

Indo-Pacific Prehistoric Association (IPPA) Congress
Angkor (Siem Reap), Cambodia, 12-18 January 2014
Panel: Maritime Archaeology in Southeast Asia

Strategically on the Maritime Silk Route Maritime Treasures off the Malay Peninsula

OOI Keat Gin

School of Humanities
Universiti Sains Malaysia

ABSTRACT

The Malay Peninsula or what is present day West/Peninsular Malaysia is flanked on either shores by the South China Sea on the east and the Straits of Malacca (Melaka) on the west, both essentially important sea-borne passages between the East and the West. By the first millennium BCE and the early part of the first millennium CE the Malay Peninsula possessed coastal trading sites and on the lower reaches of rivers. Complementing the peninsula's strategic location was the seasonal monsoonal pattern that facilitated the comings and goings of merchants enabling long-distant maritime trade to flourish. The peninsula acted as a 'connector' for the confluence of traders from East Asia to interact with counterparts from South and West Asia as well as from Southeast Asia. The Straits of Malacca was a pivot of the Maritime Silk Road. Notwithstanding the generally becalmed waters washing the shores of the Malay Peninsula a multitude of natural elements and man-made disasters (warfare in particular) resulted in shipwrecks in the Straits and the South China Sea. The changing sea levels over time submerged coastal areas drowning trading ports and settlements. The territorial waters off the Malay Peninsula in the past four decades (since 1970s) had witnessed more oil explorations than maritime archaeological expeditions; oil, undoubtedly, was, and still is, an economically viable 'treasure' than shipwrecks or submerged ancient port-polities. This paper shall revisit the beginnings of maritime archaeology in Malaysia, ascertain the players and the playing field itself, the benefits of this endeavour, and look towards its developments and envisage future directions.

----- 00000 -----

Biodata OOI Keat Gin is professor of history, coordinator of the Asia Pacific Research Unit (APRU) of the School of Humanities, Universiti Sains Malaysia, and editor-in-chief of the *International Journal of Asia Pacific Studies* (IJAPS) (www.usm.my/ijaps/). His fields of interest are socio-economic and socio-cultural history of Southeast Asia with specialization on Borneo. Recent works include *Historical Dictionary of Malaysia* (Scarecrow, 2009), *The Japanese Occupation of Borneo, 1941-1945* (Routledge, 2011), and *Post-war Borneo, 1945-1950: Nationalism, Empire, and State-building* (Routledge, 2013).

and Fisheries. This ministry has been conducting studies and research on maritime archaeology since 2000 until nowadays in several shipwreck and aircraft wreckage sites in Indonesian waters such as in Cirebon (Java Island), Selayar (Sulawesi Island), Mandeh Bay (Sumatra Island), Natuna (Kepulauan Riau Island), Mentawai (Sumatra Island), Halmahera (Mollucas Island), Bali Island, and Biak (Papua Island). To be able to meet the challenges of research, Ministry of Marine always involving variety of other disciplines such as oceanography, ecology, geology, etc., and using equipment such as echosounder, side scan sonar, water quality checker, wave and tide gauge, acoustic doppler current profiler, and sediment traps. The use of such equipment, multidisciplinary approach, and cooperation with other relevant agencies are expected to produce an integrated research and produce useful recommendations for the underwater sites protection and preservation efforts in the future. Maritime archaeological research oriented marine tourism and the determination of underwater sites as marine conservation area that is protected by national legislation are also an integral part of maritime archaeological research in Ministry of Marine in hope that underwater sites in Indonesia also can be useful for the life of the local community.

Strategically on the Maritime Silk Route: Maritime Treasures off the Malay Peninsula

Ooi Keat Gin, School of Humanities, Universiti Sains Malaysia

The Malay Peninsula or what is present day West/Peninsular Malaysia is flanked on either shores by the South China Sea on the east and the Straits of Malacca (Melaka) on the west, both essentially important sea-borne passages between the East and the West. By the first millennium BCE and the early part of the first millennium CE the Malay Peninsula possessed coastal trading sites and on the lower reaches of rivers. Complementing the peninsula's strategic location was the seasonal monsoonal pattern that facilitated the comings and goings of merchants enabling long-distant maritime trade to flourish. The peninsula acted as a 'connector' for the confluence of traders from East Asia to interact with counterparts from South and West Asia as well as from Southeast Asia. The Straits of Malacca was a pivot of the Maritime Silk Road. Notwithstanding the generally becalmed waters washing the shores of the Malay Peninsula a multitude of natural elements and man-made disasters (warfare in particular) resulted in shipwrecks in the Straits and the South China Sea. The changing sea levels over time submerged coastal areas drowning trading ports and settlements. The territorial waters off the Malay Peninsula in the past four decades (since 1970s) had witnessed more oil explorations than maritime archaeological expeditions; oil, undoubtedly, was, and still is, an economically viable 'treasure' than shipwrecks or submerged ancient port-polities. This paper shall revisit the beginnings of maritime archaeology in Malaysia, ascertain the players and the playing field itself, the benefits of this endeavour, and look towards its developments and envisage future directions.

Sustainable Development of Underwater Cultural Heritage: a Perspective on Legal Theory A Case Study in Indonesia

Abhrada Komoot

This paper has two aims: to recognise an intangible culture attached to the Underwater Cultural Heritage (UCH) that has frequently been overlooked by related laws and to suggest a way to develop a legal framework based on a theoretical perspective. To prevent the UCH sites from illegal threats, the UNESCO 2001 Convention, as an international set of guidelines, pays most of its attention on physical protection and leaves intangible heritage twisting in the wind. Thus far, this research will point out a link between built heritages and the life of a community. To illustrate this point, a case study of shipwreck protection in Bali (Indonesia), will be presented. This is a good example of UCH being safeguarded by traditional practices. As a result, integration of these practices into the heritage laws can be done theoretically and may lead to a sustainable development of the community and an increased protection of the UCH.

Indo-Pacific Prehistoric Association (IPPA) Congress
Angkor (Siem Reap), Cambodia, 12-18 January 2014
Panel: Maritime Archaeology in Southeast Asia

Strategically on the Maritime Silk Route¹

Maritime Treasures off the Malay Peninsula

OOI Keat Gin²
School of Humanities
Universiti Sains Malaysia

PREAMBLE

The Malay Peninsula or what is present day West/Peninsular Malaysia is flanked on either shores by the South China Sea on the east and the Straits of Malacca (Melaka) on the west, both essentially important sea-borne passages between the East and the West. By the first millennium BCE and the early part of the first millennium CE the Malay Peninsula possessed trading sites on the lower reaches of rivers and along the coasts. Complementing the peninsula's strategic location was the seasonal monsoonal pattern that facilitated the comings and goings of merchant fleets enabling long-distant seaborne trade to develop. The peninsula acted as a 'connector' for the confluence of traders from East Asia to interact with counterparts from South and West Asia and within Southeast Asia. The Straits of Malacca was a pivotal passage of the Maritime Silk Road. Notwithstanding the generally becalmed waters washing the shores of the Malay Peninsula a multitude of natural elements and man-made disasters (warfare in particular) resulted in shipwrecks in the Straits and the South China Sea. The changing sea levels over time submerged coastal areas drowning trading ports and settlements. The territorial waters off the Malay Peninsula in the past four decades (since 1970s) had witnessed more oil explorations than maritime archaeological expeditions; oil, undoubtedly, was, and still is, an economically viable 'treasure' than shipwrecks or submerged ancient port-polities. This paper shall revisit the beginnings of maritime

¹ The presentation of this working paper and participation in IPPA Congress 2014 is made possible by support from the Division of Research and Innovation, Universiti Sains Malaysia.

² OOI Keat Gin is professor of history, coordinator of the Asia Pacific Research Unit (APRU) of the School of Humanities, Universiti Sains Malaysia, and editor-in-chief of the *International Journal of Asia Pacific Studies* (IJAPS) (www.usm.my/ijaps/). His fields of interest are socio-economic and socio-cultural history of Southeast Asia with specialization on Borneo. Recent works include *Historical Dictionary of Malaysia* (Scarecrow, 2009), *The Japanese Occupation of Borneo, 1941-1945* (Routledge, 2011), and *Post-war Borneo, 1945-1950: Nationalism, Empire, and State-building* (Routledge, 2013).

archaeology in Malaysia, ascertain the players and the contemporary playing field, the benefits of this endeavour, look towards its developments, and envisage its future directions.

For the present purpose Malaysia refers specifically to West or Peninsular Malaysia.³ As for maritime archaeology there is no clear-cut definition but overlapping designations. Maritime archaeology falls within the umbrella of underwater archaeology⁴ that particularly focuses on the preservation and reconstruction of maritime cultural heritage. 'Maritime archaeology,' according to Keith Muckelroy, 'is the scientific study, through the surviving material evidence, of all aspects of seafaring: ship, boats and their equipment; cargoes, catches, or passengers carried on them, and economic systems within which they were operating; their officers and crew, especially utensil and other possessions reflecting their specialized lifestyle'.⁵ Andrew Selkirk understands maritime archaeology as a research endeavour that encompasses numerous academic disciplines and technology in the study of human interaction with the sea in past times and the impact of this interaction on human cultural development.⁶ Maritime archaeology in Malaysia draws on both definitions. Moreover there is little difference between land and maritime archaeology. Owing to the underwater environment, maritime archaeologists need not only be knowledgeable and skilled archaeologists but also be skilled, experienced divers, and physically fit individuals.

