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The Protection of the
Underwater Cultural Heritage

UNIT 1

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The 2001 Convention on the Protection of the Underwater Cultural Heritage



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UNIT 1

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UNIT 1

Author Ricardo L. Favis

The 2001 Convention on the Protection of the Underwater Cultural Heritage

Core Knowledge of the Unit

This unit provides students with an overview of the UNESCO Convention on the Protection of the Underwater Cultural Heritage (Paris 2001) and the Rules of its Annex concerning activities directed at underwater cultural heritage.

On completion of the unit students will:

- Have a basic understanding of the 2001 Convention and the Rules of its Annex. The succeeding units and associated training activities, which are structured to illustrate the practical application of the Convention and the Rules of Annex, will provide students with a more in-depth knowledge of the 2001 Convention by the time they complete the Foundation Course.

Introduction to the Unit

This Foundation Course was conceptualized and implemented primarily to promote the 2001 Convention on the Protection of the Underwater Cultural Heritage and apply the Rules of its Annex in the practice of maritime archaeology in the Asia-Pacific region. Therefore, students should have a thorough understanding of the 2001 Convention before they start learning about the different disciplines of and appropriate procedures in dealing with underwater cultural heritage.

1 Convention on the Protection of the Underwater Cultural Heritage (Paris 2001)

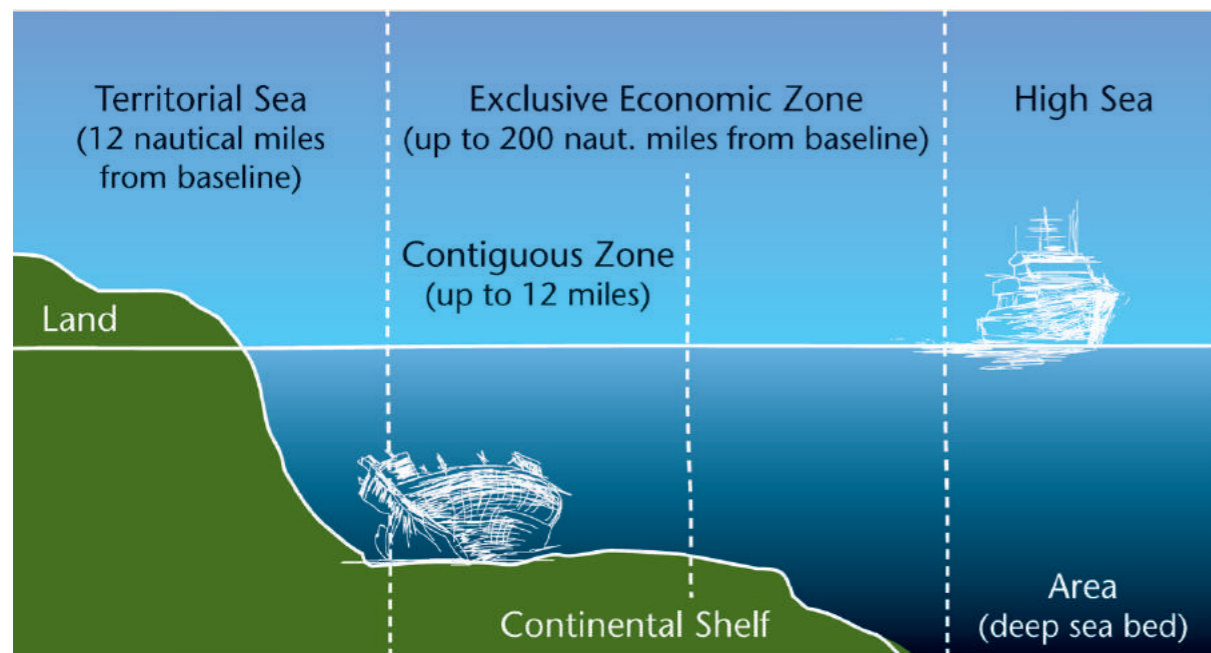
The Convention was the result of four years of intense negotiations which started in 1998 and involved a wide range of stakeholders, including government representatives, archaeologists, lawyers and non-governmental organizations (NGOs). It was adopted by the UNESCO General Conference in 2001 and came into force on 2 January 2009.



Deliberation on the Convention among delegates from UNESCO Member States during the General Conference in 2001 at UNESCO Headquarters in Paris, France. © UNESCO

The 2001 Convention is the key international treaty that sets a common framework and standard for the protection of underwater cultural heritage against looting and destruction. The Convention begins by providing a shared understanding of what constitutes the underwater cultural heritage. It sets out basic principles for the protection of underwater cultural heritage and attempts to harmonize the protection of underwater archaeological sites with that of heritage on land. It proposes a State Cooperation System which provides a clear framework for cooperation among other States ensuring the protection of underwater cultural heritage wherever they are located. Finally, the Annex of the Convention provides practical rules for the treatment and research of underwater cultural heritage.

