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The Protection of the
Underwater Cultural Heritage

WG

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

CONVENTION ON THE PROTECTION OF THE UNDERWATER CULTURAL HERITAGE

WORKING GROUP ON THE OPERATIONAL GUIDELINES

REVISED DRAFT OF THE OPERATIONAL GUIDELINES

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CHAPTER I. INTRODUCTION

A. THE CONVENTION

1. Context and Content of the Convention

- a.) The Convention on the Protection of the Underwater Cultural Heritage (hereinafter referred to as "**the Convention**") was elaborated by the UNESCO Member States as a response to the growing damage done by human interventions endangering submerged archaeological sites. It intends to enable States to better protect the underwater cultural heritage, by setting high protection and intervention standards and by facilitating State cooperation. The protection standards of the Convention are comparable to that granted by other UNESCO Conventions or national legislation on cultural heritage on land. Nevertheless, they are specifically tailored to the treatment of traces of human existence found under water and respect their peculiarities regarding, among others, their fragility, accessibility and the underwater environment.
- b.) On the long term the Convention is intended to achieve the appropriate legal safeguarding of submerged archaeological sites in whichever maritime space they are located. It should enable States Parties to collaborate and adopt a common approach to heritage preservation and ethical scientific management of submerged sites. It is its goal to harmonize the protection of submerged heritage with that of heritage on land and provide archaeologists, State authorities and site management institutions with guidelines on how to treat it.
- c.) The Convention contains minimum requirements. Each State Party, if it so wishes, may choose to develop even higher standards of protection, for example by protecting on a national level also remains submerged less than 100 years. Among others the Convention:
- sets out basic principles for protecting underwater cultural heritage;
 - contains provisions for an international cooperation scheme; and
 - provides practical guidelines on how to intervene on and research underwater cultural heritage sites.

**Article 3 of
the
Convention**

- d.) The Convention does not regulate the ownership of underwater cultural heritage nor does it change the rights, jurisdiction and duties of States Parties under international law, including the United Nations Convention on the Law of the Sea [**Spain: (hereinafter “UNCLOS”)**]. When a doubt arises with regard to the interpretation and the application of the Convention, the latter is to 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 [**Spain: ~~the United Nations Convention on the Law of the Sea UNCLOS~~**].

2. The Scope of Application of the Convention

- a.) The Convention applies, as regulated in its text and with the limitations contained therein, to the entire jurisdiction of its States Parties, unless a reservation is made under its Article 29. It applies therefore to all kind of waters, including inland waters not of maritime character (for instance flooded caves, lakes and rivers), internal waters of maritime character (for instance bays and gulfs), archipelagic waters, the territorial seas of States Parties, their exclusive economic zones (hereinafter referred to as “**EEZ**”), the continental shelves and the Area (the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction). The Convention also protects heritage that has been or is only periodically submerged by water, partially or totally, as for instance wrecks or remains of human dwellings located on land, but periodically inundated by the tides.

**Article 33 of the
Convention**

**Article 28 of the
Convention**

- b.) The Rules concerning activities directed at underwater cultural heritage, contained in the Annex of the Convention (hereinafter “**the Rules**”), are an integral part of the Convention. They apply automatically on entry into force of the Convention for a ratifying State to all kind of waters [with the exception of inland waters not of a maritime character. Any State Party or territory may, however, declare at any time that the Rules shall also apply to its inland waters not of a maritime character] [**Spain: see comment in Footnote 1¹/St. Lucia: We would like to keep 2 b) and c) as they are currently drafted.**]

¹ Spain: “With regard the particular reference by the President of the Working Group to the application of the Rules in section A.2. b), which may need further discussion among the members of the Group, Spain should like to make the following general comment:

Arts. 28, 29 and 33 of the Convention must be read contextually in order to clarify a possible misunderstanding created by the wording of Art. 28 of the Convention.

**Article 29 of the
Convention**

- c.) At the time of adhering to the Convention, a State or territory may make a declaration to the Director-General of UNESCO that the 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.

B. STATES PARTIES TO THE CONVENTION

- a.) States are encouraged to become party to the Convention by ratifying, accepting, approving (legal acts open to Member States of UNESCO) or acceding to (legal act open to States not members of UNESCO and territories as defined by Article 26.2 (b)) the Convention. A list of States Parties to the Convention as well as of declarations and reservations made is available on the UNESCO Web site www.unesco.org/en/underwater-cultural-heritage.
- b.) While fully respecting the sovereignty of the States or territories on the area of which the underwater cultural heritage is situated, States Parties to the Convention

Art. 28 provides that “[w]hen 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.” For its part, Art. 29 (the sole reservation permitted by the Convention) provides that “[a]t 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.” Finally, Art. 33 recalls that “[t]he 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.”

Under the international law of treaties, codified in this particular question by Art. 29 of the Vienna Convention on Law of Treaties of 1969 (1155 UNTS 331), unless a different intention appears from the treaty or is otherwise established, a treaty is binding upon each party in respect of its entire territory. In principle, and according to this rule, *all* the Convention (including the Rules of the Annex, integral part of the Convention under its art. 33) should apply throughout the territory of each State party. Only those areas of the State party affected by a reservation under Art. 29 would be excluded from the application of *the whole* Convention.

However, from the wording of Art. 28 and the option that it provides to States parties to apply the Rules to inland waters can be inferred that, in principle:

- o unless a reservation has been done under Art. 29, the Convention (including the Rules) applies to all maritime waters under the sovereignty or jurisdiction of the State party; and
- o only the articles of the Convention (but not the Rules) should apply to inland waters not of a maritime character, unless otherwise decided by a State party under Art. 28.

Perhaps this clarification should have been unnecessary if Art. 28 had been drafted in the negative, as follows: “[w]hen ratifying, accepting, approving or acceding to this Convention or at any time thereafter, any State or territory may declare that the Rules shall *not* apply to inland waters not of a maritime character.”

In order to clarify the meaning and extent of this Art. 28, Spain accepts the interpretation of Art. 28 of the Convention given in Section A.2. of the drafted Introduction in the sense explained in this comment.

Spain does not need this commentary introduced in the Guidelines, but wishes to include it in the verbatim records of the Working Group.”

recognize the collective interest of the international community to cooperate in the protection of this heritage. States Parties to the Convention, have, among others, the responsibility to:

*Article 2.4 of the
Convention*

- i. individually or jointly as appropriate, take all suitable measures in conformity with the 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;

*Article 2.2 of the
Convention*

- ii. cooperate in the protection of underwater cultural heritage;

*Article 2.7
and 16 of the
Convention*

- iii. prevent intrusive interventions directed at underwater cultural heritage aiming at commercial gain.

c.) States Parties to the Convention are encouraged to ensure the participation of a wide variety of professionals, site managers, local and regional governments, local communities, underwater archaeologists and conservation specialists, non-governmental organizations (NGOs), interested private persons and other interested parties and partners in the protection of the underwater cultural heritage and the implementation of the Convention.

