

# 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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# INTRODUCTION

“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)

The richness of the world’s underwater cultural heritage is often underestimated. While over the last centuries archaeological sites on land have yielded an abundance of information on the development of human societies, the oceans, inundated caves, swamps and rivers still retain most of their secrets. Ancient shipwrecks, caves and sunken cities hold unique collections of artefacts preserved within their archaeological contexts. Researching their stories can help us understand our past, our identity, and our cultural diversity.

Sustainable development and the preservation of our heritage and our oceans are key issues in today’s global challenges. By understanding and conserving the fragile underwater cultural heritage, we can aid in the understanding of climate change, sea level rise and cultural exchanges. We can also foster technological and scientific progress and further education.

Unfortunately, to date, underwater cultural heritage is consistently threatened by looters or commercial salvaging companies. Removing cultural material without consent is illegal in almost every country, yet 89.6% of archaeologists in a 2013 survey said that looting is an issue. Due to its illicit nature, it is impossible to quantify the extent of plundered cultural heritage, but this phenomenon especially concerns submerged heritage. Underwater cultural heritage is yet less quantified, studied and catalogued than terrestrial heritage; and law enforcement and monitoring of sites is more challenging in the underwater environment. While many States have heightened the preservation of their heritage on land, most of their underwater cultural heritage remains unknown and unprotected. Pillaging is however not the only threat. Also the legal but unscientific salvage for profit threatens underwater cultural heritage. Moreover, trawling, dredging, the exploitation of marine resources as well as natural disasters and climate change have equally an immense negative impact on submerged archaeological sites.

The **UNESCO Convention on the Protection of the Underwater Cultural Heritage**, adopted by the UNESCO General Conference in 2001, enables States to better identify, research and protect their underwater cultural heritage, assuring its preservation and sustainability for present and future generations.



# UNDERWATER SITES: A DIVERSE HERITAGE

Millions of historic shipwrecks and coastal cities, dwellings and ports have sunken into the ocean. There are over 150 sunken cities in the Mediterranean alone. In addition many prehistoric cultural landscapes have been inundated by rising sea levels. The water is thus covering numerous human origin sites. Inundated caves, lakes and sinkholes hold equally unique collections of archaeological materials. The cultural heritage found within these sites provides testimony to various periods and aspects of our collective history, from the evolution of the first human beings, to water travel, trade routes, wars, natural disasters and climate change. Underwater cultural heritage also aids us in the understanding of the use of maritime and fluvial space by today's local and indigenous communities for which the sites are linked to current traditional practices and beliefs.

## SHIPWRECKS

It is estimated that over 3 million shipwrecks are spread across ocean floors around the planet. The UK Dictionary of Disasters at Sea lists for instance that 12,542 sailing ships and war vessels were lost at sea between 1824 and 1962 alone in the UK. Many famous vessels have perished, inspiring books and films, including the Great 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. Equally important are those shipwrecks that are a result of conflicts and act as testimonies of the necessity for peace. This is the case for instance of the shipwrecks from World Wars I and II.

## URBAN PORTS AND STRUCTURES

The remains of countless ancient buildings are now submerged by water. While legends tell of the mysterious city of Atlantis, a genuine "Pompeii" has been discovered in the bay of Alexandria, Egypt, encompassing the remains of the famous Alexandria lighthouse known as the Pharos (among the reputed Seven Wonders 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 'Chichen Itza' in Mexico.

## SACRED PLACES AND OFFERINGS

The relation of humans with the water has always been close and thousands of offerings have been given to the water. These include thousands of weapons won in battle, large-scale musical instruments found in Danish Bogs and small anthropomorphic figurines as in the offerings found in the Lake Titicaca in Bolivia or even human remains, deposited as sacrifices.

