

*United Nations Educational, Scientific and Cultural Organization*

*MetMUNC XLVIII*

*Topic: Protection of Underwater Heritage Sites*

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Underwater heritage sites have the ability to reveal thousands of years of human history and have been described as having “outstanding universal value.” UNESCO defines underwater heritage sites to be “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.”<sup>1</sup> This includes, but is not limited to, objects of prehistoric character, buildings, vessels, structures, human remains, and artifacts. UNESCO has currently identified approximately 878 World Heritage Sites, all of which must “exhibit an important interchange of human values, over a span of time or within a cultural area of the world, on developments in architecture or technology, monumental arts, town-planning or landscape design,” as well as exemplify a traditional human settlement.<sup>2</sup> This definition is intentionally vague. It allows any site that gains value through recognition in the media or the public eye to fall under the broad category of “underwater cultural heritage.”

Sadly, these heritage sites have been under constant threat for decades. Of the dangers that UNESCO recognizes for underwater heritage sites, the most important are pillaging, tourism, and construction.<sup>3</sup> In addition to their cultural value, many sites contain artifacts with

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<sup>1</sup><http://www.unesco.org/new/en/culture/themes/underwater-cultural-heritage/underwater-cultural-heritage/definition-of-underwater-cultural-heritage/>

<sup>2</sup> <https://whc.unesco.org/en/criteria/>

<sup>3</sup> <http://www.unesco.org/new/en/culture/themes/underwater-cultural-heritage/protection/threats/the-general-context/>

high monetary values. Often, underwater shipwrecks or deposits are pillaged: items are taken from them without authorization, and either kept or sold for profit. Some of these stolen items, such as a ten-thousand year old skeleton taken from a flooded cave in the Yucatan Peninsula in 2012, hold irreplaceable scientific value. Tourism around a cultural site can also make it difficult to preserve. Increased traffic in an area brings water pollution, uneducated divers who might damage the artifacts, and an increased risk of pillaging. Construction near a cultural site can bring the same effects as tourism, as well as damage artifacts while the project is actually being built. Climate change also poses a risk to underwater heritage sites. Rising sea levels can disturb artifacts. As water salinity changes, new marine species begin to populate an area, such as ship-worms, which degrade the wood in sunken ships.

In 2001, UNESCO passed the Convention on the Protection of the Underwater Cultural Heritage and its Context, which created the aforementioned international definition of underwater heritage, and established four main principles in regards to the protection of underwater cultural heritage sites and the obligation to preserve underwater cultural heritage. The sites should not be commercially exploited, states should cooperate



Figure 1: An image depicting various forms of underwater cultural heritage.

to protect them, there should be promotion of training in underwater archaeology, and the public should be educated in the importance of sunken cultural property.<sup>4</sup> It also strongly encourages all nations to communicate with each other, and make cultural preservation a cooperative process.

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<sup>4</sup> [http://www.ioc-unesco.org/index.php?option=com\\_content&view=article&id=83&Itemid=112](http://www.ioc-unesco.org/index.php?option=com_content&view=article&id=83&Itemid=112)

However, this convention has only been ratified by 40 countries, few of which are major maritime powers. So, even though the 2001 Convention is the most comprehensive law concerning underwater heritage, it does not come close to sufficiently protecting these invaluable sites. While few nations object to the convention ideologically, and in fact follow most of it in practice, there are some aspects that have kept it from being a truly global treaty. Some countries, such as the United Kingdom, argue that the convention's definition of underwater heritage is too vague, and that more emphasis should be placed on the actual significance of the site. Some argue that it gives coastal nations too much power over underwater sites. According to the Convention, newly discovered heritage sites are the property of the country whose coast they were found on, not the country who discovered them.<sup>5</sup>

Many nations seemingly will not accept a universal definition of underwater heritage sites; they have each created their own definition that gives them ownership over and protection for as many sites within their borders as possible, while simultaneously freeing them from needing to recognize other countries' sites. For example, France claims to need protection for any "maritime cultural assets," while Australia recognizes underwater heritage as only being shipwrecks over 75 years old. These discrepancies are a huge obstacle towards cooperation in preserving heritage sites.<sup>6</sup>

Many laws have been passed to protect underwater heritage sites, but legal protection is still necessary, because many pre-existing national and international laws do not fully protect underwater cultural heritage. National laws have a tendency to favor commercial interests, and the few national laws that are effective obviously do not apply to other countries. Many sites are

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<sup>5</sup> <https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1536&context=bjil>

<sup>6</sup> <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1909&context=auilr>

in danger of becoming damaged or lost because of the lack of these laws. UNESCO has followed the Convention Law of the Sea (UNCLOS); the 2001 convention is in some ways an extension of UNCLOS. UNCLOS focuses on the economic and judicial matters of the sea, not heritage specifically. The law applies in areas in which the question of who has the legal authority over a territory or a vessel is organized by this law of the sea. UNCLOS article 149 supports the protection of underwater heritage sites, with article 149 stating, “all objects of an archaeological and historical nature found in the Area shall be preserved or disposed of for the benefit of mankind as a whole, particular regard being paid to the preferential rights of the State or country of origin, or the State of cultural origin, or the State of historical and archaeological origin.”<sup>7</sup> During the 2001 UNESCO convention, a blanket protection on all underwater cultural heritage sites and their artifacts was put into place. The convention highlighted the importance of preservation of the sites and artifacts, as well as forbidding any form of commercial exploitation of these sites. A state cooperation mechanism has also been put into effect, where in international waters, states’ parties request that discoveries and activities related to underwater heritage be reported, and the information be shared with other states’ parties through UNESCO.

