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including joint consultation concerning
the concervation of cetaceans in the
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Marine Archaeology in the Mediterranean: Directory of National Legislation with Explanatory Commentary. (Fevrier 1990)

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Mediterranean Action Plan
Specially Protected Areas

United Nations Environment Programme

MARINE ARCHAEOLOGY IN THE MEDITERRANEAN

DIRECTORY OF NATIONAL LEGISLATION WITH EXPLANATORY COMMENTARY

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TABLE OF CONTENTS

INTRODUCTION		1
PART I	**THE COMMENTARY**	2
Chapter 1	Legal aspects of marine archaeology	3
Chapter 2	Marine archaeology in the Mediterranean	16
ANNEXES		25
Annex I	Table of ocean claims of Mediterranean States	26
Annex II	Ocean claims of Mediterranean States related to marine archaeology	27
Annex III	Table of Law of the Sea Conventions	28
Annex IV	Table of International and Regional Cultural Conventions	29
PART II	**DIRECTORY OF NATIONAL LEGISLATION RELATED TO MARINE ARCHAEOLOGY**	30
BIBLIOGRAPHY		53

INTRODUCTION

This compilation of Mediterranean legislation relating to marine archaeology was prepared by the author in connection with a research project carried out by the Mediterranean Institute, University of Malta, for the MAP Regional Activity Centre for Specially Protected Areas. In the course of preparing the Directory, it became apparent that there was also a need for an accompanying Commentary on the legal regime of marine archaeology and the protection of the cultural heritage of the oceans.

The Commentary is contained in Part I, which is divided in two chapters. Chapter 1 provides a brief account of the legal aspects of marine archaeology and the recent changes in the law of the sea which are of relevance. In discussing the effect of the law of the sea on marine archaeology, a distinction is drawn between the 1958 Geneva Conventions, the 1982 UN Convention on the Law of the Sea and customary international law. It is hoped that this brief analysis will assist the reader to both recognise the complexity of the issue and appreciate the need to adopt new schemes of protection in view of the limited effectiveness of the existing ones.

Chapter 2 considers the specific problems relating to the regulation of marine archaeological endeavour in the Mediterranean. It contains an analysis of Mediterranean national heritage legislation with special reference to the assertion of jurisdiction, the definition of cultural property and the treatment of title. As the purpose of this paper is merely to highlight those areas of concern in order to encourage further study and discussion amongst readers, no attempt has been made to carry out an article by article analysis of the relevant laws.

Part II comprises of the Directory of national legislation of Mediterranean States. In addition to national heritage laws governing the protection of cultural property in general or specifically regulating underwater remains, reference has been made to decrees and laws declaring maritime jurisdictional zones. These instruments are important in that they delimit ocean areas over which Mediterranean States exercise sovereignty or jurisdiction over underwater cultural property and may be used as a basis in the future to regulate marine archaeological research. Finally, reference has been made to international and regional cultural conventions to which Mediterranean States are parties.

* A first draft of the Directory (Part II) was prepared by Dr. Maria Borg.

PART I

THE COMMENTARY

CHAPTER 1

LEGAL ASPECTS OF MARINE ARCHAEOLOGY

1. Introduction

The sphere of marine archaeology has only recently captured the interest of jurists and legal thinkers. This is not surprising since marine archaeology was underestimated by archaeologists, let alone lawyers, until the late 1950s. Contemporary marine archaeology as a discipline is approximately 30 years old and owes its origins to the invention of the aqualung in 1943: developing from "looting and unrecorded destruction of sites to archaeological respectability".[1] Today, marine archaeology is a multidisciplinary science covering a broad range of activities relating to the protection, preservation, documentation and interpretation of underwater remains and is in a continual state of evolution.

In the past, the absence of advanced underwater technology made the recovery of artifacts too remote a possibility to create jurisdictional problems or to attract serious interest in the legal regime of marine archaeology. However, modern developments in underwater technology now permit exploitation at greater depths which has, in turn, resulted in a pressing need for the protection of deepwater archaeological sites. Failure to protect such sites will consign them to the same fate as befell those situated in shallow waters - they will be looted.

The last few years have seen an increased interest in the protection of the underwater cultural heritage, both in State practice and in doctrine. A number of States have enacted specific legislation to control underwater cultural property found off their coasts, whilst others have expanded their competence to regulate access to sites found seaward of the traditional territorial sea boundary. Marine archaeological research now features amongst topics discussed in international conferences and legal scholars appear to be more interested in the problems posed for the law of the sea by the need to protect the underwater heritage. In this connection, one must mention the work of the Cultural Heritage Law Committee of the International Law Association, of which the author is a member, in drafting an International Convention on the Protection of the Underwater Cultural Heritage.

This increased degree of interest should not be considered in isolation, but as a part the

general burgeoning of interest amongst the international community in safeguarding the heritage of the 20th century, which has resulted in the birth of a new body of law: the law of cultural heritage.

2. The legal protection of the underwater cultural heritage

The enunciation of legal rules to protect the underwater cultural heritage is a complex legal issue involving a matrix of interests and laws at both international and national level.

2.1. Protection at national level

At national level, the main bodies of law involved are: i) legislation relating to the protection of cultural heritage in general or specifically dealing with underwater remains, ii) property law, iii) admiralty law (wrecks and salvage law), iv) taxation law and laws concerning the import and export of goods, v) laws relating to national parks, reserves and environmental protection, and vi) conflict of laws. These laws have to be co-ordinated if any conflict of objective is to be resolved.

Admiralty law has not yet acknowledged the newly awakened public interest of States in the preservation of historic wrecks off their coasts. There is often conflict between heritage legislation and salvage law, the latter of which provides one of the most inappropriate means to regulate access to marine archeological sites. The protection of underwater cultural heritage has never been an objective of this ancient maritime law which evolved to provide compensation for the salvor of maritime property in distress. The salvor works solely for profit which is reflected in the manner in which salvage operations are conducted. Indeed, good salvage practice may well dictate that a marine archaeological site should be destroyed "piecemeal" or that finds are not recorded. For these reasons, the exclusion of salvage law from the regime governing the underwater cultural heritage has been recommended.[2]

2.2. Protection at international level

An adequate legal framework for the protection and preservation of the underwater cultural heritage cannot be based on national legislation alone. It must be supplemented by rules of international law.

Today, the only international instruments which specifically deal with the protection of underwater cultural property are Recommendation 848 (1978) of the Parliamentary Assembly of the Council of Europe[3] and the Draft European Convention on the Protection of the Underwater Cultural Heritage (1985).[4] The initiative for the work carried out on the Draft European Convention was taken by the Parliamentary Assembly of the Council of Europe, which had already adopted Recommendation 848 (1978) on the protection of the underwater cultural heritage. The Committee of Ministers subsequently decided to set up an *ad hoc* Committee of Experts on the Underwater Cultural Heritage with terms of reference to draft a European Convention on the Protection of the Underwater Cultural Heritage. The *ad hoc* Committee of Experts finalised the Draft Convention on the Protection of the Underwater Cultural Heritage and the Draft Explanatory Report on the Convention in March 1985 and submitted them to the Committee of Ministers for approval. During discussions at this level, a divergence of opinion surfaced regarding the scope of application of the Convention which prevented any agreement being reached. The matter is still pending which is rather unfortunate since the Draft European Convention provides the most comprehensive scheme yet for the protection of the underwater cultural heritage.

In a more limited context, the 1982 Protocol Concerning Mediterranean Specially Protected Areas[5] includes "sites of particular importance because of their scientific, aesthetic, historical, archaeological, cultural or educational interest" amongst the areas protected.

International and regional conventions protecting the cultural heritage in general are also relevant to the protection of the underwater cultural heritage. These include:

a. The 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict.[6]
b. The 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.[7]
c. The 1972 UNESCO Convention on the Protection of the World Cultural and Natural Heritage.[8]
d. The 1969 European Convention on the Protection of Archaeological Heritage.[9]
e. The 1976 Convention on the Protection of the Archaeological, Historical and Artistic Heritage of the American Nations.[10]

None of these Conventions nor the majority of the numerous UNESCO and UN Recommendations and Resolutions on this issue and the restitution of works of art refer specifically to cultural property found underwater. Notable exceptions, however, are:

a. The 1956 UNESCO Recommendation on International Principles Applicable to Archaeological Excavations[11] (which applies to the bed and subsoil of inland and territorial waters);

b. The 1978 UNESCO Recommendation for the Protection of Movable Cultural Property[12], the 1985 European Convention on Offences Relating to Cultural Property[13] and the revised European Convention on the Protection of the Archaeological Heritage[14] (which expressly refer to underwater cultural property);

c. A series of UN General Assembly Resolutions on the Restitution or Return of Works of Art to their Countries of Origin[15] which invite, *inter alia*, "[m]ember States engaged in seeking the recovery of cultural and artistic treasures from the seabed in accordance with international law, to facilitate by mutually acceptable conditions the participation of States having a historical and cultural link with those treasures".

2.3. <u>The effect of international instruments protecting the cultural heritage on underwater cultural property</u>

All the international and regional cultural conventions apply an essentially territorial jurisdictional theory with respect to law making and enforcement. As a result, if they were interpreted to apply to underwater cultural property, their application would be confined to sites found landward of the outer limit of the territorial sea. The only exceptions to these are: (a) the 1985 European Convention on Offences Relating to Cultural Property which has adopted the active and passive personality principles of jurisdiction as bases for prosecuting offences committed outside the territories of contracting States: i.e, on the high seas, and (b) the revised European Convention on the Protection of the Archaeological Heritage, which provides for the protection of underwater sites and objects found in areas within the jurisdiction of the parties.

Overall, these instruments recognise the importance of the cultural heritage and emphasise the need to protect it by adopting the appropriate measures at national, regional and international level. The most common protective measures are the following:

i. Registration of the cultural property that constitutes the cultural heritage of contracting States.
ii. Creation of national inventories.
iii. Delimitation of archaeological sites.
iv. Application of scientific standards for excavations.
v. Prohibition of illicit excavations.
vi. Prevention of illegal exportation and importation of the protected property.
vii. Duty to report the accidental recovery of such property.
viii. Promotion of co-operation and assistance amongst states.

Such measures, however, are not capable of providing solutions to the problems specifically related to marine archaeology, such as the conflicts between salvage law and heritage legislation, the extent and scope of coastal jurisdiction over underwater cultural property, the enforcement at sea of heritage legislation and, most importantly, the protection of cultural property found in international waters.

Similarly, the few instruments which do make some reference to underwater cultural property do not provide a satisfactory scheme of protection as, firstly, they cover only certain aspects of the archaeological issue, and, secondly, they deal exclusively with problems which are common to land and underwater antiquities.

