

THE UNESCO CONVENTION ON THE PROTECTION OF THE UNDERWATER CULTURAL HERITAGE



United Nations
Educational, Scientific and
Cultural Organization



The Protection of the
Underwater Cultural Heritage

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“Underwater cultural heritage” means all traces of human existence having a cultural, historical or archaeological character which have been partially or totally under water, periodically or continuously, for at least 100 years...

2001 Convention, Art. 1 para. 1(a)

INTRODUCTION

The richness of the world’s underwater cultural heritage is often underestimated. While over the last century, archaeological sites on land have yielded an abundance of information on the development of civilizations, the oceans, which cover the larger part of our planet, still retain many of their secrets. However, they contain a unique testament to the spirit of our ancestors for exploration; and many shipwrecks and ruins of cities lost to the waves are much better preserved than similar sites found on land.

Nonetheless, looting of underwater cultural heritage and the destruction of its context are increasing rapidly and threaten to deprive humanity of this heritage. The waves have protected shipwrecks and ruins for centuries, but improvements in diving technology have made them more accessible and therefore increasingly vulnerable. The pillaging and dispersion of archaeological heritage is no longer restricted to land-based sites with treasure hunting now taking place under water. Nevertheless, while many States have heightened the preservation of their heritage on land, most of their underwater cultural heritage remains unprotected.

The UNESCO Convention on the Protection of the Underwater Cultural Heritage, adopted by the UNESCO General Conference in 2001, intends to enable States to better protect their underwater heritage.

This information kit was produced with the principal aim of promoting this Convention and encouraging countries to join the ranks of its States Parties. However, UNESCO also hopes that this document will serve to raise public awareness of the existence of fragile underwater heritage and of the urgent need to ensure its protection.

A WEALTH OF UNDERWATER ARCHAEOLOGICAL SITES

Entire cities have been swallowed by the waves, and thousands of ships have vanished at sea. While the calm surface of the oceans shows no trace of these ships and buildings, their ruins lie on the sea bed, safely protected by water. They provide testimony to the various periods and aspects of our history – be it the cruelty of the slave trade, the ferocity of wars, the impact of natural disasters or the peaceful exchange and inter-cultural dialogue between faraway regions.

SHIPWRECKS

It is estimated that over 3 million undiscovered shipwrecks are spread across ocean floors around the planet. The *Dictionary of Disasters at Sea* lists for instance 12,542 sailing ships and war vessels lost at sea between 1824 and 1962 alone. Many famous vessels have perished, inspiring books and films, including the Armada of Philip II of Spain, the *Titanic*, the fleet of Kublai Khan, the ships of Christopher Columbus, and the Spanish galleons that plied the seas between the Americas and Spain.

RUINS AND SUBMERGED CAVES

Similarly, the remains of countless ancient buildings are now submerged underwater. While legends tell of the mysterious Atlantis, a genuine “Pompeii” has been discovered in the bay of Alexandria with the ruins of the famous Alexandria lighthouse known as the Pharos (the reputed Seventh Wonder of the World), as well as Cleopatra’s palace and numerous temples. Underwater relics also include ancient traces of human life, preserved in submerged caves, for example in the Cosquer Cave in France or in the cenote of Chichen Itza in Mexico.

*How can you call this planet earth,
when it is quite clearly water?*



Drassm/Ifremer © UNESCO. France, Amphorae at great depth, Arles 4, 1st century A.D.

A HERITAGE IN DANGER

Today, shipwrecks and underwater ruins are becoming increasingly accessible. While professional equipment and a high level of training remain necessary to undertake excavations, such sites are no longer beyond the reach of treasure hunters.

INCREASING ACCESSIBILITY

- In 1942-43, Jacques-Yves Cousteau and Emile Gagnan's invention of the aqualung made it possible to reach greater sea depths with the result that wrecks were more accessible.
- At the beginning of the twenty-first century, open circuit divers are able to descend to a depth of up to 100 metres, and with closed circuit re-breathers to more than 140 m.
- In 1989, the Japanese research submarine *Shinkai 6.500* dived to 6,527 metres below sea level in the Trench off Sanriku, Japan. The three-person craft is used for deep-sea research. In 1995, the Japanese unmanned probe *Kaiko* descended to the record depth of 10,911 metres.

DESTRUCTION, LOOTING, AND COMMERCIAL EXPLOITATION

DESTRUCTION

An object that has been immersed for a long period in saltwater and is recovered from the seabed faces a risk of rapid deterioration when brought into contact with air. It has to undergo adequate desalting and conservation treatment to be preserved. In 1840 for instance, when privately recovered artefacts from the famous *Mary Rose* shipwreck were auctioned, it was found that iron cannon balls initially weighing 32 pounds had shrunk to only 19 pounds. After being exposed to air for a certain time, the rise in temperature had caused oxidization. In addition, the salt of the seawater had crystallized in drying and further eroded the structure of the metal. This kind of phenomenon also affects earthenware and wood. Therefore, excavating without proper conservation can easily turn into unintentional vandalism.

LOOTING

Many underwater archaeological sites have already fallen prey to heavy pillage and theft. As early as 1974, studies showed that all known wrecks off the Turkish coast had been looted. By the 1990s, Israeli archaeologists estimated that almost 60 per cent of cultural objects originally immersed in Israeli waters had been recovered and dispersed with no trace in public collections. Similarly, French scientists estimate that, of all antique wrecks known to lie off the coast of France, only 5 per cent remain untouched.

INSUFFICIENT LEGAL PROTECTION

In many States, the lack of legal protection means that there is nothing to prevent the exploitation and appropriation of objects from underwater sites by treasure hunters. This is best illustrated by the example of Portugal. Between 1993 and 1995, Portuguese legislation allowed the sale of artefacts from underwater archaeological excavations. At least six international treasure salvaging companies set up operations in Portugal to exploit the rich underwater cultural heritage along its coasts. The relevant Portuguese legislation was frozen in 1995 and repealed in 1997, bringing about a revival of scientific underwater archaeology. In 2006, Portugal ratified UNESCO's 2001 Convention to strengthen the protection of its underwater cultural heritage and cooperate effectively with other States in the region.



CASE STUDIES

THE *TITANIC* WRECK, NEWFOUNDLAND, CANADA

This legendary luxury liner that sank in 1912 after hitting an iceberg was sought in vain over many years. It was not until 1985 that the *Titanic* was finally located. Despite an international plea that the wreck be left untouched and respected as a mass grave and archaeological site, a first expedition began removing artefacts from the site in 1987. Subsequently, a private company retrieved an additional 1,800 artefacts from the wreck. Most of these artefacts are likely to be sold and dispersed. However, the UK, Canada, France and the USA are now cooperating toward enforcing protection of the wreck.

THE *TEK SING* WRECK, SOUTH CHINA SEA

In 1999, enormous quantities of porcelain were salvaged from one of the last Chinese *Junks*, the *Tek Sing*. The ship, measuring 60 metres in length and over 10 metres in width, was found by a private treasure-salvaging company operating in the South China Sea. Over 300,000 pieces of porcelain were recovered and auctioned in Stuttgart, Germany. The invaluable cargo was dispersed and the wreck destroyed. The fact that the wreck gave testimony to one of the biggest catastrophes in the history of seafaring was of little concern to the private salvors. The sinking ship had taken with her almost 1,500 persons to the bottom of the sea – more than were killed when the *Titanic* sank.

THE *ELIZABETH AND MARY* WRECK (PHIPS'S FLEET), BAIE-TRINITÉ, CANADA

The oldest shipwreck ever found in Quebec is the *Elizabeth and Mary*, discovered in 1994 in less than 3 metres of water. One of the finest seventeenth century archaeological collections ever brought to light was found inside the ship. The Parks Canada Underwater Archaeology Service proceeded to survey and excavate the wreck over three summers, guarding it round the clock to protect it against storms and treasure hunters. This constant presence also enabled the rapid recovery of artefacts that floated to the surface. The remains of the ship's hull were drawn, recorded, dismantled and afterwards submerged once more in a nearby lake. Overall, the site yielded about 400 separate finds.

