

# CONSEIL DE L'EUROPE COUNCIL OF EUROPE

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## COMMITTEE OF EXPERTS ON PUBLIC INTERNATIONAL LAW (CJ-DI)

### Preliminary draft opinion on the application of the draft European Convention on the protection of the underwater cultural heritage

Secretariat Memorandum  
prepared by  
the Directorate of Legal Affairs

1. Following Recommendation 848 (1978) of the Parliamentary Assembly on the underwater cultural heritage [see Appendix I to the present document and in particular paragraph 6 (a)], the ad hoc Committee of experts on the underwater cultural heritage (CAHAQ) adopted, in March 1985, the draft European Convention on the protection of the underwater cultural heritage. The text of the draft Convention is contained in Appendix II to this document.
2. The Committee of Ministers, at its 387th meeting in June 1985 took note of certain difficulties encountered with regard to this draft Convention and in particular the matters raised by Turkey concerning the territorial scope of the draft Convention under Article 2.
3. As a result of this opposition by one State, it is not possible, at the present time, for the draft Convention to be adopted or opened to signature.

4. In its Opinion No 127 (1986) on the draft third medium term plan (1987-91) of the Council of Europe, the Assembly indicated, in paragraph 10 1 (f), that it "hopes that means will be found to resolve the present deadlock in the preparation of a European Convention on the underwater cultural heritage and to undertake further activity in this field".

5. On 28 January 1987 the Parliamentary Assembly held a debate on the communication on the activities of the Committee of Ministers. The Chairman in office of the Committee of Ministers, Mr V HALEFOGLU, replied to questions of Mr Van der WERFF concerning the draft European Convention on the protection of the underwater cultural heritage (see Appendix III for the text of the official report).

6. In March 1988, in Written Question No 303, Mr Van der Werff, on behalf of the Committee on culture and education of the Assembly, again asked the Committee of Ministers about certain matters relating to the underwater cultural heritage. (See Appendix IV for the text of the Written Question).

7. The Committee of Ministers, after examining the Written Question at its meeting in May 1988, decided to assign ad hoc terms of reference to the European Committee on Legal Co-operation (CDCJ). In these ad hoc terms of reference the CDCJ was instructed to give an opinion by 31 December 1989 on paragraph 6 (b) of the Written Question. Paragraph 6 (b) is as follows:

"6. To ask the Committee of Ministers:

(a) ...

(b) whether consideration has been given to the application of such a Convention at regional level on the basis of agreements between States bordering on the same sea or part-sea, as proposed by the Assembly in its initial recommendation" (1).

8. The Committee of Ministers also decided to assign ad hoc terms of reference to the Steering Committee for integrated conservation of historic heritage (CDPH). The CDPH was instructed to give an opinion on paragraph 6 (c) of the Written Question.

9. In order to facilitate the work of the CDCJ dealing with this matter at its November meeting in 1988, the Bureau of the CDCJ decided to refer the ad hoc terms of reference to the Committee of experts on public international law (CJ-DI) for preparation of a preliminary opinion. The CJ-DI is therefore invited to prepare a preliminary opinion for the attention of the CDCJ.

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(1) See paragraph 6 (c) of Assembly Recommendation 848 (1978) contained in Appendix I to this document.

APPENDIX I/ANNEXE I

PARLIAMENTARY ASSEMBLY  
OF THE  
COUNCIL OF EUROPE

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THIRTIETH ORDINARY SESSION

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RECOMMENDATION 848 (1978)<sup>1</sup>  
*on the underwater cultural heritage*