Strategically on the Maritime Silk Route

Although the Sanskrit name of *Suvarnabhumi* ('Land of Gold') was generally attributed to Sumatra during the first century CE, it could also have referred to neighbouring Malay Peninsula across the Straits of Malacca.⁷ During this early period there were visits from the Indian sub-continent to the vicinity of the Straits. The auriferous area of central Pahang yielded gold, the much sought after precious metal by the Indians. It undoubtedly owed to this metal that the ancient Greek term 'Golden Khersonese' was likely attributed to the Malay Peninsula. The Indians also possessed the term *Suvarnadvipa* meaning 'Golden Peninsula (or Island)', again another probable reference to the Malay Peninsula. By the third century CE the Chinese were aware that the Malay Peninsula was an important intermediate point on the sea route to India. During the first millennium CE the Malay Peninsula was on the international trade route between China and India. The Straits of Malacca was the pivotal sea

³ Malaysia comprises West or Peninsular Malaysia and East Malaysia. Peninsular Malaysia is what was referred to as the Malay Peninsula whilst East Malaysia comprises Sarawak and Sabah both situated contiguous on the northeast portion of the island of Borneo. Malaysia was constituted in September 1963 when the nine Malay States (Perlis, Kedah, Kelantan, Terengganu, Perak, Selangor, Pahang, Negeri Sembilan, and Johor) and the Straits Settlements (Penang, Melaka, and Singapore) joined with Sarawak and North Borneo (Sabah). In 1965 Singapore dissociated from Malaysia to become an independent republic.

⁴ Underwater archaeology not only focuses on archaeological research of the undersea but also on riverine sites in North America, sacred wells in Latin America, and lakes in Scandinavia. See George Fletcher Bass, *Archaeology Under Water* (Middlesex: Penguin, 1966).

⁵ Keith Muckelroy, *Maritime Archaeology* (Cambridge, England: Cambridge University Press, 1978), p. 6.

⁶ Andrew Selkirk, *Who Owns the Past: A Grassroots Critique of Heritage Policy* (London: Adam Smith Institute, 1998).

⁷ See Paul Wheatley, *The Golden Khersonese: Studies in the Historical Geography of the Malay Peninsula to AD 1500* (Kuala Lumpur: University of Malaya Press, 1961; 1980), p. 285.

passage in this East-West maritime international trade particularly from the fifth century CE owing to the decline and subsequent abandonment of the trans-peninsular overland trade route that was beset with formidable natural obstacles.⁸

Beginning from the second century CE there was an apparent steady decline in the utilization of the overland Silk Route trading network due to unsettling conditions in Central and West Asia. Gradually there was a shift to the Maritime Silk Route where the Straits of Malacca connected the South China Sea to the Bay of Bengal and Indian Ocean. The Malay Peninsula then was strategically positioned on this maritime trade traffic. On the peninsula's west coast emerged the port-polity of Kedah.⁹ Kedah's location on the northeast shores of the Straits offered an unenviable position in commanding the sea traffic entering from the west and leaving from the east. Further south along the western coast of the peninsula was Kuala Selinsing, Perak that occupied an important point on the north-central path of the Straits. The peninsula's east coast boasted two important points, viz. Langkasuka (present-day Patani, Southern Thailand) and Chi-tu ('Inland Kingdom') in inland Kelantan. Langkasuka's prominence owed to its commanding position between the Gulf of Thailand and the South China Sea, and proximity to the southern tip of the Indochinese peninsula (present-day southern Vietnam).¹⁰

There are clear evidences that Indian socio-cultural and economic exchanges were made with the Malay Peninsula in the late centuries BCE and early centuries CE. Kedah particularly of the Bujang Valley in its southern region was a significant example. Thereafter between the fifth and tenth centuries CE Chinese officials and religious pilgrims on seaward journeys en route to India made stopovers on the Malay Peninsula. There were likely possibilities that some Malay traders and seafarers made sea voyages to coastal provinces of southern China.

The late seventh century CE witnessed two developments in West and East Asia. The establishment of the Abbasid Caliphate (750-1258 CE) with its capital at Baghdad (762 CE) favoured peaceful conditions conducive for international trade either through a seaborne route via the Red Sea or a sea and overland journey from the Persian Gulf through Iraq thence Syria and the Mediterranean. Meanwhile the Tang Dynasty (618-906 CE) oversaw a *Pax Sinica* over the Chinese mainland fostering prosperity and affluence that led to the growth and expansion of the trade in luxury goods. The demands of the elites of West Asia and East Asia fostered the increasing importance of the commercial sea route to India and China as an attractive and lucrative enterprise. At the same time the overland Silk Route enjoyed prominence reaching its zenith in the mid-eighth century CE, declined towards the

⁸ John Miksic, 'Wider Contacts in Protohistoric Times', *The Encyclopedia of Malaysia: Early History*, edited by Nik Hassan Shuhaimi bin Nik Abdul Rahman (Kuala Lumpur: Archipelago Press, 1999), pp. 74-5.

⁹ See Nik Hassan Shuhaimi bin Nik Abdul Rahman and Othman Mohd Yatim, *Antiquities of Bujang Valley* (Kuala Lumpur: Museum Association of Malaysia, 1990).

¹⁰ Wheatley, *The Golden Khersonese*, pp. 253-4, 265; and, William A. Southworth, 'Langkasuka', *Southeast Asia: A Historical Encyclopedia from Angkor Wat to East Timor*, edited by Ooi Keat Gin (Santa Barbara, CA: ABC-Clio, 2004), Vol. 2, pp. 764-5.

end of the Tang era, to revive with the ascendancy of the Song Dynasty (960-1279 CE) and prospered through the Yuan Dynasty (1279-1368 CE) and Ming Dynasty (1369-1644 CE).

The Maritime Silk Route between India and China with Southeast Asia particularly the Malay Peninsula and the Straits of Malacca as the go-between and stopover saw seaborne traffic expanding in either direction. Vessels of every shape, size, and description from India and beyond (West Asia, the Mediterranean, and Europe), and from China, Korea and Japan made the long seaward journeys. Within insular Southeast Asia native crafts crisscrossed the Malay Archipelago involved in local and regional commerce as well as feeding international trade with spices, jungle products, sea produce, and other exotic goods.

The indigenous maritime empires that oversaw trade and commerce (local, regional, and international) in Southeast Asia, namely Srivijaya (seventh to thirteen centuries CE) and Melaka (1400-1511 CE) maintained and sustained the Straits of Malacca as the major East-West sea route. By the advent of the Portuguese and Spanish in the sixteenth century the seaborne East-West trading route was well established; both Iberian powers appeared as new players in an old (East-West) trading game. Similarly from the seventeenth century when the Protestant powers – Dutch and English – entered the scene, they were then new comers. But these new comers reorganized the rules of the old trading game; they not only controlled the sea passages in the all-important Straits of Malacca but also in one form or another exerted power and influence over territories throughout insular Southeast Asia. In an agreement forged in London, the Netherlands and Great Britain, the two ‘exclusive Lords of the East’,¹⁰ apportioned the Malay Archipelago between them. The Anglo-Dutch Treaty of 1824 established an imaginary plumb line running through the Straits of Malacca whereby all territories to the north and northeast of this divide was acknowledged as the British sphere of influence and conversely the lands to the south and southeast within the Dutch ambit. Therefore what is contemporary West/Peninsular Malaysia and Singapore was placed under London’s purview whilst Indonesia was Amsterdam’s concern. This imperialistic partitioning was maintained, briefly interrupted by the Japanese military occupation (1941-5), until 1949 for Indonesia, and 1957 for Malaya/Malaysia.

The foregoing sketch of developments in East-West trade demonstrates the prime importance and significance of the Malay Peninsula and the Straits of Malacca in seaborne commerce. By implications the waters in and around the Malay Peninsula and the Straits of Malacca are rich in maritime treasures especially shipwrecks, and submerged coastal and riverine trading polities and settlements.

Maritime Treasures off the Malay Peninsula

By the early 2000 there were 19 identified maritime archaeological sites in the vicinity of West Malaysia (Table 1). A majority of these sites were explored and some excavated with

¹⁰ The term coined by British Foreign Secretary George Canning.