THE *GELDERMALSEN* WRECK, ADMIRAL STELLINGWERF REEF, INDONESIA

In 1986, a British salvage operator discovered the remains of the *Geldermalsen*, a Dutch merchant ship, which sank in 1751 with a cargo of tea, silk, gold and porcelain. A total of 126 bars of gold and 160,000 pieces of porcelain were recovered – the largest cargo of Chinese export porcelain ever found. The International Congress of Maritime Museums condemned the salvage operation and the destruction of the wreck, arguing that such an archaeologically important find should have been excavated by a team of scientists. Despite this, the cargo of the *Geldermalsen* was looted for the commercial value of its artefacts and with little regard for its archaeological, historical and scientific importance. The wreck was destroyed, and the porcelain was auctioned in Amsterdam under the name of “*The Nanking Cargo*”.

THE *HMS PANDORA* WRECK, QUEENSLAND, AUSTRALIA

The *Pandora*, a frigate sent in search of the famous *Bounty* mutineers in 1790, is one of the most impressive shipwrecks in the Southern Hemisphere. It sank off the coast of Australia in 1791. Shortly after sinking, the ship was covered by a layer of sand that has protected it throughout the years, leaving it virtually intact. In 1983, the first of nine excavations began, led by the Queensland Museum. These provided a unique window onto late-eighteenth century European culture and life at sea. Marine archaeologists worked within a matrix of grids erected over the sand at depths of 30 to 34 metres, concentrating on areas where the officers and crew lived and worked. Scientists were able to collect a wealth of information on the daily life and social customs on board. In addition, the excavations also greatly contributed to a better understanding of the famous mutiny on the *Bounty* and the tracking of its mutineers.

THE *NUUESTRA SEÑORA DE ATOCHA* WRECK, MARQUESAS KEYS, FLORIDA, USA

The *Nuestra Señora de Atocha* is one of the most valuable and possibly most contentious wrecks ever found. The *Atocha* was part of the Spanish fleet that plied the waves between Havana and Spain in the seventeenth century. It sank in 1622 off the coast of Florida. In 1970, a private US treasure salvage company began searching for the *Atocha* and its cargo. Having located and identified the wreck, it obtained a permit from the State of Florida to excavate the wreck. It found gold and silver, as well as a large number of rapiers, muskets and small weapons, storage jars, and coins. Nautical archaeologists have heavily criticized the excavation of the *Atocha* and the treasure hunters' crude and destructive techniques.

BRONZE AGE SHIPWRECK, BODRUM, TURKEY

The spectacular *Uluburun* wreck, which sank off the coast of Turkey during the Bronze Age, is one of the oldest ships ever found. It is housed in the Bodrum Museum of Underwater Archaeology, a pioneering ‘living museum’. Scientific investigation of the wreck began in 1982 and lasted 11 years, yielding 20 tons of artefacts. Archaeologists found organic matter such as fruit and nuts aboard the ship, as well as pottery, gold and silver jewellery, bronze tools and weapons. The ship has now joined other objects in a renowned collection recovered during the trailblazing underwater excavations that have drawn worldwide attention to the Bodrum Museum.

LA JUSTE, PAYS DE LA LOIRE, FRANCE

In the early 1970s, the wreck of *La Juste*, a warship of the French King Louis XV that sank in 1759, was destroyed by dredgers cleaning the shipping route in the mouth of the river Loire. However, some pieces of the ship and a large number of cannons were recovered. The remains of the wreck, exhibited in the *Musée national de la Marine* in Paris, include remarkably well-preserved woodwork and ropes. The quality of these objects reminds viewers that the destruction of the wreck was a tremendous loss to archaeological and scientific research and to humanity as a whole.

GROWING INTEREST IN UNDERWATER CULTURAL HERITAGE

Although scientists believe they have categorically disproved the myth of Atlantis, the idea is more popular now than ever before.

BBC2 on 14 December 2000



U. Koschtial © UNESCO. Ancient seafaring – fresco on the walls of the temple of Borobudur, Indonesia.

In recent years, underwater cultural heritage has attracted increasing attention from both the scientific community and the general public. To scientists, it represents an invaluable source of information on ancient civilizations and historic seafaring. To the public at large, it offers an opportunity to further develop leisure diving and tourism.

MUSEUMS AND EXHIBITIONS ON LAND

Today, many important museums exhibit objects recovered from underwater ruins or shipwrecks. Some even exhibit whole wrecks. The most famous exhibitions include:

- The exhibit of Sweden's *Vasa* shipwreck, which attracts 750,000 visitors a year;
- Bodrum and its Museum of Underwater Archaeology, home to precious collections from a series of historic wrecks discovered along Turkey's southern shores, representing one of the most popular sites for cultural tourism in Turkey;
- Great Britain's *Mary Rose* shipwreck in Portsmouth, which has already attracted over 4 million visitors. In 1982, the raising of the 580-ton wreck from the ocean floor was broadcast live on British television. The operation stirred vast public interest and drew 60 million viewers.

RECENT DEVELOPMENTS: TOURIST ATTRACTIONS AND MUSEUMS UNDER WATER

Underwater cultural heritage is also fascinating due to the mystery of its location under water and its historical context. The site of a wreck or a submerged ruin is the reminder of a human tragedy – the ending of a journey and a loss of human lives. The discovery of the site of a wreck enables people to step back into the past and relive the last moments of the ship and its crew.

Once out of the water and exhibited on land, objects are deprived of their context and lose part of their significance. Therefore, several recent initiatives have undertaken to offer visitors *in situ* experiences while at the same time ensuring the conservation and protection of the original site in line with the principles of the UNESCO 2001 Convention:

- The ancient port of Caesarea, a magnificent harbour built by King Herod in honour of his Roman patron, Caesar Augustus, was the largest port in the Roman Empire at the height of its glory in 10 BC. Today, more than 2,000 years later, it has become a museum-like diving site off the Mediterranean coast of Israel. Divers are given a highly detailed waterproof map that describes each of the 28 numbered sites. Sign-posts guide visitors along the underwater trail.

- The Florida Keys National Marine Sanctuary has created a trail between the various sites of historic shipwrecks scattered along the coral reefs a few miles off the Florida Keys. The Marine Sanctuary aims at teaching visitors about maritime heritage and at increasing the visibility of underwater cultural heritage. An underwater site guide is available for each of the nine shipwreck trail sites, which provides the position of the shipwreck and of the mooring buoy.

- The *Yongala* wreck, situated off the coast of Australia, is one of the most frequented underwater sites in the world. Thousands of divers visit it each year. Similarly, the wrecks in Galle Harbour, off the south coast of Sri Lanka, and those off the coast of Zanzibar, attract divers from all over the world.

However, such sites are only within the reach of a limited number of divers. The building of a true **underwater museum** is necessary in order to make sites accessible to the public at large. Several projects are already under consideration or construction:

- **The site of Baiheliang** (China) is submerged beneath the waters of the artificial dam of the Three Gorges Reservoir. This stone-ridge bears the earliest hydrological inscriptions, recording 1,200 consecutive years of water-level changes. Before the filling of the Three Gorges Reservoir, the ridge was concealed by high waters while remaining visible when water was scarce. In order to protect the site, China's authorities decided to cover the Baiheliang reef with an arch-shaped pressure-free water container. In addition, two underwater tunnels were built from the riverbanks enabling the general public to visit the site and see the inscriptions.

- **The Pharos of Alexandria and the palace of Cleopatra**, in Egypt, were driven into the sea by a series of earthquakes in the fourteenth century. Today, they lie 6 to 8 metres under the waters of the bay of Alexandria. Underwater archaeologists and other scientists have carried out several excavations to explore and save the ruins. Thousands of objects (statues, sphinxes, columns and blocks) superimposed from Pharaonic, Ptolemaic and Roman periods have been recovered and partly presented to the public in major exhibitions, each drawing thousands of visitors. The rest of the ruins will be left in the bay, and the construction of an underwater museum in cooperation with UNESCO is being considered in order to preserve the relics *in situ*.



L'Hour/Drassm © UNESCO. France, Copper cauldron, wreck of the *Dorothee*, 1693, Villefranche-sur-Mer, excavation by M. L'Hour.

THE NEED FOR AN INTERNATIONAL CONVENTION

Despite the great historical and cultural importance of underwater cultural heritage, appropriate legal protection is often lacking.

