

Conference Report
Underwater Cultural Heritage Forum
4th of December 2018 German Federal Foreign Office Berlin

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On the 4th of December 2018 the Underwater Cultural Heritage Forum took place in the Europe Room of the German Federal Foreign Office in Berlin. An official invitation was extended by the Ministry of Foreign Affairs and the General Delegation of Flanders. In the context of the European Cultural Heritage Year 2018 the organizers wanted to use this conference for discussions about current questions on how the Underwater Cultural Heritage can be protected and how this request can be conveyed to the public. After some introductory welcoming words spoken by *Irmgard Fellner*, Director for Cultural Relations Policy and Deputy Director for Culture and Communication at the German Federal Foreign Office, *Dr. Martina Münch*, President of the German Cultural Commission Heritage Committee (DNK), as well as *Carl Delaluwé*, Governor of the Province West Flanders and *Bernhard Schnittger*, Deputy Head of the European Commission's Representation in Germany, lectures about the handling of the Underwater Cultural Heritage in Germany, Switzerland, Great Britain, Ireland and Belgium followed.

In the first session which started in the morning, mainly lectures from Germany were presented. *Dr. Ulrike Guérin* again presented the contents of the Convention on the Protection of Underwater Cultural Heritage. She talked about the questions whether trade with underwater cultural heritage should be accepted and if there is a necessity for a special protection in spite of the United Nations Convention on the Law of the Sea („UNCLOS“) from 1994 which could cause a change of the Underwater Cultural Heritage Convention that were gained by hard work, were the main contentious points at the debate of the General Conference. A strong discussion was also led about the protection of wrecks from the two World Wars and about the jurisdiction between the relevant adjoining coastal states and naval powers in certain waters. But the UNESCO-

Convention touches neither the arrangements from „UNCLOS“ nor does it question sovereign rights or jurisdiction authorities. It mainly concentrates on the determination of general protective measures, the introduction of an international cooperation system and the definition of guidelines for underwater archaeological work.

Afterwards *Maria Stemmler* talked about the judicial basis and the situation in Switzerland. In spite of its inland location, about 30 seagoing vessels fly the Swiss flag. Furthermore, there are many inland lakes with underwater cultural heritage from different epochs like pile dwelling settlements and several steamboat wrecks in the Lake Geneva. It becomes apparent, that the spots where these were found are in a similar condition to other countries. Wrecks in a depth well accessible for divers, are quite damaged and pillaged by souvenir hunters whereas wrecks in greater depths are in a surprisingly good condition. Currently the protection of the Cultural Heritage in Switzerland is ensured by different legal instruments: The Federal Act on the Protection of Nature and Cultural Heritage from 1969, the Federal Act on the Transfer of Cultural Goods which was passed in 2003 as well as cultural legislation in the different cantons. The proceedings for ratification of the UNESCO Underwater Cultural Heritage Convention started in 2018 and their completion is anticipated for the middle of 2019. The envisaged implementation legislation entails a notification requirement in the Federal Maritime Shipping Act in case of discovery of underwater cultural heritage made from a Swiss ship or if a person aboard a Swiss ship intends to interfere with underwater cultural heritage (report to the captain > Swiss Maritime Navigation Office > Federal Office of Culture). In addition, the convention obligates its state's parties to prohibit import, trade and ownership of illicitly salvaged underwater cultural heritage. Switzerland intends to honour this commitment through the existing Federal Act on the Transfer of Culture Goods. This law authorizes the customs authorities of Switzerland to confiscate suspected cultural goods at import. In addition, other states have the right to sue the owner of illicit cultural goods. Duties of care are also imposed on the art trade, because it is only permitted to deal in articles with a legitimate history of salvage. Article 16 of the convention obligates the state's parties to prohibit and to penalise activities violating it conducted by persons aboard ships under their flag as well as by their nationals. Furthermore, the state's parties are required to extend their jurisdiction to activities

which take place outside their territory. It is at this point that the intended implementation is particularly deficient because Switzerland is not planning to penalise problematic conduct of its nationals. Switzerland intends to make an optional declaration under article 28 of the convention, thus the Swiss inland waters would also be protected by the convention. The convention does not require to take steps against companies that are involved in illicit activities. However, such steps would be a meaningful addition for Switzerland as the example of “Maritime Archaeology Consultants” shows which have their residence in Switzerland. The commercial activities of this company are classified as violations of the convention and have been seriously criticised. Because the managers of the company are not Swiss nationals and because there are no Swiss ships involved in their salvage activities, Swiss authorities are not able to react with sanctions under article 16 of the convention so far. Yet if Switzerland would penalise activities of companies that contravene the convention it could prevent problematic companies from adorning themselves with the good reputation of Switzerland as a country of high standards. Simultaneously Switzerland could present itself as an interesting host country for companies which respect the convention.

