



United Nations
Educational, Scientific and
Cultural Organization

Internal Oversight Office

Evaluation Office

IOS/EVS/PI/174.REV

May 2019



EVALUATION OF UNESCO'S STANDARD-SETTING WORK OF THE CULTURE SECTOR – PART VI – 2001 CONVENTION ON THE PROTECTION OF UNDERWATER CULTURAL HERITAGE

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Evaluation period:

January – May 2019

Location of the evaluand:

Global

Report submission:

May 2019

Abstract & Acknowledgement

ABSTRACT

The evaluation of UNESCO's Standard-setting work of the Culture Sector – Part VI – 2001 Convention on the Protection of Underwater Cultural Heritage aims to generate findings, lessons learned and recommendations regarding the relevance and the effectiveness of the 2001 Convention in enhancing the protection of underwater cultural heritage worldwide. The evaluation found that the 2001 Convention is widely appreciated by experts and relevant to the sustainable development agenda. Similarly, the support provided by the Secretariat and the statutory bodies of the Convention are seen as effective. However, the narrow discourse around the Convention has led to limited understanding and interest from non-expert stakeholders. Broadening the discourse is essential for more stakeholders to feel concerned by the protection of underwater cultural heritage. This requires linking the protection of underwater cultural heritage to other relevant themes such as the marine environment and highlighting the value of protecting this heritage for local communities. The lack of a results framework and monitoring processes for the 2001 Convention have also prevented the UNESCO Secretariat from adopting a strategic approach to its support for Member States. This, coupled with limited visibility of the Convention and insufficient resources at the Secretariat, has hampered the ratification rate as well as the effectiveness of the implementation of the 2001 Convention.

ACKNOWLEDGEMENTS

The evaluation was led and managed by Ms. Ekaterina Sediakina Rivière, Evaluation Specialist, with the assistance of Ms. Taipei Dlamini, Associate Evaluation Programme Coordinator from the UNESCO Internal Oversight Service Evaluation Office, and conducted with the help with two independent subject matter experts: Mr. Ole Varmer, expert in cultural heritage law and the law of the sea, as well as Mr. Dimitris Kourkoumelis, an underwater archaeologist. Ongoing quality assurance was provided by the Evaluation Reference Group, whom we thank for their contributions. External quality assurance of the evaluation report was provided by Mr. Geert Engelsmann, independent evaluation consultant.

The IOS Evaluation Office would like to acknowledge and thank all who participated in and contributed to this evaluation. It would especially like to thank staff in the Underwater Cultural Heritage Unit at UNESCO Headquarters, which forms the Secretariat of the 2001 Convention, for their support and cooperation throughout this evaluation process. The evaluation team would also like to thank Ms Karalyn Monteil, Culture Programme Specialist, and Ms Judith Ogana, National Programme Officer, from the UNESCO Nairobi Office for facilitating the evaluation's team mission to Malindi, Kenya in March 2019. They would also like to thank Ms Mathilde Myard for her valuable support with graphics and translation.

Susanne Frueh
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Cover photo: Amphorae from the «Peristera» shipwreck, 5th century B.C. (Alonnisos island – Greece), © MCS-EUA, photo Yiannis Issaris

List of Acronyms

BBNJ	Conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction	MPA	Marine Protected Area
C/5	UNESCO Programme and Budget	MSP	Meeting of States Parties
DOALOS	Division for Ocean Affairs and the Law of the Sea, United Nations Office of Legal Affairs	NAS	Nautical Archaeology Society
EEZ	Exclusive Economic Zone	NGO	Non-governmental organizations
EIA	Environmental Impact Assessment	NM	Nautical Mile
ER	Expected Result	OSCE	Organization for Security and Cooperation in Europe
EU	European Union	SDG	Sustainable Development Goal
ICCROM	International Centre for the Study of the Preservation and Restoration of Cultural Property	SIDS	Small Islands and Developing States
ICOMOS	International Council on Monuments and Sites	STAB	Scientific and Technical Advisory Body
ICUA	International Centre for Underwater Archaeology	UCH	Underwater Cultural Heritage
ICUCH	International Committee on Underwater Cultural Heritage	UN	United Nations
ILA	International Law Association	UNCLOS	United Nations Convention on the Law of the Sea
IMO	International Maritime Organization	UNEG	United Nations Evaluation Group
INTERPOL	International Criminal Police Organization	UNESCO	United Nations Educational, Scientific and Cultural Organization
IOC	Intergovernmental Oceanographic Commission	UNIDROIT	International Institute for the Unification of Private Law
IOS	UNESCO's Internal Oversight Service	UNITWIN	UNITWIN Network of Underwater Archaeology
ISA	International Seabed Authority	UNODC	United Nations Office on Drugs and Crime
LDC	Least Developed Country	WCO	World Customs Organization

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EXECUTIVE SUMMARY

The evaluand: the UNESCO 2001 Convention on the Protection of Underwater Cultural Heritage

1. Following years of limited international regulation of activities towards underwater cultural heritage (UCH), and as both natural and human threats to this heritage grew, States, urged by experts in underwater archaeology, adopted the Convention on the Protection of Underwater Cultural Heritage on 2 November 2001 under the auspices of UNESCO. The 2001 Convention aims to strengthen the protection of UCH by addressing issues related to 1) State jurisdiction and control beyond the contiguous zone, 2) salvage law, and 3) archaeological standards; thereby also aiming to fill the legal void left by the 1982 United Nations Convention on the Law of Sea (UNCLOS). However, from the very beginning some States were concerned with disturbing the careful balance of interests negotiated under the UNCLOS. The 2001 Convention was thus the only UNESCO Culture Convention not to have been adopted unanimously by the Organization's General Conference (87 votes in favour, 4 against and 15 abstentions)¹. The 2001 Convention entered into force in January 2009 and, as of May 2019, 61 States have ratified it.

Purpose of the evaluation

2. As 2019 marks the tenth anniversary of the entry into force of the Convention, this is an opportune time to assess the effectiveness and efficiency of the support UNESCO has provided to States towards ratification as well as the implementation of the 2001 Convention. This instrument is also the last of the UNESCO Culture Conventions to be evaluated by the UNESCO Evaluation Office, in its series of assessments of the Culture Sector's normative work.

3. The evaluation findings and recommendations shall be used by the Convention Secretariat, the Culture Sector, the Field Offices to strengthen their work in the framework of the 2001 Convention and the statutory bodies of the Convention, i.e. the Meeting of States Parties (MSP) and the Scientific and Technical Advisory Body (STAB) to inform future decisions. The evaluation also aims to serve as an important learning exercise for various stakeholders.

¹ UNESCO, Records of the General Conference, 31st session, v.2: Proceedings, General Conference, 31st sess, UNESCO Doc 31C/Proceedings (2003), p. 561

Methodology

4. The evaluation used a mixed-methods approach to collect data from a wide variety of sources. These included:

- An extensive **desk review**
- A **survey** for the 193 UNESCO Member States, to which 93 people from 75 States responded (38% response rate)
- **93 semi-structured interviews** with the following stakeholders: UNESCO staff, law of the sea and underwater archaeology experts, States representatives (Parties and non-Parties), current and future partners in academia, civil society, and other international organizations working on law enforcement, the oceans and the environment, among others
- **Two questionnaires** for established partners: the accredited non-governmental organizations (NGOs) and the members of the UNITWIN Network of Underwater Archaeology
- **Observation of three conferences** on UCH: two were organized by UNESCO on the 2001 Convention (Forum for Accredited NGOs and a Regional Conference on the Protection of Underwater Cultural Heritage in Kenya), whilst the third had a global focus (First World Congress on Maritime Heritage in Singapore).

5. The findings described below stem from the cross-referencing of the results extracted from this broad set of data sources.

Key Findings

6. **The 2001 Convention and the Rules in its Annex have become the world reference for underwater archaeologists.** Indeed, they are implemented by archaeologists around the world, regardless of whether their countries have ratified the Convention or not. The State Cooperation Mechanism created by the Convention is also of particular interest to States and aspires to become a model for other processes of international cooperation in areas beyond national jurisdiction in a manner consistent with the law of the sea.

7. **The 2001 Convention is relevant in that it complements the existing international framework for the protection of underwater cultural heritage, namely by filling the void left by the UNCLOS.** The 2001 Convention sets the practical modalities through which States may implement the general duty to protect UCH. Foreseen by the UNCLOS itself, state practice to date has revealed how the provisions of the 2001 Convention are consistent with the UNCLOS in that they do not allow for the extension of a States' jurisdictional rights in the different maritime zones, thereby upholding the careful balance of interest established under the UNCLOS.

8. **The current discourse around the 2001 Convention is too narrow, which puts the relevance of the instrument into question for many.** Stakeholders view the Convention as too technical and only for archaeologists. Additionally, UNESCO's presentation of the Convention mainly focuses on oceans and seas, to the detriment of internal water bodies that contain much UCH, which is closely connected to local communities. The narrative around the Convention also does not sufficiently highlight the interconnection between the protection of UCH and other topics relevant to the 2030 Sustainable Development Agenda, such as the protection of the marine environment or ocean literacy.

9. **There are misconceptions on key concepts of the Convention, in particular *in situ* conservation.** Some stakeholders, including underwater archaeologists, misinterpret the Convention's provisions as being too prescriptive and potentially conflicting with their interests and values by forbidding them to pursue excavations for scientific research, create a museum for recovered artefacts, or even remove human remains from UCH sites. In some instances, this has discouraged certain States from ratifying.

10. **Gender parity in underwater archaeology remains an issue as women remain largely underrepresented in this field,** despite the Secretariat's efforts to encourage the increased participation of women in its activities. This imbalance is further reflected in the composition of the statutory bodies of the Convention. Issues related to gender equality are also currently not reflected in the discourse around the 2001 Convention.

11. **The work of the statutory bodies of the 2001 Convention, in particular the STAB missions, is generally appreciated by States Parties.** However, the MSP gives very little time for substantive discussions and the STAB's work has been limited to the four missions and yearly meetings. Both would gain in being more proactive and suggesting new ways of furthering the protection of

UCH by involving more diverse stakeholders in their discussions. The STAB has also focused exclusively on underwater archaeology, overlooking potential ties with other related subjects (e.g. the environment, oceans and heritage at large).

12. **UNESCO's support for ratification and implementation are appreciated, but in the absence of a strategy and related results framework, they have been somewhat *ad hoc*.** The Organization has undertaken many initiatives to support States (national and regional consultations for the promotion of the Convention, the capacity-building programme, assistance in policy development, List of Best Practices, STAB missions). However, the linkages between these different activities are not obvious, thereby demonstrating the lack of a strategic approach to achieve longer-term results.

13. **The lack of follow-up and monitoring processes for the 2001 Convention has limited the ability to demonstrate results achieved.** In the absence of a periodic reporting system, there is very little data on the implementation of the Convention at a global level. Consequently, UNESCO is not in a position to identify good practices or common challenges and to address them. Likewise, the lack of a follow-up mechanisms for the STAB missions limits their potential for supporting recipient states in the long-term.

14. **Limited human and financial resources have thwarted the UNESCO Secretariat's efforts to support the implementation of the 2001 Convention.** It is indeed the least staffed and least funded of all UNESCO Culture Conventions. The fact that the Secretariat does not have an underwater archaeologist further limits UNESCO's capacity to deliver technical support to Member States, particularly through the capacity-building programme.

15. **Existing partnerships have been underutilized and potential ones unexploited.** There is great potential for UNESCO to explore synergies among its Culture Conventions and with the Man and the Biosphere Programme, and the work of the Intergovernmental Oceanographic Commission, particularly in the framework of the upcoming UN Decade for Ocean Science. UNESCO also has valuable expert networks in UCH (NGOs, UNITWIN, Category II centre), whose strength lies in skills development but they have so far not been very involved in capacity-building initiatives. A number of additional partnerships also remain unexplored such as with law enforcement organizations, museums and organizations working on oceans and the environment more broadly. Finally, UNESCO is not sufficiently present in international development fora in which the protection of UCH needs to be promoted.

Recommendations

For the Underwater Cultural Heritage Unit:

1. Develop a **strategy** for longer-term support to countries in implementing the 2001 Convention. The strategy should be articulated in a **results framework** for the Convention and linked to all relevant SDGs.
2. Revise the **discourse** around the 2001 Convention in view of broadening the outreach of the instrument and adapt UNESCO's communication materials accordingly. The discourse should be focussed on the UCH of communities and integrate gender equality.
3. Introduce mechanisms to **monitor** the implementation of the 2001 Convention both at the country and global levels to showcase its successes and link the instrument's contribution to the SDGs.
4. Review the **capacity building** programme to apply a longer-term approach and allow for its tailoring to local contexts. Delivery modalities should include the use of local trainers, where possible, and UNESCO's partner networks (Category II Centre, UNITWIN, and accredited NGOs).
5. Develop a module on **preventing illicit trafficking** of UCH through collaboration with the 1970 Convention Secretariat, building on the work with INTERPOL, and encourage other relevant law enforcement agencies to integrate this topic in their trainings.
6. Develop guidelines for presenting **UCH to the public** in museums in cooperation with the Movable Heritage and Museums Unit and museums professionals in UNESCO's partner networks.

For the Scientific and Technical Advisory Body:

7. Clarify the **archaeological concepts** of the 2001 Convention such as *in situ* preservation and consider revising the Operational Guidelines in view of increasing the understanding of terms and concepts. Collaborate with the UCH Unit to produce communication materials thereon.
8. Broaden the scope of **STAB missions** to cover legal and environmental issues in view of strengthening recipient countries' systems of protection. Encourage the participation of local communities in the missions, linking them to other UNESCO activities in view of promoting a longer-term capacity building approach.

For the Meeting of the States Parties:

9. Adopt a mechanism to ensure follow-up to STAB missions and recommendations in view of strengthening their effectiveness.
10. Advocate for strengthening the integration of the protection of UCH into the Roadmap of the **UN Decade of Ocean Science**. In particular, facilitate the cooperation between the UCH Unit and the Intergovernmental Oceanographic Commission in the implementation of the Roadmap.
11. Invite stakeholders from the UNESCO Secretariat (IOC, units responsible for the 1954, 1970, 1972 and 2003 Conventions), DOALOS, NGOs working on oceans and the environment, law enforcement agencies, etc. to MSP meetings in view of clarifying issues related to the law of the sea and **broadening discussions** to include the larger issues at stake.
12. Invite States Parties to submit female candidatures to the STAB and amend the MSP Rules of Procedure to include **gender** parity in the membership of the Bureau.

For UNESCO's Culture Sector:

13. Ensure that the UCH Unit can access the appropriate **capacity and expertise** in underwater archaeology in view of providing technical assistance to Member States and UNESCO Field Staff.
14. Ensure the regular representation of the UCH Unit in **UN Oceans** and any other global coordination mechanisms in ocean-related matters in order to clearly reaffirm the contribution of the protection of UCH to the 2030 Agenda. Regular programme resources should be allocated for this work in order to allow for continuity.
15. Integrate the protection of UCH and awareness of the 2001 Convention in the mechanisms of other **Culture Conventions and UNESCO programmes** (e.g. Man and the Biosphere Programme.) such as in their site management and conservation plans, broader safeguarding policies, regional consultations, trainings and meetings of statutory bodies. Collaborate with the IOC in integrating UCH into initiatives such as marine spatial planning, marine scientific research and capacity building.

Management Response

Recommendation	Response
For the Underwater Cultural Heritage Unit:	
1. Develop a strategy for longer-term support to countries in implementing the 2001 Convention. The strategy should be articulated in a results framework for the Convention and linked to all relevant SDGs.	<p><i>Accepted.</i></p> <p>The Secretariat recognizes the need to initiate the elaboration of such a strategy, which would be based on a result framework and Theory of Change highlighting the causal relationships linking the implementation of the Convention with development results. This however will be dependent on the identification and availability of voluntary contributions.</p>
2. Revise the discourse around the 2001 Convention in view of broadening the outreach of the instrument and adapt UNESCO's communication materials accordingly. The discourse should be focussed on the UCH of communities and integrate gender equality.	<p><i>Accepted.</i></p> <p>The Secretariat concurs that the discourse around the Convention should be revised and broadened with a view to highlighting the benefits that can be derived from its implementation at country level in development terms, and that this may help increase the level ratifications from Member States. The Secretariat however observes that revising the discourse and adapting communication may have limited effects on legal reservations that some Member States have, for instance around UNCLOS.</p>
3. Introduce mechanisms to monitor the implementation of the 2001 Convention both at the country and global levels to showcase its successes and link the instrument's contribution to the SDGs.	<p><i>Accepted.</i></p> <p>This recommendation is linked to Recommendation 1 and the development of a results framework that would help monitor the implementation of the Convention and better assess its impact in development terms. Financial support in the form of voluntary contributions will be needed for this.</p>
4. Review the capacity building programme to apply a longer-term approach and allow for its tailoring to local contexts. Delivery modalities should include the use of local trainers, where possible, and UNESCO's partner networks (Category II Centre, UNITWIN, and accredited NGOs).	<p><i>Accepted.</i></p> <p>The Secretariat will review its approach to capacity building. Consultation through a questionnaire could be envisaged to capture the specific needs of States Parties and ensure that future capacity-building projects respond to local contexts. However, the Secretariat observes that any such long-term approach requires predictable and steady voluntary contributions.</p>
5. Develop a module on preventing illicit trafficking of UCH through collaboration with the 1970 Convention Secretariat, building on the work with INTERPOL, and encourage other relevant law enforcement agencies to integrate this topic in their trainings.	<p><i>Accepted.</i></p> <p>The design of such a specific module could be undertaken when revising capacity-building programmes, in cooperation with the 1970 Convention Secretariat and UNESCO's partners in the fight against illicit trafficking.</p>

<p>6. Develop guidelines for presenting UCH to the public in museums in cooperation with the Movable Heritage and Museums Unit and museums professionals in UNESCO's partner networks.</p>	<p><i>Accepted.</i> The results framework suggested in Recommendation 1 could include a component on public access. Specific guidelines could thereafter be prepared in cooperation with the Museums team, and drawing on the 2015 Recommendation on Museums and Collections and their Role in Society.</p>
<p>For the Scientific and Technical Advisory Body:</p>	
<p>7. Clarify the archaeological concepts of the 2001 Convention such as <i>in situ</i> preservation and consider revising the Operational Guidelines in view of increasing the understanding of terms and concepts. Collaborate with the UCH Unit to produce communication materials thereon.</p>	<p>To be discussed by the STAB.</p>
<p>8. Broaden the scope of STAB missions to cover legal and environmental issues in view of strengthening recipient countries' systems of protection. Encourage the participation of local communities in the missions, linking them to other UNESCO activities in view of promoting a longer-term capacity building approach.</p>	<p>To be discussed by the STAB.</p>
<p>For the Meeting of the States Parties:</p>	
<p>9. Adopt a mechanism to ensure follow-up to STAB missions and recommendations in view of strengthening their effectiveness.</p>	<p>To be discussed by the MSP.</p>
<p>10. Advocate for strengthening the integration of the protection of UCH into the Roadmap of the UN Decade of Ocean Science. In particular, facilitate the cooperation between the UCH Unit and the Intergovernmental Oceanographic Commission in the implementation of the Roadmap.</p>	<p>To be discussed by the MSP.</p>
<p>11. Invite stakeholders from the UNESCO Secretariat (IOC, units responsible for the 1954, 1970, 1972 and 2003 Conventions), DOALOS, NGOs working on oceans and the environment, law enforcement agencies, etc. to MSP meetings in view of clarifying issues related to the law of the sea and broadening discussions to include the larger issues at stake.</p>	<p>To be discussed by the MSP.</p>
<p>12. Invite States Parties to submit female candidatures to the STAB and amend the MSP Rules of Procedure to include gender parity in the membership of the Bureau.</p>	<p>To be discussed by the MSP.</p>

For UNESCO's Culture Sector:	
<p>13. Ensure that the UCH Unit can access the appropriate capacity and expertise in underwater archaeology in view of providing technical assistance to Member States and UNESCO Field Staff.</p>	<p><i>Accepted.</i></p> <p>The Culture Sector is naturally committed to mobilizing the resources to enable the delivery of the approved programme across all parts of the Sector. However, ongoing resource constraints with respect to the regular programme budget and the marked lack of extrabudgetary contributions for the 2001 Convention continue to hamper its operationalization.</p> <p>Given these constraints and the limits this places on creating posts, it is important that the Secretariat can contract and deploy underwater archaeological expertise as and when necessary.</p>
<p>14. Ensure the regular representation of the UCH Unit in UN Oceans and any other global coordination mechanisms in ocean-related matters in order to clearly reaffirm the contribution of the protection of UCH to the 2030 Agenda. Regular programme resources should be allocated for this work in order to allow for continuity.</p>	<p>Accepted insofar as it is important to ensure that all relevant aspects of UNESCO's programme are represented in UN Oceans and other global coordination mechanisms.</p> <p>For CLT, this includes the 1972 Convention as well as the 2001 Convention. To this end, the Culture Sector and IOC have recently agreed to establish a standing committee that will meet twice yearly (as in the case of the longstanding SC-CLT Committee) to promote greater intersectorality in terms of marine sites and spatial planning and building on the discussions in UN Oceans'. ADG/CLT and ADG/IOC will co-chair the meetings, supported by the Directors of the CLT/WHC and CLT/CEM entities as regards the 1972 and 2001 Conventions.</p> <p>Regarding resource allocation, ADG/CLT will assign them as appropriate and necessary from the integrated resources at his disposal.</p>
<p>15. Integrate the protection of UCH and awareness of the 2001 Convention in the mechanisms of other Culture Conventions and UNESCO programmes (e.g. Man and the Biosphere Programme.) such as in their site management and conservation plans, broader safeguarding policies, regional consultations, trainings and meetings of statutory bodies. Collaborate with the IOC in integrating UCH into initiatives such as marine spatial planning, marine scientific research and capacity building.</p>	<p><i>Accepted.</i></p> <p>The Culture Sector is committed to promoting greater practical operational synergies between and among the different conventions where it is rational to do so. The reorganization of the Sector of November 2018 already went some way towards this by brigading the 2001, 1954 and 1970 Conventions in one programmatic entity (culture and emergencies) along with the museums team and the Emergency Preparedness and Response Unit.</p> <p>The reorganization also created a programmatic entity (CLT/CPD) dedicated to promoting greater transversal cooperation within and across the culture sector. This enhanced intersectorality as well as the decision to create a standing CLT-IOC committee (above) should do much to enhance intra and inter sectoral coordination and ensure that all relevant parts of the Organization's work are represented and integrated in appropriate fora.</p> <p>However, the integration of UCH protection and awareness of the 2001 Convention in the mechanism of other Culture Conventions and UNESCO programmes may require the agreement of the respective governing bodies of conventions – e.g. if it concerns proposed revisions to operational guidelines or reporting mechanisms'.</p>

1. Introduction

Background

1. Since the dawn of time, humans have been drawn to and settled near bodies of water, such as lakes, rivers, seas and oceans, which provided an abundant source of nutrition. Coastal communities quickly grew into cities with constructions, including harbours, breakwaters, ship sheds and bridges.
2. The archaeological study of these submerged sites reveals the existence of a once flourishing maritime culture. For instance, the Cenotes in Mexico, underwater caves that contain Mayan vestiges, highlight the religious attachment of Mayans to confined bodies of water that were of great importance in their social life. Similarly, the stonefish traps found in the seas of the Federated States of Micronesia are one of many examples that reveal a people's traditional practices and echo their technological advancement. These traces constitute underwater cultural heritage (UCH) that can be tied to intangible cultural heritage, as one can find links with religion, tradition, art and literature.
3. Rapidly, human beings also realized that these waterways could be used as a means to travel and transport goods. As knowledge of shipbuilding and seafaring improved, trade and voyages soared and millions of ships travelled over the seas, rivers and lakes all over the world. At times, this intense activity resulted in accidents (e.g. the *Titanic*), the remains of which are in fact traces of human presence that lie deep underwater and tell many stories.
4. All these underwater cultural assets are keys to unlocking the intricate mind of maritime cultures, and more importantly, they serve as a reminder of our common global heritage, since they represent a complicated network of human interaction and cultural diffusion through waterways and coastal trading hubs.
5. Very often, the environment where this unique part of human heritage is located is precarious. It is exposed to natural threats (cyclones, tsunamis) and with water levels rising due to climate change, the threat against coastal sites is likely to increase as well (e.g. the ruins of Kilwa Kisiwani in Tanzania are

constantly inundated²). Hazards caused by human activities are also of concern, whether they are induced by development-related enterprises (fishing, trailing nets, pipelines, constructions of harbours, dredging, and extraction of oil from the seabed), wars (bunker fuel, hazardous cargo or munitions) or illegal activities (looting by treasure hunters, illicit trafficking of goods). As more threats emerged, it became essential for States to regulate the use of these waters. This desire especially stemmed from archaeologists³, who advocated for more protection of underwater heritage. There have therefore been a number of attempts to regulate this field; however, none protected UCH sufficiently⁴.

6. The first notable attempt was the [1956 UNESCO Recommendation on International Principles Applicable to Archaeological Excavations](#) whose first article extended its application to underwater sites. However, this was a non-binding recommendation that only applied to internal waters over which States had exclusive jurisdiction, thus excluding UCH located in international waters⁵.

7. After a long period of negotiations, the [United Nations Convention on the Law of the Sea](#) (UNCLOS) was adopted in 1982. It recognized the long standing maritime zones and a new Exclusive Economic Zone (EEZ) on which coastal States have a varying degree of jurisdiction and control. The closer to the coast, the greater control the coastal State has over foreign-flagged vessels and activities in those waters, including those that affect submerged heritage. The UNCLOS however has an economic development focus (e.g. fishing and mineral extraction rights). The only two articles that refer to heritage (articles 149 and 303) recognize that States have a general duty to preserve UCH 'for the benefit of mankind as a whole', without specifying how this should be done. It was therefore apparent, even at the time of negotiations of the UNCLOS, that an instrument that specifically catered to UCH protection was needed.

8. Recognizing that the UNCLOS framework was short on details about how to protect UCH and cooperate for that purpose, the Cultural Heritage Committee of the International Law Association (ILA) undertook a feasibility study of the legal landscape and produced a draft Convention for the protection of UCH. It

² Presentation on the Impacts of Climate Change on Kilwa Kisiwani by Prof Audax ZP Mabulla

³ UNESCO, *Feasibility Study for the Drafting of a New Instrument for the Protection of Underwater Cultural Heritage*, UNESCO Executive Board, 146th sess, 146EX/27 (23 March 1995), para 7-10.

⁴ Ibid, para 11-20.

⁵ Ibid, para 3.

was adopted in August 1994 at the ILA's 65th Conference and transferred to UNESCO with the hope that it would serve as a "blue print" for a new instrument to address three major issues: 1) details on jurisdiction and control beyond the contiguous zone⁶, 2) salvage law⁷, and 3) archaeological standards⁸.

9. Meanwhile, the International Council on Museums and Sites (ICOMOS) adopted the [Charter on the Protection and Management of Underwater Cultural Heritage](#), also known as the Sofia Charter, in 1996. The first international legal instrument exclusively dedicated to this topic, the Charter sets the foundation for the protection of UCH. It however is binding for private persons, not States.

10. As public interest grew, in 1997, the UNESCO General Conference requested the preparation of a legal instrument on the protection of UCH⁹. Building upon the draft submitted by the ILA, and after four years of negotiations, the [Convention on the Protection of Underwater Cultural Heritage](#) was adopted on 2 November 2001 (87 votes in favour, 4 against and 15 abstentions). The text also includes an Annex of archaeological standards based on the provisions of the Sofia Charter¹⁰.

Description of the 2001 Convention

11. The 2001 Convention aims to strengthen the protection of UCH, which it defines as 'all traces of human existence having a cultural, historical or archaeological character which have been partially or totally under water, periodically or continuously, for at least 100 years' (article 1). It does not attribute ownership of the UCH¹¹, rather addressing the three main issues not addressed by the UNCLOS.

12. First, the Convention provides details on the appropriate measures to protect UCH (article 2), through general principles and archaeological standards. States are bound by an obligation to preserve UCH and must prohibit

⁶ The contiguous zone extends 24 nautical miles from the baselines from which the breadth of the territorial sea is measured. - *United Nations Convention on the Law of the Sea*, opened for signature 10 December 1982, 1833 UNTS 397 (entered into force 16 November 1994), art 33(2) ('UNCLOS')

⁷ Salvage law refers to the regulation of operations undertaken to assist a vessel or any other property in danger in navigable waters. It aims to reward those who succeed in saving this maritime property from loss or damage. *International Convention on Salvage*, opened for signature 28 April 1989, 1953 UNTS 165 (entered into force 14 July 1996, art 1)

⁸ *UNESCO Feasibility Study*, para 19; Patrick J. O'Keefe, *Shipwrecked Heritage: A Commentary on the UNESCO Convention on Underwater Cultural Heritage* (Institute of Art and Law Limited, 2002) p 23 ('*Shipwrecked Heritage*'); Sarah Dromgoole, *Underwater Cultural Heritage and International Law* (Cambridge University Press, 2013) p. 53.

its commercial exploitation (article 2) and control activities that may incidentally affect UCH to avoid or mitigate adverse impacts (article 5). Parties shall consider *in situ* conservation – i.e. leaving UCH on the seabed – as a first option (article 2(5)), but may remove it from its environment if the purpose of the research and recovery is to make a significant contribution to the protection or knowledge or enhancement of UCH and if they have the appropriate conservation facilities. The Rules in the Annex address these and other important requirements for States to apply to activities directed at UCH.

13. Second, the Convention establishes jurisdiction and control for protection of UCH in all maritime zones, including by addressing the law of salvage and finds (article 4). The 2001 Convention provides details on how flag States¹² and coastal States should cooperate for protection under the UNCLOS framework. Within a State's territorial seas and contiguous zone, the protection is regulated by domestic law, respecting exclusive coastal State authority and jurisdiction (articles 7-8). The coastal State's protection of sites should also include cooperation with interested parties, including the flag State Party such as through the notification of any discovery. For UCH discovered in areas beyond exclusive national jurisdiction, the Convention has devised a reporting and notification system whereby States that have a 'cultural, historical or archaeological, link' to the UCH may issue declarations of interest in view of cooperating with others for its protection. A Coordinating State is designated among these States to bear prime responsibility for the protection of the sites in consultation with the other interested States (articles 9 to 12).

14. Finally, the Convention facilitates the development of expertise in heritage-related work (article 21) and contains provisions about State cooperation and information sharing for the protection of UCH (articles 2(2) and 19). Considering that water covers more than 70% of the surface of the earth and most UCH is still undiscovered, the 2001 Convention has a very vast scope of action.

⁹ UNESCO, *Resolutions*, General Conference, Res 21, 29th sess, vol 1., Doc 29C/Resolutions + CORR (1998) para 2; *Convention on the Protection of Underwater Cultural Heritage*, opened for signature 2 November 2001, 2562 UNTS 3 (entered into force 2 January 2009), preamble ('2001 Convention');

¹⁰ The Rules in the Annex form an integral part of the Convention and are thus also binding for States Parties – *2001 Convention*, art 33.

¹¹ UNESCO, [Comments on the harmony of the UNESCO 2001 Convention on the Protection of the Underwater Cultural Heritage with the UN Convention on the Law of the Sea](#), para 2.

¹² The flag state is the country under which vessels are registered and whose laws therefore apply to these vessels.

Purpose, Scope and Intended Use of the Evaluation

15. The 2001 Convention is the last of UNESCO's six Culture Conventions to be evaluated by the UNESCO Internal Oversight Service (IOS) Evaluation Office since 2013. More importantly, 2019 marks the 10th anniversary of the entry into force of the 2001 Convention. This is therefore an opportune time to take stock of the activities undertaken by UNESCO to promote the protection of UCH and the ratification and implementation of this legal instrument.

16. The main purpose of the evaluation is to generate findings, lessons learned and recommendations regarding the relevance and the effectiveness of the standard-setting work of the Culture Sector related to the 2001 Convention, with a focus on its impact on legislation, policies, and strategies of States Parties.

17. The evaluation scope included activities implemented by the Underwater Cultural Heritage Unit (UCH Unit) in the Section for Culture and Emergencies to support Member States with the ratification of the instrument and its subsequent implementation. The evaluation focused on activities undertaken over a ten-year timeframe beginning at the entry into force of the Convention (January 2009) to the present day (spring 2019).

18. The evaluation findings and recommendations are intended to be used by the Convention Secretariat, Culture Programme Specialists in UNESCO Field Offices and the Culture Sector Senior Management in order to strengthen and better coordinate the Organization's work in relation to the protection of UCH. The evaluation shall also inform the future work and discussions of the Scientific and Technical Advisory Body (STAB) as well as the Meeting of States Parties (MSP). Finally, the evaluation aims to serve as an important learning exercise for UNESCO staff, partners and Member States.

Evaluation Questions

19. The evaluation questions were geared towards measuring the relevance, effectiveness, efficiency and sustainability of the work under the 2001 Convention. They were elaborated in a consultative manner with the Evaluation Reference Group. The questions are set out in the Terms of Reference attached in Annex A and cover the following:

- Relevance of the 2001 Convention in today's geopolitical context and its contribution to the 2030 Sustainable Development Agenda,
- Complementarity of the 2001 Convention with other legal instruments related to the law of the sea and the protection of cultural heritage,

- The effectiveness of UNESCO's support to States towards ratification and implementation of the Convention,
- The effectiveness of UNESCO's work with partners for greater sustainability,
- The visibility of the 2001 Convention and awareness-raising about UCH,
- The efficiency of the working methods of the Secretariat and the Convention's governing bodies, and
- The mainstreaming of UNESCO's Global Priorities (Africa and Gender Equality) in UNESCO's work.

Evaluation Methodology

20. The evaluation applied a mixed method approach based on the evaluation matrix in Annex B. Throughout the data collection process, the evaluation team guaranteed participants that the information gathered would be confidential and that quotes and attributions would only be used with their express consent.

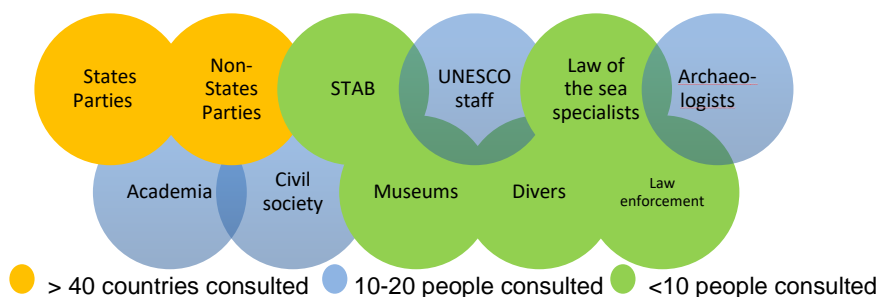
21. Data collection methods used for this evaluation included the following:

- **A Document Review** was completed and contributed to answering all the evaluation questions. The list of documents reviewed is in Annex D.
- **A Survey for all UNESCO Member States**, regardless of whether they had ratified the 2001 Convention or not, was online for two months. A total of 93 responses were received from 73 Member States (response rate: 38%) and two Associate Members and included in the analysis. (See Annex I).
- **Key Informant Interviews** were conducted with 93 people via Skype or face-to-face using the interview guides attached in Annex E. A few interviewees provided written responses. The list of interviewees, a third of whom are women, is available in Annex F. Their selection was based on the stakeholder analysis presented in Annex C.
- **Participation in the Forum for Accredited NGOs to the 2001 Convention (18 December 2018)**. This provided the opportunity to observe how the NGOs work together within the framework of the 2001 Convention as well as to interview several NGO representatives.
- **A field mission to the UNESCO Regional Ministerial Conference on the Protection of Underwater Cultural Heritage for sustainable tourism development in Eastern Africa and the adjacent Indian**

Ocean Islands held in Malindi, Kenya (11-13 March 2019) allowed to observe how the 2001 Convention is presented to States and to explore the interlinkages between the 1970 and 2001 Conventions. It also enabled the evaluators to interview stakeholders, primarily from Africa.

- **Participation in the World Congress on Maritime Heritage organized in Singapore (13-15 March 2019).** While participating in other capacities not associated with this evaluation (not on behalf of UNESCO), the legal expert in the evaluation interviewed key stakeholders, including representatives of other international organizations, underwater archaeologists and law of the sea experts.
- **Review of eleven responses to a questionnaire on the preservation of UCH in Eastern Africa and the adjacent Indian Ocean Islands.** This questionnaire, which aimed to establish measures undertaken by each country to protect UCH, was sent by the UNESCO Nairobi Office to all invited countries prior to the conference in Malindi, Kenya.
- **A questionnaire for the Accredited NGOs to the MSP** was sent to all 15 organizations, of which 13 responded (see Annex G).
- **A questionnaire for the UNITWIN Network of Underwater Archaeology** (see Annex H) was sent to the 27 full and associate members. Among these, five universities replied in writing and an additional six members were interviewed.

Figure 1. Stakeholders consulted during the evaluation process



22. **A workshop** on the preliminary findings of the evaluation was held on 14 May 2019 for the Evaluation Reference Group, the UCH Unit, the ADG of the Intergovernmental Oceanographic Commission and Culture Programme Specialists working in UNESCO Field Offices.