NATIONAL LEGISLATIONS AND JURISDICTION

A number of States offer no legal protection for their underwater cultural heritage, while others provide for a basic or even a high level of protection. However, even when such protection exists, gaps in the legislation and State sovereignty enable treasure hunters to pursue their activities and exploit artefacts for mere commercial purposes, disregarding the loss to humanity and science.

Even the most protective national legislations do not entirely suffice to effectively safeguard underwater cultural heritage, owing to its specific nature and location. Only a small part of the world's oceans, adjacent to national territories – the Territorial Sea – falls within the exclusive national jurisdiction of only one State. However, for the most part, State jurisdiction is very limited. On the High Sea there is no other State jurisdiction than that which applies to a State's own vessels and nationals. There is therefore an urgent need for an international legal instrument to regulate and coordinate the protection of underwater archaeological sites and encourage cooperation between States.

THE 1982 UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (UNCLOS)

UNCLOS is one of the most important international treaties regulating the law of the sea. It currently has over 150 States Parties. Among other provisions, it contains regulations on sovereignty at sea. Articles 149 and 303 provide for the obligation of States Parties to protect underwater cultural heritage. However, UNCLOS does not specify the details of this protection and therefore expressly allows for a more specific international agreement in Article 303, paragraph 4.

The UNESCO Convention on the Protection of the Underwater Cultural Heritage, elaborated nearly two decades later in 2001, is an international agreement specifically dedicated to the protection of underwater cultural heritage. The Convention, which recognizes this heritage as part of the cultural heritage of humanity, was designed to guarantee its preservation through a specific protection and cooperation framework among its States Parties.

The 2001 Convention regulates that it has to be applied in conformity with other international law, including UNCLOS.



E. Trainito © UNESCO. Wreck of the *Umbria*, Wingate Reef, Port Sudan.

THE 2001 CONVENTION

The 2001 Convention is specific to underwater cultural heritage. For its purposes the term “Underwater Cultural Heritage” is used to mean “all traces of human existence having a cultural, historical or archaeological character which have been partially or totally under water, periodically or continuously, for at least 100 years...” (Art. 1 para. 1(a)).

The Convention sets a high standard for the protection of such heritage, with a view to preventing its being looted or destroyed. Its standard is comparable to that granted by other UNESCO Conventions or national legislation on cultural heritage on land, and yet specific to archaeological sites under water.

The Convention contains minimum requirements. Each State Party, if it so wishes, may choose to develop even higher standards of protection.

THE 2001 CONVENTION

- sets out basic principles for protecting underwater cultural heritage;
- contains provisions for an international cooperation scheme;
- provides practical guidelines for dealing with such heritage.

The 2001 Convention is independent of any other treaty. Every State may become a party to the 2001 Convention, regardless of whether it is already a State Party to UNCLOS or other agreements. The Convention is furthermore not intended to affect State practice pertaining to sovereign immunities, nor any State’s rights with respect to its State vessels and aircraft. It does not prejudice or affect rights, jurisdiction or duties of States under international law (including UNCLOS).

Joining the Convention

- Prevents the commercial exploitation and dispersion of underwater cultural heritage;
- Guarantees that it will be preserved for the future and *in situ*;
- Helps the tourism industry concerned;
- Enables capacity building and the exchange of knowledge; and,
- Enables effective international cooperation.

There are two parts to the 2001 Convention:

- **The Main text**, which sets out basic principles for the protection of underwater cultural heritage and provides a detailed reporting and coordinating system in order to enable States to undertake such protection; and
- **The Annex**, which contains widely recognized and applied practical rules for the treatment and research of underwater cultural heritage.

*The UNESCO 2001 Convention
is a gift from heaven for
underwater archaeologists.*

Robert Grenier, President of the ICOMOS International
Committee for the Underwater Cultural Heritage



BASIC PRINCIPLES

The goal of the 2001 Convention is to ensure an effective protection of underwater cultural heritage and its preservation for future generations. It also aims at enabling States to effectively provide such protection. Its main principles are the following:

OBLIGATION TO PRESERVE UNDERWATER CULTURAL HERITAGE

States Parties shall preserve underwater cultural heritage for the benefit of humanity and take action accordingly. The 2001 Convention also requires that proper respect be given to all human remains located in maritime waters.

IN SITU PRESERVATION AS A PREFERRED OPTION

The *in situ* preservation of underwater cultural heritage (i.e. on the seabed) shall be considered as the first and preferred option before allowing or engaging in any activities directed at this heritage. The recovery of objects may however be authorized for the purpose of making a significant contribution to the protection of or knowledge about underwater cultural heritage.

The preference given to *in situ* preservation as the first option:

- stresses the importance of and respect for the historical context of the cultural object and its scientific significance;
- seeks to prevent a repetition of errors made in the nineteenth century, when large-scale cultural objects on land were removed from their original locations; and,
- recognizes that, under normal circumstances, heritage is well preserved under water owing to the low deterioration rate and lack of oxygen, and that it is therefore not *per se* in danger.

NO COMMERCIAL EXPLOITATION

Underwater cultural heritage shall not be commercially exploited for trade or speculation nor shall it be irretrievably dispersed. This regulation is in conformity with the moral principles that already apply to cultural heritage on land. Naturally, it is not to be understood as preventing archaeological research or tourist access.

As regards the existing *salvage law* and the *law of finds*, the Convention specifies that they shall not apply to activities relating to underwater cultural heritage, unless these activities are authorized by competent authorities, are in full conformity with the Convention, and the greatest possible protection can be ensured for recovered objects.

TRAINING AND INFORMATION SHARING

States Parties should promote information sharing, training in underwater archaeology, and technology transfer and raise public awareness concerning the significance of underwater cultural heritage. They should furthermore cooperate and assist each other in the protection and management of such heritage, including collaborating in its investigation, conservation, study and presentation.

NO REGULATION OF THE OWNERSHIP OF HERITAGE

The 2001 Convention does not intend to arbitrate quarrels or claims to ownership. Therefore, it does not regulate the ownership of a cultural property between the various parties concerned.

THE INTERNATIONAL COOPERATION SCHEME

In the *Exclusive Economic Zone*, on the *Continental Shelf* and in the *Area* States have only a very limited jurisdiction and sovereignty. In the “*Area*” (i.e. the sea bed outside national jurisdiction) they even have no other State jurisdiction than that over their own vessels and nationals. Respecting this, the 2001 Convention establishes therefore clear provisions for an international reporting and cooperation scheme in order to render protection effective in all maritime zones. Depending on the location of underwater cultural heritage, the following shall be applicable:

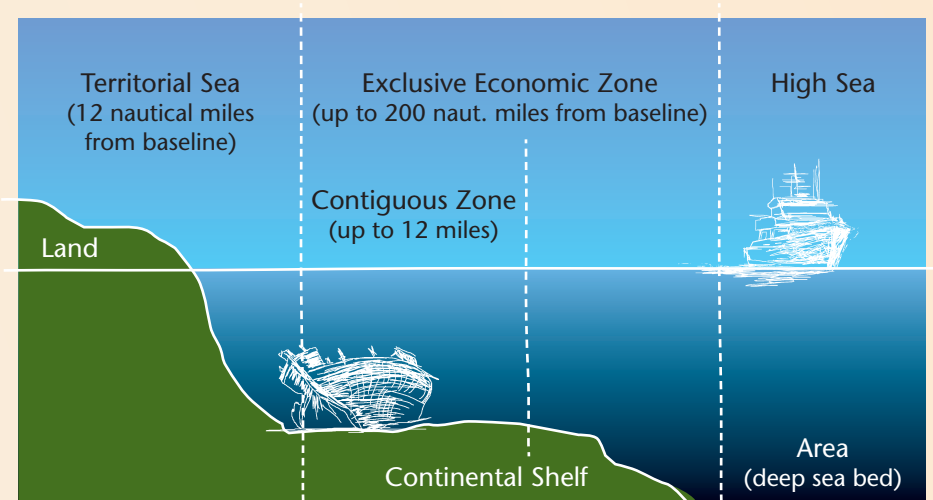
INTERNAL AND ARCHIPELAGIC WATERS AND TERRITORIAL SEA

Respecting the basic principles of the 2001 Convention States Parties have the exclusive right to regulate activities in their *Internal* and *Archipelagic Waters* and their *Territorial Sea* (2001 Convention, Article 7).

