



Maritime Laws and Legislations

MARITIME LAWS AND LEGISLATIONS

WHY IS LEGAL PROTECTION IMPORTANT?

Legal protection is a key part of effective heritage protection. Unfortunately, in many cases, underwater cultural heritage is not comprehensively protected by pre-existing international laws and national laws.

As you can see in this course, there are many factors that can damage archaeological remains that are located in the water, including building promenades, hotels, oil drilling, pipeline or other infrastructure, recovery of gravel and sand, building of artificial islands, pollution, and trawling. Climate change causes sea-level changes and storm surges can also damage terrestrial coastal sites.

A further concern is the shortage of qualified maritime archaeologists and specialists available to document and safeguard our maritime legacy. As a result, untrained enthusiasts, commercial salvage operators, and treasure seekers are frequently employed instead of archaeologists, leading to the deterioration and damage of significant historical sites.

THE DIFFERENCE BETWEEN NATIONAL AND INTERNATIONAL LAW

There are two types of law and legislation that can protect (underwater) cultural heritage: national laws and international laws.

National laws refer to a nation's internal legal framework and typically originates from its statutes, codes, and national regulations. These legal sources may be further clarified through administrative policies or decisions made by courts and administrative tribunals.

International law, on the other hand, refers to agreements between two or more countries. It primarily stems from widely accepted national practices (customary international law) and treaties or conventions, which are only enforceable for nations that have signed them. Public international law incorporates agreements concerning national governments' activities and responsibilities, such as the 2001 UNESCO Convention. In contrast, private international law deals with the activities of companies or individuals, like maritime salvage regulations.

THE IMPORTANCE OF INTERNATIONAL LAWS

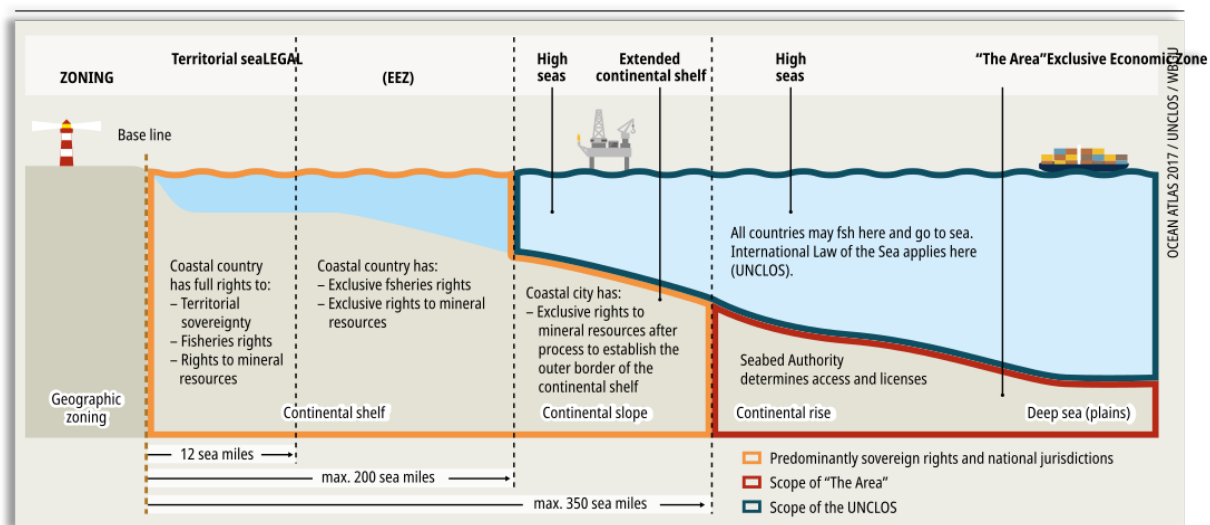
Nations have the ability to join agreements, such as Conventions, to address shared challenges. The content of these Conventions is determined through negotiations and finalized when all participating countries sign them, or when it is adopted by a General Conference. Once a Convention is adopted, it becomes available for ratification by individual states.

