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

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

**MEETING OF STATES PARTIES**

**Fourth Session**

**Paris, UNESCO Headquarters**

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This document contains the draft summary record of the third session of the Meeting of States Parties to the Convention on the Protection of the Underwater Cultural Heritage (Paris, UNESCO Headquarters, 13 and 14 April 2011). The States Parties may submit comments by email to [u.guerin@unesco.org](mailto:u.guerin@unesco.org) and/or in hard copy to the Secretariat of the Convention the latest by the fourth session of the Meeting.

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**Item 4 of the Provisional Agenda:**

**Adoption of the Summary Record of the Third Session of the Meeting of States Parties**

**Decision required : paragraph 3**

1. The third session of the Meeting of States Parties to the Convention on the Protection of Underwater Cultural Heritage took place at UNESCO Headquarters in Paris, on 13 and 14 April 2011.
2. According to Rule 26.4 of the Rules of Procedure of the Meeting, the Secretariat shall prepare a summary record of each session of the Meeting for approval at the opening of the next session.
3. The Meeting of States Parties, at its fourth session, may therefore consider the annexed draft summary record prepared by the Secretariat, and may wish to adopt the following resolution:

#### **DRAFT RESOLUTION 4 / MSP 4**

The Meeting of States Parties, at its fourth session,

1. Having examined the draft summary record of the third session of the Meeting of States Parties to the Convention on the Protection of the Underwater Cultural Heritage set out in the Annex of document UCH/12/4.MSP/220/4;
2. Adopts the record as contained therein.

## **Annex**

### **Summary Record of the Third Session of the Meeting of States Parties to the Convention on the Protection of the Underwater Cultural Heritage**

The third session of the Meeting of States Parties (hereinafter “**the Meeting**”) to the Convention on the Protection of the Underwater Cultural Heritage (hereinafter “**the Convention**”) took place at UNESCO Headquarters in Paris, on 13 and 14 April 2011. It was attended by participants from 26 States party to the Convention, including H. E. Mr Jasen Mesić, Minister of Culture of Croatia, observers from 41 States not party to the Convention, representatives of the Intergovernmental Oceanographic Commission and 10 non-governmental organizations. UNESCO provided the Secretariat. A list of participants is available upon request from the Secretariat.

#### **I. Opening Ceremony of the Third Session of the Meeting of States Parties**

The session was opened on Wednesday, 13 April 2011 at 10 a.m. by **Ms Irina Bokova, Director-General of UNESCO**. In her address, she greeted the participants of the Meeting and reminded them of the special importance of the session, as the Convention will celebrate its tenth anniversary on 2 November 2011. Ms Bokova congratulated the outgoing Chairperson, H. E. Mr Jasen Mesić, Croatia, for his recent nomination as Minister of Culture. She stressed that the safeguarding of the world’s heritage, including the underwater heritage, has always been one of UNESCO’s top priorities. She drew attention to the many activities organized by UNESCO to support the promotion and implementation of the Convention, including numerous training activities and regional meetings. She underlined, however, that more action is needed worldwide to protect submerged archaeological sites. She called on all States to accelerate the ratification and implementation of the Convention and to reinforce efforts in the areas of capacity-building, research and museum development. In closing, Ms Bokova expressed her confidence in the accomplishment of the tasks before the Meeting and wished the participants much success.

**His Excellency Mr Jasen Mesić, Minister of Culture of the Republic of Croatia**, then took the floor as the outgoing Chairperson of the Meeting and member of the Scientific and Technical Advisory Body. From the point of view of a passionate underwater archaeologist and as Minister of Culture proud of his country’s rich submerged heritage, he commended the ethical principles and scientific guidelines of the Convention and praised the achievements of the States Parties since its adoption. He singled out the need to increase the heritage’s visibility among the public in order to raise awareness and preserve its legacy for future generations. He stressed that heritage was preserved for future generations, not for archives. He also called for more international cooperation in scientific research. Finally he invited the audience to attend the Fourth International Congress for Underwater Cultural Heritage, IKUWA IV, which will take place in Zadar, Croatia in September 2011, at the first Centre for Underwater Cultural Heritage operating under the auspices of UNESCO. In concluding, he called on all stakeholders to strengthen the efforts to accomplish the goals of the Convention.