UNESCO has taken many initiatives to protect underwater heritage sites. Its Scientific and Technical Advisory Body advises national legislatures in the process of drafting laws concerning heritage sites, and has created an ethics code for diving near heritage sites.<sup>8</sup> UNESCO educates the public on the issue by publishing brochures, websites in seven languages, and has even produced a children’s cartoon on the topic. They have trained archaeologists in 80 different countries in methods of conducting their work to align with UNESCO standards.

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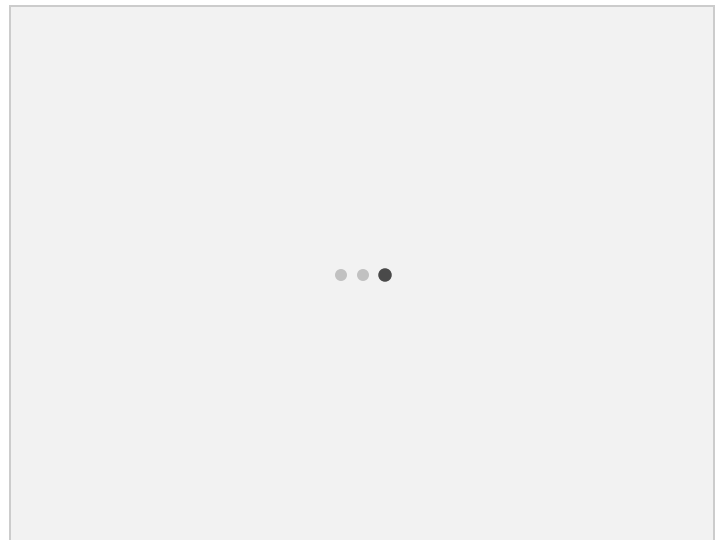
<sup>7</sup> [https://www.un.org/Depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf)

<sup>8</sup> <http://www.unesco.org/new/en/culture/themes/underwater-cultural-heritage/protection/unescos-work/>

## Case Studies

### Mary Rose Ship<sup>9</sup>

King Henry VIII's ship sank on July 19th 1545. It was one of the largest ships in the English Navy, and the earliest examples of a purpose-built sailing warship. It was discovered in 1971 and raised from the water on October 11th, 1982, and it was the most complex and expensive maritime salvage projects in history.



Between 1979 and 1982, 28,000 dives resulted in the findings of 19,000 artifacts, including cannons, gun carriages, wooden tankards and nit combs.<sup>10</sup> Currently, the items are on display at the Mary Rose Museum in Portsmouth, England. By protecting underwater cultural heritage sites, nations are able to uncover artifacts of great value from hundreds of years ago, allowing archaeologists and historians to further learn about the past.

### Las Perlas<sup>11</sup>

In 2015, the government of Panama requested that UNESCO officials investigate an ancient shipwreck near Las Perlas Archipelago, to see if it was being preserved sufficiently. The officials found that the archeologists that had been sent to the site were concerned only with removing items with monetary value, and so had ignored UNESCO protocol. The archeologists used heavy-duty equipment that caused irreparable damage to the ship. Had they followed

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<sup>9</sup>[https://upload.wikimedia.org/wikipedia/commons/thumb/7/7a/Mary\\_rose\\_2019\\_sideish.JPG/2560px-Mary\\_rose\\_2019\\_sideish.JPG](https://upload.wikimedia.org/wikipedia/commons/thumb/7/7a/Mary_rose_2019_sideish.JPG/2560px-Mary_rose_2019_sideish.JPG)

<sup>10</sup> <https://www.ingenia.org.uk/Ingenia/Articles/22d9ffd4-3288-46bb-a3ca-98ce58271774>

<sup>11</sup>[http://www.unesco.org/new/en/media-services/single-view/news/unesco\\_concerned\\_about\\_damage\\_to\\_underwater\\_archaeological\\_s/](http://www.unesco.org/new/en/media-services/single-view/news/unesco_concerned_about_damage_to_underwater_archaeological_s/)

UNESCO treaties, and/or consulted with UNESCO scientists, the damage would have been reduced.

Delegates are urged to work with one another, debate, and create resolutions to continue and improve upon the protection of underwater heritage sites within their nations. Looking at your country's past laws and resolutions can help provide further insight. Keep in mind that UNESCO has been striving to not only protect underwater heritage sites, but to do so in a way that requires cooperation between every nation.

### Questions to Consider:

1. What has your country done to help protect underwater heritage sites?
2. Did your country sign the 2001 convention? Why or why not?
3. Has your country ever violated the protection of underwater heritage sites?
4. What laws does your country have in regards to underwater heritage sites?
5. Is there a well-known heritage site in your country?
6. Does your country define underwater heritage in a way that differs from UNESCO standards?

### Helpful Links:

- <http://www.unesco.org/new/en/culture/themes/underwater-cultural-heritage/2001-convention/>
- <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1909&context=auilr>
- <https://unesdoc.unesco.org/ark:/48223/pf0000126065>
- <http://www.unesco.org/new/en/culture/themes/underwater-cultural-heritage/2001-convention/official-text/>
- [https://www.un.org/Depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf)
- <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1909&context=auilr>