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The Assembly,

1. Welcoming the report on the underwater cultural heritage, presented by its Committee on Culture and Education (Doc. 4200) ;
2. Recognising the historical and cultural significance of this heritage, but aware that positive action is urgently needed on both national and European levels in order to ensure its proper protection ;
3. Noting with satisfaction the growing public interest in the underwater heritage, and anxious that this interest be channelled into a better realisation of the potential value of the heritage rather than lead rapidly to its unauthorised destruction ;
4. Stressing the essential unity of land and underwater archaeology, and its contribution to a greater understanding of the history and culture of the peoples of Europe ;
5. Particularly concerned by the lack of professional experts competent in the field of underwater archaeology, by the small scale of government funding, and by the inadequacies of existing legislation and administrative practice in most member states,
6. Recommends that the Committee of Ministers :

*Action at European level*

- a. draw up a European convention on the underwater cultural heritage, open to all member

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1. *Assembly debate* on 4 October 1978 (18th Sitting) (see Doc. 4200, report of the Committee on Culture and Education).

*Text adopted by the Assembly on 4 October 1978 (18th Sitting).*

ASSEMBLÉE PARLEMENTAIRE  
DU  
CONSEIL DE L'EUROPE

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TRENTIÈME SESSION ORDINAIRE

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RECOMMANDATION 848 (1978)<sup>1</sup>  
*relative au patrimoine culturel subaquatique*

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L'Assemblée,

1. Se félicitant du rapport sur le patrimoine culturel subaquatique, présenté par sa commission de la culture et de l'éducation (Doc. 4200) ;
2. Reconnaissant l'importance historique et culturelle de ce patrimoine, mais consciente de l'urgente nécessité d'une action positive aux niveaux à la fois national et européen, afin d'en assurer la protection d'une façon adéquate ;
3. Notant avec satisfaction l'intérêt croissant du public pour le patrimoine subaquatique, et soucieuse de voir cet intérêt conduire à une prise de conscience de la valeur potentielle de ce patrimoine plutôt qu'à sa destruction rapide et illicite ;
4. Soulignant l'unité de l'archéologie terrestre et subaquatique, et sa contribution à une meilleure compréhension de l'histoire et de la culture des peuples de l'Europe ;
5. Particulièrement préoccupée par le manque d'experts compétents dans le domaine de l'archéologie subaquatique, par la minceur des subventions gouvernementales, et par les lacunes des législations et pratiques administratives existantes dans la plupart des Etats membres,
6. Recommande au Comité des Ministres :

*Au niveau européen*

- a. d'élaborer une Convention européenne sur le patrimoine culturel subaquatique, ouverte à tous

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1. *Discussion par l'Assemblée* le 4 octobre 1978 (18<sup>e</sup> séance) (voir Doc. 4200, rapport de la commission de la culture et de l'éducation).

*Texte adopté par l'Assemblée* le 4 octobre 1978 (18<sup>e</sup> séance).

*Recommendation 848*

*Recommandation 848*

states of the Council of Europe and also to all non-member states bordering on seas in the European area ;

b. negotiate agreement between member states on the declaration of national cultural protection zones up to the 200-mile limit, wherever that limit is in keeping with geographical realities, as a basis for the implementation of the proposed convention ;

c. encourage, in co-operation with UNESCO and ICOM, the administration of the application of the convention at regional level, by agreement between states bordering on the same sea or part-sea ;

d. express its support for the setting up of a European Group for Underwater Archaeology, which, among other things, could prepare and keep up to date a series of European manuals (supplemented where appropriate with visual material) on :

i. existing legislation and administrative regulations concerning the underwater heritage ;

ii. underwater archaeological techniques ;

iii. basic procedures to be followed on locating finds ;

e. bring the report of the Committee on Culture and Education (Doc. 4200) to the attention of interested expert committees in the Council of Europe, with the following proposals for further action at European level :

i. in the field of culture and education, for encouraging training of technicians and archaeologists in underwater questions, for scientific research, and for responsible public education (both inside and outside educational institutions) in the significance of the underwater cultural heritage ;

ii. in the field of environmental protection, for co-ordination of action being taken in favour of the natural and cultural underwater heritage ;

iii. for inclusion of protection of the underwater cultural heritage where appropriate in any future Council of Europe conventions or agreements ;

