

Content

Title :	Underwater Cultural Heritage Preservation Act 
Date :	2022.11.30
Legislative :	1.Be it enacted and promulgated by the Presidential Order Hua-Zong-(1)-Yi-Zih No. 10400143861 on the 9th December of the 104th Year of the Republic of China, with 44 articles, and shall take effect as of the date of promulgation. 2.Articles 7 and 37 were amended and promulgated by the Presidential Order No. Hua-Zong-(1)-Yi-11100101141 on the 30th November of the 111th Year of the Republic of China.
Content :	Chapter 1 General Provisions Article 1 In order to preserve, protect and manage underwater cultural heritage, to establish the link between nationals and history, to promote the characteristics of this ocean Nation, and to value the spirit of the Convention on the Protection of the Underwater Cultural Heritage of the United Nations and relevant international agreements, this Act is hereby enacted. Article 2 The competent authority of this Act is the Ministry of Culture. Whenever the matters prescribed in this Act involve with the competence of other authorities in charge of other matters, it is for the competent authority to consult with such other authorities for the undertaking of such matters. Article 3 The terms referred to in this Act are defined as follows: “Underwater cultural heritage” means all traces of human existence having a historical, cultural, archaeological, artistic or scientific character which have been partially or totally under water, periodically or continuously such as: sites, structures, buildings, artifacts and human remains, together with their archaeological and natural context; vessels, aircraft, other vehicles or any part thereof, their cargo or other contents, together with their archaeological and natural context; and objects of prehistoric character. “Activities directed at underwater cultural heritage” means activities having underwater cultural heritage as their primary object and which may, directly or indirectly, physically disturb or otherwise damage underwater cultural including field study, research, excavation, or other activities. “Activities incidentally affecting underwater cultural heritage” means activities which, despite not having underwater cultural heritage as their primary object or one of their objects, may physically disturb or otherwise damage underwater cultural heritage. “State vessels and aircraft” means warships, and other vessels or aircraft that were owned or operated by a State and used, at the time of sinking, only for government non-commercial purposes, that are identified as such and that meet the definition of underwater cultural heritage. Commercial exploitation: purchase, sale, barter or any transaction relating to underwater cultural heritage, or salvage and other activities for profit-seeking purpose.

Article 4

Any activities involved in underwater cultural heritage shall avoid the unnecessary disturbance of human remains or venerated sites.

Underwater cultural heritage shall not be the object of commercial exploitation, except for the purposes of public access and educational promotion approved by the competent authority.

Article 5

The competent authority shall undertake a general survey of underwater cultural heritage, or record and manage the files after conducting the investigation, research and review, in accordance with the procedures prescribed by this Act, on the reports from individuals or organizations that indicate a suspected underwater cultural heritage existed.

Article 6

The competent authority shall fully set up case data for the investigation, research, excavation, preservation, and restoration for underwater cultural heritage. The data shall be permanently preserved in accordance with the Archives Act and its relevant regulations.

The competent authority shall disclose the data referred to in the preceding paragraph in an appropriate manner, unless the disclosure of the data might endanger or otherwise put at risk the preservation, protection, and management of such underwater cultural heritage.

Article 7

The competent authority may establish or designate a dedicated organization for the preservation and research of underwater cultural heritage to perform the investigation, research, excavation, restoration, education, promulgation, international cooperation, and other activities with respect to underwater cultural heritage.

Article 8

The competent authority shall convene the review committee of underwater cultural heritage to review the following subjects:

- applications for activities directed at underwater cultural heritage;
- coordination with other authorities in charge of other affairs with respect to activities incidentally affecting underwater cultural heritage;
- the recordation and management of underwater cultural heritage;
- the zoning of underwater cultural heritage protection areas;
- subject substantially relating to the preservation of underwater cultural heritage.

The competent authority shall stipulate regulations for the organization, operation, and related matters of the review committee, as referred to in the preceding paragraph.

Article 9

Where an environmental impact assessment is required for an exploitation activity, or where a governmental agency and state-owned enterprise makes or ratifies a plan with respect to exploitation and utilization of a water area, it is required to conduct a prior investigation related to the existence of underwater cultural heritage or suspected underwater cultural heritage. A notification of the discovery shall submit to the competent authority if any.

The competent authority and the other authority in charge of other affairs shall stipulate regulations related to the scope of the exploitation and utilization, the determination, investigation, and handling measures as well as the procedure as referred to in the preceding paragraph jointly.