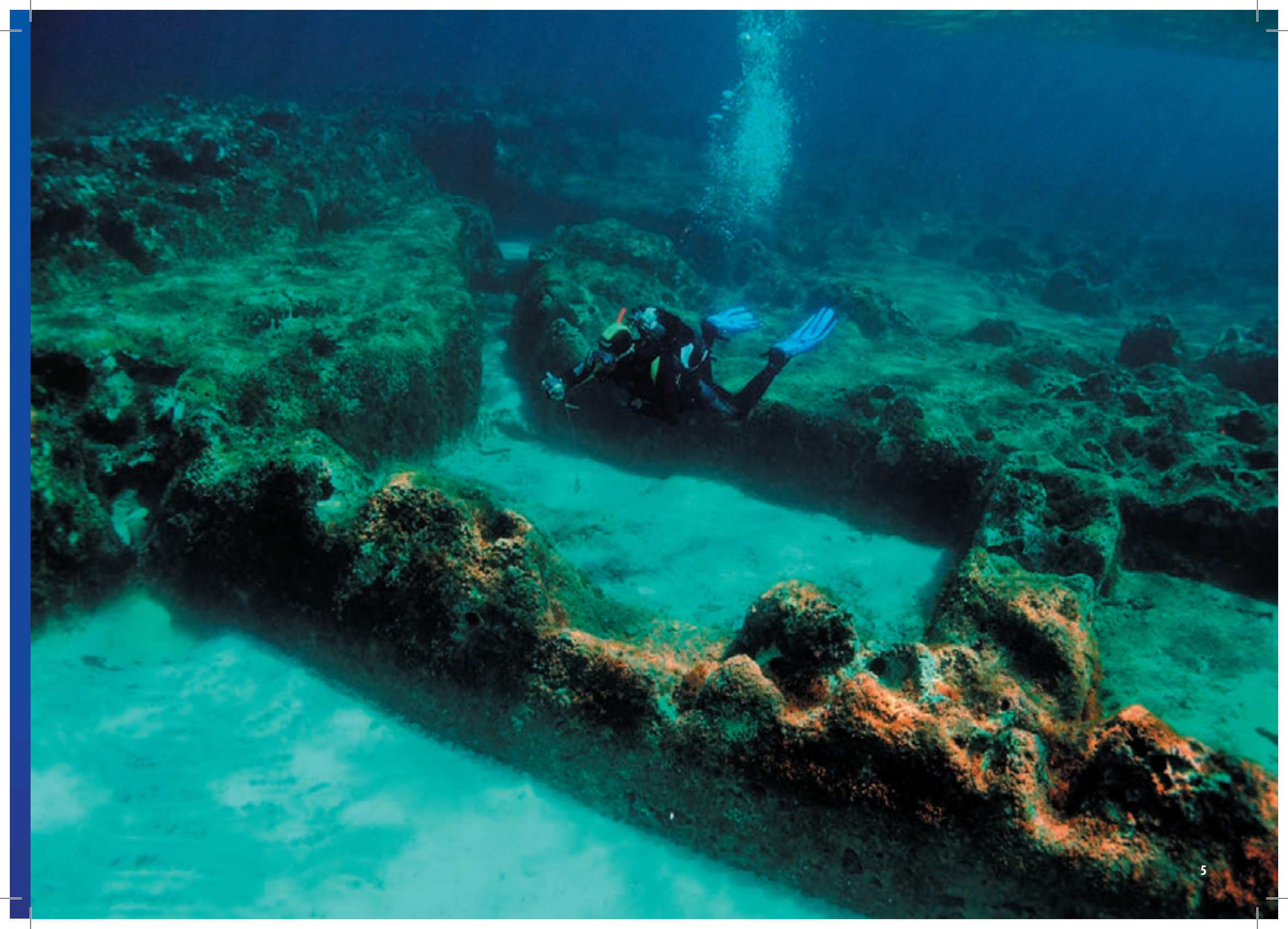
## PREHISTORIC LANDSCAPES

For 90 % of humankind the sea has been lower than it is today by an average of 40 m, but also with peaks of up to 130 m of difference. The underwater environment holds vast amounts of information on now submerged prehistoric landscapes, peoples that lived there and climates. By understanding the relation of past societies with their ocean environment, we are able to provide present day populations with resolutions to counter the impact of climate change.

Water makes up about 71% of the Earth's surface, while the other 29% consists of continents and islands.

*M. Williams, Universe Today*







# THREATS

Underwater cultural heritage is increasingly threatened by treasure hunting, pillage and commercial exploitation. Further to this, technological advances have allowed coastal development and marine resource exploitation to rapidly affect the preservation of unknown underwater sites.

## PILLAGE

Pillage and looting are the theft of historical artefacts from an archaeological site in violation of the law and scientific standards, and without any authorization from the competent authorities. It is unfortunately a common phenomenon when it comes to ancient shipwrecks or underwater archaeological sites. Diverse communities can be involved, ranging from occasional and opportunistic souvenir hunting by sport divers to specialized treasure-hunting enterprises. Pillage also often desecrates the gravesites that are common to shipwrecks.

## COMMERCIAL EXPLOITATION

Commercial exploitation is the legal recovery of artefacts from an archaeological site with the aim of putting them up for sale. This phenomenon is especially to be observed on underwater archaeological sites. Commercial exploitation operations regularly violate scientific standards of excavation of archaeological sites, as they focus on the recovery of valuable materials. Though few wrecks hold commercial riches, commercial treasure-hunters, through their search of these sites, destroy thousands in their endeavour.

