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# INTERNATIONAL LAW STUDIES

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## The Attack on the Vasily Bekh and Targeting Logistics Ships

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99 INT'L L. STUD. 537 (2022)

Volume 99



2022

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*Published by the Stockton Center for International Law*

ISSN 2375-2831

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The thoughts and opinions expressed are those of the author and not necessarily those of the U.S. government, the U.S. Department of the Navy, or the U.S. Naval War College.

## I. INTRODUCTION

On June 17, 2022, Ukrainian forces successfully used a U.S.-supplied Harpoon anti-ship cruise missile to attack and sink a Russian resupply ship that “almost certainly” carried weapons and reinforcements bound for Snake Island in the Black Sea.<sup>1</sup> Two weeks later, on June 30, Russian troops evacuated the small outpost.<sup>2</sup> Moscow had claimed the retreat from Snake Island was a “gesture of goodwill” in advance of recognizing a humanitarian corridor to permit the safe export of grain from Ukraine. But Ukraine said the Russians were forced out as their position on the barren rock had become untenable without logistical support. Ukraine raised its flag on Snake Island on July 4.<sup>3</sup>

The setback for Russia was apparently tied to the oldest of military challenges—force sustainment during combat. The capture of Snake Island may help Ukraine to position anti-ship cruise missiles south of Odessa to weaken the Russian stranglehold on the port city.<sup>4</sup>

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1. Stephen McIlkenny, *Ukraine Conflict: MoD Confirm Destruction of Russian Vessel Near Snake Island as Ukrainian Forces “Neutralise Russia’s Ability to Establish Sea Control,”* THE SCOTSMAN (June 21, 2022, 10:47 AM), <https://www.scotsman.com/news/world/ukraine-conflict-mod-confirm-destruction-of-russian-vessel-near-snake-island-as-ukrainian-forces-neutralise-russias-ability-to-establish-sea-control-3739250>; see Heather Mongilio, *DoD: Ukraine Sinks Russian Supply Ship With Harpoon Missile*, USNI NEWS (July 1, 2022, 4:56 PM), [https://news.usni.org/2022/07/01/dod-ukraine-sinks-russian-supply-ship-with-harpoon-missile?utm\\_source=USNI+News&utm\\_campaign=ea45d08f55-USNI\\_NEWS\\_DAILY&utm\\_medium=email&utm\\_term=0\\_0dd4a1450b-ea45d08f55-230852577&mc\\_cid=ea45d08f55&mc\\_cid=962cf58401](https://news.usni.org/2022/07/01/dod-ukraine-sinks-russian-supply-ship-with-harpoon-missile?utm_source=USNI+News&utm_campaign=ea45d08f55-USNI_NEWS_DAILY&utm_medium=email&utm_term=0_0dd4a1450b-ea45d08f55-230852577&mc_cid=ea45d08f55&mc_cid=962cf58401).

2. Mary Ilyushina et al., *Russian Forces Withdraw From Ukraine’s Snake Island*, WASHINGTON POST (June 30, 2022, 3:08 PM EDT), <https://www.washingtonpost.com/world/2022/06/30/russia-withdraw-snake-island-ukraine-war/>.

3. David Harding, *Ukraine Raises Its Flag Over Snake Island Once Again*, THE INDEPENDENT (July 4, 2022, 4:10 PM), <https://www.independent.co.uk/news/world/europe/ukraine-raises-flag-over-snake-island-b2115350.html>.

4. See Agence France-Presse, *Russia Quits Snake Island, In Blow to Blockade of Ukraine Ports*, FRANCE24.COM (June 30, 2022), <https://www.france24.com/en/live-news/20220630-russia-quits-snake-island-in-blow-to-blockade-of-ukraine-ports>.

## II. THE ATTACK

The resupply ship that never reached Russian forces on the island is believed to be the Russian naval tugboat *Spasatel Vasily Bekh*.<sup>5</sup> The ship had a loaded displacement of 1670 tons. Part of the Black Sea Fleet, the *Vasily Bekh* was launched in 2016 and commissioned in 2017.<sup>6</sup> The tugboat is designed to provide towing services for ships in distress, firefighting at sea and ashore, freshwater and electrical supply to other vessels, and to evacuate injured personnel. It carried a complement of twenty crewmembers with capacity for thirty-six more people and could carry tons of supplies.

Coming after the sinking of the Black Sea flagship *Moskva* on April 14,<sup>7</sup> the strike on the *Vasily Bekh* underscores the Russian Navy's inability to establish sea control in the western area of the Black Sea. The *Moskva* was the largest Russian warship damaged by enemy fire since 1941, when the Luftwaffe damaged a Soviet battleship in Kronshtadt.<sup>8</sup> The Russian withdrawal from Snake Island also demonstrates the importance of combat logistics. While Russia maintains internal lines of communication that can feed the Russian war machine inside Ukraine, the Russian element that occupied Snake Island had to be supplied from the sea, raising questions about the rules for targeting ships supporting the armed forces in war.

