

ISSN 0219-3213

2017 no. 23

Trends in
Southeast Asia

LEGISLATION ON UNDERWATER
CULTURAL HERITAGE IN
SOUTHEAST ASIA: EVOLUTION AND
OUTCOMES

MICHAEL FLECKER

ISEAS YUSOF ISHAK
INSTITUTE

Trends in Southeast Asia

The **ISEAS – Yusof Ishak Institute** (formerly Institute of Southeast Asian Studies) is an autonomous organization established in 1968. It is a regional centre dedicated to the study of socio-political, security, and economic trends and developments in Southeast Asia and its wider geostrategic and economic environment. The Institute's research programmes are grouped under Regional Economic Studies (RES), Regional Strategic and Political Studies (RSPS), and Regional Social and Cultural Studies (RSCS). The Institute is also home to the ASEAN Studies Centre (ASC), the Nalanda-Sriwijaya Centre (NSC) and the Singapore APEC Study Centre.

ISEAS Publishing, an established academic press, has issued more than 2,000 books and journals. It is the largest scholarly publisher of research about Southeast Asia from within the region. ISEAS Publishing works with many other academic and trade publishers and distributors to disseminate important research and analyses from and about Southeast Asia to the rest of the world.

2017 no. 23

Trends in
Southeast Asia

LEGISLATION ON UNDERWATER CULTURAL
HERITAGE IN SOUTHEAST ASIA:
EVOLUTION AND OUTCOMES

MICHAEL FLECKER

ISEAS YUSOF ISHAK
INSTITUTE

Published by: ISEAS Publishing
30 Heng Mui Keng Terrace
Singapore 119614
publish@iseas.edu.sg <http://bookshop.iseas.edu.sg>

© 2017 ISEAS – Yusof Ishak Institute, Singapore

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form, or by any means, electronic, mechanical, photocopying, recording or otherwise, without prior permission.

The author is wholly responsible for the views expressed in this book which do not necessarily reflect those of the publisher.

ISEAS Library Cataloguing-in-Publication Data

Flecker, Michael.

Legislation on Underwater Cultural Heritage in Southeast Asia : Evolution and Outcomes.

(Trends in Southeast Asia Series, 0219-3213 ; TRS 23/17)

1. Underwater archaeology—Law and legislation—Southeast Asia.
2. Cultural property—Protection—Law and legislation—Southeast Asia.
3. Shipwrecks—Law and legislation—Southeast Asia

I. Title.

II. Series: Trends in Southeast Asia ; TRS 23/17.

DS501 I59T no.23 (2017)

December 2017

ISBN 978-981-4762-07-6 (soft cover)

ISBN 978-981-4818-06-3 (e-book, PDF)

Typeset by Superskill Graphics Pte Ltd

Printed in Singapore by Mainland Press Pte Ltd

FOREWORD

The economic, political, strategic and cultural dynamism in Southeast Asia has gained added relevance in recent years with the spectacular rise of giant economies in East and South Asia. This has drawn greater attention to the region and to the enhanced role it now plays in international relations and global economics.

The sustained effort made by Southeast Asian nations since 1967 towards a peaceful and gradual integration of their economies has had indubitable success, and perhaps as a consequence of this, most of these countries are undergoing deep political and social changes domestically and are constructing innovative solutions to meet new international challenges. Big Power tensions continue to be played out in the neighbourhood despite the tradition of neutrality exercised by the Association of Southeast Asian Nations (ASEAN).

The **Trends in Southeast Asia** series acts as a platform for serious analyses by selected authors who are experts in their fields. It is aimed at encouraging policy makers and scholars to contemplate the diversity and dynamism of this exciting region.

THE EDITORS

Series Chairman:

Tan Chin Tiong

Series Editor:

Ooi Kee Beng

Editorial Committee:

Su-Ann Oh

Daljit Singh

Francis E. Hutchinson

Benjamin Loh

Legislation on Underwater Cultural Heritage in Southeast Asia: Evolution and Outcomes

By Michael Flecker

EXECUTIVE SUMMARY

- This paper examines the evolution of underwater cultural heritage (UCH) legislation in Southeast Asia. Legislation in every country differs, with some reflecting great cultural awareness and some signalling neglect. It seems that some countries regard shipwrecks and their cargoes as resources rather than cultural heritage.
- Thailand is the only country in Southeast Asia that sponsors its own maritime archaeological programme. Others rely on private funding, usually in exchange for a share of the recovered cargo. These public-private partnerships have in some cases created a culture of corruption, xenophobia, paranoia and greed.
- Cambodia is the only Southeast Asian signatory to the UNESCO Convention on the Protection of UCH. Other countries follow the UNESCO code of practice, with the exception of key provisions, such as leaving wrecks *in situ* for future generations, and keeping collections intact. This is not necessarily a bad thing.
- Indonesia's extreme course of inaction, a moratorium on the issuing of excavation licences, may have exacerbated looting. Fishermen who accidentally find a wreck no longer have a legal means of benefitting from their discovery. They cannot afford to leave valuable ceramics on the seabed for others to loot.
- Singapore does not have legislation dealing specifically with UCH, although both terrestrial and underwater cultural heritage policy is currently under review. Singapore can afford institutional investigation and excavation, thereby avoiding the pitfalls of private partnerships. Singapore can afford enforcement. By cherry-picking the most effective UCH policies from like-minded governments and moulding them to fit Singapore's unique circumstance Singapore could go from non-starter to leader through a single act of parliament.

Legislation on Underwater Cultural Heritage in Southeast Asia: Evolution and Outcomes

By Michael Flecker¹

INTRODUCTION

It would seem that every country in Southeast Asia has different legislation for dealing with underwater cultural heritage (UCH). Some legislation reflects great cultural awareness while some signals neglect. Indeed, some countries regard shipwrecks and their cargoes as resources rather than cultural heritage.

Within countries the rules applied to UCH tend to differ from those applied to terrestrial heritage sites and the objects associated with them. Such rules often derive from Admiralty Law and the Merchant Shipping Act, which were originally intended to cover ships that wrecked yesterday, not those that were lost hundreds of years ago.

This paper examines the legislative path followed by various countries in Southeast Asia, where such legislation can be ascertained. Laws related to UCH are often opaque and frequently change. There was a time when the author could rely on first-hand experience for an assessment of this nature. However, since the Global Financial Crisis (GFC), opportunities to legally excavate shipwrecks have plummeted. Consequently, some of the information presented herein is derived from third parties. In some

¹ Michael Flecker is a maritime archaeologist with thirty years of experience in surveying for and excavating shipwrecks throughout Southeast Asia. He has worked directly with governments in Indonesia, Vietnam, Malaysia, Myanmar and the Philippines. He specializes in ancient Asian shipbuilding techniques. This paper was written during his recent term as Visiting Fellow with the Nalanda-Sriwijaya Centre at ISEAS – Yusof Ishak Institute, Singapore from July 2016 to October 2017.

cases it may no longer be valid, and in others it may simply be wrong, despite efforts to cross-check. Occasionally, actual procedures do not conform to enacted laws or decrees.

Immediately after the GFC, regional governments were too concerned with getting their economies back on track to bother much about heritage matters. Most countries could not, or would not, fund their own maritime archaeological programmes. Indeed most never had. Issues resulting from the alternative public–private partnerships encompassed collusion, corruption, xenophobia, paranoia, and greed. These ills had of course pre-existed to a greater or lesser degree, but post 2008 they seem to have blossomed.

