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FORUM

New Portuguese legislation on management of the underwater cultural heritage

FRANCISCO J.S. ALVES AND FILIPE CASTRO

A NEW LAW FOR THE UNDERWATER CULTURAL HERITAGE

In 1997, with the publication of Decree-Law 117/97, May 14th, and Decree-Law 164/97, June 27th, the government of Portugal sharply revised the philosophy it had previously adopted for the management of the underwater cultural heritage.

The first Decree established the complete autonomy of archaeology within the Ministry of Culture by creating the new Instituto Português de Arqueologia (IPA). Before this, all issues related to archaeology had been handled by a department within the larger Instituto Português do Património Arquitectónico e Arqueológico (IPPAR), which had complete responsibility for the cultural heritage as a whole. For nautical and underwater archaeology, the IPA includes a specific body, the Centro Nacional de Arqueologia Náutica e Subaquática (CNANS), which is autonomous, with its own personnel and budget.

The second Decree pertains to the management of the underwater cultural heritage and repealed a previous one issued in August 1993 (Decree-Law 289/93, August 21st), that opened up broad opportunities for salvage companies and treasure hunters, triggering a reaction of outrage from the scientific community. Conflicting with the established principles of modern archaeology, this law was immediately contested by a pressure movement led by the nonprofit organization Arqueonáutica, which organized a public debate over this issue [1]. The media showed strong interest in this debate, which was enriched by the

scandalous disclosure of the close relationship between the lawyer, and deputy in the Portuguese Parliament, who wrote the law and one of the world's most famous treasure hunters. The treasure hunter was bidding against other companies to gain concessions for commercial exploitation of potentially treasure-laden wrecks in Portuguese waters, thus 'profiting from the excellent business opportunities associated with this activity'.

The 1997 law represented a return to the scientific and ethical principles of archaeology, definitively avoiding the contradiction between profit and science by excluding the first from the legal framework. Secondly, it extended this approach to all archaeological objects of a nautical nature, even those lying in 'dry' environments, such as the wrecks found in the construction works for a new subway line in Lisbon near the river Tagus, in an area that is known to have been flooded until the late sixteenth/early seventeenth century. Thirdly, it applied a new philosophy to the question of accidental finds. Traditionally entitled to half the market value of the objects found, recovered and handed over to the authorities, the finders are from now on discouraged from touching their finds, having only to report them, not to recover them, to be eligible to receive the reward. As for the payments, together with the traditional half of the market value of the objects found, a reward has been established for the discovery of coherent contexts, based on their scientific importance. Finally, fines and criminal penalties for the destruction of the underwater cultural heritage were increased.

RECENT DISCOVERIES UNDER THE NEW LAW

The publication of the 1993 treasure-hunting legislation caused a complete stoppage of work on underwater archaeology in Portugal. That summer there had been some interesting projects, sponsored by the Museu Nacional de Arqueologia (MNA), with the support of Arqueonáutica. Among these was the establishment of an underwater archaeological itinerary on the site of the *Océan*, a French warship wrecked in 1759 off the coast of the Algarve, plundered at the beginning of the 1970s and chosen at the beginning of the 1980s as an ideal site for underwater archaeology education. This project can be considered a major success, promoting awareness of the importance of the underwater cultural heritage among scuba divers [2]. Another project carried out by the MNA with the support of Arqueonáutica involved a large group of seventeenth-century culverins found in Algarve waters by scuba divers [3].

After the publication of the 1993 law, the bleak prospects for the future of underwater archaeology in Portugal were presented at the Giardini Naxos meeting in Italy [4]. A political impasse followed and 1994 and 1995 were 'zero' years for this discipline in Portugal [5].

With the general political change that followed elections at the end of 1995, it finally became possible to initiate a new policy on underwater cultural heritage, and to recover lost time. In the previous political and cultural context, IPPAR had delayed for one and a half years its support for the excavation of the remains of a coastal trading ship. Dating from the middle of the fifteenth century [6], this vessel had been identified in 1994 by the MNA, in conjunction with Arqueonáutica, near the city of Aveiro and was designated the *Ria de Aveiro A*. The excavation of the *Ria de Aveiro A* wreck finally started at the beginning of 1996, following the signing of a protocol by the University of Aveiro and IPPAR, with the support of the Junta Nacional para a Investigação Científica e Tecnológica (JNICT) and the EU PRAXIS XXI programme. In the 1997 campaign, the interior of this wreck was completely excavated and all the frames were recovered. The rear half of the hull, with its cargo of earthenware [7] and nuts, was almost intact. This small coastal trader, around 20m

long, is the oldest and most complete example of the Iberian-Atlantic ship construction tradition in the world.

In 1995, still under the previous political and cultural regime, and in 1996, a wreck was brought to light at Cais do Sodré during construction work on a new subway line in Lisbon. It was lying perpendicular to the axis of the huge gallery of a future subway station: the concrete walls had cut cleanly through its bow and stern structures [8]. However, 24m of undisturbed keel were preserved, together with 40 pairs of floor timbers and futtocks. The structure was lying on its port side and had been damaged amidships by the digging machines, revealing nevertheless 23 frames to the stern part and 17 to the bow. In spite of repeated appeals from the late Professor Octavio Lixa Filgueiras and Arqueonáutica, and the excellent cooperation of both the contractor and the subway authority, this structure was considered 're-cent' by those responsible at IPPAR and left to dry out without any special care (this was during the period of the most heated discussions over the treasure-hunting legislation). No samples were taken for radiocarbon dating. Later analyses would indicate a date in the second half of the fifteenth/early sixteenth century.