*Article 22.1
of the
Convention*

d.) States Parties 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 to ensure the proper implementation of the Convention.

e.) States Parties are encouraged to bring together their underwater cultural heritage experts at regular intervals to discuss the implementation of the Convention.

C. THE ORGANS OF THE CONVENTION

1. The Meeting of States Parties

*Article 23 of the
Convention*

a.) The Meeting of States Parties to the Convention is its main organ. It is convened in ordinary session by the Director-General at least once every two years. At the request of a majority of States Parties, the Director-General convenes an

extraordinary session. The agenda for an extraordinary session includes only those questions for which the session has been convened.

- b.) The functions and responsibilities of the Meeting and the management of its session are regulated by the Convention completed by its Rules of Procedure, which are available in electronic format at the website: www.unesco.org/en/underwater-cultural-heritage or in paper version through the Secretariat.

2. The Scientific and Technical Advisory Body

Article 23.4 of the Convention

The first Meeting of States Parties to the Convention has established a Scientific and Technical Advisory Body to the Meeting of States Parties to the Convention (hereinafter referred to as “**the Advisory Body**”), in accordance with Article 23.4 of the Convention. Its functions and responsibilities are regulated by its Statutes available in electronic format at the website: www.unesco.org/en/underwater-cultural-heritage or in paper version through the Secretariat.

3. Other Subsidiary Bodies

Rule 4 of the Rules of Procedure of the Meeting of States Parties

Further subsidiary bodies may be established by the Meeting of States Parties as deemed necessary. They will be composed of States Parties. Their composition and their terms of reference, including their mandate and duration of office, will be defined at the time of their establishment.

D. THE SECRETARIAT

Article 24 of the Convention

The Secretariat for the Convention and its Advisory Body is ensured by UNESCO. It organizes the sessions of the Meeting of States Parties and its Advisory Body and assists States Parties in the implementation of the decisions taken. The working languages of the Secretariat are English and French.

E. THE PRESENT OPERATIONAL GUIDELINES

- a.) The present Operational Guidelines (hereinafter the “**Operational Guidelines**”) neither rewrite, nor amend or interpret the Convention. They merely aim to facilitate its implementation by giving practical guidance. In case of doubt, the text of the Convention prevails as interpreted according to the general rules of

interpretation codified in the Vienna Convention of the Law of Treaties of 1969.

b.) The Operational Guidelines may be revised by the Meeting of States Parties to the Convention whenever deemed necessary.

*Art. 26 and 29 of
the Convention*

c.) The key users addressed by the present Operational Guidelines are:

- i. States Parties to the Convention and the territories, to which Art. 26 of the Convention refers;
- ii. The Advisory Body;
- iii. Any subsidiary body that the Conference of the States Parties might create;
- iv. UNESCO and the Secretariat to the Convention;
- v. The International Seabed Authority;
- vi. Concerned international organisations (IGOs) and/or their specialised agencies or organs, as for instance the UN Division for Ocean Affairs and the Law of the Sea (DOALOS) and the International Maritime Organisation (IMO);
- vii. Concerned non-governmental organisations (NGOs), as for instance the International Council on Monuments and Sites (ICOMOS) and those accredited to work with and be consulted by the Advisory Body; and
- viii. site managers, archaeologists, interested parties and partners in the protection of underwater cultural heritage.
- ix. Irrespective of its legal nature or denomination, any entity dedicated to the commercial exploitation of the underwater cultural heritage shall not be considered a user addressed by the present Operational Guidelines.

*Article 12.2 of the
Convention*

CHAPTER II. STATE COOPERATION

A. THE STATE COOPERATION MECHANISM [Spain: – GENERAL OVERVIEW]

*Article 2.2 of the
Convention*

States Parties [Spain: **shall**] cooperate in the protection of underwater cultural heritage.

- a.) 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. In consequence, no specific

Article 7.1 of the
Convention

cooperation scheme is provided by the Convention **[Spain: in these marine areas]**. As a general rule, States are expected to cooperate, but they do not need **[Spain: they do not need are not obliged]** to transmit any notification of discoveries or

Article 7.3 of the
Convention

activities in these zones to UNESCO or to other States with one exception: **[St. Lucia: with one exception/ Spain: with one exception b. However.]** 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 the 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 vessel or aircraft.

Articles 8 – 13 of
the Convention

- b.) **[Spain: c.]** Within the EEZ, including the contiguous zone, the continental shelf and the Area, the Convention establishes an international cooperation scheme **[Spain: based on a common share of information and a cooperative effort in the protection]**. It seeks to allow an effective protection of underwater cultural heritage in the frame of the existing international law of the sea. States Parties use in a common effort their respective power to prevent undesired interventions and regulate desired ones. The scheme stipulates that
- i. States Parties are required to request reports of discoveries and intended activities directed at underwater cultural heritage from their nationals and vessels flying their flag (reporting);
 - ii. States Parties notify UNESCO and in the Area also the Secretary-General of the International Seabed Authority of such discoveries and planned activities (notification);
 - iii. Notified in turn by UNESCO States Parties may then declare their interest to be consulted (declaration of interest);
 - iv. **[Spain: Under the coordination of a Coordinating State]** the consulting States Parties decide together the measures to be taken (consultation); and
 - v. The Coordinating State takes the measures decided by all consulting States (taking of measures).

B. REPORTS, NOTIFICATIONS AND DECLARATIONS OF INTEREST [SPAIN: IN THE EEZ, ON THE CONTINENTAL SHELF AND IN THE AREA]

1. Reports

*Article 8 – 13 of
the Convention*

1. Each State Party adopts the necessary measures to require its nationals or masters of vessels flying its flag to report to it discoveries and intended activities directed at underwater cultural heritage, which is located in its own EEZ (including the contiguous zone), on its continental shelf and in the Area.
2. When the concerned heritage is located in the EEZ or on the continental shelf of another State Party the State Party requires such reports to be sent **[Saint Lucia: such reports to be sent the national or the Master of the Vessel to report]**

[Saint Lucia: paragraphs a) and b) do not reflect exactly what is said in Article 9 (b) (i) and 9 (b) (ii) of the Convention and should therefore be re drafted.]

- a) either to it and to the other (Coastal) State Party; or
- b) only to it. In this case it ensures the rapid and effective transmission of such reports to all other States Parties.

On depositing its instrument of ratification, acceptance, approval or accession, each State Party declares the choice it makes regarding the manner in which the reports will be transmitted.

3. As measures to be taken in order to require reports are recommended **[Spain: As measures to be taken in order to require reports are recommended The following measures are recommended regarding the reports and their transmission]:**

- a) the adaptation of national legislation **[Spain: in general; and;**
- b) **[Spain: in particular, the enacting of domestic rules]** obliging national authorities, ministries and departments undertaking activities on the seabed or riverbed (as for instance coast guards, the navy, dredging services, research services, fisheries monitoring, hydrographic services etc.) to confidentially communicate information on underwater cultural heritage found or on activities concerning or affecting such heritage to the competent national authorities.