CHINA

While China is not within Southeast Asia, Chinese policies may have bearing on those of Southeast Asian countries. Recent developments suggest that cultural nationalism may cascade beyond expanding maritime boundaries. In a recently published compendium of shipwreck excavations in China (Wang 2015), the introduction states:

In 1986, Englishman Michael Hatcher salvaged and smuggled a great number of blue-and-white wares dated in Kangxi reign of Qing dynasty from South China Sea and sold the artefacts in Amsterdam auction. The crime has not only generated the discontent in the fields of archaeology, museology and general public, but also highly attracted the attention from the Chinese Central Government and the Chinese Cultural Heritage Department (*sic*).

This “crime” apparently played a role in the establishment of the Chinese National Underwater Archaeological Group a year later, in 1987. Hatcher salvaged two Chinese ceramic cargoes around this time (Sheaf and Kilburn 1988). In 1983 he recovered 17,000 pieces of porcelain, dated to c.1645, from a wreck that later became known as the *Hatcher Junk*. In 1986 he sold 140,000 pieces of porcelain salvaged from the wreck of the VOC ship, *Geldermalsen*, which sunk in 1752. Neither are from the Kangxi reign (1661 to 1722), but that’s not the point. Both were lost on

Figure 1: Vase within a vase — Dehua ceramics from the 12th century Nanhai I shipwreck in China.



Heluputan Reef, some 35 nautical miles (65 km) southeast of Bintan and well within Indonesian archipelagic waters. Indonesia protested meekly and unsuccessfully. Then it too responded to the affront by establishing a national committee to oversee shipwreck excavation in Indonesian seas.

China has made noises about their ownership of Chinese ceramic cargoes in the Spratly's and on Scarborough Shoal (Flecker 2015). But as yet, they have not publicly laid claim to Chinese ceramic cargoes found on shipwrecks elsewhere in Southeast Asia. Most of the ceramic cargoes that have been found were not in fact on Chinese ships. They had been purchased by foreign merchants and therefore could not reasonably be subject to claim. As for those cargoes that were lost on Chinese junks, the vessels and contents generally belonged to private traders (Figure 1). Apart from state-sponsored expeditions, such as those led by Zheng He, there were no state-owned enterprises equivalent to the Dutch East India Company (VOC). As the VOC was nationalized in 1800, the Netherlands continues to claim VOC wrecks to this day, wherever they lie.

INDONESIA

UCH policy in Indonesia seems to be in a constant state of flux, but the one unchanging aspect is the minimal role played by archaeological institutions. In fact, in most cases there has been no on-site participation by Indonesian archaeologists at all, and there has been no requirement for any artefacts to remain in the country. This is not through lack of trying.

In 1989, under Presidential Decree No. 43, the government established Panitia Nasional Pengakatan dan Pemanfaatan Benda Berharga Asal Muatan Kapal yang Tenggelam (PaNas BMKT) or the National Committee for Excavation and Utilization of Valuable Objects from Sunken Ships. PaNas, through a series of decrees (listed below under Legislation References), devised a policy by which local or foreign corporations could salvage historical shipwrecks in Indonesian waters. From the author's own early experience, foreign corporations had to operate through an Indonesia-registered company owned by a local partner. They had to pay a substantial deposit or bond before they could start work. They also had to pay fees and get permission from as many as twenty-two different government departments, before paying for a survey licence, and then more for a salvage licence if the survey was successful. The principal condition was that 50 per cent of the salvaged cargo belonged to the government, based on proceeds of sale, irrespective of salvage costs.

In immediate response to this legislation, the Minister of Education and Culture issued "Excavation Procedures for Valuable Objects, Specifically Relating to Cultural Heritage Objects Lying within Indonesian Waters" (No. 0843/1989). These procedures included excavating to accepted archaeological standards and retaining unique and scarce artefacts. Chapter V Article 5(3) somewhat confusingly states, "The valuable items resulting from sharing which have become state property and have significant meaning to archaeology, history and culture should be stored in the Museum, and the other valuable items may be sold or auctioned for the State." Unfortunately, these procedures were not enforced. The few salvage groups that did document their sites did so at their own volition. No artefacts were kept for museums.

In the early 1990s, rumours emerged of the discovery of the fabled wreck, the *Flor do Mar*. She was the flagship of Afonso de Albuquerque, who sacked Melaka in 1511. The bounty was loaded onto the *Flor do Mar* for the voyage to India, but she foundered on a shoal off Aceh while en route. Malaysia immediately laid claim to the cargo.

In response, Indonesia proclaimed Act No. 5 of 1992, dealing with Cultural Heritage Objects (Nayati 1998, p. 155). Fundamentally, all cultural heritage objects “found in the territorial jurisdiction of the Republic of Indonesia” belong to the State (Article 4). Territorial jurisdiction was not defined. However, from research documentation the *Flor do Mar* would lie within Indonesian territorial waters as defined by the United Nations Convention on the Law of the Sea (UNCLOS). Under Article 12 of Act No. 5, nobody could search for a cultural or valuable object, by diving or excavation, without government permission.

Immediately after cultural heritage was touted, Act No. 25 of 1992 was issued. It dealt with “Sharing the Proceeds of Salvage of Valuable Items from Shipwrecks between the Government and the Company”. Yes, the sale of cultural heritage objects was prohibited (Article 1[1]), but the rest could be sold by auction with 50 per cent going to the company and 50 per cent to the government (Article 2[2]), which included the company’s tax liability (Article 2[3]). Of all the historical wrecks that have been salvaged under these provisions, none would seem to have contained cultural heritage objects.

As it turned out, the reports of a new discovery were untrue. The *Flor do Mar* continues to elude treasure hunters to this day, and from the circumstances of her loss, there is unlikely to be much in the way of treasure remaining.

Initially, PaNas came under the control of the Ministry of Transport and Communications. Under Presidential Decree No. 107 of 2000, the Ministry of Marine Affairs and Fisheries has the responsibility of assigning the chairman of the committee, while the Ministry of Culture and Tourism provided the deputy. The same Decree (Article 1[2]) quite specifically covered “Shipwrecks from the Verenigde Oost-Indische Compagnie (VOC), the Netherlands, Portugal, Spain, England, Japan, China or other ships that sank in the waters of Indonesia, the Indonesian

Figure 2: Recovering a basket of artefacts from the 10th century Intan Wreck, sister ship to the Cirebon Wreck, in the Java Sea.



exclusive economic zone and the continental shelf of Indonesia, at least 50 years ago.” Territorial jurisdiction was now clearly defined.

Also in 2000, new autonomy legislation empowered regencies and municipalities (with jurisdiction up to four nautical miles from the shore) and provinces (between 4 and 12 miles from the shore) with overseeing shipwreck survey and excavation in their waters (Tjoa-Bonatz 2016. p. 92), thus making the complex situation even more complex. The central government maintained jurisdiction over any shipwreck greater than 12 miles from shore. The sharing of artefacts or proceeds of sale between the central government and the provinces was not defined, making the salvor’s position particularly perilous.

Even dealing with the central government alone became exceptionally risky. In 2009 the government took it upon itself to auction the cargo of the tenth century *Cirebon Wreck*, which had been excavated by a licensed company at great cost (Figure 2). This was an Indonesian ship with a huge cargo of Chinese ceramics and an important collection of Indonesian

artefacts. There were no bids, which is not surprising as the reserve price was too high by an order of magnitude. After two failed attempts, the cargo was split, with half going to the government and half going to the salvor. The salvor eventually sold their share to the National Museum of Qatar for an undisclosed sum. The disposition of the government share is unknown.

Two contradictory legal terms emerge from the flow of legislation. “Benda berharga asal muatan kapal yang tenggelam” means valuable objects from the cargo of sunken ships. In Presidential Decree No. 19 of 2007, the term is defined as all objects from shipwrecks of historical, cultural, scientific and economic significance. The state has the right to use such material for the welfare of the nation (Tjoa-Bonatz 2016, p. 90). Therefore emphasis is placed squarely on the economic significance.