Article 10

The authority in charge of other affairs shall notify the competent authority prior issuing an approval or permit for the activity involving the seabed or sea subsoil.

After consulting with the other authority in charge of other affairs, the competent authority shall stipulate regulations related to items, content, scope and other matters that shall be complied with concerning the activity referred to in the preceding paragraph.

Article 11

The competent authority shall educate and train the relevant professionals with respect to underwater cultural heritage in order to undertake the preservation of underwater cultural heritage.

After consulting with the other authority in charge of other affairs, the competent authority shall stipulate regulations related to items, manners, procedures, examinations, evaluations, utilization, withdrawal, revocation, and other related affairs of the professionals referred to in the preceding paragraph.

Article 12

The competent authority shall promote the underwater cultural heritage education at each level of school. After consulting the Ministry of Education, the competent authority shall stipulate regulations related to the implementation and encouragement of the aforesaid education.

Article 13

Anyone who discovers suspected underwater cultural heritage shall terminate any activity that has an influence on such heritage, maintain completeness of the site, and promptly report the discovery to the competent authority excepted that there is a need to prevent an urgent and severe danger or there is a substantial public interest at stake, such activity may not be terminated, and the discovery of such shall be reported to the competent authority.

Any recovered suspected underwater cultural heritage referred to in the preceding paragraph, shall deliver to the competent authority.

After receiving the report referred to in the first paragraph, the competent authority may take the following measures:

- restrict or terminate all or part of the activity which has an influence on the suspected underwater heritage in a specific water area.
- undertake necessary investigation, research, and other related underwater operations.
- set up a temporary protection zone in the water area of the discovery site.

Articles 28 to 33 shall apply *mutatis mutandis* to the temporary protection zone prescribed in the third subparagraph of the preceding paragraph. The duration of such temporary protection zone shall not exceed 2 years and may be extended once, if necessary. The temporary protection zone will lose its status once the period has expired.

When the competent authority takes the measures contained in the third paragraph of this Article, the competent authority may request the coast guard agency to provide assistance under its authority, if necessary.

Article 14

Any salvage or declaration of interest relating to underwater cultural heritage shall not be subject to the provisions concerning *bona vacantia*, lost property, treasure-trove, picking up of floating property, or sunken property prescribed in the Civil Code and other provisions concerning the law of finds or law of salvage prescribed in the Maritime Act and related maritime laws.

Chapter 2 Right Attribution and International Cooperation

Article 15

Any underwater cultural heritage discovered in the internal waters and territorial sea of the Republic of China, except for the state vessels and aircraft in which a foreign state declares an interest, shall belong to the Republic of China.

The Republic of China, in the exercise of its sovereignty, has the exclusive jurisdiction to regulate, authorize, or approve activities directed at underwater cultural heritage in the internal waters and territorial sea of the Republic of China.

In recognition of international general practice, the competent authority, with a view to cooperating on the best methods of protecting the state vessels and aircraft prescribed in the first paragraph, should inform the flag state and, if applicable, other states with a verifiable link, especially a cultural, historical or archaeological link, with respect to the discovery of such identifiable state vessels and aircraft.

Article 16

The Republic of China has the exclusive jurisdiction to regulate, authorize, approve or prohibit activities directed at underwater cultural heritage in the contiguous area, exclusive economic area and on the continental shelf of the Republic of China.

Where there is a discovery of underwater cultural heritage or it is intended that archaeological activity will be directed at underwater cultural heritage in the exclusive economic area or on the continental shelf of the Republic of China, the competent authority may:

1. consult all other states which have declared an interest in accordance with related international conventions, on how best to protect the underwater cultural heritage;

2. coordinate such consultations as a coordinating state.

The Republic of China, when acting as a coordinating state referred to in the second subparagraph of the preceding paragraph, may:

1. implement protection measures which have been agreed by the consulting states which include the Republic of China;

2. implement such agreed protection measures prescribed in the preceding subparagraph in conformity with the related rules under international conventions;

3. conduct necessary preliminary research on the underwater cultural heritage, and promptly inform relevant international organizations.

Article 17

The second paragraph of the preceding Article shall apply *mutatis mutandis* to the competent authority where there is a discovery of suspected underwater cultural heritage or an activity directed at underwater cultural heritage on the seabed, ocean floor or subsoil outside the exclusive economic area or the continental shelf of the Republic of China.