23. Finally, in drafting this report, the evaluation team followed the established guidelines of the United Nations Evaluation Group (UNEG), in particular the [UNEG Evaluation Norms and Standards](#) as well as the [UNEG Quality Checklist for Evaluation Reports](#). It also respected the standards specific to UNESCO as reflected in [UNESCO's Evaluation Policy](#). The draft report was shared for comments with all UNESCO staff working on the Convention and related topics and was peer reviewed by an external evaluator to ensure compliance with UNEG standards.

Strengths and Limitations

Strengths

24. The evaluation team is composed of two evaluators with experience in evaluating the normative work of the Culture Sector, an expert in the law of the sea and international cultural heritage law, and an underwater archaeologist (see biographies in Annex L). This evaluation thereby combined complementary expertise in evaluation along with that in the specific subject matters.

25. This evaluation was designed along multiple lines of inquiry, which allowed for comparison across the different sources of information. Triangulation – an evaluation method that relies on crosschecking and cross-referencing several sets of data to identify overlapping, recurrent themes and ideas – guided the evaluation team's analysis, which was both inductive and deductive. The evidence presented in the report thus emerged from multiple sources.

26. The Member State survey response rate (38%) was consistent with those of the other Culture Conventions evaluation surveys. Half of the respondents were from States Parties to the 2001 Convention, and the other half were not. This provided an overview of both types of countries' views. Finally, responses were received from all regions in a relatively proportional way, with slightly more responses from Latin America and the Caribbean (23% of respondents) and slightly less from the Arab region (10%) (See Annex I).

27. A wide range of stakeholders were interviewed (see Figure 1), including UNESCO staff (both at Headquarters and in the field), representatives of States Parties and non-States Parties, representatives of the Convention's statutory bodies (i.e. the Bureau of the Meeting of States Parties and the STAB), experts in underwater archaeology and the law of the sea, current and potential partner organizations.

Limitations

28. The document review pointed to a serious limitation in information on the implementation of the 2001 Convention due to the absence of a periodic reporting system. It has therefore proven difficult for the evaluation team to measure the full scale of initiatives and measures undertaken by States Parties to implement the Convention since its entry into force in February 2009. The

evaluation collected data on implementation through the survey for Member States and interviews to fill this information gap.

29. Finally, the evaluation was undertaken in a relatively short timeframe (six months spanning December 2018 to May 2019) in order for its findings and recommendations to be presented at the seventh session of the Meeting of States Parties in June 2019 and inform future decision-making processes.

2. Relevance of 2001 Convention

30. This Chapter assesses the relevance of the 2001 Convention to the work of underwater archaeologists, but also for the protection of heritage in a broader sense. It also examines the consistency of the Convention with the law of the sea and explores the linkages between the protection of UCH and that of ocean science and the marine environment as a whole. Finally, it explores the contribution of the Convention to the 2030 Sustainable Development Agenda.

Underwater Archaeology

The Rules are a major reference for underwater archaeologists

31. The 2001 Convention is the first binding legal instrument that focuses on the protection of UCH in all maritime zones and provides much needed guidance for scientific activities directed at UCH. The Rules contained in Annex to the Convention are widely considered in the archaeological community, as the reference for excavations, research, conservation and site management. Interviews with archaeologists from around the world consistently show that the Rules are applied in all countries be they States Parties to the 2001 Convention or not. In fact, the 2001 Convention and its Rules often serve as a legal basis in countries that do not have strong legislative or policy frameworks.

A number of provisions require clarification, even for researchers

32. The evaluation established that a number of the 2001 Convention's provisions are misunderstood, even by archaeologists. Consequently, these are applied based on various interpretations and the evaluation found that at times they are leading to misconceptions and, in turn, are preventing certain countries from ratifying the Convention. More specifically, archaeologists have pointed out the following issues.

33. One of the key provisions of the 2001 Convention lies in article 2(5) about *in situ* preservation: "The preservation *in situ* of UCH shall be considered as the first option before allowing or engaging in any activities directed at this heritage". Interviews reveal that quite often, archaeologists are under the impression that *in situ* preservation is the only option promoted by the text. As such, they see

the Convention as prohibiting the removal of UCH from the water, even for research purposes. This confusion causes practical problems, since in many cases archaeologists feel obliged to stop excavating and, in a way, to stop the scientific fieldwork, in order not to remove artefacts from the seabed.

34. This provision merits careful consideration and explanation. According to the Convention, *in situ* preservation is and should be the first option, not the only one. Artefacts should only remain underwater if archaeologists do not have the means to fully apply the Rules.¹³ The Convention urges scientists to consider various options and gives them the possibility to excavate and to recover artefacts, as long as proper conservation techniques for the recovered objects are applied and the Rules in the Annex are respected. Article 2(5) is a key provision that needs to be clarified and explained by the STAB and Secretariat.

35. A second point that can be seen as contentious relates to the "cultural, historical or archaeological link". The establishment of such a verifiable link is required by the Convention for the issuance of declarations from States Parties interested in being consulted on the protection of UCH located in a State's EEZ or continental shelf (article 9(5)) and in the Area (article 11(4)) in the framework of the state cooperation mechanism. The Convention further requires this condition to be reflected in other bilateral, regional or multilateral agreements that may be adopted to allow such cooperation (article 6(2)). Defining this link is not easy. For example, interviews reveal that for archaeologists working in "closed marine areas", such as the Mediterranean or the Caspian Seas, with thousands of years of naval traditions and multicultural exchanges, attributing a link and verifying it is not so simple, if next to impossible. For ancient civilizations, it is often archaeologically very difficult to specify the "cultural, historical or archaeological link", since historical data on the origin, the destination and the reasons of the journey may be very limited. Oftentimes, this would even require States to undertake prior research on the UCH with which they wish to establish that link. The application of this principle is being put to the test by the seven States that have expressed interest in cooperating for the protection of the Skerki Banks. This will be further discussed in Chapter 4.

¹³ There are differences in the various language versions of the Convention text that may be contributing to the misunderstanding of the provision. The English version specifies that the *in situ*

preservation of UCH shall be considered the first option, whereas the French and Spanish versions indicate that it shall be the priority.

36. Another sensitive issue brought up by the 2001 Convention is that of human remains, which are defined as UCH in Article 1(a)(i). Archaeologists confirm that it is rare to discover human remains in ancient UCH sites, as these usually deteriorate quite rapidly. Exceptionally, human remains may be found on ancient sites if they are buried in an anoxic environment. Even if that is the case, it is highly improbable to identify these individuals. On the other hand, UCH sites from the past century often contain human remains. Historical data often exists on the crew and passengers of these vessels, which makes identification of human remains possible. In case of discovery of such remains, their handling becomes a very sensitive and ethical issue that needs to be carefully addressed. Countries have different ways of approaching the treatment of human remains. Some have adopted policies of leaving these on their resting place, whereas others proceed with their recovery. The Convention aims to ensure the protection of these human remains but the decision on whether to remove them or not ultimately lies with each country. Indeed, interviewees confirm that the application of the provisions of the Convention needs to be carried out in respect of the diversity of religious and or cultural sensitivities.

37. In Article 2(10), the 2001 Convention specifies that “responsible non-intrusive access to observe or document *in situ* underwater cultural heritage shall be encouraged to create public awareness, appreciation, and protection of the heritage except where such access is incompatible with its protection and management”. During the past few decades, the evolution of diving technology has enabled more people to access UCH and has therefore made it more vulnerable. Finding a balance between encouraging the scientific study, the protection of UCH sites from voluntary as well as involuntary damage as well as the accessibility of the UCH, is challenging and always depends on the unique context and contents of each site. All the archaeologists interviewed confirm that there is no general rule for the accessibility of UCH sites. They consider that public access to UCH should be encouraged and reinforced, but always within the Rules for the protection of the sites from threats (such as respect for human remains).

¹⁴ The Marine World Heritage Programme currently covers 49 natural World Heritage properties.

UNESCO’s other Culture Conventions

38. UNESCO has six Culture Conventions, five of which are dedicated to the protection of cultural heritage. All have strong ties to the 2001 Convention.

39. The 1954 Convention on the Protection of Cultural Property in the Event of Armed Conflict was the first worldwide treaty focussing on the protection of cultural heritage, movable and immovable. In implementing the 1954 Convention in peacetime or during conflict, States Parties should undertake a number of measures such as undertaking inventories, conducting training for military and police, using the Blue Shield Emblem, and above all refraining from targeting cultural property during conflict by not placing troops near it. All of these measures apply to cultural heritage, whether it is on land or under water.

40. The 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property encourages States to cooperate to curb illicit trafficking. It is complemented by the international private law approach of the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects. Cultural objects found under water continue to be looted, trafficked and sold in art markets around the world. These “treasure hunting” operations directed at UCH are contrary to the 2001, 1970 and UNIDROIT Conventions. Interviews with UNESCO staff and representatives of international organizations working in law enforcement clearly show that by drawing on the synergies and partnerships amongst these three instruments, UNESCO’s approach and action to combat illicit trafficking of UCH has an enormous potential of being strengthened.

41. The 1972 Convention concerning the Protection of the World Cultural and Natural Heritage links the conservation of natural and cultural properties and defines the criteria for these to be considered for inscription on the World Heritage List. A number of cultural and mixed World Heritage properties are located under water and some of these are covered by the World Heritage Marine Programme.¹⁴ To date, this Programme has not included UCH in its scope of work. Yet, in 2010, the World Heritage Centre had highlighted that the ‘Programme, which is currently limited to natural sites of marine biodiversity, could [...] enlarge its scope to submerged archaeological sites’¹⁵.

¹⁵ World Heritage Committee, *World Heritage Convention and the other UNESCO Cultural Conventions in the field of Culture*, 34th sess, Item 5E, Doc WHC-09/34.COM/5E (9 July 2010), para 26

42. Other World Heritage properties are only partially located under water or have buffer zones in bodies of water. Consequently, many of these sites have UCH, but its protection under the 1972 Convention varies. For example, the Rock Islands Southern Lagoon in Palau, a Mixed Property, makes explicit reference to protected underwater archaeological and historical remains. Many notable sites on the Tentative List also contain UCH, such as:

- the Underwater City of Port Royal in Jamaica;
- the Landing Beaches of Normandy France whose waters contain many wrecks from the Allies in World War II;
- the sunken towns of Lake Issyk Kul in Kyrgyzstan; and,
- the Reserve of the Banco de Chinchorro in Mexico that contains wrecks.

The latter two sites are also UNESCO Biosphere Reserves, although protection of their UCH is not included in the label, which is a missed opportunity.

43. Sometimes the existence of UCH is not recognized in the World Heritage inscription, but safeguarding measures do incorporate its protection. An example of this is the State of Conservation Report for the Culturo-Historical Region of Kotor in Montenegro which makes reference to underwater archaeological sites with remains of sunken ships and their cargo, as well as a part of Illyrian and Hellenistic walls that are now submerged due to changes in the sea-level. Other sites have buffer zones containing UCH, but do not refer to it. For example, the buffer zone of the San Pedro de la Roca Castle in Santiago de Cuba encompasses a part of the Santiago de Cuba bay, which contains many shipwrecks from the Spanish fleet. Likewise, the Osun-Osogbo Sacred Grove has much UCH lying in the Osun River in Nigeria. Yet, the joint ICOMOS-STAB mission to the World Heritage site of Nessebar demonstrated how the protection of UCH can be included in broader management plans under the 1972 Convention. Interviews with most Culture Sector staff confirm that opportunities for such synergies between the 1972 and 2001 Conventions to strengthen the protection of the UCH should not be missed.

44. For many people around the world, cultural and natural heritage is intricately linked to indigenous knowledge and the cultural practices that are protected by UNESCO's 2003 Convention on the Protection of Intangible Cultural Heritage. Exploring the connections between the tangible and intangible aspects of UCH is essential in order to fully understand the cultural, historical and social value of these sites and to involve the local communities in their

protection. It is also a way of demonstrating the relevance of UCH to future generations. This will be discussed further in Chapter 3.

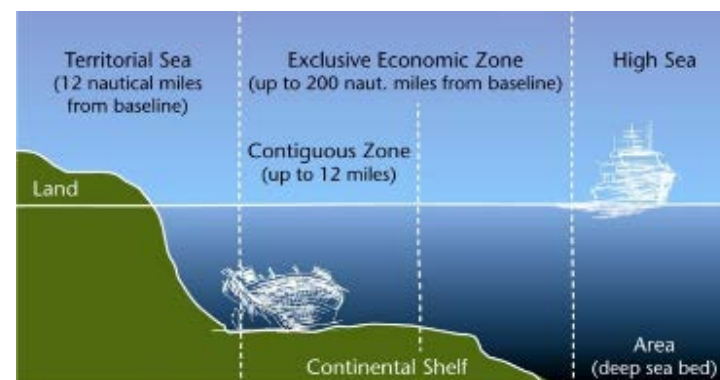
The Law of the Sea

The 2001 Convention fills the void left by the 1982 UNCLOS

45. The 1982 UN Convention on the Law of the Sea is one of the most comprehensive and widely accepted international agreements. As noted by the legal experts interviewed, it has a constitutional nature providing the legal framework for the conduct of activities at sea, reflecting a careful balance of the corresponding rights, jurisdiction, and authority of coastal and flag States (see Figure 2). However, it only has two short and very general articles on heritage, Articles 149 and 303; that were introduced towards the end of negotiations.

46. Article 149 recognizes the general legal principle for “objects of an archaeological or historical nature” in the “Area”¹⁶ beyond the jurisdiction of nations. It says that this underwater heritage must be “preserved or disposed of for the benefit of mankind as a whole.” It also says that States must recognize the preferential rights of certain other States that may have an interest in the heritage. However, it does not define these preferential rights, nor does it provide any details on how States are to implement the principle, or how those rights should be balanced. In short, it provides no standards for compliance.

Figure 2. Maritime zones as defined in the UNCLOS



Source: 1982 United Nations Convention on the Law of the Sea

¹⁶ "Area" means the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction" *UNCLOS, art 1(1)* and *2001 Convention, art 1(5)*.

47. Article 303(1) recognizes that States have a general duty to protect heritage found at sea and shall cooperate for that purpose. However, like Article 149, it provides little detail or guidance as to how States should act to protect such heritage and provides no standards of compliance. Subsection (2) does identify the limit of coastal State jurisdiction over the removal of submerged heritage within its 24 nautical mile contiguous zone. Article 303 subsection (3) clarifies that this article does not alter any rights of ownership or the law of salvage, and subsection (4) clarifies that it is without prejudice to other international agreements. A leading commentary on UNCLOS noted that “[p]resumably, in the course of time, this incipient new branch of law “[would] be completed by the competent international organization, above all UNESCO, and by State practice.”¹⁷ As such, the 2001 Convention could be interpreted as being *lex specialis*,¹⁸ which, although, subject to international law¹⁹, could fill the gaps left by the UNCLOS regarding the protection of submerged heritage.

48. A primary purpose of the 2001 Convention was therefore to build on the legal framework of UNCLOS and provide details for implementing the duty to protect “objects of an archaeological or historical nature” and to cooperate for that purpose. Addressing the perceived gap in the protection of UCH in the EEZ and continental shelf was especially important. This included addressing the direct threat from looting and salvage that are not done in accordance with the scientific approach of archaeological standards. As many of those interviewed noted, the 2001 Convention provides the sorely needed details for protection, regulation, compliance and cooperation that are missing in UNCLOS.

The 2001 Convention is relevant to and consistent with the UNCLOS

49. The 2001 Convention is the most comprehensive agreement to date to recognize and incorporate the UNCLOS framework and provide the needed details, standards and requirements for compliance in a manner consistent with it. The 2001 Convention may also be relevant or helpful guidance for other nations and international organizations as they carry out their work under UNCLOS, particularly in implementing UNCLOS Articles 149 and 303. A few experts highlighted how UNCLOS Article 311(3) limits the rights of State Parties to enter subsequent agreements, which are incompatible with the object and

¹⁷ S. Rosene & L. Bl. Sohn (eds), *United Nations Convention on the Law of the Sea 1982: A Commentary* Vol. V (Martinus Nijhoff, Dordrecht, 1989) 162; cited by *Shipwrecked Heritage*, above n 4, p 20.

¹⁸ *Lex specialis* is a Latin phrase which means “law governing a specific subject matter”.

¹⁹ *2001 Convention*, article 2(4) and art 3

purpose of UNCLOS. This supports the view that the Parties to UNCLOS that are also Parties to the 2001 Convention consider the two instruments to be compatible or consistent.

50. A review of the provisions of the 2001 Convention reveals several express references to UNCLOS, incorporating the framework provisions and then building upon it. For example, the preamble identifies “the need to codify and progressively develop rules relating to the protection and preservation of underwater cultural heritage in conformity with international law and practice, including “[...] [UNCLOS];” Article 1 uses the UNCLOS terms “objects of an archaeological or historical nature” and expands upon them using other terms consistent with State practice,²⁰ and Article 2 identifies the duty to preserve heritage under UNCLOS and provides more detail as to how to cooperate in implementing the duty to protect. Article 3 on the relationship between this Convention and the UNCLOS is the most important. It states that “[nothing in this Convention shall prejudice the rights, jurisdiction and duties of States under international law, including the United Nations Convention on the Law of the Sea. This Convention shall be interpreted and applied in the context of and in a manner consistent with international law, including the United Nations Convention on the Law of the Sea.” All of those interviewed agreed that the 2001 Convention and particularly the definition of UCH, and the articles on the relationships to the law of salvage and the regimes in the various maritime zones are consistent with UNCLOS. A number of provisions continued to raise concerns for some countries and are discussed below.

Some States continue to express concerns on the consistency of the 2001 Convention with the 1982 UNCLOS

Perception that the 2001 Convention may add new Coastal State Rights or Jurisdiction within the EEZ and continental shelf

51. During negotiations for the 2001 Convention, some countries’ delegations expressed concern that the instrument creates new rights within the EEZ/continental shelf and that these protective measures may be upsetting the balance of interests under UNCLOS. The provisions included the obligation by

²⁰ “Underwater cultural heritage means all traces of human existence having a cultural, historical or archaeological character which have been partially or totally under water, periodically or continuously, for at least 100 years”. *2001 Convention*, art. 1. While adopted by consensus during negotiations, one expert interviewed correctly noted that the definition including the use of “traces” instead of “objects” is an expansion of the scope of resources covered under UNCLOS.

the State that discovers UCH in the EEZ or on the continental shelf of another State Party to report it to that Party as well as to the Director-General of UNESCO (Article 9). It furthermore, creates a cooperation mechanism for the protection of that UCH (Article 10), inviting the coastal State Party to assume a coordinating role and consult all other States Parties, which have declared interest in the UCH on how to best protect it. Some countries saw this as an extension of the sovereign rights and jurisdiction of the coastal state over the EEZ, which go beyond those foreseen in the UNCLOS. Others view this as inviting other States to participate in the decision-making process concerning another country's EEZ or continental shelf and thereby limiting that country's sovereign rights within those zones. According to the evaluation survey of Member States, 24% of countries (n=38)²¹ identified inconsistency or incompatibility with the UNCLOS as the reason for not ratifying.

52. UNCLOS Article 303(2) limits coastal State jurisdiction over UCH to the 24 nautical mile limit of the contiguous zone. Seaward of that limit, UNCLOS does recognize coastal State jurisdiction over activities directed at UCH, but only if the activity also triggers or interferes with the coastal State's rights, jurisdiction and authority over economic development including protection of natural resources in the EEZ/continental shelf.

53. Experts interviewed for this evaluation were almost all of the view that these provisions do not create additional rights for States. The requirements for notification and reporting of discoveries of UCH, and the agreement that the coastal State should be the Coordinating State are new, but they are not based on the exclusive coastal State jurisdiction. Rather, they are based on the jurisdiction a country has over its citizens or vessels flying its flag. This is apparent from the reporting requirement being on the vessel and citizen for discoveries on the continental shelf of a foreign nation as well as the coastal State. Consequently, the provisions in the 2001 Convention focus on the duty to cooperate among States Parties on protecting UCH, rather than providing an exclusive coastal State assertion of jurisdiction.

54. It has also been noted by experts interviewed that there is no evidence that the cooperation regime has been used by a coastal State to assert exclusive jurisdiction over UCH because the latter is located within its EEZ/continental shelf. Indeed, the first example of cooperation to protect UCH on the continental

shelf of Tunisia started earlier this year regarding submerged heritage found on the Skerki Banks. This will be discussed in more detail in Chapter 4.

55. A couple of experts noted that since the Coordinating State may end up being the flag State of the UCH, the cooperation mechanism is more of an extension of the UNCLOS Article 149 regime for the Area in which no state has exclusive jurisdiction than it is an extension of the regime for contiguous zone in which the coastal State has exclusive jurisdiction.

The treatment of sunken State vessels and aircrafts

56. During the negotiations for the 2001 Convention, some maritime nations also expressed concerns about respecting sovereign immunity of State-owned UCH that is sunken vessels and aircraft, all while having to obtain the consent of the foreign flag State before these are disturbed or recovered. The negotiations resulted in text to address these concerns. Article 7(3) of the 2001 Convention provides that a State which has discovered another's state vessel or aircraft within its own territorial sea "should inform" the flag State as opposed to requiring notification.

57. Interviews show that there may still be some concerns about the respect of the foreign flag ownership and sovereign immunity of sunken warships within other countries' territorial sea. However, most interviewees were of the view that some of the major maritime powers that initially shared these concerns no longer appear to have them due to respect of flag State jurisdiction. The practice of nations has also demonstrated respect for ownership of sovereign immunity of sunken vessels and aircraft. There does not appear to be any examples of States Parties to the 2001 Convention not respecting the ownership or sovereign immunity of sunken State vessels and aircraft. The provisions regarding sunken vessels and aircraft therefore do not appear to be a significant obstacle to ratification or as an issue of compatibility with UNCLOS. To the contrary, a couple of those interviewed indicated that the concern for protection of sunken State vessels and aircraft from World Wars I and II was a factor in their efforts towards ratification. Reasons for this include the protection of such vessels as UCH and as war gravesites as well as the benefits of cooperation that come with ratification.

²¹ This value represents the total number of respondents that answered the related question in the evaluation survey. Similar values are included alongside data presented in this report.

The 2001 Convention is consistent with the 1989 International Maritime Organization Convention on Salvage

58. In 1989, under the auspices of the International Maritime Organization (IMO), the States interested in unifying the maritime law of salvage adopted the International Convention on Salvage, also known as the Salvage Convention. Article 1 defines “(a) Salvage operation [as] any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or in any other waters whatsoever.” Under (b) Vessel means any ship or craft, or any structure capable of navigation.” Consistent with the long practice of nations, the Salvage Convention applies to recent maritime casualties, and not to submerged heritage resources that has been incapable of navigation for decades if not centuries. Regardless, in response to requests for provisions that specifically address UCH, Article 30(1)(d) of the Salvage Convention states that — “[a]ny State may, at the time of signature, ratification, acceptance, approval, or accession, reserve the right not to apply the provisions of this Convention “[...] when the property involved is maritime cultural property of prehistoric, archaeological or historic interest and is situated on the sea-bed”. In general, the Salvage Convention does not apply to State vessels, unless a State party notifies the IMO and specifies the terms and conditions of applicability. In addition, the Salvage Convention disclaims any effect on — any provision of national law or any international convention relating to salvage operations by or under the control of public authorities.

59. The IMO observer at the 1998 Paris meeting on the draft UNESCO Convention for the Protection of UCH reiterated the inapplicability of the Salvage Convention to historic shipwrecks, explaining: “[T]he Salvage Convention is a private law Convention and its objectives are very different from those of [the 2001 UNESCO Convention] draft, which deals with international public law. The Salvage Convention should not, therefore, apply to historic wrecks.” Of course, it remains to each country to decide whether to apply the maritime law of salvage. A few of the experts interviewed for this evaluation noted that there was no conflict between the Salvage Convention and the 2001 Convention, but that there may be some benefits for increased cooperation between the IMO and UNESCO. For example, there could be cooperation in the education and outreach regarding mutual interest in maritime heritage and UCH, and in respect to the purpose, scope and application of each of these Conventions as well as the Nairobi Wreck Convention.

The 2001 Convention is consistent with the 2007 IMO Nairobi International Convention on the Removal of Wrecks

60. A primary purpose of the 2007 International Convention on the Removal of Wrecks (Nairobi Wreck Convention) is clarifying the coastal State’s authority to address threats to navigation and marine pollution from wrecks outside its territorial sea from a sunken or stranded ship. Like the Salvage Convention, its focus is upon recent marine casualties. However, the Nairobi Wreck Convention may also apply if the wrecks have been underwater for at least 100 years. Shipwrecks, particularly from World Wars I and II, pose threats to the marine environment, e.g., bunker fuel, cargo that may be hazardous, and munitions. The Nairobi Wreck Convention recognizes the authority of States to remove, or have removed, shipwrecks that may have the potential to affect adversely the marine environment, navigation or its economic interests as well as the safety of lives, goods and property at sea. It therefore creates a set of uniform international rules aimed at ensuring the prompt and effective removal of wrecks located beyond the territorial sea.

61. Experts interviewed noted that there are no conflicts with the Nairobi Wreck Convention and the 2001 Convention or the Salvage Convention. In part, this is because the Nairobi Wreck Convention is about the coastal State authority to address threats of marine pollution and navigation off its coast and the 2001 Convention is about addressing the duty to protect UCH. In particular, the 2001 Convention recognizes that the coastal State has the discretionary authority on how to address this. The obligation under Article 5 is simply that the “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 UCH”. It was also noted that there are benefits to considering these conventions and some of the UN processes on the ocean, discussed below, as an integrated package. A couple of those interviewed found that the consideration for ratification of the Nairobi Wreck Convention and the issue of potentially polluting vessels also helped in the consideration of the 2001 Convention as both are concerned about addressing threats to heritage (both natural and cultural).

The 2001 Convention is relevant to other regional Conventions

62. The Convention for the Protection of the Mediterranean Sea against Pollution (Barcelona Convention) was adopted in 1976 in conjunction with two Protocols addressing the prevention of pollution by dumping from ships and

aircraft and cooperation in combating pollution in cases of emergency. The Convention's main objectives are: to assess and control marine pollution; to ensure sustainable management of natural marine and coastal resources; to integrate the environment in social and economic development; to protect the marine environment and coastal zones through prevention and reduction of pollution, and as far as possible, elimination of pollution, whether land or sea-based; to protect the natural and cultural heritage. It was the first-ever Regional Seas Programme under the United Nations Environment Programme.

63. The Barcelona Convention seeks to protect both natural and cultural heritage. The 2001 Convention is relevant to both objectives and that the Barcelona Convention would be particularly helpful in providing detailed guidance on the protection of UCH in an environmentally sound manner. A couple of those interviewed noted that the 2001 Convention would be relevant to the Barcelona Convention and regional cooperation in the Mediterranean Sea and may therefore be a region for additional cooperation in the future.

Relevance to sustainable development

64. In 1992, the United Nations convened the Conference on Environment and Development in Brazil, which resulted in the Rio Declaration on Environment and Development, including Agenda 21. Under this Agenda, the duty to protect the marine environment and to cooperate for that purpose is expressly recognized as flowing from the 1982 UNCLOS. For example, Chapter 17.1 highlights how the law of the sea “sets forth rights and obligations of States and provides the international basis upon which to pursue the protection and sustainable development of the marine and coastal environment and its resources.” It then identifies approaches to marine and coastal area management and development over which States should cooperate, calling specifically for integrated management and a precautionary approach in the sustainable development and the protection of the marine environment, which should include consideration of cultural and natural resources. A holistic approach and ecosystem management is preferred over species management;

²² An Environmental Impact Assessment is a process of evaluating the likely environmental impacts of a proposed project or development, taking into account inter-related socio-economic, cultural and human-health impacts, both beneficial and adverse. Please see more [here](#).

²³ According to the IOC, “Marine spatial planning is an approach that can make key components of applying the ecosystem approach to marine areas a reality. It does so by analyzing and allocating the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic, and social objectives that typically have been specified through a political process. In

therefore, governance of the marine environment should include all stakeholders and interests including UCH. While much of the focus is on the conservation of marine living resources, the consideration of cultural heritage can be found throughout, including environmental impact assessments and integrated management.

65. Most of the stakeholders interviewed for this evaluation agreed that the 2001 Convention is relevant to the consideration of other processes at the United Nations involving the ocean and the UNCLOS. These processes include the discussions around conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ) and climate change, the work of UN Oceans, the upcoming UN Decade on Ocean Sciences (2021-2030) as well as the Blue Economy. The protection of UCH also contributes to a number of Sustainable Development Goals (SDGs).

Biodiversity Beyond National Jurisdiction

66. In 2004, the UN General Assembly, through Resolution 59/24 created a Working Group to study the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction. The focus was on area-based management tools and benefit-sharing regimes for marine genetic resources. Paragraph 162 of the Outcome Document “The Future We Want” of the UN Conference on Sustainable Development in 2012 committed to address the issue of the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, including through the development of an international instrument. At present, negotiations are ongoing for the development of a new international legally binding instrument under the UNCLOS for the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ). The focus is on preserving the biological diversity of the marine environment (natural heritage) for present and future generations. Some of the measures for the conservation and sustainable use of this environment include Environmental Impact Assessments (EIAs)²², Marine Spatial Planning²³ and Marine Protected Areas (MPAs)²⁴.

addition to hosting the first international workshop on marine spatial planning (November 2006) and publishing a UNESCO technical report, *Visions for a Sea Change* (2007), the principal investigators co-edited the first peer-reviewed special issue of the international journal *Marine Policy* (September 2008) devoted to MSP. The latest output of this initiative is the guide “[Marine spatial planning: A step-by-step approach toward ecosystem-based management](#)”, published in June 2009. See [here](#).

²⁴ IUCN's definition of a Marine Protected Area is: “Any area of intertidal or sub-tidal terrain, together with its overlying water and associated flora, fauna, historical and cultural features, which has been

67. Many MPAs already protect cultural as well as natural heritage. In fact, cultural heritage often acts as an artificial reef becoming inextricably connected to the natural environment. Most of those interviewed agreed that EIAs should include the assessment of impacts to cultural as well as to natural heritage. It was similarly noted that Marine Spatial Planning, which strives to include all stakeholders, should also include those working on UCH. Consequently, many interviewees find the 2001 Convention to be relevant to the BBNJ process particularly in considering how to implement the duty to protect heritage found at sea and to cooperate for that purpose under UNCLOS.

68. The BBNJ process also involves a discussion on marine genetic resources and the UNCLOS principle in the Area regarding the Common Heritage of Mankind. The 2001 Convention cooperation mechanism for UCH in the Area is relevant to these discussions and can inspire a cooperation regime in the Area.

Underwater cultural heritage needs to be part of the discussions of UN Oceans

69. UN Oceans is an inter-agency mechanism that seeks to enhance the coordination, coherence and effectiveness of organizations of the UN system with competence in activities related to ocean and coastal areas and the International Seabed Authority, all in conformity with the UNCLOS. Officially, UNESCO may send two representatives to UN Oceans: one from its Intergovernmental Oceanographic Commission (IOC) and one from the UNESCO Secretariat, which may be from the UCH Unit. However, in practice, the latter has had little involvement and visibility in UN Oceans processes. There was only one notable event, when the Chairman of the MSP organized two side events to promote UCH during the 2017 UN Ocean Conference (see Chapter 4 on Results). During the past several years, only the IOC has been involved in UN Oceans and the evaluation has not identified instances in which UCH was put to the fore in UN Oceans discussions.

reserved by law or other effective means to protect part or all of the enclosed environment," (Kelleher, 1999).Feb 1, 2010. Please see [here](#).

²⁵DOALOS convenes and organizes the meetings; facilitates communication among UN Oceans participants; maintains and updates information about UN-Oceans activities and makes this information available to the participants, Member States and the public through the UN Oceans website (www.unoceans.org.)

70. Most stakeholders interviewed for this evaluation expressed the view that the duty to protect the marine environment includes cultural as well as natural resources. The protection of UCH and the 2001 Convention therefore need to feed into the discussions in UN Oceans. For this to happen, it is essential that the Culture Sector participate in UN Oceans fora. Alternately, the cooperation with the IOC should be strengthened to ensure that it brings matters related to UCH in this forum. In this regard, the Culture Sector and IOC recently agreed to establish a standing committee with the aim of promoting intersectorality for UNESCO's work on marine sites, building on the discussions in UN Oceans. The effectiveness of this collaboration remains to be seen, as this Committee had not yet met at the time of finalization of the present evaluation.

71. As the Secretariat charged with promoting the wider acceptance of the UNCLOS and ensuring its consistent application, the Division for Ocean Affairs and the Law of the Sea (DOALOS) of the UN Office of Legal Affairs is the focal point of UN Oceans²⁵. DAOLOS assisted UNESCO in developing a draft convention on UCH that was circulated among UN Member States and was subsequently adopted as the basis for negotiations at the first meeting of experts in 1998.²⁶ However, since then, there has been no cooperation between the two Organizations. Nonetheless, DOALOS may be of assistance in the future to help address any remaining concerns regarding consistency with the UNCLOS and the careful balancing of interests of flag and coastal States.

UN Decade of Ocean Science for Sustainable Development

72. In light of the serious degradations to the ocean and the impact of the multiple stressors on the ocean²⁷, the United Nations supports efforts to reverse the cycle of decline in ocean health and gather ocean stakeholders worldwide behind a common framework that will ensure ocean science can fully support countries in creating improved conditions for sustainable development of the Ocean. Adaptation strategies and science-informed policy responses to global change are urgently needed. As mandated by the UN General Assembly, the IOC is responsible for coordinating the UN Decade of Ocean Science for

²⁶ *Shipwrecked Heritage*, above n 4, p. 24-25 noting that the UNESCO and DAOLOS initial draft had drawn upon the draft of the International Law Association that was spearheaded by Patrick J O'Keefe and Dr. J. Nafziger.

²⁷ Ad Hoc Working Group of the Whole on the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects, *First Global Integrated Marine Assessment (First World Ocean Assessment)*, GA Res 70/235, UN GAOR, 70th sess, 82nd plen mtg, Agenda Item 79(a), Supp No 49, UN Doc A/RES/70/235, para 266 (15 March 2016, adopted 23 December 2015).

Sustainable Development (2021-2030), inviting the global ocean community to plan for the next ten years in ocean science and technology to deliver, together, the ocean we need for the future we want. The Roadmap for this Decade states that ‘ocean science’ should be interpreted broadly as encompassing, amongst other, social sciences and human dimensions. It further includes cultural objects in its parameters for mapping the seabed (i.e. marine spatial planning) and notes that “[t]hey could also help in protection of underwater cultural heritage”²⁸. The integration of traditional knowledge in ocean research will also be promoted in the context of the Decade. The Roadmap identifies six societal outcomes under which UCH and the 2001 Convention are relevant. Interviews with stakeholders indicate the following areas in which UCH can play a role.

73. A clean ocean whereby sources of pollution are identified, quantified and reduced and pollutants removed from the ocean. Some UCH that may be of interest for present and future generations may also contain hazardous fuel, cargo, and/or munitions that may pose threats to the natural environment. Addressing threats of pollution from wrecks in view of preserving and passing on the natural heritage to future generations is key. Similarly, the threats from pollution can affect the *in situ* preservation of UCH and need to be mitigated.

74. A healthy and resilient ocean whereby marine ecosystems are mapped and protected, multiple impacts, including climate change, are measured and reduced, and provision of ocean ecosystem services is maintained. Marine ecosystems and the seabed contain both natural and cultural heritage. Much of the cultural heritage is inextricably connected to the natural heritage and should be included in the baseline information for integrated coastal management and marine spatial planning. Furthermore, archaeological research has much to say on climate change and how humans have adapted to it for millennia. This may help inform decision makers about how to address, adapt and otherwise prepare for climate change and sea-level rise in the future.

75. A predicted ocean whereby society has the capacity to understand current and future ocean conditions, forecast their change and impact on human wellbeing and livelihoods. Research of UCH has the potential for revealing information about ocean conditions in the past that are relevant for understanding the ocean’s impact on humankind. Studying this maritime

heritage and the human uses of the sea in the past and present are key beacons for sustainable development in the future.

76. A safe ocean whereby human communities are protected from ocean hazards and where the safety of operations at sea and on the coast is ensured. The research of UCH may provide relevant information on ocean hazards and other environmental factors that resulted in wrecks. Studying the maritime cultural landscape also has important lessons on how people have been affected by and adapted to natural disasters and changes in the environment in the past. It can therefore inform the way for dealing with hazards in the future.

77. A sustainably harvested and productive ocean ensuring the provision of food supply and alternative livelihoods. The sustainable development of ocean resources should consider the sustainable use of both natural and cultural heritage. This may involve setting aside marine protected areas where natural and cultural heritage are preserved *in situ* as part of a plan for sustainable fishing, mining and other uses of the ocean.