A second find was made in the Lisbon subway works at the beginning of 1996, during the construction of a large ventilation shaft in the Largo do Corpo Santo. The very small-scale remains (about 1.8 x 1.6m in size) corresponded to the lower part of the sternpost of a wreck and its inner reinforcement, the stern knee, where three peak-floors ('Y' frames) and five planks were still attached. This wreck, dated by the radiocarbon method to the mid-fourteenth century, is the oldest Iberian-Atlantic ship known to be built using the skeleton-first technique, with a centre-plate rudder [9].

This important set of finds was completed at the end of the summer of 1997 by the discovery of a set of large timbers prepared for use, found in the famous shipyard of the Ribeira das Naus during nearby construction works for an underground car park at Praça do Município in Lisbon. These timbers were pre-cut as frames and keel parts and were certainly stored to be utilized later. These timbers are now at the CNANS for study and publication.

São Julião da Barra

In 1996, even before the publication of the new legislation referred to above, the Commissioner of the Pavilion of Portugal in the World Exposition, Expo'98, decided to trigger the reorganization process by adopting the theme of the Carreira das Índias for its museum exhibition programme. It launched the excavation of a zone (previously recognized by the Museu Nacional de Arqueologia, once again with the support of Arqueonáutica) where the *nau* (carrack) named *Nossa Senhora dos Mártires* was known to have been lost in 1606, and where, in 1994, the remains of a strong hull were spotted buried in the sand. This location is at the mouth of the Tagus river, where a dangerous rocky headland, the site of a fortress with the same name, São Julião da Barra, made the entrance difficult for all ships, squeezing an already narrow channel against a sand bank, the Cachopo Norte, on the outside. São Julião da Barra is certainly the most important ship graveyard on the Portuguese coast.

The excavation process started under IPPAR administration was directed by the authors, and made use of the infrastructure for underwater archaeology prepared and developed by the MNA during the previous 15 years. The São Julião da Barra project started late, at the end of October 1996, with a considerable delay, and was affected by a very bad winter, giving the team an opportunity to understand how difficult it must have been in the past to overcome such an obstacle as this passage at the entry of the Tagus.

However, the surprising results soon followed – the identification of an important part of the hull of a *nau* of heavy tonnage, with part of a further 12 floor timbers and futtocks preserved. Between these frames, a muddy silt, mixed with pepper, housed the remains of two little wicker baskets. The remains of this hull, probably that of the *Nossa Senhora dos Mártires*, wrecked precisely at this spot in October 1606 while returning from Cochin, rapidly revealed its importance for the comparative study of the Iberian-Atlantic ship construction tradition [10]. A small area of around 100m² was excavated around this hull and yielded an interesting collection of artefacts: shards of earthenware and stoneware from China, Burma, Thailand and Japan,

complete porcelain dishes from the Wan-li period of the Ming Dynasty, Chinese pots, coconuts, but also cannons, cannonballs, lead shot and copper and pewter kitchenware. Three astrolabes – two of them found during the excavations – two dividers and more than 10 sounding leads were recovered as well. One of the astrolabes displays the mark 'G' from the Francisco Góis factory and the date '1605', when the armada of Brás Telles de Meneses departed, in which the *Nossa Senhora dos Mártires* left for Cochin.

Further projects

A final word from the Azores. From September 1996 to February 1997 a team of archaeologists performed the first phase of a survey operation where a tourist boat harbour is about to be built. Five wrecks were located in this small area. Although some are more recent [11], two of them – found in the exact location of the future harbour's wall – were dated by the radiocarbon method to the late fifteenth/early sixteenth century [12]. The rescue programme for these two wrecks started in March 1998.

Additionally, in response to many invitations, the Institute of Nautical Archaeology (of Texas A&M University, USA), under the direction of Professor Kevin Crisman, has performed the first of a long-needed series of survey operations around Terceira Island; it is hoped that this will be extended to other islands of the Azores archipelago.

PUBLICATION AND DISSEMINATION

As a result of these interesting projects, the CNANS will see its work on São Julião da Barra published in 1998 [10] and the preliminary reports of the three other main sites will appear in a single monograph [6]. As a consequence of these discoveries and the associated studies, the CNANS organized a round table meeting, held in Lisbon in September 1998 during EXPO'98, with the title 'Archaeology of medieval and modern ships in the Iberian-Atlantic tradition – towards a comparative approach to architectural remains with regard to manuscript sources and ethnographic evidence'.

With all this activity in under two years, along with dozens of as yet uninvestigated accidental finds reported over the last two decades, the Centro Nacional de Arqueologia Náutica e Subaquática cannot complain of lack of opportunities for Portugal's newly reinvigorated underwater archaeology sector.

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