## IRRESPONSIBLE DIVING

Divers are the first to know and enjoy the underwater cultural heritage. They are the best allies in the protection of the underwater cultural heritage when they join forces with archaeologists and cultural heritage managers. Nevertheless, some divers do negatively affect archaeological sites, for instance by collecting “souvenirs”. UNESCO created a Code of Ethics for Divers to foster responsible behaviour.

## TRAWLING

Trawling is a major issue for the preservation of underwater cultural heritage. The intrusive methodology of trawling produces trenches several centimetres deep in the seafloor. A single trawler can cover an area of 5,000 football fields and destroy sites in a depth of up to 1800 meters. Often fishing nets are lost on the wrecks and make them inaccessible for archaeologists.



This 15th century river barge was almost completely destroyed in a construction project near Nijmegen in the Netherlands. The situation was noticed by a local diver who alerted the authorities. In such instances, it is most helpful to have a standard project design at hand for quick evaluation and coordination. The readiness of such a plan will help in the deployment of capacity and funds. © T. Maarleveld.

Open circuit divers are able to descend to a depth of up to 100 metres, and closed circuit re-breathers allow accessing depths of up to 140m. A record breaking Mariana Trench Dive took a manned research vessel to 11km depth in 2012. Today, access to previously inaccessible sites is becoming more common due to new developments in technologies. This provides an exciting opportunity for underwater archaeologists, but also presents new challenges in the form of pillaging and salvaging efforts.

## RESOURCE EXTRACTION

The seabed is increasingly exploited by resource extraction industries. Many underwater cultural heritage sites, especially prehistoric sites, are thus impacted by the extraction of sand and gravel. Developing the seabed in a way that ensures the protection and research of underwater cultural heritage depends on the collaboration between all stakeholders involved, notably the academia, the competent authorities and the industry. A major and recent trend regarding the recovery and sale of metal from ancient shipwrecks has also destroyed numerous important sites.

## INSUFFICIENT LEGAL PROTECTION

In many States, the lack of legal protection means that there is no law 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 salvage. 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.

## THE NEED FOR CONSERVATION

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 and light. 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 due to oxidization. In addition, the salt of the seawater had crystallized in drying and 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.



The Amsterdam Slufter dredging project destroyed unintentionally a historic shipwreck  
© M. Pieters



Copper ingots looted from the Sao Ildefonso wreck, Madagascar © J.C Peyre.



“How inappropriate to call this planet Earth,  
when it is quite clearly Ocean.”

*Arthur C. Clarke*



# CASE STUDIES

## THE NUESTRA SEÑORA DE LAS MERCEDES PILLAGE (SPAIN)

The Nuestra Señora de las Mercedes, which sank in 1804 in a naval battle, was discovered near the Strait of Gibraltar and pillaged by the Florida-based Odyssey Marine Exploration Inc. in 2007. Odyssey claimed to have found the cargo, which it dubbed the “Black Swan treasure”, in international waters. When Spain discovered that the cargo in fact came from the wreck of the Mercedes, a Spanish State vessel, and that the 17 tons of gold and silver coins had been recovered without permission, it demanded their return. A court battle ensued for five years before the US courts ruled in 2012 that Odyssey had no claim to the artefacts and had to return the almost 600,000 gold and silver coins to Spain.

## THE BELITUNG WRECK COMMERCIAL EXPLOITATION (INDONESIA)

The Belitung Shipwreck was a ninth century AD Arab shipwreck carrying a large cargo from the Tang Dynasty in China. The wreck was found in 1998 by fishermen off the coast of Belitung Island, Indonesia, and was subject to significant looting. The Indonesian government commissioned a salvaging company with the aim to prevent the dispersal of artefacts by local pillagers. The company recovered and salvaged over 63,000 artefacts and sold the collection subsequently to the Singaporean Government for 32 million USD. The hull of the vessel and the important scientific information of the site were, however, destroyed. The artefacts of the Belitung Shipwreck are currently displayed in Singapore’s Asian Civilizations Museum.