Act No. 5 of 1992 addresses shipwreck remains as “cagar budaya” or cultural property. The Act mandates the protection of cultural material that is over fifty years old and that possesses an important value for history, science and culture (Tjoa-Bonatz 2016, p. 90). Qualifying terms, however, nationalize this value, and allow for the sale of multi-duplicate artefacts. Act No. 11 of 2010 re-emphasized the wider cultural context, aligning more with the UNESCO Convention on the Protection of UCH even though Indonesia is not a signatory.

Due to the obvious need to rationalize and clarify legislation, and perhaps also due to frustration and concern over decades of poor outcomes, the government declared a moratorium on the issuing of salvage licences in 2010. The moratorium was due to be lifted in 2016. However, as best as can be ascertained, it remains in place at the time of writing.

This has not stopped the looting. On the contrary, the looting has intensified. Shipwrecks in Indonesia are almost always discovered inadvertently by fishermen (Figure 3). Trawlers or line fishermen tend to find wrecks in open water, while sea cucumber divers and divers collecting fish from illegal dynamite fishing find wrecks close to reefs. More often than not, local divers salvage these wrecks themselves, most of which have cargoes of ceramics. They do this without a licence, and of course without any archaeology, selling directly to antique dealers in Jakarta who openly and legally sell their coral-encrusted wares. Sometimes the

Figure 3: Washing a basket-load of Changsha bowls recovered from the 9th century Belitung Wreck, which was found by sea-cucumber divers.



divers are caught by the navy before the wreck is emptied. In the past, the site sometimes became available to licensed salvage groups. Sometimes the fishermen sold the wreck position directly to a licensed group, usually after they had salvaged as much as their limited technology would allow.

With the moratorium in place, once-opportunistic fishermen have become full-time salvors. Some are paid by foreigners to salvage cargoes and to smuggle them out of the country. In one case at least, this has led to direct clashes when rival groups tried to work the same wreck. Now, when fishermen are caught, there is no rescue archaeology carried out by licensed salvors, and certainly none by the state. It is unlikely that valuable cargoes would be left unguarded on the seabed, so salvage probably carries on in some other guise until nothing remains.

It is feared that with the looting and destruction by trawl nets, little will remain for maritime archaeologists if and when the moratorium is lifted.

MALAYSIA

Under the Antiquities Act of 1976, the Malaysian Museums Department was given authority to deal with antiquities found “on land, on a river bed, in a lake or under the sea”. The assistant curator of the Archaeology Unit was sent for training with the Southeast Asian Minister of Education Organisation Special Projects in Archaeology and the Fine Arts (SEAMEO-SPAFA), but otherwise the Museums Department remained incapable of independently carrying out underwater archaeological operations.

The VOC ship, *Risdam*, was found off Mersing in 1984 through private archival research and survey. Unfortunately, the enterprising foreign finders looted much of the wreck before authorities intervened. A short assessment survey was later carried out by the newly named Department of Museums and Antiquities (DMA) in conjunction with the Western Australian Maritime Museum (WAMM) using Malaysian navy divers. However, counter to WAMM recommendations, there does not seem to have been a follow-up excavation.

During the late 1980s, several local and foreign groups applied for the rights to search for or salvage shipwrecks in Malaysia. The government set up a committee to process these applications, chaired by the Director of the Contract and Purchase Division of the Ministry of Finance. It wasn't until 1991 that the government granted the first survey licence to a commercial company, Malaysian Historical Salvors (MHS).

The author was a director of MHS but resigned after leading an unsuccessful survey for the target ship, the 1817 wreck of the *Diana*. The contract between the government of Malaysia and MHS was headed “To Survey, Identify, Classify, Research, Restore, Preserve, Appraise, Market, Sell/Auction and Carry out a Scientific Survey and Salvage of the Wreck and Content of *Diana*.” Whereas the opening paragraph states that the contract “is for the sole purpose of archaeological interest and the study of historical heritage”, the lengthy title is more honest. Malaysia adopted a compromise approach, combining the protection of UCH with a commercial operation, in consideration of the fact that the government could not provide expertise or funding.

Apart from the Antiquities Act, the only other relevant legislation at this time was the Merchant Shipping Ordinance of 1952, modelled on the U.K. equivalent, which was in actuality never intended to address historical wrecks. Both the Act and the Ordinance were incorporated in the MHS contract. Director of the Marine Department was designated Receiver of Wrecks and had the power to issue instructions on survey and salvage. The Director General of Museums could issue instructions on scientific excavation, restoration and preservation. Finds of rare Malaysian cultural and historical heritage were to be retained by the government, and excluded from the valuation. In line with the Ordinance, the salvor's award was structured as a fee equivalent to a percentage of the value of the recovered finds. The percentage varied from 70 per cent for total finds up to US\$10 million, 60 per cent between US\$10 million and US\$20 million, and 50 per cent above US\$20 million. Those were truly optimistic times, and generous terms.

MHS eventually found the *Diana* in 1993, and completed excavation the following year (Ball 1995). The DMA had representatives on board the salvage barge. However, none were experienced in maritime archaeology and none dived as part of the excavation team. The cargo of Chinese porcelain was sold through Christie's in Amsterdam. The government retained a substantial representative collection as well as receiving their share of the proceeds. MHS claimed that the government undervalued the retained collection and took legal action. Litigation continues to this day.

Malaysian policy stipulated that the funds obtained from the sale of a shipwreck unrelated to Malaysia's heritage could be used to excavate wrecks that were of direct relevance to Malaysia's historical past, whether they had commercial value or not (Taha 1989). This unique policy was indeed put into practice. The government gained financially from the sale of the *Diana* porcelain and then spent considerably more on the purely archaeological excavation of the Dutch ship, *Nasau*, which was lost in a battle off Cape Rachado (Tanjong Tuan) in 1606 (Bound, Ong and Pickford 1997). This wreck was involved in a pivotal battle with the Portuguese for control of the key entrepot of Melaka. The Government hired a private Malaysian company to carry out the work under the

supervision of a foreign maritime archaeologist. It is unfortunate that a full archaeological report has never been published, and that more was not recorded of the other three ships lost in the same battle, all located and lying nearby.

A company called Nanhai Marine Archaeology (NMA) worked in close cooperation with the DMA for many years. Operating mainly on the east coast of Peninsula Malaysia, NMA excavated and documented eight historical wrecks, all located through information provided by fishermen and most well outside Malaysian territorial waters, although within the Exclusive Economic Zone (EEZ). Some of these ships may have been bound for Melaka, but the majority seem to have sunk in storms as they followed the coastal route from Thailand or China to Indonesia. Most were not of direct historical relevance to Malaysia. Consequently, the ceramic cargoes recovered from these wrecks have largely been sold. The retained artefacts were skilfully displayed in a temporary Maritime Museum in Kuala Lumpur. While it was small, this museum was impressive. Unfortunately the collections have now moved to the National Museum (Muzium Negara) and the display scaled down.

In 2004, the author obtained a survey permit from the Marine Department (MD), with the letterhead incorporating “Merchant Shipping Ordinance 1952”. The lengthy application, detailing archaeological procedures and competence, was first approved by the DMA. The permit holder had to be a Malaysia-registered company with at least 30 per cent *bumiputra* equity and RM250,000 paid up capital.

Professional and enthusiastic DMA personnel actively participated in the Melaka Strait survey. There were no representatives from the MD. Three wrecks were discovered, all probably Portuguese of the late sixteenth century. One is almost certainly the oldest European wreck so far found in Malaysia (designated *Shipwreck MIJ*) (Figure 4), and is therefore of direct historical importance to the country (Flecker 2007a). The wreck has never been excavated.