As we have mentioned above, underwater cultural heritage is not always safeguarded by national legislation. Another factor is that the applicability of national laws is limited geographically by clearly divided maritime zones, the Territorial Sea, the Contiguous Zone, the Exclusive Economic Zone (EEZ), the High Sea and the Area. We will have a closer look at these zones in the next section. While countries have complete authority within their Territorial Sea and Contiguous Zone, their jurisdiction becomes restricted in the Exclusive Economic Zone (EEZ) beyond the Contiguous Zone. In the High Sea and the Area, nations can only exercise control over their own citizens and vessels flying their flag. These maritime zones play a vital role in establishing sea boundaries, determining rights to resources, and setting the extent of coastal states' jurisdiction under international law. The upcoming section will provide additional information about these various zones and jurisdictions.

INTERNATIONAL LAW: THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (UNCLOS III)

To begin, we'll examine the United Nations Convention on the Law of the Sea (UNCLOS). This global treaty addresses nations' rights and obligations regarding their use of the world's oceans. UNCLOS outlines guidelines for commercial activities, environmental protection, and the supervision of marine resources. The treaty emerged from the third United Nations Conference on the Law of the Sea (UNCLOS III), which took place from 1973 to 1982, and became effective in 1994. UNCLOS III is now one of the most widely endorsed frameworks for governing international maritime relations. Over 160 countries, along with the European Union, have ratified this global accord.

UNCLOS established a framework of maritime zones with varying levels of state jurisdiction. This system comprises six distinct areas: internal waters, territorial sea, contiguous zone, exclusive economic zone (EEZ), continental shelf, and the Area. Each zone grants different legal rights to states.



Maritime Zones and the International Law of the Sea (Image: Balkanique, [Wikimedia](#))

INTERNAL WATERS

Internal Waters are located landward of the baseline of the territorial sea. They include harbours, bays, rivers, and lakes. Coastal states have full sovereignty over internal waters, similar to land territory. Usually, the baseline is the low water level along the coast. Coastal states have the authority to regulate foreign vessels in their ports and in internal waters. Furthermore, the state has the right and responsibility to protect the marine environment within internal waters. Certain bodies of water may be classified as internal waters due to historical claims, provided these claims are internationally recognized.

TERRITORIAL SEA

The Territorial Sea extends up to 12 nautical miles from a country's baseline, which is typically the low-water line along the coast. In this area, the coastal state has full sovereignty (airspace, seabed, and subsoil) but foreign vessels have the right of peaceful passage. The coastal state can enforce its laws and regulations within this zone, including those related to customs, immigration, and environmental protection. The coastal state has exclusive rights to exploit and manage natural resources within its territorial sea.

CONTIGUOUS ZONE

The Contiguous Zone lies immediately outside the Territorial Sea and extends up to 24 nautical miles from the baseline. It serves as a buffer zone between Territorial Sea and Exclusive Economic Zone. The coastal state has limited control and rights of law enforcement. This area also does not grant full sovereignty. It allows prevention and punishment of infringements of customs, fiscal, immigration, or sanitary laws. The coastal state can exercise necessary control to prevent violations within its territory or Territorial Sea.

THE EXCLUSIVE ECONOMIC ZONE (EEZ)

The Exclusive Economic Zone (EEZ) extends beyond the Contiguous Zone, reaching a distance of 200 nautical miles from the baseline. The EEZ serves to balance the economic interests of coastal states with the maintenance of navigational freedom for other nations. It grants substantial economic benefits upon coastal states while

simultaneously preserving essential aspects of the ‘freedom of the seas’ doctrine. Within the EEZ the coastal state has the sovereign rights for the exploration, exploitation, conservation, and management of natural resources, both living and non-living, within the water column, seabed, and subsoil. It has jurisdiction over the establishment and use of artificial islands, installations, structures, as well as the conduct of marine scientific research and environmental protection activities. Other nations retain certain rights within the EEZ, such as freedom of navigation and overflight and the laying of submarine cables and pipelines. There is limited enforcement powers granted to the coastal state in comparison to those exercised within its territorial sea.

THE CONTINENTAL SHELF

The continental shelf includes the seabed and subsoil of submarine areas that extend beyond the Territorial Sea. It extends to the outer edge of the continental margin or to 200 nautical miles from the baseline, whichever is greater. Nations have the ability to extend their continental shelf beyond the 200 nautical mile limit if they can demonstrate that it is a natural continuation of their terrestrial landmass. The Commission on the ‘Limits of the Continental Shelf’ reviews and makes recommendations on submissions from coastal countries seeking to extend their continental shelf claims. Nations with coastlines possess exclusive rights to explore and utilize natural resources within their continental shelf. These rights include the extraction of minerals and other non-living resources, as well as sedentary species. In cases where continental shelves of multiple countries overlap, borders are established through mutual agreement. Countries are required to protect and conserve the marine ecosystem of the continental shelf. Coastal nations have the authority to regulate scientific studies conducted on their continental shelf.