² The recommendations of the first meeting of the Advisory Body had been proposed in electronic procedure to the Working Group. These suggestions had been supported by its members, as far as not changes have been proposed to their text as here reflected. For sake of clarity a remark of provenance is always added in the following draft.

[see *Recommendation 5/MAB 1 (3) d of the Advisory Body*]²

Article 13 of the
Convention

4. An exception for the reporting requirement applies to warships and other government ships or military aircraft with sovereign immunity, as long as they are operated for non-commercial purposes and undertake their normal mode of operations. **[Spain: These vessels,]** when they are not engaged in activities directed at underwater cultural heritage States Parties, are not obliged **[Spain: to report discoveries]** under the Convention to request them to report discoveries **[Spain: to request them to report discoveries]**. However, States **Parties [Spain: must]** ensure that these ships and aircraft comply, as far as is reasonable and practicable, with the **[Spain: protection and]** reporting regulations **[Spain: regulations system envisaged in the Convention]** for the EEZ, the continental shelf and the Area.

2. Notifications

A State Party, which receives a report on a discovery or an activity, notifies the Director-General of UNESCO. When the concerned underwater cultural heritage is located in the Area it notifies in addition the Secretary-General of the International Seabed Authority. The Director-General makes any information notified to him/her promptly available to all States Parties.

3. Declarations of Interest

1. Any State Party may declare its interest in being consulted on how to ensure the protection of a specific underwater cultural heritage. It sends its declaration:

Article 9.5 of the
Convention

- a.) to the Coastal State Party if the heritage is located in the EEZ or on the continental shelf of that State **[Spain: by diplomatic channels];**

Article 11.4 of the
Convention

- b.) to the Director-General of UNESCO if the heritage is located in the Area.

2. The respective declaration needs to be based on a verifiable link, especially a cultural, historical or archaeological link, to the underwater cultural heritage concerned. For the Area, particular regard is paid to the preferential rights of States resulting from the cultural, historical or archaeological origin of the concerned heritage.

3. In declaring its interest to be consulted, a State Party informs on its link to the underwater cultural heritage concerned by accompanying its declaration by
 - a.) the results of scientific expertises;
 - b.) historic documentation; or
 - c.) any other adequate documentation.
4. If a State Party gives only little information on an underwater cultural heritage site or artefact in a notification, it may also only request a small amount of documentation concerning the verifiable link from another State Party that declares its interest in being consulted concerning its protection.
5. The fact that a State Party or one of its nationals are not or have not been owner of a certain artefact does not exclude the existence of a verifiable link.

[Spain: delete paragraph 4 and 5 and replace with:

4. Any declaration of interest based on Article 9.5 and 11.4 is to be considered valid prima facie and entails the interested State to participate and contribute to the protection of the underwater cultural heritage referred to. Any possible dispute concerning such a declaration shall be subject to negotiations among the States concerned.]

4. Transmission of Notifications and Declarations of Interest to UNESCO

**Article 8 – 13 of
the Convention**

1. The submission of notifications under Articles 9.3 and 11.2 and declarations of interest under Article 11.4 of the Convention should be made by using electronic forms provided by UNESCO on a password protected website. They should be fed directly by the national competent authority, which receive an appropriate password to enable access.
2. Each State Party is free to decide how much information it does want to transmit on the concerned site, [**see Recommendation 3/MAB 1 of the Advisory Body**] but should at least indicate
 - i. The nature of the triggering event (discovery/activity);
 - ii. The general character of the site (wreck, ruin, artefact etc.);

- iii. Indications concerning the location that permit to identify the maritime zone and the closest States;
 - iv. If there is an urgency ;
 - v. Which general action seems recommended to be taken (protection, research etc.).
3. When a State Party cannot ensure the reliable electronic receipt or transmission of documents, it may notify the Secretariat, which will transmit notifications received in a printed version.

[Spain: delete paragraphs 1 – 3, and replace with:

The submission of notifications under Articles 9.3 and 11.2 and declarations of interest under Article 11.4 of the Convention should be made by diplomatic channels using, amongst others, the electronic forms provided by UNESCO.]

5. Transmission of Notifications and Declarations of Interest by UNESCO

1. UNESCO will transmit the notifications received as foreseen by the Convention and using therefore an email alert sent to the national competent authorities.
2. UNESCO will circulate declarations of interest received under Article 11.4 directly addressing the concerned national competent authorities by using electronic means.

[Spain: delete paragraphs 1 and 2, replace with:

UNESCO will transmit to the national competent authorities the notifications received as foreseen by the Convention using diplomatic channels.]

6. Formatting of Notifications and Declarations of Interest

*Article 8 – 13 of
the Convention*

[Spain: Amongst others, the ~~The following~~] The following forms, annexed to the present Guidelines, shall **[Spain: shall could]** be used for transmissions:

- i. for notifications to be transmitted to UNESCO and notification alerts **[Spain: alerts]** emitted by UNESCO: **Form 1**
- ii. for declarations of interest under Article 11.4 of the Convention **[Spain: of the Convention]: Form 2 [Spain: As far as possible, a similar form should be used for declarations of interest under Article 9.5.]**

7. Competent Authority

Article 22.2 of the
Convention

1. States Parties communicate to the Director-General the names and addresses of their competent authorities relating to underwater cultural heritage. They should immediately inform about any change in the details communicated. **[Spain: delete paragraph 3, include here: The Director-General shall make available to all State Parties an updated list with the name and addresses of the competent authorities of all the States Parties to the Convention].**
2. All reports, notifications or information to be sent to States Parties should be addressed to these competent national authorities **[Spain: , by diplomatic channels].**
3. UNESCO will keep a list of the Competent National Authorities on its website www.unesco.org/en/underwater-cultural-heritage.

Articles 10 and 12
of the Convention

C. SELECTION OF THE COORDINATING STATE AND STATE CONSULTATIONS

[Spain: (displaced here from D.3 paragraph 4) The Coordinating State must act on behalf of all States Parties and in the Area also for the benefit of humanity as a whole. Actions in the EEZ or the continental shelf do not in themselves constitute a basis for the assertion of any preferential or jurisdictional rights not provided for by international law.]

1. Appointment of a Coordinating State in the EEZ or the Continental Shelf

Article 8-10 of the
Convention
Article 9.5 of the
Convention

1. Where there is a discovery of underwater cultural heritage or it is intended that an activity will be directed at underwater cultural heritage in a State Party's EEZ or on its continental shelf, that State Party consults **[Spain: as "Coordinating State"]** all other States Parties which have declared an interest under Article 9.5, on how best to protect the underwater cultural heritage and coordinates consultations as "Coordinating State" **[Spain: and coordinates consultations as "Coordinating State"]**.
2. In the case that the concerned State Party does not wish to act as Coordinating State, it should declare this to all States Parties that expressed an interest **[Spain: under**

Article 9.5] and to the Director-General of UNESCO within 1 month **[Saint Lucia: ~~within 1 month of learning of the discovery or activity – there should be no interpretation of Art. 10.3.b]~~** of learning of the discovery or activity. It should at the same time inform about the declarations of interest it has already received.

