

**CIL Selected Documents on  
Submarine Cables**



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# I. Global Conventions

## A. 1884 Convention for the Protection of Submarine Telegraph Cables

*Adopted in Paris, France on 14 March 1884.*

Convention Between Great Britain, The Argentine Republic, Austria-Hungary, Belgium, Brazil, Colombia, Costa Rica, Denmark, The Dominican Republic, France, Germany, Greece, Guatemala, Italy, Netherlands, Persia, Portugal, Roumania, Russia, Salvador, Servia, Spain, Sweden And Norway, Turkey, United States And Uruguay, For The Protection Of Submarine Telegraph Cables

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, His Majesty the German Emperor, King of Prussia, His Excellency the President of the Argentine Confederation, His Majesty the Emperor of Austria, King of Bohemia, etc, and Apostolic King of Hungary, His Majesty the King of the Belgians, His Majesty the Emperor of Brazil, His Excellency the President of the Republic of Costa Rica, His Majesty the King of Denmark, His Excellency the President of the Dominican Republic, His Majesty the King of Spain, His Excellency the President of the United States of America, His Excellency the President of the United States of Colombia, His Excellency the President of the French Republic, His Excellency the President of the Republic of Guatemala, His Majesty the King of the Hellenes, His Majesty the King of Italy, His Majesty the Emperor of the Ottomans, His Majesty the King of the Netherlands, Grand Duke of Luxemburg, His Majesty the Shah of Persia, His Majesty the King of Portugal and the Algarves, His Majesty the King of

Roumania, His Majesty the Emperor of all the Russias, His Excellency the President of the Republic of Salvador, His Majesty the King of Servia, His Majesty the King of Sweden and of Norway and His Excellency the President of the Oriental Republic of the Uruguay, being desirous to secure the preservation of telegraphic communications made by means of submarine cables, have resolved to conclude a Convention for this purpose, and have named for their Plenipotentiaries, that is to say:

[Names of plenipotentiaries not listed here.]

Who, after having exchanged their full powers, found in good and due form, have agreed upon the following Articles:

### Article I

The present Convention applies outside territorial waters to all legally established submarine cables landed on the territories, colonies or possessions of one or more of the High Contracting Parties.

### Article II

It is a punishable offence to break or injure a submarine cable, wilfully or by culpable negligence, in such manner as might interrupt or obstruct telegraphic communication, either wholly or partially, such punishment being without prejudice to any civil action for damages.

This provision does not apply to cases where those who break or injure a cable do so with the lawful object of saving their lives or their ship, after they have taken every necessary precaution to avoid so breaking or injuring the cable.

### **Article III**

The High Contracting Parties undertake that, on granting a concession for landing a submarine cable, they will insist, so far as possible, upon proper measures of safety being taken, both as regards the track of the cable and its dimensions.

### **Article IV**

The owner of a cable who, on laying or repairing his own cable, breaks or injures another cable, must bear the cost of repairing the breakage or injury, without prejudice to the application, if need be, of Article II of the present Convention.

### **Article V**

Vessels engaged in laying or repairing submarine cables shall conform to the regulations as to signals which have been, or may be, adopted by mutual agreement among the High Contracting Parties, with the view of preventing collisions at sea.

When a ship engaged in repairing a cable exhibits the said signals, other vessels which see them, or are able to see them, shall withdraw to or keep beyond a distance of one nautical mile at least from the ship in question, so as not to interfere with her operations.

Fishing gear and nets shall be kept at the same distance.

Nevertheless, fishing vessels which see, or are able to see, a telegraph-ship exhibiting the said signals, shall be allowed a period of 24 hours at most within which to obey the notice so given, during which time they shall not be interfered with in any way.

The operations of the telegraph-ships shall be completed as quickly as possible.

### **Article VI**

Vessels which see, or are able to see, the buoys showing the position of a cable when the latter is being laid, is out of order, or is broken, shall keep beyond a distance of one-quarter of a nautical mile at least from the said buoys.

Fishing nets and gear shall be kept at the same distance.

