Regulation of Continental Shelf Development: Rethinking International Standards

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Submarine telecommunication cables have a small footprint on the seabed.

Photo Courtesy Lonnie Hagadorn
Cable companies have contractually organized maintenance into 5 regional cooperative zones served by about 20 cable ships located at strategic base ports around the world to share costs and maximize repair efficiency.
Purpose built ships and barges accurately place cables on or beneath the seabed, guided by the route survey.

Power cables are larger than fibre-optic telecom cables, therefore a differently equipped cable ship is required for their installation.

Divers may be used to assist installation in shallow water.

Deep water laying may involve Remotely Operated Vehicles (ROVs).
Submarine power cables are used for off-shore alternative energy uses.

- Historically, submarine power cables linked shore-based power grids across bays, estuaries, rivers, straits, etc.
- Now submarine cables carry power between countries and to offshore installations, e.g. oil/gas platforms and ocean science observatories.
- Submarine cables also transfer power from offshore renewable energy schemes to shore, e.g. wind, wave, current and tidal systems.

Source: ELSAM Denmark and ICPC

Offshore wind farm, Kentish Flats, UK
Submarine power cables are used for off-shore alternative energy uses.

Photo courtesy of BP Gulf Fiber System www.gomfiber.com
Regimes Chart

- UNCLOS (3)
  - 3 Nautical Miles
  - Territorial Sea

- UNCLOS (33)
  - 12 Nautical Miles
  - Contiguous Zone
  - 24 Nautical Miles
  - Exclusive Economic Zone

- GCHS (26-30) High Seas

- UNCLOS (57)
  - 200 Nautical Miles
  - 0 Depth in meters

- UNCLOS (87,112-115)
  - High Seas

- UNCLOS (79,113-115)
  - Geological slope
  - Base of the slope
  - Oceanic crust (basalt)

- GCCS (4)
  - Continental crust (granite)

- UNCLOS (58, 113-115)
  - Territorial Sea
  - Contiguous Zone
  - Exclusive Economic Zone

- UNCLOS (57)
  - GCHS (26-30) High Seas

- UNCLOS (87,112-115)
  - High Seas
Article 78.

• **Legal status of the superjacent waters and air-space and the rights and freedoms of other States**
  - The rights of the coastal state over the continental shelf do not affect the legal status of the superjacent waters or of the airspace above those waters.
  - The legal exercise of the rights of the coastal State over the continental shelf **must not infringe or result in any unjustifiable interference with navigation and other rights and freedoms of other States as provided for in this Convention.**

[Emphasis added]
Article 79

• Submarine Cables on the Continental Shelf.
  ➢ All states are entitled to lay submarine cables and pipelines on the continental shelf, in accordance with the provisions of this article.
  ➢ Subject to its right to take reasonable measures for the exploration of the continental shelf, the exploitation of its natural resources and the prevention, resolution and control of pollution from pipelines, the coastal State may not impede the laying or maintenance of such cables or pipelines.
  ➢ The delineation of the course for the laying of such pipelines [but not cables] on the continental shelf is subject to the consent of the coastal State.
  ➢ Nothing in this part affects the right of the coastal State to establish conditions for cables or pipelines entering its territory or territorial sea, or its jurisdiction over cables and pipelines constructed or used in connection with the exploration of its resources or the operations of artificial island, installations and structures under its jurisdiction.
  ➢ When laying submarine cables or pipelines, States shall have due regard to cables or pipelines already in position. In particular, possibilities of repairing existing cables or pipelines shall not be prejudiced.

[Emphasis added]
Article 56

- **Rights, jurisdiction and duties of the coastal State in the exclusive economic zone**

  1. In the exclusive economic zone, the coastal State has:
     - (a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, *such as the production of energy from the water, currents and winds*;
     - (b) jurisdiction as provided for in the relevant provisions of this Convention with regard to:
       » (i) the establishment and use of artificial islands, installations and structures;
       » (ii) marine scientific research;
       » (iii) the protection and preservation of the marine environment;
     - (c) other rights and duties provided for in this Convention.

  2. In exercising its rights and performing its duties under this Convention in the exclusive economic zone, the coastal State shall have due regard to the rights and duties of other States and shall act in a manner compatible with the provisions of this Convention.

  3. The rights set out in this article with respect to the seabed and subsoil shall be exercised in accordance with Part VI.
Article 58

- **Rights and duties of other States in the exclusive economic zone.**
  - In the exclusive economic zone all States, whether coastal or land-locked, enjoy, subject to the relevant provisions of this convention, the freedoms referred to in article 87 of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines, and compatible with the other provisions of this Convention.
  - Article 88 to 115 and other pertinent rules of international law apply to the exclusive economic zone in so far as they are not incompatible with this Part.
  - In exercising their rights and performing their duties under this Convention in the exclusive economic zone, States shall have *due regard* to the rights and duties of the coastal State and shall comply with the laws and regulations adopted by the coastal State in accordance with the provisions of this Convention and other rules of international law in so far as they are not incompatible with this Part.
Case Study 1 Malta
Europe India Gateway (EIG) international telecommunication cable system (2011) showing nations in green where landing permits are required.
Apprehension of Vessels Violating Provisions of MZI Act of 1976 and MOD Guidelines

1. In the recent past, there have been a marked increase in offshore exploration and production activities, resulting in a number of Indian and foreign (flagged/manned) chartered vessels operating in our EEZ. This has led to an increase in number of violations of laid down conditionalities as specified in Defense Clearance letter issued by Integrated Headquarters of MoD (Navy) from time to time, MoD Guidelines 1996 and MZI Act of 1976 and regulations in force. *It has also come to light that some vessels operate without valid security clearance.*

2. In order to sift the violator(s) from the rule-abiding ones, a system of periodic checks of vessels involved in “Exploration and Production” activities in the Indian Offshore region is being brought into force with effect from 15 June 06. *Under this system, vessels that are found to be operating without the necessary clearance will be escorted to harbor and handed over to the Coast Guard/Police for contravening the provision of the MZI Act of India, 1976.*

3. The above is for information and *compliance.* [Emphasis added.]
Case Study 3 China

Submarine Cable Repairs Beyond China's Territorial Sea
January 2005 - April 2009
AT&T 4/29/09

Notes:
1) Distances shown are measured from Baseline.
2) Baseline data from Global GIS Database maintained by General Dynamics Advanced Information Systems.
3) All repairs shown are outside Territorial Seas.
Coastal States should show due regard for the other States where international cables land.
Significant problems arise not in isolation but in cascading events and happenstance.
Case Study 4 United Kingdom
QUESTIONS?

North America
- Cincinnati
- Cleveland
- Columbus
- Houston
- Los Angeles
- Miami
- New York
- Northern Virginia
- Palo Alto
- Phoenix
- San Francisco
- Tampa
- Washington DC
- West Palm Beach

Latin America
- Bogotá+
- Buenos Aires+
- Caracas+
- La Paz+
- Lima+
- Panamá+
- Rio de Janeiro
- Santiago+
- Santo Domingo

Europe & Middle East
- Beirut+
- Berlin
- Birmingham
- Bratislava
- Brussels
- Bucharest+
- Budapest
- Frankfurt
- Kyiv
- Leeds
- London
- Madrid
- Manchester
- Moscow
- Paris
- Prague
- Riyadh+
- Riyadh+
- Singapore
- Tokyo
- Warsaw

Asia Pacific
- Beijing
- Hong Kong
- Perth
- Shanghai
- Singapore
- Tokyo