[Saint Lucia: delete the below paragraphs 3 and 4]

3. In the case mentioned under paragraph 2 above, the following criteria should be taken **[Spain: amongst others]** into consideration for the appointment of a Coordinating State by the States Parties that have declared an interest:
 - i. the readiness and expressed capacity of a State to act as Coordinating State;
 - ii. the likelihood to achieve a consensus among the involved States Parties on the protection of the underwater cultural heritage in question; and
 - iii. the strength of the cultural or historical links of a State with the concerned heritage.
4. The appointment of the Coordinating State should be agreed upon in a spirit of consensus by direct consultation among the competent national authorities of the consulting States Parties, as communicated to the Director-General of UNESCO under Article 22.2 of the Convention. **[Spain: the competent national authorities of the consulting States Parties, as communicated to the Director-General of UNESCO under Article 22.2 of the Convention. the consulting States Parties. The consultations and nomination of the new Coordinating State shall be made within 2 months from the declaration of the Coastal State mentioned in paragraph 2 above].**

2. Consultation concerning Heritage in the EEZ or on the Continental Shelf

*Article 9.5 and
10.3 of the
Convention*

[Saint Lucia: Delete paragraph 1]

1. States Parties, which declared an interest in being consulted on how to best protect a specific underwater cultural heritage under Article 9.5 of the Convention, should be consulted by the Coordinating State within 2 month from receipt of their declaration in writing and if possible in electronic form.
2. The consulted States Parties should be informed by the Coordinating State of any other declarations of interest, which were received.
3. Consultations should be coordinated by the Coordinating State in English or French, or

any other ~~**[Spain and Saint Lucia: English or French, or any other any]**~~ language agreed upon among the States Parties involved in the consultation process.

4. The decision on how to best protect the concerned underwater cultural heritage should be taken by consensus and in due consideration of the cultural, historical or archaeological origin of the concerned heritage and the links to the consulted States Parties.

3. Appointment of a Coordinating State in the Area

Article 11.4 and
12.2 of the
Convention

1. The Director-General invites, as soon as reasonably possible, all States Parties which have declared an interest under Article 11.4 of the Convention, in writing and in English and French language, to consult on how to ensure the effective protection of underwater cultural heritage located in the Area, and to appoint among them a State Party to coordinate such consultations as Coordinating State. ~~**[Spain: The Director-General invites, as soon as possible, all States Parties which have declared an interest under Article 11.4 of the Convention, in writing and in English and French language, to consult on how to ensure the effective protection of underwater cultural heritage located in the Area, and to appoint among them a State Party to coordinate such consultations as Coordinating State. The Director-General invites, as soon as possible, all States Parties which have declared an interest under Article 11.4 of the Convention, to appoint among them a State Party as Coordinating State. The Director-General also invites the International Seabed Authority to participate in such consultations.]**~~

Article 12.6 of the
Convention

2. ~~**[Spain: delete this paragraph]**~~ The Director-General informs in his/her invitation about the States Parties that declared their interest in being consulted until that moment and invites the International Seabed Authority in the consultations.
3. States Parties should indicate in their response if they would be ready and capable to take over the function of Coordinating State or which other consulted State Party they would like to suggest for appointment. The following criteria should be taken into consideration by the States Parties in making their decision:
 - i. the readiness and expressed capacity of a State Party to act as Coordinating State;
 - ii. ~~**[Spain: the likelihood to achieve a consensus among the involved States Parties on the protection of the underwater cultural heritage in question];**~~

and

- iii. the preferential rights of the consulted States Parties resulting from the cultural, historical or archaeological origin of the concerned underwater cultural heritage.
4. The appointment of the Coordinating State should take place by consensus and with the consent of the State Party appointed. **[Spain: The nomination of the new Coordinating State shall be made within 2 months from the invitation by the Director-General as regulated in paragraph 1 above.]**
5. **[Spain: Once elected]** The Director-General should inform all consulted **[Spain: consulted States]** Parties about the State Party appointed as Coordinating State and the declarations made by the consulted parties on how to ensure the effective protection of the concerned underwater cultural heritage.

4. Consultation concerning Heritage located in the Area

From the date of its appointment, the Coordinating State leads the consultation of the consulting States Parties and the coordination of the implementation of the protection measures decided. **[Spain: The International Seabed Authority shall be also invited by the Director-General of the UNESCO to participate in these consultations].** The provisions under C.2 apply *mutatis mutandis*.

D. MEASURES IN THE EEZ, ON THE CONTINENTAL SHELF AND IN THE AREA

1. Immediate Danger to Underwater Cultural Heritage

Article 10.4 and
12.3 of the
Convention

1. When a specific underwater cultural heritage is in immediate danger to be damaged, destroyed or looted, safeguarding measures may be taken to prevent the danger.
 - a.) If the concerned heritage is located in the EEZ or on the continental shelf of a State Party the Coordinating State may take, **[Spain: or be invited by another State Party to take,]** these measures. This does not exclude the responsibility of the other States Parties to intervene and assistance can be requested from them by the Coordinating State. **[Saint Lucia: these measures. This does not exclude the responsibility of the other States Parties to intervene and assistance can be requested from them by the Coordinating State. all practicable measures, including issuing the necessary authorizations in conformity with the Convention, to ensure the safeguarding of such heritage. Assistance may be**

requested from other States Parties.]

- b.) When the concerned heritage is located in the Area, all States Parties may take practicable measures to prevent the danger.
2. **[Saint Lucia: a more generic definition should be found]** Immediate danger means that conditions exist, which can reasonably be expected to cause damage to or destruction **[Spain: or looting]** of a specific underwater cultural heritage within a short delay of time and which can be eliminated by taking safeguarding measures.
 3. **[Saint Lucia: if necessary]** If necessary, safeguarding measures can be taken **[Saint Lucia: by the Coordinating State. If necessary prior to consultations / also before consultation]** also before consultation with other States Parties. **[Spain: However, and as far as possible, these urgent measures should be taken by consensus among the interested State Parties.]**

*Article 10.5 (c)
and 12.5 of the
Convention*

2. Preliminary Research

1. The Coordinating State may conduct necessary preliminary research on underwater cultural heritage located in the EEZ, on the continental shelf and in the Area and may issue the necessary authorizations therefore. He promptly informs the Director-General of the results, who in turn makes such information promptly available to other States Parties.
2. No activity directed at State vessels and aircraft will be conducted without the agreement of the flag State. In the EEZ also **[Spain: also]** the collaboration of the Coordinating State is **[Spain: also]** required.
3. The submission and transfer of the results of preliminary researches under Article 10.5 (c) and 12.5 should take place by the use of electronic **Form 3**, annexed to the present Guidelines.