That said, it would be absurd to expect a convention dealing with a specific aspect of the archaeological heritage to offer a comprehensive regime for the protection of underwater cultural property. For example, consider the 1985 European Convention: within the limits of its scope, it offers the best possible solution. It not only includes underwater remains within the scope of the cultural property which is protected, but it also adopts the active and passive personality principle of jurisdiction as bases for prosecution of offences committed outside the territories of contracting States. Only international conventions specifically protecting the underwater cultural heritage can offer a more comprehensive regime of protection.

Finally, the mere location of relics on or under the seabed brings them within the scope of the law of the sea. The issue, therefore, arises as to whether this body of international law possesses the appropriate means to effectively regulate underwater cultural property.

3. Marine Archaeology and the International Law of the Sea

3.1. The 1958 Geneva Conventions[16]

The 1958 Geneva Conventions, which are still in force, do not specifically refer to marine archaeology. Under their scheme, the outer limit of the territorial sea determines the area within which archaeological remains are, or, at least, may be, protected and the area where protection is minimal. Landward of the territorial sea boundary, underwater cultural property falls under the sovereignty of the coastal State which is responsible for its protection. Seaward of the territorial sea boundary (i.e., on the high seas), the protection of archaeological sites lies at the absolute discretion of flag States which, even if they are willing to take appropriate measures, lack the necessary means of enforcement.

Anyone has the right to remove archaeological remains on the high seas. This "free-for-all" system does not acknowledge any priorities to the flag State or, as the case may be, to the State of origin, nor does it impose any obligation to protect archaeological sites. Potential salvors may proceed to recover cultural property as underwater relics are not excluded from the scope of the law of salvage.

Marine archaeology may be exercised as a freedom of the high seas if it is conducted with reasonable regard to the interests of other States and is not prohibited by international law (c.f. article 2 of the High Seas Convention). However, the establishment of archaeological preserves, which undoubtedly constitute the best means of protection of underwater cultural property, is not permissible under the doctrine of the freedom of the high seas. Their designation is prohibited by the general rule of "non-appropriation" of any part of the seas.

The sovereign rights of the coastal State over the exploitation of the natural resources of the continental shelf do not extend to archaeological remains. According to a Commentary of the International Law Commission in 1956, shipwrecks and their cargoes do not constitute "natural resources" of the seabed.[17] Thus, archaeological research falls under neither the sovereign right to explore the continental shelf nor the consent regime of the coastal State. Nevertheless, the vague language of article 5(8) of the CSC which requires coastal consent for "any research conducted on the continental shelf and undertaken there" leaves room for different interpretations. An extensive interpretation of the term "research" would result in the

permission of the coastal State being required for the search for archaeological remains on the outer continental shelf.[18]

3.2. The UN Convention on the Law of the Sea (1982)[19]

The 1982 Convention is the first codification of the law of the sea to regulate objects of an archaeological and historical nature found at sea. Under the scheme of the 1982 Convention, coastal States are entitled to exercise jurisdiction over archaeological and historical objects within a 24 mile zone from the baselines from which the territorial sea is measured. Article 303(2) extends coastal jurisdiction over such objects beyond the territorial sea and provides that:

> "In order to control traffic in such objects, the coastal State may, in applying article 33, presume that their removal from the sea-bed 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."

Despite the limiting language of article 303(2) which confines coastal rights to the control of traffic in archaeological and historical objects found on the bed of the contiguous zone (article 33, to which article 303 refers, governs the legal regime of the contiguous zone), in substance, far more extensive rights are recognised. The combination of article 303(1), which advocates the general duty to protect archaeological objects found at sea, and the presumption established by article 303(2) allows the expansion of coastal jurisdiction over the 24 mile zone.

Beyond the 24 mile line and up to the outer continental shelf limit, marine archaeology may be exercised as a freedom of the high seas. Archaeological and historical objects do not feature as natural resources of the seabed and, as a result, are subject to neither the sovereign rights of the coastal State in respect of exploration of the continental shelf and the exploitation of its resources nor its jurisdiction over the exclusive economic zone (EEZ). This is confirmed by the *travaux preparatoires* of article 303 which initially concerned the attribution of sovereign rights over the continental shelf for the purpose of protecting archaeological and historical objects. The examination of the records of the Conference leaves no doubt that archaeological remains do not fall within the continental shelf

regime.[20] Likewise, archaeological research does not qualify as "marine scientific research" which is confined to the natural environment and its resources and so is excluded from the consent regime.[21]

Still, if a coastal State has declared an EEZ, a distinction should be drawn between marine spaces falling within and beyond the outer limit of the EEZ:

Beyond the 24 mile line and up to the outer limit of the EEZ, the exercise of marine archaeology falls within the "grey area" where the 1982 Convention does not attribute rights and jurisdiction to either coastal or flag States. In case of doubt, the issue will be resolved on the basis of equity and in the light of all the relevant circumstances (c.f. article 59).

Beyond the outer limit of the EEZ and up to the outer limit of the continental shelf (if this goes beyond the 200 mile line), marine archaeology may be exercised as a freedom of the high seas subject to the general provisions of article 303(1), (3) and (4).[22]

To sum up, the legal regimes of the continental shelf and the EEZ, as envisaged by the 1982 Convention, do not apply to archaeological objectsfound within their bounds. Nevertheless, coastal States may take advantage of their extensive rights within the 200 mile zone and exercise control indirectly; i.e., by claiming that the archaeological research conducted by third States interferes with their resource related rights or by employing articles 60 and 80 which grant them a wide range of powers over the construction and use of installations on the seabed. The establishment of a general duty to protect archaeological objects found at sea may also be used by coastal States as a basis to enact protective measures in the exercise of their resource-related jurisdiction over the continental shelf.

Finally, archaeological objects found in the Area are to be "preserved or disposed of for the benefit of mankind as a whole", while taking into account 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 149).

The significance of article 149 is limited to a considerable extent by the failure of to establish an international organ to implement the proposed regime. According to article 157(2):

"The powers and functions of the Authority shall be those expressly conferred upon it by this Convention. The Authority shall have such incidental powers consistent with this Convention, as are implicit in and necessary for the exercise of those powers and functions with respect to activities in the Area."

Archaeological operations do not qualify as "activities in the Area"[23] and, as a result, the Authority does not enjoy any jurisdictional powers over cultural property found on the international deep seabed.

Furthermore, the proposed regime suffers from vagueness and ambiguity:
Firstly, article 149 does not specify how and where the objects in question will be "preserved" or "disposed of" for the benefit of mankind as a whole, nor does it provide for the funding of such activities.

Secondly, under article 149, archaeological objects receive the attention of the international community only when found. It remains open whether the right to search for such objects is also to be carried out for the benefit of mankind as a whole or archaeological research is to be exercised as a freedom of the high seas.

Thirdly, article 149 fails to establish any obligation to report the accidental discovery of archaeological objects and to notify interested parties.

Finally, the accommodation of preferential rights is far from satisfactory. Article 149 recognises three different categories of States as claimants to these rights without defining the terms employed and without establishing priorities between them. Inevitably, conflicts will arise as to which State has priority over discovered relics. In the context of shipwrecks, the additional problem may arise as to whether the right of the State of origin of the ship prevails over the right of the State(s) of origin of the cargo on board.[24]

3.3. Evaluation of the scheme of protection envisaged by the 1982 Convention

Regrettably, the legal regime of archaeological and historical objects envisaged by the 1982 Convention is far from satisfactory. Beyond the 24 mile line, archaeological research is "free for all", whilst archaeological and historical objects found on the international deep sea bed

will be "preserved or disposed of" for the benefit of mankind as a whole.

The failure of the 1982 Convention to provide an efficient scheme of protection was due to the determination of maritime powers to prevent the expansion of coastal competence over archaeological objects on the continental shelf and the manner in which the archaeological issue was dealt with during the negotiations at the Third UN Conference on the Law of the Sea (UNCLOS III). In the course of discussing the various regimes, the question of the accidental location of submerged archaeological and historical objects was raised. As an inevitable consequence of the context in which this issue came to the fore, the existing natural resource based delimitation of the seabed was used to determine the regime of archaeological objects even though these were not categorised as "natural resources".

Despite its shortcomings, the 1982 Convention undoubtedly constitutes a step forward from the previous regime which limited coastal jurisdiction over underwater cultural property to the territorial sea. Coastal States should, therefore, take advantage of its provisions to expand their jurisdiction over the 24 mile zone.

3.4. Customary International Law.

On the international level, it is always difficult to ascertain rules and practices which satisfy the prerequisites of custom, unless, of course, they form part of a treaty which represents the codification of pre-existing customary rules, such as the 1958 Geneva Convention on the High Seas.

With respect to underwater cultural property, two legal regimes may be identified:
(a) marine spaces that fall under coastal sovereignty, and
(b) high seas.

At the same time, a tendency to expand coastal jurisdiction beyond the territorial sea limit is distinguishable. This is revealed in: (a) article 303(2) of the 1982 Convention and article 2 of the Draft European Convention which is drafted along the same lines, (b) the practice of a small group of States (such as Australia, Spain and Morocco) which exercise jurisdiction over cultural property found on the outer continental shelf and/or the EEZ, and (c) Recommendation 848 (1978) of the Council of Europe, which proposes the creation of 200-

mile cultural protection zones. At present, it is not possible to confine this tendency to a certain area. The fact that the 1982 Convention has not entered into force does not assist,[25] although a small number of States (such as Denmark and recently France) have employed article 303(2) as a basis for expanding their competence beyond the territorial sea.

Recognition that the deep seabed cultural property forms part of the common heritage of mankind appears to be more a matter of attitude than of evidence. For example, the proposed designation of the Titanic as an International Maritime Memorial by U.S. legislation[26] will constitute the only instrument to date, other than the 1982 Convention itself, to deal with sites found in international waters. Nevertheless, the concept that the cultural resources of the deep seabed fall within the common heritage of mankind is widely accepted. During the negotiations of UNCLOS III, the few States which did oppose the adoption of such a principle did so simply because they opposed the extension of the powers of the Authority over non-resource related purposes. Similarly, in the course of the negotiations of the Council of Europe, cultural heritage located in extra-territorial waters was treated as being the common heritage of mankind to a greater extent than archaeological heritage found on land or in the territorial sea. It would seem that the concept of the "common heritage of mankind", which was formulated in the field of cultural heritage law, has paved the way for the development of a similar concept in relation to deepwater sites.

NOTES

1. Watson, P.J. "Method and Theory in Shipwreck Archaeology" in Gould, R.A. (ed) Shipwreck Anthropology, University of New Mexico Press, 1983, pp. 23-36 at p. 35.

