



ICLAFI – ICUCH Symposium

Amersfoort, The Netherlands, 29th June – 1st July 2017

Cultural Heritage Agency of the Netherlands
(Smallepad 5, 3811 MG, Amersfoort)

The UNESCO Convention on the Protection of Underwater Cultural Heritage: how do we make it work?

The 2001 UNESCO Underwater Convention offers a legal framework to regulate activities that are directed at underwater cultural heritage (UCH) or incidentally affect it, especially in international waters. States Parties to the Convention are obliged to implement this framework into national legislation and to bring it into practice. In particular States Parties must make sure that their nationals and ships sailing under their flag report finds of cultural heritage to them and do not engage in activities that go against the rules of the Convention.

The Convention stresses the importance of cooperation between States Parties in the execution of the rules of the Convention. This begins with the sharing of information between all Member States and UNESCO. Furthermore, according to the Convention the decision making process in regard to a discovered ship wreck must be a joint process of the States Parties that have a verifiable link with the heritage concerned, including the coastal state, when the find is done within the Exclusive Economic Zone (EEZ)/the Continental Shelf. One State Party may be coordinating the execution of the jointly taken decisions, but it must always do so in a manner that is in interest of the international community.

However, for the Convention to be more than a piece of paper and be effective in the protection of the UCH, it is important that cooperation will be more than talks, responsibilities are taken and rules of the Convention are enforced when necessary.

At this joint symposium of ICLAFI (ICOMOS International Scientific Committee on Legal, Administrative and Financial Issues) and ICUCH (ICOMOS International Committee on the Underwater Cultural Heritage) we would like to discuss the ways in which we can make the Convention truly work. How can the obligations and responsibilities of the Convention best be implemented within national legal systems, and equally important, in the working practice? How can we make sure that the legal aspects of the Convention match the practice of managing UCH? Finally, we would like to discuss in what ways States Parties can address each other when obligations, including enforcement, aren't met.

Programme

THURSDAY 29th JUNE 2017

10.00-12.00 ICLAFI members meeting

12.00-13.00 Lunch and symposium registration

13.00-13.10 Welcome and opening of ICLAFI-ICUCH Symposium

Opening session - Setting the scene

Chair of the session: MARTIJN MANDERS (The Netherlands)

13.10-13.30 LEONARD DE WIT (The Netherlands): UNESCO 2001: Protecting our shared underwater heritage by working together

13.30-13.50 JOEL GILMAN (Australia): Australia's project to ratify the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage

13.50-14.10 BIRGITTA RINGBECK (Germany): UNESCO Convention on the Protection of the Underwater Cultural Heritage – Status of the implementation in Germany

14.10-14.30 MARIANO AZNAR (Spain): Spain and the 2001 UNESCO Convention

14.30-14.50 Questions

14.50-15.20 Coffee break

15.20-15.40 GIDEON KOREN (Israel): Conventions – can they really work?

15.40-16.00 ETIENNE CLEMENT (Belgium): The elaboration of the UNESCO 2001 Convention on the Protection of the Underwater Cultural Heritage

16.00-16.20 JAMES REAP (USA): United States law on underwater cultural heritage: Can it support the goals and objectives of the UNESCO Convention?

16.20-16.50 Questions and discussion

16.50 Reception and dinner at the Cultural Heritage Agency of the Netherlands

FRIDAY 30th JUNE 2017

Legal discourse and the real world

The aim of this session is to illustrate how the legal instruments of the Convention contribute to a better protection of underwater cultural heritage in practice. What is the potential of the legal instruments of the Convention and what does this mean for the interpretation of the treaty provisions? Due to a wide debate among legal experts about the relationship between UNCLOS and the Underwater Heritage Convention, it will be interesting to describe a practice where both treaties mutually reinforce each other, are complementary, or possibly even compete. In other words: to what extent does the legal discourse influence the real world, and vice versa?

Chair of the session: TOSHIYUKI KONO (Japan)

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| 9.00-9.20 | ADRIAN CRĂCIUNESCU (Romania): How the legal provisions about underwater cultural heritage should be designed in Romanian legislation? |
| 9.20-9.40 | OUAFA BEN SLIMANE (Tunisia): The underwater cultural heritage of Tunisia: The implementation of the 2001 UNESCO Convention on the Underwater Cultural Heritage |
| 9.40-10.00 | ANNE MIE DRAYE (Belgium): The Underwater Cultural Heritage Convention and Belgian law: An adequate implementation? |
| 10.00-10.20 | BORUT ŠANTEJ (Slovenia): A tale of two waters: Ljubljana and the Slovenian sea |
| 10.20-10.30 | Questions |
| 10.30-11.00 | <i>Coffee break</i> |
| 11.00-11.20 | WERNER VON TRÜTZSCHLER (Germany): The protection of underwater cultural heritage in Germany |
| 11.20-11.40 | THOMAS ADLERCREUTZ (Sweden): What an abstention might lead to. A critical analysis of Sweden's attitude to the Underwater Heritage Convention |
| 11.40-12.00 | WOJCIECH KOWALSKI (Poland): Underwater cultural heritage as <i>res extra commercium</i> under 2001 UNESCO Convention? |
| 12.00-12.30 | Questions and discussion |
| 12.30-13.50 | <i>Lunch</i> |

International cooperation

During this session we invite the speakers to share their experiences with international cooperation in relation to the Convention. In which way does the Convention contribute to constructive cooperation between public authorities, science and private parties? We would like to focus on good practices and ask the speakers to elaborate on the critical success factors of good cooperation. So if it works in practice...what is making it work?