### **Article VII**

Owners of ships or vessels who can prove that they have sacrificed an anchor, a net, or other fishing gear in order to avoid injuring a submarine cable, shall receive compensation from the owner of the cable.

In order to establish a claim to such compensation, a statement, supported by the evidence of the crew, should, whenever possible, be drawn up immediately after the occurrence; and the master must, within 24 hours after his return to or next putting into port, make a declaration to the proper authorities.

The latter shall communicate the information to the consular authorities of the country to which the owner of the cable belongs.

**Article VIII**

The tribunals competent to take cognizance of infractions of the present Convention are those of the country to which the vessel on board of which the offence was committed belongs.

It is, moreover, understood that, in cases where the provisions in the previous paragraph cannot apply, offences against the present Convention will be dealt with in each of the Contracting States in accordance, so far as the subjects and citizens of those States respectively are concerned, with the general rules of criminal jurisdiction prescribed by the laws of that particular State, or by international treaties.

**Article IX**

Prosecutions for infractions provided against by Articles II, V and VI of the present Convention shall be instituted by the State, or in its name.

**Article X**

Offences against the present Convention may be verified by all means of proof allowed by the legislation of the country of the court. When the officers commanding the ships of war, or ships specially commissioned for the purpose by one of the High Contracting Parties, have reason to believe that an infraction of the measures provided for in the present Convention has been committed by a vessel other than a vessel of war, they may demand from the captain or master the production of the official documents proving the nationality of the said vessel. The fact of such document having been exhibited shall then be endorsed upon

it immediately. Further, formal statements of the facts may be prepared by the said officers, whatever may be the nationality of the vessel incriminated. These formal statements shall be drawn up in the form and in the language used in the country to which the officer making them belongs; they may be considered, in the country where they are adduced, as evidence in accordance with the laws of that country. The accused and the witnesses shall have the right to add, or to have added thereto, in their own language, any explanations they may consider useful. These declarations shall be duly signed.

**Article XI**

The proceedings and trial in cases of infraction of the provisions of the present Convention shall always take place as summarily as the laws and regulations in force will permit.

**Article XII**

The High Contracting Parties engage to take or to propose to their respective legislatures the necessary measures for insuring the execution of the present Convention, and especially for punishing, by either fine or imprisonment, or both, those who contravene the provisions of Articles II, V and VI.

**Article XIII**

The High Contracting Parties will communicate to each other laws already made, or which may hereafter be made, in their respective countries, relating to the object of the present Convention.

**Article XIV**

States which have not signed the present Convention may adhere to it on making a request to that effect. This adhesion shall be notified through the diplomatic channel to the Government of the French Republic, and by the latter to the other Signatory Powers.

**Article XV**

It is understood that the stipulations of the present Convention do not in any way restrict the freedom of action of belligerents.

**Article XVI**

The present Convention shall be brought into force on a day to be agreed upon by the High Contracting Powers.<sup>1</sup>

It shall remain in force for five years from that day, and unless any of the High Contracting Parties have announced, 12 months before the expiration of the said period of five years, its intention to terminate its operation, it shall continue in force for a period of one year, and so on from year to year.

If one of the Signatory Powers denounces the Convention, such denunciation shall have effect only as regards that Power.

**ARTICLE XVII**

The present Convention shall be ratified, and the ratifications exchanged at Paris with

<sup>1</sup> The Convention entered into force for Queensland, South Australia and Victoria, and generally, 1 May 1888 pursuant to Final Protocol of 7 July 1887 (see text following).

as little delay as possible, and, at the latest, at the expiration of a year.<sup>2</sup>

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the same, and have affixed thereto their seals.

DONE in 26 copies, at Paris, the 14th day of March 1884.

[Signatures not reproduced here.]<sup>3</sup>

**Additional Article (British Colonies And Possessions)**

The stipulations of the Convention concluded under today's date for the protection of submarine cables shall be applicable, in conformity with Article I, to the colonies and possessions of Her Britannic Majesty, with the exception of those hereinafter mentioned, namely:

Canada  
Newfoundland  
The Cape  
Natal  
New South Wales  
Victoria  
Queensland  
Tasmania  
South Australia  
Western Australia  
New Zealand

<sup>2</sup> Instruments of ratification were exchanged 16 March 1885.

