PANEL VIII:
UNDERWATER CULTURAL
HERITAGE PROTECTION
Legal Protection for the Underwater Cultural Heritage: The Immediate Challenge and Methods of Response

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INTRODUCTION

In 2001 the United Nations Educational, Scientific and Cultural Organisation (UNESCO) adopted a Convention for the Protection of the Underwater Cultural Heritage (UCH). The Convention is designed to provide a comprehensive legal framework for the protection of UCH and, in particular, shipwrecks located beyond territorial limits. In time, the Convention should come into force and in future decades it may be widely applicable. However, in the interim period shipwrecks remain vulnerable to interference by treasure hunters, some of whom already possess the technology to access the deepest parts of the world’s oceans. The purpose of this paper is to identify and discuss various mechanisms that are currently available to states for taking action to protect UCH located extra-territorially and to encourage states to make use of these mechanisms prior to such time as the UNESCO Convention becomes an effective global regime.

BACKGROUND: UNESCO CONVENTION 2001

The UNESCO Convention on the Protection of the Underwater Cultural Heritage 2001 is a remarkable achievement by the international community. Despite the political and legal constraints within which the negotiators had to work, they managed to construct a detailed and quite imaginative legal framework for the protection of UCH. At an early stage the decision was made to focus the remit of the Convention on regulating activities directed at UCH, i.e. the activities of treasure salvors, rather than also trying to deal with activities that incidentally affect UCH, such as fishing, pipeline laying and mineral extraction. From an archaeological point of view, the Convention is very favourable: it adopts

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