3. Measures and Authorizations

*Article 10 and 12
of the Convention*

1. No authorization for an intervention directed at underwater cultural heritage located in the EEZ, on the continental shelf and in the Area should be granted by a State Party except in conformity with the provisions of Articles 10 and 12 of the Convention respectively.
2. As States have through international law including the United Nations Convention on

*Article 8 of the
Convention*

the Law of the Sea (hereinafter “UNCLOS”), certain sovereignty and jurisdictional rights in the EEZ and on the continental shelf, and as the Convention does not affect these rights, State Parties may in these maritime zones prohibit or authorize activities directed at underwater cultural heritage as far as this serves to prevent interference with their existing rights, in particular as far as Article 303, paragraph 2 of UNCLOS applies. **[Saint Lucia and Spain: delete this paragraph] [Spain: In any case, the coastal State party in which EEZ or continental shelf underwater cultural heritage has been 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. However, that right shall be balanced with the general obligation to protect underwater cultural heritage and to cooperate in its protection as provided for in Article 303.1 UNCLOS and Article 2 of the Convention.]**

*Articles 10 and 12
of the Convention*

3. In the EEZ, on the continental shelf and in the Area, the Coordinating State implements the measures of protection which have been agreed by the consulting States including itself and issues all necessary authorizations for them in conformity with the Convention, unless the consulting States agree that another State Party shall do so. Authorizations and measures must be in conformity with the Convention and the Rules.
4. **[Spain: delete this paragraph and place it as introductory paragraph under “C. Selection of the Coordinating State and State Consultations”]** The Coordinating State must act on behalf of all States Parties and in the Area also for the benefit of humanity as a whole. Actions in the EEZ do not in themselves constitute a basis for the assertion of any preferential or jurisdictional rights not provided for in international law, including UNCLOS.
5. No activity directed at wrecks of State vessels and aircraft should be conducted in the EEZ, on the Continental Shelf or in the Area without the agreement of the flag State. In the EEZ also the collaboration of the Coordinating State is **[Spain: also]** required.

4. Measures relating to nationals and vessels

*Article 16 of the
Convention*

States Parties must 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 the Convention. Such measures are for

instance the

- a.) adaptation of national law;
- b.) empowerment of national competent authorities;
- c.) frontier controls;
- d.) monitoring of the art market and of the international press; and
- e.) cooperation with the other States Parties, UNESCO, Interpol and other appropriate organizations.

CHAPTER III. OPERATIONAL PROTECTION

A. THE PROTECTION OF UNDERWATER CULTURAL HERITAGE

*Article 19.1 of the
2001 Convention*

1. States Parties cooperate and assist each other in the protection and management of underwater cultural heritage, including, where practicable, collaborating in the investigation, excavation, documentation, conservation, study and presentation of such heritage.
2. States Parties should in particular endeavour to
 - a.) share information about envisaged, ongoing and completed projects;
 - b.) make available expertise and expert advice;
 - c.) facilitate the setting up of and participation in capacity-building programmes, the creation of specialized museums, **[Spain: the implementation of educative programmes (at an undergraduate, graduate and postgraduate level)]** and the exchange of exhibitions; and
 - d.) put in place mechanisms and measures facilitating and enhancing the sharing of expertise and best practices.

B. THE RULES

*Article 33 of the
Convention*

The Rules concerning activities directed at underwater cultural heritage are integral part of the Convention. They set standards for all activities targeting traces of human existence in the sense of Article 1.1 of the Convention. A manual further explaining the Rules and facilitating capacity-building is put at the disposal of the States Parties. **[Spain suggests**

to cut this paragraph into a and b, and put last sentence in brackets, proposing a discussion³.]

C. UNDERTAKING ACTIVITIES

**Rule 22 and 23 of
the Rules**

1. Activities directed at underwater cultural heritage must 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.
2. All persons on the project team must be qualified and have demonstrated competence appropriate to their roles in the project.
3. States Parties are encouraged to elaborate and apply common standards to measure the qualifications of underwater archaeologists and to exchange information thereon.

D. RESEARCH

1. An appropriate investigation is prerequisite for any decision concerning desired interventions and the establishment of a site protection plan.
2. States Parties are encouraged to employ a variety of archaeological sciences for investigation purposes, as for instance archaeology, namely underwater, nautical and maritime archaeology, archaeo-botany, archaeo-zoology, chemistry, cultural anthropology, dendrochronology, geology, history, historical documentation, physical and information sciences and x-raying **[Spain: as appropriate for gathering of archaeological data].**
3. They should consult appropriately qualified experts in the concerned fields.

E. IN SITU PRESERVATION AND EXCAVATION

**Article 2.5 of the
Convention and
Rule 1 of the
Rules**

1. The preservation of underwater cultural heritage in situ should be considered as the first option before allowing or engaging in any activities directed at it. Activities should be authorized in a manner consistent with protection, and for the purpose of making a significant contribution to protection, knowledge or enhancement.
2. Before deciding on preservation measures or activities an assessment should be made of

**Rule 4 of the
Rules**

³ [“Spain suggests that a more elaborate discussion of the appropriateness, the drafters, the extent and the content of the “Manual” should be taken before initiate that drafting, if so finally decided.”]

- a.) the significance of the concerned site;
 - b.) the significance of the expected result of an intervention;
 - c.) the means available; and
 - d.) the entirety of the heritage known in the region.
3. Appropriate consideration needs to be given to the importance of inventories of sites.
 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.
 5. **[Spain: Equally, any activity directed at underwater cultural heritage must balance the environmental impact or damage to be created, if any.]**

F. DOCUMENTATION AND PREPARATION OF INVENTORIES

1. Archaeological sites are fragile and sensitive to intrusion. It is important that information contained within the site is carefully recorded.
2. It is recommended that States prepare inventories of their underwater cultural heritage. They should do so in due consideration of the desirability of common standards for all national inventories of States Parties and their inter-changeability to facilitate research.
3. To inventory their underwater cultural heritage States Parties are encouraged to oblige all national authorities, in particular coast guards, the navy, dredging services, research services, fisheries monitoring, to cooperate with and forward acquired information to the national competent authorities in the sense of Article 22.2. States Parties should also request assistance from the Intergovernmental Oceanographic Commission and **[Spain: any other international or national]** hydro- and oceanographic services. **[See recommendation 5 (3) (e)/MAB 1 of the Advisory Body]**

G. PRESERVATION AND CONSERVATION

1. Site supervision and the physical protection of sites are recommended, where needed,

**Article 2.6 of the
Convention**

to dissuade intrusion and avoid the damaging of submerged archaeological sites, **[Spain: including looting]**. States Parties should establish site management plans and encourage all national authorities undertaking or supervising activities to take the existence of underwater cultural heritage into account.

2. Recovered underwater cultural heritage must be deposited, conserved and managed in a manner that ensures its long-term preservation. Particular regard should be given to the specific needs of the conservation of artefacts recovered from under water as for instance the effects of oxygen influence, the impact of drying and the development of damaging substances.