THE HIGH SEA AND THE AREA

The High Seas and the Area lie beyond the EEZ zone. The High Seas include all parts of the sea that are not included in the EEZ, Territorial Sea, the Contiguous Zone. They are open to all states, whether coastal or landlocked, for various freedoms including navigation, overflight, fishing, and scientific research. This area is regulated by international law, primarily the United Nations Convention on the Law of the Sea (UNCLOS).

The Area includes the seabed, ocean floor, and subsoil thereof beyond the limits of national jurisdiction. It is classed as a common heritage of mankind, meaning its resources belong to all humanity. The Area is managed by the International Seabed Authority (ISA), established under UNCLOS. Both the High Seas and the Area present unique challenges in international law and governance, requiring cooperation among nations to ensure sustainable use and conservation of marine resources beyond national jurisdictions.

UNCLOS LAWS RELEVANT TO UNDERWATER CULTURAL HERITAGE

UNCLOS plays a crucial role in protecting maritime heritage in the Area (seabed and ocean floor beyond national jurisdiction). UNCLOS Article 149 addresses archaeological and historical objects found in the Area.

UNCLOS §149 Archaeological and Historical Objects

“All objects of an archaeological and historical nature found in the Area shall be preserved or disposed of for the benefit of mankind as a whole, particular regard being paid to the preferential rights of the State or country of origin, or the State of cultural origin, or the State of historical and archaeological origin.”

Article §303, on the other hand, applies to objects found in various maritime zones, while Article 149 specifically addresses those found in the Area.

However, these laws give only protective powers up to the limits of the Contiguous Zone and they do permit commercial salvage. Especially Article 303 para. 3 stipulates that “Nothing in this article affects the rights of identifiable owners, the law of salvage or other rules of admiralty, or laws and practices with respect to cultural exchanges”. The challenge lies in safeguarding cultural heritage situated within these maritime zones. As one ventures beyond the territorial waters, only specific rights are permitted in these areas, and there are no restrictions in the 'Area' where individuals can essentially engage in any activity, provided it is peaceful and does not involve slavery.

UNCLOS §303 Archaeological and historical objects found at sea

- ▶ States have the duty to protect objects of an archaeological and historical nature found at sea and shall cooperate for this purpose.
- ▶ In order to control traffic in such objects, the coastal State may, in applying article 33 [on the Contiguous Zone], presume that their removal from the seabed in the zone referred to in that article without its approval would result in an infringement within its territory or territorial sea of the laws and regulations referred to in that article.
- ▶ Nothing in this article affects the rights of identifiable owners, the law of salvage or other rules of admiralty, or laws and practices with respect to cultural exchanges.
- ▶ This article is without prejudice to other international agreements and rules of international law regarding the protection of objects of an archaeological and historical nature.

The UNESCO 2001 Convention¹ aims to address the above issues, which will be examined in section 4.3. But first, we will explore the ICOMOS 'Charter on the Protection and Management of Underwater Cultural Heritage'.

3.3 ICOMOS CHARTER ON THE PROTECTION AND MANAGEMENT OF UNDERWATER CULTURAL HERITAGE

The purpose of the ICOMOS Charter is to provide guidance on managing and safeguarding underwater cultural heritage in inland and inshore waters, in shallow seas and in deep oceans. It addresses the unique characteristics and contexts of submerged cultural artefacts and should be considered as a supplement to the 1990 ICOMOS Charter for Archaeological Heritage Protection and Management. The

¹ https://www.un.org/depts/los/convention_agreements/texts/unclos/UNCLOS-TOC.htm

ICOMOS International Committee on the Underwater Cultural Heritage (ICUCH) was responsible for developing this Charter.

The Charter establishes key principles for underwater heritage preservation across 14 Articles, addressing aspects such as funding, research goals, team qualifications, investigation methods, documentation practices, material conservation techniques, site management, and information dissemination. It prioritizes in situ preservation and emphasizes the importance of proper treatment of the archaeological material during the investigation, during transit and over the long term. The Charter promotes international collaboration and expert exchange to enhance underwater heritage research and investigations. It also advocates for public awareness of underwater heritage significance and encourages communication with relevant communities regarding proposed studies.

