

STILL AT SEA

May 1993

A review of progress since the launch of the Joint Nautical Archaeology Policy Committee's document *Heritage at Sea* in May 1989.

CONSTITUENT BODIES OF JNAPC:

Archaeological Diving Unit (observer)

Association of County Archaeological Officers

Council for British Archaeology

Hampshire and Wight Trust for Maritime Archaeology

Institute of Field Archaeologists

Royal Commission on the Historical Monuments of England (observer)

National Maritime Museum


National Trust

Nautical Archaeology Society

Scottish Trust for Underwater Archaeology

Society for Nautical Research

Further copies of *Heritage at Sea* are available from the Archaeology Section,
National Maritime Museum, Greenwich, London SE10 9NF. 081 312 6654.



STILL AT SEA

This is a review of the recommendations for the better protection of archaeological sites under water which the Joint Nautical Archaeology Policy Committee published in *Heritage at Sea* in May 1989.

Significant progress has been made during these four years. Credit is due to the appropriate Government departments. The Department of National Heritage minister, Robert Key, has acknowledged that archaeological sites under water are just as important as those on land (speech at Medieval Europe Conference, September 1992). Historic Scotland and the Historic Monuments and Buildings Branch for Northern Ireland have included the underwater cultural heritage within their spheres of operation. Historic Scotland has allocated rescue archaeology funds to the Duart Point wreck site.

There are now more people engaged in assessing maritime archaeological sites and the threats to them than before and there are more professional contacts with land archaeology and coastal management. It is, however, clear that there are still important strategic issues that need to be resolved before the principle underlying the *Heritage at Sea* proposals, that archaeological sites under water should receive no less protection than those on land, is fully satisfied.

This paper recapitulates the *Heritage at Sea* recommendations and the response which the Government made to them in December 1990. It reports on subsequent progress and the remaining problems. Furthermore it outlines the areas in which JNAPC still has work to do and the areas in which JNAPC continues to seek change.

1. LEGISLATION

1989 recommendation: New legislation, specifically drafted for the protection of underwater archaeological sites and the artefacts associated with them, and covering all aspects of the underwater cultural heritage, should be enacted as soon as possible.

Government response: The Government considers that the provisions of the Protection of Wrecks Act have served quite well. It is not convinced that serious damage is done to archaeological material, nor that important material is being lost to public collections, simply as a result of the requirements of salvage law. It intends to keep the working of the legislation under review.

JNAPC produced a paper in 1991 criticising the effects of the Merchant Shipping Act, 1894. This was debated with officials of DOE (prior to the responsibility passing to DNH) and DTp and misunderstandings on both sides were aired. This led to the joint initiative of producing an explanation for divers and the general public of what the law on wreck and wrecks actually says and how it is administered. It is anticipated that this paper, *Wreck Laws Explained*, will be distributed soon.

While JNAPC appreciates the efforts made by DNH and DTp to clarify current implementation of the 1894 Act, it remains firmly of the opinion that the Act is fundamentally unsuitable for dealing with archaeological material.

The aim of integrating archaeology under water with archaeology on land will be furthered by greater use of the Ancient Monuments and Archaeological Areas Act 1979 to schedule sites under water. This would also serve to integrate the treatment of remains associated

with ships with treatment of archaeological material from under water which is not wreck. The 1979 Act provides for scheduling of monuments in the territorial sea (s. 53), and refers specifically to vessels (s.61(7)(c)). Preference for the 1973 Act, stated in 1979, is no longer relevant as the context of the division of departmental responsibilities has been resolved. Use of the 1973 Act should be restricted to sites in circumstances where prohibition of unlicensed activity is absolutely necessary.

JNAPC supports the introduction of comprehensive Portable Antiquities legislation, with equal application to archaeological material irrespective of the environment in which it was discovered.

In the short term JNAPC wants to see the co-ordinated application of the Protection of Wrecks Act, the Ancient Monuments and Archaeological Areas Act and prospective Portable Antiquities legislation to achieve optimum protection for underwater sites and their contents. Legislation should be seen as an element of a comprehensive management strategy.