les Etats membres du Conseil de l'Europe, ainsi qu'à tous les Etats non membres bordant les mers de la zone européenne ;

b. de négocier l'accord des Etats membres, pour fonder la mise en œuvre de la convention proposée, sur la déclaration de zones nationales de protection culturelle jusqu'à la limite de 200 milles quand cette limite s'accorde avec les réalités géographiques ;

c. de faciliter, en coopération avec l'UNESCO et l'ICOM, l'application de la convention au niveau régional par des accords entre les Etats bordant une même mer ou partie de mer ;

d. d'appuyer la création d'un Groupe européen de l'archéologie subaquatique, qui aurait entre autres pour tâche d'élaborer et de tenir à jour une série de manuels européens (complétés en cas de besoin par du matériel visuel) sur :

i. les législations et réglementations administratives existantes concernant le patrimoine subaquatique ;

ii. les techniques de l'archéologie subaquatique ;

iii. les méthodes de base à suivre lors de la découverte d'un gisement ;

e. de porter le rapport de la commission de la culture et de l'éducation (Doc. 4200) à l'attention des comités d'experts intéressés du Conseil de l'Europe, en formulant les propositions complémentaires d'action européenne ci-après :

i. dans le domaine de la culture et de l'éducation, formation de techniciens et d'archéologues dans le domaine subaquatique, recherche scientifique et éducation du public (dans le cadre d'institutions éducatives ou en dehors) pour stimuler une attitude responsable à l'égard du patrimoine culturel subaquatique ;

ii. dans le domaine de la protection de l'environnement, coordination des mesures prises en faveur du patrimoine subaquatique naturel et culturel ;

iii. inclusion de la protection du patrimoine culturel subaquatique, le cas échéant, dans les conventions ou accords futurs du Conseil de l'Europe ;

*Recommendation 848*

iv. to the European Youth Centre and European Youth Foundation, for encouraging seminars of young people interested in this field ;

*Action at national level*

f. urge member governments, on the basis of proposals set out in the Annex to this recommendation :

i. to revise where necessary existing legislation ;

ii. to take further action for the underwater cultural heritage, if possible in concertation amongst themselves, in the areas calling for priority attention.

ANNEX

*Minimum legal requirements*

i. There should be no loopholes in the system of protection. The definition of underwater objects and sites should extend up to what is covered by land antiquities legislation.

ii. Protection should cover all objects that have been beneath the water for more than 100 years, but with the possibility of discretionary exclusion of less important objects (or of less important antiquities) once they have been properly studied and recorded, and the inclusion of historically or artistically significant objects of more recent date.

iii. Individual, and apparently isolated, underwater objects should be protected to the same extent as wrecks or sites.

iv. National jurisdiction should be extended up to the full 200-mile limit, with an international agreement providing for reciprocal treatment of cultural finds landed in countries other than those in whose cultural zones they were found.

v. Existing salvage and wreck law should not apply to any items protected under ii and iv above.

vi. Reporting of finds to the appropriate authorities should be compulsory.

vii. A single authority should be given primary responsibility for dealing with both land and underwater finds, and determining their significance.

viii. A standard system of fixed finder's monetary rewards should be established, related to each identification of an object or site and not necessarily linked to the commercial value of the find. It should differentiate between an individual object and a site, and be heavily weighted in favour of the latter.

*Recommandation 848*

iv. inciter le Centre européen de la jeunesse et le Fonds européen pour la jeunesse à favoriser la tenue de séminaires de jeunes intéressés par ces questions ;

*Au niveau national*

f. de presser les gouvernements des Etats membres, sur la base des propositions figurant en annexe à la présente recommandation :

i. de réviser si nécessaire leur législation ;

ii. de prendre d'autres mesures en faveur du patrimoine culturel subaquatique, si possible en concertation, dans les domaines exigeant une attention prioritaire.