The status of this document was confirmed in 2001 when it was incorporated as the Annex to the UNESCO International Convention for the Protection of Underwater Cultural Heritage. It has thus become the standard guide to the ethics and practices of underwater cultural heritage management throughout the world.

The Charter is available online so have a look! ²

² <https://www.icomos.org/en/faq-doccen/179-articles-en-francais/ressources/charters-and-standards/161-charter-on-the-protection-and-management-of-underwater-cultural-heritage>

THE UNESCO CONVENTION ON THE PROTECTION OF THE UNDERWATER CULTURAL HERITAGE

UNESCO's Recommendation on 'International Principles Applicable to Archaeological Excavations', established in 1956, encompassed underwater sites within territorial waters. However, a more comprehensive and specific international legal framework was necessary to safeguard this heritage. Consequently, the 2001 UNESCO Convention was developed, incorporating principles from the ICOMOS Charter on the 'Protection and Management of the Underwater Cultural Heritage' (Sofia, Bulgaria, 1996). This convention also serves as a complement to the 'UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property' (1970).

The convention sets out basic principles for the protection of underwater cultural heritage and provides a detailed state cooperation system. It, furthermore, provides widely recognized practical rules for the treatment and research of underwater cultural heritage. The Convention consists of a main text and an annex, which sets out the "rules for activities directed at underwater cultural heritage"

The UNESCO Convention adopts the jurisdictional framework established by UNCLOS (see section 3.2), encompassing all water bodies from inland lakes and rivers to our vast oceans. This convention applies universally to all sites without requiring prior designation. Such comprehensive coverage proves highly beneficial, ensuring immediate protection for archaeological sites.

The UNESCO Convention on the Protection of the Underwater Cultural Heritage adopts a 100-year benchmark for defining underwater cultural heritage. This means that all traces of human existence that have been underwater for at least 100 years are considered underwater cultural heritage and are protected under the convention. The benchmark of 100 years is a compromise, considering other agreements such as the Wreck Removal Convention adopted in 2007 to clear water ways. However, individual states have the ability to enhance their domestic legislation to safeguard more recent historical sites, including those from World War II. UNESCO's efforts are aimed at encouraging the preservation of these locations. The Convention came into force in 2009, after its twentieth ratification, and has gathered momentum since then, with 55 states having now ratified or accepted it.

MAIN PRINCIPLES OF THE UNESCO CONVENTION

The Convention establishes a legal framework for the preservation, research, and management of underwater cultural heritage, which includes shipwrecks, sunken buildings and settlements, and other submerged artifacts of historical or cultural significance. The Convention sets out to achieve its overarching goal of protecting under water cultural heritage by addressing 6 smaller, separate, but often interrelated, issues facing underwater archaeologists, heritage managers and the underwater cultural heritage itself. These issues are:

- activities directly affecting underwater cultural heritage (such as looting/treasure hunting),
- activities incidentally affecting Underwater cultural heritage (development, trawling, other sea-bed resource extraction)
- lack of state cooperation,
- lack of state archaeological capacity and infrastructure (including lack of central UCH authority for distribution of information and authorisation of activities)
- lack of public awareness,
- lack of internationally recognised standards

KEY PRINCIPLES OF THE CONVENTION INCLUDE:

Obligation to Preserve Underwater Cultural Heritage: States Parties should preserve underwater cultural heritage and take action accordingly. This does not mean that ratifying States would necessarily have to undertake archaeological excavations; they only have to take measures according to their capabilities. The Convention encourages scientific research and public access.

In Situ Preservation As First Option: The in-situ preservation of underwater cultural heritage (i.e. in its original location on the seafloor) should be considered as the first option before allowing or engaging in any further activities. The recovery of objects may, however, be authorized for the purpose of making a significant contribution to the protection or knowledge of underwater cultural heritage.

No Commercial Exploitation: The 2001 Convention stipulates that underwater cultural heritage should not be commercially exploited for trade or speculation, and that it should not be irretrievably dispersed. This regulation is in conformity with the

moral principles that already apply to cultural heritage on land. It is not to be understood as preventing archaeological research or tourist access.

Training and Information Sharing: States Parties shall cooperate and exchange information, promote training in underwater archaeology, and promote public awareness regarding the value and importance of Underwater Cultural Heritage.

