

From: XXX
Sent: 14 October 2014 14:09
To: XXXXXXXXXXXXXXX
Subject: JNAPC Update

Dear Members and Observers

At the recent JNAPC meeting I was asked to circulate the following information:

1. A copy of the letter from Mr Ed Vaizey to Sir Barry Cunliffe confirming the forthcoming cross-departmental review of the Impact Report on the UNESCO Convention (attached)
2. The NAS letter to Current World Archaeology (attached)
3. An updated list of members and observers with some corrections (attached)
4. Information on the forthcoming lecture by Ryan Harris at the British Library on 1 December on the finding of one of Franklin's lost ships <http://www.bl.uk/whatson/events/event165753.html>
5. The press release about Mark Gordon succeeding Greg Stemm as CEO of Odyssey, which is copied below. Further information is available on the report [Form 8-K / Current Report](#). The press release makes no mention of HMS Victory 1744 in future plans and Odyssey Explorer is currently offshore Charleston, South Carolina, where she has been recovering artefacts from the SS Central America.

Best wishes

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9 July 2014

Our Ref: 251635/mc/03

Professor Sir Barry Cunliffe CBE FBA FSA
Chair, The British Academy

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Dear Sir Barry,

Thank you for your email of 19 June regarding UK ratification of the 2001 UNESCO
Convention for Underwater Cultural Heritage.

I can confirm that I have seen and noted with great interest the Impact Report and its
conclusions, and also the recommendations set out in The British Academy/Honor Frost
Foundation Briefing Note.

I have asked my officials to lead an internal cross-government review to consider the
findings of the Impact Report. As you know there are several Government Departments,
including the Devolved Administrations, with an interest in marine matters and all
previous concerns will need be fully considered, including the possible need for policy,
process and legislative changes, if it is then decided that the UK should indeed ratify the
2001 UNESCO Convention. This piece of work is expected to commence in the autumn.

Unfortunately I am unable to meet at this current time, but I hope the above reassures
you that this important matter will shortly be receiving attention.

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Ed Vaizey MP
Minister for Culture, Communications and Creative Industries





Dear Sir,

The Nautical Archaeology Society would like to respond to the numerous factual inaccuracies in Dr Sean Kingsley's special report in the August/September edition of *Current World Archaeology*.

Dr. Kingsley implies that should the UK ratify the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage a number of obligations and restrictions will then be introduced into the management of the UK's marine archaeology. These apparently new restrictions include '*in situ preservation shall be considered as the first option*', '*intrusive work must be minimal*', '*unnecessary disturbance of human remains avoided*', '*marine life not unduly disturbed*', '*project designs need to be submitted*', '*project funding must be secured for all stages*', and '*underwater cultural heritage cannot be traded, sold, or bartered as commercial goods*'.

In fact, as Dr. Kingsley should know from his attendance, as the archaeological adviser to the Maritime Heritage Foundation, at meetings of the Advisory Panel for *HMS Victory 1744* these obligations have in fact been in place for the UK since 2008. While the UK has not ratified the 2001 Convention, it adopted the Rules in the Annex to the Convention as UK government policy for Underwater Cultural Heritage (UCH) in 2008. In 2009 the Marine & Coastal Access Act (MACAA) introduced, with effect from 6th April 2011, the requirement within the UK Marine Area for authorisation, by way of marine licence, for all disturbance of the seabed or the deposition or recovery of objects by mechanical means or floating container. In determining whether or not a marine licence is granted the relevant authority must have regard to the UK's policy for UCH (the Rules).

In short the Rules complained of by Dr. Kingsley have been operative in the UK Marine Area (out to the limits of the UK continental shelf) since April 2011 and this operation continues, irrespective of whether or not the UK decides to ratify the 2001 Convention. What Dr. Kingsley terms "... *most radical changes to management* ..." of the UK's UCH were in effect introduced by adopting the Rules as government policy in 2008 and by MACAA in 2009, almost completely transforming thereby the regulatory framework for authorising intrusive seabed operations, including marine archaeology. Ratifying the 2001 Convention would therefore add no further change to the UK's current position.

Nor is it the case that diving teams licensed by English Heritage will be adversely affected by the UK ratifying the 2001 Convention. Monitoring and surveying activities are not '*activities directed at*' UCH within the meaning of the Rules and it is for this reason that English Heritage does not require such activities to be supervised by a qualified marine archaeologist. Furthermore, under the Rules avocational team members need only to be qualified and have demonstrated competence to the extent it is '*appropriate to their project role*', a requirement of competence which has long existed under the Protection of Wrecks Act 1973.

Since the UK's adoption of the 2001 Convention's Rules in 2008 all activities on Protected Wrecks licensed by English Heritage have been 100% compliant with those



Rules and there is no necessity for the Government to 'sidestep' any of the Rules in its continued support for the invaluable work of these avocational teams. Conversely it is very unfortunate that Dr. Kingsley's erroneous assertions have caused unnecessary anxiety for these voluntary teams.

Dr Kingsley's suggestion that there would be a need to protect thousands more wrecks, and as a result the costs to Government would escalate is also unfounded. The recent wholly independent and objective Impact Review of the 2001 Convention concluded that ratification would not require the UK to designate more wrecks under the Protection of Wrecks Act 1973 or under any other legislation. All the 2001 Convention requires is that the Rules be applied to activities directed at UCH, i.e. activities having UCH as their primary object and which are directly or indirectly likely to result in disturbance or damage. Therefore with no increase in the number of protected wreck sites there would be no increase in costs. Neither will the 'umbilical cord' with the law of salvage be cut, as Dr. Kingsley asserts. Salvage awards have never been available to those who merely 'find' UCH, only to those who successfully recover it. The 2001 Convention expressly preserves the entitlement to salvage services, provided such salvage is authorised and in conformity with the Convention. As the removal of objects from the seabed within the UK Marine Area requires authorisation under the MACAA, such salvage has, since April 2011, required such authorisation and adherence to government policy (the Rules) anyway.

Had Dr. Kingsley's views been aired prior to the UK's adoption of the Rules in 2008 or the enactment of MACAA in 2009 they may perhaps have constituted a contribution to public debate. As it is they are redundant by some 5 years and now merely serve to misinform.

There are several sound technical and legal reasons why the UK would benefit by signing the 2001 Convention, especially in relation to the protection of the numerous historic wrecks in which the UK has an interest and which lie in international waters or the maritime zones of other States. However, as far as the UK Marine Area is concerned, for the purpose of archaeological operations, the UK is largely already compliant with the 2001 Convention. The adoption of the Rules to the Convention as an instrument of maritime heritage policy in 2008 and the enactment of MACAA in 2009 radically changed the regulatory framework in the manner Dr. Kingsley so fears. It would appear that the change was so painless that Dr. Kingsley failed to notice.

Yours faithfully,

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Chair, Nautical Archaeology Society