ANNEXE

*Normes légales minimales*

i. La protection ne devrait comporter aucune faille. La définition d'objets ou de sites subaquatiques devra rejoindre le domaine visé par la législation relative au patrimoine terrestre.

ii. La protection devrait viser tous les objets séjournant sous l'eau depuis plus de cent ans, mais avec la possibilité d'exclure de façon discrétionnaire les objets ou antiquités de moindre importance, une fois qu'ils auront été convenablement étudiés et enregistrés, et d'inclure des objets plus récents mais importants sur le plan historique ou artistique.

iii. Les objets subaquatiques individuels et apparemment isolés devront être protégés de la même manière que les épaves ou les gisements.

iv. La juridiction nationale devrait s'étendre jusqu'à la limite des 200 milles, un accord international prévoyant, dans des conditions de réciprocité, le traitement des biens culturels récupérés dans un autre pays que celui dont dépend la zone culturelle où ils ont été découverts.

v. Le droit existant en matière de sauvetage et d'épaves ne devrait pas s'appliquer aux objets protégés sous ii et iv ci-dessus.

vi. La notification des découvertes aux autorités compétentes devrait être obligatoire.

vii. Une autorité unique devrait être responsable d'examiner en première instance les découvertes, tant terrestres que subaquatiques, et d'en déterminer l'importance.

viii. Il faudrait établir un système normalisé de récompense monétaire fixe pour l'inventeur de toute découverte, lié à l'identification de l'objet ou du gisement, et non pas forcément à leur valeur commerciale. Il conviendrait de prévoir un traitement différent s'il s'agit d'un objet isolé ou d'un gisement, la récompense étant nettement plus forte dans le cas de ce dernier.

*Recommendation 848*

*Recommendation 848*

ix. Provision should be made for appropriate enforcement measures.

*Priority areas for further action at national level*

- i. The establishment of stocks of equipment for underwater research, including mobile laboratories and support vessels.
- ii. The training of more technicians and underwater archaeologists and the improvement of career possibilities for those working in this field.
- iii. The setting up of centres for the analysis and treatment of underwater material, for research and for training.
- iv. The systematic preparation of inventories of underwater sites.
- v. The more effective protection and policing of known underwater sites.
- vi. Increased financial support for rescue excavations and for the careful scientific excavation of really significant sites.
- vii. Encouragement of the responsible presentation of the underwater heritage to the public (in particular by television, by publishers and by museums).
- viii. Assistance to the efforts made by local authorities for the display of underwater finds of cultural importance

ix. Il faudrait prévoir des mesures appropriées pour assurer l'application de ces dispositions.

*Priorités au niveau national*

- i. Constituer un stock de matériel pour la recherche subaquatique, comprenant notamment des laboratoires mobiles et des navires d'appui.
- ii. Former davantage de techniciens et d'archéologues subaquatiques, et améliorer les possibilités de carrière pour les personnes travaillant dans ce domaine.
- iii. Créer des centres d'analyse et de traitement des découvertes subaquatiques, de recherche et de formation.
- iv. Procéder à un inventaire systématique des sites subaquatiques.
- v. Améliorer la protection et la surveillance des gisements subaquatiques connus.
- vi. Accroître l'aide financière pour les opérations de sauvetage, et pour la fouille minutieuse et scientifique des gisements vraiment importants.
- vii. Encourager la présentation appropriée du patrimoine subaquatique au public (notamment par la télévision, les maisons d'édition et les musées).
- viii. Contribuer à l'effort entrepris par les collectivités locales pour mettre en valeur les richesses culturelles subaquatiques mises à jour.