Chair of the session: LEONARD DE WIT (The Netherlands)

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| 13.50-14.10 | ALOK TRIPATHI (India): Underwater archaeology in India: Progress and prospects |
| 14.10-14.30 | JOEL GILMAN (Australia) & ANDREA KLOMP (The Netherlands): <i>The Agreement between the Netherlands and Australia concerning old Dutch Shipwrecks</i> : a model for bilateral agreements under the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage? |
| 14.30-14.50 | PRASHANTHA BANDULA MANDAWALA (Sri Lanka): Protection of the underwater cultural heritage of Sri Lanka through international cooperation |
| 14.50-15.00 | Questions |
| 15.00-15.30 | <i>Coffee break</i> |
| 15.30-15.50 | MARK STANIFORTH (Australia): Factors affecting the ratification of the UNESCO Convention 2001 in the Asia and the Pacific region |
| 15.50-16.10 | MARÍA MARTA RAE (Argentina): Analysis and diagnosis of how the right of damage acts in the theory of legal order that leads to the study of software: Heritage coefficient, which is inserted within the methodology of economic valorization subaquatic heritage |
| 16.10-16.30 | RIIN ALATALU & MAILI ROIO (Estonia): International cooperation. Casestudy: Figurehead from a merchant ship in Finnish exclusive economical zone |
| 16.30-17.00 | Questions and discussion |
| 17.00-17.20 | Conclusions and close of ICLAFI-ICUCH Symposium |
| 19.00 | <i>Dinner at Restaurant Dara</i> |

Abstracts ICLAFI – ICUCH Symposium

Opening session - Setting the scene

Leonard de Wit (The Netherlands)

Head of Regional advisory department North-West, Cultural Heritage Agency of the Netherlands

UNESCO 2001: Protecting our shared underwater heritage by working together

In the beginning of 2016, our minister stated that the Kingdom of the Netherlands is going to adopt the UNESCO Convention to protect underwater cultural heritage. In 2001, when the member states adopted the Convention, the Netherlands abstained from voting because of ambiguity with UNCLOS. The Netherlands has a tradition to work on the implementation of international instruments, in the process of ratifying a convention. For the 2001 Convention we have started this process which prepares the alignment with other partners, and the adjustment into our legal system. As a first step an analysis has been made of the juridical consequences of the Convention on our national legislation and regulations. We have found that there are several obligations in the Convention for which the Netherlands must make additional legislation and/or regulations.

The Netherlands is very curious about the experience of other countries in terms of enforcement both inside and outside the territorial waters. And, how is the handling of the reporting obligation to nationals and captains of a ship flying under its own flag? How is spatial planning handled, of other objects than cultural heritage underwater, such as windmills at sea and drilling platforms? And lastly, what role can information and awareness have towards the ratification of UNESCO 2001 and what good practices are there? We are here to learn from your experiences, and we hope that it will not take too many years before we can join you as a SP, to protect with you our common cultural heritage underwater.

Joel Gilman (Australia)

Solicitor, State Heritage Office, Heritage Council of Western Australia

Australia's project to ratify the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage

This paper will discuss Australia's current efforts towards ratification of the UNESCO Convention on the protection of UCH. Australia has determined that it must first bring its domestic legislation into line with the Convention before it can properly ratify. The presentation will examine efforts to date and various matters considered towards ratification. The federal government has indicated that it intends to introduce conforming legislation before the end of 2018.

Birgitta Ringbeck (Germany)

World Heritage Coordination, Federal Foreign Office

UNESCO Convention on the Protection of the Underwater Cultural Heritage – Status of the implementation in Germany

Main principles of the UNESCO Convention on the Protection of the Underwater Cultural Heritage, adopted in 2001, are in situ preservation as first option, no commercial exploitation as well as training and information sharing. Despite these objectives being supported, many states hesitate to ratify the Convention. Germany was among those countries which brought forward serious doubts concerning the compatibility of the

Convention with the international law during the debates prior to the adoption of the Convention. Meanwhile, these concerns could be removed; the framework for governing the implementation of the Convention has been drafted.

Mariano Aznar (Spain)

Professor of Public International Law, Universitat Jaume I

Spain and the 2001 UNESCO Convention

Spain early decided to actively negotiate and ratify the 2001 UNESCO Convention. Since then, it has promoted its acceptance worldwide and, at the same time, has adapted part of its domestic legislation. As a complex state, legislation on cultural heritage is shared between the State and the regions. Some problems arise in some cases around this shared responsibility. Some of the regions have already adapted their legislation regarding UCH while others still pends. For its part, with the promulgation of a new Law on Navigation in 2014 some important aspects of the protection of UCH have been regulated, including salvage law or the participation of different State agencies, including the Navy.

Gideon Koren (Israel)

Vice President, ICOMOS International; Advocate, Gideon Koren & Co

Conventions – can they really work?

The topic of this symposium presents a question related to the UHC – how do we make it work? As a sort of preamble to the symposium itself, a general review of other conventions, and in particular, heritage conventions, and how they work, may provide a valuable comparative tool.

General overview

International law provides for two types of conventions - constitutional and declarative.

The World Heritage Convention (WHC) is a constitutional convention. Hence, it applies only to the member states. This practice raises an immediate question – if a convention works only once a country agrees to it, what makes it preferable to simple cooperation? The response might be related to potential results of a breach - a convention can offer the threat of sanctions.

