LOSC PROVIDES A COMPREHENSIVE LEGAL REGIME FOR INTERNATIONAL COMMUNICATIONS ACROSS ALL MARITIME BOUNDARIES IN THE OCEANS.

- Art. 21-Territorial seas
- Art. 51-Archipelagic seas
- Art. 58-Exclusive Economic Zone
- Art. 79-Continental shelf
- Art’s 87, 112-115-high seas
- Art. 297-Compulsory dispute resolution
UNCLOS (3)  
3 Nautical Miles

Territorial Sea

12 Nautical Miles

Contiguous Zone

24 Nautical Miles

Exclusive Economic Zone

UNCLOS (57)  
200 Nautical Miles

UNCLOS (87,112-115)

High Seas

Depth in meters

0

1000

2000

3000

4000

5000

Ocean

Continental crust (granite)

Oceanic crust (basalt)

Land

UNCLOS (79,113-115)

GCCS (4)

GCHS (26-30) High Seas

UNCLOS (33)

UNCLOS (58, 113-115)
LOSC BEDROCK

• LOSC PROVIDES THE LEGAL UNDERPINNING FOR ALL OF THE WORLD’S UNDERSEA TELECOMMUNICATIONS.

• OVER 95% OF US INTERNATIONAL INTERNET COMMUNICATIONS DEPEND UPON ABOUT 35 INTERNATIONAL CABLES, EACH THE SIZE OF A GARDEN HOSE.

• LOSC ALSO PROVIDES LEGAL UNDERPINNING FOR USE OF THE OCEANS BY MILITARY, POWER, AND SCIENTIFIC CABLES.
LEGAL ISSUE: REPAIR PERMITS

- Substantial majority of States require no permits for repairs outside of territorial seas.
- In those States that do require permits it takes up to 6 weeks to obtain permits to repair each failure
  - Uncertainty
- While awaiting repair, related undersea cables are at greater risk for catastrophic double failures.
  - Future delays could prolong communications outages
- Major issue with key economies.
  - APECTEL (February 2009)
  - Pilot program with industry and SOA-Beijing Workshop May 2009 (China, Australia, Japan, Korea, Singapore)
  - Singapore workshop December 2009-(ASEAN + China, Australia, New Zealand, India)
  - Confidence building measures
LEGAL ISSUE: TAXES AND FEES FOR CABLE TRANSIT OF INTERNATIONAL WATERS

- US UNABLE TO HELP US TELECOM COMPANIES-CAN’T DEMAND ENFORCEMENT WHEN US IS NOT A PARTY

- US PRESENCE IS A BURDEN BECAUSE OF NON-COMPLIANCE-US TELECOM COMPANIES WORK WITH STATES WHO ARE PARTIES.

- COASTAL STATE ENCROACHMENT – TAXATION OF INTERNATIONAL CABLES THAT TRANSIT INTERNATIONAL WATERS
LEGAL ISSUE: DOMESTIC LAW COMPLIANCE WITH LOSC

- Many States have no domestic laws implementing LOSC requirements under Article 113.

- Other States have obsolete domestic laws, usually associated with the 1884 Cable Convention that need to be updated.

  - Obsolete, unenforceable?
  - Critical US infrastructure unprotected.
U.S. INTERESTS SUFFER

- US SETS POOR EXAMPLE AND LOSES THE HIGH GROUND.
- U.S. CAN NOT ENFORCE VITAL SECURITY GOALS ON CABLES.
- U.S. LACKS KEY LEVER FOR DIPLOMATIC EFFORTS.
Who’s in Charge?

• No one is in charge of US government submarine cable law and policy.

• Many agencies have a piece of the puzzle (FCC, DOD, DON, DCA, ACOE, DOC, DHS, NOAA (marine mammals, charting, NMS, Fisheries), DMA, DOS, CIA, NSA, DOJ, state ocean and environmental agencies).

• But no one agency is in charge!

• International problem – not just U.S.
Conflicting Agency Interests

• No coordination mechanism.
• No tie breaker for competing or conflicting agency jurisdictions on rules.
• No international emergency action plans.
• KEY INDUSTRY GOAL IS TO GET A LEAD AGENCY (especially for hostile actions by international pirates and terrorists).
Questions?

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