Maritime zones according to the 1982 United Nations Convention on the Laws of the Seas (UNCLOS). Under UNCLOS, a State usually has exclusive jurisdiction only within its territorial waters, limited jurisdiction over the exclusive economic zone and continental shelf, and jurisdiction only over its own vessels and nationals at high sea. Since the extension of jurisdiction of States at sea was not an option, the 2001 Convention chose to facilitate cooperation among States as the only way to resolve this situation. By joining the 2001 Convention, States agree to prohibit their nationals and vessels from looting underwater cultural heritage, regardless of its location. The Convention also provides specific regulations for the reporting and the coordination of activities, depending on the location of an underwater cultural heritage site. © UNESCO/C. Lund



To ensure the protection of underwater cultural heritage, the 2001 Convention has four main principles:

1. States Parties have an obligation to preserve underwater cultural heritage
2. In situ preservation of underwater cultural heritage shall be considered as the first option
3. Underwater cultural heritage shall not be commercially exploited
4. States Parties should promote training and information sharing

The Convention prohibits commercial exploitation for both trade and speculation; it also dissuades against the irretrievable dispersal of finds. Furthermore, the Convention requires States Parties to take measures against the illicit trafficking of cultural objects. In particular, they should prevent the entry into their territory, the dealing in, or the possession of underwater cultural heritage that was illicitly exported and/or recovered. States Parties are required to seize such property if it is found in their territories. The rationale is that if treasure hunters have difficulty in selling looted objects, the financial motivation for conducting illegal excavations will eventually decrease.



Approximately 10,000 pieces of ceramics illegally retrieved from the Klang Ao shipwreck site were seized from the ship of a treasure hunter in the Gulf of Thailand in 1982. The artefacts are now stored at the National Maritime Museum in Chanthaburi, Thailand. © UNESCO/Montakarn Suvanatap

The 2001 Convention helps to strengthen the international framework that UNESCO has been supporting in the fight against the illicit trafficking of cultural property. As an instrument dealing specifically with underwater cultural heritage, it bridges the gap in international law and reinforces the provisions of three other important Conventions, namely:

- *The 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict (Hague), also known as the Hague Convention*
- *The 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Cultural Property (Paris)*
- *The 1995 UNIDROIT Convention on Stolen or Illegally Exported Objects (Paris)*

Finally, the Convention promotes information sharing, training in underwater archaeology and technology transfer, with a view to raising public awareness concerning the significance of underwater cultural heritage. States Parties are encouraged to cooperate and assist each other in the protection and management of such heritage, including collaborating in its investigation, conservation, study and presentation.

Member States can join the Convention through ratification. By ratifying the Convention, a State Party makes absolutely clear its determination to protect underwater cultural heritage, in cooperation with other States Parties. There are forty-one States Parties to the 2001 Convention as of January 2012, with only two (Cambodia and Iran) from the Asia-Pacific region.

