



## Australasian Institute for Maritime Archaeology, Inc.

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28 February 2024

Committee Secretary  
Joint Standing Committee on Treaties  
PO Box 6021  
Parliament House  
Canberra ACT 2600

By email: [jsct@aph.gov.au](mailto:jsct@aph.gov.au)

Dear JSCT,

### **Re: Nairobi International Convention on the Removal of Wrecks**

On behalf of the Australasian Institute for Maritime Archaeology (AIMA), I submit this response to the Joint Standing Committee on Treaties with **concerns but no objections** regarding Australia's ratification of the Nairobi International Convention on the Removal of Wrecks.

AIMA is an incorporated, not-for profit organisation dedicated to the preservation of underwater cultural heritage. AIMA's objectives are to undertake scientific research within the field of maritime archaeology and publish the results of this work. AIMA also actively advocates for the protection of underwater cultural heritage throughout Australasia.

AIMA supports the UN Decade of Ocean Sciences with objectives to understand the values of the ocean in relation to human wellbeing and sustainable development. This includes safe navigation of the ocean as well as maintaining a clean and healthy ocean.

Ratification of the Nairobi International Convention would benefit Australia in assisting safe navigation and a healthier ocean. However, the Convention does not exclude historic shipwrecks protected under Commonwealth (the *Underwater Cultural Heritage Act 2018*) or state legislation from the removal process. In addition, the Convention does not include any allowance for the historic or archaeological values of a shipwreck which should be considered in the decision to remove the wreck, or at least in the methodology to remove that shipwreck so that those values are preserved.

Historic shipwrecks in State and Australian waters are typically automatically protected from 75 years since the wrecking event. Any current exceptions to this were wrecked at least more than 6 years ago. AIMA notes that Article 13 of the Convention sets a 6-year limit for rights to recover costs for removal, however this Article does not extend that limit to removal actions entirely. No other time restriction or consideration is given between the maritime casualty causing the shipwreck and recovery. There is also no temporal limit to the definitions of "maritime casualty" or "wreck".

It is possible for an historic shipwreck to change from a safe cultural seabed feature to a hazard as defined by this Convention, even after 75 years or more from the wrecking event. This may occur if:

- the historic shipwreck degrades from a known visible feature, easy to navigate around, into a smaller and less-visible hazard,
- the surrounding area is physically changed by environmental or human forces (such as dredging for a new navigation channel) that exposes an historic shipwreck to the extent it becomes a hazard,
- shipping routes move into the area of an historic shipwreck and it becomes a hazard,

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- an historic shipwreck contains oil or unexploded ordnance that becomes unstable and a potential hazard to the marine environment.

As marine activities increase around the world, more of our oceans are subject to marine traffic and more historic shipwrecks that were once easily circumvented become in the way of navigation.

There are many clear benefits to ratifying this Convention for the cost-recovery of removing modern shipwrecks and material from the Australian EEZ. However, ratifying this Convention may put historic shipwrecks in jeopardy if there is not also clear understanding of the protections of the *Underwater Cultural Heritage Act 2018* as well as effective communication between regulatory agencies regarding the management of historic shipwreck hazards.

If Australia ratifies this Convention, and an historic shipwreck becomes a hazard that can be removed under this Convention, the method of removal must be in line with the *Underwater Cultural Heritage Act 2018* and all other relevant heritage legislation and guidance to preserve its historic values. This applies to all historic shipwrecks in Australia's EEZ, regardless of the State of the ship's registry, as well as all Australian historic shipwrecks in the waters of other States.

If the Joint Standing Committee on Treaties recommends ratification of the Nairobi International Convention on the Removal of Wrecks by the Australian Government, AIMA strongly recommends that it be made clear that the removal of historic shipwreck hazards is managed in line with the *Underwater Cultural Heritage Act 2018* and (if the Convention is extended to state waters) state heritage legislation.

Yours sincerely,



Danielle Wilkinson  
President  
Australasian Institute for Maritime Archaeology