JNAPC is firmly of the opinion that legislative change is necessary and inevitable. British legislation needs to be comprehensively revised to take an integrated approach to land and underwater sites and to meet the changing situation in underwater archaeology. JNAPC will continue to research and prepare proposals for the strategic aims of future legislation in the light of experience here and abroad. EEC directives, the Council of Europe and a number of European countries have modified, advised or made changes in legislation relating to maritime heritage and the Government should take an initiative to change the present outmoded laws in Britain rather than wait until external pressure forces action.

2. INVENTORY OF UNDERWATER SITES

1989 recommendation: An inventory of underwater sites within territorial waters should be compiled and maintained at a national and local level. A set of criteria for assessing the importance of sites should be established and the sites should be graded accordingly.

Government response: The Government accepted that for better management and preservation of underwater sites we need to improve our knowledge of where they are and what they comprise. In the White paper, *This Common Inheritance*, published in September 1990, it was announced that funding would be provided for the Royal Commission on the Historical Monuments of England for three years to begin work on an inventory.

The Royal Commission carried out a one-year pilot study in co-operation with the Isle of Wight and Hampshire County Councils. From this a data standard was developed which is now being used to record shipwrecks and areas of archaeological importance within a coastal limit of 12 miles and before a cut-off date of 1945. This is a considerable achievement. Northern Ireland will be funding a maritime inventory post from Autumn 1993. Parallel records are being planned for Scotland and Wales but lack of resources has held up development there. JNAPC believes that additional support should be made available to encourage the rapid and comprehensive introduction of Maritime Archaeological Records in Scotland and Wales.

JNAPC considers that the funding of the record needs to be maintained on a permanent basis and extended to provide for the validation, assessment and categorisation of the individual records which is required to turn the database into an effective management tool.

There is still an urgent need for the development of local marine archaeological records, by County Archaeological Officers and their equivalents. JNAPC regards the extension of local authority Sites and Monument Records to include areas below low water as necessary to meet the requirements of Government policy laid out in PPG 20. JNAPC supports the recommendation of RCHME that SMRs be given statutory status, and strongly urges that their scope be extended to the 12-mile limit. JNAPC seeks assurance that, whatever changes are to be made to the framework of local government, SMRs will be protected and marine sites will be included in them.

3. RECEIVER'S FEES

1989 recommendation: The payments, required by the Merchant Shipping Act 1894, of fees and VAT, based on the market value of items raised from the seabed, should be waived in the case of items which are to be kept in publicly accessible collections. This should include all finds from sites which are statutorily protected.

Government response: The initial response said that legislation would be required to abolish the requirement to pay commission to Receivers of Wreck but that the Department of Transport was looking into this possibility and an announcement will be made when it has reached its conclusion. As the result of a change of policy, recorded in Hansard for 6 March 1991, from April 1991 Receivers' fees ceased to be collected.

Since 1989 the Receiver of Wreck service for the whole of the United Kingdom has contracted to one individual. This is discussed below in section 7.

4. MITIGATING DAMAGE BY COMMERCIAL SEABED OPERATIONS

1989 recommendation: Commercial seabed operators and statutory undertakers active on the seabed should be encouraged to carry out archaeological implication surveys before the seabed is disturbed and co-operate with archaeologists during potentially destructive work. They should be encouraged to contribute to the costs of rescue excavation of threatened sites.

Government response: The Government declared a willingness to collaborate in developing a code of practice. DNH has financed a connected study by the Hampshire and Wight Trust for Maritime Archaeology.

JNAPC has drafted a Code of Practice for seabed operators, on similar lines to that for land developers. This has received support from DNH and has already done much to encourage a dialogue between developers and archaeologists. JNAPC will make proposals as to how the mechanism for its operation can be set in place; seek endorsement for the Code from archaeological bodies, and distribute it. JNAPC considers that, in the longer term, the codes for underwater and land development should be merged.

A Code of Practice can only be one element in development control. The Government has come to the position that development control through the planning process is the central element for protecting and managing archaeology. There is a need for clarification of the relationship between PPG 16 and the measures which local planning authorities are encouraged to take in PPG 20 and for specialised advice to cover the archaeological implications of PPG 20.