2. The exclusion of the law of salvage appears amongst the minimum requirements of the legal protection of the underwater cultural heritage at national level adopted by Recommendation 848 (1978) of the Council of Europe, Council of Europe, Parliamentary Assembly, Texts adopted by the Assembly, Sessions 30-32 (1978/81). See further Prott, L.V. and O'Keefe, P.J. "Final Report on Legal Protection of the Underwater Cultural Heritage", Council of Europe, Parliamentary Assembly The Underwater Cultural Heritage, Report of the Committee on Culture and Education Rapporteur Mr. John Roper) Doc. 4200-E, Strasbourg, 1978, pp. 45-90 at pp. 69-70.

It is, therefore, important that the recently adopted International Convention on Salvage 1989, reads in article 30(1): "[a[ny State may, at the time of signature, ratification, acceptance, approval or accession, reserve the right not to apply the provisions of this Convention: (d) when the property involved is maritime cultural property of prehistoric, archaeological or historical interest and is situated on the seabed". Text reprinted in (1990) Lloyd's Maritime and Commercial Law Quarterly 54.

3. Ibid.

4. Council of Europe, *Ad Hoc* Committee of Experts on the Underwater Cultural Heritage, Doc. CAHAQ (85)5, Strasbourg, 23 April 1985.

5. Reprinted in Burhenne, W. (ed) International Environmental Law, Multilateral Treaties, Berlin 1982, No. 26, pp. 11-18.

6. 294 UNTS 215.

7. 10 ILM (1971) at p. 289.

8. 11 ILM (1972) at p. 1358.

9. Europ. T.S. No. 66.

10. 15 ILM (1976) at p. 1350.

11. Adopted by the General Conference of UNESCO at its ninth session, New Delhi, Dec. 5th 1956.

12. Adopted by the General Conference of UNESCO at its twentieth session, Paris, Nov. 28th 1978.

13. Europ. T.S. No. 119.

14. The (revised) Convention was adopted in Malta, 16 January 1992. Under article 14(2) "no State party to the 1969 European Convention on the Protection of the Archaeological Heritage may deposit its instrument of ratification, acceptance or approval, unless it has already denounced the said Convention or denounces it simultaneously".

15. Resolution 38/34 of 25 November 1983. 38 UN GAOR Supp. No. 47 (A/38/47) at p. 24; resolution 40/19 of 21 November 1985. 40 UN GAOR Supp. NO. 53 (A/40/53) at p. 23; Resolution 42\7 of 22 October 1987, UN Press Release GA\7612, 13 January 1988 at p. 10; Resolution 44\18 of 6 November 1989, UN Press Release GA\7977, 22 January 1990 at p. 30.

16. Convention on the Territorial Sea and the Contiguous Zone, 516 UNTS 205; Convention on the Continental Shelf, 499 UNTS 311; Convention on the High Seas, 450 UNTS 82; Convention on Fishing and Conservation of Living Resources on the High Seas, 559 UNTS 285. The latter is of no relevance to maritime archaeology.

17. II ILC Yearbook 1956 at p. 298.

18. See further Strati, A. The legal Protection of the Underwater Cultural Heritage as an Emerging Objective of the Law of the Sea, Unpublished PhD thesis, Cardiff Law School, University of Wales, 1988, pp. 391-400.

19. United Nations, The Law of the Sea, (UN New York, 1983) (Sales No. E. 83. V. 5).

20. In particular see (i) Informal suggestion submitted to the Second Committee of the Conference by the delegation of Greece during the first part of the eighth session held at Geneva 1979; (ii) Informal proposal by Cape Verde, Greece, Italy, Malta, Portugal, Tunisia and Yugoslavia, UN Doc.A\CONF.62\C.2 Informal Meeting\43 of 16 August 1979; (iii) Informal proposal by Cape Verde, Greece, Italy, Malta, Portugal, Tunisia and Yugoslavia, UN Doc. A\CONF.62\C.2\Informal Meeting\43\Rev. 1 of 21 August 1979; (iv) Informal proposal by Cape Verde, Greece, Italy, Malta, Portugal, Tunisia and Yugoslavia, UN Doc.A\CONF.62\C.2\Informal Meeting\43\Rev. 2 of 19 March 1980; (v) Informal proposal by Cape Verde, Greece, Italy, Malta, Portugal, Tunisia and Yugoslavia, UN Doc. A\CONF.62\C.2\Informal Meeting\43\Rev. 3 of 27 March 1980; (vi) Informal proposal by the United States of America, UN Doc.A\CONF.62\GP.4 of 27 March 1980; (vii) Informal proposal by Greece, UN Doc.A\CONF. 62\GP.10 of 18 August 1980; (viii) Draft Article under General Provisions, UN Doc.A\CONF.62\GP.11 of 19 August 1980; (iv) Draft Convention on the Law of the Sea, Article 303, UN Doc.A\CONF.62\WP.10\Rev. 3 of 27 August 1980. For an analysis see Strati, op.cit. note 17, at pp. 234-244.

21. By definition, the exploration of the seabed for the location, investigation and excavation of archaeological remains is scientific research. Both the scientific knowledge aquired and the employment of scientific method contribute to this conclusion. However, within the framework of the 1982 Convention, archaeological endeavour does not qualify as marine scientific research which is confined to the natural environment and its resources. See also Strati, op. cit. note 20, pp. 72-76, and Soons, A.H.A. Marine Scientific Research and the Law of the Sea, T.M.C. Asser Institute - The Hague, Kluwer Law and Taxation Publishers, 1982, at p. 275, footnote 38.

22. These read : (1) States have the duty to protect objects of an archaeological and historical nature found at sea and shall co-operate for this purpose, (3) Nothing in this article affects the rights of identifiable owners, the law of salvage or other rules of admiralty, or other 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.

23. Articles 1(3) and 133(b) of the 1982 Convention read respectively as follows: "Activities in the Area are all activities of exploration and exploitation of the resources of the Area." "Resources of the Area are all solid, liquid or gaseous mineral resources in situ in the area at or beneath the seabed including polymetallic nodules."

24. For a discussion of article 149 see Strati A., "Deep Seabed Cultural Property and the Common Heritage of Mankind", 40 Int'l & Comp. L.Q (1991), pp. 859-895.

25. According to Article 305, the Convention will enter into force 12 months after the date of deposit of the sixtieth instrument of ratification or accession. As of 20 October 1991, 44 States have ratified the Convention. C.f. Nations Unies, Bureau des Affaires Maritimes et du Droit de la Mer, Le Droit de lA Mer : Revendications d' Extentions de la Jurisdiction Nationale a des Zones Maritimes, 1992.

26. RMS Titanic Maritime Memorial Act of 1986. PL 99-153-Oct. 21 1986: 200 Stat. 2082. It seems, however, that the Titanic is located on the outer continental shelf of Newfoundland, as defined by the 1982 Convention, and not, as it was thought before, on the deep seabed. See further Gault, I.T. and Vander Zwaag, D. "Legal Jurisdiction over the Titanic", Lighthouse, Edition 37, Spring 1988.

CHAPTER 2

MARINE ARCHAEOLOGY IN THE MEDITERRANEAN

1. Archaeological potential of the Mediterranean

The history of marine archaeology is closely associated with the Mediterranean. In 1832, the 5th century bronze Apollo, which is now in the Louvre, was raised from the depths by a trawler's nets off the island of Elbe. After a wreck was accidentally discovered by sponge fishermen off Antikythera in 1901, an expedition was launched which resulted in the recovery of many statues, including the famous "Youth from Antikythera". Greek sponge divers also found a wreck at Mahdia in the Bay of Tunis in 1907, whilst in 1926 Greek trawlermen found pieces of bronze statues from Cape Artemision in their nets.

Ambassador Pardo, in his famous 1970 intervention before the UN General Assembly, stated:

> "[T]here are more objects of archaeological value lying on the bottom of the Mediterranean than exist in the museums of Greece, Italy, France and Spain combined."[1]

This observation is supported by Bascom's study of 19th century losses at Lloyds of London. He found that about 20% of all sinking occurred well away from coastlines and concluded from this that upwards of 150,000 merchant ships were likely to have gone down offshore in the classical Mediterranean shipping era. In addition to these vessels, some 5,000 warships were likely to have sunk, with many of these in deep waters.[2]

In addition, there are likely to be wrecks from earlier periods as well as submerged settlements and human remains on the continental shelf, the importance of which should not be underestimated:

> "The area of the continental shelf is 5% of the entire area of the Earth equivalent to a continent the size of North America. This continent was once available for exploitation by Stone Age peoples, and its exploitation contributed mightily to the growth of early technology, marine skills, the origins of agriculture, and of civilisation itself up to the start of the Bronze Age in the Middle East."[3]

2. The legal framework

Following a proposal by the Greek delegate, Mr Papathanasopoulos, the Committee on Culture and Education of the Council of Europe recommended in its 1978 Report that the proposed European Convention on the Protection of the Underwater Cultural Heritage should be supplemented by a regional convention for the Mediterranean area. The Committee also recommended that the Mediterranean waters beyond the territorial sea zone should be declared a sea of cultural heritage by the littoral States through the adoption of a regional convention. Implementation of these recommendations required the active co-operation and participation of the North African and Levantine States.[4] As yet, no step has been taken in this direction.

The Mediterranean States were also active participants in the negotiations of the UNCLOS III. They raised the archaeological issue and fought for the adoption of protective measures in respect of archaeological objects found on the outer continental shelf and the Area. However, given the small width of the Mediterranean and article 76(1) of the 1982 Convention which establishes the 200 mile limit as the minimum breadth of the continental shelf, the legal regime of the deep seabed is of limited relevance to the Mediterranean. For example, it will be relevant where a Mediterranean State qualifies as the State of origin of a wreck or its cargo found on the deep seabed in, say, the Atlantic Ocean.

As discussed above, the proposals for the extension of coastal jurisdiction over the continental shelf were rejected. Instead, a compromise solution was adopted which expanded coastal competence over the contiguous zone and established a *de facto* 24 mile archaeological zone.

2.1. With the exception of Albania, Israel, Syria and Turkey, all the Mediterranean States are signatories to the 1982 Convention, whilst four of them, Cyprus, Tunisia, Egypt and the former Yugoslavia, have ratified it. Against this backdrop, it is interesting to note the various approaches which have been adopted by Mediterranean States: The majority of the Mediterranean States claim a 12 mile territorial sea in accordance with Article 4 of the 1982 Convention and customary international law. A notable exception to this is Syria which claims a 35 mile territorial sea. It is also worth noting that Greece and Turkey (in relation to the Bosphorus and the Aegean Sea) claim 6 nautical mile territorial seas. The conduct of marine

archaeological research and any other activity relating to underwater cultural property found within the territorial sea belts automatically falls under the sovereignty of the relevant coastal State.

