

Admiral James D. Watkins, USN (Retired)  
Chairman, U.S. Commission on Ocean Policy  
1120 20<sup>th</sup> St., NW  
Washington, DC 20036

Dear Admiral Watkins:

Thank you again for the opportunity to appear before the Commission. I enjoyed hearing the contributions of my fellow panelists and hope the three of us gave the Commission food for thought in responding to your mandate to make policy recommendations promoting the "preservation of the role of the U.S. as a leader in ocean and coastal activities."

The questions to the panelists from the Commissioners were insightful and provocative. After examining the documents Bob Ballard gave me afterwards about underwater cultural heritage, I wanted to amplify my response to his question.

In a joint statement to the Commission, the Society for Historical Archaeology, the Society for American Archaeology and the Archaeological Institute of America note the recent completion of the UNESCO Convention on the Protection of Underwater Cultural Heritage, and encourage the adoption of a uniform national policy similar to that proposed in the UNESCO Convention. A letter from the Advisory Council on Underwater Archaeology also supports a uniform national policy, as well as working toward U.S. ratification of the Convention.

The United States strongly supported the negotiation of a Convention that would codify for the first time international scientific rules for the management of underwater cultural resources and prevent currently unregulated salvage. At the same time, the United States insisted that the Convention be consistent with international law as set forth in the 1982 United Nations Convention on the Law of the Sea (UNCLOS), the world's framework agreement on oceans, and that it adequately protect sunken historic government vessels, primarily warships.

On the positive side, the Convention does establish strong international management rules that would govern all activities directed at underwater cultural heritage. The rules would not ban all commercial activities directed at underwater cultural heritage, but they would ensure that such activities are conducted in accordance with current underwater archaeological standards.

On the other hand, the Convention contains expansive jurisdictional provisions that directly or indirectly extend coastal State rights and general regulatory jurisdiction over underwater cultural heritage located in the 200-mile economic zone and on the continental shelf, in a manner that unacceptably alters the balance of rights and interests set forth in UNCLOS. The Convention also fails adequately to protect sunken warships and would permit the recovery of such vessels without the consent of the flag State.

The United States, with support from others, had proposed an alternative regime that would have achieved effective control over activities directed at underwater cultural heritage, without undermining the delicate jurisdictional balance in the law of the sea or the protection of our interests in sunken warships. Unfortunately, our proposal was rejected. The United States was not alone in its objections: most major maritime countries, including France, Germany, the Netherlands, Norway, Russia, Sweden and the United Kingdom, opposed adoption. The objectionable provisions are likely to prevent many countries that are critical to the Convention's effective implementation from becoming parties.

The United States remains committed to the protection of underwater cultural heritage and to the need for international cooperation toward this goal. U.S. agencies do support the strong management rules contained in the Convention. International law poses no obstacle to legislative adoption to such rules within the territorial sea and contiguous zone (i.e., out to 24 miles). In the exclusive economic zone beyond 24 miles **and on the continental shelf**, such rules could be applied to the activities of U.S. nationals or U.S.-flag vessels.

Please let me know if there is anything further the State Department can do to assist the Commission as it enters the most critical phase of its work.

Sincerely,

John F. Turner