

Oral report delivered by the rapporteur of the intersessional working group concerning the thematic discussion on underwater cultural heritage, Clement Yow Mulalap (Federated States of Micronesia), on 28 March 2025, at the 332nd meeting of the Council, during the first part of its 30th session.

1. Last week, on Thursday, 20 March 2025, the Council held an informal thematic discussion on Underwater Cultural Heritage (UCH) for one and a half hours, which my delegation facilitated. Please note that at the end of the period allocated to the discussion on Thursday, there were nearly a dozen Members of the Authority whose flags were still up but had yet to make interventions, so this summary that I am delivering now is necessarily an incomplete one and should not be taken to represent a comprehensive understanding on my part of the views of all interested Members and Observers of the Authority. During the discussion on 20 March, participants engaged on three questions.
2. The first question asked whether the draft exploitation regulations should address underwater cultural heritage just in DR35/35alt, or take a broader approach to the matter. The participants who spoke on this question generally supported a broader approach to UCH, although a number of those participants focused their comments on DR35/35alt on Thursday.
3. The second question asked participants to indicate their preference for either DR35alt or DR35, as well as what their comments were for the text of one or both DRs. Most of the participants who spoke on this question generally preferred DR35alt to DR35, although there was a mention of support for DR35 as a reasonable compromise between the various interests at stake. Participants who engaged on the second question also expressed various views on whether the LTC or the Council should be tasked with the various roles under DR35, whether to go with paragraph 4 or the series of paras for paragraph 4alt with respect to how inclusive and broad the consultations undertaken under the DR would be, and whether to compensate Contractors who are impacted under the DR.
4. The third question asked those participants who support a broad approach to UCH in the DRs, to indicate what their views were on the purpose and substance of those other DRs. The participants who responded to the third question highlighted the utility of referring to UCH in, for example, EISes and the overall EIA process, EMMPs, UCHMPS, and baseline surveys of the seabed in connection with those environmental documents and other processes under the regulations. Participants also highlighted the relevance of the 2001 and 2003 UNESCO Conventions on UCH and intangible cultural heritage, particularly their definitions of UCH and intangible cultural heritage, although there was also a comment that while the work done by UNESCO on UCH would be covered by UNCLOS as a whole, there is a question as to whether the ISA as a specific entity would be allowed by UNCLOS to address UCH via its Mining Code. Participants additionally discussed whether there should be a standalone Committee on UCH – those who spoke on Thursday generally supported its creation, although I stress that the discussion on Thursday ran out of time before we could hear from all interested Members of the Authority.
5. There were also views expressed about the longstanding cultural connections of various Indigenous Peoples and communities to the Ocean, including the deep sea and seabed. The point was expressed about the need for a reciprocal relationship between humankind and the deep sea and seabed, as well as the notion of proper stewardship of the marine environment. Another point was articulated about how so-called pure intangible UCH such as the examples expressed in the discussion on Thursday might not fit properly under the notion of UCH but could be captured through other approaches, such as references to traditional knowledge as well as the establishment of sites of particular cultural interest. Relatedly, there was also a bit of discussion on the issue of the rights of Indigenous Peoples and of local communities, including their right to be consulted and involved in activities affecting them and their interests, with different views expressed on the matter.

6. Looking forward, my delegation believes that further work on UCH can and should be conducted by the Council, including in an intersessional working group. There remain differences of views on how, exactly, to reflect UCH and related matters in the regulations, but there seems to be broad acceptance of the need to reflect UCH and related matters in some form in the regulations. There is also genuine and respectful engagement on the matter from multiple corners, inclusive of Members and Observers of the Authority, for which I remain deeply grateful.
7. I have also taken note of the proposed additional modality of work for the Council going forward in the form of "Friends of the President." I recommend that this new modality, if implemented, should complement rather than duplicate the work of the UCH IWG, and vice versa, assuming that the Council agrees that the IWG is to continue its work. I stress that the UCH IWG has actually crafted and discussed possible textual proposals on UCH, rather than merely conducted high-level thematic discussions. If the Council now feels that the UCH IWG should stick to high-level discussions and refrain from engaging on specific textual proposals in deference to one or more groups of "Friends of the President," then it will be helpful to make this clear to the IWG as soon as possible. Similarly, if the Council now wants to convert the UCH IWG into a "Friends of the President" group to focus on just textual proposals under the proposed additional modality of work, then it will be helpful to make this clear to the IWG as soon as possible.
8. Finally, in terms of the facilitation of the UCH IWG if it is to continue its work, I inform the Council that, after constructive discussions with the delegations of Brazil and Greece, I wish to invite the delegations of Brazil and Greece to join the FSM delegation in co-facilitating the UCH IWG going forward, assuming that the Council wishes for the FSM delegation to continue facilitating the IWG in some form. This will be in line with the practice already established with a number of other intersessional working groups of the Council.