<sup>3</sup> Signed for Great Britain 14 March 1884 with the following declaration:

“Her Majesty's Government takes Article XV to mean that in time of war, a belligerent, who is signatory to the Convention, will be free to act, with respect to submarine cables, as if the Convention did not exist.”



Provided always that the stipulations of the said Convention shall be applicable to any of the above-named colonies or possession on whose behalf notice to that effect shall have been given by Her Britannic Majesty's representative at Paris to the French Minister for Foreign Affairs.<sup>4</sup>

Each of the above-named colonies or possessions which may have acceded to the said Convention shall be at liberty to withdraw from it in the same manner as the Powers parties to it. In the event of any of the said colonies or possessions desiring to withdraw from the Convention, a notification to that effect shall be made by Her Britannic Majesty's representative at Paris to the French Minister for Foreign Affairs.

DONE in 26 copies, at Paris, the 14th day of March, 1884.

**Declaration, explanatory of Article II and IV, of the plenipotentiaries of the signatory governments of the convention for the protection of submarine telegraph cables of 14 March 1884**

The undersigned plenipotentiaries of the Signatory Governments of the Convention of 14 March 1884 for the protection of submarine cables, having recognized the expediency of stating precisely the meaning of the terms of Articles II and IV of the said Convention, have agreed upon the following Declaration by common consent:

Certain doubts having been raised as to the meaning of the word "wilfully" used in Article II of the Convention of 14 March 1884, it is understood that the provision in respect of penal responsibility contained in the said Article does not apply to cases of breakage or injury caused accidentally or of necessity in the repair of a cable, when all precautions have been taken to avoid such breakage or injury.

It is equally understood that Article IV of the Convention had no other object and is to have no other effect than to empower the competent tribunals of each country to decide in conformity with their laws and according to the circumstances, the question of the civil responsibility of the owner of a cable, who, in laying or repairing his own cable, breaks or injures another cable, as well as the consequences of such responsibility if it is recognized as existing.

DONE at Paris, 1st December, 1886.

4 Acceded to by South Australia 30 May 1885, Victoria 17 October 1885, Queensland 29 July 1886 and New South Wales, Tasmania and Western Australia 23 September 1888. Entry into force for New South Wales, Tasmania and Western Australia 23 September 1888. Applied to Australia following Federation in 1901.

**Protocol, respecting the date on which the convention should be put into force, signed by the plenipotentiaries of the signatory governments of the convention for the protection of submarine telegraph cables of 14 March 1884**

The undersigned plenipotentiaries of the Signatory Governments of the Convention of 14 March 1884 for the protection of submarine cables, assembled at Paris for the purpose of fixing, in accordance with Article XVI of this international act, the date for the putting into force of the said Convention, have agreed as follows:

1. The International Convention of 14 March 1884 for the protection of submarine cables, shall come into force 1 May 1888, with the condition, however, that upon that date those of the Contracting Governments, which have not yet adopted the measures stipulated by Article XII of the said international act, shall have conformed to that stipulation.
2. The measures that shall have been taken by the said States in execution of Article XII aforesaid shall be notified to the other Contracting Powers by the French Government, who are charged with the examination of their purport.
3. The Government of the French Republic is equally charged with the examination of similar legislative measures or regulations which the States who have not taken part in the Convention, and who wish to avail themselves of the power of accession provided by Article XIV, must adopt in their respective countries, in accordance with Article XII.

IN WITNESS WHEREOF, the undersigned plenipotentiaries have drawn up the present final Protocol, which shall be considered as forming an integral part of the International Convention of 14 March 1884.

## B. 1958 Convention on the High Seas

*Adopted at Geneva, Switzerland on 29 April 1958.*

*The States Parties to this Convention,*

DESIRING to codify the rules of international law relating to the high seas,

RECOGNIZING that the United Nations Conference on the Law of the Sea, held at Geneva from 24 February to 27 April 1958, adopted the following provisions as generally declaratory of established principles of international law,

HAVE agreed as follows:

### Article 1

The term "high seas" means all parts of the sea that are not included in the territorial sea or in the internal waters of a State.

