



## **UK Ratification of the 2001 UNESCO Convention** First World War Case Studies

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Over a thousand Royal Navy vessels were lost in the First World War, about 500 of which lie beyond UK waters. About 3,000 British merchant vessels and fishing vessels were also sunk; again, a high proportion were lost beyond UK waters.

The ability of the Government to safeguard UK interests in First World War shipwrecks beyond UK waters – to ensure respect for war dead or to protect the ships and their contents – is subject to international law. Unfortunately, the general rules of international law do little to safeguard UK interests.

There is an urgent need for the UK to ratify the 2001 UNESCO Convention on the Protection of Underwater Cultural Heritage, which offers the best available international framework. The following case studies illustrate challenges – and solutions – that apply to many hundreds of First World War shipwrecks beyond UK waters.

## *Aboukir, Cressy and Hogue*

- HMS *Aboukir*, HMS *Cressy* and HMS *Hogue* were all armoured cruisers of the 'Cressy' or 'Bacchante' class, built in 1899-1900 and considered to be largely obsolete at the start of the First World War.
- In the early morning of 22nd September 1914, the three ships were patrolling together in the area known as the 'Broad Fourteens' off the Dutch coast. Their orders were to keep the area free of enemy torpedo craft and minelayers whilst British troops were being transported across to Dunkirk, to the south.
- A single German U-boat - U-9 - torpedoed all three ships in succession. Altogether, 1459 men were killed.
- In the Official History of Naval Operations in the Great War published in 1920, Sir Julian Corbett wrote:

'the old cruisers ... were manned mainly by Royal Naval Reserve ratings, most of whom were married men with families. ... As for the ships themselves, their loss was a small matter. But the crews, seeing how devotedly they had come forward from their civil occupations at the country's call, were a national loss to be lamented ...'
- The three wrecks are outside the Territorial Sea of the Netherlands but on its Continental Shelf, about 25 miles from the coast in 20-30m of water.
- The MOD appears to have concluded a salvage agreement on the three wrecks in 1954. Some salvage took place in the 1950s and 1960s.
- There have been reports in recent years of Dutch salvage vessels working on the sites.
- As the wrecks were subject to a salvage agreement, the UK Government may not be able to claim that they have 'sovereign immunity', which would otherwise enable the UK to argue that there should be no intrusion without UK consent.
- The Protection of Military Remains Act 1986 can be used to designate vessels that sank in military service beyond the UK Territorial Sea, but it only applies to UK nationals and

UK-flagged vessels. Outside the UK Territorial Sea it offers no protection against damage by the nationals and ships of other countries.

- The Netherlands is taking steps towards ratifying the 2001 UNESCO Convention.

- In September 2014, the *Aboukir*, *Cressy* and *Hogue* met the definition of underwater cultural heritage. They qualify as 'state vessels' because they were owned and operated by the UK as warships at the time of their sinking. The salvage agreement in 1954 does not affect their status as 'state vessels'.
- The 2001 UNESCO Convention provides that no activity directed at state vessels and aircraft on the Continental Shelf shall be conducted without the agreement of the flag state (i.e. the UK).
- If the UK ratifies the 2001 UNESCO Convention, the UK will be able to expect the Netherlands - when it has ratified - to protect the three wrecks on its Continental Shelf to the full extent provided by the 2001 UNESCO Convention. The Netherlands - and other continental states such as Belgium and France that have already ratified - can be expected to take all practicable measures to ensure that their nationals and vessels do not engage in activities that will disturb or damage the *Aboukir*, *Cressy* and *Hogue*.

## Battle of Jutland

- The Battle of Jutland was fought on 31 May and in the early hours of 1 June 1916 between the Royal Navy's Grand Fleet and the German High Seas Fleet. It was the only full-scale engagement between two fleets in the seas around Britain in the C20th.
- The Royal Navy had the most ships sunk, lost the most men and failed to cause decisive losses to the German fleet. However, many of the German ships were badly damaged and the High Sea Fleet was effectively neutralised.
- Over 8,600 men were killed: 6,094 from the British Fleet and 2,551 from the German. Another 1,181 were wounded.
- The RN lost 14 ships whilst the Germans lost 11.
- Three Battle Cruisers – HMS *Indefatigable*, HMS *Invincible* and HMS *Queen Mary* – and two Cruisers – HMS *Black Prince* and HMS *Defence* – were lost in massive explosions with the loss of almost all their crews – totalling over 5000 men.
- On the German side, the Light Cruisers *Frauenlob* and *Wiesbaden* and the pre-dreadnought battleship *Pommern* were lost with virtually all hands – over 1750 men. Altogether, 115 men were lost from *Lutzow*, which was scuttled.
- Most of the 25 ships lost in the Battle of Jutland are spread over about 100 miles, broadly 60-100 miles from the Danish coast in around 45-65m of water. The border between the Continental Shelves of Denmark and Norway runs through the battlefield, with wrecks on both sides. Nine of the RN ships are on the Continental Shelf of Denmark; five are on the Continental Shelf of Norway.
- The RN ships lost at Jutland are all designated under the Protection of Military Remains Act 1986, but outside the UK Territorial Sea this statute applies only to offences by UK nationals and vessels.
- Human remains are clearly present on the wrecks. Diving activity has taken place and some of the wrecks have been subject to salvage.

- UK Ratification of the 2001 UNESCO Convention will send a clear message around the globe that the UK expects the remains of those that fought in one of the greatest ever sea battles to be afforded the highest level of international protection.
- The Convention requires that proper respect is given to all human remains located in maritime waters; the Rules in the Annex to the Convention require that activities directed at UCH shall avoid the unnecessary disturbance of human remains or venerated sites.
- All of the ships lost at Jutland qualify as 'state vessels'. The Convention provides that no activity shall be directed at state vessels without the agreement of the flag state. The UK would not have to rely, as at present, on claims of ownership or sovereign immunity for this protection to apply.
- The Convention would apply to the nationals and vessels of all other states that have ratified, including France and Belgium. The Netherlands and Germany are already taking steps towards ratification, and there are indications that Denmark may do so also. The collective effect of the Convention will achieve lasting protection of the wrecks of the Battle of Jutland.