Up to this time, Malaysian policy had been flexible and proactive. DMA personnel had acquired the skills necessary to carry out their own underwater investigations, and did so. Only well-qualified commercial companies were allowed to work with the DMA and they had to operate

Figure 4: A crab finds refuge in the muzzle of a cannon on the MIJ Wreck in Melaka Strait.



under supervision. This allowed for expensive and high-risk survey for new wrecks, known through archival research or through fishermen's net contents, at minimal cost to the government. Without this proactive stance, many wrecks would have been completely destroyed, if not by looters then by the massive trawl nets that scour every metre of the seabed along the entire east coast.

One pitfall in the shipwreck legislation was that the issuing of licences did not fall exclusively under the purview of DMA. Responsibility lay with the MD due to the Shipping Ordinance, while the only concern they really had was for the safety of the survey and salvage vessels, and for the protection of underwater structures such as cables and pipelines.

Another issue was the large degree of state autonomy in Malaysia, whereby the states had final say as to whether a survey or excavation could take place within 3 nautical miles of their shoreline. It would have made life much easier for the various government departments and for proponents if there was a defined policy on how artefacts and costs would be shared between state and federal governments.

The Malaysia Heritage Act of 2005, which came into effect in March 2006, instituted a major change in structure. UCH is covered by this Act, but gets relatively little attention. It was recognized that the MD was not the appropriate body to issue permits, but instead of placing this responsibility with the DMA, an extra layer was created. A Commissioner of Heritage was appointed to issue "salvage or excavation licenses" (Part IX, Clause 65[1]), presumably pursuant to approval from the MD.

The added complexity of the new system has not benefited Malaysia's UCH. The DMA has effectively been split into the National Heritage Council (Jabatan Warisan Negara), headed by the Commissioner, and the Department of Museums. The up-and-coming Maritime Archaeological Unit, which was under the DMA, has been disbanded. Permits held by non-Malaysians, or by companies that were majority foreign owned, were not renewed. As far as can be ascertained from the Heritage Council website, a nineteenth century clipper has been surveyed off Pulau Banggi in northern Sabah, and an ancient wreck with a cargo of stoneware storage jars has been surveyed off Pulau Bidong, Terengganu. But to the author's knowledge, there have been no official archaeological excavations in West Malaysian waters since the promulgation of the Heritage Act.

Figure 5: Ceramics entrapped within an iron concretion from the c.1300 Jade Dragon Wreck.



The states of Sabah and Sarawak, forming East Malaysia, have considerable autonomy and hence have so far escaped the influence of the National Heritage Council. Only three wrecks have been documented in Sabah to date, and none in Sarawak. All three of the Sabah wrecks were heavily looted before archaeological intervention. In fact there was virtually nothing left of the twelfth century *Simpang Mengayau Wreck* (Bazsley, Basrah and Bilcher 2009) and the c.1300 *Jade Dragon Wreck* (Flecker 2012) (Figure 5) by the time the Sabah Museum got involved. The most recent discovery, the twelfth century *Flying Fish Wreck* (Figure 6), did have surviving cargo and hull structure. The wreck has been well documented through private funding. It would seem that Sabah is the only place in Southeast Asia where this arrangement still works, and the only place producing new archaeological information.

Figure 6: A diver using primitive hose gear holding a stack of bowls from the Flying Fish Wreck.



THE PHILIPPINES

In the Philippines, early legislation was formulated to preserve and protect cultural property, although there was no specific mention of UCH. Under the Cultural Properties Preservation and Protection Act of 1966, amended in 1974, the National Museum was appointed as the lead government agency for implementing the laws, and for undertaking archaeological research and management.

In 1979 an Underwater Archaeology Unit (UAU) was created with support from SPAFA. This move was perhaps premature as there were no trained Filipino maritime archaeologists at that time. In 1988 the UAU was renamed the Underwater Archaeology Section (UAS), and was presumably better staffed. Simultaneously, the Protection of Underwater Cultural Heritage Act was tabled. This Act introduced a permit system for underwater exploration and excavation, specifying archaeological and scientific procedures that had to be followed, in recognition of the fact that the government could not provide funds for fieldwork. Official excavation was seen as the only means of curtailing an escalating looting problem, even if it meant sharing cultural property with a commercial enterprise.

A fascinating series of Presidential Decrees and Administrative Orders was issued from as early as 1980. Presidential Decree No. 1726-A, Providing Guidelines on Treasure Hunting, was clearly a response to highly publicized hunts for Yamashita's treasure, hoards of gold and other valuables purportedly looted and then hidden by the Japanese during World War II. The applicable procedures and guidelines were not issued until 1996 (Memorandum Order No. 389). The Criteria for the Technical Evaluation of Application was issued in 1999 (Memorandum Order No. 64), and for the first time specifically mentions shipwrecks. In 2000, the government released Rules and Regulations Governing the Issuance of Permits for Treasure Hunting, Shipwreck/Sunken Vessel Recovery and Disposition of Recovered Treasures/Valuable Cargoes, Including Hoarded Hidden Treasures (DENR Administrative Order No. 2002-04). Minor amendments occurred in 2004 (Administrative Order No. 2004-33).

Considering the legislative awareness of UCH since as early as 1988, the 2002 Administrative Order is a remarkable document, marking

the transfer of the function of issuing permits for treasure hunting and shipwreck recovery from the Office of the President to the Department of Environment and Natural Resources. Under Definitions, “Shipwreck – refers to a sunken vessel due to acts of war or of rough sea conditions or maritime accident which possesses treasures and valuable cargoes (*sic*).” Under Section 12,

Upon discovery of valuable items such as monies, things and article of value, resulting from Treasure Hunting and Shipwreck/Sunken Vessel Recovery activities, the National Museum shall be called upon to determine whether or not they are considered to have cultural and/or historical value. In the event that the items are considered to have historical and cultural value, it shall be turned over to the National Museum for appropriate action. Otherwise, the same be turned over to the Oversight Committee for valuation and disposition (*sic*).

Under Section 14, “For Shipwreck/Sunken Vessel Recovery – Fifty percent (50%) to the Government and Fifty percent (50%) to the Permit Holder.”

This legislation specifically mentions Yamashita’s treasure, continuing the response to contemporary hype. It does not, however

cover the issuance of Permits for the discovery/recovery of hidden treasures, shipwrecks/sunken vessels recovery exclusively for materials of cultural and historical values, such as object of arts, archaeological artefacts, ecofacts, relics and other materials embodying the cultural and natural heritage of the Filipino nation, as well as those of foreign origin ... (*sic*)

These must have been confusing times for the National Museum.

The 50/50 split had been in place for many years before the 2002 legislation. In stark contrast to Indonesia, the Philippines retained half of the artefacts for the National Museum rather than half of the monetary value. None of their share was sold. From hearsay, the division process involved a simple “one for you, one for me” system, after conservation

and documentation were completed. The permit holder could then export their share, having obtained approval from the National Museum.

The latest legislation swings decisively back to the side of UCH. The National Cultural Heritage Act of 2009 (Republic Act 10066) was approved in 2010. Article III Section 11 states that “No cultural property shall be sold, resold, or taken out of the country without first securing a clearance from the cultural agency concerned. In case the property shall be taken out of the country, it shall solely be for the purpose of scientific scrutiny or exhibit.” Furthermore, export may only be on a temporary basis.