APPENDIX II

DRAFT CONVENTION  
ON THE PROTECTION OF THE UNDERWATER CULTURAL HERITAGE

The member States of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose, in particular, of safeguarding and realising the ideals and principles which are their common heritage;

Having regard to Recommendation 848 (1978) of the Parliamentary Assembly of the Council of Europe on the Underwater Cultural Heritage;

Having regard to the European Cultural Convention, signed at Paris on 19 December 1954, particularly to Article 5 thereof;

Having also regard to the European Convention on the Protection of the Archaeological Heritage, signed at London on 6 May 1969;

Acknowledging the importance of the underwater cultural heritage as an integral part of the cultural heritage of mankind and a significant element in the history of peoples and their mutual relations;

Bearing in mind the urgent need to protect the underwater cultural heritage, which is increasingly threatened with destruction, natural or otherwise, with the subsequent and irremediable loss of historical and scientific information, and that, as a consequence, there is an increased need for rescue operations;

Noting that the underwater cultural heritage is endangered by the development of engineering works, by the increasing exploitation of natural resources and by the exploitation of this heritage for commercial or unscientific purposes;

Recognising that responsibility for protecting the underwater cultural heritage rests with the State directly concerned but that such protection is also the concern of all States, as this heritage is common to mankind as a whole;

Recognising the need for international co-operation in the protection of the underwater cultural heritage,

Have agreed as follows:

### Article 1

1. For the purposes of this Convention all remains and objects and any other traces of human existence located entirely or in part in the sea, lakes, rivers, canals, artificial reservoirs or other bodies of water, or in tidal or other periodically flooded areas, or recovered from any such environment, or washed ashore, shall be considered as being part of the underwater cultural heritage, and are hereinafter referred to as "underwater cultural property".

2. Underwater cultural property being at least 100 years old shall enjoy the protection provided by this Convention. However, any Contracting State may provide that such property which is less than 100 years old shall enjoy the same protection.

### Article 2

1. For the purposes of this Convention, the "area" of a Contracting State means its territory and territorial sea and, in respect of a Contracting State which has established it, the zone referred to in paragraph 2.

2. A Contracting State which has established a contiguous zone in conformity with international law may presume that removal of underwater cultural property from the seabed in that zone without its approval would result in an infringement within its territory or territorial sea of the laws and regulations applied in that zone.

### Article 3

Contracting States undertake to protect underwater cultural property in accordance with this Convention. They shall take appropriate measures for this purpose.

### Article 4

Contracting States shall co-operate in the protection of the underwater cultural heritage under this Convention. In pursuance of this principle, Contracting States shall, especially where underwater cultural property is of particular interest to other Contracting States, consider providing information about the discovery of such property and collaborating in the investigation, excavation, documentation, conservation, study and cultural promotion of the property to the extent permitted by their legislation.

### Article 5

1. Contracting States shall ensure as far as possible that all appropriate measures are taken to protect underwater cultural property in situ.

2. Contracting States shall ensure that all appropriate measures are taken to protect and conserve recovered underwater cultural property, and that its recovery is carried out under such conditions that a full recording of the find is ensured.



#### Article 6

1. Contracting States shall require that discoveries of underwater cultural property be reported without delay to their competent authorities, whether the property has been removed from its place of discovery or not.
2. Contracting States shall require that discoverers of underwater cultural property leave this property, as a principle, where it is situated. In the case of accidental recovery, Contracting States shall require that discoverers limit themselves to taking the necessary measures for temporary protection.
3. A Contracting State may require its nationals to report to its competent authorities any discovery of underwater cultural property made in a place where no State exercises control over such property.

#### Article 7

1. Each Contracting State shall provide for official registration of available information on underwater cultural property discovered or otherwise known to be located in its area. It may decide whether or not to open the registered information or a part of it to public consultation. In all cases appropriate measures shall be taken in order to avoid possible harmful effects of premature publicity.
2. Contracting States shall, where possible, encourage the co-operation of diving associations, qualified archaeologists and cultural bodies in order to register complete information about underwater cultural property.

#### Article 8

Without prejudice to Article 7, paragraph 1, Contracting States shall take all practicable measures to ensure that full scientific information concerning any survey, excavation, recovery, conservation and related work regarding underwater cultural property is made available as early as possible in appropriate publications.