### Article 2

The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty. Freedom of the high seas is exercised under the conditions laid down by these articles and by the other rules of international law. It comprises, inter alia, both for coastal and non-coastal States:

- (1) Freedom of navigation;
- (2) Freedom of fishing;
- (3) Freedom to lay submarine cables and pipelines;
- (4) Freedom to fly over the high seas.

These freedoms, and others which are recognized by the general principles of international law, shall be exercised by all

States with reasonable regard to the interests of other States in their exercise of the freedom of the high seas.

### Article 3

1. In order to enjoy the freedom of the seas on equal terms with coastal States, States having no sea-coast should have free access to the sea. To this end, States situated between the sea and a State having no sea-coast shall by common agreement with the latter, and in conformity with existing international conventions, accord:
  - (a) To the State having no sea-coast, on a basis of reciprocity, free transit through their territory; and
  - (b) To ships flying the flag of that State treatment equal to that accorded to their own ships, or to the ships of any other States, as regards access to seaports and the use of such ports.
2. States situated between the sea and a State having no sea-coast shall settle, by mutual agreement with the latter, and taking into account the rights of the coastal State or State of transit and the special conditions of the State having no sea-coast, all matters relating to freedom of transit and equal treatment in ports, in case such States are not already parties to existing international conventions.

**Article 4**

Every State, whether coastal or not, has the right to sail ships under its flag on the high seas.

**Article 5**

1. Each State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship; in particular, the State must effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.
2. Each State shall issue to ships to which it has granted the right to fly its flag documents to that effect.

**Article 6**

1. Ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in these articles, shall be subject to its exclusive jurisdiction on the high seas. A ship may not change its flag during a voyage or while in a port of call, save in the case of a real transfer of ownership or change of registry.
2. A ship which sails under the flags of two or more States, using them according to convenience, may not claim any of the nationalities in question with respect to any other State, and may be assimilated to a ship without nationality.

**Article 7**

The provisions of the preceding articles do not prejudice the question of ships employed on the official service of an inter-governmental organization flying the flag of the organization.

**Article 8**

1. Warships on the high seas have complete immunity from the jurisdiction of any State other than the flag State.
2. For the purposes of these articles, the term "warship" means a ship belonging to the naval forces of a State and bearing the external marks distinguishing warships of its nationality, under the command of an officer duly commissioned by the government and whose name appears in the Navy List, and manned by a crew who are under regular naval discipline.

**Article 9**

Ships owned or operated by a State and used only on government non-commercial service shall, on the high seas, have complete immunity from the jurisdiction of any State other than the flag State.

**Article 10**

1. Every State shall take such measures for ships under its flag as are necessary to ensure safety at sea with regard *inter alia* to:
  - (a) The use of signals, the maintenance of communications and the prevention of collisions;

- (b) The manning of ships and labour conditions for crews taking into account the applicable international labour instruments;
  - (c) The construction, equipment and seaworthiness of ships.
2. In taking such measures each State is required to conform to generally accepted international standards and to take any steps which may be necessary to ensure their observance.

#### Article 11

1. In the event of a collision or of any other incident of navigation concerning a ship on the high seas, involving the penal or disciplinary responsibility of the master or of any other person in the service of the ship, no penal or disciplinary proceedings may be instituted against such persons except before the judicial or administrative authorities either of the flag State or of the State of which such person is a national.
2. In disciplinary matters, the State which has issued a master's certificate or a certificate of competence or licence shall alone be competent, after due legal process, to pronounce the withdrawal of such certificates, even if the holder is not a national of the State which issued them.
3. No arrest or detention of the ship, even as a measure of investigation, shall be ordered by any authorities other than those of the flag State.

#### Article 12

1. Every State shall require the master of a ship sailing under its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers,
  - (a) To render assistance to any person found at sea in danger of being lost;
  - (b) To proceed with all possible speed to the rescue of persons in distress if informed of their need of assistance, in so far as such action may reasonably be expected of him;
  - (c) After a collision, to render assistance to the other ship, her crew and her passengers and, where possible, to inform the other ship of the name of his own ship, her port of registry and the nearest port at which she will call.
2. Every coastal State shall promote the establishment and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and--where circumstances so require--by way of mutual regional arrangements co-operate with neighbouring States for this purpose.