EXCLUSIVE ECONOMIC ZONE, THE CONTINENTAL SHELF AND THE AREA*

Articles 9 to 11 of the 2001 Convention establish a specific international cooperation regime encompassing reporting, consultations and coordination in the implementation of protective measures for heritage found within the *Exclusive Economic Zone*, the *Continental Shelf* and the *Area*. Nevertheless, the Convention does not prejudice the rights, jurisdiction and duties of States under international law, nor other international agreements and rules of international law.

OVERVIEW OF THE VARIOUS MARITIME ZONES**



* No obligatory and detailed reporting or coordination scheme is foreseen for the Zone of a Territorial Sea, as those waters fall within exclusive State jurisdiction. States Parties shall however cooperate with each other according to Article 2.2 of the Convention.

** This diagram shows the maritime zones as regulated in UNCLOS, for States not party to UNCLOS other limitations of these zones may apply. The 2001 Convention does not change the limitations of maritime zones (the existing ones apply *mutatis mutandis* as regulated by international law).

The main achievements and basic features of the reporting and coordination scheme for sites located on the seabed seawards from the *Territorial Sea* of a State Party are:

- Each State Party will adopt domestic legislation to ensure that its own nationals and vessels do not engage in any activity directed at underwater cultural heritage in a manner not in conformity with the 2001 Convention;
- Each State Party will require its nationals and vessels to report discoveries and activities concerning underwater cultural heritage located in the *Exclusive Economic Zone*, on the *Continental Shelf* and in the *Area* and inform the other States Parties accordingly;
- If no State has jurisdiction over the location of the concerned archaeological site (beside jurisdiction over its own nationals and vessels) a “Coordinating State” takes over the control of the site, coordinating the cooperation and consultation among States Parties and implementing their decisions, while acting on behalf of the States Parties and not in its own interest;
- States Parties will take measures to prevent the dealing in underwater cultural heritage illicitly exported and/or recovered and seize it, if it is found in their territory.

COMPETENT NATIONAL AUTHORITIES

In order to ensure the effective implementation of the 2001 Convention, States Parties shall establish competent authorities or reinforce the existing ones, where appropriate.

These authorities shall:

- provide for the establishment, maintenance and updating of an inventory of underwater cultural heritage;
- ensure the effective protection, conservation, presentation and management of such heritage; and,
- foster research and education in this field.

Information shared between States Parties or UNESCO shall be kept confidential and reserved to the competent authorities as long as the disclosure of such information might endanger the preservation of underwater cultural heritage.



E. Trainito © UNESCO. Italy, wreck located in Porto San Paolo, III. Century A.D.

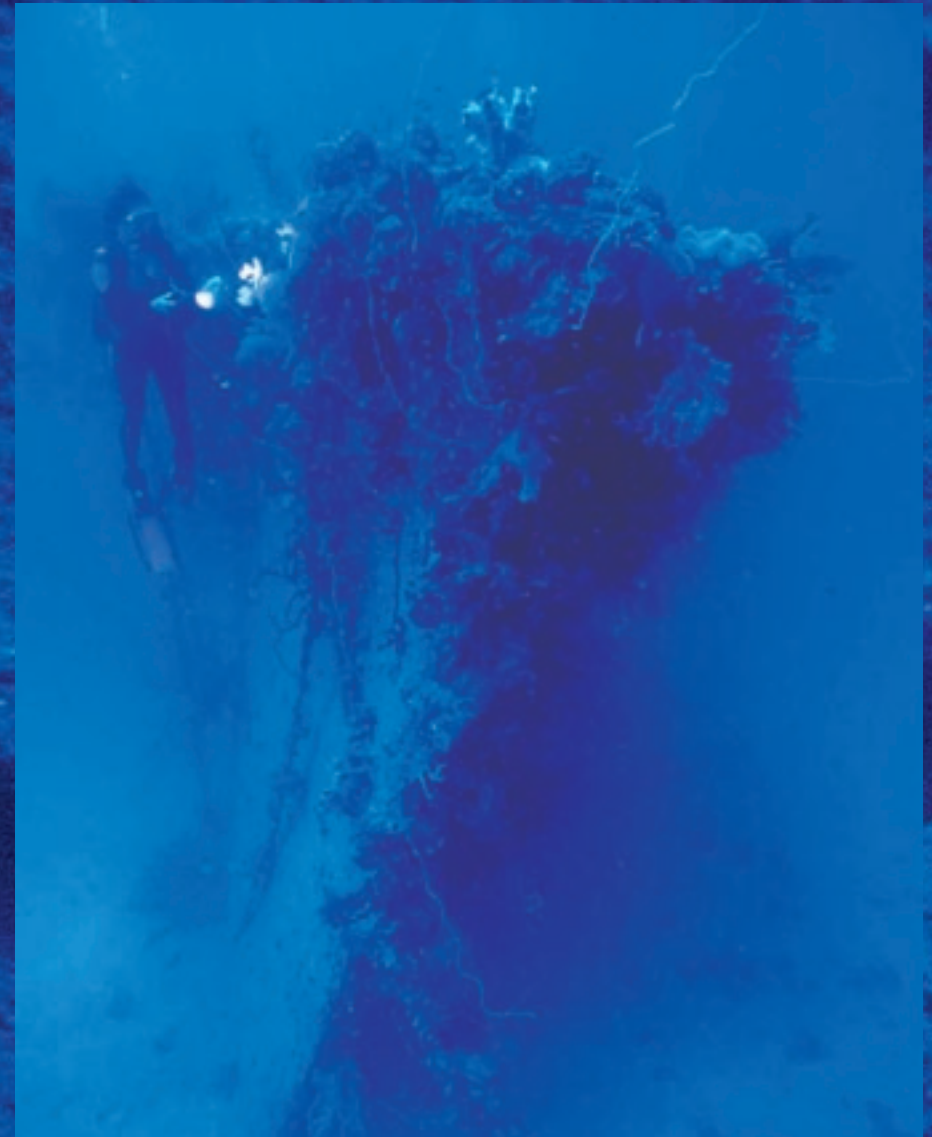
ANNEX: RULES FOR ACTIVITIES DIRECTED AT UNDERWATER CULTURAL HERITAGE

The Annex of the 2001 Convention contains detailed practical rules for activities directed at underwater cultural heritage. They are widely recognized and applied and include:

- regulations as to how a project is to be designed;
- guidelines regarding the competence and the qualifications required for persons undertaking activities; and
- methodologies on conservation and site management.

In fact, the 36 Rules of the Annex present a directly applicable operation scheme for underwater interventions. Over the years, they have become a reference document in the field of underwater excavations and archaeology, setting out regulations for a responsible management of such cultural heritage. They constitute one of the most valuable achievements of the 2001 Convention.

Every professional working in the field of underwater cultural heritage should strictly comply with these Rules.



M. Gleeson © UNESCO. Wreck and diver at Truk.

FUNCTIONING OF THE 2001 CONVENTION

THE UNESCO SECRETARIAT

UNESCO is the Secretariat to the 2001 Convention. The duties of the Secretariat include organizing Meetings of States Parties, assisting States Parties in implementing the decisions of the Meetings of States Parties, and ensuring the promotion and administration of the Convention.

THE MEETING OF STATES PARTIES

The Director-General of UNESCO shall convene a Meeting of States Parties to the 2001 Convention at least once every two years. At the request of a majority of States Parties, he may convene an Extraordinary Meeting of States Parties.

TECHNICAL ASSISTANCE

Pursuant to Article 23 of the 2001 Convention the Meeting of States Parties has established in its first session a Scientific and Technical Advisory Body composed of experts nominated by the States Parties, respecting an equitable geographical distribution and gender balance. Among other tasks, the Body provides expertise during the Meeting of States Parties on questions of a scientific or technical nature regarding the implementation of the Rules.

MODALITIES OF RATIFICATION

As provided in the 2001 Convention, the deposit of an instrument of ratification, acceptance, approval or accession with the Director-General of UNESCO expresses the consent of the concerned State to be bound by the Convention. It becomes State Party. Besides States, certain territories defined by the 2001 Convention may join.