## CENOTES (SINKHOLES) AND THEIR CULTURAL TREASURES (MEXICO)

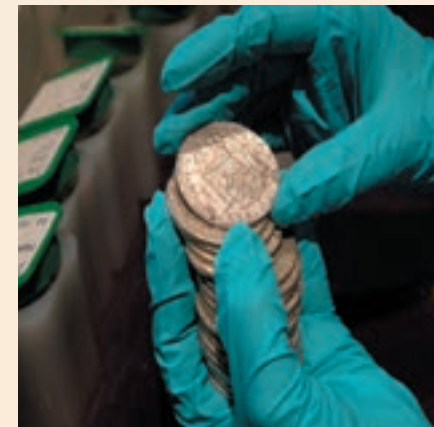
The Yucatan peninsula cenotes (a flooded carst cave) act as the only source of natural fresh water in the region, they hold an important and vast cultural deposit dating from as early as 415-35 AD. Recent research aims to understand the changing roles of the cenotes through time, from sites of Mayan ritual sacrifices to sources for farming and agriculture. A particularly important ancient skeleton disappeared in 2012 from a cenote in Mexico’s Yucatán Peninsula. Dubbed Young Hol Chan II, the 10,000-year-old skeleton was discovered in 2010 at the same site that had previously yielded another 10,000-year-old skeleton

in 2006, the Young Man of Chan Hol. The skeleton is important because investigations into the 2006 find suggested a shared lineage with Indonesians and South Asians. This is a contrast from the common hypothesis that the earliest people to colonize North and South America migrated from Asia to North America across a land bridge connecting Siberia and Alaska.

## PREHISTORIC LANDSCAPES IN DANGER - THE CASE OF DOGGERLAND

An area dubbed Doggerland encompasses a prehistoric submerged landscape located between mainland Europe and the eastern coast of Britain. It was once populated by Mesolithic peoples. Over time rising sea levels from melting ice sheets and glaciers forced these Mesolithic communities to migrate to higher ground. Today, Doggerland’s submerged history is exemplified in artefacts such as ancient bones and tools raised by fishermen in the North Sea. Digital models created using seismic survey data show reconstructions of the prehistoric landscape before sea level rise.

Data provides significant information on the effects of climate change on human societies and can be directly related to the situation of rising sea levels today. Doggerland is situated in an area of rich marine industrial action, and it is important to mitigate the actions of trawlers, fishermen and the oil and gas industries to protect the underwater cultural heritage.



Nuestra Senora de las Mercedes Coins © Spanish Ministry of Culture



# PUBLIC ACCESS

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

*Horizon, BBC*



Detail of the interior of the Silk Road Museum, island of Hailing, China. © U. Guérin/UNESCO

In the last decades, 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, seafaring practices, the human use of the land and sea environments and climate change. To the public at large, it offers an opportunity to understand their identities, transmitting them into new generations, to strengthen a sense of community belonging as well as to develop sustainable tourism economics through, for instance, the development of public access.

## UNDERWATER CULTURAL HERITAGE EXHIBITED IN MUSEUMS AND EXHIBITIONS

Today, many museums exhibit objects recovered from underwater archaeological sites or shipwrecks as part of their collections. Some of the most famous exhibitions include:

- The exhibit of **Sweden's Vasa shipwreck**, which attracts a million 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.
- **The Greek National Museum** hosts the important Antikythera shipwreck collection and the **Danish National Museum** the extensive sacrificial offerings from Danish Bog Lakes.



## IN SITU ACCESS

Just as on land, the ability to retain heritage in situ can be an ethically important aspect of its preservation. Removing heritage from its natural environment can create various conflicts politically, culturally and scientifically. It is therefore encouraged that, when possible, underwater cultural heritage is afforded in situ preservation. This is not a rule and does not apply to every situation. Sometimes the best way to protect vulnerable heritage is to remove it from an easily accessible environment. It may also be wished to exhibit the finds in a museum or to allow for scientific research.

Nevertheless, often the underwater environment adds an additional attraction to the artefact. Several initiatives have thus been undertaken to offer visitors in-situ experiences while also ensuring the conservation and protection of the original site in line with the principles of the UNESCO 2001 Convention:

- **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 to teach visitors about maritime heritage by 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, with thousands of divers visiting 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.
- **The Baiheliang Underwater Museum** Fuling, Chongqing Municipality (China) is submerged beneath 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 public to visit the site and see the inscriptions.
- **The Bou Ferrer Wreck** is a Roman shipwreck of the first century CE, located off the coast of Villajoyosa, Spain. Heritage access is guaranteed through public visits to the site, access to the archaeological materials in museums, videos, educational messages, informal reports, presentations and conferences. This initiative was inscribed in the UNESCO Register of Best Practices concerning Underwater Cultural Heritage.
- **The Roman Villas of Baia**, Italy, (1st-4th centuries BC). The area was abandoned in the 8th century due to conflict with Saracens, and submerged due to rising sea levels. The ancient ruins of the city now lie in the shallow waters of the surrounding bay area and the submerged city is used as an underwater archaeological park.
- **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 have carried out several investigations 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. Most 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.
- **Croatia:** There are currently 400 archaeological sites registered by the Croatian government of which 80 are publically accessible. The country protects the wrecks in situ by affording them special legal protection, and in some cases, steel cages cover them allowing for responsible public access and sustainable in situ protection.