2.2. Tunisia claims jurisdiction over submerged ruins up to a distance of 24 nautical miles from the baselines used to measure the width of the territorial sea. Spain regards archaeological remains on the outer continental shelf as part of its national cultural heritage, whilst Morocco requires its consent for the conduct of archaeological research within its 200 mile EEZ. Finally, Greece, Israel, Libya (and the former Yugoslavia) require licencees of petroleum exploration and exploitation activities to report the accidental discovery of antiquities on the outer continental shelf and to respect relevant national laws.

3. National laws on marine archaeology

The pattern of national heritage legislation protecting underwater cultural property varies considerably between States. There are two main types of legislation : (a) general heritage legislation and (b) legislation specifically dealing with underwater remains.

In the Mediterranean region, only two States, Monaco and France, have enacted legislation which specifically regulates aspects of the underwater cultural heritage. However, the majority of Mediterranean States have enacted general antiquities laws which either specifically refer to underwater sites, such as Greece, Cyprus, Spain and Turkey, or have been extended to apply to such sites, such as Italy. Others, such as Albania and the Lebanon, have antiquities laws which may be interpreted so as to apply to underwater sites.

It is clear that the legislative approach of the Mediterranean States towards the protection of underwater remains is far from unified. However, this is unimportant provided there are no loopholes in the legislative schemes of the Mediterranean States which leave part of the cultural heritage unprotected. Underwater cultural property should enjoy the same level of protection as cultural property on land.

The Cypriot Antiquities Law provides a good illustration of general antiquities legislation gradually extending to include archaeological remains found on the bed of the territorial sea. Article 2 of the original Antiquities Law (1935) provided that:

"'land' includes land (with the grazing rights, and all water and rights on, over or under such land), buildings, trees, easements and standing crops."

This definition was amended by article 3(b) of the Law to Amend the Antiquities Law of 10 September 1964 (No. 48 of 1964) as follows:

"Section 2 is hereby amended as follows:

[b]y the insertion immediately after the interpretation of land of the words following:

'and also includes the territorial waters of the Republic'."

A further amendment was made by article 2 of The Antiquities (Amending) Law of 8 June 1973 (No. 32 of 1973) which states:

"Section 2 of the principal law is amended as follows: by numbering the existing part thereof as subsection (1) and by adding the following amendments thereto:

(b) by the repeal of the amendment to the definition of land made by section 3(b) of Law 48 of 1964 and the insertion immediately after the definition of the word land, of the words 'and includes the territorial waters of the Republic'."

3.1. Definition of underwater cultural property

A wide variety of methods have been employed in national legislation to delimit the application of heritage laws, ranging from the use of very general language to the specific nomination of what is protected. As States are primarily concerned with their own national heritage, the definitions which they have adopted reflect the specific characteristics of their cultures. Thus, the Mediterranean States are especially concerned with antiquities, whilst European States pay more attention to art treasures. There is no uniformity amongst the definitions contained in the relevant national statutes or in the choice of time limits where age is adopted as a criterion for protection, although a period of 100-200 years is rather common. The following examples are illustrative of the approach adopted by Mediterranean States:

The Lebanon protects as antiquities "any product of human activity dating from before 1700 (1107 of the hegira) irrespective of the civilisation to which it belongs", so does, the corresponding legislation of Israel.

Egyptian Law No.117 of 1983 defines as "antiquity",

> "any movable or immovable property that is a product of any of the various civilisations or any of the arts, sciences, literatures and religions of the successive historical periods extending from prehistoric times down to a point one hundred years and that has archaeological or historical value or significance as a relic of one of the various civilisations that have been established in the land of Egypt or historically related to it, as well as human and animal remaims from such period".

Syrian Decree - Law No. 222 of 1963 also defines antiquity as any movable or immovable property which is more than two hundred years old, whilst Cypriot legislation describes "antiquities" as,

> "[A]ny object whether movable or part of immovable property which is a work of architecture, sculpture, graphic art, painting and any art whatsoever, produced , sculptured, inscribed or painted by human agency, or generally made in Cyprus earlier than the year 1850 A.D. in any manner and from any material or excavated or drawn from the sea within the territorial waters of Cyprus and includes any such object or part thereof which has at a later date been added, reconstructed, readjusted or restored;
> Provided that in the case of such works of ecclesiastical or folk art of the highest archaeological, artistic or historical importance, the year 1900 A.D. will be taken into account in place of the year 1850 A.D.."

Tunisian Law No. 86-35 of May 1985 protects as "archaeological property",

> "historic buildings and monuments and human works and artefacts dating back than a hundred years when there is evidence of the importance of their historical feature, authenticity and artistic originality, or in order to perpetuate an intellectual or artistic work commemorating a national event, or an account of their intrinsic value or their connection with a national event".

Finally, Malta protects objects which have existed in the islands, inclusive of their territorial waters, for fifty years.

3.2. Assertion of jurisdiction

With the exception of those States which claim jurisdiction over cultural property found on the continental shelf (Spain), the EEZ (Morocco) or the contiguous zone (Tunisia and France), the scope of national heritage legislation is restricted to the territorial sea.

France also applies its law on wrecks to flotsam and jetsam found on the high seas and brought back into its territorial waters or to its coast. Similarly, Spain applies its salvage regulations to all salvors and to the owners of salvaged vessels when the ship or wreck in question enters a Spanish port. The same rules are applied for findings: i.e., to anything found, washed up or floating in Spanish territorial waters or beyond and which is brought into a Spanish port.[5]

3.3. Treatment of title

It would be unrealistic to expect to deal with the controversial issue of ownership of submerged cultural property in a few lines. Comparative legal research would reveal that the legal status of historic wrecks and their cargoes is entangled amongst the various wreck, salvage and admiralty laws which differ between national legal systems. However, the consideration of some common principles governing property rights in marine archaeological resources found within territorial waters may help to clarify the operation of national laws within such waters.

So far as the rights of the identifiable owners of shipwrecks are concerned, almost all jurisdictions provide that the owners do not lose their property rights simply by the sinking of their vessel. Instead, the question of title depends on whether the owners have abandoned the wreck or not. The requirements of abandonment differ between jurisdictions, although abandonment is very difficult to prove in both common and civil law systems if the wreck has not been expressly abandoned by the owner or his successors.

To overcome this problem, a number of States have enacted legislation which vests ownership of shipwrecks and their cargo in the State after the passage of a very short period of time. For example, Spanish legislation provides that the State becomes the owner of any sunken ship and its cargoes after three years if the owners do not exercise their rights, while

in France, the owners' rights can be terminated by a declaration of the Ministre de la Marine Marchande. Similarly, in Greece the State aquires ownership of a sunken wreck, if there is no identifiable owner or the identified owner fails to raise the wreck within three years from the date of the judgement declaring his right of ownership (or if an attempt is made to raise the wreck, which is interrupted for three successive years). In other words, the acquisition of title to the wreck by the State is done by way of deemed abandonment. The exercise of State prerogative over abandoned goods or goods belonging to unidentifiable persons is rather common. This rule, which fundamentally differs from the otherwise predominant concept of the acquisition of property rights by virtue of occupation, vests title in the sovereign State.

The enactment of a general antiquities law or one specifically dealing with underwater cultural remains superimposes a new legal regime on these fundamental rules. A number of these laws vest ownership of protected items in the State; some provide for State ownership under the assumption that no owner is known or can be identified (France), whilst others provide for an automatic transfer of the ownership of all antiquities to the State (Greece, Italy and Turkey).[6]

In this context, it is interesting to note the approach adopted by article 8 of Tunisia's Law No. 86-35/1985 which states that,

> "[A]rchaeological property is divided into movable and immovable property. Such property shall belong to the State with the exception of:
>
> (1) Immovable archaeological property the private ownership of which has been legally established;
>
> (2) Movable archaeological property which has not been taken from the subsoil or from beneath the seabed nor taken from historical monuments.
>
> Archaeological property belonging to the State and to institutions under its authority is inalienable and may not be sold."

3.4. State ownership or restriction to private ownership?

It has been argued that, in relation to the protection of cultural heritage in general, State ownership is not necessary as the identity of the owner of a relic at the time of its discovery does not dictate the degree of protection offered to it. This is evidenced by the fact that the

same types of control are utilised by both States with a strong commitment to private ownership and those favouring public ownership.[7]

However, State ownership of cultural property found underwater is preferable both in terms of the protection afforded to unexcavated sites and the rights of the State in case of illicit excavation or theft of recovered items. The vesting of title to all antiquities in the State enables competent authorities to control underwater cultural property without any delay caused by ownership claims. In addition, it provides a "neat solution" to the problem posed by the difficulty in proving the origins and ownership of ancient shipwrecks.[8]

4. Conclusion

The Mediterranean has been described as the natural birthplace of marine archaeology.[9] It would be regrettable if the recent surge of interest in its archaeological wealth is not accompanied by an adequate scheme of legal protection.

The commercial value of submerged cultural property has encouraged a great increase in clandestine excavations and illicit dealings of all kinds. It would be true to say that the majority of accessible underwater sites have already been looted. Bass reported the looting of almost every accessible wreck off the Turkish coast, whilst Thockmorton has argued that most sites in Greek and Italian waters of up to 100 feet have been looted. The same applies to the waters of France and Spain where probably nine out of ten underwater sites within the reach of divers have been destroyed.[10] However, scuba divers are not solely responsible for the looting or destruction of archaeological sites as a great number are actually ruined by dredging and seabed operations.[11]

It is, therefore, important that positive action is taken not only to revise existing legislation where necessary, but also to ensure the public is properly educated and the law is rigorously enforced. The effectiveness of any scheme of protection depends to a considerable extent on the co-operation of the public and, in particular, of groups such as underwater explorers and hobby divers.

Finally, the Mediterranean States should co-operate at regional level to further archaeological research, to improve techniques and to control the traffic in underwater cultural property.

NOTES

1. UN Doc. A/6.1/P.V. 1515, p. 3; 22 UN GAOR Vol. I, A/C.1/P.V. 1494-1537 (1967).

2. Bascom, W. Deep Water, Ancient Ships: The Treasure Vault of the Mediterranean, David & Charles, Newton Abbott 1976 at p. 84.

3. Flemming N.C., "Ice Ages and Human Occupation of the Continental Shelf" 28 Oceanus No. 1, Spring 1985, pp. 18-25 at p. 25.

4. Council of Europe, Parliamentary Assembly The Underwater Cultural Heritage, Report of the Committee on Culture and Education Rapporteur Mr. John Roper) Doc. 4200-E, Strasbourg, 1978, Appendix II, at p. 82.

