UNIVERSITY OF OXFORD

FACULTY OF LAW 2003-2004

LAW OF THE SEA: (9) UNDERWATER CULTURAL HERITAGE

Outline:

The following is an outline of possible questions for enquiry and discussion:

I. Sources
II. ‘Archaeological and historical objects’
III. Jurisdiction with regard to archaeological and historical objects found at sea under the United Nations Convention on the Law of the Sea
   1. Jurisdiction of the coastal State
      a. Sea areas under the sovereignty of the coastal State
      b. Contiguous zone
      c. Exclusive economic zone
      d. Continental shelf
      e. Area
   2. Jurisdiction of the flag State
      a. Flag State of the sunken vessel
      b. Flag State of the salvaging vessel
   3. Jurisdiction of the State whose nationals salvage the vessel
IV. The development of the international regime
V. The protection regime under the UNESCO Convention
   1. The definition of ‘underwater cultural heritage’ (Art. 1)
   2. Objectives and general principles (Art. 2)
   3. The jurisdictional regime (Art. 7-12)
   4. Special questions
      a. Relationship between the Convention and UNCLOS
      b. Relationship to law of salvage and find
      c. Immunity of warships and other State vessels
      d. Implementation and enforcement
      e. Settlement of disputes

Basic Reading:

(a) Treaties and Other Documents

– International Convention on Salavage, 1989
(b) Cases

– Sea Hunt Inc. v. Unidentified Shipwrecked Vessel, 221 F.3d 634 (CA 4th Cir. 2000)
– R.M.S. Titanic, Inc. v. Haver, 171 F.3d 943 (CA 4th Cir. 1999), ILM 38 (1999), 796

Specialist Material


Forrest, Craig, An International Perspective on Sunken State Vessels as Underwater Cultural Heritage, *Ocean Development and International Law* 34 (2003), 41-57


Further Reading


Beukes, Margaret, Underwater Cultural Heritage: Archaeological Preservation or Salvage?, *South African Yearbook of International Law* 26 (2001), 62-86


UNESCO, *Background Materials on the Protection of the Underwater Cultural Heritage*, 2
Questions for Discussion:

1. Is the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage incompatible with UNCLOS?

2. Are sunken warships and other government ships underwater cultural heritage governed by the 2001 UNESCO Convention or do special rules apply to these ships?

3. Protection over salvage? – Can Art. 303 (2) UNCLOS and Art. 4 UNESCO Convention be reconciled?