Metal cage which allow visitors to see the underwater cultural heritage, but prevent disturbance. © D. Frka





# SLAVE TRADE SHIPWRECKS

The submerged remains of wrecks from the African Slave Trade represent a poignant and significant testimony of African Diaspora. Central and Eastern African slaves were often moved to the coasts to be transported to Arab regions, Persia and India, as well as to the Americas. The transatlantic trade route acted as one of the largest routes throughout the 16th-19th centuries, and is home to multiple wrecks from this period. Most recently, the wreck of what may be the last US slave ship was discovered in January 2018, the *Coltida*, which transported 110 slaves from West Africa to Alabama in 1860, before being intentionally burned on the Mobile-Tensaw Delta. The visible remains of the slave trade exist in multiple forts and historic buildings, as well as in many shipwrecks, such as the *Trouvadore* and *San Jose Shipwreck*, where many slaves tragically died. It is important to intensify the research on this topic to accurately document and remember the cultures and traditions of the people in this era of history.



Prospecting during the Slave Ship *Trouvadore* Project: James Hunter examining the hull remains of the *Black Rock Wreck* (the so-called slave ship *Trouvadore*) sunk in 1841 in the Turks & Caicos Islands, British Overseas Territories, United Kingdom. The conservation process starts well before intervention with prospection and preparative work. During prospection, underwater archaeologists undertake preparatory dives and sampling to obtain a profound understanding of the nature, number and type of artefacts that are likely to be discovered and will thus need to be conserved. This data will allow them to prepare the conservation programme as part of the project design. © Ships of Discovery.



# THE NEED FOR AN INTERNATIONAL CONVENTION

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

## NATIONAL LEGISLATIONS AND JURISDICTION

Many 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-jurisdiction at sea 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 BACKGROUND OF 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 170 signatories. Among other provisions, it contains regulations on jurisdiction 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, adopted nearly two decades later in 2001, is this 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, wherever it is found, through a specific protection and cooperation framework among its States Parties.

The 2001 Convention is in full harmony with other international laws, including UNCLOS.



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

# THE 2001 CONVENTION OF UNESCO

The 2001 Convention is specific to underwater cultural heritage. For its purposes, the term “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...” (Art. 1).

The Convention sets a high standard for the protection of such heritage, with a view to preventing it from being looted or destroyed. Its standard is comparable to that granted by other UNESCO Conventions or national legislations on cultural heritage on land, while taking into account the specificities of archaeological sites found under water.

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

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 does not change State jurisdiction at sea and does not regulate ownership rights.

## THERE ARE TWO PARTS TO THE 2001 CONVENTION:

- The main text, which sets out basic principles for the protection of underwater cultural heritage, the responsibilities of the States Parties as well as cooperation in order to enable States to ensure such protection; and
- The Annex, which contains widely recognized international scientific standards (known as the Rules) to be applied in all activities directed at the underwater cultural heritage.




## THE 2001 CONVENTION

- sets out basic principles for protecting underwater cultural heritage;
- provides for strong site protection measures;
- contains provisions for a cooperation scheme for international waters; and
- provides practical guidelines for underwater cultural heritage activities.

## JOINING THE CONVENTION

- Prevents the destruction of underwater cultural heritage;
- Fosters underwater archaeology;
- Provides international scientific standards for underwater archaeology;
- Helps develop tourism; and
- Enables capacity building and the exchange of knowledge.



A vibrant underwater photograph of a coral reef. In the center, a scuba diver is swimming horizontally, their silhouette dark against the clear blue water. The reef is teeming with life, featuring various types of coral in shades of green, purple, and brown. Numerous colorful fish, including orange and yellow ones, are scattered throughout the scene. The lighting is bright, creating a clear view of the underwater environment.

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

*Robert Grenier, former President of the ICOMOS International  
Committee for 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 enables States to effectively provide such protection. Its main principles are the following:

## **OBLIGATION TO PRESERVE**

States Parties shall preserve underwater cultural heritage for the benefit of humanity and take action accordingly. The Convention also stresses the need to preserve the natural context where the underwater cultural heritage is found. The 2001 Convention requires that proper respect be given to human remains.