Dr. Brigitte Ringbeck, German Federal Foreign Office, gave a lecture about the conversion of the convention in Germany. She remembered, that there were two dissenting votes and some abstentions at the plebiscite of the convention in 2001, the latter also from Germany.

The intention of the convention is the protection of the Underwater Cultural Heritage in situ as well as the sensitization of the public. Violation against the protection of the Underwater Cultural Heritage shall be punished and cooperation between the member states shall be strengthened. In Germany, the Underwater Cultural Heritage of the inland waters and inside the coastal waters (12 **sm/nm** and contiguous zone 12 sm) is protected by the laws of monument conservation of the German states. In addition, the Convention is an important measure against illegal trade with cultural heritage.

However, the EEZ (Exclusive Economic Zone) which falls into line with the coastal waters, is not protected. The process of ratification of the UNESCO-Convention in Germany requires a legislative proposal, which needs the agreement of the Bundestag (Federal Parliament) and the Bundesrat (Federal Council). It cannot be extended to

German inland waters, because of its differences to the Federal State Preservation of Historic Monuments Act. It is her opinion that in order to avoid conflicts with the German federal states it shouldn't be changed. The process of ratification should be finished in 2019. In 1976, the decision of the World Heritage Convention emerged and now the question is how the Underwater Cultural Heritage Convention can reach the same success. As the next step of the prearrangement, a hearing of the professional association is planned.

A report about the situation of the preservation of ancient monuments and monument protection at the North and the Baltic Sea came from *Dr. Ulf Ickerodt*, Archaeologic State Office Schleswig-Holstein. Since 1923 geological surveying is in process. Recording takes place ashore and offshore by analysis of aerial photos and historical maps. Additionally, surveys help to complete the data. The use of drones saves employees and time, because consistently big areas are exposed by storms and then covered again in a short period of time. This requires a constant recording of the relevant areas (monitoring). Because the findings should be preserved in situ (underwater), wooden shipwrecks require covering as a protection against the drifting shipworm. As well as the geologic surveying and adding these to the list of monuments, it is important to link them to museums where the discoveries are displayed and added to the stock. The official strategy of the Archaeological State Office Schleswig-Holstein is to work with „Open Data“. It gives the chance to planners and architects to check the situation relating to the Federal State Preservation of Historic Monuments Act by themselves before a construction project is finally planned („planning oriented preservation of ancient monuments“). There are also some multilateral cooperations as members such as the Trilateral Wadden Sea Cooperation with Denmark and The Netherlands as well as the German federal states Lower Saxony and Schleswig-Holstein (Protection of the Wadden Sea including management, monitoring, research and political affairs). For the Baltic Sea, the Baltic Sea Cooperation was founded in 1992 as well as the Baltic Region Heritage Cooperation in 1997 (protection of historical wrecks and underwater archaeological sites, amplifying of cooperation between authorities which are responsible for the coastal regions). The Baltic RIM-Project is engaged in how the underwater cultural heritage can be treated sustainably. One of the important points is

archaeological fieldwork and the involvement of scientific divers, for example the archaeological supervision during the construction of pipelines. The international cooperation in underwater archaeology has members from different institutions. One for example is the Viking ship museum in Roskilde. The results are presented in shared publications and exhibitions. In this connection discoveries from the Danish warship „Lindormen“ from the 17th century were presented at the museum in the castle of Gottorf.

