

Facts for Feds:

*a briefing service of the Federal Preservation Institute,
National Park Service
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U.S. International Policy on Submerged Cultural Resources

Summary: A new statement on U.S. policy for international protection of sunken warships, military aircraft, and other government property was published in the Federal Register on February 5, 2004. First, it reconfirms the original policy statement made in 2001 that recognizes and supports the preservation and protection of other nations' governmental property underwater, wherever it's located and regardless of the passage of time. Then second, it provides notice from the governments of France, Germany, Japan, the Russian Federation, Spain, and the United Kingdom about their respective national policies. Contact information is listed for anyone who believes they have located or wishes to salvage a sunken vessel.

Issue: When the Abandoned Shipwreck Act (ASA) became Federal law in 1988, the national importance of maritime heritage preservation and protection was defined. Cooperation and partnerships among Federal agencies, States, and public or private interests were encouraged for management, study, interpretation, educational programs, and recreational access. Formal guidelines to implement the ASA were finalized by 1991. They acknowledged the principal of "sovereign immunity" in international law which preserves each nation's title in their governmental ships and property. Anyone interested in those types of shipwrecks must consult with the Department of State regarding other nations' policies for preservation and protection.

By the late 1990s there had been several significant developments in shipwreck preservation that were the result of efforts involving nations such as France, Spain, Germany, and the United Kingdom. Among the earliest and most extensive was the cooperation between France and the U.S. to preserve and study the *CSS Alabama*, a Confederate raider that had been sunk by the *USS Kearsarge* off the French coast during the American Civil War. These kinds of cooperative experiences and the universal critical need to protect wrecks as hallowed graves have provided the bases upon which different nations have crafted their policies.

As part of a Presidential Statement on January 19, 2001, the U.S. policy for reciprocal recognition of international rights in preservation and protection of sunken State craft was declared. This new publication in the Federal Register serves to specify how the U.S. policy toward other nations will be implemented.

Status: For the first time, the U.S. has provided public notice about the elements of other nations' policies for protection of maritime heritage. This action is consistent with Federal and international law which always has recognized the sovereign immunity of a nation's governmental property on and under the sea. Now, citizens and governmental agencies have been given clear guidance on steps to take whenever historic wrecks or other materials belonging to six different nations are discovered. It also confirms that generally the U.S. will protect the sunken State craft of all nations and that the U.S. expects others to acknowledge the title we retain for our own maritime heritage. The new policy statement will help improve the work of State submerged lands offices who manage bottomlands out to the 3-mile limit, known as the Territorial Sea. It provides help to the various Federal agencies which are responsible for other zones out to the 200-mile limit and the Outer Continental Shelf. (See illustration)

The new policy statement will provide significant benefit to Admiralty Courts by clarifying U.S. objectives, and will be essential to anyone who wants to obtain legal decisions in Admiralty Court pertaining to salvage or finds claims. Until now, those decisions have been rendered primarily without reference to nations' policies because notice of such actions in Admiralty typically are not tendered to embassies and claimants may be unaware of these recognized international rights.

Point of contact: The attached Federal Register notice provides specific contact information. For general information and other nations not listed--

Office of Ocean Affairs, U.S. Department of State, 2201 C Street, NW, Washington, DC 20520; 202-433-2729

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For further information about FPI, contact Constance Werner Ramirez, Director, telephone 202-354-6967 or email <constance_ramirez@nps.gov>. Also, find us on the web at <<http://www.ncptt.nps.gov/fpi>>.

