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Session 3: OVERVIEW OF BEIJING WORKSHOP AND FOCUS ON CABLE REPAIR ISSUES

Workshop on Submarine Cables & Law of the Sea
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DOUGLAS R. BURNETT
International Cable Law Adviser
Partner, Squire, Sanders & Dempsey
Dburnett@ssd.com

BEIJING WORKSHOP REPORT

7-8 MAY 2009 KEY POINTS

1. CABLES ARE CRITICAL INFRASTRUCTURE, VITAL TO THE SOCIAL AND ECONOMIC DEVELOPMENT OF EVERY STATE.
2. UNCLOS PROVIDES AN EFFECTIVE LEGAL REGIME OF INTERNATIONAL CABLE REPAIR BUT ITS PRACTICAL BENEFITS DEPEND UPON CLOSE COOPERATION BETWEEN INDUSTRY AND GOVERNMENTS.
3. STATES NEED TO IMPLEMENT OR MODERNIZE NATIONAL LEGISLATION TO COMPLY WITH UNCLOS OBLIGATIONS WITH RESPECT TO CRIMINAL AND CIVIL SANCTION FOR INJURY TO CABLES BY WILLFUL OR CULPABLE NEGLIGENT CONDUCT

BEIJING WORKSHOP REPORT 7-8 MAY 2009 KEY POINTS

4. STATES SHOULD WORK WITH INDUSTRY TO FULLY AND TIMELY EXPLOIT AIS ADVANTAGES IN IDENTIFYING CULPRIT VESSELS AND PREVENTING MULTIPLE FAULTS CAUSE BY THE SAME VESSEL.
5. STATES SHOULD CONSIDER HAVING A SINGLE POINT OF CONTACT FOR CABLE SECURITY AND REPAIR ISSUES. STATES SHOULD ALSO CONSIDER A "ONE WINDOW" APPROACH FOR CABLE ROUTE SURVEY AND LANDING PERMITS.
6. STATES SHOULD CONSIDER A PRE-APPROVAL AND NOTIFICATION BASIS FOR CABLE SHIPS DEDICATED TO REPAIR OPERATIONS TO AVOID PERMITS, DELAYS, AND COSTS.

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7. CABLE OPERATIONS IN AREAS OF OVERLAPPING MARITIME BOUNDARY CLAIMS NEED TO BE ADDRESSED WITH A VIEW TOWARD NEUTRALITY BY CABLE SHIPS AND CABLE OPERATORS OF NATIONAL POSITIONS WHILE PROMOTING PRACTICABLE AND EFFECTIVE CABLE OPERATIONS.
8. REGIONAL CABLE PROTECTION ORGANIZATIONS SHOULD BE CONSIDERED TO PROVIDE BETTER FOCUS ON LOCAL CONDITIONS AND PRACTICAL SOLUTIONS WITH NATIONAL GOVERNMENTS.
9. INDEMNITY PROCEDURES FOR SACRIFICED ANCHORS AND FISHING GEAR WERE DISCUSSED.
10. THE CURRENT INTERNATIONAL REGIME IS INADEQUATE TO DEAL WITH INTENTIONAL OR NEGLIGENT DESTRUCTION OF CABLES AND INTERFERENCE WITH CABLE SHIPS AND REPAIRS BY TERRORISTS AND PIRATES.

CABLE REPAIR ISSUES

- A significant majority of States require no permits to repair international cables
- States that do require permits may do so for (a) national security concerns and/or (b) natural resource concerns.

POSSIBLE PRACTICAL CONSIDERATIONS TO BE DISCUSSED

- Cable ships repairs and surveys are not involved in natural resource exploration or MSR, but are incident to the freedom to lay and maintain cables.
- When a State grants permission for a cable to be laid in its territory and seas, it is understood that during the life of the cable repairs may be necessary along the cable route and environmental issues can be addressed during that permit process instead of during a repair emergency.
- States benefit from timely, fast, and effective cable repairs because every cable serves as a restoration path for other cables and modern economies can ill afford disruption of their internet connections.
- Only cables-not satellites-can provide effective restoration

CABLE SHIP REPAIRS ARE TRANSPARENT TO NATIONAL GOVERNMENTS

- Cable ships are few in number, well known and conspicuous, with established base ports
- Cable ships provide full reports and data to all cable owners including landing parties.
- Cable ships can provide notification of cable reports to national governments and position updates by report or AIS.
- Cable repairs will necessarily be associated with a known cable route
- Cable ships have accommodations for a government observer if required.
- Cable ships already work closely with local coast guard and naval forces to coordinate repairs.
- SO IS A PERMIT REALLY NECESSARY?

A POSSIBLE PRACTICAL SOLUTION

ON A TRIAL BASIS FOR ONE YEAR FOR A DESIGNATED CABLE SHIP(S) FOR DESIGNATED CABLE SYSTEM (S), ENTER INTO AN MOU FOR PREAPPROVAL OF A CABLE SHIP FOR REPAIRS BETWEEN THE SHIP OPERATOR, THE CABLE SYSTEM MAINTENANCE AUTHORITY (MA) AND A NATIONAL GOVERNMENT(S).

THE MOU WOULD ESTABLISH:

- Conditions for pre-approval
- Notification protocols
- Vessel position reporting requirements
- Government observer opportunities for participating governments on a not to interfere with repair basis
- Transparent disclosure of repair reports to participating governments
- Review of the process after one year with a view to improving and extending the process

QUESTIONS

Douglas R. Burnett, Esq.

Squire, Sanders & Dempsey

30 Rockefeller Plaza

New York, New York 10112

Phone: +1.212.872.9820

Fax: +1.212.872.9815

Email: dburnett@ssd.com