recommendations to it with regard to accrediting them;</b></p>

	<p><b>[Spain: The Meeting of States parties shall ask the Secretariat to pay due attention to the principle of equitable geographical when fostering the reception of request of accreditation].</b></p> <p><b>2. The Secretariat submits its recommendations to the Meeting of States Parties for decision. In receiving and evaluating such requests, the Meeting of States Parties shall pay due attention to the principle of equitable geographical representation based on information provided to it by the Secretariat. Accredited NGOs should abide by applicable domestic and international legal and ethical standards.]</b></p>
	<p><b>B. MODALITIES OF ACCREDITATION [Grenada / Saint Lucia: B. MODALITIES OF ACCREDITATION C. PROCEDURE FOR ACCREDITATION]</b></p> <p><b>1. A NGO requesting accreditation to act in an advisory capacity to the Advisory Body [Spain: to act in an advisory capacity to the Advisory Body] shall submit to the Secretariat the following information:</b></p> <p><b>[Grenada / Saint Lucia:</b></p> <ul style="list-style-type: none"> <li><b>(a) a description of the organization, including its full official name;</b></li> <li><b>(b) its main objectives;</b></li> <li><b>(c) its full address;</b></li> <li><b>(d) its date of founding or approximate duration of its existence;]</b></li> <li><b>(e) proof of their legal establishment; [Mexico proposes deletion of little (e)]</b></li> <li><b>(f) [Spain: delete] their legal statutes and by-laws; [Mexico supports point f]</b></li> </ul>

**(g) the name of the country or countries in which it is active;**

**(h) documentation showing that it possesses operational capacities, including proof of:**

**i. a regular active membership;**

**ii. an established domicile and a recognized legal personality as compatible with domestic law;**

**iii. having existed and having carried out appropriate activities for at least four years when being considered for accreditation];**

**(i) the details of their past and current activities [Grenada / Saint Lucia: in the field of underwater cultural heritage and a description of its experiences]; [Mexico supports this suggestion]**

**(j) a list of the organisations' members and their governing organs;**

**(k) a register of their publications; as well as**

**(l) references by national authorities or international organizations.**

**2. The Secretariat should check the completeness of the requests and present them for consideration to the Advisory Body either during a meeting of the [Mexico: Advisory] Body in its electronic exchange. [Grenada / Saint Lucia: Advisory Body either during a meeting of the Body or in its electronic exchange. States Parties before each session of their Meeting];**

**[Spain: Requests shall be received by the Secretariat at least two months before an ordinary session of the Advisory Body. The Secretariat shall check the completeness of the requests and present them for consideration to the**

Advisory Body before each Meeting of the States Parties. The Advisory Body will send the Secretariat a report with its advice upon the accreditation, based on objective data provided by the Secretariat, by any State Party or by any other reliable source, as well as on the expertise of its members];

3. [Mexico: Requests for accreditation shall be prepared by using the Form XXX (available at XXXX or on request from the Secretariat) and shall include all the information requested, and only that information. Requests shall be received by the Secretariat at least two months before an ordinary session of the Advisory Body.] [Mexico: and send it immediately to the STAB]

[Spain: The Secretariat should prepare a unified Form available electronically or on request, to be used by N GOs seeking accreditation as an official accreditation request Form]

[Grenada / Saint Lucia: Requests for accreditation shall be prepared by using the Form XXX (available at [www.unesco.org/en/underwater-cultural-heritage](http://www.unesco.org/en/underwater-cultural-heritage) or on request from the Secretariat) and shall include all the information requested and only that information. Requests shall be received by the Secretariat at least four months before an ordinary session of the Meeting of States Parties.]

4. The Advisory Body [Grenada / Saint Lucia: ~~The Advisory Body~~ The Secretariat] should evaluate the request based on the information provided to it by the Secretariat, any additionally available [Grenada / Saint Lucia: ~~by the Secretariat, any~~ additionally and any additional] information [Spain: provided for by any State Party or by any other reliable source], as well as on the expertise of its members.

