



The Protection of the
Underwater Cultural Heritage

**FIRST SESSION OF THE MEETING OF
STATES PARTIES TO THE CONVENTION
ON THE PROTECTION OF THE
UNDERWATER CULTURAL HERITAGE**

**26/27 March 2009, Paris, UNESCO
Headquarters, Room IV**

CLT/CIH/MCO/2009/ME/96

ORAL REPORT

Rapporteur: Mr Long Ponnasirivath (Cambodia)

Paris, 27 March 2009

Mr Chairperson of the First Session of the Meeting of State Parties,
Ms Françoise Rivière, Assistant Director-General for Culture,
Honourable Delegates,
Ladies and Gentlemen,

I should like to thank the States Parties to the Convention on the Protection of the Underwater Cultural Heritage for giving the honour to Cambodia and for the trust that you have shown in appointing me Rapporteur of the First Session of the Meeting of States Parties. You have vested in me the responsibility of reporting to you as faithfully and as objectively as possible on the conduct, content and outcome of the debates.

The aim of this report is to summarize the substance of the debates, while highlighting the major progress made during these two days of discussion.

I am confident that you will join me in expressing the opinion that the skill and experience of our Chairperson, His Excellency Mr Marcelo Vasquez Bermudez, and the constructive contributions of the State Parties were essential to the success of the session and to

thank the Director-General for his unfailing support for the protection of underwater cultural heritage. Let us also express our gratitude to the Assistant Director-General for Culture and the Secretariat for the quality of the documents prepared and to the Legal Advisor for his informed advice as well as to extend our special thanks to the interpreters.

19 States Parties to the Convention attended the Meeting as participants. Albania, Grenada, Slovakia and Tunisia, having ratified the Convention less than three months before the Meeting of States Parties, participated as observers.

Furthermore 71 States non-Parties to the Convention participated as observers, as well as 5 intergovernmental, and 23 non-governmental organizations as the Meeting of States Parties decided on their admission for this first Meeting and before the application of the newly to be adopted Rules of Procedure for the next session.

Let me summarize for you the debates of the last two days:

26 MARCH 2009

Opening Ceremony

The First Session of the Meeting of States Parties to the Convention on the Protection of the Underwater Cultural Heritage was officially opened on Thursday, 26 March 2009, by the Director-General, Mr Koïchiro Matsuura. In his welcome address, he expressed his sincere gratitude to all those who contributed to UNESCO's long-standing efforts to make this legal instrument a reality and referred to the Meeting as a truly historic moment for the safeguarding of cultural heritage and in particular underwater cultural heritage.

In the following order, the floor was given to three guests of honour:

- H. Exc. Mr Javier Perez de Cuellar, Former Secretary General of the United Nations
- H. Exc. Mr Georges Anastassopoulos, President of the General Conference
- Prof. Thijs Maarleveld, President of the ICOMOS International Committee for the Underwater Cultural Heritage

Their addresses recalled the scope and importance of the Convention, highlighting its position in the context of UNESCO's standard-setting instruments in the field of culture. They also referred to the guiding role of the Convention for underwater archaeology and national authorities worldwide and the urgent need to obtain its broad ratification and implementation. They furthermore recalled the alarming situation of pillaging and destruction of underwater cultural heritage and underlined the common responsibility of all States to ensure its legal protection and to adopt strict protection standards in accordance with the provisions of the Convention.

Item 1: Election of the Chairperson, Vice-Chairperson and Rapporteur

Taking up its works and under the guidance of the Assistant Director-General for Culture, Mrs Françoise Rivière, representing the Director-General, the Meeting of States Parties elected as first item on its agenda its Bureau unanimously and by acclamation, as follows:

Chairperson: H. Exc. Mr Marcelo Vazquez Bermudez (Ecuador)

Vice-Chairpersons: Croatia, Lebanon, Nigeria and Portugal

Rapporteur: Mr Long Ponnasinrivath (Cambodia)

Item 2: Adoption of the Agenda of the First Session of the Meeting of States Parties

The Secretariat introduced the Agenda items and the related documents. The agenda was adopted unanimously.