National Museum Office Order 2011-108, Guidelines Governing Categorization and Dealings of Archaeological and Traditional Ethnographic Materials, was issued on the back of Act 10066. Section 5 categorizes archaeological materials and assigns grades, whereby Grade I materials are National Cultural Treasures of the highest significance, Grade II materials are Important Cultural Properties, and Grade III materials are Cultural Properties. Grade I and II materials are subject to the sale and export restrictions mentioned above. Grade III materials can be exported and presumably sold with Museum approval. These provisions aim to place limitations on parties who wish to engage in archaeological projects with commercial intentions (Orillaneda and Ronquillo 2011).

National Museum Office Order 2013-30, Guidelines Governing the Underwater Archaeological Research, Exploration and Excavation in Philippine Waters is the latest in an evolving series. It is designed to set out the rules and regulations for the issuance of permits for parties who wish to engage in underwater archaeological activities within the archipelago’s maritime territory, as well as establish guidelines on the methodology of survey, exploration, excavation and post excavation activities that should be strictly adhered to (Orillaneda and Ronquillo 2011). Appended to the rules and regulations is a Memorandum of Agreement (MOA) that serves as the binding legal instrument between the National Museum and the Permit Holder.

Under these Guidelines, permits can only be issued to accredited scientific and educational institutions, government agencies with a proven ability to conduct underwater archaeological work, or to a Philippine-

registered non-profit corporation, typically a foundation. The non-profit provision would seem to place a substantial restriction on the sale of Grade III materials. An additional provision eliminates all possibility of sale: “shared materials shall not be sold or given to any party other than legitimate museums or exhibition (*sic*).”

In effect, the non-profit foundation must assume the role of a philanthropist, while paying a performance bond of 500,000 Pesos (S\$14,000), an exploration fee, an excavation fee, a per diem and costs for museum staff, and full insurance coverage.

Orillaneda and Ronquillo (2011) acknowledge that the National Museum does not have adequate resources to carry out underwater archaeology projects on its own, a perennial problem for developing countries where funds for cultural research come second to economic priorities. They also acknowledge that there is an urgency to protect submerged sites from fishermen and treasure hunters who are discovering and looting sites at an alarming rate. And yet by issuing the latest set of Guidelines, the National Museum has drastically limited potential partners. Orillaneda and Ronquillo (2011) expect that there will be a shift from undertaking joint projects with profit-oriented proponents to collaborative projects with academic institutions and non-profit, research-g geared, agencies and organizations in the management, preservation and protection of UCH. This is a noble goal, and one that may be fulfilled by an organization such as the Institute of Nautical Archaeology, which has a policy of collaboration with foreign institutions. But to the author’s knowledge, no such organization has come forward, and the looting goes on.

THAILAND

A joint Thai-Danish expedition in the late 1970s was a prelude to a Thai-Australian venture that commenced in 1979 and lasted for many years. It incorporated a SPAFA training course, which was conducted largely by the Western Australian Maritime Museum, and which eventually led to the joint excavation of three shipwrecks, the *Ko Kradat Wreck*, the *Ko Si Chang III Wreck* and the *Pattaya Wreck* (Green and Harper 1983). The Thai contingent came under the auspices of the Thai Fine

Arts Department, which later spawned the Thai Underwater Archaeology Division (TUAD).

The Thai Government has backed their go-it-alone policy with all important funding. The TUAD is well equipped, and they have independently excavated several more wrecks. The maritime museum in Chanthaburi province magnificently displays the work that has been done, highlighting the prominent role that the Thais played as ceramic manufacturers and shipbuilders from the late fourteenth to the early sixteenth century, in particular during the fifteenth century when they filled the gap left by China's withdrawal from the export market. The museum also serves as a base for the TUAD.

Thai UCH policy is unique in Southeast Asia in that there is no question of commercial involvement, either foreign or local, and there is no question of selling artefacts. Shipwreck excavations are funded by the government. Cargoes and artefacts are documented, conserved, stored and displayed at government expense.

There is one incident that reflects the range of perceived Thai jurisdiction beyond territorial waters and into their EEZ. In 1992, the author accompanied an expedition in order to document what is thought to be the most intact Thai wreck so far discovered (Flecker 2007b). The early sixteenth century *Klang Ao Wreck* was located in the Gulf of Thailand some 60 nautical miles south of Sattahip, in 55 metres of water (Figure 7). The hull was completely full of stacked Thai ceramics, mostly large storage jars.

The infamous Michael Hatcher obtained the location from a Pattaya sport diving operator, who in turn found out about the wreck from local fishermen. After commissioning a study on legal jurisdiction, Hatcher deemed the wreck to lie in international waters and consequently launched a salvage operation from Singapore utilizing an Australia-registered vessel.

During the course of the short excavation, a Thai fishing boat manned by off-duty Thai navy personnel anchored alongside the commercial salvage vessel. They used scuba gear to recover what they could. Hatcher did not object, and after a couple of days they left the site. However, when most of the cargo had been recovered, the Thai marine police and

Figure 7: Headless rider on a Sawankhalok horse recovered from the Klang Ao Wreck.



the navy surrounded the salvage vessel with five of their ships. After days of threats and negotiations between Hatcher and the Thai and Australian governments, the entire cargo was transferred onto a navy tug and the salvage vessel was escorted out of Thai waters. The alternative was arrest.

This is a grey area of international maritime law, as much now as prior to 1994, when UNCLOS was ratified (Flecker 2012). The wreck lay outside the 12-nautical mile limit of Territorial Waters and the 24-nautical mile Contiguous Zone, but within the Thai EEZ. Under UNCLOS, Thailand has rights to fisheries and natural resources within their EEZ, but shipwrecks are not specifically covered. Hatcher had freedom of navigation through the EEZ, but he did not have the right to stop and conduct salvage work. Thailand had more guns.

The *Klang Ao Wreck* was excavated in early February 1992. Either by extraordinary coincidence, or through amazingly swift legislative action, the amended Act on Ancient Monuments, Antiques, Objects of Art and National Museums was published in the Thai Government Gazette on 5 April 1992. This added the EEZ to Section 24,

Antiques or objects of art buried in, concealed or abandoned within the Kingdom or the Exclusive Economic Zone under such circumstances that no one could claim to be their owners shall, whether the place of burial, concealment, or abandonment be owned or possessed by any person, become the State property.

Interestingly, the same Section retained a controversial clause from the original 1961 Act, “The finder of such antiques or objects of art shall deliver the same to the competent official or the administrative or police official under the Criminal Procedure Code and is entitled to not more than a reward of one-third of the value of such property.” So in terms of the law, UCH could be seen to be treated as salvaged goods, where a reward is allocated for recovery as stipulated under the Merchant Shipping Act. In reality, the non-institutional recovery of artefacts is not tolerated. Whether intended or not, the option of a reward for the discovery of historical shipwrecks may actually be one of the best ways to protect them.

VIETNAM

The Vietnam Law on Cultural Heritage (No. 28 of 2001), Article 6 states “All cultural heritage under the ground, in the mainland, on islands, in the inland waters, territorial waters, exclusive economic zones and continental shelf of the Socialist Republic of Vietnam are under the entire population’s ownership (*sic*).” While Vietnam is strident and unambiguous in claiming shipwreck sites within their EEZ, the law does not otherwise deal specifically with UCH.

In most cases, Vietnam has emulated Indonesia, the Philippines and Malaysia by teaming up with privately funded organizations to excavate historical shipwrecks. The author is not aware of specific legislation. However there has been a standard procedure for such cooperation from the early 1990s until well into the twenty-first century.