#### **II. Election of a Chairperson, the Vice-Chairpersons and a Rapporteur of the Meeting**

*(Item 1 of the Agenda, Document UCH/11/3.MSP/220/1)*

The representative of the Director-General, Mr Christian Manhart, addressed Agenda Item 1, the **election of the Bureau**. On this occasion he explained that no oral rapport would be prepared by the **Rapporteur**, given the short time available for debates. However, the Rapporteur will make sure that the reported decisions correspond to what had been actually decided by the Meeting.

Portugal proposed Prof. Tullio Scovazzi from Italy as **Chairperson** of the Meeting. Cambodia, Grenada, Lebanon and Slovenia were nominated as **Vice-Chairpersons** and Mr Kizani Manda Kizabi from the Democratic Republic of Congo was nominated as **Rapporteur**. The Bureau was subsequently elected by acclamation as reflected by **Resolution 1 / MSP 3**.

The newly elected **Chairperson** thanked the delegations for their confidence. He then reminded them that, in accordance with Article 27 of the Convention, only those States that had deposited their instrument of ratification of the Convention at least 3 months prior to the Meeting, i.e. before 13 January 2011, could be considered States Parties. This did not yet apply to Namibia, which had deposited its instrument of ratification on 9 March 2011. He did, however, warmly welcome Namibia's participation in the Meeting of the States Parties.

### **III. Admission of Observers to the Third Session of the Meeting of States Parties**

*(Item 2 of the Agenda, Document UCH/11/3.MSP/220/2)*

The Chairperson then drew attention to Rule 2.2 of the Rules of Procedure of the Meeting, informing that no separate accreditation process was foreseen for IGO and NGO observers, as long as they had been invited by the Director-General. He read out the list of the organizations present as invited observers, who were then unanimously admitted to the session by **Resolution 2 / MSP 3**.

### **IV. Adoption of the Agenda of the Third Session of the Meeting of States Parties**

*(Item 3 of the Agenda, Document UCH/11/3.MSP/220/3)*

The Chairperson then requested Ms Ulrike Guérin, Secretary of the Convention, to introduce the provisional agenda and the list of working documents. On requests by Saint Lucia, Grenada and Mexico, a report on the work of the Secretariat was appended as new **Item 5** on the agenda. It was also decided that a similar report should form part of the agenda of all future ordinary sessions of the Meeting of States Parties. The amended agenda was adopted unanimously by **Resolution 3 / MSP 3**.

### **V. Adoption of the Summary Record of the second ordinary Session of the Meeting of States Parties**

*(Item 4 of the Agenda, Document UCH/11/3.MSP/220/4)*

The Chairperson proposed the approval of the draft Summary Record of the second ordinary session of the Meeting held on 1-2 December 2009. This record (in document *UCH/11/3.MSP/220/4*) had been made available in advance. As of the opening of the third session, no comments had been received. Greece, as observer, requested some changes with regards to the reflection of Greece's own statements voiced at the second session. This request was accepted by the Meeting. With the aforementioned amendment the summary record prepared by the Secretariat was adopted by **Resolution 4 / MSP 3**.

## VI. Report by the Secretariat on its Operational Activities

(New Item 5 of the Agenda, Document UCH/11/3.MSP/220/INF.7)

The Chairperson then invited the Secretariat to present the operational activities that it had undertaken since the last session of the Meeting and to present its future plans. The Secretariat accordingly presented *UCH/11/3.MSP/220/Inf.7*, illustrating its actions in promotion of the ratification and implementation of the Convention, in the adoption of national laws, the extensive list of capacity-building courses and the tools focusing on awareness-raising (e.g., the exhibitions organized, the new website and the new children programme). It also informed the Meeting of its new or envisaged publications, among which included a scientific manual on the Annex of the Convention, a publication on the conservation of underwater cultural heritage, a book on the submerged heritage of Oceania, and a book on *in situ* presentation of underwater heritage. The preparation of a Report on the Situation of Submerged Archaeological Sites was also mentioned.

The Chairperson opened the floor to the delegations for questions and remarks.

Cuba, Ecuador, Grenada, Mexico, Saint Lucia and Saint Vincent and the Grenadines congratulated and **thanked** the Secretariat for the work accomplished, in particular for the training courses, awareness-raising initiatives and activities encouraging UNESCO Member States' ratification. On inquiry, the Secretariat stressed that most activities had only been possible due to the financial and logistical support of partners, drawing attention to the otherwise very **scarce budget and staff foreseen for the Convention**. The delegations encouraged continued focus on the promotion of ratification and capacity-building.

