

BURLINGTON HOUSE DECLARATION

Adopted at a seminar hosted by the Society of Antiquaries of London, Burlington House, London, on 28 October 2005

In the year that marks the bicentenary of Trafalgar, one of the most significant sea battles in history, the marine historic environment community of the United Kingdom:

Conscious of the great diversity and richness of underwater cultural heritage within UK Waters and of Britain's maritime heritage around the world,

Deeply concerned by the lack of a comprehensive international regulatory framework for the marine historic environment situated beyond the territorial limits of sovereign States,

Recognising that Her Majesty's Government may only act in accordance with international law,

Mindful of the duty, to protect archaeological and historical material found in all sea areas and to co-operate for that purpose, placed upon the United Kingdom and other States Parties to the United Nations Convention on the Law of the Sea (UNCLOS) 1982 by Articles 149 and 303(1) of that Convention,

Welcoming the support of Her Majesty's Government for the general principles and objectives of the UNESCO Convention on the Protection of the Underwater Cultural Heritage 2001 (hereafter the "2001 Convention"), particularly those set out in the Annex, and noting that the Rules in the Annex represent internationally accepted standards of archaeological good practice,

Convinced that the 2001 Convention represents

- the first multilateral treaty specific to the protection of underwater cultural heritage, in the spirit of Article 303, Par.4 of the UNCLOS Convention;
- the only realistic opportunity for a comprehensive international regulatory framework for the marine historic environment,

Calls upon Her Majesty's Government to:

1. Re-evaluate its position regarding the 2001 Convention with a view to considering how its specific reservations to that convention may be overcome; in particular, consideration should be given to:

- a) Articles 2, Paragraphs 8 and 11, and Article 7 Par.3, of the 2001 Convention with regard to sovereign immunity;
- b) Rule 5 of the Annex to the Convention with regard to respect for human remains;
- c) the fact the United Kingdom is already a State Party to international conventions for the protection of cultural property that, as the 2001 Convention, do not use a significance test for such heritage.

2. In the interim, pursue the general principles and objectives of the 2001 Convention to the maximum extent possible within the confines of existing international law. To this end, Her Majesty's Government is specifically urged to:

- (a) Ensure that the Rules in the Annex to the 2001 Convention are applied to activities directed at the marine historic environment which are licensed by Government Departments or regulated by Statute;
- (b) Co-operate with the Director-General of UNESCO, States Parties to the 2001 Convention, and the International Seabed Authority, in their implementation of the Convention when it enters into force;
- (c) Continue especially within the framework of the 2001 Convention its policy of concluding bilateral or multilateral agreements for the protection of specific aspects of the marine historic environment situated outside the territorial limits of the United Kingdom and give active consideration to how it might co-operate with other States to utilise fully such agreements in the interests of the marine historic environment.
- (d) Explore the desirability of declaring a contiguous zone, referred to in Article 33 of the United Nations Convention on the Law of the Sea 1982, in order that measures to regulate the removal of archaeological and historical objects from the seabed in that zone may be introduced, in accordance with Article 303(2) of that Convention. In so far as such measures are introduced, Her Majesty's Government is urged to ensure that activities are regulated in accordance with the Rules in the Annex to the 2001 Convention.
- (e) Ensure that the proposed Marine Bill takes into account and mitigates to the full extent as necessary the impact of marine activities on the marine historic environment.

Her Majesty's Government is urged to enter into discussions at the earliest opportunity with its heritage agencies, relevant non-governmental organisations and other interested parties with a view to taking these matters forward.

Burlington House, London, the 28th of October 2005

Notes:

1. The importance of the 2001 Convention relates to the protection that may be afforded to numerous locations beyond the UK Territorial Seas where underwater cultural heritage may be considered at risk from destructive salvage operations that do not follow clearly defined archaeological objectives.
2. It should be noted that the specific courses of action outlined in point 2(c), (d) and (e) of the Declaration are in conformity with the 2001 Convention (specifically, Articles 6, 8 and 10(2)). By taking such action now, not only would the United Kingdom be improving the legal protection it affords to the marine historic environment, but also it would be drawing its legal regime more closely in line with that set out in the 2001 Convention, facilitating the possibility of ratification in the future.
3. The relevance of the 2001 Convention should not be understated for Overseas Territories and the protection that would be afforded to the underwater cultural heritage. We encourage Her Majesty's Government to seek the views of the Overseas Territories to ensure that they have the opportunity to request inclusion under the protection provided by the UK as signatory to the 2001 Convention.
4. Her Majesty's Government is reminded that to ensure implementation of the 2001 Convention beyond the limit of the United Kingdom's Territorial Seas competent advice on underwater cultural heritage from appropriate bodies will be required.
5. Statutes regulating activities directed at the marine historic environment include the Protection of Wrecks Act 1973, Ancient Monuments and Archaeological Areas Act 1979, Protection of Military Remains Act 1986, and the Merchant Shipping Act 1995.
6. Her Majesty's Government is encouraged to declare to the Director-General of UNESCO its interests in being consulted in respect of 'underwater cultural heritage' (as defined by the 2001

Convention) that has a verifiable link to the United Kingdom. Her Majesty's Government is also encouraged to collaborate and share information with States Parties, and to seek to attend - as an observer - the anticipated Meetings of States Parties and meetings of the Scientific and Technical Advisory Body.

7. This Declaration is supported by the members of Joint Nautical Archaeology Policy Committee.