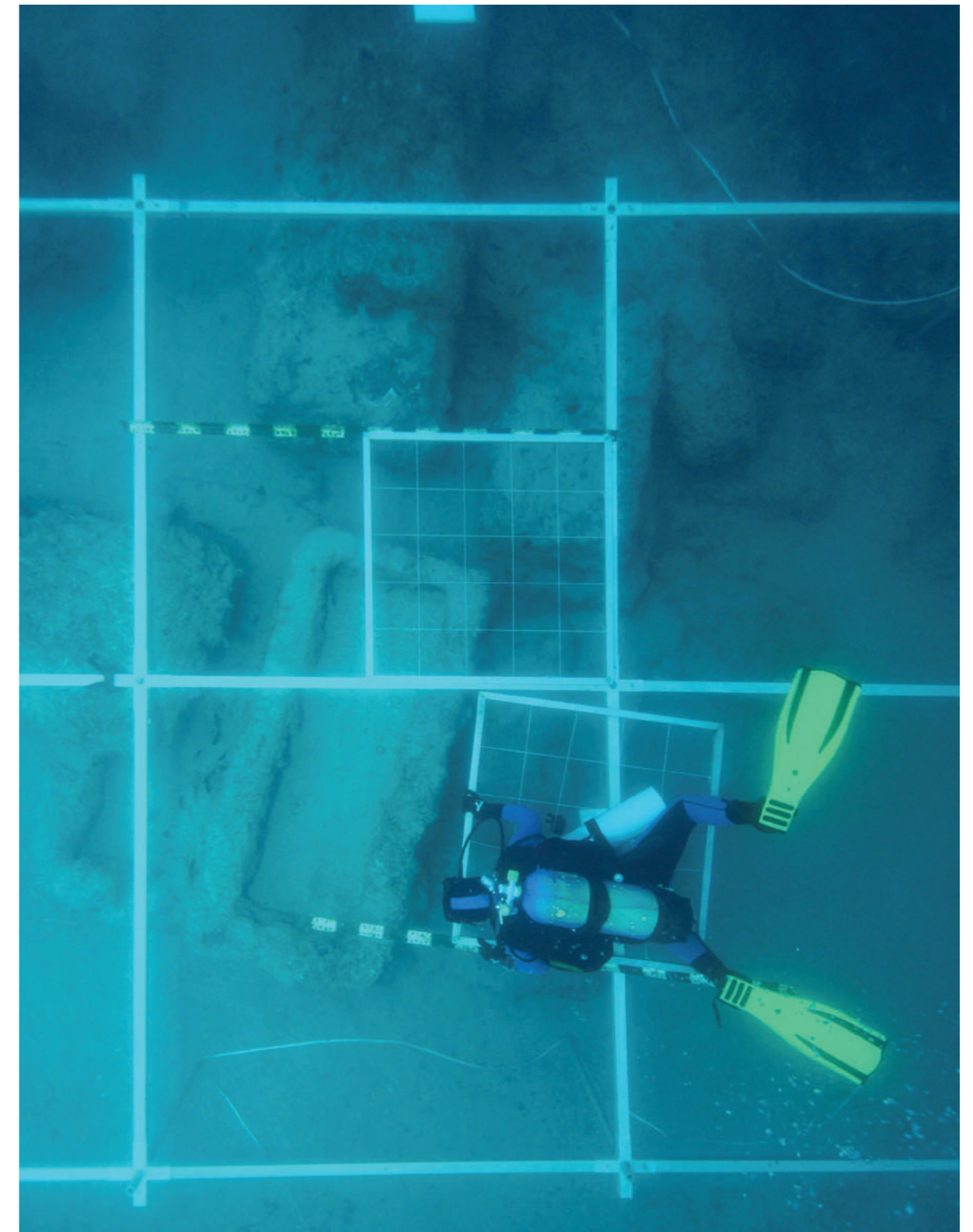
2 Annex to the 2001 Convention: The Rules Concerning Activities Directed at Underwater Cultural Heritage

In 1994, ICOMOS-ICUCH (the International Committee on Underwater Cultural Heritage), in consultation with other specialists started working on a document specifying standards by which activities directed at underwater cultural heritage would be measured. The resulting Charter was adopted by the General Assembly of ICOMOS at Sofia, Bulgaria in 1996. With few modifications resulting from the intense multilateral negotiations on the 2001 Convention, the ICOMOS Charter was incorporated as an Annex to the Convention. Considered by many as the heart and soul of the Convention, the Annex was unanimously adopted by all Member States, even by those countries which have no intention of ratifying the Convention.

The Annex to the Convention represents its archaeological substance and provides the key to the proper management of the archaeological resource. It provides practical rules for the treatment and research of underwater cultural heritage. The Annex aims not only to protect the underwater cultural heritage, but also to preserve all information contained therein. The main overriding principle of the Annex and of the 2001 Convention itself, is the protection of underwater cultural heritage through *in situ* preservation as the first option. If this is not possible, then proper archaeological research should be executed to preserve information *ex situ*. The Annex dissuades commercial exploitation of underwater cultural heritage and its irretrievable dispersal. It aims to minimize site disturbance and encourage non-intrusive and responsible public access. The Annex also encourages international cooperation to promote information sharing among relevant professionals.

The Annex contains thirty-six Rules on:

- How a project should be designed
- Competence and qualifications required for persons undertaking interventions
- Planning and funding a project
- Documentation of a site and dissemination of information
- Methodologies on conservation and site management



Research and documentation of a Roman period shipwreck with sarcophagi near Sutivan on the island of Brač in Croatia in 2009.
© Department of Underwater Archaeology of Croatia

Unit Summary

The major achievements of the 2001 Convention are twofold. Firstly, the 2001 Convention has dramatically improved the protection of underwater cultural heritage by providing a framework for international cooperation among States Parties. This framework encourages the protection of underwater archaeological sites wherever they are located in the open seas. Secondly, the Rules of its Annex provide globally-accepted professional standards for activities directed at any underwater archaeological site.

