

MECT/357/65

MEMORANDUM TO CABINET BY THE MINISTER OF COMMONWEALTH
AND FOREIGN AFFAIRS AND THE MINISTER OF EDUCATION,
CULTURE AND TOURISM

Unesco Recommendations on International Principles
applicable to archaeological excavations

This Recommendation was adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 5th December, 1956 at its Ninth Session held in New Delhi.

2. The purpose of this Recommendation is the preservation of monuments and works of the past and to this end the Recommendation stipulates, inter alia, that all archaeological excavations should be undertaken under a licence from the Central Authorities.
3. The Antiquities (Protection) Act 1925 conforms in many respects with the provisions of the Recommendation. There is, however one glaring difference in that our law exempts the Ecclesiastical Authorities from the requirement of a Government permit to undertake excavations on Church property. In this respect it is to be pointed out that the Ecclesiastical Authorities have been very prudent as, so far as is known they have never undertaken excavations on their own and on the occasion where excavations were carried out on Church property proper liaison was maintained with Government through the Museum Department.
4. Our Law is not clear about excavations on the seabed and though the Antiquities ordinance has been administratively interpreted as including reference to underwater excavations it would be advisable to effect a minor amendment to the Ordinance to avoid any doubt and to conform with the relevant provisions of the Recommendation. Such amendment would also strengthen the hands of the competent authorities.
5. The Recommendation gives considerable attention to the problem of excavations conducted by foreigners. The provisions relating to this matter contained in paragraphs 13 to 26 of the Recommendation

are adequately provided for under the Antiquities (Protection) Act (Chapter 90 of the Revised Edition) which prohibits any unauthorised excavations (Section 10).

6. The amendments to the Antiquities Ordinance referred to in paragraph 4 above have been recommended by an 'ad hoc' Committee set up to examine the Recommendation in question and consisting of representatives of the Crown Advocate General, the Director of Museum, the Director of Public Building and Works and the Commissioner of Land.

7. The 'ad hoc' Committee recommended also that the Director of the Museum be represented on the Planning Area Permits Board and that copies of the Recommendation should be circulated to all those officers in the Public Service and outside, whose work could impinge the provisions of the Recommendation.

8. It is relevant to point out that Unesco Recommendations are instruments by which the General Conference formulates principles and norms for the international regulation of any particular question and invites Member States to take whatever legislative or other steps may be required in conformity with the Constitutional practice of each State and the nature of the question under consideration - to apply the principles and norms aforesaid within their respective territories.

9. It is therefore for each State to determine to what extent and in what manner the principles and norms contained in the Recommendation under reference are to be applied. Member States may, however, be called upon to report on the action taken upon those Recommendations thus enabling the General Conference to inform itself of the conditions under which a particular recommendation is applied by Member States.

10. Though Government is at liberty to implement any or all of the clauses of the Recommendation it would be very much in the national interest if Malta were to conform with as many as possible of the provisions of the Recommendation under reference.

11. Honourable Ministers are therefore requested to agree to the amendment of the Antiquities (Protection) Act 1925 on the lines referred to in paragraph 4 above and to the appointment of the Director of Museum or his representative as a member of the Planning Area Permits Board and eventually of the Town and Country Planning Commission, which, it is understood, may replace the above Board.

12. A copy of the Recommendation is herewith enclosed.