## **IN SITU PRESERVATION**

The in situ preservation of underwater cultural heritage (i.e. on the seabed) shall be considered as a first option before intrusive actions. The recovery of objects may be authorized for the purpose of making a significant contribution to the protection of or knowledge about underwater cultural heritage. Endangered artefacts or artefacts that shall be researched or exhibited in a museum can thus be recovered under the 2001 Convention.

This principle:

- stresses the importance of the archaeological and natural context where the site is found.
- seeks to prevent a repetition of errors made in the nineteenth century, when large-scale cultural objects on land were removed from their original archaeological contexts.
- underlines that attention needs to be given to conservation and storage needs before recovery of large ship hulls is undertaken.
- recognizes that, under appropriate circumstances, heritage is well preserved under water and that it is therefore not per se in danger.

## **NO COMMERCIAL EXPLOITATION AND PILLAGE**

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.

## **TRAINING AND INFORMATION SHARING**

States Parties should promote information sharing, training in underwater archaeology and related disciplines, technology transfer and public awareness raising 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 identification, evaluation, conservation, study and public presentation.

## **NO REGULATION OF OWNERSHIP OR JURISDICTION**

The 2001 Convention does not regulate the ownership of artefacts or heritage sites. It does equally not interfere in the regulation of maritime zones.



# COOPERATION IN INTERNATIONAL WATERS

In international waters, i.e. 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 seabed outside national jurisdiction), they even have no other State jurisdiction than that over the vessels flying its flag and its nationals. There are however many sites that are endangered and need protection, such as the Titanic and Skerki Banks. Respecting this, the 2001 Convention establishes 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:

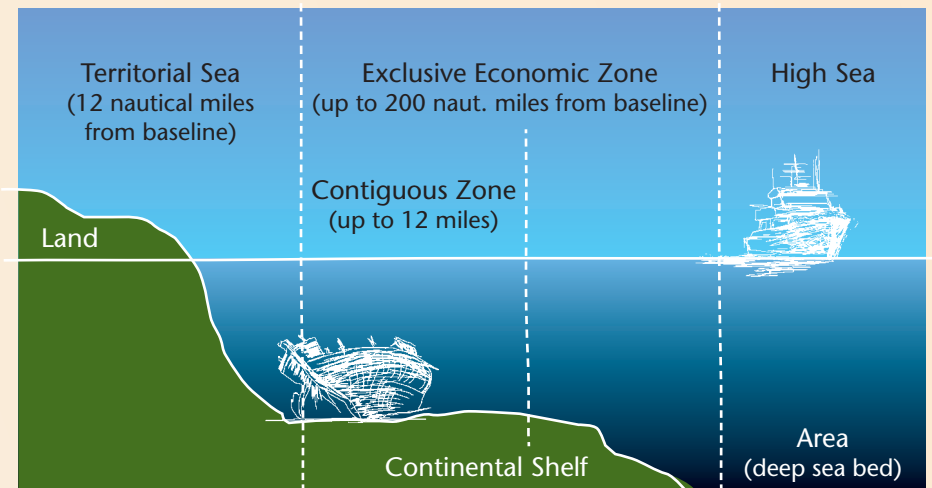
## INTERNAL, ARCHIPELAGIC WATERS AND TERRITORIAL SEA

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). They should however cooperate.

## EXCLUSIVE ECONOMIC ZONE, THE CONTINENTAL SHELF AND THE AREA

Articles 9 to 13 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\*



\* 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 regulate the limitations of maritime zones (the existing ones apply mutatis mutandis as regulated by international law).

The basic features of the coordination scheme for sites located in international waters are:

- Each State Party will adopt domestic legislation to ensure that its own nationals and vessels flying its flag 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 flying its flag 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; and
- 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.

### INTERNATIONAL WATERS. AN EXAMPLE CASE: SKERKI BANKS

The Skerki Banks are located in an area of relatively shallow open sea, situated in the central Mediterranean in the Strait of Sicily between Sicily and Tunisia. Their reefs include the Esquirques, two large rocky reefs of volcanic origin surrounded by a sandbank, and Keith's Reef. Since 1988, various archaeological surveys have located a concentration of ancient shipwrecks in the area. They also hold the remains of the World War II battle of Skerki Banks. Unfortunately, the sites have also been subject to pillaging. In 2018 Italy hence notified the site under the 2001 Convention in order to obtain international protection for the cultural remains located on them. Tunisia welcomed the notification and assumed from then on the role of Coordinating State.