Foreign companies had to obtain a business licence from the State Committee for Cooperation and Investment (SCCI), which was later replaced by the Ministry of Planning and Investment. For many years, the state-owned Vietnam Salvage Corporation (Visal) represented the government in joint-venture agreements, referred to as “Business Cooperation and Production Sharing Contracts” (Figure 8). These contracts stipulated that excavation, conservation and documentation should be done to internationally acceptable archaeological standards. An archaeological report, prepared in conjunction with the Ministry of Culture and Information, had to be submitted to the government on completion of the project. All unique artefacts belonged to the government, which represents “the entire population”. However, multi-duplicate artefacts, typically ceramics, could be sold by auction. The terms were negotiable to some extent, depending on the cost of the project and potential returns. A typical split may be 40 per cent of the proceeds to the company funding and managing the project, 30 per cent to the government, and 30 per cent to Visal, which also covered the company’s taxes.

In one instance, the government elected to fund an archaeological excavation directly. In 1997, fishermen discovered a wreck off Ca Mau province in the very south of Vietnam and salvaged many thousands of ceramics before being caught. The Ca Mau Department of Fisheries took

Figure 8: Densely packed ceramics in-situ on the Binh Thuan Wreck, excavated jointly by Maritime Explorations and Visal.



over and recovered many more before the Ca Mau People's Committee determined that such activities were beyond the operational purview of the Fisheries Department. Eventually the Ministry of Culture, in conjunction with other relevant ministries, made the decision to archaeologically excavate the wreck at government expense, with no intention of selling any of the cargo to offset costs. Visal was contracted to provide a vessel, equipment and divers to carry out the field work.

The wreck was officially excavated over two seasons, in 1998 and 1999. Some 60,000 ceramics and an array of artefacts were recovered. The wreck has been dated to the Yongzheng reign of the Qing dynasty (1723–1735) from reign marks on the bases of tea-bowls and dishes. Evidence of bulkhead construction, a cargo of cast-iron cooking pots, and the absence of cannon, imply that the wreck is not European. A single recovered plank incorporating dowel edge-joining strongly suggests that the ship was of Southeast Asian construction.

Unfortunately, there were no trained maritime archaeologists in Vietnam at that time. Instead the terrestrial archaeologists from the Ministry of Culture closely supervised the excavation by means of helmet-mounted video cameras and voice communications with the divers. They could not dive themselves, and they did not have any background in ship construction. While the divers were experienced in the recovery of shipwreck artefacts, very little was recorded in the way of hull construction detail or artefact context. This is all the more unfortunate as the *Ca Mau Wreck* may be the first evidence of an ongoing South China Sea Tradition that otherwise mysteriously disappears from the archaeological record around the mid-sixteenth century.

Following the excavation, the cargo was thoroughly inventoried and studied, resulting in a full colour catalogue-style book by the lead archaeologist, Dr Nguyen Dinh Chien (2002). It is an excellent result for a first-time effort. However, the book does not include a chapter on ship construction and origin.

The Ministry of Culture selected all the unique pieces and several fully representative sets of ceramics for ongoing study and museum display in Hanoi, Ca Mau and indeed throughout Vietnam. The remaining ceramics, all multi-duplicates, were boxed and stored in various warehouses for several years. The excavation costs were far higher than envisaged, and the warehouses were not free. The various ministries, including the Ministry of Culture, finally realized that the purist archaeological tenant of storing all artefacts indefinitely was untenable and futile in this situation. In 2007, Sotheby's sold the multi-duplicate ceramics on behalf of the Vietnamese government. The government reverted to public-private partnerships for subsequent shipwreck excavations.

Over the past decade or so, the government has followed a more open market policy, giving private Vietnamese companies the same opportunities as state-owned enterprises. In the general business environment, this is wonderful policy but it has no place when it comes to safeguarding UCH. In lieu of a maritime archaeology unit, state-owned Visal, with its pool of professional divers and extensive experience working on shipwrecks with the Ministry of Culture, had assumed this role. Competing local dive companies, some with foreign backing, had no experience in maritime archaeology.

The latest excavation took place in 2013. A local marine contractor won the bid to excavate a fourteenth century Chinese junk that was lost in very shallow water near Binh Chau, in Quang Ngai province. Interestingly, they elected to construct a sheet-pile cofferdam around the wreck, pump out the water, and excavate “dry”. Terrestrial archaeologists from the Ministry of Culture could therefore directly oversee the excavation of the ceramic cargo, although ship construction specialists were again absent. The contractor received an undisclosed proportion of the recovered artefacts. It would seem that the government retained their relatively small collection in this instance.

Around the same time that the *Binh Chau Wreck* was being excavated, the Underwater Archaeology Department of the Vietnamese Institute of Archaeology formally came into being. So far, the focus has been on training and capacity building. They are yet to carry out an excavation, and seem to be very short of funding.

CAMBODIA

Perhaps because of the dearth of shipwrecks along Cambodia’s relatively short coastline, the Law on the Protection of Cultural Heritage of 1996 (NS/RKM/0196/26) focused on general cultural heritage without mentioning UCH. However, a Sub-Decree of 2002, covering enforcement, does address cultural property recovered through underwater excavation (Phann, undated).

In 1997, a foreign group obtained a licence to search for wrecks on Condor Reef, within Cambodia’s EEZ. They were offered a share of whatever cargo they recovered. After much fanfare, BBC documentaries and published books, nothing of commercial value was ever found.

In 2006, fishermen discovered a shipwreck at a depth of 20 metres off Koh Kong province. As usual, the ceramics cargo was heavily looted before news got out. The government requested foreign institutional assistance but none was forthcoming. In the absence of trained maritime archaeologists, the remaining cargo was purportedly recovered by the fishermen divers, under the supervision of Heritage Department personnel. Apart from a few measurements, nothing was recorded of the

ship's structure, and nothing was recorded in the way of artefact context. The ceramics have been provisionally dated to the fifteenth or sixteenth century (Phann, undated).

In 2007, Cambodia became the only Southeast Asian signatory of the UNESCO Convention on the Protection of the UCH. Since 2008, the Department of Archaeology, under the General Department of Heritage, has been responsible for maritime as well as terrestrial archaeology. Some staff were sent overseas for training. In 2010, the Underwater Cultural Heritage Unit was created. They have started surveying the coastline and rivers with UNESCO's support, but they have a long way to go.

BRUNEI DARUSSALAM

The Brunei Antiquities and Treasure Trove Act 1967, amended in 2002, marked the beginning of the protection and preservation of archaeological sites and the regulation of the sale and export of antiques. Interestingly Brunei prescribes a date, 1 January 1894, as the *terminus ante quem* for ancient monuments and antiquities. Brunei was a British protectorate from 1888 to 1984, with no specific event flagged for 1894.

As with early Antiquities Acts elsewhere, UCH is not specifically addressed. Antiquities may be “objects moveable or immovable or of the soil or of the bed of a river or lake or of the sea ...” and are deemed to belong to the Sultan. Historical objects may include vehicles, ships and boats. Treasure trove covers all valuable objects without a known owner which are not antiquities. Discoveries must be reported, and may be rewarded.

In 1997 a c.1500 wreck was discovered by Elf Petroleum while carrying out a pipeline survey (Pirazzoli-t-Serstevens 2011). It lay in 63 metres of water some 40 kilometres offshore, so may have simply been passing by. Elf undertook to finance an excavation directed by French maritime archaeologists, with all recovered artefacts retained by Brunei. The collection was initially housed in the National Museum but shifted to the purpose-built Maritime Museum when it opened in 2015. Museum staff include qualified divers, but it is not clear whether they are also qualified maritime archaeologists.

MYANMAR

As far as can be ascertained, Myanmar does not have any specific UCH legislation. There is only the Merchant Shipping Act, which has been amended several times since it was inherited from India when the British made Burma an Indian province, in 1886. Of course, the Indian version was adapted from the parent British Merchant Shipping Act during colonization.

