Security of International Submarine Cable Infrastructure:

Time to Rethink?

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Abstract

Today's submarine cables form the backbone of an international network and are of strategic importance to the global economy. This network is designed to be resilient, however, there are threats that can disrupt the activities that we take for granted, such as the internet, telephone, use of ATMs and flight booking. These threats include those that are manmade such as fishing activities, ships anchors and emerging acts of piracy through to natural events such as earthquakes and landslides. The cable owners undertake activities during the planning, implementation and operation to minimize the impact of such threats. However when faults do occur it is important that they are repaired as soon as possible. This paper discusses some of the issues and looks at the role of UNCLOS and government in the repair of cables. It also covers examples where emergency repairs have been delayed due to the requirement for permits and suggests opportunities for improvement.

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\textsuperscript{3} ICPC Ltd, formerly known as in the International Cable Protection Committee, ("ICPC") is an organization of approximately 80 companies and administrations from about 40 nations which own or operate the world's submarine cable networks. The ICPC fosters international cooperation in best engineering and cable protection practices and observance of international law for submarine cables. For more information, see www.iscpc.org
Introduction

As an emerging phenomenon, the legal status of high seas submarine cable depredation is not addressed in historical precedent or other legal literature. Events in March 2007 in Southeast Asia have intensified the need to build a legal response consisting of both preventative and remedial measures for cable owners whose cable experiences depredation or destruction.

Given the relative novelty of the offense, a necessary precondition to enforcement is to situate submarine cable depredation on the high seas within the existing framework of international maritime regulation. The United Nations Convention on the Law of the Sea (UNCLOS) offers a comprehensive and widely accepted repository of international maritime obligations.

Submarine cables are vital infrastructure to the global economy and the world's political system. Besides cable owner victim compensation, an evaluation of the difficulties experienced in finding timely and adequate responses by the international community demonstrates that diplomatic work is urgently required to (1) allow rapid intervention in accordance with international law by available naval forces on the high seas to protect submarine cables systems and (2) to allow for repair vessels to exercise internationally recognized rights to repair damaged cables outside of territorial seas without coastal State

4 "High seas" here refers to those waters beyond a State's territorial sea. Under UNCLOS, a State's territorial sea cannot exceed 12 nautical miles ("NM"). Within a State's territorial sea, its domestic law would apply to depredation, injury, or piracy directed against submarine cables. An examination of applicable law in Vietnam is beyond the scope of this paper, but it was reported in the press that under Vietnam's Penal Code, articles 138 and 231, theft of a fiber optic cable is punishable by three years in prison or even the death penalty. VietnamNet Bridge, "Telecom cable thieves face tough penalties," May 31, 2007. To date there have been no reports of any arrests of either persons or vessels.