Article 18

The citizen or the vessel master of the Republic of China, who discovers suspected underwater cultural heritage or activities directed at underwater cultural heritage in the exclusive economic area or on the continental shelf of other states, shall promptly report such discovery or activity to the competent authority.

The Republic of China may report such discovery or activity referred to in the preceding paragraph to the relevant states or international organizations.

Article 19

Where there is a discovery of underwater cultural heritage with a verifiable link, especially a cultural, historical or archaeological link to the Republic of China, in the internal waters, archipelagic waters, territorial sea, contiguous area, and exclusive economic area, or on the continental shelf of other states, the Republic of China reserves the preferential rights of states of cultural, historical, or archaeological origin. The competent authority may declare to the relevant states or international organizations its interest in being consulted on the protection of that underwater cultural heritage.

Article 20

Any underwater cultural heritage that has been recovered in a manner not in conformity with this Act shall not be shipped out of the territory of Republic of China, nor transported, possessed, displayed, or sold in the territory of the Republic of China.

The competent authority shall take reasonable measures to protect discovered and seized underwater cultural heritage referred to in the preceding paragraph. The competent authority shall designate an agency or institute to preserve or archive underwater cultural heritage that belongs to the Republic of China. The competent authority shall record, protect and take reasonable measures to stabilize underwater cultural heritage that belongs to other state with a verifiable cultural, historical, or archaeological link to the underwater cultural heritage, and shall inform such state.

Article 21

The Republic of China may enter into bilateral, regional or other multilateral agreements or develop existing agreements with other states or international organizations, for the preservation, protection, and management of underwater cultural heritage.

The competent authority may undertake international cooperation in underwater cultural heritage, including collaborating in the investigation, research, excavation, preservation, notification and relevant technologies of such heritage.

Chapter 3 Activities Directed at Underwater Cultural Heritage

Article 22

Activities directed at underwater cultural heritage shall not be undertaken unless an application with an underwater cultural heritage activity plan is filed by a scholar, experts, or academic/professional scientific research institutions to the competent authority and approved thereby.

If the applicant(s) referred to in the preceding paragraph is foreigner(s), such foreigner(s) shall cooperate with domestic scientific research organizations or institutions to file such application.

The applicant shall follow the approved plan, produce an activity report periodically during approved period, and send to the competent authority for memorandum.

The competent authority shall stipulate regulations related to the qualification limitation, application for activity approval, conditions, methods, scope, period, content of the plan and other matters which should be complied with during the operation of the activities referred to in the first paragraph.

Article 23

The competent authority shall supervise activities directed at underwater cultural heritage.

The competent authority shall stipulate the regulation related to the underwater cultural heritage activities referred to in the preceding paragraph including the operational procedure, qualification of relevant operational personnel, method for *in situ* preservation, method for evacuated, preservation or protection method after excavation, and other matters related to the underwater cultural heritage activities should be complied with.

Article 24

Where there is a need for emergency protection of underwater cultural heritage when undertaking activities directed at underwater cultural heritage, one should immediately report to the competent authority and take the following necessary measures:

- stop the relevant activity immediately.
- take temporary protection measures and produce a report after completion to the competent authority for memorandum.
- request the assistance of the competent authority.

Article 25

In order to supervise the activities directed at underwater cultural heritage, the competent authority may send personnel or authorize professional institutions to conduct an inspection. The person subject to the inspection should not evade, interfere with, or refuse such inspection. If the person subject to the inspection referred to in the preceding paragraph is likely to evade, interfere with, or refuse the inspection, the competent authority may request assistance from the coast guard or police agency with jurisdiction.

Article 26

The competent authority may delegate the power to an agency (or institution) under its supervision, a local government or other agency (institution), non-governmental body, or individual to undertake activities directed at underwater cultural heritage.

Any activities directed at underwater cultural heritage undertaken by the delegated agency (institution), local government, non-governmental body, or individual referred to in the preceding paragraph, should follow the procedure under Article 22 in advance.

Chapter 4 *In situ* Preservation of Underwater Cultural Heritage

Article 27

The preservation in situ of underwater cultural heritage shall be the first option before allowing or engaging in any activities directed at this heritage.

The proper means for *in situ* preservation referred to in the preceding paragraph may include recordation management, protection zone, or other proper preservation measures.

Article 28

When the review committees make a decision that it is necessary to designate a specific underwater cultural heritage protection zone, the competent authority should consult with relevant authorities to designate and publicize an underwater cultural heritage protection zone within such water area to preserve the underwater heritage *in situ*.

