



United Nations
Educational, Scientific and
Cultural Organization

United Kingdom
National Commission for UNESCO

AUGUST 2008 | POSITION STATEMENT

POSITION STATEMENT

2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage

The UK National Commission for UNESCO urges the UK Government to take a proactive and positive policy approach towards reconsidering ratifying the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage.

BACKGROUND

The UK National Commission for UNESCO recognises that the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage (the “2001 UCH Convention” or the “Convention”) is a comprehensive international instrument for ensuring the protection of Underwater Cultural Heritage (“UCH”) beyond territorial waters.

UCH refers to all traces of human existence having a cultural, historical or archaeological character, which have been partially or totally underwater periodically or continuously for at least 100 years. This UCH forms an integral part of a common global archaeological and historical heritage, and, in addition to archaeological value, can provide invaluable information about culture, economies, migration, etc.

The seas from the limit of the UK’s territorial waters to the edge of its Continental Shelf contain some of the world’s richest underwater cultural heritage, including drowned prehistoric terrestrial landscapes, some of the oldest shipwreck losses in the world, vessels and aircraft from the wars of the 20th century and human remains of lost civilian and military personnel. Such heritage is subject to constant, and increasing, threat of loss and degradation, both natural and manmade.

HM Government has not yet ratified the 2001 UCH Convention. It nevertheless has made a commitment to respect the Convention’s principles and abide by the rules laid out in its Annex 2, which set internationally accepted standards for the management of the underwater cultural heritage. The Government’s reservation had been based on issues of Sovereign Immunity and Resources (Lack of Significance).

There have been calls for HM Government to ratify the Convention, including the 2005 expert meeting hosted by the Society of Antiquaries which concluded in the “Burlington House Declaration”¹.

RECOMMENDATION

LEGALITY VS POLICY. Experts in the fields of underwater heritage and conservation, some of whom are members of the Commission’s Culture Committee Conventions Working Group, have established that there was no insurmountable legal obstacle to the UK’s accession to the 2001 UCH Convention². As such, the issue of the UK’s accession lies in policy decision and is not simply and purely a legal matter.

¹ Participating organisations at the conference were the Joint Nautical Archaeology Policy Committee, the Society of Antiquaries of London, the Institute of Field Archaeologists Maritime Affairs Group, the Nautical Archaeology Society, the UK National Commission for UNESCO, ICOMOS-UK, ICON and the Council for British Archaeology. The UK National Commission for UNESCO, whilst participating, has not formally adopted or signed up to the Burlington House Declaration.

² In a meeting organised by the Joint Nautical Archaeology Policy Committee (JNAPC) on 29 January 2008 at which the FCO, DCMS and MoD were present, a paper was presented by Michael Williams, discussing in detail the legal basis of the UK’s two reservations to the 2001 Convention. Michael Williams is a senior lecturer in Law at the University of Wolverhampton and an expert in underwater cultural heritage.

UK National Commission for UNESCO
Secretariat
Suite 98
3 Whitehall Court
London SW1A 2EL
www.unesco.org.uk
Tel: 020 7766 3490

RECOMMENDATION (cont'd)

STATES PARTIES. To date, 16 States have ratified the 2001 UCH Convention, including maritime States such as Spain and Portugal. Those States that have ratified the Convention have done so based on positive policy towards heritage protection.

PRIMARY LEGISLATION. Ratification of the Convention does not require primary legislation.

MEMBERSHIP OF SCIENTIFIC AND TECHNICAL ADVISORY BODY. The Convention provides for the establishment of a Scientific and Technical Advisory Body composed of experts nominated by the States Parties. This body will assist States Parties in the development and implementation of the Convention, including in the drafting of operational guidelines. Those States which ratify the Convention at an early stage will therefore be in a position to shape the future implementation of the Convention. The UK has a well-earned reputation as an international leader in setting standards of excellence for the management of cultural heritage assets and could play a significant and influential role in this process if it ratifies the Convention in the near future.

UK NATIONAL COMMISSION FACILITATION. The UK National Commission for UNESCO is an independent civil society organisation set up by HM Government as the focal point in the UK for policies relating to UNESCO. The Commission is well-placed to host an expert meeting for all stakeholders, including experts in the field and HM Government departments, to take the discussion forward, and also to assist Government to collate new evidence on the increasing threat to the international UCH and to identify the resources implications and benefits of ratification.

THE NEED FOR ACTION. Recent commercial salvage operations directed at historic wrecks in the English Channel have highlighted the advancing threat to our cultural heritage from deep water salvage technology. The primary aim of the 2001 UCH Convention is to provide means whereby States can regulate the activities of treasure hunters beyond the 12-mile limit and thereby to fill the lacuna in international law in this area. Urgent action is needed to afford protection to this increasingly vulnerable resource.

The Commission believes that HM Government should seize the opportunity to adopt positive policy towards the Convention; and by so doing demonstrate international leadership, and to send a strong and positive signal to the international community of its commitment to concerted international effort to protect our rich, yet fragile, underwater patrimony for future generations.

ABOUT THE UK NATIONAL COMMISSION FOR UNESCO

The UK National Commission for UNESCO is an independent civil society organisation set up by HM Government in 2004 as the focal point in the UK for policies relating to UNESCO (United Nations Educational, Scientific and Cultural Organization). The Commission brings together a network of over 200 experts in education, culture, natural & social sciences and communication & information across the UK. By working closely in partnership with HM Government, the Commission enables it to engage a wide range of UK organisations and specialist institutions in the above fields.

The Commission Culture Committee has 20 volunteer members, nominated by organisations across the spectrum of the culture sector, including the arts, museums and cultural heritage. The Committee's key aims include (i) to be the formal link between civil society, relevant departments in HM Government (primarily the Department for Culture, Media & Sport) including the Devolved Administrations and UNESCO on matters relating to all aspects of culture; (ii) to advise and work with HM Government on UNESCO's cultural activities which have specific relevance to the UK including UNESCO requests and initiatives, Conventions, World Heritage Sites matters, and cultural education; and (iii) to provide independent and expert analysis, comment and advice to HMG on cultural matters relating to UNESCO, including as input to UK policy-making on key UNESCO programmes and cultural issues.

The Culture Committee's priority areas for action include detailed consideration of UNESCO's culture-sector conventions. It looks at a range of issues including, *inter alia*, the impacts of UK ratification of conventions, whether the UK might ratify existing conventions, monitoring and enforcement of existing conventions.

For more information, visit www.unesco.org.uk