With respect to **increasing the number of ratifications** and to allow for a better implementation of the Convention, Ecuador, Iran, Mexico, Spain and Tunisia emphasized that capacity-building activities would need to be well-coordinated. They furthermore drew attention to the need for the harmonization of national legislative acts. Spain stressed the importance of regional meetings to encourage ratifications. Italy confirmed its commitment to the implementation of the Convention and informed the Meeting about the Archeomar project, which is a national inventory of underwater cultural heritage sites accessible on the Internet.

**South Africa**, as observer, informed the Meeting that its authorities are preparing for the ratification of the Convention and presented its training programme implemented in cooperation with the Dutch Centre for International Heritage Activities (CIE). **Algeria**, as observer, similarly informed the Meeting about its upcoming ratification of the Convention.

Cuba, Ecuador, Grenada, Mexico, Saint Lucia and Saint Vincent and the Grenadines requested details on the proposed **Report on the Situation of Submerged Archaeological Sites**, in particular, they expressed some concern on the confidentiality concerning sites, the sources of information, languages and funding. Mexico expressed certain reservations as to the objectives of the report and underlined the role of the national competent authorities, whereas Ecuador and Saint Lucia indicated the interest of a similar project, though with some uncertainty as to form and content. The Secretariat responded by informing the Meeting that the Report would aim at providing an empirical basis for the development of policies for underwater archaeology. It would illustrate the need to better protect submerged heritage by the provision of a general overview of its situation, supported by an analysis of factual data and give impetus for a wider ratification of the Convention. Further, it would serve to document the amount of underwater cultural heritage known, the activities undertaken, the development of the profession of

underwater archaeology, institutions, capacity-building and financial investment in the area. It should also give an idea of the dimension of the threat to submerged sites, along with an indication of possible solutions. The Report would moreover serve non-States Parties that demanded data regarding the existing threats to underwater heritage to facilitate their ratification considerations. The Secretariat informed that the request for contributions had been sent via the Permanent Delegations to UNESCO and to internationally renowned scientists. The Secretariat stressed that utmost consideration was given to ensure the security of the heritage, that no site locations were requested and published, and no mapping was intended. The Secretariat also emphasized that nothing would be published without the prior approval and consent of the competent national authorities. For practical reasons, submitted information could currently only be processed in the Secretariat's working languages. Upon the suggestion of Saint Lucia the discussion was suspended until the next day in order to prepare a consensual resolution.

This discussion was resumed on the next day with a presentation of a draft resolution elaborated by Saint Lucia and Mexico stating that it was premature to elaborate the Report on the Situation of Submerged Archaeological Sites. The resolution further requested the Advisory Body to review the Manual on the Rules concerning activities directed at the Underwater Cultural Heritage before its final publication at the occasion of the 10th anniversary of the Convention. It requested the Secretariat to focus its action in the coming biennium on enhancing capacity-building and awareness-raising in all regions and at all governmental levels and the promotion of ratifications. The Secretariat was also requested to report on its activities at the next session of the Meeting of States Parties. This was adopted as **Resolution 5 / MSP 3**.

## **VII. Considerations of the report and the recommendations of the Scientific and Technical Advisory Body**

*(Item 6 of the Agenda, Document UCH/11/3.MSP/220/5)*

The Chairperson informed the Meeting that the first Meeting of the Scientific and Technical Advisory Body (hereinafter the "**Advisory Body**") took place in Cartagena (Spain) on 14 and 15 June 2010. On that occasion, the Advisory Body adopted six resolutions and recommendations; a seventh was adopted via electronic exchange, as detailed in the Advisory Body's report, document *UCH/11/3.MSP/220/5*.

On the Chairperson's proposal, the recommendations of the Advisory Board were reviewed. Mexico, thanking the Government of Spain for hosting the first Meeting of the Advisory Body, proposed and distributed a revised Resolution to reflect the tenor of the debates of the Advisory Body and to clarify the intended assignment of responsibilities to the Advisory Body or the Secretariat. This text (1) encouraged States Parties to harmonize their national legislation; (2) requested the Secretariat to disseminate accounts of public awareness projects and to provide assistance in capacity-building; (3) requested the Advisory Body to elaborate Draft Guidelines for the elaboration of national inventories; (4) adopted the proposed Code of Ethics for Divers; and (5) encouraged cooperation with the Intergovernmental Oceanographic Commission (IOC) and national hydro-graphic services. It also invited the Director-General to make Programme and Budget provisions that would allow the Secretariat to fulfil its work. On the Chairperson's suggestion, the notion of collaborative spirit was retained in the Resolution text. Ecuador, the Islamic Republic of Iran, Saint Lucia and Spain supported the amended text, Saint Lucia, however, did draw attention to a difference of the revised text with the original recommendation of the Advisory Body regarding measures to be taken by States Parties to ensure 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.