78. A transparent and accessible ocean whereby all nations, stakeholders and citizens have access to ocean data and information, technologies and have the capacities to inform their decisions. The ocean data and information should include cultural as well as natural heritage to inform decision makers in their decisions about protection, development and a sustainable use particularly of resources that are non-renewable. For example, UCH can be key in helping people understand the technologies that were used for fishing in the past and how they need to be adapted for the future. Research and protection of UCH can indeed contribute to social and economic wellbeing and create many jobs, thereby also contributing to the Blue Economy, which is discussed below.

79. There are great potential benefits from the integration of scientific research of natural and cultural resources for sustainable development that preserves UCH for present and future generations. It is therefore essential that UNESCO strengthen its efforts in integrating the protection of UCH in the Decade.

Blue Economy

80. According to the World Bank,²⁹ the Blue Economy is the “sustainable use of ocean resources for economic growth, improved livelihoods, and jobs while

engagement of social and human sciences and economic valuation). The revised Roadmap is available [here](#).

²⁹ The World Bank, *What is the Blue Economy?* (6 June 2017) available [here](#).

²⁸ Please review R&D Priority Areas 1 (Comprehensive map – digital atlas- of the ocean) and 6 (R&D Priority Area 6: Ocean in earth-system observation, research and prediction, with

preserving the health of ocean ecosystems.” At the first ever Global High-Level Conference on the Global Sustainable Blue Economy held in Nairobi in November 2018, the President of Kenya identified two important pillars of the Blue Economy: “sustainability, climate change and controlling pollution” and “production, accelerated economic growth, jobs and poverty alleviation”.³⁰

81. Most of those interviewed agreed that the 2001 Convention is relevant to the Blue Economy. There are many jobs in ecocultural tourism that can contribute to the protection of both natural and cultural heritage, such as in Marine Protected Areas. These include charter operations for diving, snorkelling and other activities consistent with *in situ* preservation. There are also jobs in museums, aquariums and fishing, which involve extraction of UCH in a sustainable manner that furthers its long-term preservation.

82. In addressing potential threats to the environment from wrecks that constitute UCH, there is a direct link to the 2001 Convention and a contribution to the Blue Economy. For example, there are jobs in removing the bunker fuel, hazardous cargo, materials or munitions. The World War II wrecks in the Pacific are of particular concern as some are being salvaged for their metal without proper consideration of them as gravesites or potentially polluting vessels that will become UCH in the not too distant future. Other Blue Economy jobs include surveying the seabed and the UCH and in conducting the Environmental Impact Assessments that identify the natural and cultural resources in the environment.

Underwater cultural heritage research, education and protection is relevant to many Sustainable Development Goals

83. A number of UNESCO staff interviewed for this evaluation highlighted the challenges in showcasing the connection between the 2001 Convention and the SDGs both at the country and global levels. Yet, the protection of UCH can make important contributions to the 2030 Agenda, as is already acknowledged in the 2018-2019 UNESCO Programme and Budget.³¹ The following are just some examples that emerged during evaluation interviews to illustrate these key links. The development of specific indicators would enable the tracking of progress on the contribution of UCH protection to the SDGs.

84. **SDG 4 Education:** We are all connected by the sea. Our world and current culture are largely the result of the maritime heritage of trade, commerce and

³⁰ ‘A Special Call to Participate’ by Hon Uhuru Kenyatta, President of the Republic of Kenya, Sustainable Blue Economy Conference in Nairobi, Kenya from 26th to 28th November 2018.

migration over the past several hundred years. The remains of this maritime and cultural heritage on the seabed are part of our identity and cultural diversity that we have a duty to protect and cooperate for, so that it is preserved and passed on to future generations. The 2001 Convention and UCH are relevant to this agenda. Many people interviewed for this evaluation consider that ocean literacy (understanding the ocean’s influence on us and our influence on the ocean) has much to contribute to SDG 4.7 on education for sustainable development. For example, each country and populations’ role in the shared maritime history can be incorporated in school curricula as it may contribute to highlighting the connections between people and building peace and sustainable development.

85. **SDG 5 Gender Equality:** Research and education about our maritime heritage and UCH may also contribute to empowering communities through the telling of stories of women and their traditional knowledge of UCH. The role of both women and men in the protection of UCH and its subsequent contribution to the Blue Economy and sustainable development is also key.

86. **SDG 8 on Decent Work and Economic Growth:** The protection of UCH has the potential of contributing to the Blue Economy (see above).

87. **SDG 11 Sustainable Cities and Settlements:** SDG 11.4 seeks to strengthen efforts to protect the world’s cultural and natural heritage. Research on UCH can contribute to making coastal societies sustainable and protecting their cultural identity. UCH also opens up numerous opportunities for recreation, cultural enrichment and economic and social development. For instance, it can provide long-term opportunities for cultural and recreational tourism, thereby also promoting social well-being and supporting **SDG 3 on Good Health and Well-being**, and can contribute significantly to urban development along coastal areas. Public access to UCH, in the form of museums or dive trails or 3D visioning and other innovative means, ensures the protection and preservation of the UCH concerned, while also promising a lasting return.

88. **SDG 13 Climate Change:** SDG 13.3 seeks to improve education, awareness raising as well as the human and institutional capacity on climate change mitigation, adaptation, impact reduction and early warning. Climate change is a phenomenon that has always taken place. UCH can provide vital evidence about how human populations have adapted to, or been affected by, climate changes in the past. A large majority of humanity’s development took

³¹ UNESCO’s Programme and Budget for 2018-2019 makes reference to the following SDG targets under the Expected Result for the 2001 Convention: 4.7, 5.5, 5.c, 14.7, 17.9, 17.16, and 17.17.

place around ports and other coastal areas, some of which are now partially or fully submerged. A substantial amount of prehistoric and historic evidence on the life of our ancestors lies in UCH and provides an extremely important source of information about the first human civilizations, and about climate change and its impact. Understanding this maritime heritage and seascape and how it has addressed climate change in the past can provide lessons learned for the future. Today, as sea levels rise again, this heritage can help put our current challenges into a wider context. It is moreover a sobering reminder of the reality of climate change.

89. **SDG 14 Oceans:** Understanding the historic relation of humanity with the ocean, such as fishing and shipping and their relationship with UCH is essential. Cultural heritage is the socio-historical element of oceans. UCH research and conservation are an important part of oceanographic scientific research. They can help assess the impact of the ocean on human life. Protecting UCH from pillage, commercial exploitation, trawling-damage, construction and climate change facilitates a beneficial use of the ocean. Its research and education contribute to an improved ocean literacy, a better conservation of coastal and marine areas under SDG 14.5, and increased economic benefits to Small Island

Developing States (SIDS) and Least Developed Countries (LDCs) through the sustainable use of marine resources, especially through tourism under SDG 14.7. The implementation of the 2001 Convention is monitored under SDG 14.c.

90. **SDG 17 on Partnerships** seeks to strengthen global partnerships to support and achieve the ambitious targets of the 2030 Agenda. In helping Member States implement the 2001 Convention, partnerships with diverse stakeholders working on ocean-related matters, including those discussed above, are vital. This will be discussed at length in Chapter 5.

Conclusion

91. This Chapter demonstrated the relevance of the protection of UCH and the 2001 Convention to cultural, social and economic sustainable development. It further underlined the importance of integrating UCH protection into the broader concept of protecting the marine environment and into the work of ongoing processes related to the oceans. UNESCO has an important role to play in these UN fora in order to demonstrate the contribution of the 2001 Convention to the 2030 Sustainable Development Agenda.

3. Governance and Management of the 2001 Convention

92. The 2001 Convention's statutory body, the Meeting of the States Parties (MSP), is supported in its work by three entities: the Bureau of the MSP, the Scientific and Technical Advisory Body (STAB) and the Secretariat. This chapter will assess the role of each, focussing on effectiveness and efficiency, before examining the management of the Convention.

Meeting of the States Parties and its Bureau

93. The Meeting of the States Parties to the 2001 Convention is composed of all States Parties and is the main statutory body of the Convention. The MSP meets every two years³² to discuss matters regarding the implementation of the Convention, namely the election of STAB members and the examination of the reports of the STAB and Secretariat. It also approves States' requests for advice, through the STAB missions and individual country reports they may submit to it. The MSP must contribute to fundraising³³, though evaluation survey respondents have mixed views on its role in this regard³⁴. It must finally 'adopt all measures necessary to further the objectives of the Convention'³⁵.

94. Eight in ten surveyed States Parties consider the work of the MSP to be relevant, and three quarters believe the MSP encourages ratifications (n=39)³⁶. They also believe it encouraged cooperation with other intergovernmental organizations and NGOs (respectively 87% and 82% agreed or strongly agreed). However, interviewees believe the MSP has been too focused on procedural aspects, with little time dedicated to archaeological and other issues of substance. Some have suggested for the MSP to give more time to experts such as the STAB and the accredited NGOs to discuss these issues and to involve them in the agenda-setting process for the MSP. Inviting external

partners such as other NGOs and organizations working on oceans, the environment, with law enforcement etc. could further broaden talks.

95. At each of its sessions, the MSP elects a six-member Bureau composed of State representatives. The Rules of Procedure of the MSP indicate that the election of the Bureau members should be guided by the principle of equitable geographical representation³⁷ and this has been consistently done.³⁸ However, the gender gap within the Bureau has been very prominent. There are no female representatives sitting in the current Bureau and only one Mexican woman chaired it in 2009. Whilst there is no requirement for gender balance in the official texts, gender equality is one of UNESCO's global priorities and the MSP ought to encourage States to consider this factor when proposing and electing Bureau members. In fact, the evaluation survey reveals that the MSP does not consider the UNESCO Global Priorities sufficiently in its work³⁹.

96. The Bureau is responsible for preparing and overseeing the MSP, namely by setting the order of business and facilitating the meeting⁴⁰. The Bureau is not an expert body. Unless the MSP has explicitly delegated some of its powers to the Bureau⁴¹, all decisions are taken by the MSP.

Scientific and Technical Advisory Body

97. Article 23(4) of the 2001 Convention provides that the MSP can be supported in its work by an expert body: the STAB. This subsidiary body, composed of 12 experts elected by the MSP⁴², was thus created in 2009⁴³, shortly after the Convention entered into force. The STAB advises States Parties on questions of a scientific and technical nature regarding the implementation

³² 2001 Convention, art 23(1)

³³ UNESCO, *Rules of Procedure of the Meeting of States Parties to the Convention on the Protection of the Underwater Cultural Heritage*, Meeting of States Parties, 1st sess, UNESCO Doc CLT/CIH/MCO/2009/PI/99 (27 March 2009), Rule 3 ('*Rules of Procedure of the MSP*')

³⁴ 44% of States Parties (n=39) consider that it has sought ways of increasing funding, 23% disagree and 33% do not know whether it has.

³⁵ *Rules of Procedure of the MSP*, Rule 3(h)

³⁶ This value represents the total number of respondents that answered the related question. Similar values are included alongside data presented in this report.

³⁷ Ibid, Rule 7.1.

³⁸ The only exception is during the second MSP when no African representative was elected (Resolution 2 / MSP 2). This may be due to the fact that there were few African States Parties at the time and none of those present submitted their candidacy.

³⁹ 41% of States Parties indicated that the MSP did not have a special focus on the African context and issues whilst 36% indicated that they did not know whether these issues were being discussed. Regarding Priority Gender Equality, although 45% agreed or strongly agreed that gender equality was considered, close to half of those surveyed did not answer the question (n=39).

⁴⁰ *Rules of Procedure of the MSP*, Rule 7.2.

⁴¹ Ibid, Rule 7.3

⁴² Ibid, Rule 22.2

⁴³ Resolution 5 / MSP 1, art 2.

of the Rules annexed to the Convention⁴⁴. The body was also mandated with the elaboration of operational guidelines for the Convention, which the MSP adopted in August 2015⁴⁵ and 82% of States Parties deem clear (n=39). In its capacity as an advisor, the STAB 'shall propose to the MSP standards of and means to promote best practice in the protection of UCH'⁴⁶.

98. Interviews and the survey show that there is general satisfaction among States Parties with the STAB's work, which they deem relevant for their country (74%) and important for the archaeological community (85%) (n=39).

99. The STAB convenes once a year⁴⁷. On the year of the MSP, the STAB has always met after the MSP. The STAB's report is thus only discussed at the following MSP two years later. This large time span is unfortunate as the STAB's recommendations may no longer be relevant when examined by the MSP. Interviews with STAB members and UNESCO staff indicate that in order to be more effective, STAB meetings should occur prior to the MSP and feed directly into the latter.

100. STAB members are elected for four-year terms and the MSP may replace half of them every two years⁴⁸. In nominating these experts, the MSP should be mindful of respecting geographical representation and gender balance within the group⁴⁹. Nevertheless, these principles are not yet fully implemented.

101. In the ten years of its existence, only six women have been members of the STAB, versus 17 men, and there have always been at least twice as many male candidates as female candidates⁵⁰. Few States have put forward female candidates, which is also indicative of a broader gender gap within the underwater archaeology community, where women are underrepresented in many countries. The image of diving as being dangerous reinforces existing gender stereotypes that consider diving as an activity for men. Such gender stereotypes are indeed a factor deterring women from pursuing this career. As will be discussed further in the report, UNESCO has a role to play in fostering

the increased involvement of women in this field, including through its capacity-building programme (see next chapter).

102. The STAB fares better in terms of geographical representation, which is proportional to the number of States Parties in each region.⁵¹ There is however little turnover among STAB, with the same candidates often serving several terms. Some interviewees have challenged the requirement of geographical representation altogether. As the primary role of the STAB is to offer scientific advice, many argue that ensuring the presence of adequate expertise should supersede geography. Some go so far as to state that all STAB members should be archaeologists. Yet, today, only half of the body's members are. Nevertheless, one must bear in mind that underwater archaeology is still a developing field and many practitioners are nationals of non-States Parties, meaning that they cannot sit on the STAB. Many States Parties do not yet have experts in underwater archaeology and rely on UNESCO to help them develop this expertise. Hence, the pool of underwater archaeologists from which to select STAB members is relatively limited. Establishing a STAB exclusively composed of archaeologists within the current context is not realistic.

103. Other interviewees consider that it is important to have a diverse range of expertise within the STAB. UNESCO advocated for such diversity from the onset, as the Statutes of the STAB provide that experts with profiles in 'international law, materials sciences (metallurgy, archaeo-biology, geology) and conservation of underwater cultural sites and/or artefacts' could also join the body⁵². Not only does this contribute to including regions with limited underwater archaeology expertise (none of the four STAB members from Groups IV and V(a) are underwater archaeologists⁵³), but it also allows for the discussion of other topics associated with the oceans, the environment, and their links with UCH.

104. During the early years, the STAB endorsed a proactive role, discussing the major threats to UCH and suggested remedial actions to limit their negative

⁴⁴ 2001 Convention, art 23(5)

⁴⁵ UNESCO, *Statutes of the Scientific and Technical Advisory Body to the Meeting of States Parties to the Convention on the Protection of Underwater Cultural Heritage*, Meeting of States Parties, 5th sess, UNESCO Doc CLT/CIH/MCO/2009/PI/100 Rev1 (29 April 2015), art 1(a) ('*Statutes of the STAB*')

⁴⁶ *Ibid*, art 1(b)

⁴⁷ *Ibid*, art 4

⁴⁸ *Rules of Procedure of the MSP*, Rule 23.

⁴⁹ 2001 Convention art 23(4) and *Rules of Procedure of the MSP*, Rules 4.4 and 22.1.

⁵⁰ List of candidates for [STAB 1](#) (2 female and 9 male), [STAB 2](#) (4 female and 8 male), [STAB 3](#) (3 female and 5 male), [STAB 4](#) (6 male and no females), [STAB 5](#) (2 female and 8 male)

⁵¹ Information documents on geographical distribution within the STAB submitted to [MSP 4](#) (2013), [MSP 5](#) (2015) and [MSP 6](#) (2017)

⁵² *Statutes of the STAB*, art 2(a)

⁵³ Mr. Hossein Tofighian (Iran), Mr Seyed Hossein Sadat Meidani (Iran) and Mr Augustus Babajide Ajibola (Nigeria) are experts in public international law. Mr Adoté Blim Blivi (Togo) is an oceanographer.

effects⁵⁴, based on an international scientific colloquium in Belgium organised by the Secretariat in December 2011 and attended by over 200 experts⁵⁵. It further identified emerging issues of underwater archaeology (e.g. importance of inland water sites for landlocked countries, sea routes, interconnection between environmental issues and the protection of submerged prehistoric landscapes, protection of World War I sites)⁵⁶. It succeeded in having some of these recommendations implemented (e.g. development of guidelines for national inventories of UCH, creation of a Code of Ethics for Diving on Wrecks and Submerged Ruins, development of the capacity-building programme and creation of a Best Practice List). Efforts should be made to ensure new propositions continue to emerge in order to maintain the body's momentum.

105. The STAB is mandated to propose standards and best practices for UCH protection and the implementation of the Rules. This can be achieved through different means, including the publication of reports, the organization of workshops and seminars, identification of best practices and emerging issues⁵⁷. Indeed, while the STAB missions are very much appreciated by States and offer the STAB – and the Convention – much visibility (cf. Chapter 4, section on STAB missions), the STAB's role should not be limited to responding to emergency situations. Interviews show that it must endorse a more pro-active role by proposing preventive measures aimed at mitigating damage to UCH. As indicated in Chapter 2, the Convention contains a number of provisions that are misunderstood and the STAB has an important role to play in clarifying these.

Secretariat of 2001 Convention

Human Resources

106. UNESCO's Section for Culture and Emergencies Entity houses the Secretariat for the 2001 Convention in the UCH Unit. For many years, it had one full-time permanent staff member. Following a decision by the MSP that requested the Director-General in 2015 to strengthen the Secretariat⁵⁸, the 2001 Convention was reinforced in early 2018 with one more professional and one general service post. Since autumn 2018, the Secretariat sits under a Director who oversees three Culture Conventions (i.e. the 1954, 1970 and 2001 Conventions) and is the Secretary of the 2001 Convention.

⁵⁴ Recommendation 5 / STAB 1 ; Recommendation 3 / STAB 2,

⁵⁵ UNESCO, *Secretariat Report*, Meeting of States Parties, 4th sess, UNESCO Doc UCH/13/4.MSP/220/INF.1 REV 2 (8 February 2013), p. 4.

107. The UCH Unit is one of the least staffed of all the UNESCO Culture Conventions Secretariats. It currently has staff with expertise in law and project management, but lacks expertise in underwater archaeology. The majority of interviews revealed that such technical expertise is required to provide leadership, comparative input from other world regions and technical support for Field Offices around the world, most of which do not have expertise in underwater archaeology. It is further required for the organization, monitoring and quality control of UNESCO's capacity building programme in underwater archaeology, as well as in the provision of technical assistance to Member States and in the leadership and support to UNESCO's partner networks. As UNESCO encourages countries to develop expertise in this area and set up competent authorities for UCH protection, it needs to lead by example by ensuring that the UCH Unit has specialized expertise in underwater archaeology, which would give it authority. Various proposals to address the capacity issue have been made by management such as contractors and secondments, considering the resource constraints within the Organization. Nonetheless, interviewed State representatives, archaeologists and Field Office staff have consistently highlighted that a sustainable solution needs to be found.

108. In addition to the staff members at UNESCO Headquarters, the implementation of the 2001 Convention is supported by a network of 51 Culture Programme Specialists in UNESCO Field Offices. These are responsible for supporting the implementation of all six UNESCO Culture Conventions in their respective regions and their time dedicated to the 2001 Convention is therefore limited. Most of them do not have activity budgets dedicated to the 2001 Convention, a serious impediment that is discussed below.

Financial Resources

109. In the current biennium (39C/5 2018-2019), the 2001 Convention has its own Expected Result (ER) 4 'Underwater cultural heritage identified, protected and sustainably managed by Member States, in particular through the wide ratification and effective implementation of the 2001 Convention' for which it received the second lowest share of Regular Programme Resources for the biennium of all six Culture Conventions.

⁵⁶ Recommendation 4 / STAB 3

⁵⁷ *Statutes of the STAB*, art 1(b)

⁵⁸ Resolution 4 bis / MSP 6

110. The table below provides an overview of the activity budget allocated to the programme under the 2001 Convention over the past three biennia. Decentralization of regular programme activity funds to UNESCO Field Offices has increased over this time period, reaching 51% for 2018-2019. However, only five Field Offices received regular programme funding for the implementation of activities under the 2001 Convention during the current biennium: Apia, Almaty, Dakar, Nairobi and Quito, primarily for the organization of regional meetings. The share of these resources going to Africa is at 51%, reaching a total of USD 125 033. During the previous biennium, the decentralization rate to Field Offices was at 38% with 50% of this going to two offices in Africa: Abuja and Harare. The distribution of regular programme funds supports a clear prioritization for the Africa region, which aligns with the Organization's Global Priority Africa.⁵⁹ Cooperation among Field Offices in region has allowed for a coordinated and cumulative approach for the continent.

Table 1. Overview of the activity budget allocated to the programme under the 2001 Convention (USD)

	37C/5 (2014-15)	38C/5 (2016-17)	39C/5 (2018-19)
Regular Programme			
Headquarters – ER4	255 420	289 778	234 160
Field Offices – ER4	85 903	173 993	243 583
Total Regular Programme	341 323	463 771	477 743
Extrabudgetary resources			
In kind contributions	125 000	112 032	399 819
Funds-in-Trust & Special Accounts	249 990	200 000	30 000
Total Extrabudgetary Resources	374 990	312 032	429 819

Source: UCH Unit

⁵⁹ The budget for Africa has been distributed to two Field Offices per biennium on a rotating basis, thereby allowing for two regional activities (one for Anglophone and one for Francophone countries).

⁶⁰ Nearly 81% of the Culture Sector's regular programme operational budget finances the statutory processes of the six Culture Conventions.

111. UNESCO has a network of 54 Field Offices; however, only five of them received funding for the implementation of activities under the 2001 Convention during the past two biennia. During the 2014-2015 biennium, this figure was only slightly higher with eight offices. The Arab States and Europe and North America regions have not received any regular programme funds during the last two biennia. Consequently, there have been no regular programme activities organized in these regions, despite a high demand for awareness raising, which was confirmed during the evaluation interviews. Only one or two Field Offices in Asia and Pacific, the region with the lowest ratification rate, received regular programme funds during each biennium. During the current 2018-2019 biennium, the total amount allocated to the region is USD 91 550 for the Almaty and Apia Offices. With awareness and understanding of the 2001 Convention in the Asia and Pacific region being very low, interviews with stakeholders from the region show that there is a need for targeted communication and capacity-building initiatives in this region.

112. The regular budget of the UCH Unit is almost exclusively used to cover the costs of statutory meetings, as is the case for the other Culture Conventions.⁶⁰ In a context of very limited regular programme resources, the Secretariat has proactively raised extrabudgetary resources to support operational and awareness-raising projects. In kind contributions have been received from donors to cover the costs of STAB missions, publications, updating the Convention's website, capacity-building activities, and information meetings. A number of donors have also supported specific initiatives.⁶¹

113. A Special Account was created for the 2001 Convention in 2015 with the aim of encouraging donations of non-earmarked funds. To this day, the account lies empty. Attracting voluntary contributions for this Convention, which remains the least ratified of all UNESCO Culture Conventions (61 States Parties), has not been easy, particularly due to the lack of mechanisms that allow for the UCH Unit to demonstrate results achieved (see discussion on monitoring to come). While a lot has been achieved since the Convention's entry into force (see next chapter on results), the continued lack of awareness of the Convention and UCH in general point to the need for a framework to demonstrate the results achieved,

⁶¹ For example, Spain funded meetings and trainings in Latin America and Belgium funded the commemorations events of UCH from World War I.

a new communication and outreach strategy, as well as an evolution in UNESCO's discourse around the 2001 Convention.

Discourse on the 2001 Convention

114. Underwater cultural heritage means many different things to people around the world. For coastal communities, marine heritage is part of their identity and every day way of life and UCH is an integral part of the marine environment. For some, UCH refers mainly to shipwrecks, whilst others consider it to be submerged cities and artefacts that lie at the bottom of lakes and rivers. However, despite the absence of the term 'shipwreck' in the text of the 2001 Convention, much of the discourse and communication materials developed by UNESCO focus on this form of UCH. Interviews with stakeholders from around the world revealed that the current narrative on the 2001 Convention does not sufficiently encompass this wider concept of UCH. In order to create awareness among communities about the importance of safeguarding their heritage, it is therefore important to first understand the value of the heritage for them and adapt the discourse accordingly. Interviewees raised the following issues.

115. In many countries, shipwrecks are viewed by the local populations as colonial heritage and not as their own. The predominant focus on shipwrecks therefore minimizes the existence of traditional indigenous heritage, which is much more important for certain communities. Many interviewees consulted for this evaluation expressed the need for the discourse to move away from shipwrecks. Otherwise, the 2001 Convention will continue to be perceived as not being relevant for all countries.

116. In many regions such as in Africa and Asia and the Pacific, people also do not distinguish between cultural and natural heritage. Rather, UCH is seen as an integral part of the marine environment and the ecosystems that people live in or interact with. For example, sunken ships become artificial reefs because they provide the foundation for growth by corals and plants as well as habitat and food for other marine life such as fish. Some coastal communities consider the natural heritage be part of their cultural heritage. For example, in Papahānaumokuākea (around Hawaii, USA) the Polynesian seafarers that first settled the island and their descendants believe that the coral is also cultural heritage from which life springs and their spirit returns when they pass. They conduct ceremonies to travel there in heritage vessels, which has in large part

⁶² Recommendation 4 / STAB 3, point 2(c)

justified its inscription as a mixed natural and cultural heritage site on the World Heritage List. In Japan, the marine mammal Dugong is considered a cultural resource and is protected as such under Japanese domestic law, in compliance with the 1972 Convention. Finally, when UCH is looted or destroyed, the marine environment is also damaged with serious consequences for the surrounding ecosystems. The protection of UCH is therefore inextricably integrated with that of natural heritage both of which contribute to preserving the marine environment. At its Third session in 2012, the STAB discussed the importance of safeguarding UCH in conjunction with instruments protecting the environment⁶² - as called for in the 1992 Rio Declaration - and it is essential for the narrative around the 2001 Convention to fully integrate this aspect.

117. Landlocked countries without access to the sea do not always see the value of the 2001 Convention. While the STAB has emphasized that "research on inland water sites was singled out as important to the understanding of the history of landlocked States... [and] that their scientific value should not be underestimated"⁶³, the discourse around the Convention has primarily focused on the seas and oceans. This is a missed opportunity to raise awareness of the need to protect UCH in countries' inland waters, especially since lakes and rivers often harbour more local UCH with links to local communities.

118. The primary challenge for the future is to mobilize countries with different interests and, more broadly speaking, the general public to understand the importance and relevance of UCH protection to their lives. Most evaluation interviewees point to the need for new terminology and a new approach towards the safeguarding of UCH.

119. One way for the Organization to pursue this objective is by focusing on ocean literacy. The shared history of humanity remains unknown to many and UNESCO has an important responsibility in bringing this to light. The heritage around maritime trade, such as the maritime silk route or the slave trade, is key to understanding maritime routes and the cultural, economic and social aspects behind them that affected the lives of coastal communities around the world. For example, the common history and protection challenges shared by countries on Africa's Atlantic coast was the thematic thread of the UNESCO regional meeting organized in Gorée, Senegal in January 2019. However, speaking of heritage or history alone is not enough and emphasis needs to be made on the social

⁶³ UNESCO, *Report, Recommendations and Resolutions*, STAB, 3rd sess, UNESCO Doc UCH/12/3.STAB/220/9 (20 April 2012), p. 3

consequences and educational benefits of this past on the lives of local communities today.

120. It is the people living along the coasts and riverbanks that are most aware of the heritage around them and they often associate it with traditional knowledge and cultural practices. Ancestral knowledge of sites and their environments often lies with women, an important aspect that is often overlooked in UNESCO's discourse on the Convention. By integrating and advocating for a broader notion of heritage and drawing on UNESCO's other Culture Conventions the UCH Unit is likely to reach a wider audience. For instance, UCH can be integrated into World Heritage site management plans (1972 Convention), as well as into the safeguarding policies of intangible cultural heritage (2003 Convention) to demonstrate its relevance. What is certain is that the involvement of local communities in the safeguarding of their heritage is key and the discourse needs to be tailored to their needs.

121. Furthermore, for many people the value of UCH is unclear unless they see a direct link with economic benefits for their communities and their wellbeing. The contribution of UCH protection to sustainable development and the Blue Economy was already discussed in the previous chapter and this aspect should form an integral part of the future discourse on the 2001 Convention.

122. The deliberate destruction of cultural heritage in the Middle East during the last decade has raised significant public awareness of the necessity to protect cultural heritage. Consequently, the relevance and importance of UNESCO's 1954 and 1970 Conventions has increased in the minds of many. Treasure hunting and looting operations directed at UCH are currently not associated with the discourse on the illicit trafficking of cultural heritage, whereas they should be. The public needs to be convinced of the necessity of protecting UCH. This involves making people aware of the importance of UCH, the seriousness of the threat to UCH from looting and trafficking going on and the loss of their heritage (cultural and natural) if measures are not taken. Therefore, it is imperative that UNESCO's discourse on the 2001 Convention integrate this perspective.

123. By linking UCH protection to issues of concern for people - their place in history, the preservation of their local culture and traditions, their economic welfare - UCH becomes relevant to them. This should guide and facilitate UNESCO's advocacy work when reaching out to communities. In parallel, the discourse needs to reach actors at the national level beyond Ministries of Culture, but also those responsible for Tourism, Navies, Maritime Affairs,

Coastguards, Fisheries and others. With more partners involved, UCH would be better protected, understood and appreciated by present and future generations.

Knowledge Management and Outreach

124. The 2001 Convention is written in technical language and is not always easy to decipher by non-experts in archaeology even within UNESCO. It is therefore particularly important to explain its content to a variety of stakeholders and to learn from implementation experiences around the world, hence the importance of sound knowledge management.

125. Beyond the UCH Unit, interviews revealed variable levels of knowledge and understanding of the Convention within UNESCO (both at Headquarters and in Field Offices). Due to this limited knowledge, coupled with the already stretched human and financial resources of the Organization, the Convention is not promoted as much as other Culture Conventions. Yet, Field Offices are familiar with their local contexts and have a better understanding of the obstacles countries face in ratifying and implementing the Convention. They are thus in a position to demonstrate the relevance of the Convention to States in their regions. Interviews with Field Office staff show that their involvement in the development of communication materials on UCH protection would allow for their contextualisation as well as greater ownership and knowledge management of the offices.

126. Likewise, as UNESCO promotes more synergies, it is important that its entities whose work might be, even remotely, related to the 2001 Convention, be familiar with the core tenets of the text. The Secretariats of the 1954, 1970, 1972 and 2003 Conventions, the IOC, the Man and the Biosphere programme the World Heritage Marine Programme and others, are important potential partners for the 2001 Convention. In advocating for their own initiatives, staff with a better knowledge of the 2001 Convention and its programmes would be able to showcase the potential linkages with the 2001 Convention and the same is true for the UCH Unit. A notable example of this was seen at the UNESCO regional conference in Malindi, Kenya in March 2019 and a similar initiative is planned later in 2019 by the UNESCO Jakarta Office. These good practices of resourceful and cost-effective synergetic work can only be pursued if staff within UNESCO are sufficiently versed in the Convention.

127. Knowledge management is not only essential within the Organization, but also for countries and the public as they are the beneficiaries of the Convention. The great majority of activities undertaken by the Secretariat are well presented

on a very comprehensive website⁶⁴. However, not all the information is very visible, or known. For example, the evaluation established that most interviewees were not aware of the Best Practices List in UCH. This will be discussed in the following chapter. The 2001 Convention has also had very limited coverage on UNESCO social media. Yet, this is an important tool to reach out to the diving community and the general public, especially youth. The impressive imagery of UCH sites and the aura that surrounds underwater excavations offer great opportunities to attract public and media attention.

Monitoring the Implementation of the 2001 Convention

Monitoring at the organizational level

128. The monitoring of the UNESCO Culture Sector's progress towards the Expected Result (ER) 4 dedicated to the promotion of the 2001 Convention is done on a six-monthly basis.⁶⁵ ER 4 contains five performance indicators with corresponding baselines and targets⁶⁶, but these do not enable the UCH Unit to fully monitor the results of its work. Furthermore, the limited monitoring data does not demonstrate the full extent of achievements. This is partly due to the limits of the UNESCO's monitoring and reporting system, but, above all, this is due to the fact that the Convention lacks a comprehensive results framework that is based on a Theory of Change approach.

129. The development of a comprehensive results framework for the 2001 Convention would allow for the articulation of the short-, medium- and long-term objectives of the Culture Sector for the instrument, as well as core indicators used to measure attainment of these objectives. These various levels of results would be linked to the inputs and underlying assumptions. Consequently, such a framework would set out the short to longer-term vision and concrete objectives for the Convention, linking them to the SDGs. A number of lessons can be learned from the other Culture Conventions' Secretariats in elaborating and promoting such frameworks to mobilize partners and resources that can be of value to the 2001 Convention.

⁶⁴ Please see the website [here](#).

⁶⁵ Monitoring is done in UNESCO's online reporting tool SISTER, linked to the C/5 document.

⁶⁶ UNESCO, *39C/5 Approved Programme and Budget 2018-2019, First biennium of the 2018-2021 quadriennium*, General Conference, 39th sess, UNESCO Doc 39C/5 (2018), p. 222. These performance indicators relate to 1) the implementation of resolutions of the MSP and STAB, 2) the

Monitoring progress of States Parties

130. Unlike the other five UNESCO Culture Conventions, the 2001 Convention does not have a periodic reporting mechanism for States Parties to report on measures taken at the national level to implement the instrument.⁶⁷ As a result, there is no data that enables an assessment of how the 2001 Convention has been implemented at the global level. Stakeholders interviewed for this evaluation had mixed feelings on this issue. On the one hand, some feel that in the absence of a periodic reporting mechanism, States Parties are less aware of the objectives they are to aim for and are not held accountable for any progress following ratification. This limits the information available on progress in countries to protect UCH and therefore also reduces the awareness of the Convention itself. Another group of stakeholders feel that the Convention is too new and has too few States Parties to impose a mandatory reporting procedure on them. Instead, they propose a voluntary reporting approach.

131. What is clear is that countries are eager to learn from each other and those that are more advanced are also keen to demonstrate their successes, be it at the policy level, inventorying methodology, research projects, or access to UCH. So far, the Convention Secretariat has received information on implementation from States Parties that wish to submit it on an *ad hoc* basis. In 2010, a number of States submitted reports, which were then published on UNESCO's website⁶⁸. However, no other reports have been submitted since. Besides presentations at regional meetings and capacity-building activities during which interesting examples can be identified and presented, there are no instances where information-sharing between States can take place. This explains why one in five survey respondents (n=39) were unsatisfied or very unsatisfied with UNESCO's role in facilitating information-sharing between States Parties whilst an additional 23% indicated they had never received any support in this regard.

132. It is essential for the UCH Unit to be able to demonstrate the benefits of ratification to non-States Parties. Without information on what works well and in what circumstances, it is more difficult to create awareness of the necessity to protect UCH among policy-makers, experts and even the general public. The

number of States Parties, 3) the number of Member States which have adopted policies to protect UCH, 4) number of beneficiaries of awareness-raising activities, 5) proof of contribution to SDGs.

⁶⁷ Rule 3(d) of the *Rules of Procedure of the MSP* provides that the MSP shall receive and examine reports by the States Parties to the Convention, but this provision has only been exercised once, in 2010.

⁶⁸ Please see the national reports [here](#).

lack of reporting also means that stakeholders do not understand the contribution of the 2001 Convention to the SDGs and thereby do not integrate it into other international processes or even their own national strategies towards sustainable development (e.g. the UN Development Assistance Framework). Finally, it is also more difficult to attract potential partners and donors. The ability to showcase States Parties' successes is therefore key for the future promotion of the 2001 Convention.

133. Interviewees consulted during the evaluation suggested a number of avenues for promoting the sharing of experiences, including voluntary reporting by States Parties both within and outside the MSP, for example at side events to the MSP and other conferences organized by UNESCO, including for other Culture Conventions. States Parties could also be invited to contribute to a Global Report on the 2001 Convention, which would showcase successes and good practice. Finally, reporting should be encouraged not only from States

Parties themselves, but also from the many networks that include the UNITWIN Network for Underwater Archaeology and UNESCO Chairs. (See Chapter 5.) A formal periodic reporting mechanism for the 2001 Convention should be re-examined within a few years' time once more States Parties have signed up and the instrument gains in maturity. Any periodic reporting system should be based on a results framework for the 2001 Convention and fully linked to the SDGs.

Conclusion

134. In a context of very limited human and financial resources, as well as its technical nature, to reach a greater number of countries the 2001 Convention needs to be presented in a broadened narrative. It also needs a strategic vision that is articulated in a comprehensive results framework and related monitoring mechanisms to enable the demonstration of the benefits of UCH protection to current and future partners.

4. Results achieved with UNESCO support to Member States

Ratification

134. The 2001 Convention entered into force on 2 January 2009 for the twenty States that had ratified it on or before 2 October 2008. The ratification rate has since continued to grow slowly yet steadily, reaching 61 States Parties at the time of the present evaluation (May 2019), yet it remains the lowest among all six Culture Conventions, particularly the two that were adopted afterwards⁶⁹.