The WHC as an example of weakness

In recent years the World Heritage Convention has been forced to face a few challenges:

First, the need to deal with problematic SOC reports. Eventually (e.g. in the case of Dresden) the only effective sanction proposed by the WHC (withdrawal of inscription) proved counterproductive.

Second, in recent years, all heritage sites in terror-stricken countries, such as Syria and Iraq, have been exposed to existential danger. Some of the heritage sites have already fallen into the hands of various organizations and have even been destroyed. Unfortunately, conventions cannot stand against terrorist organizations like ISIS, and no sanctions can be imposed on them effectively.

The massive destruction also calls for a new attitude towards the understanding and status of reconstruction. The international heritage community might need to change the traditional concept of reconstruction reflected in the WHC. This raises the question: if basic principles can be changed, maybe ad-hoc cooperation is a better tool than a convention?

It might be time to revisit the concept of conventions as the primary tool for international cooperation. In this respect, looking into ways to "make it work" is a fundamental

discussion that needs to take place within the heritage community, in order to review and decide on the way forward.

Etienne Clement (Belgium)

Visiting lecturer/Consultant, Sciences Po. Lille, France

The elaboration of the UNESCO 2001 Convention on the Protection of the Underwater Cultural Heritage

The UNESCO Convention on the Protection of the Underwater Cultural Heritage was adopted in 2001. Like many such treaties, its text is the result of a compromise between opposing views. The negotiations leading to this instrument started in the Eighties at the initiative of underwater archaeologists who teamed up with lawyers and with the International Law Association. These pioneers considered that the United Nations Convention on the Law of the Sea (UNCLOS) did not protect adequately the underwater cultural heritage. But many States Parties to the UNCLOS were reluctant to re-open any kind of negotiation that might affect the delicate balance of the UNCLOS. Moreover, the industry of salvage was also extremely reluctant to any new international legislation that may affect their activities, especially in the high seas.

The process of preparation of an international legal instrument was suspended several times. It was finally put on tracks thanks to the pugnacity of a few UNESCO staff and ICOMOS members supported by Ministries of Foreign Affairs of several countries who convinced the UNESCO General Conference to enter the process of elaboration of a Convention. During the negotiation of the text, the views expressed by the delegations of UNESCO Member states were often antagonistic. In the discussions, the ICOMOS Committee on Underwater Cultural Heritage (ICUCH) played a major role, by sensitizing the diplomats to the urgency of adopting a legal instrument at a time when technology had made it possible to explore practically all ancient vessels lying on the seabed. The author has participated in some key steps of the elaboration of the Convention and will present some of the legal and ethical positions expressed at the negotiations and that have led to the compromise adopted in 2001.

James Reap (USA)

Professor and Graduate Coordinator, University of Georgia, USA

United States law on underwater cultural heritage: can it support the goals and objectives of the UNESCO Convention?

The United States is not a party to the Convention on Underwater Cultural Heritage. While it appears unlikely that it will ratify the Convention in the near future, the United States has national laws, regulations, and other international agreements that address underwater cultural heritage, and federal agencies have adopted rules to implement many of the Convention's principles. This paper will explore how U.S. laws, regulations, and agreements support the purposes of the Convention and suggest possible changes in domestic law and bilateral agreements that would bring the United States into closer alignment with the Convention and facilitate its cooperation with the Convention's States Parties.

Legal discourse and the real world

Adrian Crăciunescu (Romania)

Lecturer, University of Architecture and Urban Planning "Ion Mincu", Bucharest, Romania

How the legal provisions about underwater cultural heritage should be designed in Romanian legislation?

Romania accepted the Convention by a law promulgated in 2007. Unfortunately, 10 years after this, still no legal or technical measures were taken further, in order to implement the provisions of the Convention within the national legislation. In November 2016, "Preliminary Theses" for a Heritage Code were issued by the Government, as a legal step in promoting the initiative for codifying the present Romanian heritage legislation. Current legislation treats separately intangible, mobile and immovable heritage. During this process, an opportunity to amend present laws – either the one for the built historic monuments or the one for archaeology – came up for regulating the issues of underwater cultural heritage.

Practical legal and administrative issues emerged from the preliminary debates. They relate to the capacity of the administrative system to assume the tasks indicated by the Convention, but also to the real extent of the underwater cultural heritage of Romanian waters (maritime or inland). These waters have a rather low potential, this being mainly concentrated around former Greek and Roman colonies at the Black Sea, regarding structures or potential vessels sunk during antiquity.

Also, although trained divers and trained archaeologists do exist, no qualified underwater archaeologists could advise the Minister of Culture about this unregulated field of heritage. Under these circumstances, we first have to answer several questions before introducing proper legal provisions in our legislation, the most important being strategic:

- How detailed the procedures should be since during last decades underwater discoveries were very few and that very low capacity to enforce such procedures exists?
- Should we produce new bureaucratic structures or should we empower the existing ones knowing that no specialized people could be recruited? In both situations, should these administrative attributes be delegated to the structures of heritage administration or to the naval ones?

Ouafa Ben Slimane (Tunisia)

Chargée de recherches, Institut National du Patrimoine

The underwater cultural heritage of Tunisia: The implementation of the 2001 UNESCO Convention on the Underwater Cultural Heritage

Tunisia is one of the very first countries that has ratified the 2001 UNESCO Convention on the Protection of Underwater Cultural Heritage. It recognized in an early stage the importance of its underwater heritage and the necessity to assess, research and protect its archaeological values.

