



HOUSE OF REPRESENTATIVES

House Bill No. 1466

INTRODUCED BY HON. CYNTHIA A. VILLAR

EXPLANATORY NOTE

This bill aims to protect and preserve our underwater cultural heritage by providing general requirements for underwater archaeology, exploration, and excavation. This measure also proposes the formulation of rules for the description of the items to be protected, prohibition of certain activities in the vicinity of a protected item or site, the establishment of a reward system for verified reports, and the imposition of sanctions and penalties for the abuse of our underwater cultural heritage.

The National Museum is the lead agency of the government tasked to implement the provisions of this Act.

The Director of the National Museum is enjoined to promulgate rules and guidelines for the grant of permits and licenses to explore or excavate any underwater site for protected underwater cultural properties in Philippine waters.

The bill prohibits diving, marking, use of explosives other than shaped charges, and use of a pressure air hose, water hose or vacuum hose within a protected zone or a non-protected zone to recover objects of underwater cultural heritage.

The finder of any object of underwater cultural heritage is obliged to report his find to the National Museum or any of its branches within seven days from knowledge of its potential scientific, cultural, archaeological, paleontological or historical value. Any person aware of such find is also required to notify the nearest National Museum branch or representative within seven days.

These measures will provide sufficient safeguards in the protection and preservation of objects of underwater cultural heritage.

For these reasons, the immediate approval of this bill is requested.


CYNTHIA A. VILLAR



HOUSE OF REPRESENTATIVES

House Bill No. 1466

INTRODUCED BY **HON. CYNTHIA A. VILLAR**

**AN ACT PROVIDING FOR THE PROTECTION AND CONSERVATION OF
ALL OBJECTS OF UNDERWATER CULTURAL HERITAGE IN PHILIPPINE
WATERS**

*Be it enacted by the Senate and House of Representatives of the
Philippines in Congress assembled:*

SECTION 1. *Short Title.* - This Act may be known and cited as the
"Protection of Underwater Cultural Heritage Act of 2004."

SEC. 2. *Declaration of Policy.* -- It is hereby declared the policy of the
State to protect and preserve underwater archaeology, exploration and
excavation. To this end, the State shall formulate rules for the description
of items to be protected, the prohibition of certain activities in the vicinity of
a protected item or site, the establishment of a reward system for verified
reports of underwater cultural discoveries and the imposition of sanction
and penalties for violations of underwater cultural exploration and
utilization.

SEC. 3. *Definition of Terms* - In this Act, unless the contrary
intention appears, the following definitions shall apply:

(a) "Philippine waters" shall include all waters around, between and
connecting the islands of the Philippine archipelago with the territorial sea
extending up to twenty four (24) nautical miles measured from the straight

baselines in accordance with Republic Act No. 3046, as amended by Republic Act No. 5446 (1961);

(b) "Sea" includes any waters within the ebb and flow of the tide;

(c) "Ship" includes any vessel used in navigation by water;

(d) "Underwater archaeology" includes not only maritime archaeology but also riverine and submerged site archaeology;

(e) "Cultural Treasure" includes any money, coin, gold, silver bullion, jewelry, precious stones and metals and other raw precious objects which are unworked, found, or hidden in, or in anything affixed to, the soil or the bed of a river or of the sea or other bodies of water, but shall not include any rare and unique item or any object which is at least one hundred (100) years old or more and which is declared a national cultural treasure or important cultural property;

(f) "Objects of underwater cultural heritage", both movable and immovable, include all shipwrecks, sunken vessels at least 100 years old and all things therein, hulls and underwater archaeological artifacts, places of an Tent settlements or vestiges of an ancient civilization, dockyards, piers, aqueducts, tanks, wells, monuments, fragments, shards or original documents found underwater dating from prehistoric times and any other object of scientific, cultural, religious, archaeological, anthropological or paleontological interest to the Philippines;

(g) "Collector" is any person or institution who acquires cultural treasure for purposes other than sale;

(h) "Dealers" are persons or enterprises who acquire cultural treasure for the purpose of engaging in the acquisition and re-sale of the same; and

(i) "Exporters" are dealers who engage in the business of exporting cultural treasures.

SEC. 4. *National Museum as Lead Agency.* - The National Museum, hereinafter referred to as the Museum, shall be the lead agency of the government to implement the provisions of this Act.

SEC. 5. *Declaration and Registration of Protected Sites.* - The Archaeology Division of the National Museum shall undertake an intensive archival and historical research study to pinpoint sites of important shipwrecks and other significant underwater archaeological sites within five (5) years from the approval of this Act. Thereafter, the National Museum shall keep an up-to-date register of protected underwater archaeological sites and shipwrecks.

The Director of the National Museum shall, by notice published in the Official Gazette or any newspaper of general circulation, declare an area (not exceeding 100 hectares), comprising sea or partly of sea and partly of land (within which archaeological sites, shipwrecks or any object of underwater cultural heritage are situated), to be a protected zone and/or restricted area.