5. The Advisory Body [Grenada / Saint Lucia: ~~The Advisory Body~~ The Secretariat] should submit the requests for accreditation together with its recommendation [Spain:

	<p><b>and the Advisory Body's report]</b> for decision to the Meeting of States Parties at each session of the Meeting, where a decision should be taken.</p> <p>6. The Secretariat keeps <b>[Grenada / Saint Lucia: keeps shall register the proposals and keep]</b> up-to-date and publicly accessible a list of the <b>[Grenada / Saint Lucia: NGO]</b> organizations accredited by the Meeting of States Parties.</p>
	<p><b>C. REVIEW OF ACCREDITATION</b></p> <p><b>[See recommendation 4/MAB 1 of the Advisory Body]</b></p>
	<p>1. The Meeting should <b>[Spain: shall]</b> review already accredited bodies every four years, taking into account the recommendations of the Advisory Body as to maintaining or terminating relations with the entity in question, as well as the perspective of the body concerned. <b>[Grenada/St. Lucia: The Advisory Body shall report to the Meeting of States Parties on its collaboration with accredited NGOs;]</b></p> <p>2. <b>[Grenada/St. Lucia: The Meeting of States Parties asks the Secretariat to submit recommendations to it with regard to maintaining or terminating relations with them;]</b> <b>[Spain: The Advisory Body shall report to the Meeting of States Parties on its collaboration with accredited NGOs. In this assessment, the Advisory Body will take into account the particular circumstances of the NGO concerned]</b></p> <p>2. <b>[Grenada/St. Lucia: The Meeting should review already accredited bodies every four years as to maintaining or terminating relations with the entity in question, taking into account the perspective of the non-governmental organization concerned;]</b></p> <p>3. The termination of relations with an NGO should be decided <b>[Mexico: by the STAB]</b> when deemed necessary or when there is a complete absence of actual collaboration.</p>



[Spain: When deemed necessary, including the non-fulfillment of the criteria of accreditation, or when there is a complete absence of actual collaboration, the Meeting of States Parties may decide at any time to suspend or terminate the accreditation of a NGO before the Advisory Body]

4. In exceptional cases or if circumstances require, relations with an organization should:

- a. be suspended by the Meeting of States Parties or in emergency [Spain: cases] by the Advisory Body itself, until a decision regarding the termination of relations is taken by the Meeting of States Parties]; or
- b. be terminated with immediate effect [Spain: by the Meeting of States Parties], by suggestion or not of the Secretariat

2. Each [Spain: A Each] member of the Advisory Body should be able to request the Secretariat to consult the other members of the Body on any matter that may call for the [Spain: suspension or] termination of relations with an NGO [Spain: termination of relations with an NGO of the accreditation of an NGO], bringing forward proof or evidence allowing them to correctly assess this request. [Spain: Once a decision has been taken by the Advisory Body and communicated to the Secretariat, the accreditation of the concerned NGO be suspended until the next Meeting of States Parties, which will:

- a) decide to terminate the accreditation;
- b) decide that there is no actual reason for the termination of the accreditation; or
- c) decide to continue the suspension of the accreditation until its next Meeting.]

