INTRODUCTION

Submarine communications cables route approximately 97 per cent of the world’s data traffic and provide essential services such as the internet, phone and banking services. They have undoubtedly become critical communications infrastructure. An intentional attack on international submarine cables could cause devastating damage to the world’s economy and to the security of many States. Yet a significant number of States do not have legislation in place making it a crime to intentionally damage submarine cables for personal or political gain. Further, while there are currently global conventions that make it an ‘international crime’ to intentionally damage or destroy airports, international aviation facilities,1 lighthouses and other aids to international maritime navigation,2 there is no global convention that makes it an international crime to intentionally damage or destroy international submarine cables.

The purpose of this Chapter is to examine the gaps and loopholes in the current legal regime governing the protection of submarine cables from terrorist attacks and other intentional acts that damage or destroy cables. It calls on States to amend their domestic legislation to make it a criminal offence to intentionally destroy or damage international submarine cables, and for States to support a global convention to establish a cooperative regime to combat intentional acts.

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against submarine cable networks. Part I will examine the incidents of intentional damage to submarine cables and Part II will discuss general principles of criminal jurisdiction, as many attacks against submarine cables will occur outside the territory of any State. Part III will explore the adequacy of the legal regime established in the 1982 UN Convention on the Law of the Sea (UNCLOS) and Part IV sets out recommendations on what steps can be taken to protect submarine cables from intentional damage. Part V discusses recent developments and increasing recognition of the threat to submarine cables and Part VI sets out some conclusions.

I. INCIDENTS OF INTENTIONAL DAMAGE TO SUBMARINE CABLES

The large majority of cable breaks are caused by negligence resulting from fishing and shipping activities or from natural hazards such as earthquakes and typhoons. There have, however, been several isolated incidents of intentional damage being caused to submarine cables. For example, on 23 March 2007, at least two vessels were involved in hostile activities on the high seas against the TVH cable system involving the removal of 98 km of cable, and against the APCN cable system involving the removal of 79 km of cable, including critical optical amplifiers. A cable repair vessel arrived at the scene and photographed one of the vessels, which was registered in Vietnam, in the act of removing the cable. The extensive nature of the damage was such that repairs could not be completed for three months because new amplifiers had to be built at a factory. In November 2007, there was a report of intentional sabotage of a cable in Bangladesh, which resulted in a total loss of communications for at least one week. In addition, there have also been reports of cable theft in Jamaica in 2008, and a 2010 attack by separatists against the beach manhole connection of a submarine cable system linking the Philippines with Japan. In March 2013, it was reported that 16 tons of submarine cables laid on the seabed between Bangka Island and the

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6 Ibid.