Figure 3. States Parties to the 2001 Convention (May 2019)



Source: UNESCO Legal Instruments Portal (see Annex J to view the map in a larger format)

135. UNESCO's Programme and Budget for 2018-2019 (39C/5) sets a target of 61 States Parties for 2019, of which 12 are in Africa and 11 in Small Island

⁶⁹ Ten years following the entry into force of the 2003 and 2005 Conventions (in 2016 and 2017 respectively), the 2003 Convention had 171 States Parties and the 2005 Convention had 146 Parties

Developing States (SIDS), whereas the baseline figure in the previous biennium was at 58. The overall target of ratifications for the current biennium has been met and there are currently 11 States Parties in Africa and 15 SIDS. As shown in Figure 3 and Table 2, the ratification of the 2001 Convention has been higher in Latin America and the Caribbean than in other regions, with the lowest rate seen in Asia and the Pacific.

Table 2. Number of States Parties by UNESCO regional group

Western Europe & North America	Eastern Europe	Latin America and Caribbean	Asia and Pacific	Africa	Arab States	Total
5	11	20	3	11	11	61

Source: UNESCO Legal Instruments Portal

136. Results of the evaluation survey show that countries (n=39) that have ratified the 2001 Convention were motivated by the following incentives:

- the state cooperation mechanism for the protection of UCH created by the Convention (articles 10 and 12) – 77%;
- guidance for the protection of UCH contained in the Rules of the Annex to the 2001 Convention – 62%;
- access to UNESCO's expertise and networks in UCH – 56%;
- the protection of UCH in waters outside the exclusive jurisdiction of a State (i.e. EEZ, the continental shelf and Area) – 51%; and,
- the possibility of a STAB mission to their country – 31%.

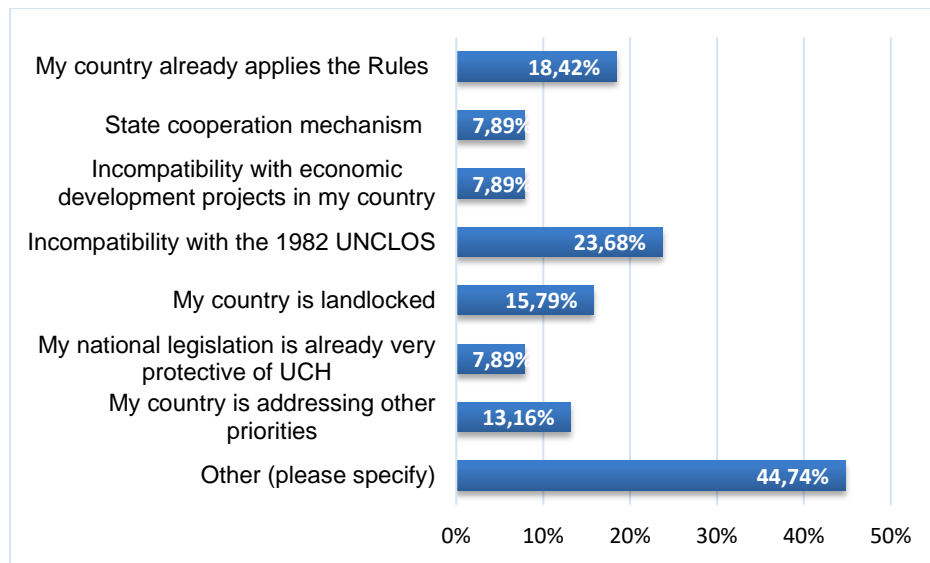
137. The 2001 Convention is also viewed by States Parties as a mechanism for protecting UCH, which is an important source of livelihoods for coastal communities. For example, the Federal States of Micronesia in their ratification resolution recognize that the "purpose of the Convention is consistent with how sites...should be managed, given dive tourism is an important industry in the

economy of the region.”⁷⁰ The ratification resolution also states that the World War II sites or shipwrecks in the Chuuk Lagoon suffer from ineffective management, which may have serious and hazardous impact of imminent oil leakage and thereby threaten the livelihood of the people of Chuuk.

Challenges in ratification

138. The reasons for the non-ratification of the Convention vary greatly. The figure below summarizes the reasons provided in the evaluation survey. These were confirmed during the interviews and additional reasons were also provided that are summarized below.

Figure 4. Reasons for the non-ratification of the 2001 Convention



Source: Evaluation Survey for UNESCO Member States (n=38)

139. Overall, 24% of surveyed States Parties (n=38) are concerned about a number of legal provisions that have raised questions regarding the consistency or compatibility of the 2001 Convention with the UNCLOS. Among these are concerns around the reporting and notification requirements for the discovery of

foreign state vessels and aircrafts (articles 7(3), and 9(1)(a)) and the rights granted to the Coordinating State (articles 10 and 12) by the State Cooperation Mechanism, which some States fear would result in revoking the careful balance of interests between the coastal States and the flag States’ rights established under the UNCLOS. Indeed, 8% of surveyed States disapprove of the State cooperation mechanism as they are concerned that their sovereignty and rights in the different maritime zones would be infringed upon. Consequently, they are refraining from ratifying the Convention. Some even believe there is no need to do so as they already apply the Rules (18%) within their countries without having ratified or already have legislation that offers greater protection than the Convention itself (8%). Hence, they can respect the archaeological standards without risking infringement upon their rights. However, without ratification, they cannot benefit from the protection of UCH outside national jurisdiction. The evaluation has addressed these legal concerns in detail in Chapter 2.

140. The survey also shows that some landlocked countries do not see the value of ratifying the 2001 Convention (16%). Evaluation interviews also revealed that countries do not understand how ratifying can benefit their inland waters. This challenge is related to the discourse around the Convention, which is focussed mainly on the seas and oceans and is discussed in Chapter 3.

141. In many countries, the protection of UCH is simply not seen as a political priority as they focus on food, water, health, safety, poverty, climate change, sustainable development, gender equality and other issues (13%). A few States even consider the 2001 Convention as incompatible with some of their economic projects and thus hinders their development (8%). As UCH is invisible to most people, if they cannot access it and link it to their own heritage, then they do not see the necessity to protect it, especially if this competes with more lucrative uses of the sea. Once again, these concerns can be remedied by highlighting the benefits of the Blue Economy and heritage-related businesses.

142. Nearly 45% of survey respondents (n=38) also pointed to other matters of concern, some of which have already been discussed in previous chapters. First, evaluation interviews with stakeholders from around the world show that the 2001 Convention is not seen as relevant for all cultures and countries because of the discourse around the instrument. Stakeholders express that the concept of UCH needs to be presented in a broader manner in order for local

⁷⁰ 20th Congress of the Federated States of Micronesia, *A Resolution Ratifying the 2001 UNESCO Convention on the Protection of Underwater Cultural Heritage*, 2nd Regular Session (2017)

communities and governments to understand what it is and feel concerned by it. Unless there is good awareness of the existence of UCH, its historical and social value for the local people (both present and future generations), the threats to its existence, many countries will not see the need to protect it or ratify the Convention. Suggestions on how to do this have been presented in Chapter 3.

143. Second, as supported by the evaluation interviews, the 2001 Convention is perceived as too technical and only concerning countries that already have capacity and expertise in underwater archaeology. Without the capacity for implementing the Rules, there appears to be no point in trying to develop a national competent authority, much less ratifying an international instrument.

144. Third, evaluation interviews reveal that many stakeholders, which include archaeologists, misunderstand some of the Convention's provisions (e.g. in situ conservation) and believe the Convention could limit excavations and archaeological activities. Consequently, some countries prefer not to ratify the 2001 Convention. This provision's true meaning is explained in Chapter 2.

145. Finally, in federal systems (e.g. Australia, Canada, Germany etc.), internal political issues and consultation among local states have slowed down the ratification process.

UNESCO support towards ratification

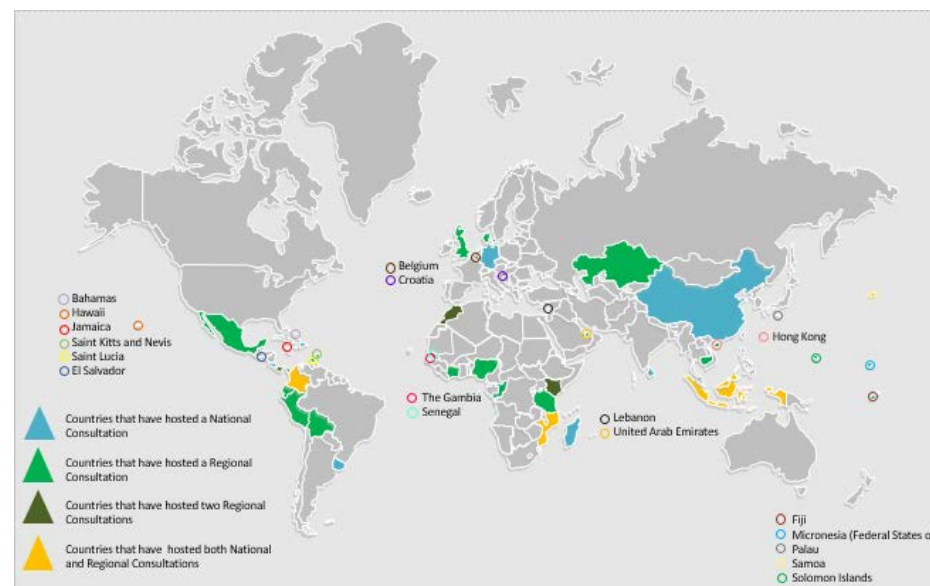
146. UNESCO, through the UCH Unit and its Field Offices, has undertaken a number of actions to encourage Member States to ratify the Convention. Since the adoption of the text, the Organization has organized nearly 20 national and 30 regional consultations to promote awareness and understanding of the instrument among government stakeholders, mainly targeting countries' Ministries of Culture. The meetings typically last one to three days and bring together between 20 and 70 stakeholders for sessions dedicated to the 2001 Convention and its mechanisms. Figure 5 shows the geographic spread of these meetings.

147. The survey shows that 36% of countries (n=84) have not participated in a national or regional meeting organized by UNESCO. The numbers remain high even among States Parties, 33% having not participated in national consultations and 21% in regional consultations (n=39). Reasons for this vary from countries not being aware of such consultations to a lack of meetings in certain world regions. Indeed, while meetings have been held in all regions, Latin

America and the Caribbean as well as Africa have had the biggest share of them.

148. Respondents to the evaluation survey indicated that participants were all satisfied or very satisfied with the consultations that they have attended. The following are some of the most liked aspects of the meetings: opportunities to learn about the importance of safeguarding UCH and the legal aspects underlying the 2001 Convention, understanding the value of ratifying this international instrument, information on types of support that are available to countries from UNESCO, exchanging experiences among countries on successes and on challenges, and the creation of regional networks.

Figure 5. National and Regional Consultations on the 2001 Convention organized by UNESCO (2009-2019)



Source: UCH Unit (see Annex K to view the map in a larger format)

149. The results of these consultations have been mixed. The meetings are important opportunities for regional network building as well as the establishment of national focal points for UCH that UNESCO can follow up with on future support. Nevertheless, in practice there has been very little follow up

to regional meetings and their recommendations. Interviews with Field Office staff and States representatives indicate that such follow-up should be done through the organization of national meetings (as has been the case in The Gambia and Cabo Verde following the regional meeting in Senegal), as well as through policy development support and opportunities for capacity building.

150. Evaluation interviews reveal that building support for the 2001 Convention at the country level often requires the involvement of multiple ministries beyond Culture, including the ministries of Foreign Affairs, Interior (or Land), Defence (Coastguard, Navy), Fisheries, Tourism and others. In this regard, national consultations are more effective in bringing various groups of stakeholders together and building a wider support base at the country level. They also allow the consultation workshops to be specifically tailored to national contexts.

151. A number of countries reported to have ratified the 2001 Convention following the participation of their representatives at such meetings. Examples are Costa Rica and the Federal States of Micronesia. At the same time, a number of consultations have been organized in countries such as Kenya, Mozambique, Indonesia, Senegal, and Uruguay, just to name a few, that have yet to ratify the Convention several years later. That being said, according to the evaluation survey, many countries (42%, n=38) have indicated that they are very likely or likely to ratify the 2001 Convention in the near future.

152. Meanwhile, countries report having taken the following measures towards ratification of the 2001 Convention after the consultations: adoption or updating of relevant legislative and policy frameworks, organization of awareness-raising meetings and trainings for national stakeholders, creation of competent authorities for UCH protection, and the signing of agreements between countries' Ministries of Culture and other relevant departments such as the armed forces, coastguards, and maritime administrations.

153. Countries also have many expectations for support in the ratification process from UNESCO. The following priorities were highlighted in the evaluation survey and interviews with stakeholders:

- More awareness-raising of the 2001 Convention with a particular focus on the advantages of ratification, including for inland waters;
- Explanation of the consistency or compatibility of the 2001 Convention with the UNCLOS and its balancing of respective interests;
- Clarification of the archaeological and scientific concepts in the text;
- Technical support with drafting of implementing legislation;

- Platform and financial support for convening national stakeholders from various ministries for awareness-raising on the Convention's relevance.

Policy development and legislation

154. In ratifying the 2001 Convention, countries are required to develop or update their existing legislation to include the protection of UCH. With no periodic reporting mechanism in place to track States Parties' legislative frameworks, the evaluation tried to establish how countries have integrated the provisions of the 2001 Convention into their national legislation and policies.

155. According to the evaluation survey, 40% of countries (n=93) have a national law that specifically protects UCH. Many countries (44%) indicated that they have laws protecting heritage that may be applied to UCH. This was confirmed during evaluation interviews with national stakeholders, which indicate that their countries do not differentiate between land and underwater heritage, thereby according UCH the same degree of protection as heritage on land. Only 4% of countries are not aware of the existence of any UCH and one country indicated that it had not identified any UCH after conducting a survey.

156. The [UNESCO Database of National Cultural Heritage Laws](#) that contains 172 laws that make reference to the protection of UCH is a useful resource for States to inspire themselves by other countries' legislation.

157. The protection threshold for UCH also varies between countries. One-third of countries (n=93) indicated that their legislation does not have a specific threshold in years, but there is protection based on other criteria such as archaeological, historical, cultural interest or significance. Some countries refer to specific UCH in their national legislation such as historical shipwrecks and aircraft, whereas others speak of particular historical periods. Protection thresholds do exist in 23% of countries that protect UCH that has been under water for less than 100 years and 17% protect UCH that has been under water for 100 years or more, thereby aligning themselves with the 2001 Convention.

158. Both the evaluation survey and interviews confirm that the Convention's Annex 'Rules concerning activities directed at UCH' constitute important policy provisions that are implemented in many countries, whether they have ratified the Convention itself or not. The Rules' general principles and provisions regarding the conduct of archaeological excavations, as well as conservation and management of sites are widely accepted in the archaeological community as the global reference for all UCH-related work. Countries apply the Rules in

developing their national management plans for UCH and in guiding any research projects directed at UCH. This is perhaps one of the key achievements of the 2001 Convention since its adoption.

159. The evaluation survey does show, however, that 24% of countries either do not implement the Rules and 21% are not aware of them (n=62). This raises the need for UNESCO and its partners to work on raising awareness of UCH more broadly and the visibility of this important part of the 2001 Convention.

UNESCO support towards policy development

160. The 39C/5 foresees that by the end of 2019 UNESCO should have supported 16 Member States, of which two in Africa and four SIDS, in taking steps towards designing or updating policies to protect underwater heritage towards the achievement of the objectives of the 2001 Convention. By the end of 2018, UNESCO reported to have supported two Member States with harmonizing their national law as well as a law study in Micronesia. Of the States Parties that replied to the evaluation survey, 21% (n=39) were either satisfied or very satisfied with the assistance received from UNESCO in the drafting or revision of their national legislation to include the protection of UCH. The same percentage of respondents were unsatisfied with the support received, whilst many States Parties (38%) have not received any assistance from UNESCO at all, though it is unclear whether they requested such support. While the UCH Unit is able to provide legal advice to countries, its limited human resources also do not enable it to accompany all States in the drafting and revision of their national heritage laws. UNESCO Field Office staff indicated that support could be provided by all Culture Conventions' Secretariats to the development of national policy frameworks that go beyond the protection of UCH to encompass cultural heritage more broadly. Through its database, partner networks and expertise around the world, UNESCO is in a position to facilitate the sharing of practices on comparative heritage law.

161. A [Model for a National Act on the Protection of Cultural Heritage](#) is available in English on the Convention's website. The text provides an example of a law on the protection of cultural heritage, encompassing land-based as well as submerged immovable heritage, and movable objects. The evaluation survey shows that 47% of countries (n=62) find it relevant, but few have used it (13%) and more than a quarter (26%) do not know of it.

162. A number of UNESCO regional consultations had a specific focus on policy development. One such meeting held in St. Kitts & Nevis in 2013 focused

specifically on Cultural Heritage Protection Laws for the Caribbean Small Island States with the aim of building national capacities in view of drafting, harmonization and adaptation of national laws for the protection of cultural heritage. A separate Model Law for SIDS was developed and countries in the region have been encouraged to use it. Additional meetings took place for SIDS in the Pacific in 2014 and 2018 and the Model Law was promoted. The evaluation was not able to establish how many countries have used this tool.

163. Many countries expressed the need for support from UNESCO in drafting national legislation and building national capacity to implement it. They also called for such support to be linked with the organization of national consultations and be part of a longer-term strategy for UNESCO assistance at the country-level.

Inventories

164. Article 22 of the 2001 Convention encourages countries to proceed with inventories of their UCH in order to determine what needs to be protected. Without inventories and knowledge of the location of UCH, it is also very difficult to develop awareness-raising strategies for the general public on the existence of UCH. The evaluation survey (n=62) shows that 45% of countries have inventories at the national level and 27% have inventories at the local or state/regional levels. A total of 36% of countries indicated that they did not have inventories. Of those that have inventories, only 23% of them have provided access to them for the general public and 15% have shared them with other States. The issue of access to inventories is a sensitive one, as these databases contain information on the whereabouts of UCH, which may be misused and lead to unauthorized activities that may adversely affect the UCH.

165. To assist States with this process, the MSP at its 4th session adopted a [Model Sheet for Inventories of UCH](#). Evaluation survey respondents indicate that this tool has been used by only 13% of them (n=62), whereas 53% find it relevant, but have not yet used it in their countries. Nearly 26% of respondents do not know of this tool and 8% find it to be irrelevant. Responsibility for inventorying often lies with research centres and national authorities. If competent authorities do not exist, documenting UCH is challenging.

166. Inventorying of UCH may be done by various actors such as archaeologists, heritage specialists, other scientists (such as those involved in marine spatial planning) and even the navy (as was the case in Nigeria). Interviews show that to contribute to awareness-raising of UCH as well as its

safeguarding, inventorying should involve the communities that live nearby. Coastal populations already have knowledge of UCH and are able to explain its value. Their contribution to the work of underwater archaeologists is therefore key. UNESCO's 2003 Convention Secretariat has developed a [guidance note on inventorying](#), which stresses community consent and involvement. This can be a useful tool for inspiring community-based inventorying of UCH.

Competent Authorities

167. Article 22 of the 2001 Convention further calls on States Parties to "establish competent authorities...with the aim of providing for the establishment, maintenance and updating of an inventory of UCH, the effective protection, conservation, presentation and management of UCH, as well as research and education." While UNESCO's website lists national competent authorities in 11 countries, the evaluation survey shows that many others have set up competent authorities, whether they have ratified the Convention or not. In 58% (n=62) of countries, these are located in the Ministry of Culture; however, in a few they are located in the Ministry of the Environment (3%), Ministries dealing with Maritime Affairs (5%), and in other entities (3%) such as museums and heritage centres. Of all the survey respondents, 11% of countries indicated that they do not have competent national authorities and 3% are in the process of setting them up. In many countries, competent authorities are located at national, regional and local levels of government.

168. The areas of competency for national authorities vary, but the vast majority (n=57) are in charge of research; conservation and management of UCH; issuing authorizations for activities (including any industrial action) that could affect UCH; inventorying UCH; underwater archaeological excavations; promotion of UCH to the public; undertaking cultural impact assessment of activities that could affect UCH; and designing materials to ensure common standards for archaeologists.

169. Nearly a quarter of the evaluation survey respondents (n=93) indicated that their countries have not yet established competent national authorities for UCH. The reasons for this are (n=22): lack of financial resources (41%), lack of technical expertise in underwater archaeology (36%), the fact that they are addressing other priorities (36%) or to a lesser extent, lack of political will (14%). Many interviewees stressed the importance of developing expertise in UCH protection at the national level. Without such expertise, countries are unlikely to ratify the 2001 Convention and even more so to take measures towards its

implementation. All those interviewed indicated that UNESCO's capacity-building programme is key in helping countries build up this expertise.

Capacity-building programme in underwater archaeology

170. UNESCO launched the first regional capacity-building programme for UCH in 2008 through its office in Bangkok. In partnership with the Office of Archaeology, Ministry of Culture of Thailand and the ICOMOS - International Committee for the Underwater Cultural Heritage (ICUCH) as well as with financial support from the Kingdom of Norway, the programme established a Regional Field Training Facility in Chanthaburi, Thailand and began rolling out a series of courses for participants from the Asia and the Pacific region.

171. The programme was designed for professionals involved in heritage management, most of whom worked for national or local governments in the region. Its aim was to raise awareness of underwater archaeology and provide participants with basic knowledge and skills that they could take back to their respective countries and use to promote UCH protection. The programme was not intended to compete with academic degrees in underwater archaeology, which require much more time to complete and are offered by members of UNESCO's UNITWIN Network for Underwater Archaeology.

172. The programme developed and published the [Training manual for the UNESCO foundation course on the protection and management of underwater cultural heritage in Asia and the Pacific](#), which has become a major reference in the archaeological community. The evaluation survey shows that 24% of countries have used it (n=62), while 44% of others find it relevant, but another 26% do not know if it. Interviews with many underwater archaeologists and UNITWIN Network members confirm that the Manual is still being used today in various courses. During the period 2009-2011, five training courses were delivered at the Chanthaburi Centre to 76 beneficiaries from 16 countries from the region. These included three 8-week foundation courses on UCH and two advanced training courses on the application of Geographic Information Systems to UCH and on *in situ* protection of UCH.

173. One of the main achievements of the programme was the establishment of the Asia-Pacific Conference on Underwater Cultural Heritage ([APCont](#)) in 2011, which has since convened three times and will meet again in 2020. The conference enabled for the continued networking of participants of UNESCO's capacity-building programme and remains the only regional forum for UCH-related issues in Asia and the Pacific.

174. When financial support ended in 2011, training in the Asia and the Pacific region came to a halt. UNESCO then extended the capacity-building programme to other regions, particularly to Latin America with the financial assistance of Spain. Overall, during the last ten years, UNESO organized 23 capacity-building sessions in four regions for more than 400 participants. Networks were created and social media platforms were created by UNESCO to encourage staying in touch. Two more trainings are planned in Iran and Mexico for the second half of 2019. The table below provides a summary of the capacity-building initiatives.

Table 3. UNESCO Capacity-building activities 2007-2015

Year	Place	Length	Participants
2007	Galle, Sri Lanka	2 weeks	19
	Dar es Salaam, Tanzania	2 weeks	10
2008	Galle, Sri Lanka	6 weeks	12
2009	Chanthaburi, Thailand	6 weeks	15
2010	Chanthaburi, Thailand	6 weeks	19
	Chanthaburi, Thailand	1 week	19
	Gdansk, Poland	2 weeks	14
	Campeche, Mexico	2 weeks	29
	Robben Island, South Africa	1 month	34
2011	Chanthaburi, Thailand	6 weeks	21
	Antalya, Turkey	2 weeks	15
	Khao Laem Ya-Moo Koh Samet National Park, Rayong Province, Thailand	1 week	15
	Cartagena, Spain	6 weeks	20
	Zadar, Croatia	2 months	8
	Bogota, Colombia	3 days	11
	Havana, Cuba	1 week	n/a
2012	Port Royal	n/a	n/a
2013	Buenos Aires, Argentina	n/a	30
2014	Uruguay	n/a	15
2015	Mombasa, Kenya	10 days	20
	Salary, Madagascar	1 week	20
	Kemer (Turkey)	10 days	20
	Cartagena de Indias (Colombia)	1 week	20

Source: UCH Unit

175. Data on the gender of participants was not provided, but all UNESCO staff interviewed who had been involved in the capacity-building programme indicated that efforts had always been made to include gender parity in the selection of both trainers and participants. However, it was acknowledged that achieving gender parity has always been challenging, particularly when candidates are proposed by countries through their UNESCO National Commissions. As already discussed in the previous chapter, encouraging women to become underwater archaeologists is no easy feat, but UNESCO and its partners need to continue promoting gender equality in the programme.

176. Capacity-building in underwater archaeology is welcomed in many world regions that do not have academic programmes dedicated to UCH. There is currently no such degree programme in sub-Saharan Africa and only a few university programmes exist in the Arab region and elsewhere. UNESCO's programme therefore provided a rare training opportunity for participants from regions where underwater archaeology remains an underdeveloped field. Respondents to the evaluation survey (n=35) highlighted the following strong points of the programme: the best practice examples used (74%), on-site case studies (69%), the possibility to network (63%) and the explanation of the use of UNESCO publications, such as the Manual for Activities Directed at UCH (60%).

177. Nevertheless, due to funding constraints, UNESCO's programme has been rolled out unevenly across the globe. For instance, there has been no capacity-building activity in the Arab region, despite a high demand. Between 2016 and 2018 there were no trainings organized at all due to a lack of funding. The evaluation survey shows that only 38% of States Parties (n=39) have participated in the programme. The survey also shows that 41% of respondents were not aware of the training opportunities, for 31% no trainings had been offered in their respective regions, and 35% could not participate due to a lack of financial resources. Many interviewees indicated that the programme has so far been reactive and *ad hoc*, rather than strategic. There has also been very little if no follow-up with participants. Indeed, many expressed the need for a longer-term approach for the capacity-building programme that would allow for participants to continue deepening their knowledge and building additional skills over several years. Interviewees also stressed the need for interlinkages between the capacity-building programme and other UNESCO initiatives such as the national/regional consultations and the expert missions of the STAB.

178. A number of additional suggestions were made on how to strengthen UNESCO's capacity-building programme. The issue of contextualisation of the

training sessions was brought up along with discussions on the discourse around the 2001 Convention. Many interviewees expressed the desire for trainings' practical exercises to focus more on local heritage, depending on where the sessions are taking place. This has not always been the case, with many case studies still focusing on shipwrecks. In order to make the training more relevant, it was suggested that briefings on local needs be organized with the trainers prior to the sessions in order to allow them to adapt the content of their teachings to local priorities, including different forms of UCH. At the same time, many interviewees advocated for the involvement of local experts who can provide specialist knowledge on specific types of UCH or nautical traditions, or at least of underwater archaeologists from their regions, in order to encourage further contextualisation as well as strengthen the host regions' capacities.

179. In terms of content, participants of past trainings greatly valued the foundational skills offered by UNESCO. Suggestions were also made to apply a multidisciplinary approach that includes legal, environmental, geological and even technological aspects of UCH protection. Many interviewees also stressed the need to focus not only on archaeological practices, but also on the conservation of UCH, on museology and on accessibility to UCH through digital means such as virtual reality applications or 3-D modelling approaches.

180. Interviewees also suggested that the capacity-building programme has so far underutilized UNESCO's strong expert networks of partners such as the UNITWIN Network for Underwater Archaeology that currently comprises 27 universities, the Category II Centre in Zadar, the two UNESCO Chairs and even specialized NGOs such as the ICOMOS-ICUCH. In light of important resource constraints, UNESCO needs to consider alternate delivery modalities of the programme through its partner networks. (See Chapter 5).

State Cooperation Mechanism

181. The 2001 Convention creates a State cooperation mechanism aimed at ensuring the involvement of all interested States in the protection of UCH in the EEZ, the continental shelf (article 10), as well as in the Area (article 12). This mechanism reinforces the principle propagated by the Convention of the shared

⁷¹ 2001 Convention, art 10(3)(b).

⁷² UNESCO, *Operational Guidelines for the Convention on the Protection of the Underwater Cultural Heritage*, Meeting of States Parties, UNESCO Doc CLT/HER/CHP/OG 1/REV (Eng. only) (August 2015), art 28 (*Operational Guidelines to the 2001 Convention*)

⁷³ The first meeting was held in February 2019 at UNESCO Headquarters in Paris (please see [here](#)). A second meeting was planned in Tunis for summer 2019.

history behind UCH. It is also consistent with UNCLOS as it relies on cooperation through jurisdiction over the respective vessels and nationals as opposed to any extension of coastal State jurisdiction.

182. This cooperation mechanism has recently become operational for the first time. In 2017, Italy discovered a site on the Tunisian continental shelf, indicating the presence of Roman wrecks dating from a period between the 1st century BC and the 4th century AD, called the Skerki Banks. Accordingly, Italy notified the discovery to Tunisia under article 9 of the 2001 Convention in 2018 and all States Parties were made aware of the discovery through an MSP resolution. Tunisia was designated as the Coordinating State for the protection of the site because the Skerki Banks are located on its continental shelf⁷¹.

183. Article 9(5) of the 2001 Convention indicates that any State may express an interest based on a 'verifiable link, especially a cultural historical or archaeological link' to the notified site, and may take part in the management of the site. Interested States must resort to scientific expertise, historic documentation and other relevant documents to support their claim⁷². Six countries have since made such a declaration of interest to Tunisia: Algeria, Egypt, France, Italy, Morocco and Spain. As the Mediterranean Sea has long been an established maritime route, it is likely that many surrounding countries could be the flag States or States of designation for the objects identified on the Skerki Banks site (shipwrecks, cargo, etc.). Given the seafaring past of the interested States, it appears that the verifiable link between them and the site was not put into question.

184. At the time of the present evaluation, there has been one meeting⁷³ on the Skerki Banks case, but the cooperation mechanism is not yet fully in place. It is thus too early to measure its effectiveness. The participating States interviewed are however very keen to pursue common efforts.⁷⁴ They believe this mechanism can contribute to better protection of UCH in that it allows the concerned States to: 1) pool financial and technical resources, 2) commit strongly to fighting illicit activities of their own flag vessels and nationals and 3) offer greater visibility and a higher standing to the protected site which will have

⁷⁴ Algeria, Egypt and Morocco sent their declarations of interest in spring 2019, just as the evaluation report was being finalized. The evaluation team therefore did not have the opportunity to interview these States specifically on the Skerki Banks case. However, like all other States, they were questioned on the state cooperation mechanism through the evaluation survey.

acquired heightened value as a symbol of ‘common shared heritage’. States expect the UCH Unit to support the process, one State having suggested that greater agility would facilitate the cooperation and limit procedural delays. As the first example of State cooperation under the Convention, the Skerki Banks case is an opportunity for the UNESCO Secretariat to demonstrate the benefits of the Convention. Should the Skerki Banks case be successful, it may influence other States’ decisions to ratify the Convention. Interviews with archaeologists and State representatives reveal that the coming years will be decisive.

185. The 2001 Convention’s state cooperation mechanism is also unique and innovative, in that it proposes a solution to address the management of areas that lie beyond national jurisdiction (i.e. the Area and the High Seas), which represent up to two-thirds of the ocean’s surface⁷⁵. As a pioneering mechanism, it could inspire other organizations in establishing similar cooperation mechanisms for these maritime zones. The World Heritage Committee is already considering the 2001 Convention’s model to regulate the protection of World Heritage sites, under the Marine Programme, that would be located in the High Seas or the Area⁷⁶. Likewise, the legal instrument currently negotiated in the BBNJ process to protect biodiversity could be inspired by the 2001 Convention’s state cooperation mechanism. Again, the success of the Skerki Banks case might lead to other processes replicating the Convention’s model.

STAB Missions

186. Upon a State Party’s request and with the approval of the MSP, the STAB may foresee missions to visit UCH sites and ‘provide scientific and technical advice to States Parties on the implementation of the Rules’⁷⁷. The missions are led by a designated expert and overseen by the STAB⁷⁸. To date, the STAB has undertaken four such missions in [Haiti](#) (2014), [Madagascar](#) (2015), [Panama](#) (2015) and [Bulgaria](#) (2017). A mission to Guatemala, regarding a sunken city, has been approved⁷⁹ and is foreseen in the coming months.

187. STAB missions are led by one of its members and supported by one or two other members as well as a member of the UCH Unit. The STAB mission always includes a scientific dimension: States Parties seek to leverage the scientific

⁷⁵David Freestone et al. ‘World Heritage in the High Seas: An idea whose time has come?’ (2016) 44 *World Heritage Report*, p. 17

⁷⁶ Ibid, p. 53-54 ; World Heritage Centre, World Heritage Marine Programme, ‘2019 Annual Report - Marine World Heritage: A Rare Glimmer of Hope amidst widespread climate uncertainty’ [2019] *World Heritage Centre Annual Report*, p.10

expertise of the STAB to establish certain facts. There is no standard portfolio for STAB missions; each one being tailored to the specific needs of the requesting State as per the Terms of Reference of the mission. Accordingly, each mission has been adapted to the local situation. The table below outlines the purpose and results of the STAB missions to date.

Table 4. Purpose and high-level findings of the STAB missions

	Purpose of the mission	Findings of the mission
Haiti	To determine whether an American researcher’s claim to have discovered the <i>Santa Maria</i> – the ship on which Christopher Columbus is said to have discovered the Americas – was true.	The wreck is not the <i>Santa Maria</i> There is much UCH in the Cap Haitien.
Madagascar	To determine whether the wrecks discovered by a film crew near Sainte Marie Island are the alleged <i>Adventure Galley</i> , <i>Fiery Dragon</i> and 2 other wrecks. Verify material of the ingot discovered and extent of intrusions on wrecks	The wrecks were misidentified. The Rules annexed to the Convention have been violated. The ingot was made of lead, not silver Gold coins have been stolen
Panama	The Government of Panama signed an exploration and salvage contract with a private company prior to ratifying the 2001 Convention allowing it to explore the <i>San Jose</i> Galleon near Isla Contadora. Verify whether the project was respectful of UCH.	The Rules annexed to the Convention have been violated
Bulgaria	To determine whether the development projects foreseen (especially the expansion of ports) would have a negative impact on the World Heritage site of the Ancient City of Nessebar and the UCH within the buffer zone of the property. To evaluate all UCH in the location.	The projects could threaten the UCH in the area. Bulgaria should extend the buffer zone of the Ancient City of Nessebar to include UCH and offer it better protection. There are many archaeological finds in the area to be explored.

Source: STAB mission reports

⁷⁷ *Statutes of the STAB*, art 1(c)(i).

⁷⁸ Ibid, art 5.

⁷⁹ Resolution 10 / MSP 6, art 2.

188. The STAB's expertise is much appreciated by the States, who value the quality of its work. This is particularly true as, in three of the four cases; the requesting States have not yet developed the necessary capacity in underwater archaeology to undertake such missions themselves and therefore rely on the STAB to provide the adequate scientific knowledge and support. Interviews with archaeologists and States representatives underline that the very high scientific standards of the STAB and its international recognition, as an expert body associated with UNESCO; further gives increased value to its findings.

189. The STAB missions further contribute to the protection of UCH sites and the promotion of the 2001 Convention's tenets as the STAB gains visibility and positions itself as the 'enemy' of treasure hunters. By undermining the claims of looters (as was done in Haiti, Madagascar and Panama), the STAB undermines the myth that there are treasures left at the bottom of the sea that remain to be discovered and can thus limit the desire for looting. All the more so, as the STAB's mission reports are available online on the UNESCO website and can be read by a wide audience. The potential outreach of the missions is thus very big, particularly if there is stronger media communication around them.

190. Depending on the specific requirements for each mission, additional experts may partake. For example, the evaluation found that many countries faced considerable difficulties in adapting their legislation to integrate the provisions and principles of the 2001 Convention. The STAB missions offer an opportunity for a legal specialist to delve more deeply into the legal intricacies of a country's legislation in order to suggest the appropriate modifications. The importance of such an approach was demonstrated in Panama, when a two-step model was used to allow for an initial meeting focussing solely on legal matters (led by a legal expert) followed by a scientific mission a few months later (led by an underwater archaeologist from the STAB). This approach allowed Panama to rectify its legislation before examining the more technical aspects of the implementation of the Convention's Rules on the *San Jose* site. Interviews with STAB members and representatives of the beneficiary countries suggested that such a two-pronged may be of benefit to other countries.

⁸⁰ IOC-UNESCO Marine Spatial Planning Programme (Environmental and Social Benefits include Improved opportunities for community/citizen participation; Identify environmental and socio-economic impacts from activities on communities and economies; Identification and improved protection of cultural heritage, social and spiritual values related to ocean use available [here](#).