#### Article 9

1. While respecting the right to publication as well as the archaeological principle of association of finds, each Contracting State shall, to the extent permitted by its legislation, take all appropriate measures in order that recovered underwater cultural property is documented and conserved under conditions facilitating its study by qualified researchers, and that a suitable selection is displayed to the public.
2. Contracting States shall take appropriate measures to promote appreciation of the underwater cultural heritage and awareness of the need to protect it. In order to develop this public appreciation, they may in particular encourage collaboration among diving associations, qualified archaeologists and cultural bodies.

#### Article 10

Contracting States shall take measures to further underwater research by providing training in underwater archaeological investigation and excavation methods and in techniques for the conservation of underwater cultural property, or by encouraging the appropriate bodies or organisations to do so.

#### Article 11

1. Contracting States may provide that authorisations to carry out survey, excavation or recovery operations may be granted to private persons or concerned bodies.

2. The grant of such authorisations shall be subject to scientific considerations, and Contracting States may, taking into account special characteristics of certain sites and the facilities and economic resources available to the applicants, specify and require that the applicants possess adequate qualifications and equipment or forbid the use of specific techniques or equipment.

#### Article 12

In order to facilitate the control of traffic in underwater cultural property, each Contracting State shall take all measures it deems appropriate to make available evidence on any lawful export of such property.

#### Article 13

1. If underwater cultural property is illegally recovered in the area of a Contracting State or illegally exported from such a State, this State shall notify the other Contracting States to which such property has been transferred or is presumed to have been transferred of the fact that the property has been illegally recovered or exported and shall supply all relevant information concerning such property. Contracting States shall co-operate with a view to discovering where such property is located and, subject to their legislation, to securing it.

2. If underwater cultural property, notification of which has been made under paragraph 1, is found or presumed to be located within a Contracting State, this State shall immediately inform the notifying State and supply all relevant information concerning such property.

3. If underwater cultural property is found within a Contracting State and this State has reasonable grounds to presume that it has been illegally recovered in the area of another Contracting State, or illegally exported from such a State, it shall immediately notify the Contracting State which it presumes is concerned of the identity of such property and of the circumstances in which it was found.

Article 14

Each Contracting State shall take all practicable measures towards the restitution of underwater cultural property located within that State, which has been illegally recovered in the area of another Contracting State or illegally exported from such a State.

Article 15

Where damage has been caused to underwater cultural property in the area of a Contracting State, Contracting States shall, if so requested, co-operate with that State with a view to discovering the identity of the authors of such damage.

Article 16

1. The notification and information provided for in Article 13 shall be exchanged between the authorities designated by each Contracting State by a declaration addressed to the Secretary General of the Council of Europe.

2. The authorities designated in accordance with paragraph 1 shall, unless the Contracting State provides otherwise, be competent also with regard to the co-operation referred to in Article 15.

Article 17

Each Contracting State, in the exercise of its jurisdiction over the exploration for and exploitation of the natural resources of its continental shelf, shall take appropriate measures for the protection of underwater cultural property in accordance with the objectives of this Convention.

Article 18

1. This Convention is without prejudice to any jurisdiction or right which Contracting States may otherwise have under international law in respect of the protection of underwater cultural property.

2. Nothing in this Convention affects the rights of identifiable owners, the law of salvage or other rules of maritime law, or laws and practices with respect to cultural exchanges.

Article 19

1. For the purposes of this Convention, a Standing Committee shall be established.

2. Any Contracting State may be represented on the Standing Committee by one or more delegates. Each delegation shall have one vote.

3. Any member State of the Council of Europe which is not a Contracting State to this Convention may be represented on the Committee, or in the group of experts set up under Article 20, paragraph 2, as an observer.

The Standing Committee may, by unanimous decision, invite any non-member State of the Council of Europe which is not a Contracting State to this Convention to be represented by an observer at one of its meetings.