TABLE 1

Explored and Excavated Maritime Archaeological Sites in Malaysia

Name and Location	Date of Site	Research Findings	Information of the Site	Material Evidence
1. Sg Langat; Kpg Jenderam Hilir, Dengkil, Selangor	2640 ± 100 BCE	Late prehistoric and proto-historic artefacts	Banks of Sg Langat	Paddles of native crafts
2. Kuala Pontian; Pahang	500-1000 CE	Small craft	Unknown	Ceramics
3. Kuala Selinsing; Taiping, Perak	4th century CE	Settlement site; dug-out shaped coffin	Mangrove-forested estuary	Various artefacts and ecofacts related to early maritime community living in Malay Peninsula
4. Kuala Merbok; Kedah	Classical Period Bujang Valley	Song Dynasty <i>celadon</i> bowl caught in fishing net	Unknown	None
5. Waters off Pulau Ketam; Klang, Selangor	Classical Period Bujang Valley	Hindu figurine caught in fishing net	Unknown	None
6. Japanese wreckage; Pantai Cendering, Terengganu	Pacific War (1941-5)	First maritime archaeology project in Malaysia. JMA with assistance from TLDM undertook research in mid-1980; abandoned due to strong undersea current	Unknown	None
7. Sg Melaka; estuary of Sg Melaka, Melaka	15th century CE	Maritime archaeology project undertaken consequent of sea reclamation	Comprised an area 5 km from the river estuary to the coast	Various ceramics originating from China, Cambodia, Thailand, and Europe

		project; 25 Apr to 1 May 1984		
8. <i>Risdam</i> ; 2.25 N 103.5 E; Mersing, Johor	1 Jan 1727	Illegal salvaging work undertaken in 1983 by H.C. Besancon and Dutch East Indian Wreck Research Foundation. In 1984 the stolen cargo was recovered by the Malaysian authorities	10 m deep in muddy seabed	120 tin ingots, 29 ivory, 80 iron pieces, and several artefacts
9. <i>Azie</i> ; Cape Rachado, Melaka	Unknown	Discovered in December 1989; until April 1991 76 companies showed interest in salvaging operation	Hull at depth between 39 m and 45 m (81-93 m?); its lower half in mud	Believed to carry a cargo of gold valued at USD\$ 50 million, blue and white Chinese porcelain, jade, and various types of artefacts
10. <i>La Paix</i> ; Beting Bambek, Cape Rachado, Melaka	28 Nov 1895	In 1993 attempts to ascertain this vessel failed	Unknown	Chinese ceramics
11. <i>Diana</i> ; 2.14 N 102.5 E, Tg Bidara, Melaka	5 Mar 1817	Discovered in 1993, and excavation work undertaken in Jan 1994 by Malaysian Historical Salvage Sdn Bhd. First legal commercial salvaging project; resulted in numerous problems relating to the concession	In proximity to Petronas oil platform with a depth of 34 m	24,000 pieces of Qing Dynasty (Jingdezhen) porcelain of various types, glass artefacts, beads, and plants; estimated worth of USD\$ 3.7 million

<p>12. <i>Nassau</i>; 31.55 N 41.19 E, Beting Bambek, Port Dickson, Negeri Sembilan</p>	<p>17/18 Aug 1606</p>	<p>Discovered in 1993 by Transea Sdn Bhd whence undertaking a search for <i>La Paix</i>, a French ship bound to Bengal from China laden with a horde of chinaware. Exploration contract worth RM 3.5 million to Transea by the Malaysian government for first maritime archaeological exploration project. Utilizing specialists from Oxford MARE worked with JMA and UKM undertook work in 1995 for 3 months. It did not involve the raising of the hull.</p>	<p>Hull in a depth of 29 m</p>	<p>500 artefacts of various descriptions were recovered including 15 canons, shipping equipment, coins, and ceramic shards</p>
<p>13. <i>Duarte de Guerta</i>; located 13 km from <i>Nassau</i></p>	<p>17/18 Aug 1606</p>	<p>Discovered in 1993 by Transea Sdn Bhd whence undertaking survey for <i>Caroline</i> (1816).</p>	<p>Unknown</p>	<p>None</p>
<p>14. <i>Middleburg</i>; located 13 km from <i>Nassau</i></p>	<p>17/18 Aug 1606</p>	<p>Discovered in 1993 by Transea Sdn Bhd whence undertaking survey for <i>Caroline</i></p>	<p>Unknown</p>	<p>None</p>

		(1816).		
15. <i>Sao Salvador</i> ; located 13 km from <i>Nassau</i>	17/18 Aug 1606	Discovered in 1993 by Transea Sdn Bhd whence undertaking survey for <i>Caroline</i> (1816).	Unknown	None
16. <i>Royal Nanhai</i> ; 11 nautical miles from Pulau Pemanggil, Pahang	1420-1450	Discovered and undertook illegal salvaging work in 1997 by Sten Sjostrand and his business partner Khalid Yusop in Nanhai Marine Archaeology Sdn Bhd.	Hull in a depth of 46 m in an area 28 m X 7 m	20,973 <i>celadon</i> plates, porcelain, tin ingots, and iron pieces
17. <i>Nanyang</i> ; located in proximity with <i>Royal Nanhai</i>	Unknown	Discovered during the survey operation for <i>Royal Nanhai</i> by Nanhai Marine Archaeology Sdn Bhd.	Hull believed to be in a depth of 54 m	None
18. <i>Xuande</i> ; located in proximity with <i>Royal Nanhai</i>	Unknown	Discovered during the survey operation for <i>Royal Nanhai</i> by Nanhai Marine Archaeology Sdn Bhd.	Hull believed to be in a depth of 52 m	None
19. <i>Longquan</i> ; located in proximity with <i>Royal Nanhai</i>	End of 14th century CE?	Discovered during the survey operation for <i>Royal Nanhai</i> by Nanhai Marine Archaeology Sdn Bhd.	Hull believed to be in a depth of 63 m	Believed to possess a cargo of ceramics of between 120,000 and 230,000 pieces

Sg	<i>sungai</i> (river)
Kpg	<i>kampung</i> (village)
Tg	<i>tanjung</i> (cape)
JMA	Jabatan Muzium dan Antikuiti (Museum and Antiquities Department)
TLDM	Tentera Laut DiRaja Malaysia (Royal Navy of Malaysia)
Sdn Bhd	Sendirian Berhad (Private Limited)
MARE	Marine Archaeology Research Excavation
UKM	Universiti Kebangsaan Malaysia

Source: Bilcher Bala and Baszley Bee B. Basrah Bee, *Arkeologi Maritim Malaysia* (Kota Kinabalu: Universiti Malaysia Sabah, 2002), pp. 113-17

significant findings of artefacts including gold, tin ingots, iron pieces, coins, ceramics, cannons, beads, glass, and shipping paraphernalia. One of these sites (Sungai Langat; Kpg Jenderam Hilir, Dengkil, Selangor) dates back to the late prehistoric and proto-historic period. Another site (Kuala Pontian; Pahang) is of the early first millennium during the time of interaction between the Malay Peninsula and the Indian sub-continent. At Kuala Selinsing, Taiping, Perak, a mangrove-forested estuary, was found a settlement of the fourth century CE with various artefacts and ecofacts related to early maritime community living. Two other sites – Kuala Merbok, Kedah and off Pulau Ketam, Klang, Selangor – were contemporaneous of the Classical Period (early centuries CE) of the Bujang Valley. The site of the estuary of Sungai Melaka, Melaka, dating to the era of the Malay Muslim Melaka Sultanate (1400-1511 CE), comprised an area 5 km from the river estuary to the coast. Artefacts of various types of ceramics with provenance from China, Cambodia, Thailand, and Europe testify to the operation of international sea-going trade. Fifteenth century Malacca was a significant centre and port-of-call of the Maritime Silk Route that linked China through the Straits of Malacca, the Indian Ocean, Arab Sea, Persian Gulf, Red Sea to the Mediterranean and Europe.

Shipwrecks dating from the late fourteenth century to the mid-twentieth century comprised the majority of the maritime archaeological sites off the waters of West Malaysia. The *Longquan* purportedly dating to the end of the fourteenth century is the oldest thus far. Remnants of Japanese wreckage, off Pantai Cendering, Terengganu appear to be the most recent chronologically of the sites. European vessels (Portuguese, Dutch, English) predominates the shipwrecks, many believed to be laden with valuable cargo. Although excavation work were undertaken on many shipwrecks many still remained unexplored or scant details were known of them apart from their probable existence and location.

Genesis of Maritime Archaeology in Malaysia

Maritime archaeology in Malaysia is at best pedestrian as far as development and progress in the field is concerned. The earliest work in this area was in 1927 when I. H. N. Evans discovered and investigated the remnants of a vessel on Sg Pontian, Pahang.¹¹ This 'Pontian Ship' was believed to date between 500 and 1000 CE. Others who had commented on this vessel were C. A. Gibson-Hall and Adrian Horridge, the former postulated that it was of Thai design and built.¹² Shortly thereafter Evans discovered kitchen midden in Province Wellesley that shared similarities with counterparts in northeast Sumatra revealing the existence of prehistoric maritime activities some 8,000 years ago although the type of activity remained yet unclear.¹³ Further to ancient maritime activities and vessels, at the banks of Sungai Langat

¹¹ See I. H. N. Evans, 'Notes on the Remains of an Old Boat from Pontian, Pahang', *Journal of Federated Malay States Museum*, 12, 4 (1927), pp. 93-6.

¹² See C. A. Gibson-Hall, 'Further Notes on the Old Boat found at Pontian in Southern Pahang', *Journal of the Malayan Branch of the Royal Asiatic Society*, 25, 1 (1962), pp. 111-33; and, Adrian Horridge, *The Prahau: Traditional Sailing Boats of Indonesia* (Kuala Lumpur: Oxford University Press, 1981).

¹³ See I. H. N. Evans, 'On Ancient Kitchen Midden in Province Wellesley', *Journal of Federated Malay States Museum*, 15, 1 (1930), pp. 15-18. Also, see P. V. van Stein Callenfells, 'An Excavation of Three Kitchen

near Kampung Jenderam, Dengkil, Selangor were found boat paddles together with Neolithic artefacts and ceramics that registered a dating of between 2640 ± 100 BP, about 600 CE.¹⁴ There were undoubtedly ancient maritime activities in the Malay Peninsula where in various sites were found Dongson bronze drums that originated from the Red River Delta of Vietnam. About a metre in height and could weigh to 100 kg these heavy drums with decorative designs (depicting fauna, scenes of daily life, battles, boats, or geometric patterns) were made some time between 600 BCE (or earlier) and third century CE. A pair of Dongson drums was found buried on top of the remnants of a boat in Kampung Sungai Lang, Banting, Selangor; the latter showed a dating of about 500 CE.¹⁵ In 1932 at Kuala Selinsing, Taiping, Perak, a site of a maritime community in existence of about the fourth century CE uncovered *inter alia* boat coffins with skeletons together with numerous artefacts for use in the nether world.¹⁶ The 400 sq km Bujang Valley archaeological site dating to the Classical Age (Hindu-Buddhist Period) further revealed maritime activities on the Malay Peninsula.¹⁷

It could be said that there was a prolonged hiatus in this field of endeavour until the early 1980s. Common denominators of factors that adversely retarded development of maritime archaeology in Malaysia include neglect and/or disinterest, paucity of information, high costs of exploration and excavation projects, lack of expertise and experience in the field, and lack of institutional support.