⁸¹ ICOMOS's suggestion of the use of a seascape or maritime landscape approach during the review of the initial nomination was followed and likely helped getting Papahānaumokuākea

191. Building on this approach, some interviewees have stressed that the local communities should always be consulted. They are the ones aware of the specific location of the UCH and the threats it faces. This is consistent with IOC guidance⁸⁰ for marine spatial planning as stakeholders in marine resources (natural and cultural) and a maritime landscape approach used in Marine Protected Areas⁸¹. Interviews with a variety of stakeholders such as archaeologists, UNSCO staff and State representatives reveal that the STAB ought to discuss their mission and their findings with locals, and may even consider having a member of the community participate. Their buy-in is indeed crucial if the missions' recommendations are to be effectively applied and accepted, especially when dealing with indigenous communities. All future missions should thus consider including consultation with local communities, in particular women and elders who often are the bearers of ancestral knowledge.

192. STAB missions are often short, lasting no longer than a week. During this period of time, the underwater archaeology experts explore sites and establish a broader understanding of the local situation in terms of protection of UCH through exchanges with the local authorities. Based on these exchanges and their scientific research on the sites, they then issue recommendations for the requesting States. Some of these respond specifically to a country's needs, but all STAB mission reports also contained some more general recommendations. This shows some recurrent issues identified in many countries (e.g. lack of an appropriate and protective policy framework, insufficient protection in the legislation), but it could also mean these recommendations are not sufficiently adapted to the local context and do not take into account the capacities and priorities of that country. For this to happen, the members of the mission need to be given ample time to do the adequate background research and consultations and integrate the information.

193. Whilst all beneficiary countries have expressed sincere appreciation for these missions, it remains difficult to measure their long-term impact. Indeed, although each STAB mission results in the publication of a mission report along with a list of recommendations for the country, no follow-up mechanism requires States to report on progress in their implementation of the STAB

inscribed as a World Heritage Mixed Site. That process involves significant input from local communities such as Native Hawaiians in the case of Papahānaumokuākea. See also Marine World Heritage Programme site available [here](#) and Robert Casier and Fanny Douvere (eds), 'The Future of the World Heritage Convention for Marine Conservation: Celebrating 10 years of the World Heritage Marine Programme' (2016) 45 *World Heritage Papers*

recommendations. Instead, the reporting seems to be taking place in an unofficial manner through informal talks with Secretariat from a variety of stakeholders within the country. Similarly, no official follow-up STAB mission has been mandated to the beneficiary country to take stock of measures taken. Only a few interviewees indicated that a South African team of underwater archaeologists returned to Madagascar a few months after the STAB mission to observe what had happened since the missions. However, such a team cannot substitute itself to the authority of the STAB and UNESCO. If another were to go in its place, an established and recognized partner, such as the ICOMOS-ICUCH, might be more appropriate.

194. As a result, STAB missions are one-off, responding to a country's specific query at a given time and suggesting necessary measures for improved protection of UCH. However, the missions are not integrated into UNESCO's longer-term objectives aimed at enhancing UCH protection in those countries. Indeed, the STAB missions are not linked to UNESCO's national and regional consultations, nor to the capacity-building programme. While the STAB mission to Madagascar was followed by a week-long training programme a year later, co-organised with the UCH Unit, in the hopes of building capacity (as recommended by the STAB mission), it neither contributed to any of the other recommendations nor did it allow for discussions on ways to improve the broader context in Madagascar to protect UCH. This is a missed opportunity. Some interviewees, including State representatives, have even indicated that without any follow-up to the STAB missions, nor interlinkages between them and other UNESCO activities, countries do not receive the much needed longer-term support. As a result, momentum gained during the STAB missions is lost and countries' priorities may shift to other matters.

195. STAB missions are supposed to be funded by the requesting State. However, when that State does not have the means to do so, the operational guidelines to the Convention provide that UNESCO should offer financial assistance⁸². This is particularly important as the mission involves high-cost activities that require adequate diving materials and safety equipment. Yet, Secretariat has limited regular programme resources and the Fund for the Protection of Underwater Cultural Heritage, in part established to contribute to finance STAB missions⁸³, is empty. Therefore, the Secretariat relies on *ad hoc*

in-kind contributions to fund the STAB missions. To date, this has not hindered any mission from taking place, but is not a sustainable solution in the long-term.

Promoting public access to underwater cultural heritage

196. In its preamble, the 2001 Convention speaks of the public's right to enjoy the educational and recreational benefits of responsible and non-intrusive access to *in situ* UCH. Rule 7 of its Annex provides that "Public access to *in situ* UCH shall be promoted, except where such access is incompatible with protection and management." As UCH is mainly invisible to humans, special measures need to be put in place to encourage public awareness of and access to UCH through educational materials, virtual visits or remote access through technology, if not physical public access such as through snorkelling, diving or submersible vehicles. Physical access to UCH does however present risks for its protection. A careful balance between facilitating public access and avoiding or minimizing its potential adverse effects needs to be a primary consideration in the long-term and in protection and site management plans.

Access to underwater cultural heritage *in situ*

197. With the continued evolution of technology, diving has become a sport that is accessible to almost anyone with the means to receive a basic qualification. Many countries have put in place diving trails to encourage recreational divers to visit UCH sites. For example, in Croatia, a number of sites in the Adriatic Sea are protected *in situ* with iron cages and divers are encouraged to visit them. In northern Europe, many specialized NGOs organize thematic dives such as on the centenary of World War I to UCH sites. Some countries have also taken initiatives to promote public access to UCH in order to raise awareness of the necessity to protect both cultural and natural heritage, which are closely intertwined in their marine environment. For example, in the Yucatan, Mexico there is a diving site where tourists go to see contemporary art amid coral reefs that are in danger.

198. Non-divers are also increasingly able to access UCH *in situ* through glass bottom boat excursions and advances in modern technology, such as virtual reality, 3-D animations, etc. For example, several members of the UNESCO UNITWIN Network for Underwater Archaeology are collaborating on a European-Union funded project iMareCulture that aims to develop 3-D models of UCH sites and create immersive virtual reality experiences for interactive

⁸² Statutes of the STAB, art 5(a).

⁸³ Operational Guidelines to the 2001 Convention, art 65(d) and 70

visits in real underwater sites. The accredited NGO ADRAMAR also created a 3-D experience of the “Fetlar” shipwreck, which visitors can dive into, all while sitting on their couch.

199. Continued advances in technology are likely to further promote awareness and access to UCH. UNESCO has an important role to play in sharing these with the public.

UNESCO Best Practices in Underwater Cultural Heritage

200. The MSP to the 2001 Convention invites States Parties to submit examples of Best Practice in UCH protection, non-intrusive public access and sustainable management of the site.⁸⁴ The aim of this list is to recognize work well done, to increase visibility of the accessible site or institution, to foster networking among institutions and to further promote public access to the UCH.

201. The examples should be submitted to the Secretariat through the Permanent Delegations of States that have ratified the 2001 Convention. They are then evaluated by the STAB that recommends to the MSP to designate the best practice. To date, seven examples of best practice have been approved and designated by a special label, marked by the logo of the 2001 Convention⁸⁵.

202. There is currently no mechanism by which to monitor the use of these Best Practices by other countries. The evaluation established that a few members of the UNITWIN Network refer to these in their courses. UNESCO’s capacity-building programme also uses these practices as case studies and the evaluation survey shows (74% of respondents, n=35) that the presentation of the Best Practices constitutes one of the strong points of the programme.

203. Nevertheless, the evaluation survey and interviews show that the designated Best Practices are largely unknown and are not being used. The visibility of these practices outside their regions and countries is particularly low. Whilst some respondents have indicated that they try to emulate good practice examples or use them as a tool to raise awareness about UCH within their countries, it has not proven to inspire others. The fact that the seven sites are located in only three countries and almost all contain shipwrecks does not constitute a representative example of UCH as a whole. Interviewees with

archaeologists from Asia and the Pacific as well as Africa indicated that it would be beneficial to have examples from their own regions.

204. To reach its potential as a tool that inspires learning and good practice across countries, the list needs to represent various types of UCH from different regions and be promoted via targeted communication and outreach activities.

Museums

205. The evaluation survey shows that the most common forms of public access to UCH are through land-based museums and dedicated exhibitions. Examples of specialized museums include the Guangdong Maritime Silk Road Museum in Yangjiang, China (also known as Nanhai No. 1), the Viking Ship Museum in Roskilde, Denmark, the National Museum of Underwater Archaeology in Cartagena, Spain, and the Mary Rose Museum in Portsmouth, United Kingdom, among others. Special exhibitions dedicated to UCH have been organized in the National Maritime Museum in Chanthaburi Thailand, in Nairobi, Kenya for the Blue Economy Conference in November 2018, the Museum in Sainte-Marie Madagascar, and by the Jamaica Heritage Trust, among many others.

206. Taking UCH out of the water for public presentation is a very challenging and costly endeavour, as it requires extensive expertise and the proper research conservation, curation, public display facilities. While few countries have been able to find funding for such museums, interest in them continues to be high, at least in the preservation community. Indeed, the economic and cultural benefits of these maritime museums have been noteworthy. The National Museum of Underwater Archaeology in Cartagena, Spain attracts nearly 120 000 visitors per year and the Mary Rose Museum in Portsmouth, United Kingdom more than double that. The museums also run many educational and cultural programmes, which benefit schoolchildren, scholars and others. In general, the public impact of exhibitions, educational programs, public lectures, as well as “open doors days” organized by museums around the history of mankind and the sea is enormous.

207. Several countries have attempted to create museums that are located under water. A notable example is the Baiheliang Underwater Museum in China that opened in 2009. It allows visitors to walk through a steel structure with windows and view the White Crane Ridge remains from the Tang Dynasty (618-

⁸⁴ The full list of criteria for Best Practices are available [here](#)

⁸⁵ Seven sites have been listed on the List of Best Practices: four in Spain, two in Mexico and one in Portugal. Please see the list [here](#). (Accessed in May 2019).

907), which was submerged after the construction of the Three Gorges Dam. This is an interesting and unique example, which allowed the UCH to be preserved *in situ*, all while allowing access to it by non-divers. This feat is not without its challenges, however, as the water quality and consequent visibility of the UCH is not always guaranteed. In Egypt, the submerged city in the bay of Alexandria has been the subject of studies on the creation of an underwater museum among experts for many years, with the involvement of UNESCO. Discussions are ongoing and have shifted from an underwater structure to a maritime museum in a fortress on the shoreline.

208. Some interviewees have deplored that some museums display artefacts that were recovered from under water without specifying their origins or providing the scientific contextual information that reveals the story uncovered by proper archaeological research and reporting. UCH is therefore often presented out of its context with a loss of the story that is part of the heritage to be passed to present and future generations. UNESCO's regional conference on UCH in East Africa held in March 2019 included a special day dedicated to museums in the region. The conference presented the issues related to the inventory, conservation and museology of UCH, highlighting that displaying UCH in museums is a challenging endeavour. It also succeeded in effectively drawing parallels between the 2001 Convention and UNESCO's other Culture Conventions in view of making them more relevant in creating public awareness of the necessity to safeguard UCH. The public's experience in viewing and understanding UCH displayed in museums can be enhanced if the UCH is presented in context. Future cooperation between the UCH and the Movable Heritage and Museums Units is therefore encouraged.

UNESCO Publications and Special Events

209. To promote the access of non-divers to UCH, UNESCO has supported a number of initiatives with a view to raising awareness and creating educational opportunities. The [Manual for Activities directed at underwater cultural heritage](#) was published in 2013, endorsed by the STAB, and explains how to implement the "Rules". Interviews reveal that this publication constitutes a worldwide reference for archaeologists, who regularly refer to it in their teaching and

research work. The survey shows that 39% of countries have used it (n=62), while another 35% find it to be relevant and 21% do not know if it.

210. UNESCO also issued a series of specialized publications⁸⁶ by theme such as 'Underwater Cultural Heritage from World War I', and on world regions such as Oceania and in SIDS. The visibility and use of these is however limited, as the survey shows that only 16% of countries have used these and 29% do not know of them, whereas 42% find them to be relevant. Finally, UNESCO developed a special [website](#) on UCH for children, as well as a Teacher's Manual on UCH in World War I. The survey shows that these materials are relevant for half the respondent countries, but only 13% have used it and 31% do not know of it.

211. Regarding special events, the UCH Unit as well as Field Offices have strived to integrate UCH into conferences on oceans, climate change and for SIDS. Noteworthy examples include a presentation on how UCH research is essential to understanding the development of climate change at the Paris COP 21 in December 2015 as well as a presentation on the Safeguarding of UCH for SIDS Sustainable Development, which took place in Samoa in November 2018. In 2017, UNESCO co-organized with the Permanent Mission of Honduras in New York two side events on UCH on the margins of the UN Ocean Conference. The purpose of the events was to highlight the synergies between UCH and other marine-related issues and they drew a lot of interest, particularly among civil society. Interviews with most UNESCO staff as well as external partners show that the Organization's participation in such future events is very much encouraged, particularly in the context of the upcoming UN Decade for Ocean Science.

Conclusion

212. Much has been achieved at the national and global levels since the 2001 Convention entered into force. Ratification of the instrument, however, should not be seen as an end in itself and UNESCO needs to focus on helping countries raise awareness of UCH and build both professional and local capacities for its protection. In light of the limited resources of the Secretariat, partnerships are key to both strengthening and expanding UNESCO's action.

⁸⁶ All UNESCO publications on UCH can be found [here](#).

5. Partnerships

212. Given the limited resources of the UCH Unit and UNESCO Field Offices, the effectiveness and scope of their work also depend on how it leverages its partners to support the promotion and the protection of UCH. This chapter discusses the relevance and effectiveness of current and future partnerships that are vital for the sustainability of the Convention and UNESCO's efforts.

Advocacy, Education and Training

Accredited NGOs

213. The MSP to the 2001 Convention has accredited fifteen non-governmental organizations (NGOs) with activities related to the scope of the Convention. One of these, the ICOMOS International Committee on Underwater Cultural Heritage (ICOMOS-ICUCH) was the author of the ICOMOS Charter on the Protection of UCH that was later incorporated into the Annex of the 2001 Convention. The other accredited NGOs are organizations working in research, training, advocacy and public access to UCH. It is interesting to note that most of them are in countries that have not ratified the 2001 Convention and are thereby seen as important advocates for UCH protection, particularly when official competent authorities have not been set up.

214. Representatives of the accredited NGOs come from diverse backgrounds, but a number are underwater archaeologists who have much to contribute to the discussions of the STAB and the MSP. The accredited NGOs are given the opportunity to speak at these meetings as observers, but the time allotted for these interventions is limited and does not allow them to fully feed into the discussions. Besides these meetings, interaction with the NGOs has been limited to some of their representatives participating in activities of the Secretariat, such as conferences or capacity building sessions. In 2017, the accredited NGOs decided to meet as a group for the first time in order to decide on a common approach for their input to the work of UNESCO. In December 2018, a second meeting was held at UNESCO at which participating NGOs pledged to elaborate a common proposal for their contribution to the upcoming UN Decade for Ocean Science. Their input and participation in this Decade should be further encouraged.

215. Overall, interviews and responses to the dedicated questionnaire reveal that the accredited NGOs have so far been underutilized. Many expressed the need for a more collaborative way of working both between NGOs and with the UNESCO Secretariat on specific themes such as threats to UCH, climate change, new technologies for studying and accessing UCH, etc. At the same time, the NGOs would like to benefit from the assistance of UNESCO promoting the advantages of ratification for their respective countries and request receiving regular information on UNESCO activities throughout the year and not just before meetings. In line with broadening the discourse around UCH, as suggested in the previous chapters of this report, interviewees also point to the need for establishing partnerships with NGOs working on oceans, climate change and the environment as another avenue to raise the public awareness of the relevance of UCH in the protection of the marine environment and encourage NGOs from more countries to apply for accreditation.

UNITWIN Network for Underwater Archaeology

216. The UNITWIN Network was established in 2012, connecting close to 30 universities that deliver courses on UCH. Many of these institutions are not only from countries that have ratified the Convention, meaning they can also contribute to advocacy within their own countries for ratification. The Network plays an important role in education and promotion of the protection of the UCH. Indeed, its members train the future generations of underwater archaeologists that will be called on to protect the UCH. In doing so, they often refer to the international scientific standards set in the 2001 Convention and the Rules as well as UNESCO support materials such as the Manual for Activities. The UNITWIN Network also develops and proposes ideas and methods for UCH protection when it meets biannually on the margins of the MSP. Through their platform by which academics can share ideas on UCH with global decision-makers, UNITWIN members thereby have the potential to influence policies.

217. Some interviewees argue that the UNITWIN network should be more active for example by proposing to the STAB and UNESCO's Secretariat actions and programmes to which the members of the network can contribute, in order to promote the Convention. For instance, they could be an important partner in the delivery of capacity-building initiatives. Interviews consistently show that the academic community involved with UCH in general must be more proactive, in

order to promote knowledge and best practices not only for the protection, but also for the accessibility and the promotion of UCH.

UNESCO Chairs

218. Two UNESCO Chairs have been established in recent years in view of promoting the 2001 Convention through inter-university cooperation and research: the Chair in Maritime and Coastal Archaeology at the University of Aix-Marseille, France and the Chair on Ocean's Cultural Heritage at the Universidade Nova de Lisboa, Portugal. The partnership has been beneficial both for the institutions and for UNESCO. The Organization's logo has enabled the Chairs to secure longer-term funding for their programmes from their respective universities and to initiate innovative research projects on UCH. At the same time, the Chairs have been active participants in activities of the UCH Unit, such as at regional consultations. Interviews with both the Secretariat and the Chairs show that there is great potential for the Chairs to further advocate for the Convention in their respective networks and to contribute to future UNESCO initiatives.

Category II Centre

219. Created in 2007, the International Centre for Underwater Archaeology in Zadar, Croatia (ICUA) has been operating as a Category II centre under the auspices of UNESCO since January 2009 as the only Category II centre specializing in UCH.⁸⁷ The ICUA is an independent entity, which although separate from UNESCO and financed by the Croatian government, is mandated to promote the 2001 Convention and contribute to UNESCO's work in South East Europe and the wider Mediterranean region.

220. As revealed in the evaluation of the ICUA undertaken in 2015, the Centre has been actively engaged in scientific work, organizing many trainings, events (e.g. an international conference entitled 'Underwater Cultural Heritage in Europe today' was organized jointly with UNESCO Venice Office in 2018 in the context of the European Cultural Heritage Year), and hosting a large scientific library. It also developed a [Manual on the Conservation of Underwater](#)

⁸⁷ A representative of UNESCO's Secretariat has a seat on the ICUA Board.

⁸⁸ Training in underwater archaeology included general courses (basic and advanced underwater archaeology course, a practical workshop), NAS courses on foreshore and underwater archaeology (introduction, Part I and Part II certificates) and specialised training (scientific diving course, underwater photogrammetry and field schools). Beyond the general training on restoration and

[Archaeological Finds](#) that complements the UNESCO Manual on Activities in Underwater Archaeology and created a database for underwater sites. Overall, its scientific work is much appreciated, in particular its specialised trainings⁸⁸, which have attracted many people (cf. Table 5). This, along with UNESCO's capacity-building programme, has certainly contributed to awareness raising, well overpassing the 36 people target set in UNESCO's Programme and Budget for 2018-2019 (39C/5)⁸⁹. Until 2014, the courses were financed by UNESCO's Venice Office, which selected participants taking into account representation within the region and gender balance. Once courses became self-funding in 2015, these criteria were no longer considered.

Table 5. Number of participants in ICUA courses (2011-2018)

	2011	2012	2013	2014	2015	2016	2017	2018	Total
Underwater Archaeology	14	17	37	34	20	21	21	17	181
Restoration & Conservation	9	-	3	5	10	9	3	6	45
Total	23	17	40	39	30	30	24	23	226

Source: International Centre for Underwater Archaeology

221. Whilst the scientific activities of the ICUA are indeed in line with UNESCO's mandate, the 2015 evaluation pointed out that the Centre did not sufficiently promote the protection of UCH in the region. This is in part due to the limited resources of the Centre. It currently has nine staff and had received in the first five years of its existence (1,062,134 USD) slightly more than the funding it should have received in a single year (918,000 USD)⁹⁰. The Centre has since created an International Cooperation and Funding Department to diversify its sources of funding (especially seeking support from the European Union) and enhance cooperation within the region, namely to promote the 2001 Convention among decision-makers. Indeed, there is great potential for the ICUA to play an

conservation of archaeological finds from underwater environments, some are specific to the extraction of metal finds, organic finds, ceramics and glass.

⁸⁹ UNESCO's Programme and Budget for 2018-2019 (39C/5), Major Programme IV (Culture Sector, Main Line of Action 1, Expected Result 4, Performance Indicator 4, p. 222.

⁹⁰ Radu Florea and Ghica Gheorghui, Strategicus Consulting, *Review of the International Centre of Underwater Archaeology*, February 2015, p. 12-13:

enhanced role in South East Europe. In 2014, twelve Ministers of Culture in the region adopted the Regional Strategy for Cultural Cooperation in South East Europe – also known as the [Ohrid Strategy](#)⁹¹ – which provides that the protection of UCH should be a priority⁹². It further encourages States to cooperate towards heightened protection through established institutions⁹³ to enhance interstate cooperation and information sharing, accompany legislative and policy changes, ensure capacity building and engage in educational activities⁹⁴. The ICUA would fit within this definition, especially given that the concerned States had already recognized it as a 'centre of excellence' in 2008⁹⁵. It could thus play an important role in ensuring the protection of UCH in these countries, five of whom have not yet ratified the 2001 Convention.

222. Archaeologists and UCH experts benefit greatly from the skills they learn and the materials they access through the networks described above. However, they also need specific diving skills. Many interviewees consulted during the evaluation indicated that the recognition of scientific diving standards globally would facilitate cooperation.

Scientific Diving

223. Underwater archaeologists make up a specific category of scientist in that, although they have the technical skills in archaeology, they must also learn to dive. Hence, although diving is but a means for them to conduct their research, it is an essential part of their work. However, national legislation on requirements to access and undertake research on underwater archaeological sites varies considerably. Some countries merely require a degree in archaeology while others require additional diving certificates. Among these, the type of certification needed (recreational, scientific, diving) and the number of hours required to obtain it differ. Given the plethora of options and their varying costs, this not only hinders the accessibility of the profession for young people, but it also limits opportunities for international archaeological research and

⁹¹ Council of Ministers of Culture of South East Europe Enhancing Culture for Sustainable Development, *Ohrid Regional Strategy for Cultural Cooperation in South East Europe* (28 June 2014) ('*Ohrid Strategy*'). The Ohrid Strategy was adopted by the COMOCOSEE. It is composed of the following 12 countries: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Greece, Montenegro, Moldova, North Macedonia, Romania, Slovenia, Serbia, and Turkey.

⁹² *The Ohrid Strategy*, point I (Priority areas of cooperation).

⁹³ *Ibid.* Guiding principle 7 reads: 'the implementation of activities deriving from the present Strategy may leverage whenever appropriate the operational structures of relevant international organizations as well as of the regional networks and Centres the creation of which was endorsed

exchanges as encouraged by the 2001 Convention because archaeologists may not have the necessary qualifications to excavate in a country.

224. With this in mind, the STAB had envisaged designing harmonized rules for the delivery of global scientific diving qualifications at its third meeting. Archaeologists prefer this type of certification as it differentiates them from other professionals working under water, whilst also ensuring that they have a higher number of diving hours than recreational divers to guarantee that they can work safely. By harmonizing the rules and having more entities deliver the certificates, the high costs of receiving scientific diving certificate might have also gone down. The project was however unsuccessful. Indeed this is a complex matter. There have been a number of attempts at standardizing at the regional level⁹⁶. However, countries have not yet found common ground on the matter. Nevertheless, the scientific diving community is currently discussing the creation of global standards for scientific diving. The idea was presented at the 5th European Conference on Scientific Diving in Sopot, Poland in April 2019. UNESCO should follow the discussions closely and if consensus emerges, it might offer its support to the global recognition of these rules. This would only contribute further to the information-sharing objectives of the 2001 Convention.

Public access

Diving Community

225. The diving community at large is, as a whole, sensitive to matters of protection of UCH as it encounters it very regularly. Many professionals dive for their work: fishermen, sponge divers, marine biologists, oceanographers, civil engineers working for coastal management and many others. Many people also dive recreationally to view UCH *in situ* and learn about it. This last group also fuels the lucrative ecocultural tourism and related Blue Economy jobs, thereby contributing to sustainable development. All these divers, be they professional or recreational, spend a lot of time in the water and come across UCH sites and

within previous ministerial platforms, with the double aim of ensuring synergic action and avoiding the dispersion of resources in the creation of additional implementing agencies.'

⁹⁴ *Ibid.*, point 4 (modalities of Action)

⁹⁵ COMOCOSEE, *Fifth Joint Declaration of the Ministers Responsible for Culture in South-Eastern Europe and Italy, concerning the Enhancement of Cultural Heritage for supporting Dialogue, Integration, and Sustainable Development*, 5th mtg (20 September 2008), para 9 cited in UNESCO Venice Office, 'Cultural Heritage: A Bridge Towards a Shared Future – Activities 2005-2010', p. 65

⁹⁶ The European Scientific Diving Panel, the American Association of Underwater Sciences, and the Australian Diving Association entity designed their own models.

artefacts. Thus, they are important stakeholders for the identification of UCH and its protection.

226. Cultural heritage management is a complex and sensitive issue. By involving as many stakeholders as possible, decisions made will likely be more effective and provide successful results. For instance, in some countries, the recreational diving community has already partnered with governments and archaeologists in the protection, research, education and outreach on UCH. Interviews with representatives of scientific diving associations as well as archaeologists show that the UCH Unit could enhance communication with all these communities and make clear that the UCH is not just of concern to underwater archaeologists, but is a priority for all. As a step in this direction, UNESCO designed the Code of Ethics to sensitize divers to the protection of UCH, but communication can be done in a number of other ways: including local divers in STAB missions, raising awareness, giving away information about how to handle UCH (e.g. how to report possible finds) or even having representatives of other diving professions participate in STAB meetings.

Museums

227. UNESCO has highlighted the work of some museums on its website (see Chapter 4). It could consider creating a registry of maritime museums to work with them for the promotion of UCH. UNESCO could also consider partnering with the International Congress of Maritime Museums and its members. Indeed, museums have an important educational role and an impressive promotional capacity (see previous chapter). Their educational programmes and related activities, which create a “favourable climate” to underline the importance of the protection and valorisation of UCH in young people’s minds especially, should be used as tools for effective awareness raising. The use of new technologies (virtual reality, 3D) for more innovative, participatory and immersive approaches also contribute to expanding outreach and attracting attention to UCH.

⁹⁷ 2001 Convention, art 11(3) and 12(2)

⁹⁸ The Protection of the Underwater Cultural Heritage in the Rules, Regulations And Procedures of the International Seabed Authority

A – ISA, *Decision of the Assembly of the International Seabed Authority relating to amendments to the Regulations on Prospecting and Exploration for Polymetallic Sulphides in the Area and related matters*, 16th sess, Doc ISBA/16/A/12/Rev.1 (7 May 2010)

Effective protection of underwater cultural heritage

International Seabed Authority

228. The International Seabed Authority (ISA) is an autonomous international organization established under the UNCLOS through which States Parties to the UNCLOS shall organize and control activities in the Area (i.e. the seabed, ocean floor and subsoil thereof beyond the limits of national jurisdiction), particularly with a view to administering the resources of the Area. The ISA competence for control over activities of seabed mining in the Area does not include control over activities directed at UCH. However, as the ISA implements its authority and responsibility including consideration of the duty to protect and preserve objects of an archaeological or historical nature under Article 149 of the UNCLOS, the 2001 Convention is relevant to its work. Its regime for the Area in particular may provide more details that are helpful.

229. The importance of the collaboration between UNESCO and the ISA is reflected in the provisions of the 2001 Convention, whose cooperation mechanism requires the consultation of the Secretary General of the ISA for all UCH discovered in the Area⁹⁷. The ISA has also developed materials to support this cooperation, namely a "Mining Code" which refers to the rules, regulations and procedures to regulate prospecting, exploration and exploitation of marine minerals in the Area⁹⁸. During the prospecting phase, the prospector is required to notify the ISA Secretary-General of any find in the Area of an object of actual or potential archaeological or historical nature and its location. The ISA Secretary-General, in turn, transmits such information to the Director General of UNESCO⁹⁹. There is a similar requirement for finds during the exploration phase regarding such objects and human remains, including the preservation and protection measures taken to avoid disturbance¹⁰⁰.

B – ISA, *Decision of the Assembly of the International Seabed Authority relating to amendments to the Regulations on Prospecting and Exploration for Cobalt-Rich Ferromanganese Crusts in the Area and related matters*, 18th sess, Doc ISBA/18/A/11 (27 July 2012)

C – ISA, *Decision of the Council of the International Seabed Authority relating to amendments to the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area and related matters*, 19th sess, Doc ISBA/19/C/17 (25 July 2013)

⁹⁹ Regulation 8

¹⁰⁰ Regulation 37 and Annex IV Standard clauses for exploration contract, section 7

Law Enforcement Organizations

230. The protection of UCH pursued by the 2001 Convention involves States adopting and enforcing measures with a view to preventing harm or destruction, but also sanctions and seizures when UCH has been illegally harmed, destroyed or recovered¹⁰¹. Law enforcement, including monitoring, thus plays an important role in pursuing this objective. Interviews with specialized organizations reveal however, that in most countries law enforcement actors are rarely knowledgeable about the 2001 Convention and do not consider the protection of UCH in their work. Typically, they face a number of challenges. From the onset, police struggle to identify suspicious behaviour under water, while customs officials at the borders have difficulty distinguishing souvenirs from protected cultural objects. The lack of harmonisation of export certificates for cultural goods also makes the identification of stolen artefacts complicated.

231. To raise awareness on the 2001 Convention among law enforcement officials, its Secretariat signed a Memorandum of Understanding with the Work of Arts Unit of the International Criminal Police Organization (INTERPOL) in 2016. That same year, a joint training for police was organized aiming at promoting the protection of UCH. Indeed, INTERPOL's Stolen Works of Art Database is an essential tool for police that can allow cross-border cooperation in identifying illicit trafficking of heritage found under water. Since 2016,

INTERPOL dedicates an hour of its own training sessions to the 2001 Convention in order to familiarize public prosecutors and national police with the instrument and encourage them to establish specialized police units like within the *Carabinieri* in Italy. A standard procedure on how to protect UCH is yet to be designed with UNESCO.

232. Building on the cooperation with INTERPOL, UNESCO could emulate this with other relevant international (UNIDROIT¹⁰², the UN Office on Drugs and Crime (UNODC)¹⁰³, the World Customs Organization (WCO)¹⁰⁴) and regional organizations (European Union¹⁰⁵, Council of Europe¹⁰⁶, etc.) that have adopted instruments to fight against the illicit trafficking of cultural heritage. This is especially true, as these organizations do not focus exclusively on land-based heritage. Some even considered the 2001 Convention when drafting their own instruments, although reference to UCH has not always been explicit¹⁰⁷.

233. The UNODC¹⁰⁸ and the WCO¹⁰⁹ have designed materials and tools to guide law enforcement officials. For example, the 2001 Convention Secretariat and the WCO designed a model export certificate for cultural objects¹¹⁰. Other institutions, such as the Organization for Security and Cooperation in Europe (OSCE)¹¹¹, the WCO and the European Union¹¹² organize trainings that target customs officials, police, coastguards, the navy and the judiciary. These trainings offer an opportunity for UNESCO to introduce the 2001 Convention.

¹⁰¹ 2001 Convention, art 16 and 17

¹⁰² UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, opened for signature 24 June 1995, 2421 UNTS 457 (entered into force 1st July 1998)

¹⁰³ United Nations Convention against Transnational Organized Crime, GA Res 55/25, UN GAOR, 55th sess, 62nd plen mtg, Agenda Item 105, Supp No 49, UN Doc A/RES/55/25 (8 January 2001); International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences, GA Res 69/196, UN GAOR, 3rd Comm, 69th sess, 73rd mtg Agenda Item 105, Supp No 49, UN Doc A/RES/69/196 (18 December 2014)

¹⁰⁴ International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences, opened for signature 9 June 1977, 1226 UNTS 143 (entered into force 21 May 1980), Annex XI ('Assistance in action against the smuggling of works of art, antiques and other cultural property')

¹⁰⁵ Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods, [2009] OJ L 39/1 ; Directive 2014/60/EU of the European Parliament and of the Council of 15 May 2014 on the return of cultural objects unlawfully removed from the territory of a member State [2014] OJ L 159/1

¹⁰⁶ Council of Europe Convention on Offences Relating to Cultural Property, opened for signature 19 May 2017, CETS No 221 (not yet in force) ('Nicosia Convention')

¹⁰⁷ UNIDROIT Expert Committee on State Ownership of Cultural Heritage, Model Provisions on State Ownership of Undiscovered Cultural Objects - Explanatory Report with Model provisions and

explanatory guidelines (1st July 2011), guidelines to provisions 1 and 2 ; Council of Europe, Explanatory Report to the Council of Europe Convention on Offences relating to Cultural Property, CETS No 221, 19 May 2017, para 18

¹⁰⁸ UNODC, Practical Assistance Tool to assist in the implementation of the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences (May 2016)

¹⁰⁹ Police Cooperation Handbook – a training manual developed with INTERPOL only available to law enforcement officials on facilitating cooperation between police and customs officials at the national level; ARCHAEO database used by 300 customs and culture officials from 90 countries.

¹¹⁰ UNESCO, Model for a National Act for the Protection of Underwater Cultural Heritage, Annex, p. 14-28

¹¹¹ Drawing from its mandate in border management, the OSCE has organized workshops on the prevention of illicit trafficking of cultural goods in Tajikistan, Cyprus, Montenegro and Bangkok for example. UNESCO Field Offices in Bangkok and Kabul have contributed to these workshops. While there have been some references to the 2001 Convention, this has not been consistent.

¹¹² The 1970 Convention Secretariat, funded by the EU, has designed two tools for law enforcement in Europe: an online training for the judiciary based on the UNESCO Toolkit on Fighting the Illicit Trafficking of Cultural Property, that is already available in both English and French, and a MOOC for the art market that is still in the process of being designed.

There is thus great potential for awareness raising among key stakeholders, by including a module on UCH in the materials and the trainings.

234. Trainings are however expensive and lack of funding remains a challenge for all these organizations. Pooling resources and leveraging each organization's strengths is a good solution, especially as partners appreciate UNESCO's convening power, which enables them to bring together all relevant national stakeholders. For example, the WCO has organized joint trainings with UNESCO for the 1970 Convention¹¹³. All organizations interviewed expressed an interest in establishing similar forms of cooperation with the UCH Unit. Digitalization through online training and MOOCs could also allow for greater outreach¹¹⁴ than the traditional face-to-face trainings.

Conclusion

235. The established partnerships have mainly focused on advocacy, education and training. While this is important and has been relatively successful, this has drawn the focus away from other groups. By involving stakeholders beyond the academic and cultural spheres in the protection of UCH, the UNESCO could ensure a much greater outreach. Developing and strengthening such partnerships is key if UCH is to be protected more widely.

¹¹³ WCO's 'Prevention of Illicit Trafficking of Cultural Heritage' (PITCH) trainings on the 1970 Convention have been organized with the UNESCO Field Offices in Beirut, Juba, Dakar and a workshop, co-organized with the Nairobi Office, is foreseen in the Seychelles in July 2019.

¹¹⁴ Please refer to the EU project described above n 111.

6. Conclusions and Recommendations

Conclusions

236. The adoption of UNESCO's 2001 Convention on the Protection of UCH introduced measures and scientific standards for protection and cooperation, thereby filling voids both in the international law of the sea and cultural heritage law. While the ratification rate of the Convention has been slower than for UNESCO's other Culture Conventions, the instrument is recognized by many stakeholders, and especially the archaeological community, as a making a significant contribution to professional and ethical scientific research as well as being an inspiration for international cooperation. Indeed, the Rules contained in the Annex are the international standards implemented by archaeologists around the world, regardless of whether their countries have ratified or not. The State Cooperation Mechanism is of particular interest to States and aspires to become a model for other processes of international cooperation in areas beyond national jurisdiction in a manner consistent with the law of the sea.

237. Increasing the ratification of the 2001 Convention remains a major challenge for a number of reasons. Some States remain concerned about the new requirements for notification, reporting and regulation on the continental shelf/EEZ as upsetting the balance of flag and coastal State jurisdiction under UNCLOS. State practice over the past decade or so has addressed at least some of those issues and certain countries that were initially concerned, have since become Parties or are in the process of ratifying.

238. Archaeologists and other stakeholders have expressed concerns about the provisions on *in situ* preservation preventing them from doing archaeological research and recovery. This is a misinterpretation of a precautionary approach to management that calls for *in situ* preservation of UCH being considered as the first initial option. Most of the Annex Rules provide the scientific standards and requirements for recovery that each State Party has the discretion to exercise if the UCH is threatened by looting, economic development or other reasons in the public interest.

239. Underwater cultural heritage means many different things to different people. In order for communities to care about protecting it before they bring

it up with their national authorities, they need to see the value in doing so. Reaching them is perhaps one of the biggest challenges of all.