In the run up to the 2016 elections, and since then, legislation has rapidly evolved to bring Myanmar out of isolation. However, it will be some time before UCH legislation receives any attention. Indeed, prior to any hint of democracy, even the basics of the Merchant Shipping Act were irrelevant.

In 2006 the author investigated the prospect of legally searching for a researched eighteenth century VOC wreck in Myanmar. While museums, archaeologists and the Ministry of Culture were active in documenting and preserving the many important terrestrial sites around the country, none seemed to be aware of the maritime potential. Eventually a local licensed salvage company was enlisted to apply for a survey permit. The application was made to the District Peace and Development Council of the relevant district. A permit was indeed issued, for a fee, and was signed by the Chairman who was also the Area Commander. Unfortunately the Area Commander retired shortly after signing. The permit apparently retired with him, before it could be utilized.

SINGAPORE

Without doubt, there are many historical shipwrecks in Singapore waters. Some now lie under reclaimed land. Some lie in busy anchorages where ground-tackle may have caused damage. Some lie at the bottom of Singapore Strait, one of the busiest fairways in the world. They may still be in pristine condition but would only be accessible by mini-submarine, with an exceptionally brave pilot. And some surely lie scattered around the great navigational hazard at the eastern entrance to Singapore Strait, Pedra Branca. It is only a matter of time before a shipwreck of historical and commercial value comes to light.

And yet Singapore does not have any legislation that specifically addresses UCH. In the absence of legislation, the Merchant Shipping Act, most recently amended in 1996, could be cited. For example, Clause 158, Right of Government to Unclaimed Wreck, states “The Government is entitled to all unclaimed wreck found in any part of Singapore except in places where the Government has granted to any person the right to the wreck.” However, in the unqualified opinion of the author, the Merchant Shipping Act could be ruled invalid based purely on the intent of the law. It was very clearly promulgated to address ships in distress or recent casualties, not historical shipwrecks.

Then there is the National Heritage Board Act of 1993, where a vessel of historical and archaeological significance qualifies as an ancient monument (Part 8, 46[10]). Unfortunately, this definition comes under the heading, “Power to enter upon lands to conduct archaeological investigation”, so technically a submerged shipwreck would not qualify.

Singapore can afford institutional investigation and excavation, thereby avoiding the pitfalls of private partnerships. Singapore can afford enforcement. Both terrestrial and underwater cultural heritage policy is currently under review. By cherry-picking the most effective UCH policies from like-minded governments and moulding them to fit Singapore’s unique circumstance Singapore could go from non-starter to leader through a single act of parliament. Of course, a historically significant shipwreck would be needed to demonstrate the effectiveness of any new legislation.

CONCLUSION

As far as the author is aware, there has not been an archaeological report, a conference paper or a journal article discussing the survey or excavation of a newly discovered shipwreck in Southeast Asian waters for the past five years. Joint-venture proponents typically published within a year or two of completing fieldwork, implying a six- to seven-year hiatus. Presenters at the International Symposium on Past, Present and Future of ASEAN Maritime Heritage (*sic*) held in Thailand on 15–16 June 2017 did not mention one new site, apart from the *Phanom Surin Wreck* which is buried 8 kilometres inland.

The flow of publications is a KPI, an independent and objective measure of policy. The current dearth reflects an appalling state of affairs, made infinitely worse by a marked increase in looting. Legislation intended to protect UCH has not been effective. It has not been enforced. And in some cases the legislation, or lack thereof, has imperilled UCH.

LEGISLATION REFERENCES

Indonesia

The Decree of the National Committee for Salvaging and Exploiting Valuable Objects Retrieved from Shipwrecks No KEP-4/PN/BMKT/12/1989 on Technical Stipulations in Implementing Presidential Decree No. 43 of 1989.

The Decree of the Minister of Finance of the Republic of Indonesia No. 1260/KMK03/1989 regarding Percentage Regulation for Profit- Sharing Between the Indonesian Government and Foreign/ Joint Venture/National Salvage Companies Salvaging Valuable Objects from National Jurisdictional Waters.

The Decree of the Minister of Education and Culture of the Republic of Indonesia No. 0843/O/1989 on Excavation Procedures for Valuable Objects, Specifically Relating to Cultural Heritage Objects Lying within Indonesian Waters.

The Decree of the Minister of Transportation No. KM37 of 1990 on Procedures for Issuing Permits for Salvaging and Exploiting Valuable Objects Retrieved from Shipwrecks.

The Decree of the National Committee for Salvaging and Exploiting Valuable Objects Retrieved from Shipwrecks No. KEP-17/PN/BMKT/12/1990 on Technical Stipulations for Controlling Salvage and Exploitation of Valuable Objects Retrieved from Shipwrecks and from Land-Based Sources.

Act No. 5 of 1992, Cultural Heritage Objects: Undang Undang Republik Indonesia No. 5 Benda Cagar Budaya <<http://birohukum.pu.go.id/uploads/DPU/1992/UU5-1992.pdf>>.

- Government Regulation of the Republic of Indonesia No. 10 of 1993, on the Implementation of Act No. 5 of 1992 on Cultural Heritage Objects.
- Presidential Decree No. 25 of 1992, on Profit-Sharing between the Indonesian Government and Salvage Companies in relation to Salvaged Valuable Objects Retrieved from Shipwrecks.
- Decree of the Minister of Finance of the Republic of Indonesia No. 708/KMK04/1993 on the Calculation and Deposit of the Indonesian Government's Share, in the Form of Taxes, of the Outcome of Salvaging Valuable Objects Retrieved from Shipwrecks Sunk Within Indonesian Jurisdiction.
- Presidential Decree No. 107 of 2000, on the National Committee for Excavation and Utilization of Valuable Objects from Sunken Ships <<https://www.global-regulation.com/translation/indonesia/2971640/presidential-decree-no.-107-of-2000.html>>.
- Presidential Decree No. 19 of 2007 concerning the appointment of the National Committee and the utilization of valuable cargo raised from sunken ships: Panitia Nasional Pengangkatan dan Pemanfaatan Benda Berharga Asal Muatan Kapal Yang Tenggelam <<http://www.menpan.go.id/jdih/perundang-undang/keputusan-presiden?limit=10@start=210>>.
- Act No. 11 of 2010, Concerning Cultural Conservation <http://www.unesco.org/culture/natlaws/media/pdf/indonesie/ind_act11_10_clther_entof>.

Malaysia

- Merchant Shipping Ordinance 1952, ORD. 70/1952 <<http://rr.mpc.gov.my/data/lic-legal-2013-12-24-15-29-43.pdf>>.
- Antiquities Act of 1976, Act 168 <http://www.unesco.org/culture/natlaws/media/pdf/malaisie/malaysia_law_act168_1976_engl_orof.pdf>.
- Malaysian Heritage Act 2005 <<http://www.hbp.usm.my/conservation/laws/nationalheritageact.htm>>.