The Department of Museum and Antiquities (JMA, Jabatan Muzium dan Antikuiti) was the initial government authority involved with maritime archaeology in post-independence Malaysia. JMA was the governing body tasked to enforce the Artefact Act 1976 and other legislations related to the protection and preservation of national treasures and heritage. In 1979 there were plans in the pipeline to establish a maritime archaeology department or unit in the country. Efforts were underway in 1982 to realize this intention but lack of funding commitment delayed approval by the Public Services Department until 1988.¹⁸ Approval notwithstanding there was no qualified and appropriate candidate for the establishment's directorship hence an abortive effort altogether. Likewise when an underwater archaeology

Middens at Guak Kepah, Province Wellesley, Straits Settlements', *Bulletin of the Raffles Museum*, Singapore, series B (1936), pp. 27-37

¹⁴ Leong Sau Heng, 'Ancient Finds from Kampong Jenderam Hilir', *Malaysia in History*, 20, 2 (1977), pp. 38-47. B. Batchelor, 'Post "Hoabinhian" coastal settlement indicated by finds in Stanniferous Langat River Alluvium near Dengkil, Selangor, Peninsular Malaysia', *Federation Museums Journal*, 22 (1977), pp.

¹⁵ B. A. V. Peacock, 'The Drums of Kampong Sungai Lang', *Malaya in History*, 10, 1 (1964), pp. 3-15.

¹⁶ I. H. N. Evans, 'Excavations at Tanjong Rawa, Kuala Selinsing, Perak', *Journal of the Federated Malay States Museums*, 15, 2-3 (1964), pp. 79-134.

¹⁷ See Nik Hassan Shuhaimi bin Nik Abdul Rahman and Kamaruddin bin Zakaria, 'Recent Archaeological Discoveries in Sungai Mas, Kuala Muda, Kedah', *Journal of the Malaysian Branch of the Royal Asiatic Society*, 66, 2 (1993), pp.73-80.

¹⁸ See Patricia Regis and Peter Koon, 'A Country Report on Underwater Archaeology in Malaysia: Especially on the Management Issues on Underwater Archaeology in Sabah', SPAFA Consultative Workshop on Underwater Archeological Research (S-W 141), 29 June – 5 July 1992; and, Adi Haji Taha, 'Masalah dan Persoalan Semasa mengenai Arkeologi Maritim di Semanjung Malaysia [Current Problems and Questions pertaining to Maritime Archaeology in Peninsular Malaysia]', *Kapal dan Harta Karam [Ships and Sunken Treasures]*, suntingan Mohd Yusof Hashim (Kuala Lumpur: Persatuan Muzium Malaysia, 1986), p. 136.

unit was created within the Sabah Museum in 1986, the dire pool of expertise retarded progress.

In West Malaysia despite the dire circumstances of personnel and funding issues, JMA undertook the responsibilities of establishing an Underwater Archaeology Unit in 1988; at best, the work was considered secondary and undertaken on an ad hoc basis. Prior to the unit's formal establishment, JMA in 1980 assisted by *Tentera Laut DiRaja Malaysia* (TLDM, the Royal Malaysian Navy) with support from the Terengganu State Government investigated the wreckage of a Japanese warship off Pantai Chendering. Work, however, had to be abandoned owing to the strong undercurrent in the vicinity of the wreckage. Three years later in 1983 JMA faced the case of illegal salvaging work carried on *Risdam*.¹⁹ The treasure hunters seized 120 tin ingots, 29 ivory, 80 iron pieces, and several artefacts. JMA and again with the assistance of TLDM undertook investigation into this site off Mersing, Johor. Finally with assistance rendered by the Singapore authorities, JMA recovered the stolen treasures. It was believed that gold was also part of *Risdam*'s cargo when it left Ligor in early 1727 but was not declared, apparently a common practice, on the ship's manifest. Meanwhile in 1989 the Sabah Museum's Underwater Archaeology Unit undertook exploratory work in the waters north of Pulau Banggi consequent of information from local inhabitants but failed to discover any ship's remnants. At the same time JMA on its part carried out similar exploratory work at the mouth of Sungai Melaka uncovering various types of ceramics originating from China, Cambodia, Thailand, and Europe.²⁰ A similar survey was again made in 1995 prompted by rapid land reclamation work that might compromise any shipwrecks on Malacca's coastal waters.²¹ In this second effort neither any shipwrecks nor artefacts were discovered. At this juncture JMA merely played the function of custodian, saviour and conservationist of maritime archaeological sites in line with UNESCO's guidelines to archaeological excavations.²² It was the least that JMA could do owing to the lack of expertise and infrastructure in this discipline.

The late 1980s and the 1990s witnessed developments with positive and negative impact on maritime archaeology in Malaysia. Public interests and imagination peaked in December 1989 with the rumoured treasure of *Azie* estimated at USD\$ 50 million.²³ The wreckage was found in a depth between 39 m and 45 m with the lower half of the hull in mud. Gold, tin, Ming porcelain, jade, and other precious artefacts were believed to be the cargo of this Dutch VOC (*Vereenigde Oost-Indische Compagnie*, United East India Company) vessel that sunk off Cape Rachado, Melaka. JMA was startled with this publicity and consequently inundated

¹⁹ See Adi Haji Taha, 'Masalah dan Persoalan', pp. 137-8.

²⁰ See above and Table 1.

²¹ *New Straits Times*, 15 Oct 1995.

²² See UNESCO, *Recommendation on International Principles Applicable to Archaeological Excavations. The General Conference of UNESCO Meeting, New Delhi, 9th session, 5 Nov to 5 Dec 1956* (New Delhi: UNESCO, 1956). Section 2, Para 9 reads: 'Each Member State should consider maintaining untouched, partially or totally, a certain number of archaeological sites of different periods in order that their excavation may benefit from improved techniques and more advanced archaeological knowledge. ...' http://portal.unesco.org/en/ev.php-URL_ID=13062&URL_DO=DO_TOPIC&URL_SECTION=201.html Accessed 3 Nov 2013.

²³ *Utusan Malaysia*, 27 Apr 1991.

with 76 companies pursuing permit for salvaging operation. On hindsight *Azie* stirred public attention to maritime archaeology in the country although the rich cargo undoubtedly was the main focus and not the wreckage itself for historical inquiry and/or scientific study.

The early 1990s witnessed an adverse impact on the field of maritime archaeology in Malaysia. Although a common occurrence in this field, it was the country's first legal tangle over recovered cargo. The East Indiaman *Diana* brought forth the controversial legal issues of concessions, contracts, and valuable cargo. The salvaging of this vessel that sunk off Tanjung Bidara, Melaka from Macau en route to England with stopover at Calcutta had a significant impact on maritime archaeology in Malaysia. Following a decade-old search, Dorian Hall, a Singapore-based treasure hunter, finally found *Diana* in December 1993. Excavation work begun from January the following year undertaken by Malaysian Historical Salvage (MHS) Sdn Bhd, a private commercial enterprise under the supervision of JMA. The fruits of Hall's and MHS's labour were a valuable treasure cache comprising some 24,000 pieces of Qing Dynasty (*Jingdezhen*) porcelain of various types, glass artefacts, beads, and plants. The estimated market value was ascertained at USD\$ 3.7 million. Under the conditions of the permit license given by the Malaysian government to MHS was that RM 200,000 as 'license guarantee fee' was held as collateral by the former to be return upon the completion of the excavation work. Apparently no specific time frame of the license was agreed between the parties. Furthermore the Malaysian government shall partake 35 per cent of the value of the cargo recovered and sold.²⁴ Hall and MHS were dissatisfied with the concession agreement that were perceived to be to their disadvantage; subsequently the two parties ended in court in a protracted legal tangle over pecuniary issues.²⁵

The legal complications of *Diana* pressed the Malaysian authorities to give greater emphasis in building up expertise and infrastructure for maritime archaeology hitherto undeveloped. In facing Hall and MHS in court a *Jawatankuasa Kebangsaan Pengurusan Kapal-Kapal Karam Bersejarah* (National Committee for the Management of Historical Shipwrecks) was constituted under the Ministry of Finance drawing its members from various government departments *inter alia* *Kementerian Kebudayaan, Kesenian dan Pelancongan* (Ministry of Culture, Arts, and Tourism), JMA, *Jabatan Peguam Negara* (State Legal Department), *Jabatan Arkib Negara* (National Archives Department), *Perbadanan Muzium Negeri Melaka* (Melaka State Museum Corporation). The *Diana* episode was an eye-opener, a wake-up call for the government to adopt a more proactive stance on maritime archaeology that was increasingly becoming significant.

The excavation project of the *Nassau*, a Dutch galleon, was a milestone in the field of maritime archaeology in Malaysia. On 17 August 1606 the Portuguese then in control of Malacca confronted a large Dutch armada of galleons and galleys led by Admiral Matalieff de Jonge. The Portuguese on the defensive had 14 galleons, 4 galleys, and some 15 or 16

²⁴ See Tony Wells, *Shipwrecks and Sunken Treasure in South East Asia* (Singapore: Times Editions, 1995), p. 45.