Skerki Banks: the first cultural heritage site to be protected in international waters by the application of the cooperation Scheme. © Soprintendenza del Mare



# THE RULES

The Annex of the 2001 Convention contains detailed practical rules concerning 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
- best practices of underwater cultural heritage conservation and site management.

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

Any activity directed at underwater cultural heritage should comply with the Rules described in the Annex of the 2001 Convention.

”The Rules concerning activities directed at underwater cultural heritage placed in the Annex of the Convention, addressing ethical and professional standards for underwater archeology, have become a major reference for this discipline.”

*Prof. Dr. T.J. Maarleveld, University of Southern Denmark*



# FUNCTIONING

## THE UNESCO SECRETARIAT

UNESCO provides 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. UNESCO also guides Members States in the ratification process of the 2001 Convention and in its national implementation, fostering international cooperation to improve the protection of the underwater cultural heritage worldwide.

## GOVERNING BODIES

### THE MEETING OF STATES PARTIES

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

### THE SCIENTIFIC AND TECHNICAL ADVISORY BODY (STAB)

The Meeting of States Parties has established a Scientific and Technical Advisory Body (STAB) composed of 12 experts nominated by the States Parties. It assists States Parties in questions of a scientific or technical nature.

## PARTNERS

### THE ACCREDITED NGOs

The Meeting of States Parties and the Scientific and Technical Advisory Body collaborate with accredited non-governmental organizations (NGOs) having activities related to the scope of the Convention. The cooperation is crucial as NGOs are working directly in the field and with national authorities worldwide. They have invaluable insights into current issues and practices in underwater archaeology, and can directly facilitate the development of underwater archaeology on a national, regional and international level. NGOs are also instrumental in actively disseminating the ethical principles and guidelines of the 2001 Convention.

### THE UNESCO UNITWIN NETWORK OF UNDERWATER ARCHAEOLOGY

UNESCO established a University Twinning Network of Underwater Archaeology in 2012. It brings together universities teaching underwater archaeology and related disciplines and increases their cooperation in scientific research, academic teaching and national capacity building. The UNITWIN Network of Underwater Archaeology aims to increase capacity in the participating countries through international cooperation.



### THE CHAIRS

The 2001 Convention is supported by several University Chairs. These special departments at partner universities support the implementation of the 2001 Convention on an academic level and raise awareness of scientific methodologies in the research of underwater cultural heritage.

### CENTER WORKING UNDER UNESCO AUSPICES

The International Centre for Underwater Archaeology in Zadar, Croatia, works under the auspices of UNESCO and supports the implementation of the Convention in the South East European Region.





# THE SCIENTIFIC AND TECHNICAL ADVISORY BODY (STAB)

The UNESCO Scientific and Technical Advisory Body (STAB) is a crucial organ of the 2001 UNESCO Convention. It consists of 12 elite experts in underwater archaeology and related fields. It provides advice to the Meeting of States Parties in questions of a scientific or technical nature related to underwater cultural heritage and the national implementation of the 2001 Convention. States that lack underwater archaeologists, but face problems due to chance discoveries, treasure-hunting or scientific doubts, or those in need of neutral advice, can call on the UNESCO STAB for assistance.

The Scientific and Technical Advisory Body assists States by practical advice, but can also come to evaluate a site or an issue through a mission. A precondition is that the requesting State has ratified the 2001 Convention.

## Some missions of the STAB:

### THE SANTA MARIA OF COLUMBUS (HAITI, 2014)

The Santa Maria, Christopher Columbus' flagship during his first expedition to the Americas, is potentially the most looked after cultural heritage of the early period of contact between Europe and the Americas. An underwater explorer from the US claimed that a shipwreck on Gran Mouton Reef, Haiti, might be that of the Santa Maria and wished to excavate it. The Ministry of Culture of Haiti requested the assistance of the UNESCO Scientific and Technical Advisory Body. The STAB mission was dispatched and confirmed that the wreck site was not that of the Santa Maria but alerted to ongoing pillaging in the bay.



STAB member Maria Helena Barba Meinecke in preparation to dive to the San José shipwreck in Panama. © UNESCO

### **THE SAN JOSE (PANAMA, 2015)**

A STAB mission visited Panama in 2015 at the request of the Government of Panama. The mission examined the state of the supposed site of the San José shipwreck, a Spanish galleon that sank in the archipelago of Las Perlas in the 17th century, affected by treasure-hunting.

### **SAINT MARIE ISLAND (MADAGASCAR, 2015)**

A mission of the STAB to Madagascar verified the status of historic wrecks near Sainte Marie Island and evaluated an excavation, which had resulted in the announcement of the discovery of a silver ingot allegedly found on the Adventure Galley, a shipwreck associated with the pirate William Kidd. The mission showed that several historic wrecks lie indeed in the bays of Sainte-Marie Island, but had been wrongly identified and pillaged.

