

14 February 2022

Committee Secretary  
Joint Standing Committee on Treaties  
PO Box 6021  
Parliament House  
Canberra ACT 2600  
jsct@aph.gov.au

Dear Sir/Madam

**UNESCO Convention on the Protection of the Underwater Cultural Heritage (Paris, 2 November 2001).**

As President of the International Committee on the Underwater Cultural Heritage (ICUCH) I write this submission to Australia's Joint Standing Committee on Treaties in recommendation of Australia ratifying the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage.

ICUCH is the scientific committee of the International Council on Monuments and Sites (ICOMOS) and addresses issues relating to the (international) protection and management of underwater cultural heritage. Australia, as an island nation with a strong underwater cultural heritage management program at national and state/territory levels, was a key player in the development of the text of the convention – text that was supported by 87 countries, including Australia representing the majority of nations supporting a cultural convention.

The international acceptance of the convention has continued to benefit greatly from the input of Australian government heritage officials and independent heritage specialists at national and international forums. As a key Asia-Pacific nation, Australia's adoption of the principles of the convention is reflected in the *Underwater Cultural Heritage Act 2018*. This is seen as a resounding endorsement of the importance of the convention as a model of best practice in the region.

Australian shipwreck property, eg, the remains of Royal Australian Navy ships or other underwater cultural heritage (eg, aircraft), in international waters is currently vulnerable. Commercial salvage and dispersal of an Australian underwater cultural heritage in these waters could, and on occasions has, taken place without any reference to Australia. As a leader in the field of underwater cultural heritage management, Australia is able to influence other nations in the region and beyond. Increasing responsible, respectful treatment of this important source of information about our collective past opens up many areas of valuable research into the history of commerce, defence, evolution of technology and individual achievements.

As reported in 'The Conversation' (09-2-2022), the study of archaeological skeletal material collected from shipwrecks can even help criminal investigators who find such remains underwater reconstruct time. This research is showing that forensic information can be gained even from human remains that have been underwater for hundreds of years. This is just an example of Australia leading previously unheard research arising from underwater cultural heritage. When sites are subjected to sophisticated treasure orientated exploitation irreplaceable information and research potential is lost through a combination of minimal site documentation, poor conservation of the relics and irretrievable dispersal of site contents. There is no obligation for commercial salvors to involve or liaise with other interested parties such as the country of origin of the vessel. The 2001 Convention sets in place principles and guidelines to protect against such exploitation and to promote appropriate consultation between state parties and relevant cultural groups.

In 1994, Australia ratified the 1982 United Nations Convention on the Law of the Sea (UNCLOS). UNCLOS included two provisions (Articles 149 and 303). These articles signify that its States Parties have an obligation to protect underwater cultural heritage – but do not provide regulations or details of how this is to occur. Article 303, paragraph 4, foresaw more specific regulations for underwater cultural heritage - regulations now provided through the 2001 Convention. Importantly, the 2001 Convention confirms total control for ratifying countries over their internal waters, archipelagic waters, territorial seas and contiguous zones. It does not amend the regulations of UNCLOS or any other international law - nor does it regulate ownership of wrecks or change the sovereignty rights of State Parties.

As stated in the 2001 Convention, underwater cultural heritage forms an "integral part of the cultural heritage of humanity and a particularly important element in the history of peoples, nations and their relations with each other concerning their common heritage" (Preamble, Convention). ICUCH submits that this an objective underscores the intent and importance of the Convention.



ICUCH's submission to the Joint Standing Committee on Treaties is for a recommendation to the Australian Government for Australia to ratify the 2001 UNESCO Convention on the protection of the underwater cultural heritage.

Yours faithfully



Christopher J. Underwood PhD, MA, BEd, FNAS, ICOMOS  
President ICOMOS-ICUCH