DEFINITION OF UNDERWATER CULTURAL HERITAGE IN THE UNESCO CONVENTION

Underwater cultural heritage is defined broadly and encompasses all traces of human existence that have been submerged for at least 100 years. The definition is contained in Article 1 of the Convention.

The definition specifically encompasses traces such as structures and prehistoric artifacts, which are often overlooked in national protection systems that typically concentrate on shipwrecks alone. Additionally, it incorporates the surrounding natural environment where the heritage is situated, marking a significant advancement in the field.

UNESCO CONVENTION ON THE PROTECTION OF THE UNDERWATER CULTURAL HERITAGE

§ 1

(a) “Underwater cultural heritage” means all traces of human existence having a cultural, historical or archaeological character which have been partially or totally under water, periodically or continuously, for at least 100 years such as:

- (i) sites, structures, buildings, artefacts and human remains, together with their archaeological and natural context;
- (ii) vessels, aircraft, other vehicles or any part thereof, their cargo or other contents, together with their archaeological and natural context; and
- (iii) objects of prehistoric character.

Although comprehensive, this definition serves only as a baseline requirement, allowing States Parties to expand it further within their jurisdictions if they wish. An even broader definition could encompass submerged remains less than a century old,

such as palaeoecological evidence, or areas devoid of physical human artifacts but potentially significant to peoples in the past. The definition does not have a significance criteria like for instance the United Kingdom Protection of Wrecks Act.

The definition of underwater cultural heritage used by the 2001 Convention has now been recognized by a large number of States, establishing it as the most commonly recognized standard. This recognition is crucial for accurately identifying cultural heritage and preventing harmful activities like treasure hunting. Many treasure-hunters do, for instance, argue that repetitive materials (coins, ceramics) do not have heritage value. The 2001 Convention, which is the most widely acknowledged international standard, proves them wrong. By doing so, the convention helps safeguard valuable artifacts from potential damage or loss due to misclassification.

For further reading, see: <https://unesdoc.unesco.org/ark:/48223/pf0000152883>

THE INTERPLAY BETWEEN NATIONAL AND INTERNATIONAL LAW

Even though these important international laws and conventions exist, their actual implementation, and, therefore, allowing effective management and protection of underwater cultural heritage, requires action at national level. Each state that ratifies the 2001 Convention needs to establish national legislation which implements (and allows to enforce) the Convention's principles. To help countries do this, UNESCO has produced a model law³ to aid national governments in drafting their own legislation.

Even though international legislation is crucial to protect vulnerable heritage, and it facilitates mutually beneficial cooperations, national legislation is still very important because not all nations ratify them. For example, some of the big maritime states such as the UK, USA, and Australia have not ratified the UNESCO convention, and the heritage of these states can only be protected under national laws.

3

http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/UCH_UNESCO_MODEL_UNDERWATER_ACT_2013.pdf

LEGISLATIONS AND CONTESTED HERITAGE

It is estimated that 3 million shipwrecks lie on the global seabed, with most known wrecks located in more accessible territorial waters. Relatively few are reported from the Exclusive Economic Zone (EEZ), and the Area. While contested maritime heritage represents a small portion of global heritage, it shows the inadequacies in international law that impede heritage protection, particularly in legal grey areas such as heritage found in the EEZ. We will look at some of these issues in this section.

Given the nature underwater archaeology and the legislations surrounding it, disagreements can arise when maritime heritage is (a) located within contested maritime territories or (b) in areas beyond state jurisdiction but bearing verifiable links with, or evidence of, ownership by a state. In these scenarios, the process of recording, recovering, and managing maritime heritage carries political implications that can be, and have been, exploited to validate political and economic interventions, as well as territorial claims during both active conflicts and periods of relative peace.

The protection and conservation of (maritime) heritage is undoubtedly of great importance. However, it also critical to consider other equally significant concerns, such as the ethical and political aspects of maritime cultural heritage in conflict situations. A small but valuable body of research has demonstrated how maritime heritage has been exploited to legitimize and normalize ongoing, unresolved political conflicts.

UNCLOS III

UNCLOS III stipulates that coastal states have complete jurisdiction within their Territorial Sea and, in specific instances (such as archaeological activities and underwater cultural heritage traffic), within the Contiguous Zone (UNCLOS Art. 303(2)). While the unauthorized extraction of artifacts from the seabed up to 24 nautical miles is considered a territorial violation under UNCLOS Art 303(2), it remains uncertain how a nation should, or will, address this infringement beyond implementing regulatory measures, such as issuing permits.