Prior to the establishment of the protection zone referred to in the preceding paragraph, the competent authority should hold a public hearing or explanation session inviting civilians or groups with an interest at stake to attend.

The competent authority shall stipulate regulations related to the standard for establishing a protection zone, including range for classification, amendment, revocation and its procedure, procedures for holding explanation sessions, and other matters that shall be complied with as referred to in the two preceding paragraphs.

The three preceding paragraphs shall apply *mutatis mutandis* to *in situ* preserved underwater cultural heritage with methods other than *in situs* preservation.

Article 29

The competent authority may request a relevant authority to utilize buoys, seaway, navigation facilities, marine charts, national maritime zone management plans or other methods to identify the location of a publicly declared underwater cultural heritage protection zone or other *in situ* preserved underwater cultural heritage.

Article 30

The competent authority shall consult with a relevant authority to provide a management and protection plan to manage and protect a publicly declared underwater cultural heritage protection zone.

The content of the management and protection plan set forth in the preceding paragraph should include the following subjects:

- basic data: location, measure of area, significance of the underwater cultural heritage, description and scope diagram of research.
- range classification.
- accountable authority distribution and reportingsystem.
- routine maintenance: preservation, maintenance and recordation of the environmental landscape.
- emergency maintenance: prevention of natural or human damage and emergency disaster disposal.
- education and promotion: production and exhibition of promotional material as well as education activities.
- source of funding.
- management plan of entrust.
- other matters related to management and protection.

The competent authority shall stipulate the regulations related to drafting, review, public exhibition, measures of management, qualification of the authorized personal, procedure, term, termination, supervision of authorization and review criteria referred to in the two preceding paragraphs.

The three preceding paragraphs shall apply *mutatis mutandis* to other *in situ* preserved underwater cultural heritage.

Article 31

No one shall enter an underwater cultural heritage protection zone without prior approval of the competent authority.

The following activities are prohibited within the underwater cultural heritage protection zone, except otherwise provided in this Act:

- salvage of the underwater cultural heritage.
- usage of explosives.
- engaging in trawling or anchoring.
- exploration for, or collection of, minerals.
- installation of electric cables, pipelines, facilities or construction.
- discarding waste water, oil, waste or hazardous substances.
- excavating, dredging seaway, and construction of ocean engineering.
- diving.
- other activities prohibited by the public declaration of the competent authority.

Activity undertaken for the needs of national security or emergency may not subject to the restrictions in the two preceding paragraphs. Any activity undertaken thereafter should be reported to the competent authority, excepted that a military or national defense secret involved. Activities for the needs of substantial public interest or academic research approved by the competent authority are not subject to the restriction provided in the preceding paragraph.

The competent authority shall stipulate regulations related to application, condition, term, review procedure, withdrawal, revocation, and other matters which should be complied with for the approval of the entrance and activity prohibited in the underwater cultural heritage protection zone.

Article 32

The competent authority may request assistance from the coast guard agency for management and protection of the underwater cultural heritage and settling illegal matters.

Article 33

For the purpose of social education, the competent authority may open, partially or entirely, an underwater cultural heritage protection zone for public visit, if the preservation, protection and management of the underwater cultural heritage remain undisturbed.

The scope, methods, monitor mechanism and other related affairs of the public visit set forth in the preceding paragraph shall be included and enforced in the management and protection plan of the underwater cultural heritage protection zone set forth in Article 30.

Chapter 5 Excavating Out Of The Water

Article 34

The underwater cultural heritage shall not be excavated out of the water except for the following situations:

- the underwater cultural heritage related to historical status or recognition of the nation.
- the absence of such underwater cultural heritage could be detrimental to a full understanding of human history.
- the underwater cultural heritage is of substantial commercial value that cannot be protected without excavating it out of the water.
- excavation is necessary for the investigation and research of underwater cultural heritage.
- the underwater cultural heritage cannot be sufficiently preserved, protected or managed without excavating it out of the water due to an emergency or the change of the existing environment.
- other situations in which the competent authority deems necessary to excavate out of the water.

Article 35

In addition to the application of Article 22 provision, any excavation undertaken under the preceding Article is required that an underwater cultural heritage preservation and maintenance plan shall be posed at the same time in which non-destructive technology and survey method shall be used preferentially.

The expertise of underwater archaeology, underwater operators, and preservative scientist shall jointly participate in the measure for the excavation or emergency disposal.