H. ACTIVITIES INCIDENTALLY AFFECTING UNDERWATER CULTURAL HERITAGE

**Article 5 of the
Convention**

1. 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. These are for instance dredging, pipe line construction, mineral extraction, trawling, and port works. [**see Recommendation 5 (3) c /MAB 1 of the Advisory Body**]
2. States should endeavour to set national rules for the authorization of interventions on underwater cultural heritage sites, which include also rules concerning activities only incidentally affecting them and areas where such sites could only possibly be located. They are encouraged to require the approval of their national competent authorities in the sense of Article 22.1 of the Convention for any such intervention.
3. **[Spain: Where and when appropriate, local communities directly linked with the underwater cultural heritage sites should be engaged in any activity directed at this heritage.]**

I. PUBLICATIONS FOR SCIENCE AND THE PUBLIC

**Rule 26 and 27 of
the Rules**

1. States Parties should require that any significant intervention **[Spain: intervention activity]** directed at underwater cultural heritage is accompanied by a scientific publication and that the public is appropriately informed about ongoing projects and the results of the research. **[Spain: No activity directed at underwater cultural heritage should be authorized without a programmed and affordable plan of publication, which must include both information addressed to the scientific**

community as well as information addressed to the general public].

2. Scientific publications should permit the full evaluation of the concerned site and the knowledge obtained by the intervention. They should in no case be published later than three years after the end of the intervention.

J. CAPACITY-BUILDING

**Article 21 of the
Convention**

1. States Parties 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.
2. They should endeavour to
 - a.) organize and participate in regional and international training programmes;
 - b.) train specialists to work in the research and protection of underwater cultural heritage; and
 - c.) create specialized national or international institutions for the training in underwater archaeology and research in underwater cultural heritage and material conservation.

K. PUBLIC ENJOYMENT AND AWARENESS

**Article 20 of the
Convention**

- State Parties should take all practical measures to raise public awareness regarding the value and significance of underwater cultural heritage and the importance of protecting it under the Convention by
- a.) cooperating in regional or international awareness raising campaigns;
 - b.) fostering the publication of information on the protection and the value of underwater cultural heritage via the media and the Internet;
 - c.) facilitating community, group or public events focusing on the enhancement or protection of the underwater cultural heritage **[Spain: including in particular programs for divers, fishermen, coastal developers and sailors];**
 - d.) making available of information on underwater cultural heritage located on their territory;
 - e.) informing the public about interventions and the recovery of artefacts from

sites including about their final storage;

f.) any other appropriate means.

L. INFORMATION-SHARING

*Article 19 of the
Convention*

1. Without prejudice to Article 19.3 of the Convention, State Parties should share information with other States Parties concerning underwater cultural heritage, including its discovery and location, 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 by
 - a.) sharing access to inventories and databases;
 - b.) publishing, if appropriate, information on the discovery and research concerning underwater cultural heritage;
 - c.) making available to all other States Parties and UNESCO statistics on actions concerning underwater cultural heritage.
2. Each State Party takes 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 and cooperate to this goal with UNESCO and other intergovernmental and governmental organizations, for example Interpol.

M. PROMOTION OF BEST PRACTICE

1. States Parties are encouraged to propose national, regional or international programmes, projects and activities for safeguarding underwater cultural heritage to the Meeting of States Parties and the Advisory Body for selection and endorsement by publication and designation as best practice and best reflecting the principles and objectives of the Convention.
2. In its selection and promotion of safeguarding programmes, projects and activities, the Meeting of States Parties should pay special attention to the needs of developing countries and to the principle of equitable geographic distribution.
3. Such programmes, projects and activities may be completed, in progress, or planned at the time they are proposed for selection and promotion.

N. MOBILIZATION OF NATIONAL AND INTERNATIONAL SUPPORT FOR THE CONVENTION

States Parties should endeavour and cooperate to mobilize international support in favour of the Convention and its principles by facilitating

- a.) the elaboration of publications on the underwater cultural heritage, including the publication of the results of related research work;
- b.) the expositions of or on underwater cultural heritage;
- c.) the making available of information to the media;
- d.) any other appropriate means.

CHAPTER IV. FINANCING

A. THE UNDERWATER CULTURAL HERITAGE FUND⁴

1. The Underwater Cultural Heritage Fund (“**the Fund**”) is managed as a Special Account pursuant to Article 1.1 of its Financial Regulations. The resources of the Fund consist of voluntary contributions as regulated in Article 4 of the above Financial Regulations.
2. The Fund will be used as decided by the Meeting of States Parties and in conformity with the spirit and the provisions of the Convention and in complement of national efforts to finance in particular
 - a.) the functioning of the Convention and its State Cooperation Mechanism;
 - b.) international cooperation projects in relation to the scope of the Convention;
 - c.) the building of capacity in States Parties;
 - d.) the enhancement of the protection of the underwater cultural heritage.
3. States Parties, institutions and private parties are invited to provide support to the Convention by contributions paid to the Fund or direct financial and technical contributions to projects implemented in State Parties intended to ensure the protection of the underwater cultural heritage.

B. FINANCIAL ASSISTANCE

1. The Meeting of States Parties may receive, evaluate and approve requests for

⁴ See Resolution 8/MSP 2

financial assistance from the Fund depending on the available resources.

2. In its decision on the attribution of funds, priority is given to requests for assistance to developing States Parties and projects enhancing State cooperation involving more than two States Parties.
3. The Meeting should base its decisions on granting assistance on the following criteria:
 - a.) The amount of assistance requested is appropriate;
 - b.) The proposed activities are well conceived and feasible and fully in line with the objectives of the Convention;
 - c.) The project can be expected to have lasting results;
 - d.) The beneficiary State Part(y/ies) share(s) the cost of the activities for which international assistance is provided, within the limits of its/their resources;
 - e.) The assistance will build or reinforce capacities in the field of safeguarding underwater cultural heritage;
 - f.) The beneficiary State Part(y/ies) has/have implemented previously financed activities, if any, in line with all regulations and any conditions applied thereto.
4. Requests for international assistance should be submitted at the latest 3 months before the next ordinary session of the Meeting of States Parties to the Secretariat, which verifies the completeness of the information provided regarding the above criteria and requests in case of need additional information. Only complete requests should be presented for consideration to the Meeting of States Parties.

C. FINANCING THE IMPLEMENTATION OF THE STATE COOPERATION MECHANISM

*Article 10.5, 12.4
and 12.5 of the
Convention*

*Rule 17 – 19 of
the Annex to the
Convention*

1. When a State Party implements measures of protection, issues authorizations or conducts necessary preliminary research agreed upon by a group of consulting States in the framework of Article 10.5 or Article 12.4 and 5 of the Convention, the group of consulting States Parties should decide on the common financing of such measures.
2. In deciding on the financing of measures, States Parties should take into consideration
 - a) the capacity of the respective States;
 - b) the strength of the link to the concerned heritage and the interest in its protection;
 and

- c) the location, property and origin of the concerned heritage.
3. No measure should be decided to be implemented if no adequate funding base is ensured beforehand.