One of the major issues is that, currently, there is a lack of clear legislation concerning underwater cultural heritage within the EEZ and the continental shelf beyond the contiguous zone. Although states have sovereign rights in the EEZ, their

jurisdiction is limited to scientific research and the exploration, exploitation, conservation, and management of marine resources. Despite the common use of scientific tools in maritime archaeology, such activities are not categorized as scientific research. An additional problem is that underwater cultural heritage is not considered a marine resource. However, the exploration or documentation of underwater cultural heritage may involve broader environmental studies that could potentially threaten state interests in marine resources within the EEZ. Additionally, the removal of underwater cultural heritage might impact or harm marine resources and ecosystems, such as artificial reefs that form on shipwrecks. Some nations, like the United States, have extended their jurisdiction over underwater cultural heritage in the EEZ by framing it as marine resource protection. Other countries have developed domestic heritage laws that include heritage found within the EEZ. It is important to note that these laws are not binding on other states.

UNCLOS §303 Archaeological and historical objects found at sea

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2. In order to control traffic in such objects, the coastal State may, in applying article 33 [on the Contiguous Zone], presume that their removal from the seabed in the zone referred to in that article without its approval would result in an infringement within its territory or territorial sea of the laws and regulations referred to in that article.
3. Nothing in this article affects the rights of identifiable owners, the law of salvage or other rules of admiralty, or laws and practices with respect to cultural exchanges.
4. This article is without prejudice to other international agreements and rules of international law regarding the protection of objects of an archaeological and historical nature.

Heritage-related disputes in the EEZ are addressed and settled individually. UNCLOS stipulates that all historically and/or archaeologically significant items should be conserved for humanity's benefit, with priority given to countries of origin. This includes cultural, historical, and archaeological origins. Nations are obligated to safeguard and collaborate in protecting underwater cultural heritage, but this

provision lacks a clear definition of protection and fails to identify specific custodians for this heritage. While some countries apply their national legislation to assert ownership or custodial rights over underwater cultural heritage in their EEZ (e.g., Republic of Cyprus), these claims are often unenforceable, particularly when cooperation is unattainable, such as during active or inactive conflicts. The situation becomes more complex if one or more of the disputing nations are not signatories to UNCLOS III. Prominent non-signatories include the United States, Israel, Türkiye, and various South American countries.

UNESCO CONVENTION

The 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage establishes a foundation for archaeological practices by formalizing shared professional values and responsibilities regarding underwater heritage. While UNESCO's regulations are only binding for countries that have ratified the convention, many non-signatory nations are committed to its objectives or have incorporated similar rules into their domestic antiquities laws.

UNESCO 2001 (Article 10(2)) extends the authority of state parties to permit or prohibit underwater cultural heritage related activities within their EEZ and Continental Shelf, thus expanding the heritage protection provided by UNCLOS III. Similar to UNCLOS III, UNESCO 2001 is only binding for its 72 signatory states (as of 2023). Notable non-parties include countries involved in ongoing maritime boundary disputes, such as China, Russia, the USA, and Israel.

UNESCO CONVENTION ON THE PROTECTION OF THE UNDERWATER CULTURAL HERITAGE § 10

Protection of underwater cultural heritage in the exclusive economic zone and on the continental shelf