²⁵ Jabatan Muzium dan Antikuiti, *Fail Diana* (No. 53).

smaller support crafts. The two fleets clashed off Cape Rachado, north of the port-city of Malacca. Although the battle swung to Jonge's favour (Portuguese lost 4 galleons to 2 of the Dutch), he failed to capture Malacca. The 320-tonne *Nassau*, one of the combatant vessels, was burnt and sank.²⁶ Its remnants were discovered in 1993 on a perchance by a commercial salvage company, Transea Sdn. Bhd. then undertaking a search for *La Paix*, a French ship bound to Bengal from China laden with a horde of chinaware when it sank in 1805 at Beting Bambek, Port Dickson, Negeri Sembilan.²⁷

The Malaysian government for the first time granted an exploration contract worth RM 3.5 million to Transea for undertaking maritime archaeological excavation on *Nassau*. Transea that undertook work in 1995 for a three month period engaged specialists from Oxford MARE (Marine Archaeology Research Excavation), and worked with JMA and Universiti Kebangsaan Malaysia (UKM). The scope of excavation did not involve the raising of the hull.

The *Nassau* maritime archaeological excavation project was regarded as an exemplary success. In contrast to the consequences of *Diana*, there was close working cooperation between a private commercial company (Transea Sdn. Bhd.) and government agencies (JMA and UKM). Both JMA and UKM gained hands-on experience from foreign specialists (Oxford MARE) involved in the project. Whilst working on *Nassau*, several other sunken vessels involved in the naval engagement off Cape Rachado in 1606 were discovered, namely *Alioza de Caruaila* (*Caravailla*), *Simon Mau*, *Erasmus*, *Duarte de Guerra*, and others.²⁸

In the mid-2000s JMA was succeeded by *Bahagian Konservasi dan Arkeologi* (Conservation and Archaeology Section), *Jabatan Warisan Negara* (JWN, National Heritage Department), *Kementerian Peloncongan dan Kebudayaan Malaysia* (Malaysian Ministry of Tourism and Culture).²⁹ The background and functions of JWN are presented in Appendix A. Procedures for exploration license including terms and conditions are detailed in Appendices B, C (Underwater), and D (Land).³⁰

Players and the playing field

It could not be over emphasized the fact that the waters in the vicinity of the Malay Peninsula that was strategically situated on the Maritime Silk Route present an undersea graveyard of

²⁶ See Wells, *Shipwrecks & Sunken Treasure*, pp. 115-16.

²⁷ Another source contended that Transea Sdn. Bhd. was in search of the British commercial vessel *Caroline* that was on a voyage from Bengal to Canton but was lost on Beting Bambek in 1816. See Bilcher Bala and Baszley Bee B. Basrah Bee, *Arkeologi Maritim Malaysia: Pengertian dan Sejarah [Malaysian Maritime Archaeology: Meaning and History]* (Kota Kinabalu: Universiti Malaysia Sabah, 2002), pp. 122, 116.

²⁸ See Wells, *Shipwrecks & Sunken Treasure*, p. 115. Other shipwrecks in the vicinity of *Nassau* are *Saint Symon*, *Nossa Senhora Concepcion*, *San Nicholas*, *Santa Cruz*, and *Don Antonio*. See A. Hafiz Yatim, 'Search for Ship[s] before Reclamation, says Local Historian', *New Straits Times*, 15 Oct 1995.

²⁹ See website <https://www.heritage.gov.my>

³⁰ Further information and application forms are downloadable from the JWN's official website: <https://www.heritage.gov.my>

many vessels that were lost and sunk. A host of reasons contribute to ships sinking: hidden or uncharted reefs, naval conflicts, weather hazards, human error (carelessness, negligence, or folly), and unseaworthiness of ships.³¹ And how many ships were sunk over the centuries within the territorial waters of West Malaysia? The number of wrecks undoubtedly runs into the hundreds. These vessels were lost with their crew and passengers, cargo (intact or dispersed) and all the shipping paraphernalia (intact or damaged). Inevitably the present-day situation is depicted as follows:

Southeast Asian waters are an underwater archaeologist's and treasure-hunter's dream come[s] true [consequent of] vast amounts of treasure lying on the sea bed virtually untouched. The value of these lost goods may run into billions of dollars.³²

Therefore treasure hunters who seek shipwrecks for financial rewards on the one hand, and maritime archaeologists in pursuit of knowledge of the past, and government authorities responsible for safeguarding and preserving national heritage and history on the other hand appeared to be the overall scenario of the state of maritime archaeology in contemporary Malaysia. Although on first impression it seems that treasure hunters are pitted against academic-oriented maritime archaeologists and government agencies (departments, ministries) responsible for national heritage and history, it should not be viewed from such skewed lenses. Instead as the *Nassau* has demonstrated a private commercial salvage enterprise could work hand-in-hand with maritime archaeologists with the official blessings of the Malaysian government. The scenario need not necessarily be a 'we' and 'they' antagonistic state of affairs; instead if prudently and transparently handled all three vested and involved parties could work together and collectively benefit from the undertaking, a win-win situation for all participants.

On the part of the Malaysian government there are legislations to safeguard and preserve national heritage and history. The Antiquities Act 1976 'provides for the control and preservation of, and research into ancient and historical monuments, archaeological sites and remains, antiquities and historical objects. ... [and] regulates dealings in and export of antiquities and historical objects'.³³ This Act, however, is only applicable to West Malaysia. According to this law,

Section 3 (1) recites that every antiquity discovered in West Malaysia shall be the absolute property of the [Malaysian Federal] Government.

Section 4 ... requires any person who discovers any object or monument which he has reason to believe to be an antiquity or ancient monument to give notice to the Penghulu [Headman] or the District Officer of the area, and if practicable to deliver the antiquity to the District Officer. ... If the object is retained by the Director-

³¹ See Wells, *Shipwrecks & Sunken Treasure*, pp. 19-25.

³² Wells, *Shipwrecks & Sunken Treasure*, pp. 31-32.

³³ John Doraisamy, 'Treasure Lost and Found: Some Legal Aspects', *Kapal dan Harta Karam [Ships and Sunken Treasures]*, suntingan Mohd Yusof Hashim (Kuala Lumpur: Persatuan Muzium Malaysia, 1986), p. 175.

General [Department of National Heritage] 'reasonable compensation' has to be paid, but the finder forfeits his right to that compensation if he had failed to give notice of the discovery in accordance with the mandatory provision of section 4 of the Act.³⁴

The penalty for non-compliance in not reporting a find an individual 'is liable to imprisonment not exceeding one year or to a fine not exceeding two thousand ringgit or to both'.³⁵

Three decades forward the Antiquities Act 1976 was repealed by the National Heritage Act 2005.³⁶ The National Heritage Act 2005 (hereinafter NHA) 'to provide for the conservation and preservation of National Heritage, natural heritage, tangible and intangible cultural heritage, underwater cultural heritage, and other related matters'.³⁷ Matters pertaining to underwater cultural heritage are detailed in Part IX that comprises six sections, viz. (61) Underwater cultural heritage; (62) Possession, custody or control of moveable underwater cultural heritage; (63) Declaration of underwater cultural heritage; (64) Protected zone; (65) Salvage and excavation works to be licensed; and (66) Ownership of underwater cultural heritage found during survey, salvage and excavation (Appendix E). As regards to licensing (Part XII), 'No person shall excavate any land for the purpose of discovering an object unless he holds a license approved by the Commissioner [of Heritage]'.³⁸

NHA appeared to have address most of the pertinent issues related to its scope of coverage and objective. Enforcement of any legislation is often a challenge but diligence and surveillance are called for in ensuring that no compromises are made in regards to heritage and historical issues.

Malaysian maritime archaeologists as academics and practitioners of the discipline should take cognizance of the important role they play. No only must the number of maritime archaeologists be expanded but also, and more importantly, their knowledge, skills, and experiences need to be enhanced through training, exposure, and participation in field projects within the country and in collaboration with foreign counterparts abroad in exploration and excavation outside Malaysia. Public universities need also contribute in laying the groundwork for offering degree-level courses in maritime archaeology, facilitate research grants for exploration and excavation projects, and institutional support for those involved in this discipline.

Developments and future directions

³⁴ Ibid., pp. 175-6.

³⁵ Ibid., p. 176.

³⁶ *National Heritage Act 2005*. Incorporating all amendments to 1 June 2005 (Kuala Lumpur: The Commissioner of Law Revision, Malaysia in collaboration with Percetakan Nasional Malaysia Bhd., 2006).

³⁷ Ibid., p. 11.

³⁸ *National Heritage Act 2005*, p. 54.

Besides shipwrecks, maritime archaeology in Malaysia need to also focus on past drowned coastal villages, sunken harbours and ports, submerged settlements on rivers and lakes that might have archaeological and historical significance. Local knowledge need to be tapped from local inhabitants, namely villagers, fishermen, coastal dwellers of their immediate vicinity. In other words local history as a source of information of ancient sites, old settlements posed as impetus to exploration and discovery in maritime realms. Meanwhile academics need to read deeper and with an open mind of traditional literary works that tell of myths and legends, ancient tales, folklores, and traditions as there might be 'treasures' of knowledge and information to be discovered in deep waters.