240. Due to its technical content, as well as the discourse around it, the 2001 Convention is seen by some as an instrument only for countries with specialized expertise and capacity in underwater archaeology. Consequently, many countries question its relevance for their people in light of other development priorities. However, the protection of UCH can and should be of concern to many people and particularly coastal communities for whom this heritage constitutes a part of their identity and everyday life. UNESCO has an important role to play in bringing this to light by adapting its narrative around the Convention. By presenting UCH as an integral part of the marine environment and highlighting its place in traditional practices of coastal communities, UNESCO can reach many stakeholders beyond the traditional circle of cultural heritage professionals. To do so effectively, the UNESCO Secretariat, STAB and States Parties need to make explicit the links between UCH protection and sustainable development.

241. This evaluation assessed UNESCO's support to Member States in the framework of the 2001 Convention and found that much has been achieved in the ten years since the instrument's entry into force. UNESCO has supported countries in developing their capacity in underwater archaeology and drafting legislation to protect UCH, set up a number of expert networks, and promoted awareness-raising and access to UCH. The expertise of the Secretariat, the STAB and the specialized networks are renowned and appreciated worldwide, providing an excellent foundation upon which to build and expand upon. UNESCO's convening power continues to bring stakeholders together at the country and regional levels to effectively raise awareness of the need to protect UCH, a type of heritage that remains invisible to many. Its capacity building programme also offers unique opportunities for training in underwater archaeology in many parts of the world that do not have academic degree programmes in this field.

242. In the absence of a long-term vision and strategy, as well as a very under resourced Secretariat, UNESCO's efforts have however been more reactive and *ad hoc*. Key opportunities to work across the Culture Conventions have also not been seized. The lack of monitoring mechanisms

to track progress on the implementation of the 2001 Convention at the global level has also made it challenging to demonstrate the results achieved as well as the benefits of ratification and implementation. The elaboration of a strategy articulated in a clear results framework (and a theory of change approach) would provide the Organization's staff with the much-needed strategic direction to coordinate their efforts and to communicate to partners and donors how UNESCO's work under the Convention can contribute to the 2030 Sustainable Development Agenda.

243. Indeed, the protection of UCH can make an important contribution to the SDGs. The integration of UCH into educational efforts (SDG4) and ocean literacy (SDG14) is key to understanding the relationship between humans and oceans. It can promote gender equality (SDG5) by bringing out ancestral knowledge of women and men living in coastal communities. The protection of UCH in urban settlements and their surrounding environments (SDG11) further creates numerous opportunities for recreation, cultural enrichment and economic and social development. UCH can provide vital evidence about how human populations have adapted to, or been affected by, climate change (SDG13). Protecting UCH from non-authorized activities also contributes to the conservation of coastal and marine protected areas, thereby promoting the sustainable use of the oceans (SDG14). Finally, the attainment of all these goals is not possible without the creation of partnerships with all actors working on environmental protection, oceans, and even law enforcement (SDG17).

244. The contribution of UCH and the 2001 Convention to the SDGs will only be clear if UNESCO is regularly present in the ongoing international processes related to the 2030 Agenda, including within UN Oceans. In recent years, UNESCO's Culture Sector has been largely absent in these fora and this constitutes a missed opportunity to integrate the provisions of the 2001 Convention therein. It is time for UNESCO to institutionalize its commitment, starting with advocating for the integration of UCH protection into the upcoming UN Decade for Ocean Science (2021-2030). Indeed, UCH has already been incorporated into the Roadmap and has the potential to contribute to all six pillars of the Decade. The UCH Unit and States Parties need to work closely with the UNESCO Intergovernmental Oceanographic Commission thereon. This is an opportunity that should not be missed as the sustainable development of our marine environment is of paramount importance to the preservation of the natural and cultural heritage that should be passed on to future generations.

Recommendations

245. The analysis of the findings has led to the development of 15 recommendations for the UCH Unit, the UNESCO Culture Sector, the Scientific and Technical Advisory Body and the Meeting of the States Parties. The recommendations were presented to UNESCO staff during the evaluation workshop and in the draft report, after which they were finalized, taking into consideration the feedback received. The recommendations for each group are listed in order of priority.

For the Underwater Cultural Heritage Unit:

1. Develop a **strategy** for longer-term support to countries in implementing the 2001 Convention. The strategy should be articulated in a **results framework** for the Convention and linked to all relevant SDGs.
2. Revise the **discourse** around the 2001 Convention in view of broadening the outreach of the instrument and adapt UNESCO's communication materials accordingly. The discourse should be focussed on the UCH of communities and integrate gender equality.
3. Introduce mechanisms to **monitor** the implementation of the 2001 Convention both at the country and global levels to showcase its successes and link the instrument's contribution to the SDGs.
4. Review the **capacity building** programme to apply a longer-term approach and allow for its tailoring to local contexts. Delivery modalities should include the use of local trainers, where possible, and UNESCO's partner networks (Category II Centre, UNITWIN, and accredited NGOs).
5. Develop a module on **preventing illicit trafficking** of UCH through collaboration with the 1970 Convention Secretariat, building on the work with INTERPOL, and encourage other relevant law enforcement agencies to integrate this topic in their trainings.
6. Develop guidelines for presenting **UCH to the public** in museums in cooperation with the Movable Heritage and Museums Unit and museums professionals in UNESCO's partner networks.

For the Scientific and Technical Advisory Body:

7. Clarify the **archaeological concepts** of the 2001 Convention such as *in situ* preservation and consider revising the Operational Guidelines in

view of increasing the understanding of terms and concepts. Collaborate with the UCH Unit to produce communication materials thereon.

8. Broaden the scope of **STAB missions** to cover legal and environmental issues in view of strengthening recipient countries' systems of protection. Encourage the participation of local communities in the missions, linking them to other UNESCO activities in view of promoting a longer-term capacity building approach.

For the Meeting of the States Parties:

9. Adopt a mechanism to ensure follow-up to STAB missions and recommendations in view of strengthening their effectiveness.
10. Advocate for strengthening the integration of the protection of UCH into the Roadmap of the **UN Decade of Ocean Science**. In particular, facilitate the cooperation between the UCH Unit and the Intergovernmental Oceanographic Commission in the implementation of the Roadmap.
11. Invite stakeholders from the UNESCO Secretariat (IOC, units responsible for the 1954, 1970, 1972 and 2003 Conventions), DOALOS, NGOs working on oceans and the environment, law enforcement agencies, etc. to MSP meetings in view of clarifying issues related to the law of the sea and **broadening discussions** to include the larger issues at stake.

12. Invite States Parties to submit female candidatures to the STAB and amend the MSP Rules of Procedure to include **gender** parity in the membership of the Bureau.

For UNESCO's Culture Sector:

13. Ensure that the UCH Unit can access the appropriate **capacity and expertise** in underwater archaeology in view of providing technical assistance to Member States and UNESCO Field Staff.
14. Ensure the regular representation of the UCH Unit in **UN Oceans** and any other global coordination mechanisms in ocean-related matters in order to clearly reaffirm the contribution of the protection of UCH to the 2030 Agenda. Regular programme resources should be allocated for this work in order to allow for continuity.
15. Integrate the protection of UCH and awareness of the 2001 Convention in the mechanisms of other **Culture Conventions and UNESCO programmes** (e.g. Man and the Biosphere Programme.) such as in their site management and conservation plans, broader safeguarding policies, regional consultations, trainings and meetings of statutory bodies. Collaborate with the IOC in integrating UCH into initiatives such as marine spatial planning, marine scientific research and capacity building.

7. Annexes

A. Terms of Reference

Evaluation of UNESCO's Standard-setting Work of the Culture Sector Part VI – 2001 Convention on the Protection of Underwater Cultural Heritage

1) Background

1. With the technological and scientific advances of the past several decades, the ocean has become increasingly accessible to human beings. While this has allowed for the discovery of a variety of marine life and traces of the human past, which had been until recently unknown, it has also made them more vulnerable to human threats (e.g. economic development which has brought about excessive fishing, dredging, commercial exploitation of the seas, as well as increased looting and treasure hunting). The same is true for the bed of rivers, lakes and even swamps that have revealed over the past decades important bodies of submerged heritage, which have been subject to looting or the impact of industrial activities.

2. The 1982 [United Nations Convention on the Law of the Sea \(UNCLOS\)](#) mentions the preservation and protection of “objects of an archaeological and historical nature” in its articles 149 and 303, but without specifying how countries are to proceed in doing so. The ICOMOS [Charter on the Protection and Management of Underwater Cultural Heritage](#) from 1996 intended to specifically focus on the protection and management of underwater cultural heritage (hereafter UCH), but was not a binding international treaty. The need for a binding normative instrument in the field of UCH became clear to the international community and it was only natural that UNESCO should oversee its development and subsequent implementation.

Brief description of the 2001 Convention

3. In November 2001, UNESCO's Member States adopted the [Convention on the Protection of Underwater Cultural Heritage \(hereafter the 2001 Convention\)](#), with a view to enhance protection for cultural heritage discovered under water. In doing so, it has two main objectives: to increase the protection of underwater cultural heritage and to enhance cooperation among State Parties.

4. The long-awaited Convention was however adopted amid much controversy, as reluctant States worried (i) about the possibility of the protection of underwater cultural heritage hindering its commercial exploitation as well as that of the seabed and marine resources and (ii) about the legal implications of the 2001 Convention in relation to the existing law of the sea and jurisdiction in international waters (which for many States is governed by UNCLOS). It is thus the only UNESCO Convention not to have been adopted unanimously, while it nevertheless entered into force in 2009. To date (1 January 2019) the 2001 Convention has 60 States Parties.

5. The Convention does not determine ownership of UCH, focusing solely on the measures to be implemented to ensure its adequate protection. It encourages the development of scientific underwater archaeology and heritage access for the wider public for educational purposes.

6. Finally, the Annex to the Convention, known as the Rules, provides a specific framework to guide any activities directed at UCH and provides an international standard for the elaboration of project documents therein.

Governance

7. The 2001 Convention has two statutory bodies, supported by a Secretariat: the Meeting of States Parties (hereafter the 'MSP') and the Scientific and Technical Advisory Body (hereafter the 'STAB').

8. The MSP meets every two years in ordinary session, and if necessary in extra-ordinary session, to take all measures it considers necessary to further the objectives of the Convention and to solve any issues regarding its implementation. Its six-member Bureau coordinates and oversees the sessions.

9. The STAB, currently composed of 12 experts elected by the MSP, meets yearly to orient decisions on major aspects governing the implementation of the Convention and advise States Parties on all questions of a more scientific and technical nature regarding the implementation of the Rules annexed to the Convention. It can namely make recommendations to promote best practice in the protection of UCH. It has also contributed to the drafting of the Operational Guidelines for the Convention, and does, upon request, undertake missions to

assist States Parties in the preservation of specific underwater cultural heritage sites.

Situating the Convention within UNESCO's Culture Sector and Programme

10. UNESCO's Culture Sector was restructured in November 2018. The Secretariat of the 2001 Convention now sits within a new entity for Culture and Emergencies, which also houses the Secretariats of the [1954 Convention](#) on the Protection of Cultural Property in the Event of Armed Conflict and the [1970 Convention](#) on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, as well as the Emergency Preparedness Unit. Programme specialists and project officers throughout UNESCO's network of field offices also contribute to programme implementation for the 2001 Convention.

11. UNESCO's Programme and Budget document for the current quadriennium (2018-2021), the [39C/5](#), includes an expected result (ER) for this line of work under its Main Line of Action 1 'Protecting, conserving, promoting and transmitting culture and heritage for dialogue and development':

ER 4: Underwater cultural heritage identified, protected and sustainably managed by Member States, in particular through the wide ratification and effective implementation of the 2001 Convention.

12. The programme is funded by a combination of regular programme funds and extra-budgetary resources. However, the bulk of the regular programme funds is used to finance statutory obligations, including the meetings of the governing bodies. Consequently, operational projects rely solely on voluntary contributions.

2030 Sustainable Development Agenda

13. With the increasing effects of climate change on the rising sea levels and the subsequent consequences on human activity, the preservation of the ocean

¹¹⁵ [Our Ocean, Our Future: Call for Action](#)

¹¹⁶ 14.5: By 2020, conserve at least 10 per cent of coastal and marine areas, consistent with national and international law and based on the best available scientific information

¹¹⁷ 14.7: By 2030, increase the economic benefits to Small Island developing States and least developed countries from the sustainable use of marine resources, including through sustainable management of fisheries, aquaculture and tourism

and all that it contains has come back to the fore on the international stage. The 2030 Agenda does not specifically refer to the protection of UCH in its Sustainable Development Goal (SDG) 14 on oceans, seas and marine resources. However, the United Nations Conference to Support the Implementation of SDG 14 of the 2030 Agenda that took place in June 2017 expressly recognized that the ocean forms an important part of our cultural heritage and called on all stakeholders to develop comprehensive strategies to raise awareness of the natural and cultural significance of the ocean.¹¹⁵ Specific targets of particular relevance to UCH include 14.5¹¹⁶, 14.7¹¹⁷ and 14.C¹¹⁸.

14. Entry points for the contribution of UCH to other SDGs also exist (e.g. SDG 4 on education, SDG 11 target 4, which speaks of the need to protect and safeguard the world's cultural and natural heritage, SDG 13 on climate change, SDG 5 on gender equality, etc.). The UN is increasingly working on developing appropriate instruments to ensure the sustainable use of oceans. The potential of UCH protection in these international processes remains largely unknown, but merits careful consideration.

Rationale for Evaluation

15. The year 2019 marks the tenth anniversary of the 2001 Convention entering into force. The timing is therefore opportune to take stock of the achievements and challenges encountered during this first decade of implementation. It is also a time to look forward and inform the future action of UNESCO's support to States Parties in the protection of UCH and to improve the visibility of the Convention in view of increasing its ratification. The evaluation of the 2001 Convention marks the final exercise in the cycle of evaluations of UNESCO's six culture conventions.¹¹⁹

¹¹⁸ 14.C: Enhance the conservation and sustainable use of oceans and their resources by implementing international law as reflected in UNCLOS, which provides the legal framework for the conservation and sustainable use of oceans and their resources, as recalled in paragraph 158 of The Future We Want

¹¹⁹ UNESCO's Evaluation Office has undertaken evaluations of five of the Organization's normative instruments in culture, namely the 1954, 1970, 1972, 2003 and 2005 Conventions.

2) Purpose and Scope

Objectives and Use

16. The main purpose of the evaluation is to generate findings, lessons learned and recommendations regarding the relevance and the effectiveness of the standard-setting work of UNESCO in the framework of the 2001 Convention.

17. While the evaluation will be mainly formative in its orientation – in line with the above purpose of the envisaged continuous improvement – it will include summative elements as it is essential to learn what has been working so far, why and under what circumstances, and what the challenges have been in order to extract lessons and identify possible improvements to ensure the effective implementation of the 2001 Convention. The evaluation will also focus on the alignment and complementarity of the standard-setting work of the Culture Sector with UNESCO's global priorities Africa and Gender Equality, and its continued relevance, notably in the framework of the 2030 Sustainable Development Agenda and the Agenda 2063 of the African Union¹²⁰.

18. The evaluation aims to help the UNESCO Culture Sector, Senior Management and the Governing Bodies of the 2001 Convention to strengthen, refocus and better coordinate the Organization's work in relation to the preservation of UCH, particularly through its support to Member States for ratification and to States Parties for implementation. The evaluation will feed into the next Strategic Results Report (due in 2020) and aim to inform the next quadrennial programme and budget (2022-2025). It also aims to serve as a learning exercise for managers and staff working in the protection of UCH across the Culture Sector and in UNESCO's extensive networks of partners that work in UCH.

19. The final evaluation report will be submitted to the Secretariat of the Convention, the UNESCO Culture Sector and the Governing Bodies established under the Convention. The evaluation team will present the evaluation findings at the upcoming session of the Meeting of States Parties to the Convention and the meeting of the STAB scheduled in June 2019.

¹²⁰ See the [Agenda 2063 Popular Version](#), particularly Aspiration 5 for 'An Africa with a strong cultural identity, common heritage, values and ethics'

Scope and Evaluation Questions

20. The evaluation will assess UNESCO's standard-setting work under the 2001 Convention, which is designed to support Member States with the:

- I. Ratification (or accession / acceptance / approval) of the standard-setting instruments
- II. Integration of the provisions of the standard-setting instruments into national / regional legislation, policy and strategy (policy development level)
- III. Implementation of the legislation, policies and strategies at national level (policy implementation level).

21. The evaluation will assess UNESCO's work in the field of protection of cultural heritage within the framework of both the regular and extrabudgetary programmes from the Convention's entry into force in February 2009 up to the time of the present evaluation (early 2019). The evaluation should also reflect UNESCO's global priorities Gender Equality and Africa by seeking to collect data on gender-relevant matters as well as focusing, when appropriate, on the needs of the African continent.

22. Key evaluation questions will include the following:

Relevance:

- To what extent is the 2001 Convention complementary to other international standard-setting instruments of the law of the sea (1982 UNCLOS, 1989 International Convention on Salvage, 1996 Sofia Charter, 2007 Nairobi International Convention on the Removal of Wrecks)?
- To what extent is the 2001 Convention complementary to other international standard-setting instruments in the field of cultural heritage protection (notably UNESCO's 1972 Convention and its Marine World Heritage programme, but also the 1954, 1970 and 2003 Conventions)?
- How is the standard-setting work in the framework of the 2001 Convention contributing towards the achievement of the 2030 Agenda and the SDGs, including SDG 14, among others? How does it contribute

to the UN Climate Change Conferences? What role can the 2001 Convention play in the upcoming UN Decade of Ocean Science for Sustainable Development (2021 – 2030)?

- What is the relationship between the 2001 Convention and the mandate and work of the UNESCO International Oceanographic Commission?
- What is the relationship between the 2001 Convention and other biodiversity-related Conventions and programmes, including UNESCO Biosphere Reserves?
- To what extent does the 2001 Convention influence policy-making in the field of underwater cultural heritage protection and management?
- How can the 2001 Convention Secretariat contribute to or profit from the current discussions around the development of a new international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction?
- How and are issues related to gender addressed through the implementation of activities under the Convention?

Effectiveness:

- What results have been achieved by UNESCO's support to Member States in terms of protecting UCH? These should be analysed at the ratification, policy development, and implementation levels.
- What are the underlying reasons for the non-ratification of the 2001 Convention by some Member States? How can the Convention Secretariat address these challenges and encourage new ratifications?
- To what extent has the 2001 Convention contributed to heightened cooperation between States through its cooperation mechanisms regarding the protection of UCH?
- How has UNESCO supported States Parties in raising awareness of UCH and making it visible for the public?
- How have the 2001 Convention and its Rules guided and supported the development of underwater archaeology as a field?
- What have been the results of UNESCO's capacity-building programme?

Efficiency:

- To what extent does the programme underlying the Convention have a realistic Theory of Change?

- What mechanisms are in place for monitoring the implementation of the Convention?
- To what extent are the working methods of the STAB and the Meeting of States Parties adequate in supporting the ratification and implementation of the 2001 Convention?
- To what extent does the structure and capacity of the 2001 Convention Secretariat enable it to fulfil its role?
- How does the 2001 Convention Secretariat cooperate with other UNESCO entities working on cultural heritage protection (Culture Sector)?

Sustainability:

- How have partnerships (Category II Centre, Universities, Chairs, and accredited NGOs) contributed to the ratification and implementation of the 2001 Convention? How can UNESCO further strengthen these partnerships?
- What other partnerships can contribute to the further ratification of and the implementation of the 2001 Convention?
- What role does the 2001 Convention Secretariat play within the larger UN family dealing with the law of the sea such as the Division for Ocean Affairs and the Law of the Sea (UN Office of Legal Affairs), UN Oceans, the International Seabed Authority, the International Maritime Organization, and the Food and Agriculture Organization among others?
- What types of mechanisms have been put in place by UNESCO to mobilize resources for the protection of UCH?
- How is knowledge on UCH managed and communicated by UNESCO as a whole?

23. A full list of evaluation questions will be developed during the Inception Phase of the evaluation.

3) Methodology

24. The evaluation may include some or all of the methodological elements below. The specific methods will be further refined during the inception phase and in consultation with the Evaluation Reference Group. The evaluation team will use a mixed method approach involving quantitative and qualitative data from multiple sources:

- Desk study: 2001 Convention text and its Operational Guidelines, documents of the two statutory bodies of the 2001 Convention (i.e. the MSP and the STAB), project progress and monitoring reports, UNESCO's other culture conventions, UNESCO publications and communication materials related to UCH.
- Review and analysis of other legal instruments relating to the law of the sea (1982 UNCLOS, 1989 International Convention on Salvage, 2007 Nairobi International Convention on the Removal of Wrecks, etc.)
- Review and analysis of the Rules annexed to the Convention, as well as other normative instruments and policies guiding underwater archaeological practices
- Structured and semi-structured interviews (face-to-face and via Skype) with the following stakeholders within and outside UNESCO:
 - Internal: 2001 Convention Secretariat staff, UNESCO Field Office staff working on UCH, representatives of the statutory bodies, staff working for the other Culture Conventions, staff working at the International Oceanographic Commission, staff working on Biosphere Reserves, etc.
 - External: representatives of States that are Parties to the Convention and those that are not; partner organizations (Category II Centre, Universities, Chairs, and accredited NGOs); select beneficiaries of UNESCO's assistance; other international organizations (e.g. the Division for Ocean Affairs and the Law of the Sea (UN Office of Legal Affairs), UN Oceans, the International Seabed Authority, the International Maritime Organization, and the Food and Agriculture Organization, Interpol, etc.); museum professionals/curators, etc.
- Questionnaire(s) and/or survey(s) of all UNESCO Member States and UNESCO's partners working in UCH protection.
- Observation of the Meeting of the NGOs accredited to the 2001 Convention on the Protection of Underwater Cultural Heritage on 18 December 2018.
- Participatory workshop to steer the evaluation and to discuss preliminary findings, lessons learned and recommendations.

25. Data collection, sampling and analysis must incorporate a gender equality perspective, be based on a human rights based approach, and take into consideration the diverse cultural contexts in which the activities are being implemented.

4) Roles and Responsibilities

26. Internal Oversight Service (IOS). It is going to be led by IOS with the support of and input from two external consultants. These are expected to contribute specific expertise in the law of the sea and underwater archaeology in order to strengthen the technical quality of the data collection. The roles of the external consultants will be to provide external validation of the evaluation approach and analysis, to contribute to data collection and analysis and to draft parts of the evaluation report in English. Each external expert is expected to work 15 – 20 days on the specific part of the assignment.

27. More information on the responsibilities of the consultants can be found in the Annex. The exact distribution of roles and responsibilities of the team members will be further specified in the Inception Note once the external consultants have been selected.

28. An Evaluation Reference Group will be established to guide the evaluation process and ensure the quality of associated deliverables. The group will be composed of the evaluation manager from the Evaluation Office and representatives from the following entities: the Executive Office of the Culture Sector, the Division for Culture and Emergency Situations, the 2001 Convention Secretariat, and two Culture Programme Specialists from UNESCO Field Offices. One of the key partners of the 2001 Convention (i.e. the International Centre for Underwater Archaeology in Zadar (a UNESCO Category II Centre) or a UNESCO Chair in UCH) will also be invited to join the group.

5) Qualifications of External Experts

29. The evaluation team will be composed of two members of the IOS Evaluation Office and one or two external experts. Given the specific and technical nature of the evaluation, **expertise is being sought in the law of the sea and in underwater archaeology**. Therefore, expressions of interest will be sought from teams or individuals with the following qualifications:

Expert in the law of the sea:

- Strong knowledge and understanding of the 2001 Convention as well as other relevant international instruments in the law of the sea (demonstrated with examples of previous evaluation, research, publication, etc. on the subject area)
- Minimum 10 years work experience in the law of the sea at the international level

- Advanced university degree in public international law or related field

Expert in underwater archaeology:

- Extensive knowledge and experience in underwater archaeology, with a minimum of 10 years of professional experience, including in the area of capacity building (demonstrated with examples of previous evaluation, research, publication, training, etc. on the subject area)
- Advanced university degree in archaeology or related field

Furthermore, both experts are required to have:

- No previous involvement in the implementation of UNESCO activities under review (occasional attendance of events or meetings may be accepted);
- Excellent language skills in English (oral communication and report writing) (as demonstrated in the expression of interest for this evaluation and in examples of previous publications submitted).

Moreover, it is desirable that the external consultant(s) possess the following qualifications:

- Knowledge of the role of the UN and its programming;
- Understanding and application of UN mandates in Human Rights and Gender Equality (for example through certification, training, examples of assignments);
- Experience with assignments for the UN;
- Other language skills, particularly French and other official UN languages (Arabic, Spanish, Russian, and Chinese) will be considered an advantage.

30. Verification of these qualifications will be based on the provided curriculum vitae. Candidates are also encouraged to submit other references such as research papers or articles that demonstrate their familiarity with the field of UCH.

31. Attention will be paid to establish an evaluation team that is gender- and geographically balanced.

6) Deliverables and Schedule

32. The evaluation will take place between January and June 2019.

Deliverables

33. Inception note: An inception note containing an evaluation plan with a detailed timeline, detailed methodology including an evaluation matrix (with a full list of evaluation questions and subsequent methods for data collection), a stakeholder analysis and a list of documents.

34. Deliverables by external experts: analytical papers on the (1) 2001 Convention and the law of the sea and (2) the Convention’s contribution to underwater archaeology (see Annex for more details)

35. Draft evaluation report: The draft evaluation report should be written in English, be comprised of no more than 30 pages and follow the IOS Evaluation Office template (to be shared).

36. Final evaluation report: The final evaluation report should incorporate comments provided by the Evaluation Reference Group without exceeding 30 pages (excluding Annexes). It should also include an Executive Summary and Annexes. The final report must comply with the [UNEG Evaluation Norms and Standards](#) and will be assessed against the [UNEG Quality Checklist for Evaluation Reports](#) by an external reviewer. The evaluation will refer to the [UNEG Guidance on Integrating Human Rights and Gender Equality in Evaluation](#).

Schedule

Activity / Deliverable	Date
Finalization of Terms of Reference	January 2019
Call for Proposals and Selection of Consultant(s)	January
Launch of Evaluation	January
Inception Note with Methodology and Responsibilities	February
Data Collection and Analysis	January – April
Deliverables by External Experts	End March
Draft Evaluation Report	Early May
Stakeholder workshop	Mid-May
Final Evaluation Report	June
Presentation of the report to the statutory bodies	June 2019

7) References

- [Convention on the Protection of Underwater Cultural Heritage \(2001\)](#)
- [Operational Guidelines for the 2001 Convention](#)
- [United Nations Convention on the Law of the Sea \(1982\)](#)
- [International Convention on Salvage \(1989\)](#)
- [Charter on the Protection and Management of Underwater Cultural Heritage \(1996\)](#)
- [Nairobi International Convention on the Removal of Wrecks \(1997\)](#)

Previous evaluations of UNESCO's culture conventions:

- [Evaluation of UNESCO's Standard-setting Work of the Culture Sector - Part I - 2003 Convention for the Safeguarding of the Intangible Cultural Heritage](#)
- [Evaluation of UNESCO's Standard-setting Work of the Culture Sector - Part II - 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property](#)
- [Evaluation of UNESCO's Standard-setting Work of the Culture Sector - Part III - 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage](#)
- [Evaluation of UNESCO's Standard-setting Work of the Culture Sector - Part IV - 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions](#)
- [Evaluation of UNESCO's Standard-setting Work of the Culture Sector – Part V – 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two Protocols \(1954 and 1999\)](#)

8) Responsibilities of External Experts

Component 1: Expert in the law of the sea:

- Conduct a desk review and analysis of the 2001 Convention and other legal instruments relating to the law of the sea, whether binding or not (1982 UNCLOS, 1989 International Convention on Salvage, 2007 Nairobi International Convention on the Removal of Wrecks, etc.)

- Conduct interviews (in cooperation with the UNESCO Evaluation Office) with representatives of organizations managing these legal instruments of the law of the sea
- Provide input into the design of an online survey for Member States
- Provide inputs and technical guidance to the evaluation methodology and draft evaluation report
- Draft an analytical paper that will be integrated into the evaluation report with a focus on the following evaluation questions:
 - To what extent is the 2001 Convention complementary to other international standard-setting instruments of the law of the sea (1982 UNCLOS, 1989 International Convention on Salvage, 1996 Sofia Charter, 2007 Nairobi International Convention on the Removal of Wrecks)?
 - How is the standard-setting work in the framework of the 2001 Convention contributing towards the achievement of the 2030 Agenda and the SDGs, including SDG 14, among others? How does it contribute to the UN Climate Change Conferences? What role can the 2001 Convention play in the upcoming UN Decade of Ocean Science for Sustainable Development (2021 – 2030)?
 - How can the 2001 Convention Secretariat contribute to the current discussions around the development of a new international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction?
 - What are the underlying reasons for the non-ratification of the 2001 Convention by Member States? How can the Convention Secretariat address these challenges and encourage new ratifications?
 - To what extent has the 2001 Convention contributed to heightened cooperation between States through its cooperation mechanisms regarding the protection of UCH?
 - What role does the 2001 Convention Secretariat play within the larger UN family dealing with the law of the sea such as the Division for Ocean Affairs and the Law of the Sea (UN Office of Legal Affairs), UN Oceans, the International Seabed Authority, the International Maritime Organization, among others?

- What other partnerships can contribute to the further ratification of and the implementation of the 2001 Convention?

Component 2: *Expert in underwater archaeology:*

- Conduct a desk review and analysis of the Rules annexed to the Convention, as well as other normative instruments and policies guiding underwater archaeological practices
- Research practical examples of the application of the Rules in underwater archaeology
- Draft an analytical paper that will be integrated into the evaluation report with a focus on the following evaluation questions:
 - To what extent is the 2001 Convention complementary to other international standard-setting instruments in the field of cultural heritage protection (notably UNESCO's 1972 Convention and its Marine World Heritage programme, but also the 1954, 1970 and 2003 Conventions)?
 - To what extent has the 2001 Convention contributed to heightened cooperation between States through its cooperation mechanisms regarding the protection of UCH?
 - To what extent does the 2001 Convention influence policy-making in the field of underwater cultural heritage protection and management?
 - How has UNESCO supported States Parties in raising awareness of UCH and making it visible for the public?
 - How has the 2001 Convention and its Rules guided and supported the development of underwater archaeology as a field?
 - How have partnerships (Category II Centre, Universities, Chairs, and accredited NGOs) contributed to the ratification and implementation of the 2001 Convention? How can UNESCO further strengthen these partnerships?
 - How is knowledge on UCH managed and communicated by UNESCO as a whole?
 - What other partnerships can contribute to the further ratification of and the implementation of the 2001 Convention?
- Provide inputs and technical guidance to the evaluation methodology and draft evaluation report

B. Evaluation Matrix

EVALUATION QUESTION	EVALUATION SUB-QUESTIONS	INDICATORS	DATA SOURCE	COLLECTION METHOD
RELEVANCE				
To what extent is the 2001 Convention complementary to other international standard-setting instruments of the law of the sea (1982 UNCLOS, 1989 International Convention on Salvage, 1996 Sofia Charter, 2007 Nairobi International Convention on the Removal of Wrecks)?	What are the provisions of the 2001 Convention that Member States see as less compatible with these other international instruments?	<ul style="list-style-type: none"> • Specific articles of international instruments that may be interpreted as contradictory 	<ul style="list-style-type: none"> • International standard-setting instruments of the law of the sea • UNESCO staff • A sample of States Parties' representatives • Experts and personnel working for organizations in the law of the sea 	<ul style="list-style-type: none"> • Document review • Interviews with experts in the law of the sea • Interviews with representatives of States Parties • Interviews with UNESCO staff
To what extent is the 2001 Convention complementary to other international standard-setting instruments in the field of cultural heritage protection (notably UNESCO's 1972 Convention and its Marine World Heritage programme, but also the 1954, 1970 and 2003 Conventions)?	How do UNESCO's other Culture Conventions protect UCH? How many World Heritage sites have parts under water?	<ul style="list-style-type: none"> • World Heritage sites under water • Intangible cultural heritage practices under water • Measures against illicit trafficking of UCH • Measures to prevent targeting of UCH during armed conflict 	<ul style="list-style-type: none"> • UNESCO Culture Conventions • International Observatory on Illicit Traffic in Cultural Goods • UNESCO staff • Customs officers • Coastguards • Institutions that support law enforcement work (ICOM; UNIDROIT; UNODC) 	<ul style="list-style-type: none"> • Document review • Interviews with UNESCO staff • Interviews with representatives of partner institutions working in law enforcement-related topics • Interviews with national officials
How is the standard-setting work in the framework of the 2001 Convention contributing towards the achievement of the 2030 Agenda and the SDGs, including SDG 14, among others?	How does it contribute to SDG 4 on education, SDG 11 target 4, which speaks of the need to protect and safeguard the world's cultural and natural heritage, SDG 13 on climate change, SDG 5 on gender equality, etc.? How does it contribute to the UN Climate Change Conferences?	<ul style="list-style-type: none"> • Mention of impact of climate change on UCH in policy and conference documents • Policies to protect UCH 	<ul style="list-style-type: none"> • Documents of the governing bodies of the 2001 Convention • SDG Conference documents • Personnel working for organizations in the law of the sea • UNEP staff • UNESCO staff 	<ul style="list-style-type: none"> • Document review • Interviews personnel working in UN organizations related to the law of the sea • Interviews with UNEP staff • Interviews with UNESCO staff
What is the relationship between the 2001 Convention and the mandate and work of the UNESCO	What are the thematic areas for cooperation between the 2001 Convention Secretariat and the IOC? What role can the	<ul style="list-style-type: none"> • Joint initiatives 	<ul style="list-style-type: none"> • 2001 Convention Secretariat • IOC Secretariat 	<ul style="list-style-type: none"> • Document review • Interviews personnel working in UN

EVALUATION QUESTION	EVALUATION SUB-QUESTIONS	INDICATORS	DATA SOURCE	COLLECTION METHOD
International Oceanographic Commission?	2001 Convention play in the upcoming UN Decade of Ocean Science for Sustainable Development (2021 – 2030)?		<ul style="list-style-type: none"> • Experts and personnel working for organizations in the law of the sea • Programme documents of the IOC 	<ul style="list-style-type: none"> • organizations related to the law of the sea • Interviews with UNESCO staff
What is the relationship between the 2001 Convention and other biodiversity-related Conventions and programmes, including UNESCO Biosphere Reserves?	To what extent do Biosphere Reserves contain UCH? How is UCH in Biosphere Reserves protected?	<ul style="list-style-type: none"> • Mention of UCH in programme documents on Biosphere reserves • Mention of UCH in other biodiversity related Conventions 	<ul style="list-style-type: none"> • Biodiversity-related Conventions • Programme documents • UNESCO staff working on Biosphere Reserves 	<ul style="list-style-type: none"> • Document review • Interviews with experts in the law of the sea • Interviews with UNESCO staff
How can the 2001 Convention Secretariat contribute to or profit from the current discussions around the development of a new international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction?	What has been UNESCO's involvement in these discussions? How can UNESCO contribute to the future of these discussions?	<ul style="list-style-type: none"> • Discussions on protection of UCH 	<ul style="list-style-type: none"> • Documents of the preparatory working group working on this new international legally binding instrument • UNESCO staff • IOC Secretariat • DOALOS • ISA • Experts in the law of the sea 	<ul style="list-style-type: none"> • Document review • Interviews
How and are issues related to gender addressed through the implementation of activities under the Convention?	How is gender equality reflected in the composition of the Convention's governance mechanisms (Bureau of the MSP, STAB, etc.)? How is gender equality integrated into the capacity building programme and other workshops?	<ul style="list-style-type: none"> • Gender parity in governance mechanisms and workshop panels • Gender lens applied to publications, educational materials, delivery of capacity building 	<ul style="list-style-type: none"> • Programme documents • UNESCO Publications • UNESCO staff • STAB members • Bureau of MSP • Experts delivering capacity building 	<ul style="list-style-type: none"> • Survey for Member States • Interviews • Document review
EFFECTIVENESS				
What results have been achieved by UNESCO's support to Member States in terms of protecting UCH? These should be analysed at the ratification, policy development, and implementation levels.	To what extent does the 2001 Convention influence policy-making in the field of underwater cultural heritage protection and management? What have been the results of UNESCO's capacity-building programme? To what extent have UNESCO's national and regional	<ul style="list-style-type: none"> • Number of ratifications • Passing of legislation • Enactment of policies • Establishment of competent national authorities for UCH • Research in UCH 	<ul style="list-style-type: none"> • UNESCO website • Cultural Heritage Laws Database • Bureau of MSP • STAB Members • UNESCO staff • National authorities 	<ul style="list-style-type: none"> • Survey for Member States • Interviews • Document review