3. [Spain: The Secretariat shall communicate to all States Members through

	<p><u>diplomatic channels the inchoation and the result of any process of review of accreditation. During this process, the NGO concerned shall have the opportunity to express its views.</u></p> <p>4. <u>While NGOs may officially state their accreditation to cooperate with and be consulted by the Advisory Body, any use of the logo of UNESCO or the Convention should be regulated by the rules and regulations of UNESCO [Grenada/St. Lucia: applicable to the use of the UNESCO logo and the emblem of the Convention respectively]. [Mexico suggests leaving this paragraph in brackets. Mexico considers that the issue of the use of the emblem has to be first discussed by the Meeting of States Parties before being adopted in the guidelines.]</u></p>
	<p><i>[[Remained under discussion, including its deletion as proposed by Spain:</i></p> <p><b>CHAPTER VII. ADHERING TO THE CONVENTION]</b></p>
	<p><b>A. HOW TO RATIFY</b></p>
<p><i>Article 26 of the Convention</i></p>	<p>1. The Convention can be ratified, accepted or approved by all Member States of UNESCO.</p> <p>2. The Convention is subject to accession:</p> <p>a.) by States that are not members of UNESCO but are members of the United Nations or of a specialized agency within the United Nations system or of the International Atomic Energy Agency, as well as by States Parties to the Statute of the International Court of Justice and any other State invited to accede to this Convention by the General Conference of UNESCO;</p> <p>b.) by territories which enjoy full internal self-government, recognized as such by the United Nations, but have not attained full independence in accordance with General Assembly resolution 1514 (XV) and which have competence over the</p>

<p>Article 27 of the Convention</p>	<p>matters governed by this Convention, including the competence to enter into treaties in respect of those matters.</p> <p>3. The original of the written signed instruments of ratification, acceptance, approval or accession must be deposited with the Director-General of UNESCO to take legal effect.</p> <p>4. The Convention has entered into force on 2 January 2009 with respect to the twenty States that had deposited their instruments prior to 02 October 2008. It enters into force for each other State or territory three months after the date on which that State or territory has deposited its instrument.</p>
	<p><b>B. DECLARATIONS, COMMUNICATIONS AND RESERVATIONS</b></p>
	<p>The Convention contains regulations on three declarations, one possible reservation and one communication to be made. Declarations and communications already made can be consulted on the website: <a href="http://www.unesco.org/en/underwater-cultural-heritage/the-2001-convention/official-text/declarations-and-reservations">www.unesco.org/en/underwater-cultural-heritage/the-2001-convention/official-text/declarations-and-reservations</a>.</p>
	<p><b>1. Declarations</b></p>
<p>Article 9.2 of the Convention</p>	<p><b>[Secretariat proposes deletion:</b> A declaration is a unilateral statement made by a State when joining the Convention whereby it gives a view on its interpretation of certain provisions, makes choices requested or gives necessary information.]</p> <p>Article 9.2, Article 25.5, and Article 28 of the Convention contain express provisions regarding three declarations. While the first is mandatory, the second and third are optional.</p> <p>a.) Article 9 of the Convention concerns reporting and notification in the EEZ</p>

or and on the continental shelf. According to paragraph 1 (b) of this Article, States Parties require that when their nationals or a vessels flying their flag, discover or intend to engage in activities directed at underwater cultural heritage located in the EEZ or on the continental shelf of another State Party they have to send a report. The State Party of their origin has to make a choice, where their report should be sent to. One alternative is that it should be sent to the home State Party and the concerned coastal State Party, another alternative is that it should be sent only to the home State Party, which will than transmit this information to all other States Parties. To ensure continuity and previsibility, each State Party has to fix the alternative chosen via the declaration requested by Article 9.2 of the Convention.

b.) Article 25 of the Convention concerns the peaceful settlement of disputes. If mediation is not undertaken or if there is no settlement by mediation, the provisions relating to the settlement of disputes set out in Part XV of UNCLOS apply *mutatis mutandis* to any dispute between States Parties to the Convention, whether or not they are also Parties to UNCLOS. Any procedure chosen by a State Party to the Convention and to UNCLOS pursuant to Article 287 of the latter (to be consulted on the website of DOALOS) shall apply to the settlement of disputes under Article 25 of the Convention, unless that State Party, when joining the Convention, or at any time thereafter, chooses another procedure pursuant to Article 287 of UNCLOS for the purpose of the settlement of disputes arising out of the Convention.