The Chairperson then invited States Parties wishing to make an official statement to take the floor. Ten States Parties underlined the great value of the 2001 Convention as legal instrument to protect the underwater cultural heritage. They referred to the large number of Observer States and Organizations which were present to follow with interest the steps being taken to move the Convention forward. The speakers also acknowledged the gradual ratification process and the efforts made during the negotiation of the initial text to accommodate the concerns of States. They stressed the potential of the instrument as an international standard-setting framework. The importance of cooperation in all of these areas among all stakeholders was underlined as was the need to address the concerns and reservations regarding the Convention in general and voiced by some of the Observer States.

Three Observer States, Italy, Greece and Algeria also took the opportunity to address the Meeting.

Item 3: Adoption of the Rules of Procedure of the Meeting of States Parties to the Convention on the Protection of the Underwater Cultural Heritage

As was explained by the Secretariat, the draft rules of Procedure had been prepared on the basis of the Rules of Procedure of the General Assembly of the States Parties to the 2003 Convention and the Conference of Parties of the 2005 Convention. Thus, it seemed that there were only two main points of discussion to be addressed: According to Article 23.2 of the Convention, the Meeting needed to decide on its functions and responsibilities and, according to Article 23.4, needed to discuss if it wished to establish a Scientific and Technical Advisory Body.

The Secretariat informed the Meeting that it had received a written proposal for amendments to the draft Rules of Procedure signed by Barbados, Croatia, Ecuador, Lithuania, Paraguay, Saint-Lucia, Slovenia, Cuba, Mexico, Nigeria and Panama. Copies of these amendments were then distributed to the States Parties for their consideration.

In the afternoon, the Meeting took up its work with an intervention from the US Delegation as observer, which expressed the commitment of the United States to the protection of the underwater cultural heritage and pointed out the cooperative steps they have been undertaking with other States to protect the wreck of the *Titanic*. However, it also expressed reservations regarding the 2001 Convention.

Saint-Lucia, State Party to the Convention, then presented the above-mentioned proposed amendments to the Secretariat draft of the Rules of Procedure on a point by point basis on behalf of the group of States Parties which had submitted them.

Under the guidance of the Chairperson, the majority of the rules of the Rules of Procedure were adopted by consensus on a provisional basis, with two specific items being particularly discussed:

- Provisional Rule 18 and the distinction between ‘working’ and ‘official’ languages to be utilised in future operations of the Meeting and its Bodies, underlining that the official languages of the Meeting shall be Arabic, Chinese, English, French, Russian and Spanish. Article 19 was also amended so that as a general rule, no draft resolution or amendment shall be discussed or put to the vote unless it has been circulated reasonably in advance to all participants at least in the working languages of the Secretariat, being English and French, while resolutions shall be published and distributed within one month of the closure of the session in the six official languages.
- Lively discussions also focused on the question of the establishment of a Scientific and Technical Advisory Body and the nomination and election of its Members pursuant to Section V of the draft Rules of Procedure. Despite the spirit of cooperation and compromise shown by the States Parties, the Meeting was not in a position to reach a full consensus on this issue on the first day of the session. It was therefore decided to adjourn the discussion of these provisions to the following day to allow the State Parties to consult in an informal manner in the evening and provide a common amendment proposal the next morning.

The draft Rules of Procedure having been discussed and all Sections, with the exception of Section V, having been provisionally adopted, the Meeting determined to move on to the next agenda item.

Item 4: Discussion of the status of ratifications, of statutory and of other issues related to the entry into force of the Convention

The Meeting next dealt with Item 4, where the Secretariat provided general information on the status of ratifications. Mention was made of the outstanding obligations of some States Parties concerning declarations to be made under the Convention and the necessity that all States inform on their competent national authority responsible for underwater cultural heritage related issues. The Secretariat presented to the States Parties possible options for the implementation of the States Cooperation System as well as completed and upcoming operational activities related to underwater cultural heritage.

With the permission of the Chairperson and consent of the States Parties, the Meeting then opened the floor to other Observers and a general discussion followed. Several Observer States, namely the United Republic of Tanzania and Jamaica spoke about the progress being made towards ratification of the Convention in their countries. The United Kingdom intervened expressing its ongoing support for endeavours to protect the underwater cultural heritage, as well as some remaining reservations regarding certain provisions of the Convention. Among others the Council of Baltic Sea States Heritage Monitoring Group, present as an Observer Intergovernmental Organisation, took then the opportunity to update the Meeting on its current activities in underwater cultural heritage.