EVALUATION QUESTION	EVALUATION SUB-QUESTIONS	INDICATORS	DATA SOURCE	COLLECTION METHOD
	workshops subsequently led to the ratification of the Convention by States?		<ul style="list-style-type: none"> •Archaeologists •Museum staff •Accredited NGOs •Chairs and UNITWIN 	
What are the underlying reasons for the non-ratification of the 2001 Convention by some Member States?	How effective is the MSP's strategy for ratification and implementation? How can the Convention Secretariat address these challenges and encourage new ratifications?	<ul style="list-style-type: none"> • Difference between number of participants in national and regional workshops and number of ratifications 	<ul style="list-style-type: none"> •National authorities of non-State Parties •Personnel working for organizations in the law of the sea •UNESCO staff 	<ul style="list-style-type: none"> •Survey for Member States •Interviews
To what extent has the 2001 Convention contributed to heightened cooperation between States through its cooperation mechanisms regarding the protection of UCH?	How has the state cooperation mechanisms of articles 9 and 11 of the Convention been used? How has the Convention encouraged the sharing of expertise between States Parties? To what extent has it also favoured South-South cooperation?	<ul style="list-style-type: none"> •Sharing of good practices between States Parties •Training between States Parties •Joint research projects •Cooperation to protect UCH in EEZ or Area 	<ul style="list-style-type: none"> •States Parties •Archaeologists •Universities •Museums •UNESCO staff 	<ul style="list-style-type: none"> •Survey for Member States •Interviews •Document review
How has UNESCO supported States Parties in raising awareness of UCH and making it visible for the public?	To what extent have Best Practices served as models for the protection of UCH in other countries? How are the Best Practices disseminated and monitored? Have UNESCO's communication tools facilitated awareness-raising efforts for States Parties? Has UNESCO supported the development of maritime museums?	<ul style="list-style-type: none"> •Websites •Publications •Educational materials •Exhibitions •Conferences 	<ul style="list-style-type: none"> •Websites •Documents •States Parties •Museums •Archaeologists 	<ul style="list-style-type: none"> •Survey for Member States •Interviews •Document review
How have the 2001 Convention and its Rules guided and supported the development of underwater archaeology as a field?	How well known is the UNESCO Code of Ethics for Diving on Submerged Archaeological Sites? How has this Code been disseminated and to whom? Have the training sessions encouraged the creation of underwater archaeology courses?	<ul style="list-style-type: none"> •Research projects guided by Rules •Dissemination and application of Code •Number of underwater archaeology courses in the world 	<ul style="list-style-type: none"> •Archaeologists •UNESCO staff •National authorities •Divers •Museums 	<ul style="list-style-type: none"> •Survey for Member States •Interviews
EFFICIENCY				
To what extent does the programme underlying the Convention have a realistic Theory of Change?	What are the key assumptions underlying the programme logic?	<ul style="list-style-type: none"> •Evidence of programme logic / results frameworks 	<ul style="list-style-type: none"> •Programme documents •UNESCO staff •STAB members 	<ul style="list-style-type: none"> •Document review •Interviews

EVALUATION QUESTION	EVALUATION SUB-QUESTIONS	INDICATORS	DATA SOURCE	COLLECTION METHOD
What mechanisms are in place for monitoring the implementation of the Convention?	What monitoring mechanisms are in place for the capacity-building programme, the national and regional workshops, research projects, etc.? How are best practices monitored?	<ul style="list-style-type: none"> Monitoring mechanisms in place 	<ul style="list-style-type: none"> UNESCO staff STAB SISTER Programme documents 	<ul style="list-style-type: none"> Document review Interviews
To what extent are the working methods of the STAB and the Meeting of States Parties adequate in supporting the ratification and implementation of the 2001 Convention?	To what extent do the meetings of the STAB and the MSP dedicate sufficient time to the discussion of topics of relevance to States Parties?	<ul style="list-style-type: none"> Priorities established through STAB and MSP decisions Follow up of implementation of decisions 	<ul style="list-style-type: none"> UNESCO staff STAB members Bureau of MSP Representatives of States Parties Observers Participants in STAB missions 	<ul style="list-style-type: none"> Survey for Member States Interviews
To what extent does the structure and capacity of the 2001 Convention Secretariat enable it to fulfil its role?	To what extent does the Secretariat have competencies and resources to fulfil the tasks required of it by the STAB and the MSP?	<ul style="list-style-type: none"> Evidence of implementation of STAB and MSP decisions 	<ul style="list-style-type: none"> STAB and MSP documents UNESCO staff STAB members Bureau of MSP 	<ul style="list-style-type: none"> Interviews Document review
How does the 2001 Convention Secretariat cooperate with other UNESCO entities working on cultural heritage protection (Culture Sector)?	What are the possible areas for cooperation with the World Heritage Marine Programme, the World Heritage and Sustainable Tourism Programme; the Museums Section and the other Culture Conventions Secretariats?	<ul style="list-style-type: none"> Joint initiatives Publications 	<ul style="list-style-type: none"> Secretariats of all UNESCO Culture Conventions Museums Section 	<ul style="list-style-type: none"> Survey for Member States Interviews Document review
SUSTAINABILITY				
How have partnerships (Category II Centre, Universities, Chairs, and accredited NGOs) contributed to the ratification and implementation of the 2001 Convention?	How can UNESCO further strengthen these partnerships?	<ul style="list-style-type: none"> Partnership agreements Joint initiatives Research, publications Partners' participation in UNESCO activities 	<ul style="list-style-type: none"> Programme documents UNESCO staff Category II Centre UNITWIN Chairs Accredited NGOs 	<ul style="list-style-type: none"> Survey for Member States Interviews
What other partnerships can contribute to the further ratification of and the implementation of the 2001 Convention?		<ul style="list-style-type: none"> Partnership agreements Joint initiatives Partners' participation in UNESCO activities 	<ul style="list-style-type: none"> UNESCO staff Archaeologists Museums Representatives of Member States Private sector? 	<ul style="list-style-type: none"> Survey for Member States Interviews

EVALUATION QUESTION	EVALUATION SUB-QUESTIONS	INDICATORS	DATA SOURCE	COLLECTION METHOD
			<ul style="list-style-type: none"> • Representatives of international organisations working on cultural heritage and the law of the sea • Representatives of non-governmental organisations 	
What role does the 2001 Convention Secretariat play within the larger UN family dealing with the law of the sea such as the Division for Ocean Affairs and the Law of the Sea (UN Office of Legal Affairs), UN Oceans, the International Seabed Authority, the International Maritime Organization, and the Food and Agriculture Organization among others?	What progress has been made in the implementation of the Call for Action of the UN Ocean Envoy following the SDG14 Conference in June 2017? How can the 2001 Convention Secretariat strengthen its cooperation with the International Seabed Authority for the management of UCH in the Area?	<ul style="list-style-type: none"> • Partnership agreements • Joint initiatives 	<ul style="list-style-type: none"> • UNESCO staff • DOALOS • UN Oceans • ISA • IMO • FAO 	<ul style="list-style-type: none"> • Interviews
What types of mechanisms have been put in place by UNESCO to mobilize resources for the protection of UCH?		<ul style="list-style-type: none"> • Partnerships and donor agreements 	<ul style="list-style-type: none"> • UNESCO staff • Donors • Bureau of MSP • STAB 	<ul style="list-style-type: none"> • Interviews
How is knowledge on UCH managed and communicated by UNESCO as a whole?		<ul style="list-style-type: none"> • Websites • Publications / research • Educational materials • Exhibitions • Conferences • Sharing of good practices • Active networks 	<ul style="list-style-type: none"> • Websites • Documents • UNESCO staff • Representatives of Member States • Archaeologists • Museum staff 	<ul style="list-style-type: none"> • Survey of Member States • Interviews • Web and document review

C. Stakeholder Analysis

Who (stakeholders, disaggregated as appropriate)	What (their role in the intervention)	Why (purpose of involvement in the evaluation)	Priority (how important to be part of the evaluation process)	When (stage of the evaluation to engage them)	How (ways and capacities in which stakeholders will participate)
Duty bearers with the authority to make decisions related to the intervention					
ADG Culture (CLT)	Programme management	Empower	High	Inception	Decision-maker
Culture Sector, Executive Office	Programme management	Empower	High	Inception	Steering committee
Director, Culture and Emergencies	Programme management	Empower	High	Inception and Data collection	Steering committee
Secretary of the Convention	Programme management and implementation	Empower	High	Inception Data collection	Steering committee
12 members of the Scientific and Technical Advisory Body (STAB)	Programme implementation	Consult Inform	High	Data Collection	Informant Audience
6 members of the Bureau of the Meeting of States Parties	Programme management	Consult Inform	High	Data collection	Informant Audience
Donors (including for XB projects)– i.e. Spain, Norway, Belgium (esp. Government of Flanders)	Funder	Consult Inform	Medium	Data collection	Informant Audience
Duty bearers who have direct responsibility for the intervention					
Staff, Section of Culture and Emergency Situations (especially Secretariat of 2001 Convention)	Programme staff and implementers	Collaborate	High	Inception Data collection	Informant
Field Office Staff, i.e.: <ul style="list-style-type: none"> • ENA: Brussels, Venice, Sarajevo Antenna • LAC: Haiti, Kingston, Lima, Montevideo, Guatemala City, Havana, Mexico City • APA: Apia, Phnom Penh, Jakarta, Beijing, Bangkok • AFR: Abuja, Dakar, Harare, Nairobi, Maputo, Antanarivo • ARB: Beirut, Cairo, Rabat 	Programme staff and implementers	Collaborate	High	Data collection	Informant
Experts involved in delivery of capacity-building programmes	Programme implementation	Consult	Medium	Data collection	Informant Audience

Secondary duty bearers					
Head, Partnerships, Communication and Meetings Unit, CLT	Partner	Consult	Medium	Data collection	Informant
Other UNESCO Culture Sector programmatic entities, i.e.: <ul style="list-style-type: none"> • 1954 Convention • 1970 Convention • 1972 Convention – World Heritage Marine Programme, World Heritage and Sustainable Tourism Programme • 2003 Convention • Museums Unit 	Programme staff	Consult	High	Data collection	Informant
Other UNESCO Sectors (Gender Division, Africa Department)	Programme staff	Consult	Medium	Data collection	Informant
UNESCO Category 2 Centre – International Centre for Underwater Archaeology – Zadar, Croatia	Partner	Consult	High	Data collection	Informant
UNITWIN Network for Underwater Archaeology – 11 Universities (especially the current Coordinator of the Network : Flinders University – Adelaide, Australia)	Partner	Consult	Medium	Data collection	Informant
UNESCO Chairs : <ul style="list-style-type: none"> • Chair on Ocean’s Cultural Heritage (Lisbon, Portugal), and • Chaire UNESCO en Archéologie maritime et littorale (Marseille, France) 	Partner	Consult	Medium	Data collection	Informant
15 Accredited NGOs to the STAB (especially ICOMOS International Committee for Underwater Cultural Heritage)	Partner	Consult	High	Data collection	Informant
Ministries of Culture: National competent authorities where they exist	Primary beneficiary	Consult	High	Data collection	Informant
Any other relevant Ministries competent for matters relating to underwater cultural heritage (e.g. Ministry of Defence, Ministry of Marine Resources, etc...)	Primary beneficiary	Consult	High	Data collection	Informant
Permanent delegations to UNESCO of countries that have ratified (e.g. Honduras delegation participated in UN Oceans Conference in 2017; Tunisia and Italy for Skerki Banks case...)	Partner and primary beneficiary	Consult	High	Data collection	Informant
National Commissions	Partner	Consult	Medium	Data collection	Informant

Rights holders who on one way or another benefit from the intervention					
Underwater Archaeologists	Partner and Primary beneficiary	Consult	High	Data collection	Informant
States Parties to the Convention	Primary beneficiary	Consult	High	Data collection	Informant
Countries with major coastlines that are not party to the Convention	Primary beneficiary	Consult	High	Data collection	Informant
Museum professionals/curators from the Maritime Archaeological Museums	Partner and Primary beneficiary	Consult	High	Data collection	Informant
Researchers / Historians	Primary beneficiary	Consult	Medium	Data collection	Informant
Other interest groups who are not directly participating in the intervention					
Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs, UN Secretariat, New York	Potential partner	Consult	High	Data collection	Informant
Division for SDGs, UN Department of Economic and Social Affairs	Potential partner	Consult	High	Data collection	Informant
International Seabed Authority	Potential partner	Consult	High	Data collection	Informant
International Oceanographic Commission	Potential partner	Consult	High	Data collection	Informant
International Maritime Organization	Potential partner	Consult	Medium	Data collection	Informant
Food and Agriculture Organisation	Potential partner	Consult	Medium	Data collection	Informant
Law enforcement agencies / organizations: • INTERPOL • UN Office on Drugs and Crime • UNIDROIT • World Customs Organization • OSCE	Potential partner	Consult	Medium	Data collection	Informant
National police / customs / coastguards	Potential partner	Consult	Medium	Data collection	Informant
Law of the sea experts	Potential partner	Consult	Medium	Data collection	Informant
Maritime Law Association/Experts	Potential partner	Consult	Medium	Data collection	Informant
Diving associations	Potential partner	Consult	Medium	Data collection	Informant
Rights holders who are in a position disadvantaged by the intervention					
UNESCO Member States (especially those that have not ratified the Convention)		Consult	Medium	Data collection	Informant
Authorities working on implementing Law of Salvage	Potential partner	Consult	Low	Data collection	Informant
International dredging companies / Extractive industries	Affected	Consult	Low	Data collection	Informant
International Submarine Cable Industry/Association	Affected	Consult	Low	Data collection	Informant
Fishermen / fishing industries	Affected	Consult	Low	Data collection	Informant

D. References

I. Treaties

Convention on the Protection of Underwater Cultural Heritage, opened for signature 2 November 2001, 2562 UNTS 3 (entered into force 2 January 2009)

Council of Europe Convention on Offences Relating to Cultural Property, opened for signature 19 May 2017, CETS No 221 (not yet in force)

International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences, opened for signature 9 June 1977, 1226 UNTS 143 (entered into force 21 May 1980), Annex XI ('Assistance in action against the smuggling of works of art, antiques and other cultural property')

UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, opened for signature 24 June 1995, 2421 UNTS 457 (entered into force 1st July 1998)

United Nations Convention on the Law of the Sea, opened for signature 10 December 1982, 1833 UNTS 397 (entered into force 16 November 1994)

United Nations Convention against Transnational Organized Crime, GA Res 55/25, UN GAOR, 55th sess, 62nd plen mtg, Agenda Item 105, Supp No 49, UN Doc A/RES/55/25 (8 January 2001)

II. Documents of international organizations

1) UNESCO

Charles Ehler and Fanny Douvere, *Marine spatial planning: A step-by-step approach toward ecosystem-based management*, [IOC and Man and the Biosphere Programme, IOC Manual and Guides no. 53, ICAM Dossier No. 6, UNESCO, \(2009\) – UNESCO Doc. IOC/2009/MG/53](#)

IOC, *Revised Roadmap for the UN Decade of Oceans Sciences for Sustainable Development (2021-2030)*, Executive Council, 51st sess, UNESCO Doc IOC/EC-LI/2 Annex 3 (3-6 July 2018)

IOC, *High-Level Scientific Conference : From COP21 towards the United Nations Decade of Ocean Science for Sustainable Development (2021-*

2030), 10-11 September 2018, UNESCO Headquarters, 2018 Doc IOC/BRO/2018/9

UNESCO, *Comments on the question of the harmony of the UNESCO 2001 Convention on the Protection of the Underwater Cultural Heritage with the UN Convention on the Law of the Sea*, available [here](#).

UNESCO, *Operational Guidelines for the Convention on the Protection of the Underwater Cultural Heritage*, Meeting of States Parties, UNESCO Doc CLT/HER/CHP/OG 1/REV (Eng only) (August 2015)

UNESCO, *Rules of Procedure of the Meeting of States Parties to the Convention on the Protection of the Underwater Cultural Heritage*, Meeting of States Parties, 1st sess, UNESCO Doc CLT/CIH/MCO/2009/PI/99 (27 March 2009)

UNESCO, *Statutes of the Scientific and Technical Advisory Body to the Meeting of States Parties to the Convention on the Protection of Underwater Cultural Heritage*, Meeting of States Parties, 5th sess, UNESCO Doc CLT/CIH/MCO/2009/PI/100 Rev1 (29 April 2015)

UNESCO, *Feasibility Study for the Drafting of a New Instrument for the Protection of Underwater Cultural Heritage*, UNESCO Executive Board, 146th sess, UNESCO Doc 146EX/27 (23 March 1995)

UNESCO, *39C/5 Approved Programme and Budget 2018-2019, First biennium of the 2018-2021 quadriennium*, General Conference, 39th sess, UNESCO Doc 39C/5 (2018)

UNESCO World Heritage Committee, *The World Heritage Convention and the other UNESCO Conventions in the field of culture*, Res 10/34, 34th sess, Item 5E, UNESCO Doc WHC-09/34.COM/5E, (9 July 2010)

Jun Kimura and Ian McCann, *Information Note, Current State of Underwater Cultural Heritage in the ASEAN Region* (April 2019)

Official documents for the MSP and STAB meetings since 2009.

2) Other international organizations

Ad Hoc Working Group of the Whole on the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects, *First Global Integrated Marine Assessment (First*

World Ocean Assessment), GA Res 70/235, UN GAOR, 70th sess, 82nd plen mtg, Agenda Item 79(a), Supp No 49, UN Doc A/RES/70/235, para 266 (15 March 2016, adopted 23 December 2015). The report is available [here](#)

International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences, [GA Res 69/196, UN GAOR, 3rd Comm, 69th sess, 73rd mtg Agenda Item 105, Supp No 49, UN Doc A/RES/69/196 \(18 December 2014\)](#)

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E. Interview guides

1) UNESCO Field Office staff

1. Please introduce yourself and indicate how long you have been working for UNESCO as a Culture Officer on matters related to the 2001 Convention
2. What is the state of ratification and implementation of the 2001 Convention for countries in your region? What incited the countries in your region to ratify the 2001 Convention?
3. What are some of the challenges regarding ratification of the 2001 Convention in your region? What types of support are in demand from countries in your region in ratifying and implementing the 2001 Convention?
4. What activities have been organized by your office to promote the 2001 Convention during the past five years? (national/regional meetings, capacity building, publications / events, etc.)
5. What have been some of the key achievements / results of this work?
6. How has priority gender equality been integrated into the work that you do under the 2001 Convention?
7. Are there World Heritage sites in your region that are completely or partially located under water? Are there any intangible cultural heritage practices in your region that take place under water? Are you aware of any biosphere reserves in your region, which may contain underwater cultural heritage (if so, where)?
8. What has been your involvement with the Marine World Heritage programme in your region? What has been your involvement with the World Heritage Tourism programme?
9. To what extent does your office work with the UNITWIN Network for Underwater Archaeology?

10. What are some of the key partnerships that you have developed in the work under the 2001 Convention? What are some partnerships that you would like to explore in the future?

2) STAB

1. Please introduce yourself and explain why you had an interest in joining the STAB
2. Please tell us about the reasons why your country ratified the 2001 Convention? What measures has your country taken to implement the Convention (setting up a national competent authority, adopting specific legislation, carrying out an inventory, training, opening museums/exhibitions that allow the public to access UCH...)?
3. In your opinion, what are the main obstacles to more ratifications of the 2001 Convention? To what extent does the recently adopted ratification and implementation strategy address these obstacles (please see the draft Strategy [here](#))? In your view, what other approaches/measures need to be taken by the STAB and the Convention Secretariat to encourage more ratifications?
4. To what extent are the Operational Guidelines of the 2001 Convention effective in providing guidance in the implementation of the Convention?
5. STAB missions: How are the team members of the STAB missions selected? Have you participated in a STAB mission? What are your views on the way the missions are carried out? How are recommendations from STAB missions followed up on?
6. UNESCO has two Global Priorities: Africa and Gender Equality. To what extent has the STAB taken these priorities into account in its work? (Have you identified specific issues for Africa? How can women be further encouraged to participate in the field of underwater archaeology, etc.?)
7. In your view, is the current role of STAB appropriate in supporting the MSP in implementing the Convention? What other roles can be envisaged for the STAB? What topics should be on the agenda for the future work of the STAB?

8. What monitoring mechanisms are in place to ensure the effective implementation of STAB decisions?
9. How effective is the contribution of the accredited NGOs to the work of the STAB? How can the collaboration with accredited NGOs be improved?
10. Do you have any recommendations on how to improve the working methods of the STAB, the Secretariat and the MSP?
11. What can be done by the Secretariat and the governing bodies of the 2001 Convention to strengthen the visibility of this instrument among UNESCO Member States and the general public?
12. Are there any partnerships that need to be pursued by UNESCO in view of increasing the ratification and strengthening the implementation of the Convention? With whom specifically? And on what topics? What role do you see for the 2001 Convention in the upcoming UN Decade for Ocean Science (2021-2030)?

3) States Parties

Bureau of the Meeting of States Parties:

1. How does the Bureau interact with the Scientific and Technical Advisory Body (STAB) (setting the agenda, receiving advice on technical matters, etc.)? To what extent are you satisfied with the cooperation between the STAB and the Meeting of States Parties, in particular the Bureau?
2. In your view, what should be the role of the STAB? Are the Statutes of the STAB and the Operational Guidelines sufficiently clear on the role of the STAB?
3. In your view, what is the best approach to increasing ratification rates and improving the implementation of the Convention?
4. How effective is the communication strategy surrounding the Convention for ratification and for fundraising purposes? What would be the most appropriate means for the 2001 Convention Secretariat to attract more funding?

5. How does the Bureau and Meeting of States Parties follow up on the recommendations of the STAB missions? How can the follow up on the implementation of these recommendations be strengthened?
6. How can UNESCO integrate underwater cultural heritage into other international processes and networks related to the oceans? Whom should UNESCO cooperate with and on what topics?
7. In your view, what are the possible synergies of the 2001 Convention with the other UNESCO Culture Conventions? How can cooperation with the Secretariats and Governing Bodies of these conventions be strengthened?
8. Do you have any recommendations on how to increase the effectiveness of future Meetings of States Parties?

Skerki Banks Case

9. How effective was the notification and cooperation mechanism set up by the 2001 Convention in the Skerki Banks case?
10. To what extent was it possible to establish the 'cultural, historical or archaeological link' required to make a declaration of interest? How did you go about this? Was this claim challenged by anyone?
11. How can UNESCO facilitate the cooperation between States on future discoveries of underwater cultural heritage in the Exclusive Economic Zone of a State or in the Area?

4) Legal experts

Introduction

1. Please introduce yourself and provide a brief summary of your work and interest in maritime law, the Law of the Sea and the law protecting underwater cultural heritage

Legal interpretation

2. To what extent does the 1982 United Nations Convention on the Law of the Sea (UNCLOS) have 'constitutional value' for activities conducted at sea and for other conventions regarding specific activities and resources such

as those regarding shipping, fishing, or the conservation of cultural or natural resources including biological diversity?

3. In your opinion, to what extent is the 2001 Convention (e.g., preamble,¹²¹ Art 2.8¹²², Art 3¹²³) generally consistent or compatible with the 1982 UNCLOS?
 - a. In your opinion, is the definition of underwater cultural heritage contained in the UNESCO 2001 Convention consistent or compatible with the Law of the Sea Convention terms “objects of an archaeological or historical nature” found under Articles 149 and 303? Why or why not?
 - b. In your opinion, is the 2001 Convention regime for UCH in the Area compatible with the UNCLOS, particularly Article 149? Why or why not?
 - c. In your opinion, to what extent is the 2001 Convention regime for UCH on the continental shelf/EEZ compatible with the careful balance of interests under the UNCLOS? Do you have any concerns that the 2001 Convention regime for cooperation in protecting UCH raises concerns about the “creeping jurisdiction” of coastal States carefully balanced under the Law of the Sea?
 - d. To what extent is the implementation of the 2001 Convention compatible with the UNCLOS provisions and other international law regarding the treatment of sovereign immune vessels including sunken warships? Are you aware of any problems or concerns with the implementation being inconsistent with the UNCLOS?

Obstacles to ratification

4. In your opinion, what are the main obstacles to more ratifications of the 2001 Convention by other countries in general? And yours in particular?

¹²¹ The preamble reads ‘Realizing the need to codify and progressively develop rules relating to the protection and preservation of underwater cultural heritage in conformity with international law and practice, including the . . . and the United Nations Convention on the Law of the Sea of 10 December 1982’

¹²² Art 2(8) reads ‘Consistent with State practice and international law, including the United Nations Convention on the Law of the Sea, nothing in this Convention shall be interpreted as modifying the rules of international law and State practice pertaining to sovereign immunities, nor any State’s rights with respect to its State vessels and aircraft’.

5. Please tell us about concerns that your country may have had during the process of negotiation and more recently toward ratification.
6. Please provide a brief summary of how your country balances the protection of underwater cultural heritage with concerns about funding, budgets and competing interests. Is funding an issue or obstacle towards ratification?
7. Are you familiar with the recently adopted ratification and implementation strategy (please see [here](#))? In your opinion, how effectively does it address these concerns?
8. Are there any suggestions of what else UNESCO Secretariat could do to address States’ concerns about the compatibility of the 2001 Convention with the 1982 UNCLOS and otherwise assist in facilitating more ratifications?

Implementation

9. In your opinion, do States Parties have the discretionary authority to identify a wreck that has been underwater for more than 100 years as not being UCH because it is no longer of historical, archaeological, or cultural interest or character such that it would not prevent recovery or salvage or require application of the Annex Rules? Why or why not?
10. In your opinion, how useful is the 2001 Convention in providing details on how to implement the framework under the UNCLOS including the duty to protect and cooperate for that purpose under Art 303(1) for other UN organizations and members in implementing the duty to protect under the UNCLOS (e.g. The ISA? The IOC? The IMO and particularly the 1989 Salvage Convention? The FAO?)

Partnerships

¹²³ Art 3 reads ‘Nothing in this Convention shall prejudice the rights, jurisdiction and duties of States under international law, including the United Nations Convention on the Law of the Sea. This Convention shall be interpreted and applied in the context of and in a manner consistent with international law, including the United Nations Convention on the Law of the Sea’.

11. Are there any partnerships that need to be pursued by UNESCO in view of increasing the ratification and strengthening the implementation of the Convention? With whom specifically? And on what topics? What role do you see for the 2001 Convention in the upcoming UN Decade for Ocean Science (2021-2030)?

5) Underwater Archaeologists

General questions

1. To what extent are you familiar with the content of the 2001 UNESCO Convention on the “Protection of the Underwater Cultural Heritage”? How do you apply the 2001 Convention in your work?
2. After reading the official text¹²⁴ of the 2001 Convention, are there points regarding underwater archaeological research practices that need to be clarified? If so, which ones
3. Should UCH interventions give priority to the *in-situ* preservation and conservation as stated in article 2.5 of the 2001 Convention¹²⁵? In which way do you think that this principle can be effectively applied?
4. To what extent are expressions such as “cultural, historical or archaeological link” mentioned in article 6.2¹²⁶ of the Convention archaeologically (not from a legal point of view) clear, understandable and easily applied?
5. Do you agree that the accessibility of UCH by divers as stated in article 2.10 of the 2001 Convention¹²⁷, must be a major objective for all sites? Do you think that the considerations expressed about the above article are justified? To what extent can public access to UCH sites provide a better way of protection?

¹²⁴ 2001 Convention official text available [here](#).

¹²⁵ “The preservation in situ of underwater cultural heritage shall be considered as the first option before allowing or engaging in any activities directed at this heritage”.

¹²⁶ “The Parties to such bilateral, regional or other multilateral agreements may invite States with a verifiable link, especially a cultural, historical or archaeological link, to the underwater cultural heritage concerned to join such agreements”.

6. Should UNESCO become more active in its role to protect UCH? What would you suggest?

Implementation of the Convention

7. Does your professional occupation/research work happen in a country that has ratified the 2001 Convention? What measures has your country taken to implement the 2001 Convention? To what extent is the archaeological community in your country satisfied with your country’s implementation of the Convention?
8. If you were called to work in a country that has not yet ratified the 2001 Convention, to what extent can the Convention’s provisions and/or the Rules be applied?
9. Do you agree that divers need to follow specific rules and have special qualifications in order to be allowed to dive on UCH sites? Should UNESCO develop relevant diving education courses and certifications? Should UNESCO promote the term “Scientific diver” by organizing a scientific diving program?
10. From your experience, what are the most challenging feats in organizing and implementing a UCH intervention/research/excavation etc.? (e.g. raising the funds, securing local permits, dealing with ethics, delivering publications, choosing your team or something else?) How can the 2001 Convention help you deal with those challenges?

The role of UNESCO

11. Have you ever participated in meetings aimed at the promotion of ratification of the 2001 Convention that have been organized by the UNESCO 2001 Secretariat? If so, what did you like and not like about these meetings? How can they be improved?

¹²⁷ “Responsible non-intrusive access to observe or document in situ underwater cultural heritage shall be encouraged to create public awareness, appreciation, and protection of the heritage except where such access is incompatible with its protection and management”.

12. Have you participated in UNESCO's capacity-building programme for underwater archaeologists? If so, what did you like and not like about this programme? How can it be improved?
13. Are you familiar with the support documents¹²⁸ that UNESCO Secretariat and the Meeting of State Parties have adopted to enhance the functionality of the 2001 Convention? Can these documents be useful for the protection of UCH on the field? Does UNESCO need to enforce the publication of such documents?
14. Are you aware of the scientific missions undertaken by the STAB (Scientific and Technical Advisory Body) of the Convention, like the ones in Panama, Haiti or Madagascar¹²⁹? How effective are such missions in achieving better protection for UCH in your opinion? Do you think that this kind of activities must be promoted by the State Parties?
15. Can public awareness/education and the promotion of scientific publications be considered as *surplus value* for the protection of UCH? In which ways do you think that UNESCO can help in this direction? Are you aware of the UNITWIN Network for Underwater Archaeology? Have you ever collaborated with the UNITWIN Network and how?
16. In your opinion, to what extent is the communication around the promotion of the Convention sufficiently adapted to the national or regional context ?
17. Do you have any final comments? Are there things you would like to say that have not been mentioned in your previous answers?

6) Maritime Museums

1. Is your Museum only dedicated to underwater archeology or does it have other collections? Is it a thematic Museum or does it have different collections?
2. If your Museum is only dedicated to underwater archaeology, how many entries do you register per year?

3. In your opinion, what contributed to your museum's success? What lessons can be learned from your experience to spark public interest in underwater cultural heritage?
4. Is your Museum financed by the public administration of your country or is it an independent body that receive its resources from other sources of funding?
5. Does your Museum have a laboratory dedicated to the restoration of objects from underwater excavations? How many conservators work permanently in your laboratory?
6. Would you be willing to receive objects that need to be restored from a country that does not have the means to restore them?
7. Has your Museum offered assistance to countries that wished to establish similar maritime museums within their own countries? If so, what are the main aspects to be taken into account before venturing into such a project?
8. Do you organize educational programs within your Museum? What level of education does the program target? Is the Museum staff responsible for these programs?
9. Do you believe that UNESCO and especially the Secretariat of the 2001 Convention should promote a network of Museums that are dedicated to underwater archaeology and underwater cultural heritage, similar to the UNITWIN network that exists for Universities? Could such an initiative help existing Museums and also encourage other countries to create thematic Museums?
10. Do you think that the Convention's Scientific and Technical Advisory Body (STAB) should have among its members, conservators that specialize in the conservation of objects that are collected from underneath the water and even museologists?
11. Do you have any final comments? Are there things you would like to say that have not been mentioned in your previous answers?

¹²⁸ E.g. the [Manual for Activities directed at Underwater Cultural Heritage](#), the [Operational Guidelines for the Convention on the Protection of the Underwater Cultural Heritage](#), or the [Code of Ethics for Diving on Submerged Archaeological Sites](#)

¹²⁹ Find out more about the STAB missions [here](#).

F. List of Interviewees

(In alphabetical order)

UNESCO Headquarters

Surname	Name	Unit	Function
Curtis	Timothy	Living Heritage Entity	Chief of Section, Secretary to the 2003 Convention
Dogse	Peter	Section on Man and the Biosphere Research and Policy: Ecology and Biodiversity	Programme Specialist
Douvere	Fanny	World Heritage Nature; Sustainable Tourism and Outreach Unit	Senior Project Officer and Coordinator of the Marine Programme
Eloundou Assomo	Lazare	Culture and Emergencies Entity (CLT/CEM)	Director, Secretary to the 1954, 1970 and 2001 Conventions
Giampaoli	Damiano	Gender Equality Division	Programme Specialist
Gomez Barletta	Paola	Underwater Cultural Heritage Unit (CLT/CEM/UCH)	Expert
Guerin	Ulrike	CLT/CEM/UCH	Programme Specialist
Nishikawa	Chihiro	CLT/CEM/UCH	Programme Specialist
Ryabinin	Vladimir	Intergovernmental Oceanographic Commission	Assistant Director General / Executive Secretary
Srong	Ieng	Movable Heritage and Museums Unit	Chief of Section

UNESCO Field Offices

Surname	Name	Field Office	Function
Brugman	Fernando	Beirut	Culture Advisor
Chiba	Moe	Jakarta	Culture Programme Specialist
Frick	Maria	Montevideo	Culture Programme Specialist
Gurung	Himalchuli	Beijing	Culture Programme Specialist
Sesum	Sinisa	Sarajevo (Antenna)	Head of Office
Suvanatap Kittipaisalsilp	Montakarn	Bangkok	Assistant Programme Officer
Takahashi	Akatsuki	Apia	Advisor for Culture
Vacheron	Frederic	Mexico	Head of Office a.i.
Villegas	Tatiana	Cairo	Programme Specialist

State representatives and competent authorities

Surname	Name	Institution	Function
CAMBODIA			
(H.E.) Measketh	David	Bureau of the MSP	Rapporteur, Ambassador and Permanent Delegate to UNESCO
FRANCE			
(H.E.) Stéfanini	Laurent	Bureau of the MSP	Chairperson, Permanent Delegate to UNESCO
Kervennal	Pierre-Yves	Permanent Delegation of France	Councilor for Culture and Heritage
GERMANY			
Ringbeck	Birgitta	Ministry of Foreign Affairs, Unit for Multilateral cultural and media policy, world heritage	Councilor

HONDURAS			
(H.E.) Palma Cerna	Alejandro	Embassy of Honduras to Japan	Former Chairperson of the Bureau of the MSP, Ambassador of Honduras to Japan
ITALY			
Minuti	Arnaldo	Permanent delegation of Italy	Deputy Permanent Delegate
MADAGASCAR			
Rabotomonasa	Hubert	Ministry of Communication and Culture, Department for Safeguarding and Capitalization of Heritage	Director
NIGERIA			
Odekanyin	Emmanuel	Ministry of Information and Culture, Department of International Cultural Officer	Principal Cultural Officer
PALESTINE			
(H.E.) Mounir	Anastas	Bureau of the MSP	Vice-Chairperson, Ambassador and Alternate Permanent Delegate to UNESCO
Husameddin	Alkhatib	Permanent Delegation of Palestine	Chargé de mission
Taweel	Hala	Permanent Delegation of Palestine	Chargée de mission
PANAMA			
(H.E.) Mendez	Flavio	Bureau of the MSP	Vice-Chairperson, Ambassador and Permanent Delegate to UNESCO
ROMANIA			
(H.E.) Cioroianu	Adrian	Bureau of the MSP	Vice-Chairperson, Ambassador and Permanent Delegate to UNESCO

Pironea	Flavio	Permanent delegation of Romania	Deputy Permanent Delegate to UNESCO
SOUTH AFRICA			
La Grange	Lesa	South African Heritage Resources Agency	Acting Manager
SPAIN			
Ortega Muñoz	Sergio	Subdirección General de Protección de Patrimonio Histórico, Ministerio de Cultura	Expert on UNESCO Conventions
TUNISIA			
(H.E.) Gheirari	Ghazi	Permanent Delegation of Tunisia	Ambassador and Permanent Delegate to UNESCO

Underwater archaeology specialists

Surname	Name	Institution	Function	Country
STAB MEMBERS				
Babajide Ajibola	Augustus	Ministry of Culture	Deputy Director	Nigeria
Blim Blivi	Adoté	University of Lomé	Professor and oceanographer	Togo
Elkin	Dolores	National Institute of Anthropology	Director of the Underwater Archeology Programme	Argentina
Karra	Azzedine	Institut National des Sciences Archéologiques et du Patrimoine	Regional Director for Culture at Marrakech	Morocco
L'Hour	Michel	Département des recherches archéologiques subaquatiques et sous-marines	Director	France

Nieto Prieto	Xavier	University of Cadiz	Professor and Coordinator of the nautical and underwater archaeology programme	Spain
Tare	Auron	Albanian Centre of Marine Research	Executive Director	Albania
OTHER SPECIALISTS				
Ben Slimane	Ouafa	Département des études d'archéologie sous-marine Institut National du Patrimoine	Chargée de Recherches	Tunisia
Bitá	Caesar	National Museum of Kenya – Malindi	Director	Kenya
Campbell	Peter	British School of Rome	Assistant Director	UK
Duarte	Ricardo	Edouard Mondlane University	Professor	Mozambique
Dobbs	Christopher	Mary Rose Museum	Head of Interpretation and Maritime Archaeology	UK
Igueruela	Iván	Spanish National Museum of Underwater Archaeology	Director	Spain
Junco	Roberto	Department for Conservation of Cultural Heritage	Director	Mexico
Kimura	Jun	Tokai University; Department of Maritime Civilizations	Junior Associate Professor	Japan
Masuku	Sibongile	Sol Plaatje University	Lecturer in Museum and Heritage Studies	South Africa