CHAPTER V. PARTNERS

A. PARTNERS IN THE IMPLEMENTATION PROCESS OF THE CONVENTION

Partners in the implementation process of the Convention may be

- a.) Governmental and government-related institutions established in the States Parties to the Convention working in activities related to the scope of the Convention;
- b.) Centres working in activities related to the scope of the Convention and under the auspices of UNESCO, granted by the General Conference;
- c.) non-governmental organizations consulted by and collaborating with the Advisory Body and having activities related to the scope of the Convention, as well as other competent NGOs, when they are accredited by the Meeting of States Parties;
- d.) **[Spain: scientific institutions, museums, universities and any other entity with a reputed relation to the protection of underwater cultural heritage under the principles set down by the Convention];**
- e.) private parties working in **[Spain: full]** conformity with and in relation to the scope of the Convention.
- f.) Irrespective of its legal nature or denomination, any entity dedicated to the commercial exploitation of the underwater cultural heritage is not a partner.

B. PARTNERS AT THE NATIONAL LEVEL

States Parties are encouraged to establish cooperation with and among non-governmental organizations, communities, groups and, individuals to enhance the protection of the underwater cultural heritage, as well as experts, centres of expertise and research institutes. States Parties are encouraged to facilitate their participation in particular in:

- a.) the identification, documentation and protection of underwater cultural

- heritage present on their territories;
- b.) the establishment of inventories;
- c.) the elaboration and implementation of programmes, projects and activities aiming at raising the awareness of the importance of underwater cultural heritage and ensuring its protection.

CHAPTER VI. ACCREDITATION OF NGOS

A. CRITERIA FOR THE ACCREDITATION TO THE ADVISORY BODY

Article 1 (e) of the Statutes of the Scientific and Technical Advisory Body

To be accredited by the Meeting of States Parties to be consulted by and to collaborate with the Advisory Body according to Article 1 (e) of the Statutes of this body, Non-Governmental Organizations (NGO) must comply **[Spain: *mutatis mutandis*]** with the criteria set by the “Directives concerning UNESCO’ relations with NGO”, in their most recent version and in application *mutatis mutandis* **[Spain: ~~in their most recent version and in application *mutatis mutandis*~~]. They** need in addition to

- a.) have objectives, activities, statutes and by-laws that are in **[Spain: full]** conformity with the principles of the Convention;
- b.) be engaged in activities and have **[Spain: a reputed]** competence, expertise and experience in safeguarding underwater cultural heritage;
- c.) **[Spain: not be (or have been) engaged in any activity dedicated to the commercial exploitation of the underwater cultural heritage.]**

B. MODALITIES OF ACCREDITATION

1. The Secretariat should receive the requests from NGOs, demanding in particular by a form
 - a.) proof of their legal establishment;
 - b.) their legal statutes and by-laws;
 - c.) the details of their past and current activities;
 - d.) a list of the organisations’ members and their governing organs;
 - e.) a register of their publications; as well as

- f.) references by national authorities or international organizations.
2. The Secretariat should check the completeness of the requests and present them for consideration to the Advisory Body either during a meeting of the Body or in its electronic exchange.
 3. The Advisory Body should evaluate the request based on the information provided to it by the Secretariat, any additionally available information **[Spain: provided for by any State Party or by any other reliable source]**, as well as on the expertise of its members.
 4. The Advisory Body should submit the requests for accreditation together with its recommendation for decision to the Meeting of States Parties at each session of the Meeting, where a decision should be taken.
 5. The Secretariat keeps up-to-date and publicly accessible a list of the organizations accredited by the Meeting of States Parties.

C. REVIEW OF ACCREDITATION

[See recommendation 4/MAB 1 of the Advisory Body]

1. The Meeting should review already accredited bodies every four years, taking into account the recommendations of the Advisory Body as to maintaining or terminating relations with the entity in question, as well as the perspective of the body concerned.
2. The termination of relations with an NGO should be decided when deemed necessary or when there is a complete absence of actual collaboration.
3. In exceptional cases or if circumstances require, relations with an organization should
 - a.) be suspended by the Meeting of States Parties or in emergency **[Spain: cases]** by the Advisory Body itself, until a decision regarding the termination of relations is taken **[Spain: ~~termination of relations is taken~~ suspension of relations is taken by the Meeting of States Parties]**; or
 - b.) be terminated with immediate effect **[Spain: by the Meeting of States Parties, by suggestions or not of the Advisory Body]**.
4. Each member of the Advisory Body should be able to request the Secretariat to consult the other members of the Body on any matter that may call for the **[Spain: suspension or]** termination of relations with a NGO, bringing forward proof or

evidence allowing them to correctly assess this request.

5. While NGOs may officially state their accreditation to cooperate with and be consulted by the Advisory Body, any use of the logo of UNESCO or the Convention should be regulated by the rules and regulations of UNESCO.

[Deletion suggested by Spain] CHAPTER VIII. ADHERING TO THE CONVENTION

A. HOW TO RATIFY

**Article 26 of the
Convention**

1. The Convention can be ratified, accepted or approved by all Member States of UNESCO.

2. The Convention is 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;

**Article 27 of the
Convention**

- 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 original of the written signed instruments of ratification, acceptance, approval or accession must be deposited with the Director-General of UNESCO to take legal effect.

4. The Convention has entered into force on 2 January 2009 with respect to the twenty States that had deposited their instruments until 21 October 2008. It enters into force for each other State or territory three months after the date on which that State or territory has deposited its instrument.

B. DECLARATIONS, COMMUNICATIONS AND RESERVATIONS

The Convention contains regulations on three declarations, one possible reservation and one communication to be made. Declarations and communications already made can be consulted on the website: www.unesco.org/en/underwater-cultural-heritage/the-2001-convention/official-text/declarations-and-reservations.

1. Declarations

A declaration is a unilateral statement, made by a State when joining the Convention, whereby it may give a view on its interpretation of certain provisions, makes choices requested or gives necessary information. The Convention contains provisions regarding three declarations, as mentioned in its Article 9.2, Article 25.5, and Article 28. While the first is mandatory, the second and third are optional.

Article 9.2 of the Convention

- a.) Article 9 of the Convention concerns reporting and notification in the EEZ or on the continental shelf. According to paragraph 1 (b) of this Article, States Parties require that when their nationals or a vessels flying their flag, discover or intend to engage in activities directed at underwater cultural heritage located in the EEZ or on the continental shelf of another State Party they have to send a report. The State Party of their origin has to make a choice, where their report should be sent to. One alternative is that it should be sent to the home State Party and the concerned coastal State Party, another alternative is that it should be sent only to the home State Party, which will than transmit this information to all other States Parties. To ensure continuity and previsibility, each State Party has to fix the alternative chosen via the declaration requested by Article 9.2 of the Convention.
- b.) Article 25 of the Convention concerns the peaceful settlement of disputes. 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 UNCLOS apply *mutatis mutandis* to any dispute between States Parties to the Convention, whether or not they are also Parties to UNCLOS. Any procedure chosen by a State Party to the Convention and to UNCLOS pursuant to Article 287 of the latter (to be consulted on the website of DOALOS) shall apply to the settlement of disputes under Article 25 of the Convention, unless that State Party, when joining the Convention, or at any time thereafter, chooses another procedure pursuant to Article 287 of UNCLOS for the purpose of the settlement of disputes arising out of the Convention.