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On the morning of the second day of the Meeting, States Parties addressed the remainder of Item 3 of the agenda, namely Section V of the draft Rules of Procedure, which had been adjourned from the day before.

Major changes introduced by proposed amendments included the character of the experts (elected to the Advisory Body as representative of the nominating State) and the procedure of election. Both points gave rise to a number of substantial revisions of the original draft text.

As first point, the Meeting decided not to decide on the establishment of the Advisory Body in the Rules of Procedure but to decide on the procedure to be followed should it occur. Then attention was focused on the expertise and professional standing of potential nominees as well as the appropriate number of members for such a Body. Following intense discussions, it was decided that the initial appropriate number of members would be twelve, with an opportunity to expand their number up to twenty-four depending on the number of States Parties and requirements in the future.

It was then decided that the procedure for elections would be by secret ballot.

During discussions, it was agreed upon that in this first stage of the Convention, some of the Rules of Procedure should be implemented with flexibility. In particular those rules concerning the notification of States Parties for the presentation of candidates for election to and the geographical representation of the Advisory Body.

Opportunity was then given to the Observers to comment on the morning's work, and following some specific comments from Observer States in relation to the Rules of Procedure, namely from the US Delegation, the Italian Delegation and the Canadian Delegation.

With discussion of Section V concluded, the draft Rules of Procedure as amended were formally adopted in their entirety and by consensus.

Item 5: Discussion on the possible adoption of the Statutes of the Scientific and Technical Advisory Body

The Secretariat then introduced Item 5 and informed the Meeting that the draft Statutes as provided for consideration had to be adapted to the decisions just taken by the Meeting.

Focusing on draft Article 2 (amended Article 1) in relation to the functions of a potential Scientific and Technical Advisory Body, several States Parties took the floor in referring to the role they would like to see NGOs play in collaborating with the Advisory Body. Concerning the nomination and election of members to the Advisory Body, the Meeting decided to refer to Rules 22 to 25 of the Rules of Procedure, which already regulated this issue and needed no repetition in the Statutes. The issue of financing was then the subject of intense discussions and the Secretariat underlined that while it will do its best to support the travel costs of experts of developing countries, the Regular Budget available for the functioning of the Convention is very limited and that any extension of the use of this Regular Budget should be decided by the Executive Board and the General Conference of UNESCO. States Parties underlined the possibility of establishing an extra-budgetary fund in the future, as it is the case in other UNESCO Conventions in order to provide additional funding for the functioning of their governing bodies. The Meeting then adopted the Statutes as amended and decided to create a Scientific and Technical Advisory Body.

Item 6: Discussion on the possible election of the members of the Scientific and Technical Advisory Body

On proposal by the Secretariat, it was decided to adjourn the issue to the next session of the Meeting of States Parties.

Item 7: Discussion of the Establishment of Operational Guidelines

Although the 2001 Convention does not expressly foresee the establishment of Operational Guidelines, it was felt, however, by the Secretariat that it would be useful to establish such Guidelines.

Discussion ensued regarding the content of a possible draft of this document and the indications to be given to the Secretariat to enable it to elaborate it. To accommodate time constraints, it was decided that the States Parties would propose elements to be considered in the draft Operational Guidelines, and that they would be consulted by the Secretariat by the process of a questionnaire. The Meeting of States Parties then adopted Resolution on this Item 7 as amended, focussing particularly attention on Paragraph 3 b and 3 d of document CLT/CIH/MCO 2009/ME/90, that is to say:

“Operational Guidelines could

(3 b): give guidance to the State cooperation and consultation mechanism contained in Articles 8 to 13 of the Convention;

(3 d): give guidance on the appointment of coordinating States in the Area.”

Item 8: Date and place of the next Session of the Meeting of States Parties

As last item on its agenda, the Meeting of States Parties discussed the dates and the place of the Second Session of the Meeting of States Parties. Following a short discussion, it was decided that it should be an ordinary session, to take place in December 2009, in Paris.

Due to the late hour, it was unanimously decided that the Rapporteur’s Report would be distributed electronically.