5. See Law 60/62 of 24 December 1962 on Regimen de auxillio, salvamentos, remolques, hallazgos y extracciones maritimes (Article 29), and Decree 984/67 of 30 April 1967 on the application of Law 60/63 of 24 December 1962.

6. One should mention the case of the statute Melquart di Sciacca which was found on the high seas approximately 24 nm off the coast of Sicily. According to the Tribunal of Sciacca, the statue entered Italian territory when it was caught in the nets of the Italian boat which discovered it. Since the net forms part of the boat, which, in turn, is treated as being part of Italian territory by article 4 of the Italian Code of Navigation, the disovery of the statute took place on Italian territory. As a result, Law No. 1089 of 1 June 1939 on the Protection of Objects of Artistic and Historic Interest applied, article 49 of which vests title of ownership of fortuitously discovered objects to the State. C/f Tribunale di Sciacca, Sentenza 9 Gennaio 1963, reprinted in Foro Italiano (1963) pp. 1317-1320 as well as in 30 Rivista de Diritto della Navigazione (1964) pp.352-356.

7. Op.cit. note 4 at p. 68.

8. Ibid.

9. Morcos, S. "The birthplace of submarine archaeology" in UNESCO Courier, February 1986 ("The Mediterranean") pp. 42-46 at p. 42.

10. Bass, G.F. "Turkey-Survey for Shipwrecks 1973" in 28 Oceanus No. I, Spring 1985 pp. 2-12 at p. 4.

11. Marx, R.F. "The disappearing underwater heritage" in 137 Museum (Vol. XXXV, No. 1) 1983, pp. 9-10 at p. 9.

ANNEXES

ANNEX I

Table of ocean claims of Mediterranean States

	Territorial sea	Contiguous zone	Continental shelf	Exclusive economic zone
Albania	12	--	200E	--
Algeria	12	--	not specified	--
Cyprus	12	--	E	--
Egypt	12	24	200/E	--
France	12	24	200/E	200+
Greece	6	--	200/E	--
Israel	12	--	E	--
Italy	12	--	200/E	--
Lebanon	12	--	not specified	--
Libya	12	--	not specified	--
Malta	12	24	200/E	--
Monaco	12	--	not specified	--
Morocco	12	24	200/E	200
Spain	12	--	E	--
Syria	35	--	200/E	--
Tunisia	12	--	not specified	--
Turkey	6/12[a]	--	not specified	--
Yugoslavia	12	--	200/E	--

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a Turkey claims a 6-mile territorial sea in the Aegean Sea, and a 12-mile territorial sea in the Mediterranean and Black Seas.

E To the depth of exploitation.

200/E 200 metres depth or to the depth of exploitation.

ANNEX II

Table of ocean claims of Mediterranean States related to Marine Archaeology

	Territorial sea	Contiguous zone	Continental shelf	Exclusive economic zone
Albania	+	--	--	--
Algeria	*	--	--	--
Cyprus	*	--	--	--
Egypt	*	--	--	--
France	*	*	--	--
Greece	*	--	Y	--
Israel	*	--	Y	--
Italy	*	--	--	--
Lebanon	+	--	--	--
Libya	*	--	Y	--
Malta	*	--	--	--
Monaco	*	--	--	--
Morocco	*	--	--	*
Spain	*	--	*	--
Syria	*	--	--	--
Tunisia	*	*	--	--
Turkey	*	--	--	--
Yugoslavia	*	--	Y	--

Y The States in question do not claim jurisdiction over underwater cultural property found on the outer continental shelf. They do, however, oblige their licencees of petroleum exploration and exploitation activities to respect the relevant national heritage laws.

\+ These States do not regulate specifically marine archaeological research.

ANNEX III

Table of Law of the Sea Conventions

No reference has been made to the Convention on Fishing and Conservation of Living Resources on the High Seas as it is of no relevance to marine archaeology

	Territorial Sea Convention	Continental Shelf Convention	High Seas Convention	UN Convention
Albania	--	07.12.1964 A	07.12.1964 A	--
Algeria	--	--	--	10.12.1982 S
Cyprus	--	11.04.1974 A	23.05.1988 A	12.12.1988 R
Egypt	--	--	--	26.08.1983 R
France	--	14.06.1965 A+	30.10.1958 S	10.12.1982 S
Greece	--	06.11.1972 A	--	10.12.1982 S
Israel	06.09.1961 R	06.09.1961 R	06.09.1961 R	--
Italy	17.12.1964 A+	--	17.12.1964 A	07.12.1984 S
Lebanon	--	29.05.1958 S	29.05.1958 S	07.12.1984 S
Libya	--	--	--	12.03.1984 S
Malta	19.05.1966 Ac	19.05.1966 Ac	--	10.12.1982 S
Monaco	--	--	--	10.12.1982 S
Morocco	--	--	--	10.12.1982 S
Spain	25.02.1971 A+	25.02.1971 A+	25.02.1971 A+	10.12.1982 S
Syria	--	--	--	--
Tunisia	30.10.1958 S+	30.10.1958 S	30.10.1958 S	24.04.1985 R
Turkey	--	--	--	--
Yugoslavia	28.01.1966 R	28.01.1966 R+	28.01.1966 R	27.11.1985 R

+ Reservation made upon signature, ratification or accession to the Convention.
R = ratification
A = accession
Ac= acceptance
S = signature

ANNEX IV

Table of International and Regional Conventions to which Mediterranean States are parties

	1954 Hague Convention	1954 Protocol	1970 UNESCO Convention	1972 UNESCO Convention	1982 Mediterranean Protocol	1969 Archaeological Convention	1985 European Convention
Albania	20.12.1960 A	20.12.1960 A	—	10.07.1989 R	—	—	—
Algeria	—	—	24.06.1974 R	24.06.1974 R	16.05.1985 A	NOT EUROPEAN	NOT EUROPEAN
Cyprus	09.09.1964 A	09.09.1964 A	19.10.1979 R	14.08.1975 Ac	28.06.1988 A	23.11.1970 R	25.10.1985 S
Egypt	17.08.1955 R	17.08.1955 R	05.04.1973 Ac	07.02.1974 R	08.07.1983 R	NOT EUROPEAN	NOT EUROPEAN
France	07.06.1957 R	07.06.1957 R	—	27.06.1975 Ac+	02.09.1986 Ac	03.07.1972 R	—
Greece	09.02.1981 R	09.02.1981 R	05.06.1981 A	17.07.1981 A	26.01.1987 R	20.07.1981	23.06.1985 S
Israel	03.10.1957 R	01.04.1958 A	—	—	28.10.1987 R	—	—
Italy	09.05.1958 R	09.05.1958 R	02.10.1978 R	23.06.1978 R	11.01.1985 R	16.09.1974 R	30.07.1985 S
Lebanon	01.06.1960 R	01.06.1960 R	—	03.02.1983 R	—	NOT EUROPEAN	NOT EUROPEAN
Libya	06.03.1958 R	06.03.1958 R	09.01.1973 R	13.10.1978 R	—	NOT EUROPEAN	NOT EUROPEAN
Malta	—	—	—	14.11.1978 Ac	11.01.1988 R	30.04.1971 R	—
Monaco	10.12.1957 R	10.12.1957 R	—	07.11.1978 R	03.04.1982 S	—	—
Morocco	30.03.1968 A	30.08.1968 A	—	28.10.1975 R	02.04.1983 S	NOT EUROPEAN	NOT EUROPEAN
Spain	07.07.1960 R	—	10.01.1986 R	04.05.1982 A	22.02.1987 R	28.02.1975 A	—
Syria	06.03.1958 R	06.03.1958 R	21.02.1975 Ac	13.08.1975 Ac	—	NOT EUROPEAN	NOT EUROPEAN
Tunisia	28.01.1981 A	28.01.1981 A	10.03.1975 R	10.03.1975 R	26.05.1983 R	NOT EUROPEAN	NOT EUROPEAN
Turkey	15.12.1965 A	15.12.1965 A	21.04.1981 R	—	06.11.1986 A	—	26.09.1985 S
Yugoslavia	13.02.1956 R	13.02.1956 R	03.10.1972 R	26.05.1974 R	21.02.1986 R	—	—

+ With declaration made by virtue of Article (16)2 of the Convention according to which this State shall not be bound by the provisions of Article 16 (1).

PART II

DIRECTORY OF NATIONAL LEGISLATION

ALBANIA

I. NATIONAL LEGISLATION

a. Heritage legislation

Law No 609 of 24 May 1948 on the Protection of Cultural Monuments and Rare Natural Objects.

Regulations concerning the Protection of Cultural Monuments promulgated by the Decision of the Council of Ministers No 130 of 9 April 1955.

Regulations of the Ministry of Education and Culture of 18 October 1972 for the Protection of Cultural and Historical Monuments.

Decree No 4874 of 23 September 1971 on the Protection of Cultural Monuments, Historic Monuments and Rare Natural Objects.

b. Other relevant laws

Decree No 7366 of 24 March 1990 amending Decree No 4650 of 9 March 1970 on the Borders of the People's Republic of Albania, establishes a 12 nm territorial sea.

There is no *ad hoc* domestic legislation on the delimitation and the regime of the continental shelf. However, Albania has acceeded to the 1958 Geneva Convention on the Continental Shelf and implemented it by Decree No 3854 of 18 May 1964.

II. INTERNATIONAL CONVENTIONS

Convention and Protocol for the Protection of Cultural Property in the Event of Armed Conflict (UNESCO, The Hague, 1954). Instruments of accession to the Convention and the Protocol deposited on 20 December 1960. The Convention and the Protocol entered into force in respect of Albania on 20 March 1961.

Convention concerning the Protection of the World Cultural and Natural Heritage (UNESCO, Paris, 1972). Instruments of ratification deposited on 10 July 1989. The Convention entered into force in respect of Albania on 10 October 1989.

ALGERIA

I. NATIONAL LEGISLATION

a. Heritage legislation

Ordinance No 67-281 of 20 December 1967 on Excavations and the Protection of Historic and Natural Sites and Monuments.

Article 14 : "The State acquires by right any movable property discovered during the course of excavations or fortuitously in the Algerian territorial waters".

Order of 17 May 1980 on Archaeological Research Permits.

b. Other relevant laws

Decree No 63-403 of 12 October 1963 establishes a 12 nm territorial sea. See also Decree No 84-181 of 4 August 1984 establishing the baselines from which the breadth of the maritime areas under national jurisdiction is measured.

There is no *ad hoc* domestic legislation on the delimitation and the regime of the continental shelf.