The Philippines

- Presidential Decree No. 374, s. 1974, Amending Certain Sections of Republic Act No. 4846, Otherwise Known as the “Cultural Properties Preservation and Protection Act” <<http://www.gov.ph/1974/01/10/presidential-decree-no-374-s-1974/>>.
- Presidential Decree No. 1726-A (1980), Providing Guidelines on Treasure Hunting <http://laws.chanrobles.com/presidentialdecrees/18_presidentialdecrees.php?id=1774>.
- Memorandum Order No. 389, s. 1996, Prescribing the Procedures and Guidelines on Application for Permits to Locate, Dig and Excavate Hidden Treasures in Accordance with the Provisions of Presidential Decree No. 1726-A <<http://www.gov.ph/1996/07/26/memorandum-order-no-389-s-1996/>>.
- Philippine Coast Guard Salvage Regulations, MC 06-96 <<https://sites.google.com/a/coastguard.gov.ph/cg8/HOME/pcg-circulars/mc-06-96--salvage-regulations>>.
- Memorandum Order No. 64, s. 1999, Prescribing the Criteria for the Technical Evaluation of all Applications for Inland Treasure Hunting and Shipwreck Recovery Permits in Accordance with the Provisions of Presidential Decree No. 1726-A and memorandum Order No. 389, Series of 1996 <<http://www.gov.ph/1999/05/31/memorandum-order-no-64-s-1999/>>.
- DENR Administrative Order No. 2002-04, Rules and Regulations Governing the Issuance of Permits for Treasure Hunting, Shipwreck/Sunken Vessel Recovery and Disposition of Recovered Treasures/Valuable Cargoes, Including Hoarded Hidden Treasures <http://www.mgb.gov.ph/images/stories/DAO_2002-04.pdf>
- Administrative Order No. 2004-33, Amendments to DENR Administrative Order No. 2002-04 <<http://policy.denr.gov.ph/dao2004/dao2004-33.pdf>>
- Republic Act No. 10066 (2010), An Act Providing for the Protection and Conservation of the National Cultural Heritage, Strengthening the National Commission for Culture and the Arts (NCCA), and its Affiliated Cultural Agencies, and for Other Purposes <http://www.lawphil.net/statutes/repacts/ra2010/ra_10066_2010.html>.

Implementing Rules and regulations of Republic Act No. 10066
<<http://www.wipo.int/edocs/lexdocs/laws/en/ph/ph141en.pdf>>.

Thailand

Act on Ancient Monuments, Antiques, Objects of Art and National Museums B.E. 2504 (1961) <http://www.unesco.org/culture/natlaws/media/pdf/thailande/thailande_act_1961_engl_orof.pdf>.

Act on Ancient Monuments, Antiques, Objects of Art and National Museums (No. 2), B.E. 2535 (1992) <http://www.asianlii.org/th/legis/consol_act/aoamaooaanm1961650/>.

Vietnam

Law on Cultural Heritage, No. 28/2001/QH10 of June 29, 2001 <http://moj.gov.vn/vbpq/en/lists/vn%20bn%20php%20lut/view_detail.aspx?itemid=9469>.

Cambodia

Law on the Protection of Cultural Heritage, NS/RKM/0196/26 <http://www.shipwreckasia.org/wp-content/uploads/Law-on-the-Protection-of-Cultural-Heritage_Cambodia.pdf>.

Brunei

Antiquities and Treasure Trove Act, 8 of 1967, amended 1984 and 2002
<http://www.unesco.org/culture/natlaws/media/pdf/brunei/brunei_lawant_02_enorof>.

Myanmar

Burma Merchant Shipping Act, 1923 <<http://www.asianlii.org/mm/legis/code/bmsa1923235.pdf>>.

Singapore

Merchant Shipping Act, (Chapter 179), Original Enactment: Act 19 of 1995, Revised edition 1996 <<http://statutes.agc.gov.sg/aol/search/display/view.w3p;page=0;query=DocId%3A%22977a0eb4-e902-420e-abbd-6b95a7d270b1%22%20Status%3Ainforce%20Depth%3A0;rec=0>>.

National Heritage Board Act, (Chapter 196A), Original Enactment: Act 13 of 1993, Revised edition 2014 <<http://statutes.agc.gov.sg/aol/search/display/view.w3p;ident=43b0a39d-1cab-46da-8019-149f78d66790;query=DocId%3A2ee1ff71-bdb2-4f34-ab87-fddfacaa63a6%20Depth%3A0%20Status%3Ainforce;rec=0#legis>>.

REFERENCES

- Ball, D. *The Diana Adventure*. Singapore: Malaysian Historical Salvors, 1995.
- Baszley, B., B. Basrah and B. Bilcher. *Arkeologi Maritim Borneo: Kajian di Tanjung Simpang Mengayau*. Kota Kinabalu: Universiti Malaysia Sabah, 2009.
- Bound, M., Ong S.H. and N. Pickford. “The Excavation of the Nasau, Excavating Ships of War”. *International Maritime Archaeology Series 2* (1997): 63–87.
- Chien, N.D. *The Ca Mau Shipwreck 1723-1735*. Ha Noi, 2002.
- Flecker, M. “Portuguese Shipwreck Found off Malacca”. *Heritage Asia Magazine* 4, no. 1 (2007a).
- . “The South-China-Sea Tradition: Hybrid Hulls of Southeast Asia”. *International Journal of Nautical Archaeology* 36, no. 1 (2007b).
- . “The Jade Dragon Wreck: Sabah, East Malaysia”. *The Mariner’s Mirror* 98, no. 1 (2012).
- . “Early Voyaging in the South China Sea: Implications on Territorial Claims”. Nalanda-Sriwijaya Centre Working Paper No. 19. Institute of Southeast Asian Studies, Singapore, 2015.
- Green, J. and R. Harper. “The Excavation of the Pattaya Wreck Site and Survey of Three Other Sites, Thailand”. AIMA Special Publication No. 1, Australia, 1983.
- Jabatan Warisan Negara <<http://www.heritage.gov.my/ms/>> (accessed May 2017).
- National Report on the Protection of Underwater Cultural Heritage, Republic of Indonesia <http://www.unescobkk.org/fileadmin/user_upload/culture/Underwater/SL_presentations/Country_Reports/Indonesia.pdf> (accessed May 2017).

- Nayati, P. "Ownership rights over Archaeological/Historical Objects Found in Indonesian Waters". *Singapore Journal of International & Comparative Law* 2 (1998): 142–74.
- Nguyen, D.C. *The Ca Mau Shipwreck*. Hanoi: Museum of Vietnamese History, 2003.
- Orillaneda, B. and W. Ronquillo. "Protecting and Preserving the Underwater Cultural Heritage in the Philippines: A Background Paper". Asia-Pacific Regional Conference on Underwater Cultural Heritage Proceedings, 2011 <<http://www.themua.org/collections/items/show/1186>> (accessed May 2017).
- Phann, N. "History and Current Status of Underwater Cultural Heritage in Cambodia" <<http://www.themua.org/collections/files/original/d77fe4436f35606533d74d9fe994f70a.pdf>> (accessed May 2017).
- Pirazzoli-t'Serstevens, M. "The Brunei shipwreck: A witness to the International Trade in the China Sea around 1500". *The Silk Road* 9 (2011).
- Sheaf, C. and R. Kilburn. *The Hatcher Porcelain Cargoes: The Complete Record*. Oxford: Phaidon Inc Ltd, 1988.
- Taha, A.H. "Current Status of Underwater Archaeology in Malaysia". *Bulletin of the Australian Institute of Maritime Archaeology* 13, no. 2 (1989): 3–4.
- Tjoa-Bonatz, M.L. "Struggles Over Historic Shipwrecks in Indonesia: Economic Versus Preservation Interests". In *Cultural Property and Contested Ownership: The Trafficking of Artefacts and the Quest for Restitution*, edited by Hauser-Schaublin et al., pp. 85–107. Routledge, 2016.
- Wang G.Y. et al. *The Collection of the Exhibition of Underwater Archaeology in China*, Ningbo: Ningbo Municipal Institute of Cultural Relics and Archaeology, 2015.

ISEAS

PUBLISHING

30 Heng Mui Keng Terrace
Singapore 119614

<http://bookshop.iseas.edu.sg>

TRS23/17s

ISBN 978-981-4762-07-6



9 789814 762076