Ravn	Morten	Roskilde Viking Ship Museum	Curator	Denmark
Rey da Silva	Arturo	Université Paris I Panthéon-Sorbonne / Escuela Española de Historia y Arqueología de Rome	Archaeologist	Spain
Sasaki	Randall	Kyushu National Museum	Fellow Associate	Japan
Sharfman	Jonathan	African Centre for Heritage Activities	Director	South Africa
Thiaw	Ibrahima	Cheikh Anta Diop University	Professor in Archaeology	Senegal
Van Tilburg	Hans	National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries	Maritime Heritage Coordinator, Pacific Islands region; UN Expert on underwater cultural heritage	USA
Torres	Rodrigo	Centro de Investigaciones del Patrimonio Costero - Centro Universitario Regional del Este	Professor in Archaeology	Uruguay
Tourtas	Alexander	University of Aegan	Archaeologist	Greece
Wele	Moussa	Cheikh Anta Diop University	Researcher in underwater archeology and consultant at UNESCO Dakar Office	Senegal
Woodward	Robyn	Vancouver Maritime Museum	Director	Canada

Young-Hwa	Jung	National Research Institute of Maritime Cultural Heritage	Research Curator	South Korea
Zuccolotto Villalobos	Andres	Department for Conservation of Cultural Heritage	Conservator	Mexico

Law of the sea specialists

Surname	Name	Institution	Function	Country
Aznar Gomez	Mariano	The University of Jaume I of Castellano	Professor of Public International Law	Spain
Dalaker Kraabel	Kristine	Universitet i Tromsø, The Arctic University of Norway	Doctoral Research Fellow in the Law of the sea	Norway
Davies	Piers	Wackrow Williams and Davies Ltd	Consultant	New Zealand
Forrest	Craig	The University of Queensland	Director of the Marine and Shipping Law Unit	Australia
Lina	Liu	Xi'an Jiaotong University	Associate Professor	China
Nafziger	Jim	Williamette University	Professor of Law, Director of International Law Programme	USA
Spalding	Mark	NGO Ocean Foundation	Founder	USA
Tani	Ilaria	University of Milan-Bicocca	Post-doctoral Researcher in International Law	Italy

Partners

Surname	Name	Institution	Function
ACCREDITED NGOS			
Momber	Garry	Maritime Archaeology Trust	Director

Underwood	Christopher	ICOMOS-ICUCH	President
Yorke	Robert	Joint Nautical Archaeology Policy Committee	Chairman
UNITWIN NETWORK FOR UNDERWATER ARCHAEOLOGY			
Demesticha	Stella	University of Cyprus	Professor in History (Archaeology)
Iwabuchi	Akifumi	Tokyo University of Marine Science and Technology	Professor of Marine Culturology
Jeffery	Bill	University of Guam	Assistant Professor in Archaeology
Khalil	Emad	Alexandria University, Centre for Maritime Archaeology and Underwater Cultural Heritage	Founder and Director
Trakadas	Athena	University of Southern Denmark	Associate Professor in Maritime Archaeology
UNESCO CHAIRS			
Bettencourt	José	Universidade Nova de Lisboa - UNESCO Chair on the Ocean's Cultural Heritage	Professor
Paulo Azevedo de Oliveira e Costa	João	Universidade Nova de Lisboa - UNESCO Chair on the Ocean's Cultural Heritage	History Professor
Sourisseau	Jean-Christophe	Aix-Marseille University - UNESCO Chair on maritime and coastal archaeology	History of art and Archaeology Professor
UNESCO CATEGORY II CENTRE			
Pešić	Mladen	International Centre for Underwater Archaeology	Director

INTERGOVERNMENTAL ORGANISATIONS			
Catesi	Corrado	INTERPOL	Coordinator of the Work of Arts Unit
Cosgrove	Dennis	OSCE, Transnational Threats Department	Head of Border Security Unit and Management Unit
Kenney	Frederick	International Maritime Organization	Director, Legal Affairs and External Relations
Le Gurun	Gwenaelle	International Seabed Authority	Legal Officer
Polner	Mariya	World Customs Organization	Head of Antiquities Trafficking Unit
Schneider	Marina	UNIDROIT	Senior Legal Officer and Treaty Depositor
PROFESSIONAL NETWORKS AND CIVIL SOCIETY			
Féral	Jean-Pierre	European Scientific Diving Panel	Chairman
Smith	Derek	American Association for Underwater Sciences	President
Rabekoto	Andrinjarisoa Heritiana	Plateforme Régionale des Organisations de la Société Civile	Vice-President

G. Questionnaire for Accredited NGOs

Name:

Organization:

Date when your organization became an accredited NGO to the 2001 Convention:

1. Please provide a brief overview of why your NGO was interested in becoming accredited to the 2001 Convention:
2. How difficult was the selection process for your NGO? Do you feel the criteria set enable the selection of adequate NGOs?
3. In your view, what is the role of the accredited NGOs and is this role adequate or should it evolve?
4. What have been some of the main achievements of your NGO in raising the visibility of the 2001 Convention, particularly enhancing public awareness of the existence of UCH and the importance of its protection?
5. How does your NGO apply The Rules in the Annex to the Convention?
6. How does your NGO collaborate with UNESCO in promoting the 2001 Convention?
 - a. How does your NGO collaborate with the Meetings of States Parties?
 - b. How does your NGO collaborate with the STAB?
 - c. How has your NGO contributed to activities of the 2001 Convention Secretariat (capacity-building, advocacy, national/regional meetings, publications, etc.)?
 - d. How does your NGO collaborate with other accredited NGOs?
7. To what extent do you feel that the accredited NGOs' views are taken on board in discussions of the MSP and the STAB and subsequently influence the decisions and recommendations of these bodies?
8. What are your observations on the working methods of the bodies established by the 2001 Convention? How can these working methods be improved?

a. Meeting of States Parties:

b. Meetings of the STAB:

c. Any other events organized by the Secretariat (please specify which ones):

9. Does your NGO participate in any other UN meetings or processes related to the sea such as (please check all that apply):

Meetings related to the 1982 UN Convention on the Law of the Sea

Negotiations on the creation of an international legally binding instrument under the UN Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ)

Meetings at the International Maritime Organisation (IMO)

Meetings at the International Seabed Authority (ISA)

Meetings at the International Oceanographic Commission (IOC)

UN Oceans

Other (please specify):

If so, what role does your NGO play in these processes?

Has there been any consideration of integrating the protection of underwater cultural heritage into those meetings and processes? If not, is there a reason for not doing so?

10. To your knowledge, in which other international fora, if any, is the protection of UCH discussed? How can UNESCO engage with these fora?
11. How can the 2001 Convention Secretariat further strengthen its collaboration with NGOs? What are some key thematic areas for future cooperation between UNESCO and accredited NGOs?

The following Accredited NGOs responded to the questionnaire:

Name of the NGO	Respondent	Country
Advisory Council on Underwater Archaeology (ACUA)		USA
Association pour le Développement de la Recherche en Archéologie Maritime (ADRAMAR)	Hoyau Berry	France
Australasian Institute for Maritime Archaeology (AIMA)	David Steinberg	Australia
ARKAEOS	Mourad El Amouri	France
Confédération Mondiale des Activités Subaquatiques (CMAS)	Gerd Knepel	Italy
Deutsche Gesellschaft zur Förderung der Unterwasserarchäologie (DEGUWA)	Winfried Held Peter Winterstein	Germany
Groupe de Recherche en Archéologie navale (GRAN)	Max Guérout	France
International Council on Museums and Sites – International Committee on the Underwater Cultural Heritage (ICOMOS-ICUCH)	Christopher Underwood	UK
Institute of Nautical Archaeology (INA)	Deborah Carlson	USA
Joint Nautical Archaeology Policy Committee (JNAPC)	Robert Yorke	UK
Maritime Archaeology Trust (MAT)	Garry Momber	UK
Maritime Archaeology Sea Trust (MAST)	Jessica Berry	UK
Nautical Archaeology Society (NAS)	Mark Beattie-Edwards	UK

H. Questionnaire for Members of the UNITWIN Network of Underwater Archaeology

1. Please provide a brief overview of why your institution was interested in joining the UNESCO UNITWIN Network:
2. How does your institution use the following UNESCO materials and publications:
 - a. [Manual for Activities directed at Underwater Cultural Heritage?](#)
 - b. [UNESCO Best Practices List of Underwater Cultural Heritage?](#)
 - c. Reports on the presentation of underwater cultural heritage on specific topics (e.g. [Oceania](#), [SIDS](#), [World War I sites](#)).
3. How has your institution worked towards raising the visibility of the 2001 Convention and its Rules?
4. Has your institution collaborated with the UNESCO Secretariat of the 2001 Convention on the following:
 - a. capacity-building,
 - b. national/regional meetings,
 - c. research/publications
 - d. other (please specify)

Please explain the contribution of your institution therein.
5. Does the 2001 Convention Secretariat sufficiently involve the UNITWIN Network in its initiatives?
6. In your view, to what extent does the UNITWIN Network have clear objectives? Would you have any suggestions for other objectives for the Network?
7. How does your institution cooperate with other UNITWIN Network members?
8. To what extent does the UNITWIN Network have a clear coordination mechanism for the setting of priorities, initiating joint projects, etc.?

9. What priorities should the UNITWIN Network focus on during the next five years?
10. What kind of support can the 2001 Convention Secretariat provide to the UNITWIN Network in the future?

The following member of the UNITWIN Network responded to the questionnaire:

Name	Respondent	Country
Akdeniz University	Associate Prof. Dr. Hakan Oniz	Turkey
Tokyo University of Marine Science and Technology	Prof. Dr. Akifumi Iwabuchi	Japan
University of Primorska	Irena Lazar, Zrinka Mileusnić, Alenka Tomaž	Slovenia
University of Southampton	Lucy Blue, Helen Farr, Fraser Sturt	UK
University of Valencia	José Pérez Ballester	Spain

I. Survey Results

The survey was distributed to all UNESCO Member States and Associate Members through their Permanent Delegations and National Commissions. It was available in three languages: English, French and Spanish. A total of 73 Member States and two Associate Members responded. The geographical spread of respondents is reflected in the table below.

Table 6. Representation of UNESCO geographical regions in responses to the evaluation survey for Member States

Regional Group	Western Europe & North America	Eastern Europe	Latin America and Caribbean	Asia and Pacific	Africa	Arab States	Total
Respondent countries	11	11	17	14	13	7	73
Countries per group	25	25	33	44	48	18	193
Percentage of respondents from each group (%)*	15	15	23	19	18	10	100

*For example, 15% of respondents to the survey are from Western Europe and North America.

The survey questions and corresponding aggregate quantitative responses are presented below. To ensure confidentiality of the responses, qualitative data is not provided in this Annex.

INTRODUCTION		
Q1. Please select your language:		
	Answer Choices	Responses
	English	70% 65
	Français	13% 12
	Español	17% 16
Q2. Please select your country		
Q3. Please indicate your place of work		
Q4 Please indicate your name (optional)		
Q5 Please indicate your position within your organization		
NATIONAL CONTEXT		
Q6. Does your country have a site on the UNESCO World Heritage List (whether cultural, natural or mixed), which is located under water (whether partially or completely) Possibility to select more than one		
	Answer Choices	Responses
	Yes, on the World Heritage List	43,01% 40
	Yes, on the Tentative List	22,58% 21
	No	48,39% 45
	If yes, please indicate the name of the site(s) inscribed on the World Heritage List or on the Tentative List	41
		Answered 93
Q7. Article 1 of the 2001 Convention on the Protection of Underwater Cultural Heritage (hereafter the 2001 Convention) defines underwater cultural heritage as 'all traces of human existence having a cultural, historical or archaeological character which have been partially under water, periodically or continuously, more than 100 years'. Does your country have a national law that specifically protects underwater cultural heritage? Please select one answer only		
	Answer Choices	Responses
	Yes	39,78% 37

No, but it has a national law protecting heritage that may be applied to underwater cultural heritage	44,09%	41
No, but my country is still interested in the protection of underwater cultural heritage	10,75%	10
No, because my country has conducted surveys and no underwater cultural heritage has been identified	1,08%	1
No, because my country is not aware of the existence of any underwater cultural heritage	4,30%	4
	Answered	93

Q8. Under your national law, after what period of time are cultural, historical or archaeological objects under water considered to be underwater cultural heritage and as such protected by the law? Please select one answer only

Answer Choices	Responses	
Less than 100 years	22,58%	21
100 years	10,75%	10
More than 100 years	16,13%	15
My country does not have such a law	17,20%	16
There is no specific threshold in years, but there is protection based on other criteria such as historical, archaeological, cultural interest or significance	33,33%	31
Please specify the criteria:		34
	Answered	93

RATIFICATION (ACCEPTANCE, APPROVAL OR ACCESSION)

Q9. Has your country participated in a national or regional meeting organised by UNESCO to promote the ratification, acceptance, approval or accession of the 2001 Convention?

Answer Choices	Responses	
Yes	64,29%	54
No (please skip to the last question on this page)	35,71%	30
	Answered	84

Q10. Where and when did this meeting take place?

	Answered	47
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Q11. What did you like about this meeting? (what you learnt? clear presentation of issues?, opportunity to exchange on this topic?, etc.)

	Answered	45
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Q12. What did you not like about this meeting?

	Answered	36
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Q13. What measures has your country taken to protect its underwater cultural heritage following this meeting?

	Answered	44
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Q14. Has your country ratified, accepted, approved or acceded to the 2001 Convention on the Protection of Underwater Cultural Heritage?

Answer Choices	Responses	
Yes	51,19%	43
No	48,81%	41
	Answered	84

STATES PARTIES

Q15. What incited your country to ratify or otherwise approve the 2001 Convention? Possibility to select more than one

Answer Choices	Responses	
Protection of underwater cultural heritage in international waters (i.e. Exclusive Economic Zone (EEZ) and Area)	51,28%	20
State cooperation mechanism for the protection of underwater cultural heritage that is of interest to your country	76,92%	30
Guidance for the protection of underwater cultural heritage contained in the Rules of the Annex to the 2001 Convention	61,54%	24
Access to UNESCO's expertise in underwater cultural heritage	56,41%	22
Access to UNESCO's networks in underwater cultural heritage	56,41%	22
The possibility of a STAB mission to your country	30,77%	12
Other (please specify)	12,82%	5
	Answered	39

Governance											
Q16. To what extent do you agree with the following statements on the working methods of the Meeting of States Parties (MSP)?											
	Strongly disagree		Disagree		Agree		Strongly agree		Do not know		Total
The MSP discusses issues that are relevant for my country	2,56%	1	0,00%	0	51,28%	20	33,33%	13	12,82%	5	39
MSP discussions have a special focus on the African context and issues	5,13%	2	35,90%	14	23,08%	9	0,00%	0	35,90%	14	39
The MSP effectively encourages countries to ratify the 2001 Convention	2,56%	1	5,13%	2	43,59%	17	33,33%	13	15,38%	6	39
The MSP drafted clear operational guidelines for the Convention	2,56%	1	0,00%	0	61,54%	24	20,51%	8	15,38%	6	39
The MSP encourages collaboration with other relevant intergovernmental organizations	2,56%	1	5,13%	2	48,72%	19	38,46%	15	5,13%	2	39
The MSP encourages collaboration with other relevant non-governmental organizations	2,56%	1	5,13%	2	53,85%	21	28,21%	11	10,26%	4	39
The MSP actively seeks sources of funding for the Secretariat and STAB	5,13%	2	17,95%	7	30,77%	12	12,82%	5	33,33%	13	39
Gender equality is taken into account in the discussions of the MSP	2,63%	1	7,69%	3	34,21%	13	10,53%	4	46,15%	18	39
							Answered				39
Q17. To what extent do you agree with the following statements on the working methods of the Scientific and Technical Advisory Body (STAB) to the 2001 Convention?											
	Strongly disagree		Disagree		Agree		Strongly agree		Do not know		Total
The STAB discusses issues that are relevant for my country	2,56%	1	7,69%	3	48,72%	19	25,64%	10	15,38%	6	39
STAB discussions have a special focus on the African context and issues	7,69%	3	20,51%	8	28,21%	11	0,00%	0	43,59%	17	39
The STAB identifies and discusses issues of importance to the archaeological community	2,56%	1	5,13%	2	51,28%	20	33,33%	13	7,69%	3	39
The STAB collaborates effectively with the accredited non-governmental organizations	2,56%	1	7,69%	3	43,59%	17	23,08%	9	23,08%	9	39
STAB missions lead to changes in the protection of underwater cultural heritage in the recipient country	2,56%	1	2,56%	1	48,72%	19	23,08%	9	23,08%	9	39
The STAB follows up on implementation of recommendations issued during its missions	2,56%	1	2,56%	1	53,85%	21	12,82%	5	28,21%	11	39

The STAB has elaborated working methods that allow for discussion and follow up of its decisions in between meetings	2,56%	1	7,69%	3	51,28%	20	12,82%	5	25,64%	10	39
Gender equality is taken into account in the discussions of the STAB	2,56%	1	2,56%	1	38,46%	15	7,69%	3	48,72%	19	39
									Answered		39

Q18. To what extent is your country satisfied with the following support from the UNESCO Secretariat in the implementation of the 2001 Convention?

	Very unsatisfied		Unsatisfied		Satisfied		Very satisfied		Do not know		My country never received this support		Total
Assistance with drafting/revision of my country's national heritage law to include the protection of underwater cultural heritage	2,56%	1	17,95%	7	12,82%	5	7,69%	3	20,51%	8	38,46%	15	39
A national consultation on underwater cultural heritage	2,56%	1	10,26%	4	43,59%	17	7,69%	3	2,56%	1	33,33%	13	39
A regional consultation on underwater cultural heritage	7,69%	3	10,26%	4	35,90%	14	12,82%	5	12,82%	5	20,51%	8	39
A training on underwater cultural heritage for underwater archaeologists	7,69%	3	23,08%	9	25,64%	10	7,69%	3	12,82%	5	23,08%	9	39
A research project on underwater cultural heritage	5,13%	2	23,08%	9	12,82%	5	5,13%	2	15,38%	6	38,46%	15	39
Support for an institution in my country joining the UNITWIN Network for Underwater Archaeology or becoming a UNESCO Chair	5,13%	2	17,95%	7	12,82%	5	5,13%	2	23,08%	9	35,90%	14	39
Support for the development of school curricula on underwater cultural heritage	2,56%	1	23,08%	9	12,82%	5	5,13%	2	12,82%	5	43,59%	17	39
Support for the creation of maritime archaeological collections in museums	2,56%	1	23,08%	9	10,26%	4	5,13%	2	15,38%	6	43,59%	17	39
Facilitating information sharing between States Parties (e.g. 'best practices' examples, national databases, etc.)	5,13%	2	15,38%	6	25,64%	10	20,51%	8	10,26%	4	23,08%	9	39
Raising public awareness on the Convention and underwater cultural heritage (social media, campaigns, etc.)	5,13%	2	23,08%	9	20,51%	8	20,51%	8	5,13%	2	25,64%	10	39
											Answered		39

Q19. How can UNESCO strengthen its support to States Parties in implementing the 2001 Convention?		
	Answered	32
Capacity building		
Q20. Since ratification of the 2001 Convention, have archaeologists or other experts from your country participated in UNESCO's capacity building programme?		
Answer Choices	Responses	
Yes (please skip the next question)	38,46%	15
No	38,46%	15
Do not know	23,08%	9
	Answered	39
Q21. Why have archaeologists or other experts from your country not attended such a training session? Possibility to select more than one		
Answer Choices	Responses	
No such training has been organised in my region since my country ratified the Convention	31,03%	9
My country was not aware of these trainings	41,38%	12
Lack of financial resources	34,48%	10
Do not know	27,59%	8
Other (please specify)	24,14%	7
	Answered	29
Q22. What are the strong points of UNESCO's capacity building programme? Possibility to select more than one		
Answer Choices	Responses	
On-site case studies	68,57%	24
Best practice examples	74,29%	26
Explanation on the use of UNESCO publications (e.g. the Manual for Activities directed at underwater cultural heritage, the Code of Ethics for Diving on Submerged Archaeological sites, etc.)	60,00%	21
Participation of diverse stakeholders (networking opportunity)	62,86%	22
Do not know	8,57%	3
Other (please specify)	8,57%	3
	Answered	35
Q23. How can UNESCO's capacity building programme be improved?		
	Answered	25

NON STATES PARTIES		
Q24. Why has your country not ratified or otherwise approved the 2001 Convention? Possibility to select more than one		
Answer Choices	Responses	
My national legislation is already very protective of underwater cultural heritage (there is therefore no need to ratify the 2001 Convention)	7,89%	3
My country is landlocked	15,79%	6
Incompatibility with the 1982 UN Convention on the Law of the Sea	23,68%	9
Incompatibility with economic development projects in my country	7,89%	3
State cooperation mechanism – especially possibility of another State influencing decisions on the protection of underwater cultural heritage that is located in my country's Exclusive Economic Zone (EEZ) or the Area (declaration of interest)	7,89%	3
My country already applies the Rules on the protection of underwater cultural heritage without having ratified the 2001 Convention	18,42%	7
My country is addressing other priorities	13,16%	5
Other (please specify)	44,74%	17
	Answered	38
Q25. How likely is your country to ratify or otherwise approve the 2001 Convention in the near future? Please select one answer only		
Answer Choices	Responses	
Very likely	21,05%	8
Likely	21,05%	8
Unlikely	10,53%	4
Very unlikely	5,26%	2
Do not know	42,11%	16
Please briefly summarize the reasons for your answer:		14
	Answered	38
Q26. What type of support can UNESCO provide to your country to facilitate the ratification of the 2001 Convention?		
	Answered	26

ALL COUNTRIES		
Q27. Please indicate which other Conventions related to the protection of cultural heritage or the law of the sea your country is a party to: Possibility to select more than one		
Answer Choices	Responses	
1954 Hague Convention on the Protection of Cultural Property in Armed Conflict	70,97%	44
1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transport of Ownership of Cultural Property	67,74%	42
1972 Convention Concerning the Protection of the World Cultural and Natural Heritage	87,10%	54
1982 UN Convention on the Law of the Sea	48,39%	30
1989 IMO International Convention on Salvage	25,81%	16
2007 International Convention on the Removal of Wrecks (Nairobi Convention)	17,74%	11
None (please skip the next question)	6,45%	4
Other (please specify)	19,35%	12
	Answered	62
Q28. To what extent has your country considered using the implementation of those instruments to protect underwater cultural heritage?		
	Answered	45
Q29. Please indicate whether your country participates in meetings of the following United Nations entities and processes regarding activities conducted at sea. Possibility to select more than one		
Answer Choices	Responses	
Negotiations on the creation of an international legally binding instrument under the UN Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ)	19,67%	12
Food and Agriculture Organization (FAO)	42,62%	26
International Maritime Organization (IMO)	42,62%	26
International Seabed Authority (ISA)	16,39%	10
Intergovernmental Oceanographic Commission (IOC)	32,79%	20
UN Oceans	21,31%	13
None (please skip the next question)	21,31%	13
Other (please specify)	31,15%	19
	Answered	61

Q30. Has there been any consideration of integrating the protection of underwater cultural heritage into those meetings and processes? If not, is there a reason for not doing so?		
	Answered	40
<i>The Rules (Annex to the 2001 Convention)</i>		
Q31. Please indicate how your country implements the Rules concerning activities directed at underwater cultural heritage (Annex to the 2001 Convention) which reflect the 1996 Sofia Charter: Possibility to select more than one		
Answer Choices	Responses	
To design a national implementation plan for the protection of underwater cultural heritage	25,81%	16
To create a national competent authority for the protection of underwater cultural heritage	20,97%	13
To guide any research or activity directed at underwater cultural heritage	35,48%	22
To train underwater archaeologists in project management	20,97%	13
To guide decision-making for cultural impact assessments of activities that may affect underwater cultural heritage	30,65%	19
To keep track of the activities that may affect underwater cultural heritage through a reporting system	33,87%	21
My country does not implement the Rules	24,19%	15
I am not aware of these Rules	20,97%	13
Other (please specify)	12,90%	8
	Answered	62
<i>National competent authorities</i>		
Q32. Where is your country's national competent authority for the protection of underwater cultural heritage based? Please select one answer only		
Answer Choices	Responses	
Ministry of Culture	58,06%	36
Ministry of Interior	0,00%	0
Ministry of Environment	3,23%	2
Ministry dealing with Maritime Affairs	4,84%	3
An independent entity	3,23%	2
My country is in the process of setting up a national competent authority	3,23%	2
My country does not have a national competent authority (please skip the next question)	11,29%	7

Other (please specify, including whether there are multiple authorities protecting various types of underwater cultural heritage):	20,97%	13
	Answered	62
Q33. What are the areas of competency for the national competent authority? Possibility to select more than one		
Answer Choices	Responses	
Undertaking a cultural impact assessment of activities (including any industrial action) that could affect underwater cultural heritage	54,39%	31
Issuing authorizations for activities (including any industrial action) that could affect underwater cultural heritage	70,18%	40
Inventorying underwater cultural heritage	68,42%	39
Underwater archaeological excavations	64,91%	37
Research	71,93%	41
Conservation and management of underwater cultural heritage (e.g. creation of protected zones)	70,18%	40
Designing materials to ensure common basic standards for archaeologists	35,09%	20
Promoting underwater cultural heritage to the public through exhibitions	64,91%	37
Other (please specify)	15,79%	9
	Answered	57
Q34. Please select the reason(s) why your country has not yet established a national competent authority: Possibility to select more than one		
Answer Choices	Responses	
Lack of technical expertise in underwater archaeology	36,36%	8
Lack of financial resources	40,91%	9
Lack of political will	13,64%	3
Addressing other priorities	36,36%	8
Other (please specify)	31,82%	7
	Answered	22
Q35. How much does your national competent authority (or if you do not have one, the entity responsible for maritime affairs) invest in research related to ocean matters per year in USD?		
	Answered	36
Q36. What percentage of this budget is dedicated to underwater cultural heritage?		
	Answered	35

Information-sharing									
Q37. Please rate the following publications of the Secretariat for the 2001 Convention:									
	My country has used this		Relevant but not yet used in my country		Irrelevant for my country		I do not know it		Total
Manual for Activities directed at underwater cultural heritage	38,71 %	24	35,48 %	22	4,84 %	3	20,97 %	13	62
Code of Ethics for Diving on Submerged Archaeological Sites	25,81 %	16	38,71 %	24	6,45 %	4	29,03 %	18	62
Model for A National Act on the Protection of underwater cultural heritage (model law)	12,90 %	8	46,77 %	29	14,52 %	9	25,81 %	16	62
Model inventory sheet for underwater cultural heritage	12,90 %	8	53,23 %	33	8,06 %	5	25,81 %	16	62
Reports on the presentation of underwater cultural heritage on specific topics (e.g. Oceania, SIDS, World War 1 sites).	16,13 %	10	41,94 %	26	12,90 %	8	29,03 %	18	62
Training manuals for the conservation of underwater cultural heritage used in regional capacity building initiatives (e.g. Asia and the Pacific)	24,19 %	15	43,55 %	27	6,45 %	4	25,81 %	16	62
Teacher's Manual on underwater cultural heritage	12,90 %	8	50,00 %	31	6,45 %	4	30,65 %	19	62
	Answered							62	

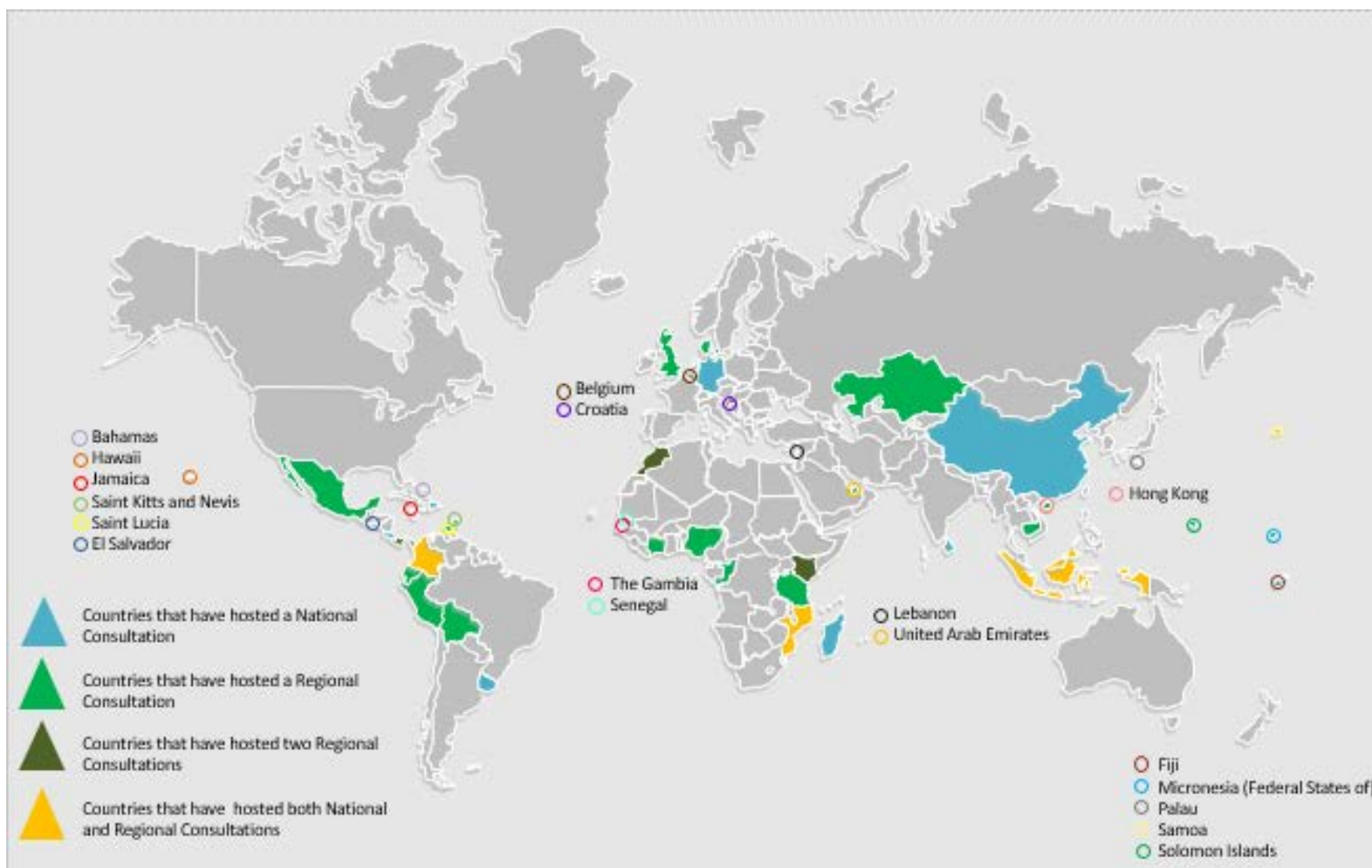
Q38. How does your country use the 'Best Practices List' in the protection of its own underwater cultural heritage?		
	Answered	62
Q39. Does your country have a database/inventory of underwater cultural heritage? Possibility to select more than one		
Answer Choices	Responses	
Yes, there is an inventory at the national level	45,16%	28
Yes, there are inventories at the local or state/regional levels	27,42%	17
No	35,48%	22
	Answered	62
Q40. What has your country done to promote information-sharing between States and support the protection of underwater cultural heritage (UCH) worldwide? Possibility to select more than one		
Answer Choices	Responses	
Shared its database/inventory of UCH with other States	14,52%	9
Submitted an example of UCH protection to the UNESCO Best Practices List	6,45%	4
Provided trainers for the UNESCO capacity building programme of underwater archaeologists	17,74%	11
Provided educational materials to develop underwater archaeology	20,97%	13
Funded training for underwater archaeologists in other countries	17,74%	11
Funded research on underwater cultural heritage in other countries	6,45%	4
Nothing	41,94%	26
Other (please specify)	27,42%	17
	Answered	62
Q41. What has your country done to promote awareness of and access to underwater cultural heritage to the public? Possibility to select more than one		
Answer Choices	Responses	
Provided access to your database/inventory of underwater cultural heritage	22,95%	14
Created a maritime underwater archaeology museum (including virtual museum)	29,51%	18
Hosted exhibitions dedicated to underwater cultural heritage in museums	44,26%	27

Incorporated underwater cultural heritage into school curricula	9,84%	6
Organized boat excursions for the public to underwater cultural heritage sites	16,39%	10
Developed diving trails	24,59%	15
Organized special events to celebrate underwater cultural heritage (e.g. commemoration of World War I).	18,03%	11
Nothing	24,59%	15
Do not know	11,48%	7
Other (please specify)	14,75%	9
	Answered	62
Q42. If you selected 'organized special events' at the previous questions, please specify the events your country has organised (otherwise please skip this question)		
	Answered	15
Q43. How does your country cooperate with non-governmental organizations or private entities in the protection of cultural heritage?		
	Answered	44
Q44. Any other comments, including on your country's achievements in protecting underwater cultural heritage, or challenges faced? What can UNESCO do to help you overcome those challenges?		
	Answered	40

J. Map of States Parties to the 2001 Convention



K. Map of National and Regional Consultations on the 2001 Convention organized by UNESCO



L. Biodata of the evaluators

Ekaterina Sediakina Rivière

Ekaterina Sediakina Rivière is an Evaluator at UNESCO's Internal Oversight Service. She has 15 years of evaluation experience in education, culture, social and human sciences, and gender equality. Ekaterina has managed and conducted a number of evaluations on UNESCO's standard-setting instruments in the Culture Sector (1954, 2003 and 2005 Conventions), as well as well as in Social and Human Sciences (2005 Convention against Doping in Sport). Prior to joining UNESCO, Ekaterina completed two assignments at the Independent Evaluation Unit of the UNODC in Vienna and worked in institutional communication in the public and private sectors in France. Ekaterina has a Master's degree in International Law and Administration from the Université Paris I Panthéon Sorbonne and a Master's degree in Political Science and Communication from the Institute of Political Science in Aix-en-Provence, France.

Taipei Dlamini

Taipei Dlamini has been working as an evaluator at the UNESCO Internal Oversight Service for two years, having participated in the evaluations of the 1954 Convention, Programme on Bioethics and Ethics in Science, the 2005 Convention against Doping in Sport and the UNESCO Operational Strategy on Youth. She holds a Master's degree in International Law and Administration from the Université Paris I Panthéon Sorbonne and a Double Degree in International Law and Languages from the University Pierre-Mendès France (Grenoble, France). Prior to joining UNESCO, she worked with the South African Development Community Lawyer's Association, a South African-based NGO aimed at promoting the rule of law and the protection of human rights in the SADC region.

Ole Varmer

Ole Varmer is a legal expert with over 30 years of experience in heritage law (international and United States). Ole graduated from the Benjamin Cardozo

School of Law in 1987. Since graduation, he has been providing legal advice to the Department of Commerce/National Oceanic and Atmospheric Administration (NOAA), particularly on the Law of the Sea, maritime law and heritage law (natural and cultural). Ole represented NOAA on the U.S. Delegation to UNESCO meetings on Underwater Cultural Heritage, World Heritage, the First World Congress on Maritime Heritage and IOC meetings regarding the Governance of Large Marine Ecosystems. In the 1990s, he played a leading role in the multi-lateral negotiation of the International Agreement on Titanic, implementing guidelines and legislation. Ole was also the lead attorney in establishing several Marine Protected Areas that protect natural and cultural heritage, including the Florida Keys, Stellwagen Bank, and Thunder Bay National Marine Sanctuaries including several cases successfully defending the application of environmental/heritage laws against challenges under the law of salvage. Ole has dozens of legal publications concerning the preservation of cultural and natural heritage, including the [Underwater Cultural Heritage Law Study](#) and [The Titanic as Underwater Cultural Heritage: Challenges to its Legal International Protection](#)¹³⁰. His work for UNESCO is in his personal capacity and in no way reflects the views of the United States Government or any of its agencies.

Dimitris Kourkoumelis

Dimitris Kourkoumelis is an underwater archaeologist with a PhD from the University of Aix-en-Provence (France - 1988), on the trade, economy and transport amphorae of ancient Corfu. Since 1999, he has been working at the Ephorate (Department) of Underwater Antiquities of the Hellenic Ministry of Culture and Sports. Since 2018, he has been in charge of the Northern Greece Section of the Department. From 2000 - 2011 he taught "Maritime Archaeology" as adjunct faculty at the University of Thessaly. Since 1975, he has participated in land excavations in Crete and Corfu as well as underwater archaeological excavations of the Hellenic Institute of Marine Archaeology, namely directing that of the 4th century B.C. shipwreck at Kythera (1993-2001) and the survey of the ancient harbors of Kythnos (Cyclades) (2005-2011) and Lechaion (Corinth) (2013-2018). He has participated in a number of archaeological symposia and congresses and published papers on the transport of amphorae, ancient trade and economy as well as the results of his excavations.

¹³⁰ For additional articles on cultural, natural and World Heritage see list of publication available at https://www.gc.noaa.gov/gcil_varmer_bio.html