## III. TARGETING COMBAT LOGISTICS

As a Russian Navy tugboat, the *Vasily Bekh* was a public vessel and naval auxiliary of the armed forces, and therefore was lawfully subject to attack by the armed forces of Ukraine.<sup>9</sup> Auxiliary vessels are not warships, but they are owned or under the exclusive operation or control of the armed forces.<sup>10</sup>

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5. McIlkenny, *supra* note 1.

6. *Rescue Tug Spasatel Vasily Bekh (SB-739)*, KCHF.RU: BLACK SEA FLEET, <https://www.kchf.ru/eng/ship/rescue/sb739.htm> (last visited Aug. 29, 2022).

7. *See generally* Carole Landry, *The Sinking of the Moskva*, NEW YORK TIMES (Apr. 14, 2022), <https://www.nytimes.com/2022/04/14/briefing/russia-ukraine-war-flagship-mari-upol.html>.

8. *See Factbox: The "Moskva," Russia's Lost Black Sea Fleet Flagship*, REUTERS (Apr. 14, 2022, 7:00 PM EDT), <https://www.reuters.com/world/europe/moskva-russias-lost-black-sea-fleet-flagship-2022-04-14/>.

9. *See generally* U.S. NAVY, U.S. MARINE CORPS & U.S. COAST GUARD, NWP 1-14M/MCTP 11-10B/COMDTPUB P5800.7A, THE COMMANDER'S HANDBOOK ON THE LAW OF NAVAL OPERATIONS ¶ 8.6.1 (2022).

10. *Id.* ¶ 2.3.1.

Such State owned or State operated ships are used for the time being only on government non-commercial service and provide support to military forces, including provision of troops, fuel, armament, ammunition, and other supplies into the combat zone. They can also be used as floating bases and sustainment platforms for some types of naval operations, such as mine countermeasures.

Auxiliaries are under the command of a civilian master rather than a naval officer. While they enjoy sovereign immunity, they are not protected from attack during armed conflict. Civilian mariner crew members of such ships are accredited to the armed forces and if captured are protected as prisoners of war.<sup>11</sup> If naval auxiliaries are captured, title to the ship vests immediately in the captor government and they may be converted directly for use by the enemy as war booty without the requirement to go through a prize court in admiralty.<sup>12</sup> Unlike warships, however, naval auxiliaries are not entitled to belligerent rights at sea, such as the right to capture enemy merchant ships as prize or the right to attack the enemy.<sup>13</sup>

#### IV. TARGETING CIVILIAN MERCHANT SHIPS

In light of the shortfall in naval logistics and force sustainment during the current conflict, Russia has been exploring options for optimizing a mixture of public and private ships to meet fleet combat requirements. On May 20, Russian Deputy Prime Minister Yury Borisov stated that Russia is reviewing its naval doctrine to expand the role of the Russian-flagged merchant fleet in support of the armed forces.

Merchant ships are those vessels not owned or operated exclusively by the State and are engaged in normal commercial trade, fishing, passenger transportation, and other non-military operations. The experience of the Russian Navy during the current “special military operation” in Ukraine illustrates the value of employing civilian vessels as a force multiplier to the Military-Maritime Fleet (Voyenno-Morskoy Flot—VMF). Borisov stated that all Russian-flagged commercial ships should be built or refurbished so that they are dual-use vessels normally involved in civilian trade but called up to aid the Russian Navy when necessary. Although the civilian fleet has always been available to supplement the Russian Navy during armed conflict,

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11. *Id.* ¶ 11.6.

12. *Id.* ¶ 8.6.1.

13. *Id.* ¶ 2.2.1.1.

Admiral Vladimir Valuyev, a former commander of Russia's Baltic Fleet, said the change in policy could facilitate the transition.

As the Russian Navy turns toward its merchant fleet to provide combat logistics, it raises a different set of rules than those that apply to naval auxiliaries. During armed conflict at sea, enemy-flagged merchant ships, or neutral merchant ships owned or operating on behalf of the enemy, have enemy character.<sup>14</sup> This status means that they are liable to prize capture by opposing belligerent forces anywhere outside of neutral territorial seas. These ships are subject to capture if they are enemy flagged or are owned or operated by the enemy but flagged in a neutral State. Enemy merchant ships may be diverted by belligerent forces to a designated port or may be captured at sea with a prize crew installed. The documents of the captured vessel, including the log and cargo manifest, should be secured. These papers should be used in court proceedings during prize adjudication. Unlike in the case of captured naval auxiliaries, prize adjudication is required before an enemy merchant ship can be converted to the use of the enemy. When military circumstances prevent capture and adjudication as prize the merchant ships may be destroyed after all possible measures have been taken to provide for the safety of passengers and crew.<sup>15</sup>

While naval auxiliaries may be targeted at all times outside of neutral internal waters and territorial seas based on their status as part of the enemy fleet, enemy merchant ships are liable to attack only if they take a direct part in the hostilities or take action against enemy vessels and aircraft. Likewise, if the Russian naval forces use merchant ships flagged in a neutral State those vessels may also be liable to capture as prize or attacked as lawful targets if they resist visit and search or take a direct part in hostilities.