Any body or agency technically qualified in the field of the underwater cultural heritage and belonging to one of the following categories:

- a. international agencies or bodies, either governmental or non-governmental, and national governmental agencies or bodies;
- b. national non-governmental agencies or bodies which have been approved for this purpose by the State in which they are located,

may inform the Secretary General of the Council of Europe, at least three months before the meeting of the Committee, of its wish to be represented at that meeting by observers. They shall be admitted unless, at least one month before the meeting, one-third of the Contracting States have informed the Secretary General of their objection.

4. The Standing Committee shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within one year of the date of the entry into force of the Convention. It shall subsequently meet at least every three years and whenever a majority of the Contracting States so request.

5. A majority of the Contracting States shall constitute a quorum for holding a meeting of the Standing Committee.

6. After each meeting, the Standing Committee shall submit to the Committee of Ministers of the Council of Europe a report on its work and on the functioning of the Convention.

7. The Standing Committee shall adopt its Rules of Procedure subject to the provisions of this Convention.

#### Article 20

1. The Standing Committee shall keep under review the implementation of the provisions of this Convention. It may in particular :

- make recommendations concerning the protection of the underwater cultural heritage, the development of particular aspects of this Convention or the improvement of its effectiveness;
- carry out exchanges of views and of information on all matters regarding the underwater cultural heritage;
- consider any projects for international co-operation in the survey, excavation and conservation of the underwater cultural heritage;

- discuss ways of keeping the public informed about the activities undertaken within the framework of this Convention;
  - submit to the Committee of Ministers reports on the situation of the discipline of underwater archaeology in the higher educational institutions in the Contracting States;
  - make recommendations to the Committee of Ministers concerning non-member States of the Council of Europe to be invited to accede to this Convention.
  - examine any proposals for modification of the Convention.
2. In order to discharge its functions, the Standing Committee may set up such groups of experts as it deems necessary.

#### Article 21

This Convention shall be open for signature by the member States of the Council of Europe. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

#### Article 22

1. This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five member States of the Council of Europe have expressed their consent to be bound by the Convention in accordance with the provisions of Article 21.
2. In respect of any member State which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

#### Article 23

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may invite any State not a member of the Council to accede to this Convention, by a decision taken by a two-thirds majority of the representatives casting a vote, and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee.
2. In respect of any acceding State, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

#### Article 24

1. Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.

2. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

#### Article 25

1. Any Party may at any time denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General.

#### Article 26

The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to this Convention of :

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance, approval or accession;
- c. any date of entry into force of this Convention in accordance with Articles 22, 23 and 24;
- d. any designation of competent authorities under Article 16.
- e. any other act, notification or communication relating to this Convention.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at ..... , the ..... , in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to any State invited to accede to this Convention.

APPENDIX III

EXTRACT FROM THE OFFICIAL REPORT OF THE PARLIAMENTARY ASSEMBLY  
OF THE COUNCIL OF EUROPE (28 January 1987, pages 745-746)

THE PRESIDENT (Translation). — We now come to Question No. 4 by Mr van der Werff, concerning the European Convention on the Protection of the Underwater Cultural Heritage, which reads as follows:

"Mr van der Werff,

Recalling Assembly Recommendation 848 (1978) on the underwater cultural heritage, which called, *inter alia*, for the drawing up of a European convention in this field;

Having noted the replies given by the Committee of Ministers, and in particular that given in April 1983 to Written Question No. 264 by Mr Beith (Doc. 5072);

Drawing attention to the opinion on the United Nations Convention on the Law of the Sea presented on behalf of the Committee on Culture and Education in May 1984 (Doc. 5221);

Recalling the final paragraph of Assembly Opinion No. 127 (1986) on the draft third medium-term plan;

Regretting the continuing delay in the opening for signature of the European Convention on the Protection of the Underwater Cultural Heritage,

To ask the Chairman of the Committee of Ministers:

a. what steps are envisaged to resolve the present deadlock over releasing the text of the convention for signature;

b. whether consideration has been given to the application of such a convention at regional level on the basis of agreements between states bordering on the same sea or part-sea, as proposed by the Assembly in its initial recommendation;

c. what provision is being made to enable inter-governmental co-operation to continue in this field."