This paper presents the different measures Tunisia undertook to preserve its past.

Among these achievements are:

- The creation of an archaeological department for the study and research of underwater cultural heritage
- The establishment of an inventory of underwater cultural heritage objects with an emphasis on in-situ conservation
- Stimulating public access to underwater sites by creating underwater routes for tourist purposes
- Creating awareness for the cultural heritage in local diving schools

- Reinforcing the collaboration with international programs on archaeological assessment research and conservation

Anne Mie Draye (Belgium)

Full Professor Faculty of law, Hasselt University

The Underwater Cultural Heritage Convention and Belgian law: an adequate implementation?

Belgium ratified the UNESCO Convention on the Protection of Underwater Cultural Heritage on 5 August 2013. On 4 April 2014, a Belgian law on the protection of Underwater Cultural Heritage was adopted in order to implement this Convention in the domestic legal system.

The Belgian law deals with all "findings" in the territorial waters. In the exclusive economic zone and on the continental shelf, the legal system only applies to objects that have been underwater for more than 100 years. Activities affecting underwater cultural heritage are subject to prior authorization and control; property rights and the transfer of these property rights are regulated. Protection in situ of underwater cultural heritage is considered to be the most appropriate solution.

The purpose of the presentation would be to provide an outline of this recent Belgian law and its implementing orders adopted with a view to enable effective protection.

The legal framework will first of all be evaluated from a theoretical point of view: does it implement the Convention in a sufficient way? Considering that some shipwrecks in the meantime indeed received legal protection, this evaluation will be completed by some reflections regarding the way in which theory was put into practice.

Borut Šantej (Slovenia)

Head of Programme, Institute for the Protection of Cultural Heritage of Slovenia

A tale of two waters: Ljubljana and the Slovenian sea

The paper presents the difference in approach to protection and challenges presented by two areas of great heritage value. Ljubljana is a calm flatland river of prime archaeological importance. The main dangers to its remains - treasure hunting and riverbank activities - were successfully averted by the employment of two proven protection methods, which are also primarily suggested by the Convention: the protection in situ and the authorisation of activities. The other area presented is the Slovenian territorial sea. This is a small (300 km²) and heavily used body of water bordering an urbanised and industrialised coastline and containing a large number of archaeological sites, from Neolithic remains, Roman ports to post-classical era shipwrecks. Every year, thousands of cargo ships bound for two of the busiest Mediterranean ports traverse and manoeuvre in its shallow waters just meters above the ancient remains, disturbing and scarring them with their turbulences, chains and anchors. The autonomous "protect and authorise" protection approach fails here. Due to spatial, economic and social constraints, the ports and marinas cannot be relocated to alternative locations, the transport routes cannot be changed and fishers and tourists will not go away. With the inability to prohibit uses or authorise activities, other solutions have to be devised. Their main characteristic is that they cannot be adopted or enforced by the heritage institutions alone, but demand a coordinated multi-sectoral approach and a wider social consensus.

Werner von Trützschler (Germany)

The protection of underwater cultural heritage in Germany

The presentation describes the present legal and actual situation of the protection of underwater cultural heritage. It shows that even without Germany being so far a State Party of the UNESCO Convention on the Protection of Underwater Cultural Heritage, underwater cultural heritage both in the sea and in the lakes is protected and being cared for.

Thomas Adlercreutz (Sweden)

Jur. Kand. Uppsala University

What an abstention might lead to. A critical analysis of Sweden's attitude to the Underwater Heritage Convention.

1676 was a disastrous year for the Swedish royal navy. Its two most prestigious battleships blew up and sank, engaged in battle with Dutch and Danish ships off the island of Öland in the Baltic Sea. One of them, "Kronan" (The Crown), was found already in 1980. Many remains have been salvaged and are now on show in the Kalmar County Museum. The other "Svärdet" (The Sword) was only located in 2011 by a private diving company. Its management refused to give the position, claiming that there was no other way to prevent illicit investigation and looting. The National Heritage Board of Sweden considered this to be in violation of the Cultural Heritage Act and reported to the Police. The Police took no action. Evidently, the wreck was just outside Sweden's maritime territorial border. Sweden is not a party to the CPUCH, nor has it adopted a Contiguous Zone under UNCLOS.

This paper will deal with the Swedish position – or lack thereof – with regard to the CPUCH and discuss some of the consequences. It will touch on the tristate agreement between Estonia, Finland and Sweden regarding protection of the wreck of passenger ferry Estonia. It will also discuss the introduction of a Contiguous Zone as now proposed by an official inquiry. Finally, it will discuss the likelihood that Sweden will one day accede to the CPUCH.

Wojciech Kowalski (Poland)

Professor, University of Silesia, Katowice, Poland

Underwater cultural heritage as *res extra commercium* under 2001 UNESCO Convention?

Patrick O'Keefe in his Commentary (Leicester 2002, pp 50-51) noted, that although para 7 of article 2 of the Convention forbids the commercial exploitation of underwater cultural heritage, there is nothing in this act which establishes what is meant by this.

This provision declares that underwater cultural heritage "shall not be commercially exploited", and additionally rule 2 of the Annex a bit more precisely says that it "shall not be traded, sold, bought or bartered as commercial goods". The rule 2 adds also certain indicators how it should be interpreted in given situations.