By way of conclusion maritime archaeology in Malaysia should be given more attention and emphasis in the next decade and beyond by all concerned parties. A national institution for maritime archaeology that combines a museum and research centre is long overdue. JWN is in a position to initiate such an educational institution to promote awareness, interest in this specialized pursuit of national importance among the public, the younger generation in particular.

----- oo0oo -----

[INSERT Appendices A, B, C, D and E]

APPENDIX A

A-1 BACKGROUND

Last Updated on Khamis, 22 Aug 2013 00:47

The Department of National Heritage is a government department dedicated to the protection and promotion of Malaysia's rich national heritage. The department began as a Heritage Division under the Ministry of Culture, Arts and Heritage, *Kementerian Kebudayaan, Kesenian dan Warisan*, KEKKWA.

By 1 March 2006, the KEKKWA Heritage Division had joined together with the Antiquities Division from The Department of Museum Malaysia, in order to form the Department of National Heritage.

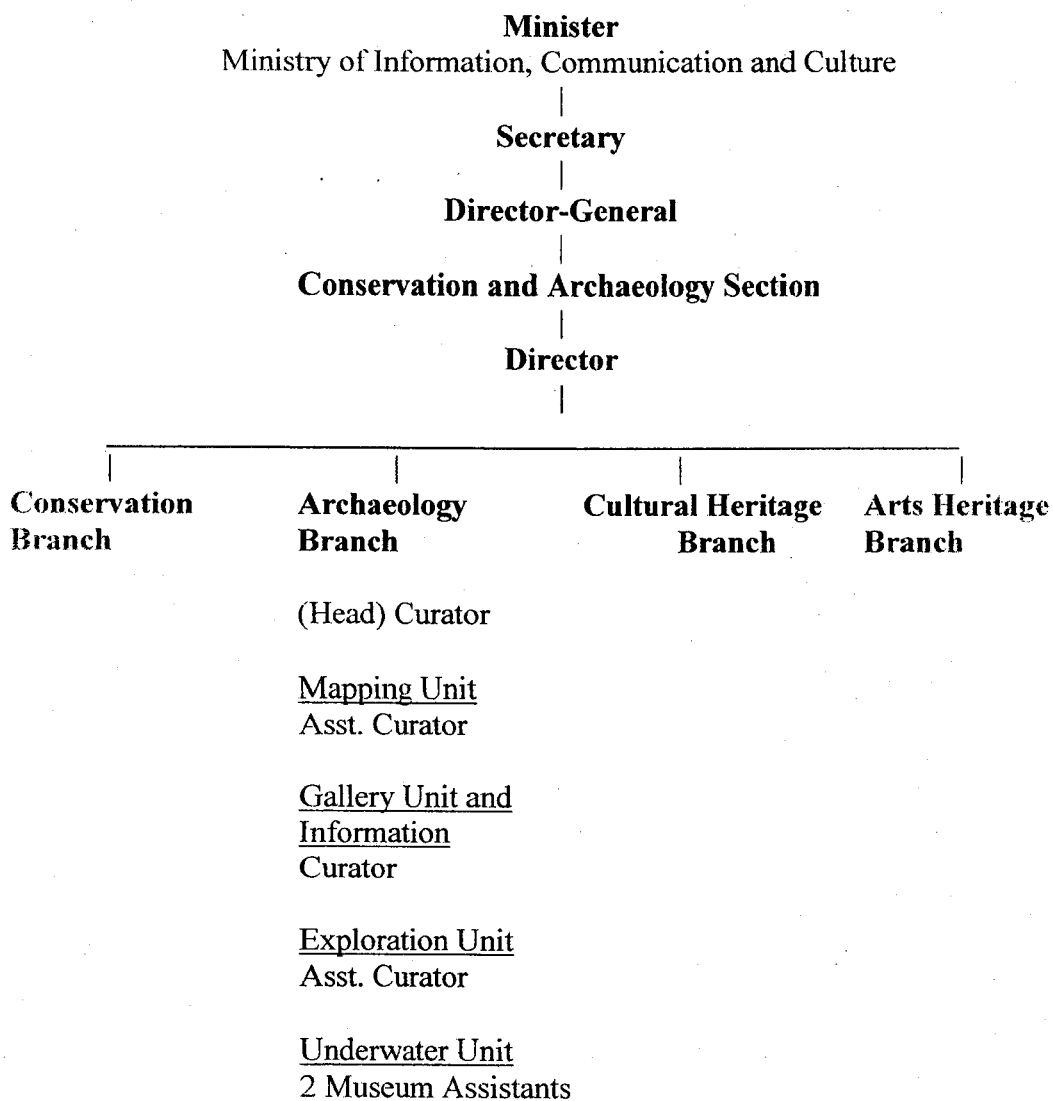
The Department is responsible for preserving and maintaining the National Heritage, as stipulated in the National Heritage Act 2005 (Act 625).

Function:

1. We implement and enforce the provisions under the National Heritage Act 2005 (Act 625)
2. We register and gazette buildings, landscapes, archaeological sites, underwater archaeological sites, objects, intangible cultural heritage, and people of national heritage significance in the 'National Heritage Register'.
3. We protect, conserve and maintain items on the National Heritage Register
4. We conduct research and development relating to heritage.
5. We document and publish research findings and reference materials relating to heritage
6. We plan, implement and coordinate heritage related activities
7. We help prepare nomination files for World Heritage Sites and other International inscriptions such as Memory of the World and Intangible Cultural Heritage
8. We help monitor World Heritage Sites in Malaysia

Source: <https://www.heritage.gov.my> Accessed 2 Nov 2013

**NATIONAL HERITAGE DEPARTMENT
ORGANIZATION CHART
(September 2013)**



Source: <https://www.heritage.gov.my> Accessed 2 Nov 2013

APPENDIX B

Borang Permohonan Lesen

Last Updated on Selasa, 25 Oct 2011 10:22

Di bawah adalah senarai-senarai jenis borang lesen yang boleh di pindah turun:

- **Borang permohonan lesen untuk menggali objek warisan**
- **Borang permohonan melanjutkan tempoh lesen untuk menggali**
- **Borang permohonan lesen eksport butiran warisan**
- **Borang permohonan menjadi peniaga pendaftar butiran warisan**

Syarat-Syarat Lesen Yang Dikeluarkan

- **Syarat-syarat Lesen Eksport Butiran Warisan**
- **Syarat-Syarat Lesen Penggalan Warisan Kebudayaan Di Bawah Air
Salvaj Warisan Kebudayaan Di Bawah Air**
- **Syarat-Syarat Permohonan Untuk Lesen Menggali Mana-Mana Tanah
Bagi Maksud Menjumpai Objek Warisan (Borang F)**

Borang yang lengkap, boleh di hantar melalui pos atau faks seperti di bawah:

Pesuruhjaya Warisan,
Jabatan Warisan Negara,
Tingkat 1, 2 Dan 10,
Menara Chulan,
Jalan Conlay,
50450 Kuala Lumpur.
(u.p: Bahagian Pendaftaran dan Penguatkuasaan)
Tel: 03-21675100
Faks: 03-21716028

Source: <https://www.heritage.gov.my> Accessed 2 Nov 2013

APPENDIX C

SYARAT-SYARAT LESEN PENGGALIAN WARISAN KEBUDAYAAN DI BAWAH AIR/SALVAJ WARISAN KEBUDAYAAN DI BAWAH AIR

- (1) Sesuatu permohonan bagi mendapatkan lesen untuk Penggalian/Salvaj Warisan Kebudayaan Di Bawah Air hendaklah dalam Borang Permohonan Lesen Untuk Menggali/Salvaj Warisan Kebudayaan Di Bawah Air.
- (2) Borang permohonan Lesen Penggalian/Salvaj Warisan Kebudayaan Di Bawah Air boleh didapati daripada Pesuruhjaya Warisan, Jabatan Warisan Negara atau melalui laman web Jabatan Warisan Negara tanpa dikenakan apa-apa bayaran.
- (3) Pesuruhjaya Warisan boleh pada bila-bila masa meminta pemohon supaya memberi kepadanya apa-apa butiran lain sebagaimana yang difikirkannya perlu.
- (4) Borang permohonan yang telah diisi hendaklah disertakan dengan dokumen-dokumen yang dikehendaki oleh Pesuruhjaya Warisan seperti berikut:-
 - 4.1 CV pemohon dan ahli kumpulan penyelidik (pengalaman kerja lapangan penggalian/salvaj warisan kebudayaan di bawah air, ukuran hidoergrafi penyelam dan lain-lain).
 - 4.2 Kertas cadangan penyelidikan yang lengkap termasuk tujuan, metodologi, analisis, interpretasi, teknik kerja penggalian/salvaj, teknik kerja konservasi dan program pemuliharaan, peralatan dan bahan rujukan.
 - 4.3 Laporan bagi hasil survei.
 - 4.4 Salinan kebenaran survei daripada Jabatan Warisan Negara.
 - 4.5 Senarai institusi (institusi Malaysia atau selainnya) yang akan bergabung dan/atau bekerjasama dengan pemohon.
 - 4.6 2 keping gambar pemohon berukuran pasport.
 - 4.7 Salinan kad pengenalan atau pasport/sijil pendaftaran syarikat
 - 4.8 Bayaran bank draf/wang pos, sebanyak RM 250.00 dipalang untuk dibayar kepada Pesuruhjaya Warisan(setelah permohonan diluluskan).

