



LEGAL
COUNSEL
WORLDWIDE

Session 7: DAMAGE TO SUBMARINE CABLES-THE CASE FOR HOLDING WRONGDOERS CIVILLY ACCOUNTABLE ICPC RECOMMENDATION NO. 6, SECTION 5.1

Workshop on Submarine Cables & Law of the Sea
Centre for International Law
Singapore, December 14-15, 2009

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5 ELEMENT CHECK LIST FOR SUCCESSFUL ADMIRALTY CIVIL CASE AGAINST A VESSEL

1. NOTICE OF CABLE LOCATION
2. CABLE CUT BY MECHANICAL MEANS
3. VESSEL IN THE VICINITY OF THE CABLE
BREAK AT APPROXIMATE TIME OF BREAK.
4. VESSEL ENGAGED IN ACTIVITIES CAPABLE
OF CAUSING DAMAGE
5. NO OTHER VESSELS NEAR THAT COULD
HAVE CAUSED THE DAMAGE.

1. NOTICE

THE VESSEL OR MASTER MUST HAVE NOTICE OF THE CABLES LOCATION.

- ACTUAL NOTICE-FLYERS, SHIP VISITS, CABLE PROTECTION CHARTS AND ELECTRONIC TEMPLATES OR OTHER DIRECT COMMUNICATIONS
- CONSTRUCTIVE NOTICE-NAUTICAL CHART SHOWING CABLE LOCATION (NOAA, BRITISH ADMIRALTY, FRENCH AND LOCAL CHARTS)

2. DAMAGE

THE CABLE DAMAGE MUST BE FROM UNNATURAL MEANS

- EXCLUDES EARTHQUAKES, STRUMMING AND OTHER NATURAL CAUSES
- MECHANICAL CONTACT
- CRITICAL TO PHOTOGRAPH, DOCUMENT, AND SAVE THE DAMAGED ENDS WITH A CHAIN OF CUSTODY

3. CULPRIT VESSEL PRESENT

CABLE OWNER MUST SHOW THAT THE CULPRIT VESSEL WAS NEAR THE CABLE BREAK WITHIN REASONABLE PROXIMITY AS TO BOTH TIME AND GEOGRAPHIC LOCATION

- SIGHTINGS BY OTHER VESSELS, CABLE PATROL SHIPS, CABLE PATROL AIRCRAFT, COASTAL RADAR WITNESSES
- SHIP'S LOG AND POSITION REPORT
- AIS CAN PROVIDE EXCELLENT SUPPORT HERE AS AN "ELECTRONIC WITNESS"!

4. VESSEL ENGAGED IN ACTIVITY THAT CAN CAUSE THE DAMAGE

- TRAWLING, ANCHORING, DREDGING
- LOG BOOKS, FISHING RECORDS, WITNESSES
- AIS MAY SHOW A PATTERN OF MOVEMENTS-TRAWL SETS AND RECOVERIES, HISTORICAL ACTIVITY IN THE AREA, SLOWING DOWN OR STATIONARY NEAR TIME OF BREAK.

RECOVERY OF DAMAGES = DETERRENCE

“TO: ALL CAPTAINS
FROM: *NAME OMITTED*
DATE: 10/12/90
RE: A.T.&T. CABLE WARNING

EFFECTIVE IMMEDIATELY:
**ALL CAPTAINS WILL BE HELD RESPONSIBLE FOR REACH
AND EVERY A.T.&T. WARNING LETTER RECEIVED
REGARDING *NAME OMITTED* VESSELS DANGEROUSLY
CLOSE TO A.T.&T. CABLES.
FURTHERMORE, RESPONSIBLE CAPTAINS WILL BE
FINED \$1,000 FOR THE FIRST WARNING INCIDENT AND
IMMEDIATELY DISMISSED FOR THE SECOND WARNING
INCIDENT.**

FURTHERMORE, ALL CAPTAINS ARE REQUIRED TO
RESPOND PROMPTLY AND COURTEOUSLY TO ALL
AIRPLANE RADIO COMMUNICATIONS EFFORTS.

NAME OMITTED, PRESIDENT”

ISSUES FOR PRIVATE ENFORCEMENT OF INTERNATIONAL LAW

- LACK OF DOMESTIC LEGISLATION TO ENFORCE UNCLOS CRIMINAL AND CIVIL MANDATES
- VESSEL ARREST PROCEDURE UNDER LOCAL ADMIRALTY COURT JURISDICTION NOT ALWAYS CLEAR
- CABLE PROTECTION NOT UNDERSTOOD BY COMPANY MANAGEMENT (ICPC RECOMMENDATION NO. 6)
- CABLE OWNERS NOT ACCUSTOMED TO FILING ADMIRALTY SUITS AND DON'T SEE INVESTMENT VALUE
- NATIONAL GOVERNMENTS DO NOT UNDERSTAND THE NEED FOR COOPERATION WITH CABLE OWNERS TO PROTECT VITAL INFRASTRUCTURE

QUESTIONS

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