Article 36

An excavation of underwater cultural heritage and the recordation associated therewith shall be submitted to the competent authority before the date designated by the competent authority.

The underwater cultural heritage set forth in the preceding paragraph shall be preserved and maintained by the means designated by the competent authority. The competent authority may assign preservation or archive agencies (institutions) to preserve or maintain such underwater cultural heritage when necessary.

The competent authority may, by itself assign related agencies (institutions) of its own, delegate power to local government or authorize other agencies (institutions), non-governmental bodies or individuals, to undertake exhibitions, educational or promotional activities of the excavated underwater cultural heritage.

Chapter 6 Penalty Provisions

Article 37

Any person who commits any of the following offenses shall be liable to imprisonment for up to five years, detention, and/or a fine of NT\$200,000 to NT\$10,000,000:

- theft of underwater cultural heritage with an intention to possess for his own or for a third person.

- damage of underwater cultural heritage within the underwater cultural heritage protection zone or temporary protection zone.

- conveyance of underwater cultural heritage which belongs to the Republic of China out of the country in violation of paragraph 1, Article 20.

- undertaking underwater cultural heritage activities without prior approval of the competent authority in violation of paragraph 1, Article 22.

- excavating underwater cultural heritage out of the water in violation of the regulations provided in paragraph 4, Article 22.

Any attempted offences prescribed in the preceding paragraph, shall be still liable to the same penalty.

Article 38

The representative of a juridical person, the agent, employee, or other staff of a juridical person or an individual, violates the first or second paragraph of the preceding Article within the capacity of his/her duty shall be punished under the preceding Article. In addition, the juridical person or the individual shall also be subject to the fine prescribed therein.

Article 39

Any one who commits any of the following offenses shall be liable to a fine of NT\$100,000 to NT\$500,000:

- conveying, possessing, displaying or selling underwater cultural heritage in violation of paragraph 1, Article 20.

- undertaking underwater cultural heritage activities without applying for approval from the competent authority in accordance with paragraph 1, Article 22, exceeding the scope of an approval, or acting in a way that is inconsistent with the plan approved by the competent authority.

- discovering underwater cultural heritage or suspected underwater cultural heritage, and then continuously undertaking activities affecting the underwater cultural heritage or suspected underwater cultural heritage which are detrimental to the completeness of the site in violation of paragraph 1, Article 13.

- violating paragraph 2, Article 31 or paragraph 4, Article 13

- applicable *mutatis mutandis* to paragraph 2, Article 31.

Any person who commits an offense under the second, third, or fourth subparagraph referred to in the preceding paragraph, may be fined until such rectification is fulfilled if such violation is not rectified or not rectified within the time prescribed for each order issued by the competent authority.

Article 40

Any one who commits any of the following offenses shall be liable to a fine of NT\$30,000 to NT\$150,000:

failing to report to the competent authority promptly when discovering a suspected underwater cultural heritage or failing to deliver a suspected underwater cultural heritage promptly which is out of the water to the competent authority in violation of paragraphs 1 or 2, Article 13.

evading, interfering with, or refusing inspection in violation of paragraph 1 of Article 25.

entering an underwater cultural heritage protection zone or temporary underwater cultural heritage protection zone without the approval of the competent authority in violation of paragraph 1, Article 31 or

paragraph 4, Article 13 applicable *mutatis mutandis* to paragraph 1, Article 31.

Chapter 7 Supplementary Provisions

Article 41

For any detriment to the underwater cultural heritage caused by the behavior prescribed in Articles 37, 39 or each of the subparagraphs of the preceding Article, the competent authority may claim compensation against the person to whom such detriment attributable under the said provisions prescribed in the Civil Code or other relevant laws and regulations. The same applies to other maritime activity that causes detriment to underwater cultural heritage.

The scope of compensation for the detriment referred to in the preceding paragraph includes the harm actually suffered, the benefit lost, and the expenses needed for restoration.

Article 42

The competent authority may provide reward or subsidies to one who has contribution to the preservation, restoration, protection, talent personnel cultivation, educational promotion of, or has merit in underwater cultural heritage activities approved.

The competent authority shall stipulate regulations related to the scope, methods, content, standard and other related matters of the reward and subsidies referred to in the preceding paragraph.

Article 43

The competent authority shall stipulate the enforcement rules of this Act.

Article 44

This Act shall take effect as of the date of promulgation.