Dokumen tambahan jika menjalankan konservasi

 - Salinan perakuan syarikat dan pemilikan ekuiti syarikat (*company profile*)
 - Salinan surat perlantikan dari syarikat yang melantik pemohon.
- (5) Mana-mana lesen yang diberi di bawah seksyen 65(1) Akta Warisan Kebangsaan 2005 [Akta 645] hendaklah dibuat dalam dua salinan yang mana Borang asal hendaklah diberi kepada pemohon apabila ia membuat bayaran sebanyak RM250.00 dan salinannya disimpan oleh Pesuruhjaya Warisan.

Pemegang lesen yang ditetapkan secara am atau dinyatakan bagi sesuatu hal tertentu, tiap-tiap lesen yang dikeluarkan di bawah seksyen 65 Akta Warisan Kebangsaan 2005 [Akta 645] hendaklah tertakluk kepada syarat-syarat berikut:-

- 1) Pemegang lesen itu hendaklah mengambil segala langkah yang berpatutan untuk memelihara apa-apa warisan kebudayaan bawah air yang dijumpai olehnya.
- 2) Pemegang lesen itu hendaklah menjalankan penggalian itu secara saintifik dan dengan memuaskan hati Pesuruhjaya Warisan, Jabatan Warisan Negara, Malaysia.
- 3) Pemegang lesen itu hendaklah menyimpan rekod apa-apa warisan kebudayaan bawah air yang dijumpai olehnya.
- 4) Pemegang lesen itu hendaklah, dalam tempoh yang berpatutan, menyimpan pada Pesuruhjaya Warisan mana-mana gambar, tuangan, perasan atau lain - lain keluaran semula apa-apa warisan kebudayaan bawah air yang diuntukkan kepadanya sebagaimana yang dikehendaki oleh Pesuruhjaya Warisan.
- 5) Pemegang lesen itu hendaklah memberi mana-mana pelan dan gambar penggaliannya itu yang dikehendaki oleh Pesuruhjaya Warisan.
- 6) Mana-mana pemegang lesen boleh membuat permohonan kepada Pesuruhjaya Warisan dalam borang bagi melanjutkan tempoh perlanjutan lesen yang diberi, tidak lewat daripada empat belas hari dari tarikh tamatnya lesen tersebut.
- 7) Sekiranya tempoh lanjutan penggalian/salvaj diperlukan, pemohon hendaklah menulis surat permohonan kepada Pesuruhjaya Warisan dengan menyatakan sebab-sebab perlanjutan dan mengemukakan satu salinan laporan terkini penggalian/salvaj.
- 8) Mana-mana orang yang, semasa memohon suatu lesen atau perlanjutan tempoh lesen atau menyampaikan apa-apa laporan di bawah peraturan-peraturan ini, memberi apa-apa maklumat yang ia ketahui atau ada sebab bagi mempercayai sebagai palsu adalah melakukan suatu kesalahan terhadap peraturan-peraturan ini.
- 9) Mana-mana orang yang melanggar mana-mana syarat atau sekatan yang dikenakan ke atas sesuatu lesen yang diberi di bawah seksyen 65 Akta Warisan Kebangsaan [Akta 645], sama ada yang terkandung dalam akta atau dalam peraturan-peraturan ini atau dalam lesen itu sendiri adalah melakukan suatu kesalahan terhadap peraturan-peraturan ini.
- 10) Setiap kerja-kerja penggalian/salvaj warisan kebudayaan di bawah air yang hendak dijalankan, perlulah dipastikan bahawa terdapatnya wakil Pesuruhjaya Warisan yang berperanan mengawasi perjalanan setiap operasi yang dijalankan dari awal hingga akhir.

11) Mana-mana orang yang melakukan suatu kesalahan terhadap peraturan-peraturan ini boleh, apabila disabitkan, dikenakan denda tidak melebihi lima puluh ribu ringgit atau dipenjarakan selama tempoh tidak melebihi lima tahun atau kedua-duanya sekali, dan bagi kesalahan kedua atau yang berikutnya dia boleh didenda tidak melebihi sepuluh tahun atau kedua-duanya (Seksyen 118 (1) Akta Warisan Kebangsaan 2005 [Akta 645]).

Source: <https://www.heritage.gov.my> Accessed 2 Nov 2013

APPENDIX D

SYARAT-SYARAT PERMOHONAN UNTUK LESEN MENGGALI MANA-MANA TANAH BAGI MAKSUD MENJUMPAI OBJEK WARISAN (BORANG F)

1. Sesuatu permohonan lesen untuk menjalankan penggalian hendaklah dalam Borang F, Permohonan Untuk Lesen Menggali Mana-mana Tanah Bagi Maksud Menjumpai Objek Warisan.
2. Borang F, boleh didapati daripada Pesuruhjaya Warisan, Jabatan Warisan Negara atau melalui laman web Jabatan Warisan Negara tanpa dikenakan apa-apa bayaran.
3. Mengemukakan permohonan Borang F yang telah diisi dengan menyertakan dokumen-dokumen yang dikehendaki oleh Pesuruhjaya Warisan, Jabatan Warisan Negara seperti berikut:
 - CV pemohon dan ahli kumpulan penyelidik (pengalaman kerja lapangan penggalian/ekskavasi, penerbitan, pakar runding dan sebagainya).
 - Kertas cadangan penyelidikan yang lengkap termasuk tujuan, kaedah ekskavasi, analisis, interpretasi dan rujukan
 - Dokumen-dokumen bagi hasil survei
 - Pelan lokasi tapak penggalian/ekskavasi
 - Surat kebenaran daripada pemilik tanah, sekiranya pemohon bukan kakitangan atau wakil bagi pihak Jabatan Warisan Negara
 - Senarai institusi (institusi Malaysia atau selainnya) yang akan bergabung dan/atau bekerjasama dengan anda
 - 2 keping gambar pemohon berukuran pasport
 - Salinan kad pengenalan atau pasport
 - Bayaran Bank Deraf, sebanyak RM 250.00 dibayar kepada Jabatan Warisan Negara setelah permohonan diluluskan (Setelah Permohonan Diluluskan).

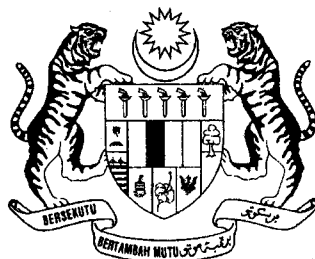
Maklumat tambahan jika menjalankan konservasi/DEIA/HIA:

- Salinan Perakuan Syarikat (Company Profile)
 - Salinan Surat Perlantikan dari Syarikat yang melantik
4. Pesuruhjaya Warisan boleh pada bila-bila masa meminta pemohon supaya memberi kepadanya apa-apa butiran lain sebagaimana yang difikirkan perlu.
 5. Permohonan lesen lanjutan untuk menggali boleh dibuat oleh pemohon sebelum tamat tempoh Lesen Untuk Menggali dengan mengemukakan Permohonan Melanjutkan Tempoh Lesen Untuk Menggali berserta salinan asal lesen.
 6. Permohonan boleh dilanjutkan oleh Pesuruhjaya Warisan bagi apa-apa tempoh selanjutnya yang difikirkan munasabah pada bila-bila masa sebelum tamat tempoh lesen tersebut.
 7. Pesuruhjaya Warisan boleh mengikut budi bicaranya meluluskan atau menolak apa-apa permohonan bagi lesen untuk menggali.

8. Bagi mana-mana tapak yang telah ekskavasi dan didapati tidak signifikan perlulah ditutup semula bagi tujuan keselamatan.

Source: <https://www.heritage.gov.my> Accessed 2 Nov 2013

APPENDIX E



LAWS OF MALAYSIA

REPRINT

Act 645

NATIONAL HERITAGE ACT 2005

Incorporating all amendments up to 1 June 2006

PUBLISHED BY
THE COMMISSIONER OF LAW REVISION, MALAYSIA
UNDER THE AUTHORITY OF THE REVISION OF LAWS ACT 1968
IN COLLABORATION WITH
PERCETAKAN NASIONAL MALAYSIA BHD
2006

PART IX

UNDERWATER CULTURAL HERITAGE

Discovery of underwater cultural heritage

61. (1) Any person who discovers an underwater cultural heritage in the Malaysian waters shall, as soon as practicable, give notice of such discovery to the Commissioner or the port officer.

(2) The port officer upon receiving such notice shall as soon as practicable notify, and where possible deliver the underwater cultural heritage to, the Commissioner.

(3) The Commissioner may, upon being satisfied that the underwater cultural heritage has cultural heritage significance, cause it to be listed in the Register.

(4) Any person who fails to give notice under subsection (1) commits an offence.

Possession, custody or control of moveable underwater cultural heritage

62. (1) Where it appears to the Commissioner that a person is in or may have had possession, custody or control of any moveable underwater cultural heritage or part of an underwater cultural heritage the Commissioner may, by notice in writing to the person, require the person within the specified time in the notice furnish him with the full information of such moveable underwater cultural heritage.

(2) Where the person has ceased to have such possession, custody or control of the moveable underwater cultural heritage, the person shall give the Commissioner particulars of the circumstances in which he ceased to have the possession, custody or control of such moveable underwater cultural heritage.

(3) Where the person has transferred such possession, custody or control of the moveable underwater cultural heritage to another person, he shall give to the Commissioner the name and address of the person to whom such possession, custody or control of such moveable underwater cultural heritage was transferred.

(4) Any person who fails to comply with any of the requirements under this section commits an offence.