According to the Convention, UNESCO is the only legal depositary for such instruments and the only authority entitled to accept ratifications of this Convention. Therefore, only those instruments deposited with UNESCO take legal effect. The consent to be bound by the 2001 Convention has to be declared in writing and expressly. Verbal or implicit acceptance manifested by a State have no legal effect.

In general, the steps necessary to ratify the Convention are the following:

- A political consideration of the desirability of the ratification at the national level;
- A national authorization process (by parliament or an equivalent authority) to allow the executive authorities of a State to declare the consent of the State to be bound by the Convention; and,
- The external expression of consent of the State by the deposit of an instrument of ratification to be bound by the Convention at the international level.

While UNESCO Member States may ratify, accept or approve the 2001 Convention, Non-Member States may only accede. Regardless of the chosen instrument or of the status of the State (Member or Non-Member of UNESCO), the legal value of the chosen act carries equal weight.

Any reservations and declarations made by a State joining the 2001 Convention should be stated separately, for example in a letter accompanying the instrument of ratification. They should not be included in the instrument itself.

ENTRY INTO FORCE

According to Article 27, the 2001 Convention entered into force three months after the date of the deposit of the twentieth instrument on the 2nd of January 2009. It shall enter into force for each other State or territory three months after the date on which that State or territory has deposited its instrument.

The Status of the Ratifications of the 2001 Convention can be consulted via the UNESCO website www.unesco.org/en/underwater-cultural-heritage



T. Smith © UNESCO. Wreck of *Jacque del Mar*, touching the water surface.

TEXT OF THE 2001 CONVENTION:

CONVENTION ON THE PROTECTION OF THE UNDERWATER CULTURAL HERITAGE

UNESCO, Paris, 2 November 2001

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 15 October to 3 November 2001, at its 31st session,

Acknowledging the importance of underwater cultural heritage as an integral part of the cultural heritage of humanity and a particularly important element in the history of peoples, nations, and their relations with each other concerning their common heritage,

Realizing the importance of protecting and preserving the underwater cultural heritage and that responsibility therefor rests with all States,

Noting growing public interest in and public appreciation of underwater cultural heritage,

Convinced of the importance of research, information and education to the protection and preservation of underwater cultural heritage,

Convinced of the public's right to enjoy the educational and recreational benefits of responsible non-intrusive access to *in situ* underwater cultural heritage, and of the value of public education to contribute to awareness, appreciation and protection of that heritage,

Aware of the fact that underwater cultural heritage is threatened by unauthorized activities directed at it, and of the need for stronger measures to prevent such activities,

Conscious of the need to respond appropriately to the possible negative impact on underwater cultural heritage of legitimate activities that may incidentally affect it,

Deeply concerned 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,

Aware of the availability of advanced technology that enhances discovery of and access to underwater cultural heritage,

Believing that cooperation among States, international organizations, scientific institutions, professional organizations, archaeologists, divers, other interested parties and the public at large is essential for the protection of underwater cultural heritage,

Considering that survey, excavation and protection of underwater cultural heritage necessitate the availability and application of special scientific methods and the use of suitable techniques and equipment as well as a high degree of professional specialization, all of which indicate a need for uniform governing criteria,

Realizing the need to codify and progressively develop rules relating to the protection and preservation of underwater cultural heritage in conformity with international law and practice, including the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 14 November 1970, the UNESCO Convention for the Protection of the World Cultural and Natural Heritage of 16 November 1972 and the United Nations Convention on the Law of the Sea of 10 December 1982,

Committed to improving the effectiveness of measures at international, regional and national levels for the preservation *in situ* or, if necessary for scientific or protective purposes, the careful recovery of underwater cultural heritage,

Having decided at its twenty-ninth session that this question should be made the subject of an international convention,

Adopts this second day of November 2001 this Convention.

Article 1 – Definitions

For the purposes of this Convention:

1. (a) “Underwater cultural heritage” means all traces of human existence having a cultural, historical or archaeological character which have been partially or totally under water, periodically or continuously, for at least 100 years such as:

(i) sites, structures, buildings, artefacts and human remains, together with their archaeological and natural context;

(ii) vessels, aircraft, other vehicles or any part thereof, their cargo or other contents, together with their archaeological and natural context; and

(iii) objects of prehistoric character.

(b) Pipelines and cables placed on the seabed shall not be considered as underwater cultural heritage.

(c) Installations other than pipelines and cables, placed on the seabed and still in use, shall not be considered as underwater cultural heritage.

2. (a) “States Parties” means States which have consented to be bound by this Convention and for which this Convention is in force.

(b) This Convention applies *mutatis mutandis* to those territories referred to in Article 26, paragraph 2(b), which become Parties to this Convention in accordance with the conditions set out in that paragraph, and to that extent “States Parties” refers to those territories.

3. “UNESCO” means the United Nations Educational, Scientific and Cultural Organization.
4. “Director-General” means the Director-General of UNESCO.
5. “Area” means the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction.
6. “Activities directed at underwater cultural heritage” means activities having underwater cultural heritage as their primary object and which may, directly or indirectly, physically disturb or otherwise damage underwater cultural heritage.
7. “Activities incidentally affecting underwater cultural heritage” means activities which, despite not having underwater cultural heritage as their primary object or one of their objects, may physically disturb or otherwise damage underwater cultural heritage.
8. “State vessels and aircraft” means warships, and other vessels or aircraft that were owned or operated by a State and used, at the time of sinking, only for government non-commercial purposes, that are identified as such and that meet the definition of underwater cultural heritage.
9. “Rules” means the Rules concerning activities directed at underwater cultural heritage, as referred to in Article 33 of this Convention.

Article 2 – Objectives and general principles

1. This Convention aims to ensure and strengthen the protection of underwater cultural heritage.
2. States Parties shall cooperate in the protection of underwater cultural heritage.
3. States Parties shall preserve underwater cultural heritage for the benefit of humanity in conformity with the provisions of this Convention.
4. States Parties shall, individually or jointly as appropriate, take all appropriate measures in conformity with this Convention and with international law that are necessary to protect underwater cultural

heritage, using for this purpose the best practicable means at their disposal and in accordance with their capabilities.

5. The preservation *in situ* of underwater cultural heritage shall be considered as the first option before allowing or engaging in any activities directed at this heritage.
6. Recovered underwater cultural heritage shall be deposited, conserved and managed in a manner that ensures its long-term preservation.
7. Underwater cultural heritage shall not be commercially exploited.
8. Consistent with State practice and international law, including the United Nations Convention on the Law of the Sea, nothing in this Convention shall be interpreted as modifying the rules of international law and State practice pertaining to sovereign immunities, nor any State’s rights with respect to its State vessels and aircraft.
9. States Parties shall ensure that proper respect is given to all human remains located in maritime waters.
10. Responsible non-intrusive access to observe or document *in situ* underwater cultural heritage shall be encouraged to create public awareness, appreciation, and protection of the heritage except where such access is incompatible with its protection and management.
11. No act or activity undertaken on the basis of this Convention shall constitute grounds for claiming, contending or disputing any claim to national sovereignty or jurisdiction.

Article 3 – Relationship between this Convention and the United Nations Convention on the Law of the Sea

Nothing in this Convention shall prejudice the rights, jurisdiction and duties of States under international law, including the United Nations Convention on the Law of the Sea. This Convention shall be interpreted and applied in the context of and in a manner consistent with international law, including the United Nations Convention on the Law of the Sea.

Article 4 – Relationship to law of salvage and law of finds

Any activity relating to underwater cultural heritage to which this Convention applies shall not be subject to the law of salvage or law of finds, unless it:

- (a) is authorized by the competent authorities, and
- (b) is in full conformity with this Convention, and
- (c) ensures that any recovery of the underwater cultural heritage achieves its maximum protection.

Article 5 – Activities incidentally affecting underwater cultural heritage

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.

Article 6 – Bilateral, regional or other multilateral agreements

1. States Parties are encouraged to enter into bilateral, regional or other multilateral agreements or develop existing agreements, for the preservation of underwater cultural heritage. All such agreements shall be in full conformity with the provisions of this Convention and shall not dilute its universal character. States may, in such agreements, adopt rules and regulations which would ensure better protection of underwater cultural heritage than those adopted in this Convention.
2. The Parties to such bilateral, regional or other multilateral agreements may invite States with a verifiable link, especially a cultural, historical or archaeological link, to the underwater cultural heritage concerned to join such agreements.
3. This Convention shall not alter the rights and obligations of States Parties regarding the protection of sunken vessels, arising from other bilateral, regional or other multilateral agreements concluded before its adoption, and, in particular, those that are in conformity with the purposes of this Convention.