II. INTERNATIONAL CONVENTIONS

Convention of the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (UNESCO, Paris, 1970). Instrument of ratification deposited on 24 June 1974. The Convention entered into force in respect of Algeria on 24 September 1974.

Convention concerning the Protection of the World Cultural and Natural Heritage (UNESCO, Paris, 1972). Instrument of ratification deposited on 24 June 1974. The Convention entered into force in respect of Algeria on 17 December 1975.

Protocol concerning Mediterranean Specially Protected Areas (Geneva, 1982). Instrument of accession to the Protocol deposited on 16 May 1985. The Protocol entered into force in respect of Algeria on 23 March 1986.

CYPRUS

I. NATIONAL LEGISLATION

a. Heritage legislation

The Antiquities Law of 31 December 1935, as amended by the Antiquities (Amendment) Law No. 48 of 1964 and the Antiquities (Amendment) Law No. 32 of 1973. (Chapter 31).

Article 2 : "'[L]and' includes land (with the grazing rights and all water and water rights on, over or under such land), buildings, trees, easements and standing crops, and includes the territorial waters of the Republic."

b. Other relevant laws

Law No 45 of 3 August 1964 establishes a 12 mile territorial sea.

Law No 48 of 5 April 1971 on the Exploration and Exploitation of the Continental Shelf and Matters Connected Therewith sets the outer limit of Cyprus's continental shelf by reference to the depth of exploitation.

II. INTERNATIONAL CONVENTIONS

Convention and Protocol for the Protection of Cultural Property in the Event of Armed Conflict (UNESCO, The Hague, 1954). Instruments of accession to the Convention and the Protocol deposited on 9 September 1964. The Convention and the Protocol entered into force in respect of Cyprus on 9 December 1964.

Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Trasnfer of Ownership of Cultural Property (UNESCO, Paris, 1970). Instruments of ratification deposited on 19 October 1979. The Convention entered into force in respect of Cyprus on 19 January 1980.

Convention concerning the Protection of the World Cultural and Natural Heritage (UNESCO, Paris, 1972). Instrument of acceptance deposited on 14 August 1975. The Convention entered into force in respect of Cyprus on 17 December 1975.

European Convention of the Protection of the Archaeological Heritage (Council of Europe, London, 1969). Instrument of ratification deposited on 23 November 1970. The Convention entered into force in respect of Cyprus on 23 February 1971.

European Convention on Offences Relating to Cultural Property (Council of Europe, Delphi, 1985). Signed by Cyprus on 25 October 1985.

Protocol concerning Mediterranean Specially Protected Areas (Geneva, 1982). Instrument of accession deposited on 28 June 1988. The Protocol entered into force in respect of Cyprus on 28 June 1988.

EGYPT

I. NATIONAL LEGISLATION

a. Heritage legislation

Law No 117 of 1983 promulgating the Law on the Protection of Antiquities.

Article 5 : "The Organisation shall be responsible for exploration for antiquities above the ground, under the ground and the inland and territorial waters".

b. Other relevant laws

Decree of 15 January 1951 concerning the Territorial Waters of the Arab Republic of Egypt, as amended by Presidential Decree No 180 of 17 February 1958, establishes a 12 nm territorial sea.

Declaration of a 24 nm Contiguous Zone on 26 August 1983 (upon ratification of the United Nations Convention on the Law of the Sea).

Presidential Decree No 1051 of 3 September 1958 on the Continental Shelf of the Arab Republic of Egypt, sets the outer limit of the continental shelf to a debth of 200 metres or, beyond that, to the depth of exploitation.

II. INTERNATIONAL CONVENTIONS

Convention and Protocol for the Protection of Cultural Property in the Event of Armed Conflict (UNESCO, The Hague, 1954). Instruments of ratification of the Convention and the Protocol deposited by Egypt on 17 August 1955. The Convention and the Protocol entered into force in respect of Egypt on 7 August 1956.

Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (UNESCO, Paris, 1970). Instrument of acceptance of the Convention deposited by Egypt on 5 April 1973. The Convention entered into force in respect of Egypt on 5 July, 1973.

Convention concerning the Protection of the World Cultural and Natural Heritage (UNESCO, Paris, 1972). Instrument of ratification deposited on 7 February 1974. The Convention entered into force in respect of Egypt on 17 December 1975.

Protocol concerning Mediterranean Specially Protected Areas (Geneva, 1982). Instrument of ratification deposited on 8 July 1983. The Protocol entered into force in respect of Egypt on 23 March 1986.

FRANCE

I. NATIONAL LEGISLATION

a. Heritage legislation

Law of 31 December 1913 on Historic Monuments.
Amended by Laws of 31 December 1921, 23 July 1927, 27 August 1941, 27 September 1941, 25 February 1943 and 24 May 1951; Ordinance of 23 October 1958; Decrees of 7 January 1959 and 18 April 1961; Laws of 21 July 1962 and 30 December 1966; Decrees of 6 February 1969, 28 August 1969 and 10 September 1970 and Law of 23 December 1970.

Law of 27 September 1941 on the Regulation of Archaeological Excavations.

Law No 61-1262 of 24 November 1961 on the Control of Shipwrecks.

Decree No 61-1547 of 26 December 1961 establishing the Regime of Shipwrecks. Chapter V deals with shipwrecks presenting archaeological, historical or artistic interest. See also the Arrete of 4 February 1965 concerning Shipwrecks.

Decree No 85-632 of 21 June 1985 amending Decree No 61-1547 of 26 December 1961.

Law No 89-874 of 1 December 1989 on maritime cultural property amending Law of 27 September 1941 on the Regulation of Archaeological Excavations.

b. Other relevant laws

Decree No 72-612 of 27 June 1972 amending Decree No 66-413 of 17 June 1966 on the Maritime Domain. See also the Decree of 19 October 1967 defining the straight baselines from which the breadth of the territorial sea is measured.

Law No 71-1060 of 24 December 1971 extends French territorial waters to 12 nm.

Law of 31 December 1987 establishes a 24 nm contiguous zone.

Law No 68-1181 of 30 December 1968 on the Exploration of the Continental Shelf and the Exploitation of its Resources, implemented by Decree No 71-360 of 6 May 1971 and amended by Law No 77-485 of May 1977. The outer limit of France's continental shelf is set by reference to a debth of 200 metres or, beyond that, to the depth of exploitation.

II. INTERNATIONAL CONVENTIONS

Convention and Protocol for the Protection of Cultural Property in the Event of Armed Conflict (UNESCO, The Hague, 1954). Instruments of ratification of the Convention and the Protocol deposited on 7 June 1957. The Convention and the Protocol entered into force in respect of France on 7 September 1957.

Convention concerning the Protection of the World Cultural and Natural Heritage (UNESCO, Paris, 1972). Instrument of acceptance deposited on 27 June 1975. The Convention entered into force in respect of France on 12 December 1975.

European Convention of the Protection of the Archaeological Heritage (Council of Europe, London, 1969). Instrument of ratification deposited on 3 July 1972. The Convention entered into force in respect of France on 3 October 1972.

Protocol concerning Mediterranean Specially Protected Areas (Geneva, 1982). Instrument of acceptance deposited on 2 September 1986. The Protocol entered into force in respect of France on 2 September 1986.

GREECE

I. NATIONAL LEGISLATION

a. Heritage legislation

The Antiquities Law (No 5351 of 9 August 1932) codifying Law No 5351 of 24 August 1932 on the Search for and the Preservation of Antiquities/Ancient Objects, Laws No BXM 7, 2447, 491 and 4823 and Legislative Decree of 12/16 June 1926.

Article 1 : "All antiquities, whether movable or immovable from ancient or subsequent times found in Greece, and any national possessions in rivers, lakes and in any depths of the sea, and on public, monastic and private land, shall be the property of the State. Consequently, the right and obligation to investigate and preserve such items, in public museums where appropriate, belong to the State...".

Law 401/1974 and Law 2674/1921 concerning Byzantine and Medieval Works of Art Earlier than 1830.

Law 1469/1950 of 2 August 1950 concerning the Protection of a Special Category of Edifices and Works of Art Subsequent to 1830.

Decision of the Minister of Culture No 10033 of 4 March 1988 Codifying Ministerial Decisions relating to Sea Areas, Where the Conduct of Underwater Activities is Permitted, as amended by Decision No 30896 of 11 July 1990.

b. Other relevant laws

Law No 230 of 17 September 1936 concerning the Extent of the Territorial Sea of Greece establishes a 6 nm territorial sea. See also Legislative Decree No 187 of 29 September - 3 October 1973 promulgating the "Code of Public Maritime Law". (Article 139).

Law No 142/1969 on the Exploration and the Exploitation of the Mineral Resources of the Seabed and the Beds of Lakes sets the outer limit of Greece's continental shelf by reference to a debth of 200 metres or, beyond that, to the depth of exploitation.

Law No 468 of 10 November 1976 on Prospecting, Exploration and Exploitation of Hydrocarbons and the Settlement of Related Matters.

Article 16(6) : "In carrying out the work of exploration, the contractor must observe the laws and regulations in force, including the regulations referred to in Artivle 39 hereof, relating to archaeological sites and monuments in general, places of historical interest and outstanding natural beauty..."

Article 39(1) : "Presidential decrees issued by motion of the Ministry of Industry and Energy shall prescribe regulations for the execution of any and all works and projects for the prospecting, exploration, and exploitation of hydrocarbons including ... cultural property and other activities in the expoloitation area".

II. INTERNATIONAL CONVENTIONS

Convention and Protocol for the Protection of Cultural Property in the Event of Armed Conflict (UNESCO, The Hague, 1954). Instruments of ratification of the Convention and the Protocol deposited on 9 February 1981. The Convention and the Protocol entered into force in respect of Greece on 9 May 1981.

Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (UNESCO, Paris, 1970). Instrument of ratification deposited on 5 June 1981. The Convention entered into force in respect of Greece on 5 September 1981.

Convention concerning the Protection of the World Cultural and Natural Heritage (UNESCO, Paris, 1972). Instrument of accession to the Convention deposited on 17 October 1981. The Convention entered into force in respect of Greece on 17 October 1981.

European Convention of the Protection of the Archaeological Heritage (Council of Europe, London, 1969). Instrument of ratification deposited on 20 July 1981. The Convention entered into force in respect of Greece on 20 October 1981.

European Convention on Offences Relating to Cultural Property (Council of Europe, Delphi, 1985). Signed by Greece on 23 June 1985.

Protocol concerning Mediterranean Specially Protected Areas (Geneva, 1982). Instrument of accession deposited on 26 January 1987. The Protocol entered into force in respect of Greece on 26 January 1987.

ISRAEL

I. NATIONAL LEGISLATION

a. Heritage legislation

The Antiquities Ordinance of 31 December 1929 and the Antiquities Regulations 1930, as amended.