Declaration of underwater cultural heritage

63. (1) Where the Commissioner is of the opinion that any underwater cultural heritage is situated in Malaysian waters is of cultural heritage significance but less than one hundred years old, he shall advise the Minister and the Minister may by notice published in the *Gazette* declare the site or object to be a underwater cultural heritage.

(2) Any site or object declared to be an underwater cultural heritage shall be listed in the Register.

Protected zone

64. (1) The Minister may on the advise of the Commissioner, declare in the notice published in the *Gazette* any area within which an underwater cultural heritage is situated to be a protected zone.

(2) No person shall carry out any activity in the protected zone except with approval in writing from the Commissioner.

(3) Any person who contravenes subsection (2) commits an offence.

Salvage and excavation works to be licensed

65. (1) No person shall carry on any salvage or excavation work in any Malaysian waters for the purpose of finding any underwater cultural heritage, except with a licence approved by the Commissioner.

(2) Any person who contravenes subsection (1) commits an offence.

Ownership of underwater cultural heritage found during survey, salvage or excavation

66. (1) Any underwater cultural heritage discovered during any survey, salvage or excavation works shall vest in the Commissioner and shall be listed in the Register.

(2) Where the Commissioner takes possession of any underwater cultural heritage, he shall within forty-eight hours cause to be posted a list of the underwater cultural heritage in any port office within the district where the underwater cultural heritage was discovered.

(3) Any owner of the underwater cultural heritage may, upon establishing his claim to the satisfaction of the Commissioner, within one year from the time at which the underwater cultural heritage came into the possession of the Commissioner, and upon paying the salvage fees and expenses due, be entitled to have the possession of the underwater cultural heritage upon such terms and conditions as may be imposed by the Commissioner.

(4) An owner who fails to comply with any of the terms and conditions imposed under subsection (3) commits an offence.

(5) Where no owner establishes a claim within one year, the underwater cultural heritage shall be the absolute property of the Federal Government.

(6) Unless otherwise directed by the Minister, the Commissioner may preserve the underwater cultural heritage *in situ*.

PART X

NATIONAL HERITAGE

Declaration of National Heritage

67. (1) The Minister may, by order published in the *Gazette*, declare any heritage site, heritage object, underwater cultural heritage listed in the Register or any living person as a National Heritage.

PART XII

LICENSING

Chapter 1

Export and import of heritage item

Licence to export

83. (1) No person shall export any heritage item unless a licence to export has been obtained from the Commissioner.

(2) The Commissioner shall not issue such a licence if in his opinion the heritage item concerned is reasonably believed to be of national importance or interest.

(3) In an application for a licence to export any heritage item, the applicant shall submit the description, declare the value and furnish such relevant particulars which the Commissioner may require and shall, if so required, deposit such heritage item with the Commissioner for inspection.

(4) No licence shall be issued to any person unless he proves to the satisfaction of the Commissioner that he is the owner of such heritage item or that he is acting on behalf of and with the authority of the owner.

(5) Where an enforcement officer or a proper officer of customs has any reason to believe that an object or material which is to be exported is a heritage item and without having a valid export licence, he shall detain such object or material and immediately notify the Commissioner within twenty-four hours for the determination of such object or material.

(6) If the Commissioner is satisfied that the object or material is a heritage item and is or will be of national importance or interest, he may prohibit the export thereof.

(7) Any person who contravenes the provisions of subsection (1) commits an offence and shall on conviction be liable to imprisonment for a term not exceeding ten years or to a fine not exceeding one hundred thousand ringgit or to both.

Importation of foreign heritage item

84. (1) A person who intends to import any foreign heritage item shall notify the Commissioner with the documents certifying that such foreign heritage item was lawfully transported out of a foreign country.

(2) If there is a valid reason to believe that a foreign heritage item which is in transit or has already been imported was unlawfully transported out of a foreign country, the Commissioner may take possession of it and keep it in custody but before he executes such act he shall consult the Minister whose decision shall be final.

(3) Where a foreign heritage item is detained under subsection (2), the Commissioner shall keep and manage it as he thinks fit.

(4) Where such foreign heritage item is proven to have been lawfully transported out of the foreign country, the Commissioner shall return it to the person importing it without delay.

(5) Where any country has proved that such foreign heritage item was unlawfully exported and requested it be returned in accordance with the terms of a treaty, or when the Commissioner performs the duty of returning it in accordance with a treaty, he shall, with the help of the competent authorities, take necessary measures to return it to such country.

Minister may prescribe the necessary procedure

85. Where a foreign heritage item is brought into Malaysia by any means, the Minister may prescribe the necessary procedure and methods of safekeeping and may direct the Commissioner accordingly to comply with such directions.

Chapter 2*Licence to excavate***Excavation of heritage object**

86. (1) No person shall excavate any land for the purpose of discovering an object unless he holds a licence approved by the Commissioner.

(2) Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to imprisonment for a term not exceeding five years or to a fine not exceeding fifty thousand ringgit or to both.

Application for licence to excavate

87. An application for a licence to excavate shall—

- (a) be made to the Commissioner in the prescribed form; and
- (b) contain a full and accurate description of the land on which it is proposed to be carried out, the purpose, nature and extent of the proposed excavation and such other particulars as may be required.

Approval or refusal of licence to excavate

88. (1) The Commissioner may in his discretion approve or refuse any application for a licence to excavate.

(2) No licence under subsection (1) shall be approved unless the Commissioner is satisfied—

- (a) that the owner of the land where the proposed excavation is to be made has consented to the excavation;
- (b) that the proposed excavation will not cause any damage or inconvenience to persons residing in the vicinity of such land, or to any place used for religious purposes, or to any cemetery, school, water source or supply, irrigation or drainage works or public road, or that if any such damage is likely to be caused adequate provision has been made by the applicant for the payment of compensation; and
- (c) that the applicant is able to furnish security for the due observance by him of any conditions imposed on the licence or any regulations as may be prescribed.

Terms and conditions of licence

89. A licence approved under section 88 shall be valid for such period as specified in the licence and subject to such conditions as may be specified in it.

Extension and revocation of licence

90. (1) Any licence to excavate may, at any time before the expiration of the period for which it was granted, be extended by the Commissioner for such further period as he thinks fit.

(2) Any licence to excavate may, at any time before the expiration of the period for which it was granted, be revoked by the Commissioner in the event the licence holder is in breach of any term or condition of the licence or such revocation is necessary to safeguard the national interest, interest of national security or for the purpose of any Government policy.

(3) A licence holder shall not be entitled to claim compensation for any loss or damage suffered or alleged to have been suffered by him by reason of such revocation under subsection (2).

(4) For the purposes of this section, what constitutes "national interest", "interest of national security" or "Government policy" shall be determined by the Minister on the recommendation of the Commissioner and such determination shall be final.

(5) No appeal shall lie against the decision of the Minister under subsection (4).

Chapter 3*Registration of dealer of heritage item***Registered dealer of heritage item**

91. (1) No person shall deal in any heritage item unless he is a registered dealer and holds a certificate of registration approved by the Commissioner.

(2) Any person who contravenes the provision of subsection (1) commits an offence and shall on conviction be liable to imprisonment for a term not exceeding five years or to a fine not exceeding fifty thousand ringgit or to both.

(3) Any person may apply to be registered as a registered dealer of cultural heritage to the Commissioner in the prescribed form and manner.

(4) The Commissioner may approve or refuse such application.

Information of stolen heritage item

92. (1) Any information on any stolen or lost of heritage item which has been received by the police shall be communicated to the Commissioner.

(2) Upon receiving the information under subsection (1) the Commissioner shall notify the registered dealers the list and description of such stolen or lost heritage item.

(3) If any property answering to the list and description is in the possession of any registered dealer or which has been offered or shown to any registered dealer, he shall without any delay give information to that effect at the nearest police station or to any police officer, with the name and address of the person from whom he acquired or who offered or showed him the same.

(4) Any registered dealer who fails to give information required under subsection (3) commits an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(5) The registered dealer in such case may detain the person offering or showing such item to him until the arrival of the police.

Reports of sale or purchase of heritage item

93. (1) Every registered dealer who deals in heritage item shall, when so required by order in writing by the Commissioner, in respect of such period and in such manner as may be specified in such order, report in writing to the nearest authorized officer full details of any heritage item which he has bought or sold with the price paid and the name and address of the vendor or purchaser thereof, as the case may be.

(2) Such reports shall be legibly written in the national language or in English language.

(3) Any registered dealer who, without reasonable excuse, fails to comply with such order commits an offence and shall on conviction be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Enforcement officer may enter and search registered dealer's business premises, etc.

94. Any enforcement officer may enter any registered dealer's business premises at any time and may search without warrant such premises which he has reason to suspect that any stolen or lost heritage item is found in the premises.

Delivery to owner

95. (1) If any person is convicted in any court of an offence under Chapter XVII of the Penal Code [Act 574] in respect of any heritage item and it appears to the court that the same has been sold to a registered dealer, the court, on proof of the ownership of the property, may, if it thinks fit, order, the delivery of that heritage item to the owner either on payment to the registered dealer of the amount of the purchase price or any part thereof or without payment thereof or of any part thereof as the court may deem fit and proper.

(2) The court may also adjourn the proceeding for the attendance of the registered dealer and may summon the registered dealer to attend the adjourned hearing for the determination under subsection (1).

PART XIII

APPEAL

Appeal

96. (1) Any person may, within thirty days from the date of the notification of the decision of the Commissioner, appeal in writing to the Minister if that person is aggrieved—

- (a) by the decision of the Commissioner to designate or not to designate a site as a heritage site under section 31;