Article 7 – Underwater cultural heritage in internal waters, archipelagic waters and territorial sea

1. States Parties, in the exercise of their sovereignty, have the exclusive right to regulate and authorize activities directed at underwater cultural heritage in their internal waters, archipelagic waters and territorial sea.
2. Without prejudice to other international agreements and rules of international law regarding the protection of underwater cultural heritage, States Parties shall require that the Rules be applied to activities directed at underwater cultural heritage in their internal waters, archipelagic waters and territorial sea.
3. 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 this 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 vessels and aircraft.

Article 8 – Underwater cultural heritage in the contiguous zone

Without prejudice to and in addition to Articles 9 and 10, and in accordance with Article 303, paragraph 2, of the United Nations Convention on the Law of the Sea, States Parties may regulate and authorize activities directed at underwater cultural heritage within their contiguous zone. In so doing, they shall require that the Rules be applied.

Article 9 – Reporting and notification in the exclusive economic zone and on the continental shelf

1. All States Parties have a responsibility to protect underwater cultural heritage in the exclusive economic zone and on the continental shelf in conformity with this Convention.

Accordingly:

- (a) a State Party shall require that when its national, or a vessel flying its flag, discovers or intends to engage in activities directed at underwater cultural

heritage located in its exclusive economic zone or on its continental shelf, the national or the master of the vessel shall report such discovery or activity to it;

(b) in the exclusive economic zone or on the continental shelf of another State Party:

(i) 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;

(ii) 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.

2. On depositing its instrument of ratification, acceptance, approval or accession, a State Party shall declare the manner in which reports will be transmitted under paragraph 1(b) of this Article.
3. A State Party shall notify the Director-General of discoveries or activities reported to it under paragraph 1 of this Article.
4. The Director-General shall promptly make available to all States Parties any information notified to him under paragraph 3 of this Article.
5. Any State Party may declare to the State Party in whose exclusive economic zone or on whose continental shelf the underwater cultural heritage is located its interest in being consulted on how to ensure the effective protection of that underwater cultural heritage. Such declaration shall be based on a verifiable link, especially a cultural, historical or archaeological link, to the underwater cultural heritage concerned.

Article 10 – Protection of underwater cultural heritage in the exclusive economic zone and on the continental shelf

1. No authorization shall be granted for an activity directed at underwater cultural heritage located in the exclusive economic zone or on the continental shelf except in conformity with the provisions of this Article.

2. A State Party in whose exclusive economic zone or on whose continental shelf underwater cultural heritage is located has the right to prohibit or author-

ize any activity directed at such heritage to prevent interference with its sovereign rights or jurisdiction as provided for by international law including the United Nations Convention on the Law of the Sea.

3. Where there is a discovery of underwater cultural heritage or it is intended that activity shall be directed at underwater cultural heritage in a State Party's exclusive economic zone or on its continental shelf, that State Party shall:

(a) consult all other States Parties which have declared an interest under Article 9, paragraph 5, on how best to protect the underwater cultural heritage;

(b) coordinate such consultations as "Coordinating State", unless it expressly declares that it does not wish to do so, in which case the States Parties which have declared an interest under Article 9, paragraph 5, shall appoint a Coordinating State.

4. Without prejudice to the duty of all States Parties to protect underwater cultural heritage by way of all practicable measures taken in accordance with international law to prevent immediate danger to the underwater cultural heritage, including looting, the Coordinating State may take all practicable measures, and/or issue any necessary authorizations in conformity with this Convention and, if necessary prior to consultations, to prevent any immediate danger to the underwater cultural heritage, whether arising from human activities or any other cause, including looting. In taking such measures assistance may be requested from other States Parties.

5. The Coordinating State:

(a) shall implement measures of protection which have been agreed by the consulting States, which include the Coordinating State, unless the consulting States, which include the Coordinating State, agree that another State Party shall implement those measures;

(b) shall issue all necessary authorizations for such agreed measures in conformity with the Rules, unless the consulting States, which include the Coordinating State, agree that another State Party shall issue those authorizations;

(c) may conduct any necessary preliminary research on the underwater cultural heritage and

shall issue all necessary authorizations therefor, and shall promptly inform the Director-General of the results, who in turn will make such information promptly available to other States Parties.

6. In coordinating consultations, taking measures, conducting preliminary research and/or issuing authorizations pursuant to this Article, the Coordinating State shall act on behalf of the States Parties as a whole and not in its own interest. Any such action shall not in itself constitute a basis for the assertion of any preferential or jurisdictional rights not provided for in international law, including the United Nations Convention on the Law of the Sea.

7. Subject to the provisions of paragraphs 2 and 4 of this Article, no activity directed at State vessels and aircraft shall be conducted without the agreement of the flag State and the collaboration of the Coordinating State.

Article 11 – Reporting and notification in the Area

1. States Parties have a responsibility to protect underwater cultural heritage in the Area in conformity with this Convention and Article 149 of the United Nations Convention on the Law of the Sea. Accordingly when a national, or a vessel flying the flag of a State Party, discovers or intends to engage in activities directed at underwater cultural heritage located in the Area, that State Party shall require its national, or the master of the vessel, to report such discovery or activity to it.

2. States Parties shall notify the Director-General and the Secretary-General of the International Seabed Authority of such discoveries or activities reported to them.

3. The Director-General shall promptly make available to all States Parties any such information supplied by States Parties.

4. Any State Party may declare to the Director-General its interest in being consulted on how to ensure the effective protection of that underwater cultural heritage. Such declaration shall be based on a verifiable link to the underwater cultural heritage concerned, particular regard being paid to the preferential rights of States of cultural, historical or archaeological origin.

Article 12 – Protection of underwater cultural heritage in the Area

1. No authorization shall be granted for any activity directed at underwater cultural heritage located in the Area except in conformity with the provisions of this Article.

2. The Director-General shall invite all States Parties which have declared an interest under Article 11, paragraph 4, to consult on how best to protect the underwater cultural heritage, and to appoint a State Party to coordinate such consultations as the “Coordinating State”. The Director-General shall also invite the International Seabed Authority to participate in such consultations.

3. All States Parties may take all practicable measures in conformity with this Convention, if necessary prior to consultations, to prevent any immediate danger to the underwater cultural heritage, whether arising from human activity or any other cause including looting.

4. The Coordinating State shall:

(a) implement measures of protection which have been agreed by the consulting States, which include the Coordinating State, unless the consulting States, which include the Coordinating State, agree that another State Party shall implement those measures; and

(b) issue all necessary authorizations for such agreed measures, in conformity with this Convention, unless the consulting States, which include the Coordinating State, agree that another State Party shall issue those authorizations.

5. The Coordinating State may conduct any necessary preliminary research on the underwater cultural heritage and shall issue all necessary authorizations therefor, and shall promptly inform the Director-General of the results, who in turn shall make such information available to other States Parties.

6. In coordinating consultations, taking measures, conducting preliminary research, and/or issuing authorizations pursuant to this Article, the Coordinating State shall act for the benefit of humanity as a whole, on behalf of all States Parties. Particular regard shall be paid to the preferential rights of States of cultural, historical or archaeological

origin in respect of the underwater cultural heritage concerned.

7. No State Party shall undertake or authorize activities directed at State vessels and aircraft in the Area without the consent of the flag State.

Article 13 – Sovereign immunity

Warships and other government ships or military aircraft with sovereign immunity, operated for non-commercial purposes, undertaking their normal mode of operations, and not engaged in activities directed at underwater cultural heritage, shall not be obliged to report discoveries of underwater cultural heritage under Articles 9, 10, 11 and 12 of this Convention. However States Parties shall ensure, by the adoption of appropriate measures not impairing the operations or operational capabilities of their warships or other government ships or military aircraft with sovereign immunity operated for non-commercial purposes, that they comply, as far as is reasonable and practicable, with Articles 9, 10, 11 and 12 of this Convention.