SEC. 6. *Ownership of Cultural Objects.* - Upon approval of this Act, ownership of all objects of underwater cultural heritage found in territorial waters, regardless of origin, shall be vested with the State.

It shall be unlawful to destroy, demolish, mutilate or damage any object of underwater cultural heritage. No person shall remove from or alter the site of any object of underwater cultural heritage within a protected zone.

SEC. 7. *Dealing or Possessing a Punishable Act.* - The act of dealing in or possessing any object of underwater cultural heritage, any part

thereof, or associated objects in the vicinity thereof, unless authorized by the National Museum, is punishable by the penal provisions of this Act.

SEC. 8. *Other Prohibited Acts.* - Diving, marking, use of explosives other than shaped charges, use of a pressure air hose, water hose or vacuum hose within a protected zone or a non-protected zone to recover objects of underwater cultural heritage is strictly prohibited.

SEC. 9. *Reporting.* - Any person who discovers by chance, any object of underwater cultural heritage is obliged to report his/her find to the National Museum or any of its branches within seven (7) days from knowledge of its potential scientific, cultural, archaeological, paleontological or historical value. Any person who becomes aware of the find is also required to notify the nearest National Museum branch or representative within seven (7) days after constructive or direct knowledge thereof. A government or public officer or employee has the special duty to pass any information regarding discovery and chance finds of objects of underwater cultural heritage to the nearest National Museum branch or representatives. Failure to report or notify within the designated period shall be penalized by the appropriate provisions of this Act.

SEC. 10. *Special Decoration.* - A special decoration for persons who have contributed to the preservation of objects of underwater cultural heritage or who have rendered important services in the protection of the same shall be given by the Office of the President, upon recommendation by the Director of the National Museum.

SEC. 11. *Finders' Reward.* - Finders who have dutifully notified the National Museum of their discovery and chance finds shall be given a

finder's reward equivalent to at least ten percent (10%) of the value of the property and shall be given recognition in a museum display or publication.

A finder who is qualified to work a site shall have the right of first priority among applicants for permits to explore or excavate underwater sites.

SEC. 12. *Permits to Explore or Excavate.* - It shall be unlawful to dive, explore, survey, or excavate in Philippine waters for the purpose of obtaining materials of cultural or historical value without the prior written authority from the Director of the National Museum.

The Director of the National Museum shall promulgate rules and guidelines for the grant of permits or licenses to explore or excavate any underwater site for protected underwater cultural properties in Philippine waters subject to the provisions of this Act. Such rules and regulations shall be published in a newspaper of general circulation and shall be approved by the President of the Philippines.

SEC. 13. *Who May Be Granted Permits.* - Only duly accredited scientific and educational institutions, duly registered non-stock and non-profit corporate entities or organizations in the field of underwater archaeology, government agencies or instrumentalities with proven ability to conduct underwater archaeological work, foreign institutions in the field of underwater archaeology registered with the SEC and allowed to do business in the Philippines and individuals and juridical persons under sponsorship by a scientific or educational institution may be granted permits to explore or excavate.

SEC. 14. *Formal Application.* - A formal letter of application for a permit to explore or excavate shall be addressed to the Director of the

National Museum. It shall contain the name of the proponents, the cooperating agencies, a summary of the project, its objectives, significance and the procedure to be followed, a timetable, a list of foreign personnel with proper Philippine visa and historical and archival documentation. It must be accompanied by financial statements, evidences of competence and experience in the field of underwater archeology and a listing of capital investments in terms of equipment and facilities. The applicant shall file a cash performance bond in an amount not less than Two Hundred Thousand Pesos (P200,000.00) which is refundable, subject to limitations upon completion or cessation of the project.

SEC. 15. Procedures. - The National Museum's underwater archaeological procedures shall be followed throughout the extent and effectivity of the project.

No exploration or excavation may commence until the written permit is issued and the applicant has signed his conformity with the corresponding rules and regulations.

Activities during the exploration of underwater archaeological sites are limited to the assessment of the potential(s) of the sites for future archaeological excavation. During exploration, only samples of small finds and diagnostic materials enough to help in the identification and dating of the site may be taken. These materials shall belong to the National Museum. Underwater archaeological excavations are to be undertaken following internationally accepted methods and techniques. There shall be a general mapping of the site prior to the excavation where and when feasible. The holder of the permit shall keep a daily inventory and listing of archaeological materials recovered and a daily log-book to record daily

activities. The holder of the permit shall undertake a three-dimensional recording of archaeological materials to show spatial relationships with other materials and environmental features. The holder of the permit must be committed to implement adequate recovery procedures to minimize archaeologically induced damage specifically to fragile and small materials and arrange for the conservation of all materials both at the site and the laboratory. A preliminary report, status and final report of the activities and results of the excavations shall be submitted to the National Museum.

SEC. 16. *Presence of National Museum Representative.* Underwater archaeological work, both exploratory and actual excavations, shall be carried out only in the presence of National Museum representatives.

Actual commencement of the work shall be subject to the availability of a National Museum representative.

The holder of the permit shall underwrite the cost of transportation, life and medical insurance, per diems and allowances of the Museum representative to the site to expedite continuous operations of the project.