1. No authorization shall be granted for an activity directed at underwater cultural heritage located in the exclusive economic zone or on the continental shelf except in conformity with the provisions of this Article.
2. A State Party in whose exclusive economic zone or on whose continental shelf underwater cultural heritage is located has the right to prohibit or authorize any activity directed at such heritage to prevent interference with its sovereign rights or jurisdiction as provided for by international law including the United Nations Convention on the Law of the Sea.
3. Where there is a discovery of underwater cultural heritage or it is intended that activity shall be directed at underwater cultural heritage in a State Party's exclusive economic zone or on its continental shelf, that State Party shall:
 - (a) consult all other States Parties which have declared an interest under Article 9, paragraph 5, on how best to protect the underwater cultural heritage;
 - (b) coordinate such consultations as "Coordinating State", unless it expressly declares that it does not wish to do so, in which case the States Parties which have declared an interest under Article 9, paragraph 5, shall appoint a Coordinating State.
4. Without prejudice to the duty of all States Parties to protect underwater cultural heritage by way of all practicable measures taken in accordance with international law to prevent immediate danger to the underwater cultural heritage, including looting, the Coordinating State may take all practicable measures, and/or issue any necessary authorizations in conformity with this Convention and, if necessary prior to consultations, to prevent any immediate danger to the underwater cultural heritage, whether arising from human activities or any other cause, including looting. In taking such measures assistance may be requested from other States Parties.
5. The Coordinating State:
 - (a) shall implement measures of protection which have been agreed by the consulting States, which include the Coordinating State, unless the consulting States, which include the Coordinating State, agree that another State Party shall implement those measures;
 - (b) shall issue all necessary authorizations for such agreed measures in conformity with the Rules, unless the consulting States, which include the Coordinating State, agree that another State Party shall issue those authorizations;
 - (c) may conduct any necessary preliminary research on the underwater cultural heritage and shall issue all necessary authorizations therefor, and shall promptly inform the Director-General of the results, who in turn will make such information promptly available to other States Parties.
6. In coordinating consultations, taking measures, conducting preliminary research and/or issuing authorizations pursuant to this Article, the Coordinating State shall act on behalf of the States Parties as a whole and not in its own interest. Any such action shall not in itself constitute a basis for the assertion of any preferential or jurisdictional rights not provided for in international law, including the United Nations Convention on the Law of the Sea.
7. Subject to the provisions of paragraphs 2 and 4 of this Article, no activity directed at State vessels and aircraft shall be conducted without the agreement of the flag State and the collaboration of the Coordinating State.

DISPUTED MARITIME TERRITORIES

UNCLOS III and UNESCO 2001 emphasize the safeguarding and conservation of underwater cultural heritage. In areas beyond national jurisdiction, this should be achieved through mutually advantageous state collaboration, with heritage protection as the primary objective. Challenges may emerge when underwater cultural heritage is situated in disputed, contested, or occupied territories affected by conflict, either directly or indirectly.

One issue arises in regions controlled by unrecognized political entities, which some states may view as an obstacle to cooperation. Another concern is the potential unwillingness of various parties (whether recognized or unrecognized political entities) claiming ownership or custodianship of heritage to work together. In this regard, ongoing and frozen conflicts, as well as long-standing territorial disputes, create significant hurdles for protecting archaeological sites in contested waters. While the significance of heritage preservation is undeniable, there is debate over the extent to which it should take precedence over territorial and other human rights violations resulting from conflict.

Consequently, the lack of nuance and varying interpretations of international law concerning maritime heritage and disputes often work to the detriment of heritage preservation, particularly in contested territories. This situation also presents ethical dilemmas for heritage professionals, who may feel compelled to choose between protecting heritage and violating international law. UNCLOS III and UNESCO 2001 emphasize the safeguarding and conservation of underwater cultural heritage. In areas beyond national jurisdiction, this should be achieved through mutually advantageous state collaboration, with heritage protection as the primary objective. Challenges may emerge when underwater cultural heritage is situated in disputed, contested, or occupied territories affected by conflict, either directly or indirectly.

CONTESTED EEZ

Coastal states must declare an EEZ as it is not an inherent right. This declaration often occurs after the discovery of marine resources, prompting states to assert their maritime sovereignty. Typically, EEZ proclamation involves interstate cooperation to establish maritime boundaries. Agreements can be reached even between nations without diplomatic ties, as demonstrated by the 2022 Lebanon-Israel deal on offshore hydrocarbon resource exploitation.

In 2015, the Palestinian Authority (Palestine) joined UNCLOS III and declared its EEZ off Gaza Strip in 2019. However, it is widely recognized that Palestine cannot enforce its legal rights over marine resources. It has never had access to its EEZ, and Israeli naval blockades currently limit maritime activities to 9-15 nautical miles offshore. Despite ratifying UNESCO 2001 in 2011, Palestine faces significant challenges in protecting Underwater Cultural Heritage (UCH) due to the current state of its maritime territory, an area with substantial historic maritime traffic.

In 1997, two 8th century BCE shipwrecks were discovered 33 nautical miles off Gaza's coast at a depth of 400m, in what is now considered Palestine's EEZ. These ships were reported as being located off Ashkelon, Israel (Ballard et al. 2002). The archaeological and technological significance of this discovery has been cited at least 240 times (Google Scholar), with minimal discussion of the project's ethical and political implications.