The aim of the presentation is to explain the meaning of quoted para 7 of art. 2 and rule 2 of the Annex. Both these provisions clearly establish a ban on the commercial exploitation but formulation of this principle needs to be discussed in the context of different legal traditions and practical circumstances.

International cooperation

Alok Tripathi (India)

Professor, Assam University, Silchar, India

Underwater archaeology in India: Progress and prospects

India is most prominently located in the Indian Ocean. With her over 7,500 km long coastline and 2.2 million sq. km. water area and over 5 millennium old known maritime history, the Mistress of the Eastern Seas, is a rich repository of underwater cultural heritage. Underwater archaeology—informally—started about four decades back in India. Conscious about the importance of underwater cultural heritage, the Archaeological Survey of India (ASI)—the premier institution for the search, study and preservation of cultural heritage of the nation—played an active role since the beginning. Establishment of Underwater Archaeology Wing (UAW) gave a much desired boost to the discipline.

India has been associated with the Convention for the Protection of Underwater Cultural Heritage since its initial stage. Since it voted in favour of Convention, India was clear about its importance and took steps towards its implementation. ASI was playing a leading role in the region, when suddenly the whole process got derailed. Recent advances have generated new hopes for progress, not only for underwater archaeology, ratification of Convention but also for major regional cooperation in this area. The paper deals with the progress of the subject outlining the prospects based upon the recent developments.

Joel Gilman¹ (Australia) & Andrea Klomp² (The Netherlands)

¹ Solicitor, State Heritage Office, Heritage Council of Western Australia

² Senior policy advisor for maritime heritage, Cultural Heritage Agency of the Netherlands

The Agreement between the Netherlands and Australia concerning old Dutch Shipwrecks: a model for bilateral agreements under the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage?

Since the late 1950s, four VOC shipwrecks from the 17th and 18th centuries have been found in Australian waters. The 1972 *Agreement between the Netherlands and Australia concerning old Dutch Shipwrecks* established the Australian Netherlands Committee on Old Dutch Shipwrecks (ANCODS) to maintain and allocate artefacts retrieved from these wrecks, as well as to manage the shipwreck sites. This presentation will examine the 1972 Agreement in detail and consider whether it might be a useful model for bilateral agreements of the kind contemplated by Article 6 of the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage (the UCH Convention).

For example, Article 1 of the 1972 Agreement transfers to Australia all of the Netherlands legal ownership of these shipwrecks (as successor to the VOC). While this may make the work of the ANCODS committee somewhat easier, is it necessary or even desirable that a bilateral agreement under the UCH Convention should determine ownership of shipwrecks?

Prashantha Bandula Mandawala (Sri Lanka)

Dean, Faculty of Technology, University of Sri Jayewardenepura/Acting Director General of Archaeology, Sri Lanka

Protection of the underwater cultural heritage of Sri Lanka through international cooperation

The underwater cultural heritage in Sri Lanka is legally protected by the Antiquities Ordinance of Sri Lanka from its very inception in 1940, and its amendment in 1998 accorded with the jurisdiction over the territorial waters of Sri Lanka.

The first exposure of Sri Lanka to underwater archaeology was in the very early 1960s, when a team of foreign sports divers discovered an unknown wreck in the "Great Basses".

First attempts of substantial maritime excavation in Sri Lanka was "a survey of underwater archaeological sites within a context of reef environment and geomorphology," in 1989, funded by the Royal Geographical Society, the British Academy, and the British Museum.

In 1992 the Department of Archaeology of Sri Lanka (DASL), the Central Cultural Fund (CCF), Postgraduate Institute of Archaeology University of Kelaniya, Sri Lanka (PGIAR) and the Maritime Archaeology Department of the Western Australian Maritime Museum (MADWAM) pooled their resources to set up a multipurpose pilot project to train maritime archaeologists, and to compile a database of shipwrecks in Galle Harbor.

In 2001 the excavation of the Avondster in Galle Harbour was initiated, funded by the Netherlands Cultural Fund as a capacity-building exercise for maritime heritage management in Sri Lanka. The Sri Lankan Maritime Archaeological Unit (MAU) was mobilized for the project which is continued up to today.

Following discussions between the DASL and MADWAM in 2007, MADWAM was engaged as a consultant to undertake a maritime archaeological survey of Galle Harbour as part of an Archaeological Impact Assessment (AIA) process.

According to the Memorandum of Understanding between the Institute of Acoustics of the Chinese Academy of Sciences and the CCF in the Search for Wreckages of Zheng He's Fleets off the Coast of Sri Lanka in 2015, the two sides have agreed to carry out the surveys till the year 2020.

Mark Staniforth (Australia)

Adjunct Professor, Flinders University, Australia

Factors affecting the ratification of the UNESCO Convention 2001 in the Asia and the Pacific region

To date only two countries (Iran and Cambodia) out of the 48 countries in the Asia and the Pacific region have ratified the UNESCO Convention on the Protection of the Underwater Cultural Heritage 2001. This is the lowest rate of ratification of any UNESCO region (less than 5%). What are the factors affecting the low rate of ratification of the 2001 Convention in the Asia and the Pacific region? How can the numbers of ratifications be increased? In the absence of ratification, what can be done to improve the situation in the region with regard to maritime archaeology, the protection of underwater cultural heritage and the underlying practices of the 2001 Convention such as the Annex? This presentation considers some of the factors affecting ratification. It presents a particular case study of international cooperation in Vietnam and then suggests some critical success factors for good collaboration and cooperation.

