

# CIL Workshop on Submarine Cables and the Law of the Sea

## Session 6. Criminal Liability for the Intentional Destruction or Damage of Submarine Cables or Submarine Cable Infrastructure, Theft of Submarine Cables and the Intentional Interference with Cable Ships Engaged in Cable Laying or Repair Activities

A New International Convention or Protocol

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# UN International Crimes Conventions

- 1971 Montreal Convention makes it an international crime to unlawfully and intentionally destroy or damage air navigation facilities.
- 1988 SUA Convention makes it an international crime to unlawfully and intentionally destroy or seriously damage maritime navigational facilities
- 1988 Protocol to the 1988 SUA Convention makes it an international crime to unlawfully and intentionally destroy or damage a fixed oil or gas platform

# Importance of Cable Infrastructure

- Submarine telecommunications cables are as vital to the global economy as the infrastructure for airports and maritime navigation or fixed oil and gas platforms
- It is in the common interest of all States to make criminal the intentional destruction of cable infrastructure wherever the act occurs, whatever the nationality of the perpetrators, and whatever their motive or purpose
- It is in the common interest of all States to co-operate to ensure that terrorists or other persons who intentionally and willfully destroy or damage submarine cables or cable infrastructure such as landing stations are arrested and prosecuted as criminals

# International Crimes Conventions

- All of the UN Conventions making certain acts “International Crimes” follow the same general scheme
- The Conventions are designed to ensure that States Parties cooperate with each other so that persons who commit offences under the conventions are arrested and prosecuted
- The Conventions in effect create “universal jurisdiction” among States Parties over the offences in the Convention, no matter where they take place
- The Conventions do not require a terrorist motive – the act is made criminal if it was intentional, whatever the motive of the offender

# Scheme of 1988 SUA Convention

1. States Parties must adopt laws making the offences defined in the 1988 SUA (hijacking of a ship) a crime under their domestic law, punishable by severe penalties
2. States Parties must establish jurisdiction of their Courts over the offence if it was committed:
  - (a) against or on board a ship flying its flag
  - (b) in its territory or territorial sea
  - (c) by a person who is its national
  - (d) by a person who is present in its territory

## Scheme of 1988 SUA Convention

3. Parties must take alleged offenders into custody if they are present in their territory
4. Parties must either extradite or prosecute the alleged offenders present in their territory
5. States Parties agree that they can extradite alleged offenders to another State Party even if they do not have a regular Extradition Treaty with that State Party
6. States Parties are obligated to afford one another the greatest measure of co-operation in connection with the criminal proceedings (providing witnesses, etc.)

# Proposed new SUA Protocol

- A new Convention (or a new Protocol to the 1988 SUA Convention) should be adopted by the international community
- The new convention or protocol should follow the same scheme as the 1988 SUA Convention
- The offence that should be made an international crime is:

**The wilful and intentional destruction or damage of submarine telecommunications cables or its infrastructure**

Thanks for your attention

Any Questions?