Dr. Jens Auer, Federal Office of Culture and Preservation of Ancient Monuments Mecklenburg-West Pomerania talked about field monuments in the Baltic Sea and the international cooperation in this region. Objects, clusters of objects and parts of them are considered as underwater cultural heritage when they are of public interest. Mecklenburg-West Pomerania is working with a program consisting of five stages. The first consists of geophysical surveys of selected areas of the coastal waters. To date 898 anomalies were discovered which are probably of archaeological origin. The second step is to find out what is the origin of the anomaly. During this work, the wreck of a Swedish man-of-war from 1712 was discovered („Gun Wreck“). Furthermore, a blockade of sunken ships was found during construction work for a pipeline. As a next step the discovery site will be excavated and then construction work and the work underwater will be guided by archaeologists. In a final step the discovery site will be covered and observed. Moreover, the discoveries and observations will be documented by journals. Goals for the future are surveys of bigger areas underwater, the extension of knowledge about the underwater cultural heritage as well as the in situ-preservation respectively and the movement to another place for protecting the underwater cultural heritage.

In the afternoon session, lectures from different neighbouring countries were presented.

Dr. Anthony Firth talked about routes at the British East Coast during the war and presented a map on which sunken ships were marked with spots. Most of them sunk close to the coast. Thus, a so-called „War Channel“ becomes visible, a route which was used by ships during the two World Wars. The biggest part of the wrecks are freighters loaded with coal, but also submarines, fishing boats as well as aircrafts and remains of hangars on the coast. The wrecks are seen as a part of a maritime landscape. They

remember a violent conflict which took place at the east coast and which fell largely into oblivion.

Dr. Connie Kalleher, Irish Department of Culture, talked about wrecks from World War I. In 1997 an Underwater Archaeological Unit was founded which is affiliated to the National Monuments Service. 3500 wrecks are registered, which are all protected by the Continental Shelf Act (1968) and the National Monument Act (1987). Wrecks under 100 years can be also protected by a special order. The Lusitania, a famous passenger liner which was torpedoed and sunk by a German submarine close to Kinsale Head, was also protected by Underwater Heritage Order. In addition, since 2015 it is protected by the 100-year-rule. A member of the Admiralty of Virginia bought the wreck. There is a declaration of agreement between the owner and the National Monument Service regarding the protection and preservation of the wreck.

Ireland is about to ratify the convention, but this requires new laws. Around 1915, a submarine war took place in Irish waters and the waters around Ireland were declared as a war zone. This led to many losses (the biggest category were steamers, but also submarines, liners, tankers and trawlers). As well as that there are always new damages to the underwater cultural heritage that is provoked by treasure hunters and unauthorised diving as well as problems with salvage companies. The commercial fishing by trawlers with drags is also causing problems because wreckage can be raised to the surface by the drags. Different institutions cooperate with each other to work against this, for example the Coast Guard, the National Museum and the Maritime Institute.

Dr. Michel L'Hour, Département des Recherches Archéologiques Subaquatiques et Sous-marines (DRASSM), talked about the French 'Danton'-Project. It deals with 3D-images of a war ship from World War I. Because of the many civilian victims, the attention was focused more and more on the naval war. The wreck of the liner Danton was discovered by chance during preliminary investigations for the construction of a gas pipeline. It was sunk by two torpedoes from the German submarine U-64 on the 19th March 1917. By means of the 2D and 3D-underwater images of a ROV, it was possible to identify and to document the damages caused by the torpedoes. On the basis of

these images it was possible to create a 3D-Model, which allows a view on the wreck from all sites.

A lecture about submarines of the First World War as cultural heritage and its consequences on history was held by *Dr. Innes McCartney*, Bournemouth University/England. Among the losses of submarines of the First World War, 22 concrete cases were documented as well as 11 mysterious cases and three that are not identified. An example is the wreck SM UB-78, which was sunk by a British submarine and where diving took place already a few months after its sinking. The losses of submarines of World War I were completely publicised and analysed.

Garry Momber, Maritime Archaeology Trust, talked about education and public relations referring to the underwater cultural heritage of the First World War. In this connection, the support of the Hampshire and Wight Trust for Maritime Archaeology, which was founded in 1991, plays an important role.

Important possibilities for documentation and research are the evaluation of photomapping and geophysical data in addition to the normal fieldwork. In close cooperation, three schools from England, Belgium and France work on an archaeological atlas of the seas. The goals are the acquaintance and sharing of maritime history and the exchange of education and contacts. The goal for the future is the extension of the databases.