María Marta Rae (Argentina)

Professional / Researcher, Dirección Provincial de Museos y Preservación Patrimonial de la Provincia de Buenos Aires / Universidad Nacional de Mar del Plata

Analysis and diagnosis of how the right of damage acts in the theory of legal order that leads to the study of software: Heritage coefficient, which is inserted within the methodology of economic valorization subaquatic heritage

The cultural and natural assets to be considered "heritage" must pass first through the legal instance emanated from the legislative process.

Better knowledge of the legislative technique allows people involved in the legislative process (parliamentarians, advisors, civil servants) to contribute to a better quality of laws. The aim of this paper is to provide the possibility of introducing improvements in parliamentary work at all jurisdictional levels using Informatics tools. From this last process the laws are ordered methodologically in what is called patrimonial economic valorization becoming a new tool that values the assets in their entirety, turning this tool into software. Each country has its own legal regime. Each heritage piece has its own identity. Each piece of property has its own economic valorization which leads to its own financial system. This financial system must be included in a fund separated from the rest in order to protect the World Heritage. That is why it is necessary the study from the perspective of the right of damages, on the effects that this tool causes and will cause in the future and where this right is presented in a much broader content than civil liability. The application will be seen on technological damages by accepting collective damages, with the responsibility of repairing avoiding damages. Both actions: techniques of the legislative process and right of damages are in the economic valorization of the subaquatic heritage, when it is taken as a tool of heritage impact.

Riin Alatalu¹ & Maili Roio² (Estonia)

¹ Assistant professor, Estonian Academy of Arts

² Estonian National Heritage Board

International Cooperation. Casestudy: figurehead from a merchant ship in Finnish exclusive economical zone

In 2011 Estonian fishermen trawled by accident a figurehead from a wreck of a merchant ship, dated to 19th century. The wreck laid in Finnish economical zone, it was not marked on navigation charts. The figurehead is currently under conservation in Sweden and will be exhibited in the Estonian Maritime Museum.

The fishermen brought the figurehead to Estonia but did not inform the officials.

The case study will reflect on the debates between various authorities and the fishermen as well between authorities of Estonia and Finland. The case study helps to give an overview of regulations and various legal issues in protection of underwater heritage.

List of participants ICLAFI-ICUCH Symposium - Amersfoort, The Netherlands

Name	Country	Organisation	Position
Adlercreutz, Thomas	Sweden	Jur. Kand. Uppsala University	Retired
Abeling, Ruben	The Netherlands	Cultural Heritage Agency of the Netherlands	Lawyer
Alatalu, Riin	Estonia	Estonian Academy of Arts	Assistant professor
Albakeer, Aktham	Kingdom of Saudi Arabia	Saudi Commission for Tourism and National Heritage	Advisor
Albers, Dorothé	The Netherlands	Ministry of Education, Culture and Science	Afdelingshoofd Advies Cultuur en Wetenschap
Aznar, Mariano	Spain	Universitat Jaume I	Professor of Public International Law
Bos, Janneke	The Netherlands	Rijkswaterstaat Zee en Delta	Zeebodembeheerder
Brugman, Marieke	The Netherlands	Netherlands National Commission for UNESCO	Senior Policy Officer/ASP-net National Coordinator
Clement, Etienne	Belgium	Sciences Po. Lille (France)	Visiting lecturer/Consultant
Crăciunescu, Adrian	Romania	University of Architecture and Urban Planning "Ion Mincu", Bucharest, Romania	Lecturer (assistant professor)
de Clippele, Marie-Sophie	Belgium	Université Saint-Louis - Bruxelles et ENS Paris-Saclay	PhD Candidate
de Weerd, Eveline	The Netherlands	Prince Claus Fund	Research / Acting Programme Coordinator <i>Cultural Emergency Response</i>
de Wit, Leonard	The Netherlands	Cultural Heritage Agency of the Netherlands	Head of Regional advisory department North-West
Draye, Anne Mie	Belgium	Hasselt University	Full Professor Faculty of law
Eichberger - Zandee, Vevita	The Netherlands	Ministry of Education, Culture and Science - Department for Arts and Heritage	Senior Policy Officer
Franssen, Saskia	The Netherlands	Ministry of Education, Culture and Science - Directorate Heritage and Arts	Policy Advisor
Gehasse, Eli	The Netherlands	Rijkswaterstaat Water, Verkeer en Leefomgeving	Senior Adviseur Cultuurhistorie en Gebiedsgericht Werken
Gilman, Joel	Australia	Heritage Council of Western Australia	Solicitor
Gok, Tamer	Turkey	Mersin University	Professor
Hoffman, Barbara	USA	The Hoffman Law Firm	Principal
Kante, Bocar	France	Cabinet Kante	Lawyer
Klomp, Andrea	The Netherlands	Cultural Heritage Agency of the Netherlands	Senior policy advisor for maritime heritage
Kono, Toshiyuki	Japan	Kyushu University	Professor
Koren, Gideon	Israel	ICOMOS International	V. President
Kowalski, Wojciech	Poland	University of Silesia, Katowice, Poland	Professor
Kuggeleijn, Joost	The Netherlands	Ministry of Education, Culture and Science - Directorate Heritage and Arts	Policy Advisor
Leahy, Lavinia	The Netherlands	Prince Claus Fund	Researcher
Lee, Jack Tsen Ta	Singapore	School of Law, Singapore Management University	Assistant Professor of Law
Mauro, Guido	The Netherlands	Cultural Heritage Agency of the Netherlands	Archaeology and landscape advisor
Malilong Isberto, Lucille Karen	Philippines	Heritage Conservation Society & Ateneo de Manila University School of Government	Vice President for Institutional Affairs & Project Laya Deputy Director for Ateneo
Mandawala, Prashantha Bandula	Sri Lanka	University of Sri Jayewardenepura	Dean, Faculty of Technology; Acting Director General of Archaeology of Sri Lanka
Manders, Martijn	The Netherlands	Cultural Heritage Agency of the Netherlands	Maritime archaeologist and Head of Maritime Programme
Mol, Angus	The Netherlands	Prince Claus Fund	Acting Programme Coordinator CER networks
Payandeh, Amirhossein	Iran	Farhangian University (Student) - Iran Ministry of Education (High school Math Teacher)	Student (Physic) - High school Math Teacher
Rae, María Marta	Argentina	Dirección Provincial de Museos y Preservación Patrimonial de la Provincia de Buenos Aires / Universidad Nacional de Mar del Plata	Professional / Researcher
Reap, James	USA	University of Georgia (USA)	Professor and Graduate Coordinator