A State Party to the Convention which is not a Party to the UNLCOS, when joining the Convention or at any time thereafter may choose, by means of a written declaration, one or more of the means set out in Article 287, paragraph 1, of

<p><i>Article 28 of the Convention</i></p>	<p>UNCLOS for the purpose of settlement of disputes.</p> <p>c.) Article 28 of the Convention concerns the application of the Annex of the Convention to inland waters. Inland waters means, in contrast to 'internal waters' of maritime character (see Article 7 of the Convention), waters not of a maritime character, for instance lakes and rivers. States may declare that the Rules will be applicable to them.</p> <p>d.) States or territories should <del>should</del> <b>must</b> <b>SPAIN</b> make their declarations when ratifying the Convention or any time thereafter, as applicable, by submitting the original signed declaration to the Director-General of UNESCO.</p>
	<p><b>2. Communication</b></p>
<p><i>Article 22.2 of the Convention</i></p>	<p>a.) States Parties have to communicate to the Director-General the names and addresses of their competent authorities relating to underwater cultural heritage, so that copies of reports received, all official correspondence and all further documents can be sent by the Secretariat to these national focal points, as appropriate, and so that other States Parties and their institutions can consult and cooperate through these focal points with the other States. A list of the addresses received is available at the UNESCO Web site: <a href="http://www.unesco.org/en/underwater-cultural-heritage">www.unesco.org/en/underwater-cultural-heritage</a>.</p> <p>b.) Such communication may be made at any time, but should be made as soon as possible, to ensure a timely implementation of the Convention. It should be updated as soon as any change in the information on the responsible competent authority occurs.</p>
	<p><b>3. Reservation</b></p>

**Article 29 and 30  
of the Convention**

a.) No reservations may be made to the Convention, except in the following case: a State or territory, at the time of ratifying the Convention, can limit the geographical scope of the application of the Convention by making a declaration to the Director-General that the Convention shall not be applicable to specific parts of its territory, internal waters, archipelagic waters or its territorial sea. If such a reservation is made, it must be done in writing and the reasons for such declaration need to be identified and communicated to the Director-General.

b.) The withdrawal of a reservation must be made in writing. A reservation that is made by a State ratifying the Convention should be made in the instrument of ratification.

**ANNEX 1 – ELECTRONIC DRAFT FORMS****[ANNEX 1 – Spain:-ELECTRONIC-DRAFT FORMS]**

**Comment of Spain: All these forms must be adapted to be sent through diplomatic channels as *note verbale*. Spain does not share the idea of having any kind of electronic communication or exchange of data.]**

**Comment of Mexico: Mexico considers that these forms should be further reviewed. The Conference of Parties may want to transmit them for consideration to the advisory body.**

*This draft document shows the forms that will be accessible to national competent authorities as defined in Article 22 of the Convention in **electronic [Spain:-electronic]** form. A choice of answers to the questions expressed will be possible, if appropriate. As soon as a selection has been made by the user, subsequent pages will be shown that are appropriate to the selection.*

**THE CONVENTION ON THE PROTECTION OF THE UNDERWATER CULTURAL****HERITAGE**


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Arabic	Chinese	English	French	Russian	Spanish
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**Log- in****Name**

**Password**

**You wish to:**

- Notify a discovery or intended activity**
- ~~[Mexico: Notify discovery or intended activity]~~
- [Mexico: Notify a discovery activity]**
- [Mexico: Notify an intended activity]**
- Declare your interest in being consulted**
- Inform on results of a preliminary research**

### FORM 1

#### NOTIFICATION ON DISCOVERY OR INTENDED ACTIVITY

Please fill in the information requested by clicking on the choices offered and then saving before continuing to the next page. **You are free to choose which information you wish to give, but it should give a general impression of the site and its nature.**

#### Maritime Zone

Chose the maritime zone of the location where the underwater cultural heritage concerned by the discovery or the intended activity is located:

Own Contiguous Zone
Contiguous Zone of other State Party
EEZ* of own State
EEZ* of other State Party [ <i>choose from scroll down</i> ]
Own continental shelf
Continental shelf of other State [ <i>choose from scroll down</i> ]
Area

\* Exclusive Economic Zone



**Site**

Approximate type of site:

Wreck
Ruin
Structure
Artefact
Other

**Location**

Approximate description:

wetland
river
lake
ocean
Close to coast
Far from coast
[MEXICO other]

Give additional information, if desired: \_\_\_\_\_

**Event** **Discovery** **Activity**

Date: \_\_\_\_\_

By: \_\_\_\_\_

Have any reports been sent?  yes/no

If yes, to:

By whom?