Hannelore Decoodt, Flemish Agency for Cultural Heritage, talked about the handling of bunker facilities along the Flemish coast. The military remains of the Marine Corps Flanders from the First World War were provided with roofs that camouflaged them from the outside and especially from above as farmhouses.

To conclude, *Tomas Termote* reported about the discovery, identification and exploration of SM UB-29, a German submarine from the First World War which had sunk in Belgian waters close to the coast. Before its own end, SM UB-29 sank 36 ships. The sinking point is a tricky dive, because it is in a busy sea route. SM UB-29 is 27 meters long and lays in a depth of 57-67 meters. The wreck has long been known as an obstacle for shipping

and is also registered on nautical maps, but could only be addressed by a detailed sonar recording as a submarine and thus as a historically interesting object. An Identification was necessary to inform the German Authorities as well as relatives of the crew about the discovery. This could finally be done by the presence of a plaque on a torpedo tube at the bow. However, the wreck was found 40 nautical miles away from its last known position. To activate the protection of the lost submarine, a significant artefact of the wreck had to be salvaged, so it was decided to use a cannon. At an evening reception in the Belgian Embassy, *Tomas Termote* amplified his lecture once more and showed some films about the wreck.

Resume

In addition to the repetition of the contents of the Convention, the presentation of the legal requirements and the parliamentary procedure for the ratification in Germany, the conference gave an insight into the work with the underwater cultural heritage in the affected federal states with coastal areas on the North and the Baltic Sea. Mecklenburg-Pomerania and Schleswig-Holstein were represented without Lower Saxony because there is no special division for underwater archaeology in the Antiquities and Monuments Office. She also took a look at how to deal with underwater protected sites in neighbouring countries like Switzerland, Belgium, France, Great Britain and Ireland.

The projects presented mainly dealt with World War I wrecks and sites and the means by which they can be researched, documented and preserved. During an evening lecture at the Belgian Embassy, the recent discovery of the German submarine SM UB-29 off the Flemish coast was presented in more detail. It can be said, that especially countries like Switzerland and Belgium are trying to transpose the Convention into national law as soon as possible. However, the lecture from *Maria Stemmler* has shown that there are still gaps in the articles of the Convention whose elimination would be an important and desirable goal for the near future. A better approximation of the monument protection laws in Germany (where ratification for the year 2019 is sought) with the Convention would be of crucial importance for inland waters in particular. The convention would affect them, but the federal government does not want them to expand to them.

Protecting the cultural heritage under water will continue to require close, good cooperation with companies planning interventions underwater. Already in the past the protection of objects in a sea area affected by a construction project was possible in this way. In addition, valuable information was gained on the objects that were often discovered only by the probings in advance of the planned projects (ship barrier/Greifswald). In terms of construction projects, it seems sensible to grant certain groups such as architects / engineers certain access to selected data on the location of archaeological sites, as is already practiced in the context of the strategy of the Archaeologic State Office Schleswig-Holstein "Planning-oriented monument preservation". These measures are always subject to approval, which must be formally applied for in accordance with the Monument Protection Act. This makes it possible for the planners to bypass sites or to include them in the planning in advance. Extending this strategy to other federal states would be desirable.

The lectures about different projects from different neighbouring countries in Europe have shown what a contribution of the protection of the underwater cultural heritage could look like. For example, through an international project with schools, which contribute with their work to add a piece of a puzzle for an archaeological atlas or how it can be possible in future to measure and explore wrecks or sites in situ with underwater technology without needing to touch them. Unfortunately, the forum was not able to show the possibilities of communicating the underwater cultural heritage to the general public like the announcement had hoped.

Politicians and representatives of the administration were also at the presentation however, the colloquium was aimed at a specific target group, as one could see from the composition of the participants. Most of them were professionals with an employment in underwater archaeology or preservation of ancient monuments. In the context of the European year of cultural heritage 2018, it would have been a suitable occasion to address the general public for discussion, from the authors point of view. It will be interesting to see how much of the UNESCO Convention 2001 will be incorporated in

the implementation into German law and whether parts will be subject to a restriction similar to that in Switzerland.

It is also to be hoped that the announcement by Dr. Ing. Ringbeck will apply and the German version will become an effective instrument for the protection of the underwater heritage and will not require further revision later, such as the implementation of the "Convention on measures to ban and prevent the improper import, export and transfer of cultural property" of 1970.