Ringbeck, Birgitta	Germany	Federal Foreign Office	World Heritage Coordination
Šantej, Borut	Slovenia	Institute for the Protection of Cultural Heritage of Slovenia	Head of Programme
Schelhaas, Marielies E. W.	The Netherlands	Netherlands National Commission for UNESCO	Secretary-General
Slimane, Ouafa	Tunisia	Institut National du Patrimoine	Chargée de recherches
Staniforth, Mark	Australia	Flinders University	Adjunct Professor
Tripathi, Alok	India	Assam University, Silchar (India)	Professor
Valkenburcht, Michiel	The Netherlands	Cultural Heritage Inspectorate	Senior inspector/Lawyer
van der Voort, Babeth	The Netherlands	Ministry of Education, Culture and Science	Legislative Lawyer
van Rijssen, Noortje	The Netherlands	Ministry of Foreign Affairs - Legal Affairs Department International Law Division (DJZ/IR)	Lawyer
van Rooijen, Cees	The Netherlands	Cultural Heritage Agency of the Netherlands	Archaeology and landscape advisor
Virtala, Satu-Kaarina	Finland		
von Trützschler, Werner	Germany		
Young, Christopher	UK	Christopher Young Heritage Consultancy	Principal

ICLAFI-ICUCH excursion in and around Utrecht
Saturday 1st July 2017

- 8.15 Gather in front of RCE building
- 8.20 **Bus leaves Amersfoort**
Luggage can be taken with you on the bus
- 9.00 **Visit and tour at Waterlinie Museum Fort Vechten**
A 19th century fort and a museum about the New Dutch Waterline, a crossroads for different defence lines and UNESCO World Heritage nominations
- 11.00 Bus departs from parking lot of Fort Vechten
- 11.30 **Visit and tour at Rietveld Schröder house**
An icon of Modernist architecture and one of the World Heritage sites in the Netherlands
- 12.45 Bus departs to Utrecht city centre
Please take all your luggage with you when we are dropped off in the centre of the city. Suitcases and other luggage can be stored safely at the lunch location until the end of the excursion
- 13.00 **Lunch at De Winkel van Sinkel**
One of the first department stores in the Netherlands and nowadays a Grand café
- 14.30 **City walk with Cees van Rooijen** (Archaeology and landscape advisor at the RCE and in the past archaeologist at the municipality of Utrecht)
- 16.30 **End of excursion**

Waterlinie Museum Fort Vechten

The Waterlinie Museum is located on Fort Vechten and tells the story of water in its capacity as an ally in defending the Netherlands between 1588 and 1940. RCE colleague Cees van Rooijen will give a short tour at Fort Vechten, after which you can visit the museum with an interactive wrist band.

Fort Vechten forms a crossroads for different defence lines and UNESCO World Heritage nominations.

It is one of the biggest forts of The New Dutch Waterline, a 19th century defence line stretching all the way from Amsterdam to Utrecht and the Biesbosch (south-east of Rotterdam). In 2018, the Dutch Government will put forward The New Dutch Waterline for UNESCO World Heritage status as an extension of the Defence Line of Amsterdam. These defence lines consist of forts and waterworks with a defence system based on controlled inundation.

In the immediate vicinity of the current fort remains have been found of a Roman fort called 'Fectio'. This castellum was part of the Roman Limes, the frontier zone of the Roman empire. The contours of this castellum have been marked with white concrete in which artefacts, texts and images have been incorporated. On the site you can also see a reconstruction of a wooden watchtower. As part of the Roman Limes, this site will also be included in the planned nomination in 2020 of a part of the Limes in Germany and the Netherlands. This nomination will be proposed as an extension of the Frontiers of the Roman Empire.

[Website Waterlinie Museum](#)

[Website Defense line of Amsterdam](#)

[Website New Dutch Waterline \(in Dutch\)](#)

[Website Roman Limes in the Netherlands \(in Dutch\)](#)

Rietveld Schröder house

The Rietveld Schröder house in Utrecht was commissioned by Ms Truus Schröder-Schräder, designed by the architect Gerrit Thomas Rietveld, and built in 1924. This small family house, with its interior, the flexible spatial arrangement, and the visual and formal qualities, was a manifesto of the ideals of the De Stijl group of artists and architects in the Netherlands in the 1920s, and has since been considered one of the icons of the Modern Movement in architecture.