Due to a shortage of funding, it was decided for the time being not to undertake a scientific study on the most significant factors negatively affecting the conservation of underwater cultural heritage and the identification of remedial measures. Following this discussion, **Resolution 6 / MSP 3** was unanimously adopted.

### **VIII. Election of the Members of the Advisory Body**

*(Item 7 of the Agenda, Document UCH/11/3.MSP/220/6)*

Before proceeding to the election of the new members of the Advisory Body the Chairperson asked the Secretariat to inform the Meeting on the candidatures received.

**13 candidatures** had been received, for whom information had been circulated among the States Parties via document *UCH/11/3.MSP/220/INF.4*, in addition to their curriculum vitae. It was recalled that the Advisory Body was, at that time, to be composed of 12 Members; the Chairperson pointed out that, according to the Rules of Procedure (Rule 25.1) and in view of the 13 candidatures for 12 seats, an election might need to be conducted by secret ballot. He emphasized that it would be preferable to proceed by consensus. Favouring flexibility, the Chairperson furthermore emphasized that it would be regrettable to lose the expertise of a professional that could be very valuable to the Advisory Body. He therefore drew attention to Rule 22.2 of the Rules of Procedure, which allows for an increase of the number of members up to 24, depending on the number of States Parties.

Questions were also raised regarding the acceptable timeframe for the presentation of candidatures. During the discussion on candidatures submitted near the date of the Meeting in which elections would be conducted, the Islamic Republic of Iran inquired on whether it was still possible to nominate a candidate given the absence of a candidate from Group IV. Tunisia drew attention to its candidature that was presented close to the Meeting date due to the current political situation in the country and asked the States Parties to accept it in light of the unusual circumstances.

The Chairperson then presented two questions for decision: **(1) the appropriate timeframe for the presentation of candidatures;** and **(2) the number of members of the Advisory Body.**

With regard to the **appropriate timeframe for the presentation of candidatures**, the Secretariat drew attention to Rule 24.2 of the Rules of Procedure, which foresees that the Secretariat will send the provisional list of candidates to all States Parties at least three weeks prior to the opening of the Meeting, but also that the list of candidatures would be revised as necessary. Several late nominations were therefore accepted and circulated.

Grenada, Nigeria and Saint Lucia asked for a strict compliance with the Rules of Procedure. Saint Lucia recalled the refusal of the late candidature of Nigeria at the second session of the Meeting and proposed not to accept the candidature of the Islamic Republic of Iran for similar reasoning, as the candidature was first proposed during the session itself. This proposal was supported by Argentina and Nigeria. The Islamic Republic of Iran withdrew its candidature; the candidature of Tunisia was accepted.

With regard to the **number of members of the Advisory Body**, Croatia, Lithuania, Portugal, Romania, Slovenia and Ukraine were in favour of increasing the number of members of the Advisory Body as an increase in members would directly translate into additional expertise.

Furthermore, Croatia believed that the number of candidatures of Group II (5) was justified by the number of ratifications in the region. Argentina, Grenada, Honduras, Mexico and Saint Lucia called attention to the fact that the objective of Rule 22.2 was to increase the number of members depending on the number of States Parties and asked that the number of members be maintained at this time. These States also observed the over-representation of candidates from Group II and called on the States Parties from Group II to withdraw one of the candidatures. Upon request, the Secretariat showed a calculation of the proportional distribution of the 12 seats of the Advisory Body to the regions.

The Chairperson then called for a vote on the increase of the number of members by show of hands. He also alerted the Meeting that an uneven number of Advisory Body members might pose problems with regard to the election for the assignment of a 2 or 4 year term-of-office, which would also have to be decided upon. With respect to the proposed vote, the Legal Advisor pointed out that the increase in the number of members required an amendment of the Rules of Procedure of the Meeting and the Statutes of the Advisory Body, which calls for a 2/3 majority. The Chairperson did not share this view. Mexico and Saint Lucia raised a point of order and the difference of opinion was solved by a vote by show of hands. The vote decided that an amendment of the Rules of Procedure was required. This was followed by a vote by show of hands on the increase of the number of members of the Advisory Body. 14 States Parties voted for the increase; 12 States Parties voted against the increase. Failing to reach a 2/3 majority, the number of members of the Advisory Body remained at 12. An election would therefore have to be undertaken for those electoral groups presenting more candidatures than would be allotted under the principle of equitable geographical distribution.