Article 14 – Control of entry into the territory, dealing and possession

States Parties shall take measures to prevent the entry into their territory, the dealing in, or the possession of, underwater cultural heritage illicitly exported and/or recovered, where recovery was contrary to this Convention.

Article 15 – Non-use of areas under the jurisdiction of States Parties

States Parties shall take measures to prohibit the use of their territory, including their maritime ports, as well as artificial islands, installations and structures under their exclusive jurisdiction or control, in support of any activity directed at underwater cultural heritage which is not in conformity with this Convention.

Article 16 – Measures relating to nationals and vessels

States Parties shall 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 this Convention.

Article 17 – Sanctions

1. Each State Party shall impose sanctions for violations of measures it has taken to implement this Convention.
2. Sanctions applicable in respect of violations shall be adequate in severity to be effective in securing compliance with this Convention and to discourage violations wherever they occur and shall deprive offenders of the benefit deriving from their illegal activities.
3. States Parties shall cooperate to ensure enforcement of sanctions imposed under this Article.

Article 18 – Seizure and disposition of underwater cultural heritage

1. Each State Party shall take measures providing for the seizure of underwater cultural heritage in its territory that has been recovered in a manner not in conformity with this Convention.
2. Each State Party shall record, protect and take all reasonable measures to stabilize underwater cultural heritage seized under this Convention.
3. Each State Party shall notify the Director-General and any other State with a verifiable link, especially a cultural, historical or archaeological link, to the underwater cultural heritage concerned of any seizure of underwater cultural heritage that it has made under this Convention.
4. A State Party which has seized underwater cultural heritage shall ensure that its disposition be for the public benefit, taking into account the need for conservation and research; the need for reassembly of a dispersed collection; the need for public access, exhibition and education; and the interests of any State with a verifiable link, especially a cultural, historical or archaeological link, in respect of the underwater cultural heritage concerned.

Article 19 – Cooperation and information-sharing

1. States Parties shall cooperate and assist each other in the protection and management of underwater cultural heritage under this Convention, including, where practicable, collaborating in the investigation, excavation, documentation, conservation, study and presentation of such heritage.
2. To the extent compatible with the purposes of this Convention, each State Party undertakes to share information with other States Parties concerning underwater cultural heritage, including discovery of heritage, location of heritage, 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.
3. Information shared between States Parties, or between UNESCO and States Parties, regarding the discovery or location of underwater cultural heritage shall, to the extent compatible with their national legislation, be kept confidential and reserved to competent authorities of States Parties as long as the disclosure of such information might endanger or otherwise put at risk the preservation of such underwater cultural heritage.
4. Each State Party shall take all practicable measures to disseminate information, including where feasible through appropriate international databases, about underwater cultural heritage excavated or recovered contrary to this Convention or otherwise in violation of international law.

Article 20 – Public awareness

Each State Party shall take all practicable measures to raise public awareness regarding the value and significance of underwater cultural heritage and the importance of protecting it under this Convention.

Article 21 – Training in underwater archaeology

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.

Article 22 – Competent authorities

1. In order to ensure the proper implementation of this Convention, 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.
2. States Parties shall communicate to the Director-General the names and addresses of their competent authorities relating to underwater cultural heritage.

Article 23 – Meetings of States Parties

1. The Director-General shall convene a Meeting of States Parties within one year of the entry into force of this Convention and thereafter at least once every two years. At the request of a majority of States Parties, the Director-General shall convene an Extraordinary Meeting of States Parties.
2. The Meeting of States Parties shall decide on its functions and responsibilities.
3. The Meeting of States Parties shall adopt its own Rules of Procedure.
4. The Meeting of States Parties may establish a Scientific and Technical Advisory Body composed of experts nominated by the States Parties with due regard to the principle of equitable geographical distribution and the desirability of a gender balance.
5. The Scientific and Technical Advisory Body shall appropriately assist the Meeting of States Parties in questions of a scientific or technical nature regarding the implementation of the Rules.

Article 24 – Secretariat for this Convention

1. The Director-General shall be responsible for the functions of the Secretariat for this Convention.
2. The duties of the Secretariat shall include:
 - (a) organizing Meetings of States Parties as provided for in Article 23, paragraph 1; and
 - (b) assisting States Parties in implementing the decisions of the Meetings of States Parties.

Article 25 – Peaceful settlement of disputes

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention shall be subject to negotiations in good faith or other peaceful means of settlement of their own choice.
2. If those negotiations do not settle the dispute within a reasonable period of time, it may be submitted to UNESCO for mediation, by agreement between the States Parties concerned.
3. 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 the United Nations Convention on the Law of the Sea apply *mutatis mutandis* to any dispute between States Parties to this Convention concerning the interpretation or application of this Convention, whether or not they are also Parties to the United Nations Convention on the Law of the Sea.
4. Any procedure chosen by a State Party to this Convention and to the United Nations Convention on the Law of the Sea pursuant to Article 287 of the latter shall apply to the settlement of disputes under this Article, unless that State Party, when ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, chooses another procedure pursuant to Article 287 for the purpose of the settlement of disputes arising out of this Convention.
5. A State Party to this Convention which is not a Party to the United Nations Convention on the Law of the Sea, when ratifying, accepting, approving or acceding to this Convention or at any time thereafter shall be free to choose, by means of a written declaration, one or more of the means set out in Article

287, paragraph 1, of the United Nations Convention on the Law of the Sea for the purpose of settlement of disputes under this Article. Article 287 shall apply to such a declaration, as well as to any dispute to which such State is party, which is not covered by a declaration in force. For the purpose of conciliation and arbitration, in accordance with Annexes V and VII of the United Nations Convention on the Law of the Sea, such State shall be entitled to nominate conciliators and arbitrators to be included in the lists referred to in Annex V, Article 2, and Annex VII, Article 2, for the settlement of disputes arising out of this Convention.

Article 26 – Ratification, acceptance, approval or accession

1. This Convention shall be subject to ratification, acceptance or approval by Member States of UNESCO.
2. This Convention shall be subject to accession:
 - (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;
 - (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 matters governed by this Convention, including the competence to enter into treaties in respect of those matters.
3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Director-General.

Article 27 – Entry into force

This Convention shall enter into force three months after the date of the deposit of the twentieth instrument referred to in Article 26, but solely with respect

to the twenty States or territories that have so deposited their instruments. It shall enter into force for each other State or territory three months after the date on which that State or territory has deposited its instrument.

Article 28 – Declaration as to inland waters

When ratifying, accepting, approving or acceding to this Convention or at any time thereafter, any State or territory may declare that the Rules shall apply to inland waters not of a maritime character.

Article 29 – Limitations to geographical scope

At the time of ratifying, accepting, approving or acceding to this Convention, a State or territory may make a declaration to the depositary that this 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.

Article 30 – Reservations

With the exception of Article 29, no reservations may be made to this Convention.

Article 31 – Amendments

1. A State Party may, by written communication addressed to the Director-General, propose amendments to this Convention. The Director-General shall circulate such communication to all States Parties. If, within six months from the date of the circulation of the communication, not less than one half of the States Parties reply favourably to the request, the Director-General shall present such proposal to the next Meeting of States Parties for discussion and possible adoption.

2. Amendments shall be adopted by a two-thirds majority of States Parties present and voting.

3. Once adopted, amendments to this Convention shall be subject to ratification, acceptance, approval or accession by the States Parties.

4. Amendments shall enter into force, but solely with respect to the States Parties that have ratified, accepted, approved or acceded to them, three months after the deposit of the instruments referred to in paragraph 3 of this Article by two thirds of the States Parties. Thereafter, for each State or territory that ratifies, accepts, approves or accedes to it, the amendment shall enter into force three months after the date of deposit by that Party of its instrument of ratification, acceptance, approval or accession.

5. A State or territory which becomes a Party to this Convention after the entry into force of amendments in conformity with paragraph 4 of this Article shall, failing an expression of different intention by that State or territory, be considered:

(a) as a Party to this Convention as so amended; and

(b) as a Party to the unamended Convention in relation to any State Party not bound by the amendment.

Article 32 – Denunciation

1. A State Party may, by written notification addressed to the Director-General, denounce this Convention.

2. The denunciation shall take effect twelve months after the date of receipt of the notification, unless the notification specifies a later date.

3. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in this Convention to which it would be subject under international law independently of this Convention.

Article 33 – The Rules

The Rules annexed to this Convention form an integral part of it and, unless expressly provided otherwise, a reference to this Convention includes a reference to the Rules.

Article 34 – Registration with the United Nations

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General.

Article 35 – Authoritative texts

This Convention has been drawn up in Arabic, Chinese, English, French, Russian and Spanish, the six texts being equally authoritative.



E. Trainito © UNESCO. Italy, wreck located in Baia Salinedda, III. Century A.D.

ANNEX

RULES CONCERNING ACTIVITIES DIRECTED AT UNDERWATER CULTURAL HERITAGE

I. General principles

Rule 1. The protection of underwater cultural heritage through *in situ* preservation shall be considered as the first option. Accordingly, activities directed at underwater cultural heritage shall be authorized in a manner consistent with the protection of that heritage, and subject to that requirement may be authorized for the purpose of making a significant contribution to protection or knowledge or enhancement of underwater cultural heritage.

Rule 2. The commercial exploitation of underwater cultural heritage for trade or speculation or its irretrievable dispersal is fundamentally incompatible with the protection and proper management of underwater cultural heritage. Underwater cultural heritage shall not be traded, sold, bought or bartered as commercial goods. This Rule cannot be interpreted as preventing:

- (a) the provision of professional archaeological services or necessary services incidental thereto whose nature and purpose are in full conformity with this Convention and are subject to the authorization of the competent authorities;
- (b) the deposition of underwater cultural heritage, recovered in the course of a research project in conformity with this Convention, provided such deposition does not prejudice the scientific or cultural interest or integrity of the recovered material or result in its irretrievable dispersal; is in accordance with the provisions of Rules 33 and 34; and is subject to the authorization of the competent authorities.

Rule 3. Activities directed at underwater cultural heritage shall not adversely affect the underwater cultural heritage more than is necessary for the objectives of the project.

Rule 4. Activities directed at underwater cultural heritage must use non-destructive techniques and survey methods in preference to 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.

Rule 5. Activities directed at underwater cultural heritage shall avoid the unnecessary disturbance of human remains or venerated sites.

Rule 6. Activities directed at underwater cultural heritage shall be strictly regulated to ensure proper recording of cultural, historical and archaeological information.

Rule 7. Public access to *in situ* underwater cultural heritage shall be promoted, except where such access is incompatible with protection and management.

Rule 8. International cooperation in the conduct of activities directed at underwater cultural heritage shall be encouraged in order to further the effective exchange or use of archaeologists and other relevant professionals.

II. Project design

Rule 9. Prior to any activity directed at underwater cultural heritage, a project design for the activity shall be developed and submitted to the competent authorities for authorization and appropriate peer review.

Rule 10. The project design shall include:

- (a) an evaluation of previous or preliminary studies;
- (b) the project statement and objectives;

- (c) the methodology to be used and the techniques to be employed;
- (d) the anticipated funding;
- (e) an expected timetable for completion of the project;
- (f) the composition of the team and the qualifications, responsibilities and experience of each team member;
- (g) plans for post-fieldwork analysis and other activities;
- (h) a conservation programme for artefacts and the site in close cooperation with the competent authorities;
- (i) a site management and maintenance policy for the whole duration of the project;
- (j) a documentation programme;
- (k) a safety policy;
- (l) an environmental policy;
- (m) arrangements for collaboration with museums and other institutions, in particular scientific institutions;
- (n) report preparation;
- (o) deposition of archives, including underwater cultural heritage removed; and
- (p) a programme for publication.

Rule 11. Activities directed at underwater cultural heritage shall be carried out in accordance with the project design approved by the competent authorities.

Rule 12. Where unexpected discoveries are made or circumstances change, the project design shall be reviewed and amended with the approval of the competent authorities.

Rule 13. In cases of urgency or chance discoveries, activities directed at the underwater cultural heritage, including conservation measures or activities for a period of short duration, in particular site

stabilization, may be authorized in the absence of a project design in order to protect the underwater cultural heritage.

III. Preliminary work

Rule 14. The preliminary work referred to in Rule 10 (a) shall include an assessment that evaluates the significance and vulnerability of the underwater cultural heritage and the surrounding natural environment to damage by the proposed project, and the potential to obtain data that would meet the project objectives.

Rule 15. The assessment shall also include background studies of available historical and archaeological evidence, the archaeological and environmental characteristics of the site, and the consequences of any potential intrusion for the long-term stability of the underwater cultural heritage affected by the activities.

IV. Project objective, methodology and techniques

Rule 16. The methodology shall comply with the project objectives, and the techniques employed shall be as non-intrusive as possible.

V. Funding

Rule 17. Except in cases of emergency to protect underwater cultural heritage, an adequate funding base shall be assured in advance of any activity, sufficient to complete all stages of the project design, including conservation, documentation and curation of recovered artefacts, and report preparation and dissemination.

Rule 18. The project design shall demonstrate an ability, such as by securing a bond, to fund the project through to completion.

Rule 19. The project design shall include a contingency plan that will ensure conservation of underwater cultural heritage and supporting documentation in the event of any interruption of anticipated funding.

VI. Project duration – timetable

Rule 20. An adequate timetable shall be developed to assure in advance of any activity directed at underwater cultural heritage the completion of all stages of the project design, including conservation, documentation and curation of recovered underwater cultural heritage, as well as report preparation and dissemination.

Rule 21. The project design shall include a contingency plan that will ensure conservation of underwater cultural heritage and supporting documentation in the event of any interruption or termination of the project.

VII. Competence and qualifications

Rule 22. Activities directed at underwater cultural heritage shall 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.

Rule 23. All persons on the project team shall be qualified and have demonstrated competence appropriate to their roles in the project.

VIII. Conservation and site management

Rule 24. The conservation programme shall provide for the treatment of the archaeological remains during the activities directed at underwater cultural heritage, during transit and in the long term. Conservation shall be carried out in accordance with current professional standards.

Rule 25. The site management programme shall provide for the protection and management *in situ* of underwater cultural heritage, in the course of and upon termination of fieldwork. The programme shall include public information, reasonable provision for site stabilization, monitoring, and protection against interference.

IX. Documentation

Rule 26. The documentation programme shall set out thorough documentation including a progress report of activities directed at underwater cultural heritage, in accordance with current professional standards of archaeological documentation.

Rule 27. Documentation shall include, at a minimum, a comprehensive record of the site, including the provenance of underwater cultural heritage moved or removed in the course of the activities directed at underwater cultural heritage, field notes, plans, drawings, sections, and photographs or recording in other media.

X. Safety

Rule 28. A safety policy shall be prepared that is adequate to ensure the safety and health of the project team and third parties and that is in conformity with any applicable statutory and professional requirements.

XI. Environment

Rule 29. An environmental policy shall be prepared that is adequate to ensure that the seabed and marine life are not unduly disturbed.

XII. Reporting

Rule 30. Interim and final reports shall be made available according to the timetable set out in the project design, and deposited in relevant public records.

Rule 31. Reports shall include:

- (a) an account of the objectives;
- (b) an account of the methods and techniques employed;
- (c) an account of the results achieved;
- (d) basic graphic and photographic documentation on all phases of the activity;
- (e) recommendations concerning conservation and curation of the site and of any underwater cultural heritage removed; and
- (f) recommendations for future activities.

XIII. Curation of project archives

Rule 32. Arrangements for curation of the project archives shall be agreed to before any activity commences, and shall be set out in the project design.

Rule 33. The project archives, including any underwater cultural heritage removed and a copy of all supporting documentation shall, as far as possible, be kept together and intact as a collection in a manner that is available for professional and public access as well as for the curation of the archives. This should be done as rapidly as possible and in any case not later than ten years from the completion of the project, in so far as may be compatible with conservation of the underwater cultural heritage.

Rule 34. The project archives shall be managed according to international professional standards, and subject to the authorization of the competent authorities.

XIV. Dissemination

Rule 35. Projects shall provide for public education and popular presentation of the project results where appropriate.

Rule 36. A final synthesis of a project shall be:

- (a) made public as soon as possible, having regard to the complexity of the project and the confidential or sensitive nature of the information; and
- (b) deposited in relevant public records.

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