Underwater cultural heritage is considered a significant part of humanity's shared heritage; therefore, it is essential to build the capacities of Member States so that they can appropriately implement the 2001 Convention and the Rules of its Annex. The knowledge gained from this training manual does not make one an expert on maritime archaeology, but it does create an awareness of other disciplines that need to be learnt if we are to sustainably manage and better protect our rich underwater cultural heritage over the long term.

Suggested Timetable

90 mins	<p>Introduction to the Convention on the Protection of the Underwater Cultural Heritage (Paris 2001)</p> <ul style="list-style-type: none"> - Threats to underwater cultural heritage - The making of the 2001 Convention - Overview of the 2001 Convention - Main principles - State Cooperation System - Advantages of ratifying the 2001 Convention - Rights and responsibilities of States Parties to the Convention
	Break
120 mins	<p>The Rules of the Annex to the Convention</p> <ul style="list-style-type: none"> - Rationale of each rule - Practical application(s)/actual cases of how each Rule is applied - Lessons learnt from past interventions/experience in the field
	Break
60 mins	<p>Wrap Up Session</p> <ul style="list-style-type: none"> - Summary of highlights of the presentations/discussions - Questions and answers
15 mins	Concluding Remarks and Closure

Teaching Suggestions

It is recommended that trainers introduce students to the 2001 UNESCO Convention through a half-day lecture and discussions. Preferably, this introductory unit should be scheduled in the afternoon of the first day of the training course, following the opening ceremony and informal welcome activities.

Students are expected to have read about the Convention and its Annex from the online sources prior to the start of the Foundation Course. As the time allotted for the lecture is brief, it is suggested that during their powerpoint presentation, the trainer asks simple questions about the next slide before opening and explaining the contents of that slide. This would enable the trainer to gauge how much information about the Convention was absorbed by each student prior to the start of the course, their level of comprehension and general communication skills.

During the presentation and discussions on the Rules of the Annex, the trainer is encouraged to cite actual cases of activities directed at underwater cultural heritage to illustrate and explain each rule.

Due to the varying levels of English comprehension among students, it is useful for the trainer to include more explanatory text than is usual on the PowerPoint slides to facilitate better comprehension among the students.

UNESCO and its pool of international experts have previously generated information and illustrations on how the 2001 Convention and its Annex can be practically applied. Given this, there is no need to replicate available sources of information for this training course manual. Instead, it is recommended that trainers should refer students to online sources of information.

The 2001 Convention sets the tone of the entire training course and provides the rationale for the preferred procedures for the treatment of underwater cultural heritage. As such, students upon notification of their acceptance to take part in the Foundation Course are required to learn as much as possible about the 2001 Convention by studying the following:

- Information brochure on the 2001 Convention:
http://www.unesco.org/culture/underwater/infokit_en/ (Accessed March 2012.)
- Official text of the 2001 Convention and the Rules of its Annex concerning Activities Directed at Underwater Cultural Heritage:
<http://www.unesco.org/new/en/culture/themes/underwater-cultural-heritage/2001-convention/official-text/> (Accessed March 2012.)
- The main principles of the 2001 Convention, particularly the legal issues and the framework for international cooperation in the protection of underwater cultural heritage, are very well articulated in the:
- Frequently Asked Questions (FAQs):
<http://www.unesco.org/culture/underwater/faq-en/> (Accessed March 2012.)

In each of the training units, trainers will make references to specific articles of the Convention or Rules of the Annex to justify or provide the rationale for what is being taught. Given this, students are required to download a hard copy of the text of the 2001 Convention and its Annex from the website and keep it with their training manual for constant reference throughout the Foundation Course.

Eighteen international experts on maritime archaeology collaborated in the preparation of the UNESCO Manual for Activities Directed at Underwater Cultural Heritage. The Manual is specially designed to help specialists and site managers understand the Rules contained in the Annex to the 2001 Convention and to facilitate their practical application. The Manual not only articulates the rationale behind each Rule, but also provides practical guidelines on how each Rule can be applied. As such, this Manual should be constantly consulted by students for guidance, not only during the Foundation Course, but also in the planning and implementation of activities directed at underwater cultural heritage.

The Manual for Activities Directed at Underwater Cultural Heritage has been made accessible to the general public on the UNESCO website at: <http://www.unesco.org/new/en/culture/themes/underwater-cultural-heritage/unesco-manual-for-activities-directed-at-underwater-cultural-heritage/unesco-manual/> (Accessed March 2012.)



Suggested Reading: Full List

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