#### Article 13

Every State shall adopt effective measures to prevent and punish the transport of slaves in ships authorized to fly its flag, and to prevent the unlawful use of its flag for that purpose. Any slave taking refuge on board any ship, whatever its flag, shall ipso facto be free.

**Article 14**

All States shall co-operate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State.

**Article 15**

Piracy consists of any of the following acts:

- (1) Any illegal acts of violence, detention or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:
  - (a) On the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
  - (b) Against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
- (2) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
- (3) Any act of inciting or of intentionally facilitating an act described in sub-paragraph 1 or sub-paragraph 2 of this article.

**Article 16**

The acts of piracy, as defined in article 15, committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private ship.

**Article 17**

A ship or aircraft is considered a pirate ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in article 15. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that act.

**Article 18**

A ship or aircraft may retain its nationality although it has become a pirate ship or aircraft. The retention or loss of nationality is determined by the law of the State from which such nationality was derived.

**Article 19**

On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.

**Article 20**

Where the seizure of a ship or aircraft on suspicion of piracy has been effected without adequate grounds, the State making the seizure shall be liable to the State the nationality of which is possessed by the ship or aircraft, for any loss or damage caused by the seizure.

### Article 21

A seizure on account of piracy may only be carried out by warships or military aircraft, or other ships or aircraft on government service authorized to that effect.

### Article 22

1. Except where acts of interference derive from powers conferred by treaty, a warship which encounters a foreign merchant ship on the high seas is not justified in boarding her unless there is reasonable ground for suspecting:
  - (a) That the ship is engaged in piracy; or
  - (b) That the ship is engaged in the slave trade; or
  - (c) That though flying a foreign flag or refusing to show its flag, the ship is, in reality, of the same nationality as the warship.
2. In the cases provided for in subparagraphs (a), (b) and (c) above, the warship may proceed to verify the ship's right to fly its flag. To this end, it may send a boat under the command of an officer to the suspected ship. If suspicion remains after the documents have been checked, it may proceed to a further examination on board the ship, which must be carried out with all possible consideration.
3. If the suspicions prove to be unfounded, and provided that the ship boarded has not committed any act justifying them, it shall be compensated for any loss or damage that may have been sustained.

### Article 23

1. The hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State. Such pursuit must be commenced when the foreign ship or one of its boats is within the internal waters or the territorial sea or the contiguous zone of the pursuing State, and may only be continued outside the territorial sea or the contiguous zone if the pursuit has not been interrupted. It is not necessary that, at the time when the foreign ship within the territorial sea or the contiguous zone receives the order to stop, the ship giving the order should likewise be within the territorial sea or the contiguous zone. If the foreign ship is within a contiguous zone, as defined in article 24 of the Convention on the Territorial Sea and the Contiguous Zone, the pursuit may only be undertaken if there has been a violation of the rights for the protection of which the zone was established.
2. The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own country or of a third State.
3. Hot pursuit is not deemed to have begun unless the pursuing ship has satisfied itself by such practicable means as may be available that the ship pursued or one of its boats or other craft working as a team and using the ship pursued as a mother ship are within

the limits of the territorial sea, or as the case may be within the contiguous zone. The pursuit may only be commenced after a visual or auditory signal to stop has been given at a distance which enables it to be seen or heard by the foreign ship.

4. The right of hot pursuit may be exercised only by warships or military aircraft, or other ships or aircraft on government service specially authorized to that effect.
5. Where hot pursuit is effected by an aircraft:
  - (a) The provisions of paragraph 1 to 3 of this article shall apply *mutatis mutandis*;
  - (b) The aircraft giving the order to stop must itself actively pursue the ship until a ship or aircraft of the coastal State, summoned by the aircraft, arrives to take over the pursuit, unless the aircraft is itself able to arrest the ship. It does not suffice to justify an arrest on the high seas that the ship was merely sighted by the aircraft as an offender or suspected offender, if it was not both ordered to stop and pursued by the aircraft itself or other aircraft or ships which continue the pursuit without interruption.
6. The release of a ship arrested within the jurisdiction of a State and escorted to a port of that State for the purposes of an enquiry before the competent authorities may not be claimed solely on the ground that the ship, in the course

of its voyage, was escorted across a portion of the high seas, if the circumstances rendered this necessary.