[World Heritage List description](#)

[Website Rietveld Schröder house](#)

[Website 100th anniversary of De Stijl in 2017: Mondriaan to Dutch design](#)

Practical information

The first two excursion locations are located outside the city centre. From around 13.00 we will be in the centre of Utrecht, so from that time you can get a train from Utrecht central station to Schiphol airport or Amersfoort (or other location) anytime you want. If you need to leave earlier during the excursion, please contact Djurra Scharff (djurra.scharff@e-a-c.org or +31 6 44 08 21 43) in advance so we can arrange a taxi or other solution.

No special arrangement has been made for transport to the airport or back to Amersfoort at the end of the day, but there is a good railway connection. From De Winkel van Sinkel it's only a 10-minute walk to Utrecht central station. There are direct trains from Utrecht central station to Schiphol airport four times an hour. The journey takes approximately 30 minutes. For those of you who would like to return to Amersfoort, you can go back by train together with Leonard de Wit.

Dutch railway (NS) journey planner: <http://www.ns.nl/en/journeyplanner/>

Contacts during the excursion

Leonard de Wit +31 6 53 71 12 57

Djurra Scharff +31 6 44 08 21 43

Cees van Rooijen +31 6 53 36 64 51

Other suggestions in and around Utrecht

If you have a few more hours or an extra day to spare in Utrecht, we have a couple of other suggestions for museums and sites which you can visit:

Centraal Museum Utrecht

The Centraal Museum is the municipal museum of the city of Utrecht. It has an extensive collection of old masters, modern art, applied art and design, city history and fashion. One of the showpieces of the collection is an 18-metre long boat built around the year 1000. In the attic of the museum you can also visit the studio of Dick Bruna, the creator of Miffy (in Dutch: Nijntje). And across the street you will find a children's museum about Miffy.

<http://centraalmuseum.nl/en/>

<http://nijntjemuseum.nl/?lang=en>

Museum Speelklok

A museum dedicated to the world of self-playing musical instruments. Different sorts of instruments, including the famous street organ named Arabier and the so-called 8th world wonder the Violina, can be admired and heard during a lively museum tour.

<https://www.museumspeelklok.nl/lang/en/>

Museum Catharijneconvent

Located in a medieval monastery, this museum shows the history of Christianity in the Netherlands through centuries-old art as well as contemporary art. Currently, the museum has an exhibition about Mary.

<https://www.catharijneconvent.nl/english/>

Castellum Hoge Woerd

A modern interpretation of a Roman fort which was once located here. The complex hosts a small museum (including a 25-metre Roman ship), an educational centre for nature and environment, a theatre and a café-restaurant. Castellum Hoge Woerd is located in one of the suburbs of Utrecht and can be reached by bus.

<https://www.castellumhogewoerd.nl/> (in Dutch)

Dewit

①

Reasons why Neth. didn't ratify 2001 Convention.

- Poss. incompatibility w/ UNCLOS.
→ power to coastal states: Art. 9, 10.
Art. 9 a bit ambiguous. (deliberately).
- But Neth. now due to ratify.
 - shift to coastal state minor, and coastal state would act on behalf of states parties.
 - unlikely to change dist. of competences at sea.
- Implementation: esp. Arts. 9, 10, 17, 18.

Gilman (Aust)

Historic Shipwrecks Act 1976.

- Aust. to ratify Convention, and to enact Underwater Cultural Heritage Act.

Ringbeck (Germany)

- (To what extent is UCH protected in scope by PMA + NHBA?)
(Does it extend to EEZ?)
(Relation to law of salvage → tends to exclude appl.)
(Does UCH include submerged buildings?)

Preserving memories about and of the victims of Soviet and Nazi crimes imprisoned in Patarei Merekindlus.



Europe
for Citizens



Eesti
Sõjajärgi Muuseum
KINDRAL LÄITONENI MUUSEUM

Aznar (Spain)

- Interdepartmental agreements - Culture, Foreign affairs, defence, (Spain - rpt.)

Koren

- Is 2001 Convention needed? Could WILC not be used?
- Difficulty of enforcement - weak sanctions.
- Cf. more successful models? WTO? or just ad hoc co-op??

Clément

- UNCLUS - UCM mentioned in Arts. 149 + 303. - Art. 303 states "nothing ... affects the law of salvage..." - unacceptable to archaeologists. → promotes looting?
- Cf. 1996 ICOMOS Charter.

Reef (USA)

- US not a State party to Convention.
- Concerns:
 - new rights for coastal states over continental shelves of foreigners and vessels on Outer Continental Shelf. → OCM / EEZ.
 - no formal coop. of flag state in event of urgency.
- Cooperation.
 - with UK, France, Canada over Titanic.
 - with France, Japan re. Sanku Maru.

Santaj

- Underwater — inc. rivers, enclosed seas, lakes. (Does this raise issues?)

Gilman & Klomp

Bilateral agreements:

- 2012 MOU Aust - US Battle of Coral Sea wrecks.
(Viduka + Luckman article)
(2013) 37 Bull. of the Australian Inst. for Maritime Arch. 98-106)

Stonforth

- Ratification in Asia-Pacific — only 2 of 46 (5%)
- Factors: neighborhood factor, leadership factor, common law + culture.