Before proceeding to the election of the members of the Advisory Body the Meeting discussed the **geographical distribution** based on the calculations of the Secretariat, which showed that Group I had proposed one more candidature than would be allotted under the principle of equitable geographical distribution (2 candidatures submitted) and Group II had proposed two more candidatures than would be allotted (5 candidatures submitted). Group III and IV each proposed one candidature less (4 and 0 candidatures submitted, respectively). Honduras thus proposed a vote between Group I and II for the 2 seats not claimed by Group III and IV. Nigeria proposed giving one seat to each overrepresented Group; this proposal was supported by Grenada, Mexico and Saint Lucia. Croatia proposed that the 2 seats be distributed according to the number of ratifications in the respective groups, while Romania proposed putting the candidates of Group I and II together and to elect among them 6 members. The decision as to how the seats would be divided was left to a vote by show of hands. 13 States Parties voted in favour of the Nigerian proposal and 8 States Parties voted against it, with 3 abstentions. It was thus decided to give one additional seat to Group I and II each. The meeting decided to postpone the election of the four Group II candidates to the next day to allow for ballot and voting preparation.

The **election of the Members of the Advisory Body** by secret ballot in accordance with Rule 25 of the Rules of Procedure was carried out on the morning of 14 April 2011. Grenada and Portugal acted as tellers. The Meeting decided by election and **Resolution 7 / MSP 3** to elect the following 12 candidates to the Advisory Body:

- **Group I:** Ms Annalisa Zarattini (Italy), Ms Carmen García Rivera (Spain),
- **Group II:** H.E. Mr Jasen Mesic (Croatia), Mr Vladas Zulkus (Lithuania), Mr Constantin Chera (Romania), Mr Andrej Gaspari (Slovenia),



- **Group III:** Ms Dolores Elkin (Argentina), Mr Ovidio Juan Ortega Pereyra (Cuba), Ms Pilar Luna Erreguerena (Mexico), Mr Hugo Eliecer Bonilla Mendoza (Panama),
- **Group V (a):** Mr Augustus Babajide Ajibola (Nigeria),
- **Group V (b):** Ms Ouafa Ben Slimane (Tunisia);

It was then to be decided which of the members would be elected for two years and which for four years, as this had not been done in the first election of the Advisory Body, where the Rules of Procedure had been partially suspended. Upon request of Saint Lucia, the Legal Advisor specified that the **decision on the term of office of the members** would have to be taken by secret ballot and would have to be done so in a way ensuring an equal geographical distribution. It was decided to draw lots among each Group, but to combine Groups Va and Vb, each of which had only one elected member in the Advisory Body. The drawing of lots yielded the following results:

**Four-year term (6 members):**

- Ms Annalisa Zarattini (Italy),
- Mr Jasen Mesic (Croatia),
- Mr Vladas Zulkus (Lithuania),
- Mr Ovidio Juan Ortega Pereyra (Cuba),
- Mr Hugo Eliecer Bonilla Mendoza (Panama) and
- Mr Augustus Babajide Ajibola (Nigeria);

**Two-year term (6 members):**

- Ms Carmen García Rivera (Spain),
- Mr Constantin Chera (Romania),
- Mr Andrej Gaspari (Slovenia)
- Ms Dolores Elkin (Argentina),
- Ms Pilar Luna Erreguerena (Mexico) and
- Ms Ouafa Ben Slimane (Tunisia);

Mexico, Cuba and Saint Lucia requested that the Secretariat should, in the future, give **guidance on the election**, encouraging a consensual solution of the appointment of Advisory Body members by the preparation and dissemination of calculations on the proportional distribution of seats to the various electoral groups in advance.

With regard to the immediately upcoming **Meeting of the Advisory Body on 15 April 2011**, the Chairperson raised the question whether it was the outgoing or the newly elected Advisory Body that would meet. The Secretariat explained that since the travel expenses of its members were not covered, the Advisory Body had decided in its last meeting that it would meet on the day following the Meeting of States Parties, when many of the members usually be present. Argentina, Cuba, Grenada, Panama, Portugal and Saint Lucia confirmed that they had understood that the Meeting of the new Advisory Body had been convened for 15 April 2011 and that the term of the office of the members always started from the election date in the sessions of the Meeting of States Parties. Cuba, Mexico and Portugal suggested that in the future the meetings of the Advisory Body should be convened prior to the Meeting of States

Parties. Grenada observed, however, that the Advisory Body should be convened as needed and at an appropriate moment, and it might therefore make sense for the Advisory Body to attend the Meetings of States Parties and to meet after it to discuss the States Parties' request(s) of the Advisory Body. The Chairperson suggested that for compelling practical reasons, e.g., the presence of the members, the meeting on 15 April should be a meeting of the newly elected members. This was agreed upon.

