

Meeting of States Parties to UNESCO Convention
on the Protection of Underwater Cultural Heritage

March 26 – 27, 2009
Paris, France

FINAL

Observer Statement by the United States of America

Thank you, Distinguished Chair,

The United States first wishes to express its congratulations to you on your selection to chair this first meeting of the States Parties to the UNESCO Convention on the Protection of Underwater Cultural Heritage. Further, we express our gratitude to you and to the States Parties to this Convention for the opportunity to participate in this meeting as an observer State delegation, and for the opportunity to make the following statement in that capacity. We would like to address several issues of importance to the United States.

Distinguished colleagues,

The United States uses this occasion to re-affirm its support of the overall goal of this UNESCO Convention to protect underwater cultural heritage. The United States fully supports the Annex of Rules concerning activities directed at underwater cultural heritage.

Since the conclusion of the negotiations on this Convention in 2001, the United States has taken several steps to protect underwater cultural heritage, in a manner consistent with customary international law, as reflected in the United Nations Convention on the Law of the Sea. For example, the United States enacted a new law, the Sunken Military Craft Act of 2004, to ensure protection of both sunken U.S. military craft, wherever located, and sunken foreign military craft located in U.S. waters (landward of the 24nm limit of the contiguous zone). The Sunken Military Craft Act provides that the law of finds does not apply to any U.S. sunken military craft, wherever located, or to any sunken foreign military craft located in U.S. waters, in

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a manner consistent with customary international law and the interests of Flag States. The law also extensively protects all U.S. sunken military craft and sunken foreign military craft in U.S. waters from the application of the law of salvage by prohibiting the issuance of any salvage rights or awards under salvage law, unless expressly authorized by the flag State of the sunken military craft. The Sunken Military Craft Act clarifies that sunken military craft of the United States remain U.S. property and that right, title, and interest of the United States are not extinguished except by express divestiture of title by the United States. Further, this U.S. law encourages the United States to negotiate bilateral and multilateral agreements to protect sunken military craft. To date, the United States has cooperated with several foreign nations on the protection of their sunken State craft in U.S. waters and has provided technical assistance for underwater cultural heritage research projects outside of U.S. waters.

Another example of measures the United States has taken to protect underwater cultural heritage is the negotiation, with Canada, France, and the United Kingdom, resulting in the International Agreement Concerning the Shipwrecked Vessel R.M.S. *Titanic*. The United States signed this Agreement in 2004 and has made considerable efforts toward promoting the protection of the sunken vessel, its wreck site, and its artifacts. This includes developing proposed implementing legislation for the Agreement consistent with the historic preservation principles in the UNESCO UCH Convention and its Annexed Rules. In addition, in 2001, the U.S. Department of Commerce's National Oceanic and Atmospheric Administration published Guidelines for Research, Exploration and Salvage of R.M.S. *Titanic* that are similar to the Annexed Rules of the UNESCO UCH Convention.

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The Annexed Rules of the UNESCO UCH Convention are a valuable contribution to the protection of underwater cultural heritage. A number of United States federal and state agencies currently use the Annexed Rules as a guide in the protection and management of underwater cultural heritage located in national marine sanctuaries, national parks, and national monuments, including in the national marine monument in the Northwestern Hawaiian Islands, the Papahānaumokuākea National Monument.

These actions illustrate that the United States cares about and is actively taking steps to protect underwater cultural heritage. The United States believes that a broadly ratified Convention is a useful means through which to achieve the protection of underwater cultural heritage. The United States supported and actively participated in the negotiations here at UNESCO to develop a multilateral instrument to protect underwater cultural heritage. The resulting Convention, especially in the Annexed Rules, preamble, and general principles, reflects substantial progress by the global community in developing means to protect submerged cultural heritage. However, the United States continues to have serious concerns with certain provisions in the Convention. These concerns have prevented our country from becoming a State Party. For example, the United States cannot join a convention that is not consistent with the jurisdictional regime set forth in the United Nations Convention on the Law of the Sea. The United States hopes that there will be future opportunities to discuss the concerns that have prevented our country, and others, from joining this Convention. We also look forward to opportunities to discuss some of the means by which States may cooperate, including through scientific and technical exchanges, to protect underwater cultural heritage.

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Distinguished colleagues,

Again, thank you for this opportunity and for your attention. We will continue listening attentively to the discussions among the States Parties. Our delegation is open to further exchanges of views with other colleagues both at this meeting and in the future.

Mr. Chairman,

I respectfully request that this Statement be included in the official records of this meeting. Thank you.