The Antiquities Law No 5738 of 1978.

Article 1 : "[L]and includes any part of any sea, lake river or other water and the bottom thereof".

Working Code for Underwater Surveying.

Clause 28a regulates underwater surveying in areas of the seafloor declared as Ancient Underwater Sites (AUS).

b . Other relevant laws

Law No 5750 of 5 February 1990, amending Law No 5717 of 20 October 1956 on the Territorial Sea, establishes a 12 nm territorial sea.

Submarine Areas Law No 5713 of 10 February 1953 sets the outer limit of Israel's continental shelf by reference to the depth of exploitation.

Article 177 : "The holder of a preliminary permit or a petroleum right shall not, save with the consent of the Minister of Religions, carry out any operation within 100 meters from a holy site; where a doubt arises as to whether a particular site is a holy site, the Minister of Rwligions shall decide. The holder of a preliminary permit or a petroleum right shall not, save with the consent of the Director of the Department of Antiquities, carry out any operation within 100 meters from an historical site within the meaning of the Antiquities Ordinance; such consent shall not derogate from the obligations imposed by that Ordinance".

II. INTERNATIONAL CONVENTIONS

Convention and Protocol for the Protection of Cultural Property in the Event of Armed Conflict (UNESCO, The Hague, 1954). Instruments of ratification to the Convention deposited on 3 October 1957. Instrument of accession to the Protocol deposited on 1 April 1958. The Convention entered into force in respect of Israel on 3 January 1958, whilst the Protocol on 1 July 1958.

Protocol concerning Mediterranean Specially Protected Areas (Geneva, 1982). Instrument of ratification deposited on 28 October 1987. The Protocol entered into force in respect of Israel on 28 October 1987.

ITALY

I. NATIONAL LEGISLATION

a. Heritage legislation

Law No 1089 of 1 June 1939 on the Protection of Objects of Artistic and Historic Interest.

b. Other relevant laws

Law No 359 of 14 August 1974 amending article 2 of the Code of Navigation of 30 March 1942, establishes a 12 nm territorial sea.

Maritime Code. Articles 510-513.

Law No 613 of 21 July 1967 on the Exploration and Exploitation of Liquid and Gaseous Hydrocarbons in the Territorial Sea and the Continental Shelf, amending Law No 6 of 11 January 1957. The outer limit of Italy's continental shelf is set by reference to a debth of 200 meters or, beyond that, to the depth of exploitation.

II. INTERNATIONAL CONVENTIONS

Convention and Protocol for the Protection of Cultural Property in the Event of Armed Conflict (UNESCO, The Hague, 1954). Instruments of ratification of the Convention and the Protocol deposited on 9 May 1958. The Convention and the Protocol entered into force in respect of Italy on 9 August 1958.

Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (UNESCO, Paris, 1970). Instrument of ratification deposited on 9 October 1978. The Convention entered into force in respect of Italy on 2 January 1979.

Convention concerning the Protection of the World Cultural and Natural Heritage (UNESCO, Paris, 1972). Instrument of ratification deposited on 23 June 1978. The Convention entered into force in respect of Italy on 23 September 1978.

European Convention of the Protection of the Archaeological Heritage (Council of Europe, London, 1969). Instrument of ratification deposited on 16 September 1974. The Convention entered into force in respect of Italy on 16 December 1974.

Protocol concerning Mediterranean Specially Protected Areas (Geneva, 1982). Instrument of ratification deposited on 11 January 1985. The Protocol entered into force in respect of Italy on 23 March 1986.

LEBANON

I. NATIONAL LEGISLATION

a. Heritage legislation

Order No 166 LR of 7 November 1933 prescribing Regulations on Antiquities.

Order No 255 LR of 28 September 1934 prescribing Regulations on the Suppression of Offences Relating to Legislation on Antiquities and Historic Monuments.

b. Other relevant laws

Legislative Decree No 188 of 15 September 1983 on the Territorial Sea and Zones Which are Prohibited to Maritime Navigation establishes a 12 nm territorial sea.

There is no *ad hoc* legislation on the delimitation of the continental shelf.

II. INTERNATIONAL CONVENTIONS

Convention and Protocol for the Protection of Cultural Property in the Event of Armed Conflict (UNESCO, The Hague, 1954). Instruments of ratification to the Convention and the Protocol deposited on 1 June 1960. The Convention and the Protocol entered into force in respect of Lebanon on 1 September 1960.

Convention concerning the Protection of the World Cultural and Natural Heritage (UNESCO, Paris, 1972). Instrument of ratification deposited on 3 February 1983. The Convention entered into force in respect of Lebanon on 3 May 1983.

LIBYAN ARAB JAMAHIRIYA

I. NATIONAL LEGISLATION

a. Heritage legislation

The Antiquities Law (No 40 of 1968).

Article 4(1) : "With the exception of ... all antiquities whether immovable or movable in or on the ground or in the ground or in the territorial waters shall be considered to be public property".

Article 39 : "Archaeological excavations means any activity or activities undertaken with a view to discovering movable or immovable antiquities, by means of excavations, of topography or of exploration in water courses, the beds of lakes and gulfs or in any part of th depths of territorial waters".

b. Other relevant laws

Law No 2 of 18 February 1959 Governing the Extent of the Territorial Waters establishes a 12 nm territorial sea.

Petroleum Law of 21 April 1955 (No 25 of 1955).

Article 9 : "The concession shall not confer upon the concession holder the right to do any work within the pricincts of cemeteries, places used for religious worship and places of antiquity as defined in the Antiquities Laws in force. Any works of art or antiquity discovered by the concession holder shall be subject to the law in force".

Article 4 (1) : "This Act applies to the seabed and subsoil which lie beneath the territorial waters and the high seas contiguous thereto under the control and jurisdiction of the Libyan Arab Republic".

The outer limit of the continental shelf is not specified.

II. INTERNATIONAL CONVENTIONS

Convention and Protocol for the Protection of Cultural Property in the Event of Armed Conflict (UNESCO, The Hague, 1954). Instruments of ratification of the Convention and the Protocol deposited on 19 November 1957. The Convention and the Protocol entered into force in respect of Libya on 19 February 1958.

Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (UNESCO, Paris, 1970). Instrument of ratification deposited on 9 January 1973. The Convention entered into force in respect of Libya on 9 April 1973.

Convention concerning the Protection of the World Cultural and Natural Heritage (UNESCO, Paris, 1972). Instrument of ratification deposited on 13 October 1978. The Convention entered into force in respect of Libya on 13 January 1979.

MALTA

I. NATIONAL LEGISLATION

a. Heritage legislation

The Antiquities (Protection) Act, No XI of 1925, as amended in 1974.

Article 2 : "(1) The provisions of this Act shall apply to monuments and other objects whether movable or immovable, having a palaeontological, archaeological, antiquarian or artistic importance.

(2) For the purpose of this section, an object shall not be deemed to have acquired such importance before it has existed in these islands, inclusive of their territorial waters, for fifty years, unless it relates to local art or to history".

b. Other relevant laws

The Territorial Waters and Contiguous Zone (Amendment) Act (No XXIV of 21 July 1978) establishes a 12 nm territorial sea and a 24 nm contiguous zone.

Act No XXXV of 28 July 1966 on the Exploration and Explotation of the Continental shelf and Matters Connected with Those Purposes sets the outer limit of Malta's continental shelf to a depth of 200 metres or, beyond that, to the depth of exploitation.

II. INTERNATIONAL CONVENTIONS

Convention concerning the Protection of the World Cultural and Natural Heritage (UNESCO, Paris, 1972). Instrument of acceptance deposited on 14 November 1978. The Convention entered into force in respect of Malta on 14 Febeuary 1979.

European Convention of the Protection of the Archaeological Heritage (Council of Europe, London, 1969). Instrument of ratification deposited on 30 April 1971. The Convention entered into force in respect of Malta on 30 July 1971.

Protocol concerning Mediterranean Specially Protected Areas (Geneva, 1982). Instrument of ratification deposited on 11 January 1988. The Protocol entered into force in respect of Malta on 11 January 1988.

MONACO

I. NATIONAL LEGISLATION

a. Heritage legislation

Law No 814 of 24 January 1967 on Maritime Wrecks.

b. Other relevant laws

Sovereign Ordinance No 5094 of 14 February 1973 on the Delimitation of the Territorial Sea establishes a 12 nm territorial sea.

There is no *ad hoc* domestic legislation on the delimitation and the regime of continental shelf.

II. INTERNATIONAL CONVENTIONS

Convention and Protocol for the Protection of Cultural Property in the Event of Armed Conflict (UNESCO, The Hague, 1954). Instruments of accession to the Convention and the Protocol deposited on 10 December 1957. The Convention and the Protocol entered into force in respect of Monaco on 10 March 1958.

Convention concerning the Protection of the World Cultural and Natural Heritage (UNESCO, Paris, 1972). Instrument of ratification deposited on 7 November 1978. The Convention entered into force in respect of Monaco on 7 February 1979.

Protocol concerning Mediterranean Specially Protected Areas (Geneva, 1982). Signed by Monaco on 3 April 1982.

MOROCCO

I. NATIONAL LEGISLATION

a. Heritage legislation

Dahir No 1-80-341 of 17 Safar 1401 (25 December 1980) promulgating Law No 22-80 on the Conservation of Historic Monuments and Sites, Inscriptions, Art Objects and Antiquities.

Article 46 : "No unauthorised person may carry out excavations, or land or sea explorations with the aim of bringing to light monuments or movable objects which are of historical, archaeological or anthropological interest to Morocco of which are relevant to the study of the past and the human sciences in general.

The maritime area subject to this prohibition shall be the exclusive fishing zone established in Article 4 of the Dahir enacting Law No 1-73-211 of 21 Moharrem 1371 (2 March 1973), which specifies the limits of the territorial waters and the exclusive fishing zone of Morocco, or established in any subsequent legislation which supplements or modifies the aforesaid."

b. Other relevant laws

Decree No 1-73-211 of 2 March 1973 establishes a 12 nm territorial sea.

Decree No 1-81-179 of 8 April 1981 establishes a 24 nm contiguous zone.

Decree No 1-58-277 of 21 July 1958 on Prospecting and Mining of Hydrocarbons sets the outer limit of Moroccan continental shelf by reference to a depth of 200 metres or, beyond that, to the depth of exploitation.

Dahir of 1-81-179 of April 1981 on the Exclusive Economic Zone.

Article 5 : "Any scientific or archaeological research or exploration undertaken by a foreign State or by nationals of a foreign State in the exclusive economic zone shall be subject to the prior authorisation of the Moroccan administration".