The holder of the permit shall likewise provide the Museum representative with full scuba and excavation equipment to be used for the underwater archaeological operation.

SEC. 17. *Right of Revocation.* - The National Museum has the full right to revoke the permit issued to the applicant for cause, such as but not limited to, a violation or inability of the permit holder to comply with the term and conditions of the permit or any part thereof, deliberate act(s) of concealing any item or object recovered from the site or any part thereof with the intention of defrauding the National Museum, allowing the

possession, traffic or use of prohibited drugs during the diving operations or illegal possession of firearms and ammunitions.

SEC. 18. *Other Explosives Prohibited.* - The use of other explosives (other than shaped charges that will not harm the environment) is strictly prohibited. The use of shaped charges must be with prior clearance from the National Museum representative and the Armed Forces of the Philippines.

SEC. 19. *Subcontracting Prohibited.* - Subcontracting of underwater archaeological work or third party arrangements shall not be allowed. Permits granted shall be non-transferable and non-assignable.

SEC. 20. *Period of Exploration.* - Exploration permits are limited to a period of six (6) months per permit, but renewable for another six (6) months for just reasons. An applicant can only have two exploration permits at any one time. The cash performance bond for an exploration permit for one site is Two Hundred Thousand Pesos (P200,000.00).

SEC. 21. *Period of Excavation.* - Applications for permits to excavate must specify the map coordinates of the specific site to the nearest degree. A site must be described in full detail to establish identity.

Excavation permits are limited to a period of one (1) year and renewable for another year. In areas unaffected by seasonal climatological variations, only one excavation permit may be granted at any one time. In affected areas, two excavation permits may be granted, the applicant working alternately between the sites as the weather conditions permit.

The cash performance bond for an exploration permit is extended into the excavation phase if an excavation permit is granted.

SEC. 22. *Study of Objects and Report.* - A complete documentation and scientific study of objects recovered from the site collectively must be undertaken before the same are disseminated.

A report on the project shall be submitted to the National Museum before any division of the recovered materials, objects or items is allowed.

SEC. 23. *Disposition and Division of Recovered Objects.* - All rare and unique items (RUIs) shall belong to the National Museum. Any recovered object which is declared a national cultural treasure or an important cultural property shall belong to the National Museum.

If a cultural treasure, as defined in this Act, is discovered or recovered during exploration or excavation, the permit holder must notify the National Museum Director within twenty-four (24) hours. The permit holder may underwrite the cost of guards and other security measures. The Director of the National Museum shall request the Philippine Navy, through the Office of the President, for assistance in securing the site and the project's personnel.

All cultural treasures, except the RUI's, shall be divided on a fifty-fifty (50-50) basis. In case there are several RUI's, as determined by both parties, then all cultural treasures shall be divided on a 50-50 basis, in favor of the permit holder.

SEC. 24. *Cost of Convention.* - The material cost of the total conservation of the recovered cultural properties shall be borne by the permit holder regardless of the termination date of the permit. The technical expertise in the conservation of the materials may be provided by the National Museum.

SEC. 25. *Construction or Mining Halted.* - Underwater construction work or mining shall be halted wherever a find is made so that rescue technology can take place.

Mining or construction in or near a declared protected zone or restricted area shall not commence without prior consultation with the Director of the National Museum.

SEC. 26. *Cooperation with Diving Clubs.* - The Philippine Commission on Sports ScubaDiving (PCSSD) and other national and local diving clubs shall submit a list of their diver-members to the National Museum. The Philippine Tourism Authority, together with representatives of the National Museum, shall conduct education campaigns and information drives about Philippine underwater cultural heritage to tourist-divers and local diver's clubs.

SEC. 27. *Penal Provisions.* - Any violation of the provision of this Act shall, upon conviction, subject the offender to a fine of not less than One Hundred Thousand Pesos (P100,000.00) or imprisonment for a term of not less than ten (10) years, or both, upon the discretion of the Court: *Provided, That* any watercraft, equipment, tools, paraphernalia, other instruments used for excavation and objects excavated in violation of this Act shall be summarily confiscated and forfeited by the National Museum: *Provided, further, that* if the violation is committed by a juridical person, the manager, representative, director, agent or employee of said juridical person responsible for the act shall also be liable to the penalties provided herein: *Provided, finally, that* if the offender is an alien he shall be held under the custody of the Commission on Immigration and Deportation for the appropriate proceedings.

SEC. 28. *Appropriation.* - The sum) of Seven Million Pesos (P7,000,000.00) is hereby appropriated annually from the General Fund, not otherwise appropriated by law, to carry out the provisions of this Act.

SEC. 29. *Repealing Clause.* - Any provision of existing laws, rules, decrees and executive orders inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 30. *Separability Clause.* - Any portion or provision of this Act that may be declared unconstitutional shall not have the effect of nullifying other portions or provisions hereof as long as such remaining provisions can still subsist and be given effect.

SEC. 31. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after publication in the Official Gazette or in a newspaper of general circulation.

Approved,