The discussion turned then to the **term of office of the Advisory Body**. The Islamic Republic of Iran and Mexico requested exact dates to be set. As the previous election took place on 1 December 2009, Iran proposed that the current term of office should end on 1 December 2011. Mexico pointed out that the mandate of the Advisory Body elected in December 2009 lasted less than the foreseen 2 years. It should therefore be ensured that the Meeting of States Parties and thus the elections to the Advisory Body should from now on always take place at the same moment, i.e., in April. Ecuador emphasized that the mandate should correspond to the calendar year, starting on 1 January. The Legal Advisor informed that it is not standard practice at UNESCO to set exact dates for elections and that it was the Secretariat that ensured that the election corresponded to the length of the mandate. Following the prior decision to hold the meeting of the new Advisory Body on 15 April 2011, however, the Chairperson suggested that the mandate of the Advisory Body should now start on 15 April 2011 and last up to the next Meeting of States Parties. Grenada, supported by Honduras and Panama, proposed to set the starting date of the mandate at the election date (14 April 2011), while setting the ending date to exactly two or four years later (14 April of the years 2013 and 2015). The Secretariat warned that in case of a delayed Meeting of States Parties, this could result in a situation where only 6 members of the Advisory Body were in office. After discussion it was decided that it should be made sure by the Secretariat that the elections were always held well in advance of the end of the mandate of the members, which should be calculated exactly in calendar years. This was adopted in **Resolution 7 / MSP 3**.

## **IX. Consideration and possible adoption of the Operational Guidelines**

*(Item 8 of the Agenda, Document UCH/11/3.MSP/220/7)*

The **Chairperson** turned then to the examination of the Draft Operational Guidelines for the implementation of the Convention submitted by the Working Group of 14 States Parties on 8 March 2011. He thanked the Working Group and the Secretariat, who were able to, in a very short period of time, prepare these draft guidelines on the basis of the amended draft *UCH/11/WG/220/1*. The Chairperson drew attention to a new proposal put forward by Spain but stated that the discussion would be based on the draft circulated as result of the Working Group, and Spain's amendments considered as such. Mexico, which had chaired the Working Group, took the floor and gave explanations on the work of the Group and the draft made available in document *UCH/11/3.MSP/220/7*. The Netherlands, as observer, emphasized the importance of ensuring the Operational Guidelines reinforced the compatibility of the 2001 Convention with the UNCLOS Convention and advised collaboration with the UN Division for Ocean Affairs and the Law of the Sea (DOALOS). The Chairpersons reminded that many States Parties to the 2001 Convention were also parties to the UNCLOS and were convinced to act in full compatibility with the UNCLOS, as stated in Art. 3 of the 2001 Convention.

The Meeting examined the draft Operational Guidelines included in document *UCH/11/3.MSP/220/7*. The Chairperson suggested that a single, consecutive **enumeration** be

used in order to clearly identify paragraphs within the document. This was unanimously accepted.

In the course of the discussion of **Chapter I - Introduction** Mexico and Spain explained their proposed amendments. In Article A.1.a on the *Context and Content of the Convention* Spain proposed to include activities incidentally affecting the underwater cultural heritage. This was adopted with a linguistic correction by Ecuador. Articles A.1.b, A.1.c, A.1.d and A.1.e were adopted without further discussion. During the discussion of Article A.2.a on the *Scope of Application of the Convention*, a new proposal of Spain was adopted with an addition proposed by Iran referring to the 100-year benchmark for the definition of heritage under the Convention. In Article A.2.b the proposal of Spain regarding the application of the Rules in maritime waters was accepted. Article A.2.c was adopted without further discussion. In the course of the discussion of Article B.1.a and following an intervention by Romania that recalled Article 26.2(b) of the Convention, Spain withdrew its proposal and the article was adopted in its original form. Articles B.1.b-d as well as B.2.1, B.2.2 and B.2.3 were adopted without further discussion. Article B.2.4 regarding the sending of reports, notifications or information to States Parties was adopted with Spain's proposal to replace *should* with *shall*. Articles C, D, E as well as F.a, F.b and F.c were adopted without further discussion. In Article F.d the proposal of Mexico, supported by Ecuador, that entities *supporting* commercial exploitation shall not be considered users of the Operation Guidelines was accepted.