I call the Chairman of the Committee of Ministers.

Mr HALEFOGLU. — The Committee of Ministers fully accepts the importance of protecting the underwater cultural heritage. You are no doubt aware that a draft convention on this matter was submitted to the Committee of Ministers. As the procedure in the Committee of Ministers is subject to unanimity rules, the draft convention is still under consideration.

THE PRESIDENT (Translation). — I call Mr van der Werff to ask a supplementary question.

Mr van der WERFF (*Netherlands*). — I thank the Chairman of the Committee of Ministers for

his answer, but it was a bit short. We all know and recognise the important underwater activities, for instance by Turkish archaeologists. Some of us have even visited Bodrum Museum which appropriately displayed the treasures found in Turkish waters. In 1980, your Committee of Ministers referred *in extenso* in particular to the initiatives taken by the Turkish Government. I am now addressing the Chairman of the Committee of Ministers of the twenty-one states. I ask, first, for continuing support for the permanent Eurogroup for underwater archaeology and, secondly, for attention to be paid to the possibilities of collaboration between amateur divers and professional archaeologists—a burning point, a hot issue, even under water.

Does the reference in the statutory report, which we have just received, applying to earmarked budgetary resources include these activities?

My most urgent point concerns pushing the convention forward, even with a reservation. The day before yesterday, Mr Chirac showed us the possibilities that always exist for every one of the twenty-one states. It is much better to have an overall system of European rules and a convention on a European level than to have to resort to the rather uncertain and varying series of national regulations, or the total lack of such rules. Our underwater heritage is threatened and is in serious danger of being plundered more every year. The Committee of Ministers cannot stay aloof. It has to take action.

THE PRESIDENT (Translation). — I call the Chairman of the Committee of Ministers.

Mr HALEFOGLU. — My first answer was perhaps short, but it gave the real answer. The points that Mr van der Werff added have been listened to carefully. This is an important subject. It is vital to the countries on the coasts of which this heritage exists. We do not want this heritage to be dilapidated by irresponsible people. That is why we should move carefully, step by step, in this matter. I appreciate Mr van der Werff's point. We shall certainly keep it in mind.



APPENDIX IV

# PARLIAMENTARY ASSEMBLY

WRITTEN QUESTION No. 303

by Mr VAN DER WERFF  
on behalf of the Committee on Culture and Education

on the underwater cultural heritage

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Mr VAN DER WERFF,

1. Recalling Assembly Recommendation 848 (1978) on the underwater cultural heritage, which called, inter alia, for the drawing up of a European convention in this field;
2. Having noted the replies given by the Committee of Ministers, and in particular that given in April 1983 to Written Question No. 264 by Mr Beith (Doc. 5072);
3. Drawing attention to the opinion on the United Nations Convention on the Law of the Sea presented on behalf of the Committee on Culture and Education in May 1984 (Doc. 5221);
4. Recalling the final paragraph of Assembly Opinion No. 127 (1986) on the draft medium-term plan;
5. Regretting the continuing delay in the opening for signature of the European Convention on the Protection of the Underwater Cultural Heritage,
6. To ask the Committee of Ministers:
  - a. what steps are envisaged to resolve the present deadlock over releasing the text of the Convention for signature;
  - b. whether consideration has been given to the application of such a convention at regional level on the basis of agreements between states bordering on the same sea or part-sea, as proposed by the Assembly in its initial recommendation;
  - c. what provision is being made to enable intergovernmental co-operation to continue in this field and in particular with regard to preparation of a recommendation on collaboration between amateur divers and professional archaeologists.

signed: VAN DER WERFF