### **THE ANCIENT CITY OF NESSEBAR (BULGARIA, 2017)**

*Joint Mission between the World Heritage Convention (1972) and the Underwater Cultural Heritage Convention (2001)*

The STAB and ICOMOS International, Advisory Body to the World Heritage Committee, undertook a common assessment of the state of conservation of the World Heritage property “Ancient City of Nessebar” (Bulgaria), including underwater archaeological remains in 2017. The mission examined development projects within the boundaries of the city and its buffer zone, including in the territorial waters of the peninsula. The STAB experts conducted an underwater survey and provided recommendations for additional research that may be needed to appraise the archaeological potential of the submerged part of Nessebar.



Inspecting submerged city ruins in the ancient city of Nessebar, Bulgaria. © A. Rey da Silva/UNESCO



Inspecting a lead ingot in Madagascar, wrongly identified as “silver treasure” © F. Osada

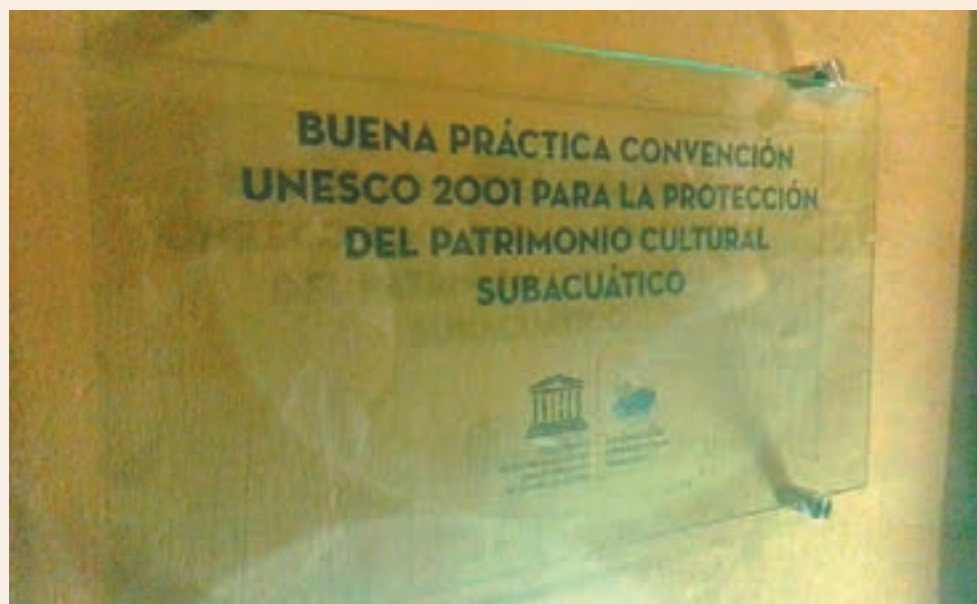


# BEST PRACTICES

The 2001 Convention on the Protection of the Underwater Cultural Heritage encourages the responsible access of the public to underwater heritage. To foster best practices, the Meeting of States Parties adopted a Register of Best Practices. States Parties were then invited to provide examples of Best Practices to be evaluated and, eventually, inscribed in the Register. The first examples have been approved and been designated by a special Label. Among other conditions, the designation is possible if a special and outstanding effort has been made to make the site accessible to the public.

The designation:

- increases the visibility of the accessible site or institution (for instance a museum);
- is a recognition for outstanding efforts in the application of the Convention and guides other States to follow the example;
- sets a true sign in favour of responsible public access; and
- allows designated access-providers to form a network and cooperate, for instance through exchanging temporary exhibitions.



Best Practice Label of the 2001 Convention in the Campeche Underwater Cultural Heritage Museum. © UNESCO/U.Guerin



On 5 December 2017 the new Museum of Underwater Archaeology opened in the 18th century fortress of Reducto San Jose el Alto, in Campeche, Mexico. The museum contains spectacular finds from Mexican cenotes and from historical shipwrecks as well as a collection that retraces the Mexican history through the archaeological sites found under water. The museum uses new technologies to reconstruct sites and encompasses different media platforms on the history of the discoveries. © UNESCO.

# HOW TO BECOME PARTY TO THE 2001 CONVENTION?

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 has 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 deposition 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 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.

*“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)





# TEXT OF THE 2001 CONVENTION

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 31<sup>st</sup> 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 authorize 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.





# 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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