The discussion of **Chapter II** on the **State Cooperation Mechanism** started with the explanation by Spain regarding its proposed amendments of Article A.a. Argentina emphasized the complexity of Chapter II and, given the limited time available, suggested the suspension of its discussion to allow the Working Group to continue its work on this Chapter. This proposal was supported by Ecuador, Honduras and Saint Lucia.

Spain raised the issue of whether the Chapters of the Operational Guidelines adopted during the Meeting would be **in force** and/or could be otherwise **applied**. The Chairperson sustained that the Guidelines should be adopted as a whole before being applied. Referring to the elaboration process of the Operational Guidelines for the 2003 Convention, the Legal Advisor confirmed the possibility of applying already adopted chapters prior to the adoption of the Guidelines as a whole; he also pointed out that the decision on the application was with the States Parties. Iran stated that the Operational Guidelines should not be applied before the adoption of all chapters. This was accepted.

The Meeting continued then with the discussion of **Chapter III - Operational Protection**. Spain observed that in the first phrase of Article 1.a, there is no need for *shall* or *should* before the word *cooperate*. Argentina agreed. The Netherlands, as observer, remarked that *shall* is a term used in legal texts and it is thus not appropriate in non-binding texts such as the Operational Guidelines. Iran reminded the Meeting that the Convention must be accurately quoted.

The Chairperson assured the Meeting that the final draft of the Operational Guidelines will undergo **language editing** and asked the Secretariat to make sure that the terminology is correctly revised.

Articles A.2, B and C.1 were adopted without further discussion. In Article C.2 the proposal of Spain regarding qualification in the respective field of specialisation was adopted. Articles D, E, F and G were adopted without further discussion. In Article H.1 it was decided to keep the first but to delete the second sentence, which was made redundant by the above-mentioned

Spanish proposal. Articles H.2, H.3 and I were adopted without further discussion. Following the proposal of Iran, Article J.1 and J.2 were joined, specifying that capacity-building shall include but not be limited to the activities enumerated. Articles J.2 and K were adopted without further discussion. In Article L.1, it was decided to keep the direct reference to Article 19.3 of the Convention and to encourage sharing of information. Articles L.2, M and N were adopted without further discussion.

The discussion of **CHAPTER IV – FINANCING, CHAPTER V – PARTNERS** and **CHAPTER VI – ACCREDITATION OF NGOs** was suspended.

The Meeting then discussed how to proceed regarding the remaining chapters of the Operational Guidelines. Spain suggested **reappointing the Working Group** with the mandate to work on the chapters that have not yet been adopted. Croatia, Ecuador, Mexico, Portugal and Saint Lucia supported this proposal, but stating that, while the composition of the Working Group shall remain unchanged, additional members could be admitted. Italy and Tunisia declared their interest in participating. Spain suggested setting clear deadlines with regard to the Working Group tasks. It was thus decided to reappoint the Working Group in the same composition to work on the remaining Chapters, excluding the adopted Chapters I and III, with the prior members now complemented by Italy and Tunisia. It was requested that the work be done by electronic exchange and to meet at least in one session in 2011 or 2012 at UNESCO Headquarters. The Working Group was requested to submit the results of its work to the State Parties through the Secretariat five months before the Meeting to the State Parties and to submit a consolidated draft three months before the fourth session of the Meeting of State Parties. As a result, the Meeting adopted **Resolution 8 / MSP 3**, as well as **Chapters I and III** of the Operational Guidelines.

#### **X. Accreditation of non-governmental organizations for cooperation with the Scientific and Technical Advisory Body**

*(Item 9 of the Agenda, Document UCH/11/3.MSP/220/8)*

The Chairperson informed the Meeting that the Secretariat had, as of the Meeting, received **11 applications for accreditation by relevant NGOs** as foreseen in the Annex of *UCH/11/3.MSP/220/8*. **Background material** on these NGOs had been made available in *UCH/11/3.MSP/220/Inf.5*. Taking into account that **Chapter VI of the Operational Guidelines** had not been approved, the Chairperson emphasized the need for finding a temporary solution for the next two years in order to progress with regard to the accreditation of NGOs, and to avoid obliging the applying NGOs to wait another two years for a decision. He suggested a temporary accreditation by the Advisory Body or the Bureau of the present session in cooperation with the Secretariat immediately following the present Meeting.