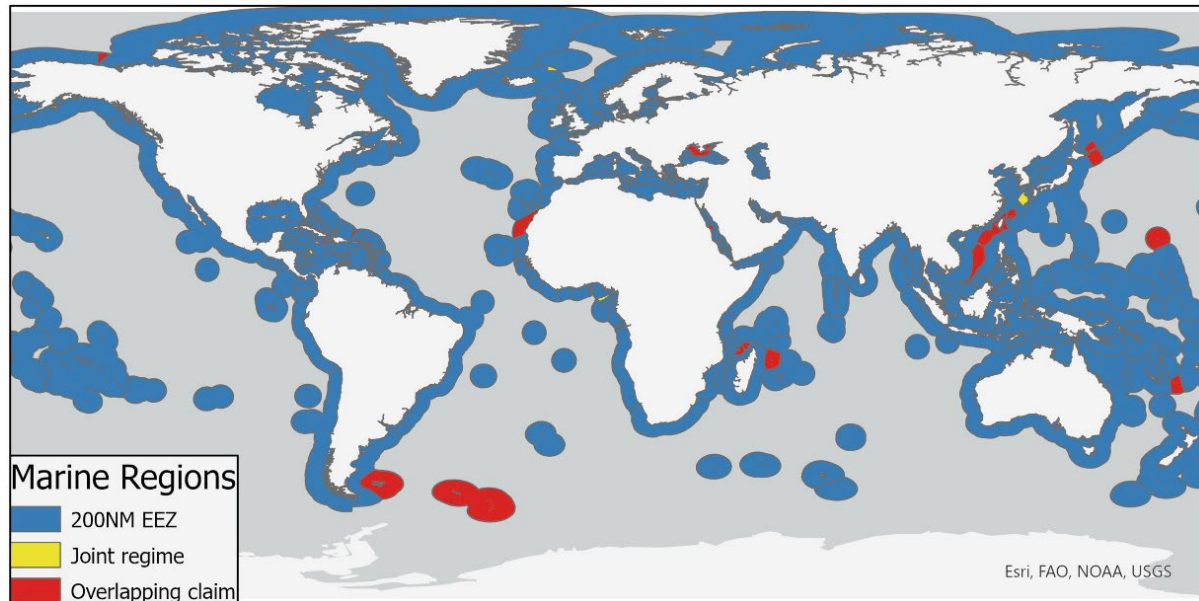
Determining the legality of this expedition is complex, as it occurred before Palestine's EEZ declaration and did not directly interfere with the continental shelf in the way excavation or material extraction would. In theory, Palestine has stewardship rights, and at minimum, protecting these wrecks should involve cooperation with Israel.

UNCLOS AND HISTORICAL CLAIMS TO DISPUTED MARITIME AREAS

Under specific circumstances, UNCLOS acknowledges historical rights to sea territories, such as in determining territorial sea baselines between nations with opposing or adjacent coastlines (UNCLOS, Arts. 10, 15). Some countries have utilized underwater cultural heritage to assert historical claims over maritime regions. Under specific circumstances, UNCLOS acknowledges historical rights to sea territories, such as in determining territorial sea baselines between nations with opposing or adjacent coastlines (UNCLOS, Arts. 10, 15). Some countries have utilized underwater cultural heritage (UCH) to assert historical claims over maritime regions. This is particularly evident in the ongoing South China Sea disputes involving China, Taiwan, Vietnam, and the Philippines, where China has based its sovereignty claims on UCH.

China's actions include challenging the legitimacy of foreign marine archaeological expeditions in the South China Sea and asserting ownership of Chinese-origin UCH, even when located on another country's continental shelf (EEZ), as well as

documenting such heritage without state cooperation. China's well-documented efforts to establish sovereignty over this contested maritime area also involve the creation of a UNESCO-recognized "maritime silk road" that traverses disputed waters, including islands with contested sovereignty (Perez-Alvaro and Forrest 2018). Although these actions do not align with UNCLOS III and UNESCO 2001, to which China is not a signatory, there are no consequences or sanctions in place.



Map showing areas with contested/overlapping claims over maritime jurisdiction (Andreou 2024).

Disclaimer: The materials and information presented in these lectures have been compiled from a range of academic sources, which are listed in the Bibliography and Further Reading section of this course.