

Public Summary

Report of the Joint Expert Meeting on the Appreciation (track II) of the Dutch Shipwrecks in the Java Sea

Introduction

During the Battle of the Java Sea (27 February - 1 March 1942) several warships of the Combined Strike Force of the former ABDA Command were sunk in the Java Sea and the Sunda Strait. In November 2016, independent divers reported the disappearance of the Dutch shipwrecks of Hr.Ms. de Ruyter, Hr.Ms. Java and Hr.Ms. Kortenaer (partial).

During their meeting on 23 November 2016, President Widodo of Indonesia and Prime Minister Rutte of the Netherlands agreed on a joint effort to clarify the circumstances of the disappearance of the shipwrecks and to cooperate on future management. A three-tracked approach was agreed upon by both governments:

- 1) Verification on the location and condition of the disappearance;
- 2) Appreciation of what happened and its legal status; and
- 3) Future Cooperation to manage remaining sites.

After completion of track 1 (concluding amongst others that salvaging had occurred on all three locations), track 2 was intended to provide clarity on what could have happened to the three shipwrecks, including an appreciation in legal terms. An expert meeting was convened, followed by discussions the weeks following. These discussions have led to the conclusions presented in this summary. Track 3, on future cooperation, has been ongoing since the start of the process and has already resulted in signing a Memorandum of Understanding between Indonesia and the Netherlands.

Scope

Activities under track 2 focused on answering at the following questions:

1. What could have happened to the wrecks?
2. What is the legal status of these wrecks? (under international and domestic law)
3. What arrangement should be made to cooperate smoothly in preservation and management of maritime cultural heritage in the future?

A Joint Expert Meeting took place with subject matter experts. The Indonesian experts consisted of experts from the Indonesian Ministry of Foreign Affairs, Center of Hydrography and Oceanography (Navy), Ministry of Transportation, Coordinating Ministry of Maritime Affairs, Ministry of Marine Affairs and Fisheries, Center of National Archeology (Ministry of Education and Culture), Center of Maritime Cultural Preservation (Ministry of Education and Culture), and Ministry of Research, Technology and Higher Education. From the Netherlands experts from the Ministry of Foreign Affairs, Ministry of Defence and the Cultural Heritage Agency (part of the Ministry of Education, Culture and Science) took part.

Discussion and result

Through the joint expert meeting, it was established that:

1. In concurrence with the Report of track I that the shipwrecks were salvaged.
2. It is most probable that the salvage operations were done with high-end equipment by breaking up the shipwrecks and lifting the parts to the surface.
3. The salvage (or at least a large part of it) likely happened in a period of maximum 6 months before November 2016.
4. Relevant authorities in Indonesia have researched the matter and concluded that:
 - no salvage permit has been issued in 2015 or 2016, either for the three sites in question or for areas in the immediate vicinity.
 - harbor masters from ports near the sites have filed no reports of irregularities in 2016.

- No other suspicious activities were reported or recorded, in part because the sites were not under surveillance prior to the report of the disappearance.
- There is low probability that the scrap metal of these three wrecks was sold on the local market in Indonesia.

The joint expert meeting concluded that the wrecks had most probably been illegally salvaged and the scrap metal was conveyed to an unknown location by a vessel without permit or other form of authorization from the Indonesian authorities. It has not been possible to identify the illegal salvagers or the landing place. As the exact location of the wrecks of these warships was not known to the Indonesian authorities before November 2016, no specific data were kept regarding surveillance and activities in the said areas prior to this period.

Future cooperation and protection

On 7 July 2017, a notice to mariners was published based at the request of the Dutch government (letter from the Ministry of Education, Culture and Science) and at the recommendation of the Indonesian Ministry of Foreign Affairs. The Hydrographic and Oceanography Office of the Indonesian Navy marked the three locations on the nautical charts as 'historic wreck'. This means that it is now prohibited to dive, anchor or fish at the three sites. Wreck sites are marked on nautical charts for safety and navigational purposes only. Indonesia and the Netherlands are looking into how the wreck sites can be further protected as cultural heritage sites and how they can be designated as places of remembrance.

Indonesia and the Netherlands discussed the different positions concerning immunity and jurisdiction of the three warship wrecks and noted that further arrangements should be made to determine how both flag state and coastal states are engaged in any activities concerning shipwrecks. Depending on the available information of the wreck site, age of the wrecks and aim for future management, the flag state can request that a site be registered as a historic wreck on nautical charts, registration as a cultural heritage site and/or maritime conservation area. In the case of the latter two categories a prior survey is required. The different procedures for protection and registration of cultural heritage sites are being mapped for future reference.

Recommendations and next steps

The Joint Expert Meeting recommended that:

- the joint Indonesian-Dutch on-site survey as part of track 3 moves ahead, as suggested in the report of Track 1;
- implementation of the existing MoU between the Ministry of Education and Culture of the Republic of Indonesia and the Ministry of Education, Culture and Science of the Netherlands in the field of culture includes further arrangements to determine how both flag state and coastal state will be engaged in any activities concerning Dutch shipwrecks;
- the exact procedures for research, registration, preservation and management of shipwrecks in which the Netherlands has an interest are discussed further;
- Indonesia will provide the Netherlands with information on the procedures applicable under Indonesian domestic law relevant to sites containing wrecks of warships constituting war graves. With respect to activities concerning these wrecks, the Netherlands and Indonesia will make arrangements to facilitate these activities in accordance with applicable international and domestic law.
- stakeholders are informed about relevant permits for activities concerning shipwrecks in accordance with Indonesian domestic law. ;

To facilitate the above, a bilateral interdepartmental working group has been established that will draft an agreement setting out the further arrangements for research, registration, preservation and management of shipwrecks in which the Netherlands has an interest. This will include arrangements on the wreck sites of the De Ruyter, Java, Kortenaer, the sharing of information and the registration of sites of Dutch shipwrecks.