Saint Lucia, supported by Ecuador and Mexico, stressed the importance of having the proposals for accreditation evaluated by a neutral body. Accordingly, it was suggested that the Secretariat should examine the proposals and then recommend them to the Bureau of the Meeting of States Parties, which would then decide on temporary accreditation prior to the approval of the Operational Guidelines. Spain raised the issue of the criteria to be applied in the examination. Based on Recommendation 4 / 1 MAB of the Advisory Body, the Chairperson and Ecuador, Iran, Mexico, Saint Lucia and Spain suggested that (1) the NGO shall have objectives, activities, statutes and bylaws that are in conformity with the principles of the Convention and it should not have been involved in any kind of commercial exploitation of the

Underwater Cultural Heritage; and that (2) the NGO shall be engaged in activities and have competence, expertise and experience in safeguarding underwater cultural heritage. Spain emphasized that an equitable geographical distribution should be ensured.

#### **XI. Modification of Rule 18 of the Rules of Procedure (Reduction of Languages)**

*(Item 10 of the Agenda, Document UCH/11/3.MSP/220/9)*

The Chairperson informed the Meeting that in accordance with Rule 18.1 of its Rules of Procedure, the official languages of the Meeting were Arabic, Chinese, English, French, Russian and Spanish. In view of the serious budget shortfall for the 2001 Convention, the high cost of interpretation and translation of working documents in six languages, and considering the lower number of the working languages of other UNESCO Convention's organs (for instance the Committee of the World Heritage Convention), the Secretariat had offered for consideration the reduction of the number of working languages of the Meeting, modifying Rule 18.1 of the Rules of Procedure accordingly. After a short Secretariat report on the current budget situation several delegations took the floor.

Ecuador stated that the Meetings of States Parties of all Conventions took place in the six official languages of UNESCO and argued that no exception should be made. Grenada, Mexico and Spain added that this change of the Rules of Procedure would set a serious precedent while Iran emphasized that it could hamper ratification.

Grenada and Mexico, supported by Panama and Romania, suggested that for certain sessions and on a case-by-case basis, States Parties could possibly opt for not using certain languages by temporarily suspending the Rules of Procedure by a 2/3 majority.

In a vote by show of hands 12 States Parties voted in favour of suspending the Rules of Procedure regarding the use of 6 languages and 12 States Parties voted against. Due to the lack of a majority, **no resolution** regarding the reduction or temporary non-use of certain languages was adopted, and as a consequence, the official languages of the Meeting remained unchanged.

#### **XII. Date and venue of the third session of the Meeting of States Parties**

*(Item 11 of the Agenda, Document UCH/11/3.MSP/220/10)*

The Meeting then discussed the dates and the place of its fourth session. The Secretariat proposed that it could take place in April 2013. Mexico requested a binding resolution stating that the Meeting shall take place every two years in April. Upon request by Ecuador, the Legal Advisor specified that this would modify Rules 5 and 23 of the Rules of Procedure. Iran pointed out that the Mexican proposal would contradict and modify Article 23 of the Convention. Ecuador and Panama called for more flexibility with regard to the month and Saint Lucia called for dropping the reference to every two years. The Democratic Republic of Congo, Romania and Spain proposed to decide only on the next session of the Meeting. The Secretariat voiced concern regarding the binding specification of the month of April, as the Executive Board might take place in that period. The Meeting proceeded to a vote over Point 2 of the RESOLUTION 10 / MSP 3, deciding that ordinary sessions of the Meeting of State Parties shall be convened in April, if possible. 8 States Parties voted in favour of Point 2, 8 States Parties voted against it and 3 States Parties abstained. The Meeting thus decided to adopt **RESOLUTION 10 / MSP 3**.

### **XIII. Closure of the Meeting**

*(Item 12 of the Agenda, no document)*

The Chairperson then declared the Meeting closed. He thanked the States Parties and the observers, as well as the Secretariat its work and greeted the achievements of the third session of the Meeting of States Parties.

UNITED NATIONS EDUCATIONAL, SCIENTIFIC  
AND CULTURAL ORGANIZATION

CONVENTION ON THE PROTECTION OF THE UNDERWATER CULTURAL HERITAGE

MEETING OF STATES PARTIES

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

Information Document:

List of Participants

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<sup>1</sup> Namibia ratified the Convention on 09/03/2011.

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