II. INTERNATIONAL CONVENTIONS

Convention and Protocol for the Protection of Cultural Property in the Event of Armed Conflict (UNESCO, The Hague, 1954). Instruments of accession to the Convention and the Protocol deposited on 30 August 1968. The Convention and the Protocol entered into force in respect of Morocco on 30 November 1968.

Convention concerning the Protection of the World Cultural and Natural Heritage (UNESCO, Paris, 1972). Instrument of ratification deposited on 28 October 1975. The Convention entered into force in respect of Morocco on 28 January 1976.

Protocol concerning Mediterranean Specially Protected Areas (Geneva, 1982). Signed by Morocco on 2 April 1982.

SPAIN

I. NATIONAL LEGISLATION

a. Heritage legislation

Law 16/1985 of 25 June 1985 on the Spanish Historical Heritage.

Article 40 : "(1) In accordance with the provisions of Article 1 of this law, movable or immovable items of a historical nature that lends themselves to archaeological study, whether they have been excavated or not or whether they be found above ground or below ground, in territorial waters or on the continental shelf, shall constitute the Spanish Historical Heritage. Similary, geological and palaeontoligal features that are related to the history of humanity its origins and its ancestry shall be a part of that heritage.

(2) Caves, shelters and sites containing examples of rock art are declared property of cultural interest by virtue of this law".

Royal Decree 111/86 of 10 January 1986 partially interpreting Law 16/85 on the Spanish Historical Heritage.

b. Other relevant laws

Law No 10/77 of 4 January 1977 on the Territorial Sea fixes the breadth of the territorial sea at 12 nm.

Decree No 205/69 of 25 September 1969 regulating Underwater Activities. (Article 20).

Law No 21/74 of 27 June 1974 on the Exploration and Exploitation of Hydrocarbons.

II. INTERNATIONAL CONVENTIONS

Convention and Protocol for the Protection of Cultural Property in the Event of Armed Conflict (UNESCO, The Hague, 1954). Instruments of ratification to the Convention and the Protocol deposited on 7 July 1960. The Convention and the Protocol entered into force in respect of Spain on 7 October 1960.

Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (UNESCO, Paris, 1970). Instrument of ratification deposited on 10 January 1986. The Convention entered into force in respect of Spain on 10 April 1986.

Convention concerning the Protection of the World Cultural and Natural Heritage (UNESCO, Paris, 1972). Instrument of accession deposited on 4 May 1982. The Convention entered into force in respect of Spain on 4 August 1982.

European Convention of the Protection of the Archaeological Heritage (Council of Europe, London, 1969). Instrument of accession deposited on 28 February 1975. The Convention entered into force in respect of Spain on 28 May 1975.

Protocol concerning Mediterranean Specially Protected Areas (Geneva, 1982). Instrument of ratification deposited on 22 February 1987. The Protocol entered into force in respect of Spain on 22 February 1987.

SYRIAN ARAB REPUBLIC

I. NATIONAL LEGISLATION

a. Heritage legislation

Decree - Law No 222 of 26 October 1963 on the Treatment of Antiquities in the Syrian Arab Republic.

Article 41 : "Archaeological excavations means any digging probes or exploration undertaken with a view to the discovery of movable and immovable antiquities in or on the ground, in water courses or in the beds of lakes or territorial waters".

b. Other relevant laws

Law No 37 of 16 August 1981 on the Territorial Sea of the Syrian Arab Republic establishes a 35 nm territorial sea.

Legislative Decree No 304 of 28 December 1963 on the Territorial Sea of the Syrian Arab Republic establishes a 6 nm belt beyond the outer limit of the territorial sea as a contiguous zone.

Legislative Decree No 304 of 28 December 1963 sets the outer limit of Syria's continental shelf to a depth of 200 metres or, beyond that, to the depth of exploitation.

II. INTERNATIONAL CONVENTIONS

Convention and Protocol for the Protection of Cultural Property in the Event of Armed Conflict (UNESCO, The Hague, 1954). Instruments of ratification to the Convention and the Protocol deposited on 6 March 1958. The Convention and the Protocol entered into force in respect of Syria on 6 June 1958.

Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (UNESCO, Paris, 1970). Instrument of acceptance deposited on 21 February 1975. The Convention entered into force in respect of Syria on 21 December 1975.

Convention concerning the Protection of the World Cultural and Natural Heritage (UNESCO, Paris, 1972). Instrument of acceptance deposited on 13 August 1975. The Convention entered into force in respect of Syria on 17 December 1975.

TUNISIA

I. NATIONAL LEGISLATION

a. Heritage legislation

Law No 86-35 of May 1985 on the Protection of Archaeological Property, Historic Monuments and Natural Urban Sites.

Article 1 : "Under the provisions of this law, Tunisia shall be responsible for the preservation within its territorial and maritime boundaries, of archaeological property, historic monuments and natural and urban sites located in cities and rural areas, with a view to safeguarding its national and cultural heritage and the beauty of its landscape inherited from the generations which have successively populated this country.

Tunisia shall also protect and safeguard archaeological property and historic monuments which are located within its territorial and maritime boundaries, but which belong to other peoples, and shall secure respect for those outside its borders in accordance with approved international conventions and the rules of international law".

Article 2 : "(a) Safeguarding: the preservation of the characteristics of archaeological property, historic monuments, natural and other sites of an historical nature, together with the surrounding protective zones and the restoration of damaged parts to their original State, through consolidation, renovation and upkeep and, more particularly, through regard for their integrity.

(b) Excavations: all activities concerned with prospection, exploration and search, the purpose of which is to uncover movable or immovable property of an archaeological nature. Excavations may be conducted underground or by digging in the ground following a surface survey.
Excavations may involve:
- visible ruins;
- ruins buried under the ground;
- ruins submerged in any stretch of water, including inland water, territorial waters and the contiguous zone to a distance of 24 nautical miles from the base lines used to calculate the width of the territorial waters..."

Decree No 87-483 of 14 March 1987 on the Scientific Rights of Persons Making Archaeological Discoveries.

b. Other relevant laws

Law 73-49 of 2 August 1973 establishes a 12 nm territorial sea.

There is no *ad hoc* domestic legislation on the delimitation and the regime of the continental shelf.

II. INTERNATIONAL CONVENTIONS

Convention and Protocol for the Protection of Cultural Property in the Event of Armed Conflict (UNESCO, The Hague, 1954). Instrument of accession to the Convention and the Protocol deposited on 28 January 1981. The Convention and the Protocol entered into force in respect of Tunisia on 28 April 1981.

Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (UNESCO, Paris, 1970). Instrument of ratification deposited on 10 March 1975. The Convention entered into force in respect of Tunisia on 10 June 1975.

Convention concerning the Protection of the World Cultural and Natural Heritage (UNESCO, Paris, 1972). Instrument of ratification deposited on 10 March 1975. The Convention entered into force in respect of Tunisia on 17 December 1975.

Protocol concerning Mediterranean Specially Protected Areas (Geneva, 1982). Instrument of ratification deposited on 26 May 1983. The Protocol entered into force in respect of Tunisia on 23 March 1986.

TURKEY

I. NATIONAL LEGISLATION

a. Heritage legislation

Antiquities Law No 1710 of 25 April 1973.

The Antiquities Law extends to all items "on the earth, in the ground or under the sea...". The protected monuments include "dockyards, piers, acquaducts, tanks and wells". (Article 1).

Regulations on Underwater and Land Excavations of 19 August 1973.

b. Other relevant laws

Law No 2674 of 20 May 1982 on the Territorial Sea and the Decree of the Council of Ministers No 8/4742 establish a 6 nm territorial sea for the Aegean Sea and a 12 nm territorial sea for the Black Sea and the rest of the Mediterranen.

There is no *ad hoc* domestic legislation on the delimitation and the regime of continental shelf.

II. INTERNATIONAL CONVENTIONS

Convention and Protocol for the Protection of Cultural Property in the Event of Armed Conflict (UNESCO, The Hague, 1954). Instruments of accession to the Convention and the Protocol deposited on 15 December 1965. The Convention and the Protocol entered into force in respect of Turkey on 15 March 1965.

Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (UNESCO, Paris, 1970). Instrument of ratification deposited on 21 April 1982. The Convention entered into force in respect of Turkey on 21 July 1981.

European Convention on Offences Relating to Cultural Property (Council of Europe, Delphi, 1985). Signed by Turkey on 26 September 1985.

Protocol concerning Mediterranean Specially Protected Areas (Geneva, 1982). Instrument of accession deposited on 6 November 1986. The Protocol entered into force in respect of Turkey on 6 November 1986.

YUGOSLAVIA (FORMER)

I. NATIONAL LEGISLATION

a. Heritage legislation

The Fundamental Law for the Protection of Monuments, No 12 of 24 March 1965 was repealed following the constitutional reforms in 1974.

Socialist Republic of Slovenia : Law on the Protection of Monuments, 1961.

Socialist Republic of Serbia : Law on the Protection of the Cultural Heritage, No 28 of 14 July 1974.

b. Other relevant laws

Law of 23 July 1987 on Yugoslavia's Marginals Seas and the Continental Shelf establishes a 12 nm territorial sea.

Law of 23 July 1987 sets the outer limit of Yugoslavia's continental shelf by reference to a depth of 200 metres or, beyond that, to the depth of exploitation.

The Mines Act of the Socialist Republic of Bosnia and Herzegovina of 15 April 1980.

Article 72 : "Exploitation of mineral substances may not be performed in an area where there are concentrations of ... cultural monuments and natural wonders ... so designated in particular provisions ... If industrial mineral substances of particular social concern are at issue, the Executive Council of the Assembly of the Socialist Republic of Bosnia and Herzegovina may authorise their exploitation even in the areas or zones stipulated in the preceding paragraph, with provision made by decree relative to measures to be taken to protect such works or zones".

II. INTERNATIONAL CONVENTIONS

Convention and Protocol for the Protection of Cultural Property in the Event of Armed Conflict (UNESCO, The Hague, 1954). Instruments of ratification to the Convention and the Protocol deposited on 13 February 1956. The Convention and the Protocol entered into force in respect of Yugoslavia on 13 May 1956.

Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (UNESCO, Paris, 1970). Instruments of ratification deposited on 3 October 1972. The Convention entered into force in respect of Yugoslavia on 3 January 1973.

Convention concerning the Protection of the World Cultural and Natural Heritage (UNESCO, Paris, 1972). Instrument of ratification deposited on 26 May 1974. The Convention entered into force in respect of Yugoslavia on 17 December 1975.

Protocol concerning Mediterranean Specially Protected Areas (Geneva, 1982). Instrument of ratification deposited on 21 February 1986. The Protocol entered into force in respect of Yugoslavia on 21 February 1986.

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