Merchant vessels that are owned or controlled by a belligerent possess enemy character and are liable to prize capture.<sup>16</sup> (Neutral ships that resist the belligerent right of visit and search to determine the enemy character of the ship or cargo also acquire enemy character). Neutral merchant vessels taking a direct part in the hostilities on the side of the enemy or acting in any capacity as a naval or military auxiliary to the enemy forces are subject to attack.<sup>17</sup>

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14. *Id.* ¶ 7.5.

15. *Id.* ¶ 8.6.2.1.

16. *Id.* ¶ 7.5.2.

17. *Id.* ¶ 7.5.1.

## V. CONCLUSION

The strike on the *Vasily Bekh* highlights the importance of logistics ships in armed conflict, the status of these vessels during armed conflict, and the rules for their prize capture or targeting. Naval auxiliaries like the *Vasily Bekh* are public vessels of the armed forces. Such ships may be targeted during armed conflict due to their status alone. The U.S. Military Sealift Command also operates dedicated naval auxiliaries that perform a variety of support functions, and they too are liable to attack (or capture as war booty). The U.S. Military Sealift Command operates strategic sealift auxiliaries to supply the force, including container ships, dry cargo and ammunition, and roll-on/roll-off ships, and other combat support ships to ensure the flow of forces in theater. Like the *Vasily Bekh*, these ships are subject to attack in an armed conflict and protecting them from Russian submarines would pose a defining challenge to NATO defensive operations.

Russia's plans to leverage greater support from merchant ships also implicates the law of naval warfare. Russian-flagged merchant ships are liable to capture by Ukrainian naval forces, and they may be converted to use after adjudication of prize in a court of admiralty jurisdiction.

The Russian merchant fleet has 1,155 ships and 7.7 million deadweight tons and could serve as an effective force multiplier for the Russian military services.<sup>18</sup> China's merchant fleet is among the top ten largest in the world, with almost ninety-two million deadweight tons and 5,130 ships.<sup>19</sup> Decimated by uncompetitive costs of operation resulting from the Jones Act, the U.S. fleet is shockingly small and shrinking. The number of U.S. oceangoing commercial ships in the U.S. merchant fleet fell from 282 vessels to 182 ships since 2000.<sup>20</sup> This means that while Russia and China can supplement their auxiliary naval forces with national-flagged merchant ships, the United States would find that option more challenging.

This situation is ironic because unlike Russia and China, which enjoy internal lines of communication, U.S. requirements for force replenishment

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18. *Russian-Flagged Fleet Numbers 1,155 Cargo Ships With Total Deadweight of 7.7 Million Tonnes*, PORTNEWS (July 27, 2020), [https://en.portnews.ru/news/299357/#:~:text=As%20of%201%20July%202020,CNIIMF\)%2C%20told%20IAA%20PortNews.](https://en.portnews.ru/news/299357/#:~:text=As%20of%201%20July%202020,CNIIMF)%2C%20told%20IAA%20PortNews.)

19. *Top 10 Flag States 2020*, LLOYD'S LIST (Dec. 3, 2020), [https://lloydslist.maritimeintelligence.informa.com/LL1134965/Top-10-flag-states-2020.](https://lloydslist.maritimeintelligence.informa.com/LL1134965/Top-10-flag-states-2020)

20. Loren Thompson, *Dwindling U.S. Merchant Fleet Is a Crisis Waiting to Happen*, FORBES (Oct. 8, 2019, 9:55 AM EDT), [https://www.forbes.com/sites/lorenthompson/2021/10/08/dwindling-us-merchant-fleet-is-a-crisis-waiting-to-happen/?sh=665295a52a8d.](https://www.forbes.com/sites/lorenthompson/2021/10/08/dwindling-us-merchant-fleet-is-a-crisis-waiting-to-happen/?sh=665295a52a8d)

depend on a massive logistical flow to Asia and Europe. American forces operate forward, along the first island chain running from Japan to the Philippines, and on NATO's eastern border in Europe. Sustainment of these forces likely would require merchant shipping. Like Russia, the United States may also resort to contracts with merchant carriers to provide force sustainment. These merchant ships would also be liable to capture by the enemy during armed conflict, and they may be attacked and destroyed if they resist capture.