A State Party to the Convention which is not a Party to the UNLCOS, when joining the Convention or at any time thereafter may choose, by means of a written declaration, one or more of the means set out in Article 287, paragraph 1, of UNCLOS for the purpose of settlement of disputes.

**Article 28 of the
Convention**

- c.) Article 28 of the Convention concerns the application of the Annex of the Convention to inland waters. Inland waters means, in contrast to 'internal waters' of maritime character (see Article 7 of the Convention), waters not of a maritime character, for instance lakes and rivers. States may declare that the Rules will be applicable to them.
- d.) States or territories should make their declarations when ratifying the Convention or any time thereafter, as applicable, by submitting the original signed declaration to the Director-General of UNESCO.

2. Communication

**Article 22.2 of the
Convention**

- a.) States Parties have to communicate to the Director-General the names and addresses of their competent authorities relating to underwater cultural heritage, so that copies of reports received, all official correspondence and all further documents can be sent by the Secretariat to these national focal points, as appropriate, and so that other States Parties and their institutions can consult and cooperate through these focal points with the other States. A list of the addresses received is available at the UNESCO Web site: www.unesco.org/en/underwater-cultural-heritage.
- b.) Such communication may be made at any time, but should be made as soon as possible, to ensure a timely implementation of the Convention. It should be updated as soon as any change in the information on the responsible competent authority occurs.

3. Reservation

**Article 29 and 30
of the Convention**

- a.) No reservations may be made to the Convention, except in the following case: a State or territory, at the time of ratifying the Convention can limit the geographical scope of the application of the Convention by making a declaration to the Director-General that the Convention shall not be applicable to specific parts of its territory, internal waters, archipelagic waters or its territorial sea. If such a reservation is made, it must be done

in writing and the reasons for such declaration need to be identified and communicated to the Director-General.

- b.) The withdrawal of a reservation must be made in writing. A reservation that is made by a State ratifying the Convention should be made in the instrument of ratification.

ANNEX 1 – ELECTRONIC DRAFT FORMS

This draft document shows the forms, which will be accessible to national competent authorities in the sense of Article 22 of the Convention in electronic form. A multiple choice of answers to the questions expressed will be possible, if appropriate. As soon as a choice has been made by the user, only those further pages will be shown that are appropriate to the choice made.



THE CONVENTION ON THE PROTECTION OF THE UNDERWATER CULTURAL HERITAGE

Arabic	Chinese	English	French	Russian	Spanish
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Log- in

Name

Password

You wish to

- Notify a discovery or intended activity**
- Declare your interest in being consulted**
- Inform on results of a preliminary research**

FORM 1
NOTIFICATION ON DISCOVERY OR INTENDED ACTIVITY

Please fill in the information requested by clicking on the choices offered and save before going to the next page. **You are free to choose which information you wish to give**, but it should give a general impression of the site and its nature.

Maritime Zone

Chose the maritime zone of the location where the underwater cultural heritage concerned by the discovery or the intended activity is located:

Own Contiguous Zone
Contiguous Zone of other State Party
EEZ* of own State
EEZ* of other State Party [choose from scroll down]
Own continental shelf
Continental shelf of other State [choose from scroll down]
Area

* Exclusive Economic Zone

Site

Approximate type of site:

Wreck
Ruin
Structure
Artefact
Other

Location

Approximate description:

wetland
river
lake
ocean
Close to coast
Far from coast

Give additional information, if desired: _____

Event

Discovery

Activity

Date: _____

By: _____

Have any reports been sent? yes/ no

If yes, to:

Other State Party
All other State Parties

By whom?

Competent National Authority
Vessel
State national
Other _____

(if applicable):

Type of intended activity:

Archaeological intervention
Documentation
Salvage
Tourism
Activity incidentally affecting the site
Remarks _____

State permission (if appropriate) for intervention obtained?: **Measures**

You may inform about any action suggested:

Prevent human intervention
Research
Request for technical resources
Request for technical expertise
Ensure security
Other

Contact

Please check if this information is correct:

Yes, responsible authority (*address generated automatically from UNESCO list*)

Other Contact: _____

Uploads

(You may add a long-term description and additional information to this sheet. No translation, verification or text treatment will however be provided by the Secretariat. Photos should not be heavier than 1 MB and documents should be pdf or word format.)

Send-out

A confirmation of transmission will be shown and a report number will be attributed.

FORM 2
DECLARATION OF INTEREST FOR HERITAGE LOCATED IN THE AREA

Please fill in the information requested by clicking on the choices offered and save before going to the next page.

Concerned site

Choose the underwater cultural heritage site or artefact you wish to declare your interest in being consulted in:

Discovery or intended activity reported via the UNESCO Alert. Please choose from list:

Notification No. (*scroll down list of previously transmitted notifications*)

Information on verifiable link

Which link connects the history or culture of your State to the site or artefact concerned?:

Cultural origin of the artefact(s)
Connection to related historic event (war, discovery, trade)
Property
Cultural influence on State history
Other

Please explain (in French or English language): _____ or attach document.

Contact

Please check if this information is correct:

Yes, responsible authority (*address generated automatically from UNESCO list*)

Other Contact: _____

Uploads

Upload Photos

Upload documents

(You may add a long-term description and additional information to this sheet. No translation, verification or text treatment will however be provided by the Secretariat.)

Send-out

A confirmation of transmission will be shown and a declaration number will be attributed.

FORM 3
INFORMATION ON THE RESULT OF A PRELIMINARY RESEARCH

Please fill in the information requested by clicking on the choices offered and save before going to the next page.

Page 1 – Concerned site

Choose the underwater cultural heritage site or artefact you wish to report the results of the preliminary research on:

Notification No. (*scroll down list of previously transmitted notifications*)

Research Results

Site structure confirmed to be:

Shipwreck
Aircraft wreck
Other vehicle
Ruin
Human dwelling
Fish trap
Port structure
Bridge
Single Artefact
Cave/Cenote
Other

Site confirmed to be:

in danger
not in danger
in good state of conservation
damaged
destroyed

Intervention needed:

none
scientific research
site consolidation
monitoring
physical protection
other

Contact

Please check if this information is correct:

Yes, responsible authority (*address generated automatically from UNESCO list*)

Other Contact: _____

Uploads

Upload Photos

Upload documents

(You may add a long-term description and additional information to this sheet. No translation, verification or text treatment will however be provided by the Secretariat.)

Send-out to UNESCO

*Your reported results will be made available to other States Parties by the Director-General of UNESCO
A confirmation of transmission will be shown and a report number will be attributed.*