Other State Party
All other States Parties

(if applicable):

Type of intended activity:

Archaeological intervention
Documentation
Salvage [Mexico: <del>Salvage Rescue Archaeology</del> ]
Tourism
Activity incidentally affecting the site
Remarks _____

State permission (if appropriate) for intervention obtained?: yes/no

## Measures

You may inform about any action suggested:

Prevent human intervention
Research
Request for technical resources

Request for technical expertise
Ensure security
Other

## Contact

Please check if this information is correct:

Yes, responsible authority (*address generated automatically from UNESCO list*)

Other Contact: \_\_\_\_\_

## Uploads

**Upload Photos**

**Upload Documents**

(You may add a long-term description and additional information to this sheet. Translation, verification and/or text treatment will not, however, be provided by the Secretariat. Photos should not be heavier than 1 MB and documents should be pdf or word format.)

## Send-out

UNESCO

The International Seabed Authority

*A confirmation of transmission will be shown and a report number will be assigned.*

## FORM 2

## DECLARATION OF INTEREST FOR HERITAGE LOCATED IN THE AREA

Please fill in the information requested by clicking on the choices offered and save before going to the next page.

## Concerned site

Choose the underwater cultural heritage site or artefact you wish to declare your interest in being consulted in:

**Discovery or intended activity reported via the UNESCO Alert. Please choose from list:**

Notification No. (*scroll down list of previously transmitted notifications*)

## Information on verifiable link

**Which link connects the history or culture of your State to the site or artefact concerned?:**

Cultural origin of the artefact(s)
Connection to related historic event (war, discovery, trade)
Property
Cultural influence on State history
Other

**Please explain** (in French or English language): \_\_\_\_\_ or attach document.

### Contact

Please check if this information is correct:

**Yes**, responsible authority (*address generated automatically from UNESCO list*)

Other Contact: \_\_\_\_\_

### Uploads

**Upload Photos**

**Upload documents**

*(You may add a long-term description and additional information to this sheet. Translation, verification and/or text treatment will not, however, be provided by the Secretariat.)*

### Send-out

*A confirmation of transmission will be shown and a declaration number will be assigned.*

## FORM 3

## INFORMATION ON THE RESULT OF A PRELIMINARY RESEARCH

Please fill in the information requested by clicking on the choices offered and save before going to the next page.

## Page 1 – Concerned site

Choose the underwater cultural heritage site or artefact you wish to report the results of the preliminary research on:

Notification No. (*scroll down list of previously transmitted notifications*)

## Research Results

Site structure confirmed to be:

Shipwreck
Aircraft wreck
Other vehicle
Ruin
Human dwelling
Fish trap
Port structure
Bridge
Single Artefact
Cave/Cenote

Site confirmed to be:

Other
-------

in danger
-----------

not in danger
---------------

in good state of conservation
-------------------------------

damaged
---------

destroyed
-----------

Intervention needed:

none
------

scientific research
---------------------

site consolidation
--------------------

monitoring
------------

physical protection
---------------------

other
-------

## Contact

Please check if this information is correct:

Yes, responsible authority (*address generated automatically from UNESCO list*)

Other Contact: \_\_\_\_\_

## Uploads

<b>Upload Photos</b>
----------------------

**Upload documents**

*(You may add a long-term description and additional information to this sheet. Translation, verification and/or text treatment will not, however, be provided by the Secretariat.)*

**Send-out to UNESCO**

*Your reported results will be made available to other States Parties by the Director-General of UNESCO  
A confirmation of transmission will be shown and a report number will be assigned.*