7. Where a ship has been stopped or arrested on the high seas in circumstances which do not justify the exercise of the right of hot pursuit, it shall be compensated for any loss or damage that may have been thereby sustained.

#### Article 24

Every State shall draw up regulations to prevent pollution of the seas by the discharge of oil from ships or pipelines or resulting from the exploitation and exploration of the seabed and its subsoil, taking account of existing treaty provisions on the subject.

#### Article 25

1. Every State shall take measures to prevent pollution of the seas from the dumping of radio-active waste, taking into account any standards and regulations which may be formulated by the competent international organizations.
2. All States shall co-operate with the competent international organizations in taking measures for the prevention of pollution of the seas or air space above, resulting from any activities with radio-active materials or other harmful agents.

#### Article 26

1. All States shall be entitled to lay submarine cables and pipelines on the bed of the high seas.



2. Subject to its right to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may not impede the laying or maintenance of such cables or pipelines.
3. When laying such cables or pipelines the State in question shall pay due regard to cables or pipelines already in position on the seabed. In particular, possibilities of repairing existing cables or pipelines shall not be prejudiced.

#### **Article 27**

Every State shall take the necessary legislative measures to provide that the breaking or injury by a ship flying its flag or by a person subject to its jurisdiction of a submarine cable beneath the high seas done wilfully or through culpable negligence, in such a manner as to be liable to interrupt or obstruct telegraphic or telephonic communications, and similarly the breaking or injury of a submarine pipeline or high-voltage power cable shall be a punishable offence. This provision shall not apply to any break or injury caused by persons who acted merely with the legitimate object of saving their lives or their ships, after having taken all necessary precautions to avoid such break or injury.

#### **Article 28**

Every State shall take the necessary legislative measures to provide that, if persons subject to its jurisdiction who are the owners of a cable or pipeline beneath the high seas, in laying or repairing that cable or pipeline, cause a break in or injury to

another cable or pipeline, they shall bear the cost of the repairs.

#### **Article 29**

Every State shall take the necessary legislative measures to ensure that the owners of ships who can prove that they have sacrificed an anchor, a net or any other fishing gear, in order to avoid injuring a submarine cable or pipeline, shall be indemnified by the owner of the cable or pipeline, provided that the owner of the ship has taken all reasonable precautionary measures beforehand.

#### **Article 30**

The provisions of this Convention shall not affect conventions or other international agreements already in force, as between States Parties to them.

#### **Article 31**

This Convention shall, until 31 October 1958, be open for signature by all States Members of the United Nations or of any of the specialized agencies, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention.

#### **Article 32**

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

#### **Article 33**

This Convention shall be open for accession by any States belonging to any of the

categories mentioned in article 31. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### Article 34

1. This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.
2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

#### Article 35

1. After the expiration of a period of five years from the date on which this Convention shall enter into force, a request for the revision of this Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

#### Article 36

The Secretary-General of the United Nations shall inform all States Members of

the United Nations and the other States referred to in article 31:

- (a) Of signatures to this Convention and of the deposit of instruments of ratification or accession, in accordance with articles 31, 32 and 33;
- (b) Of the date on which this Convention will come into force, in accordance with article 34;
- (c) Of requests for revision in accordance with article 35.

#### Article 37

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 31.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

DONE at Geneva, this twenty-ninth day of April one thousand nine hundred and fifty-eight.

## C. 1958 Convention on the Continental Shelf

*Adopted in Geneva, Switzerland on 29 April 1958.*

*The States Parties to this Convention*

HAVE agreed as follows:

### Article 1

For the purpose of these articles, the term “continental shelf” is used as referring (a) to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas; (b) to the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

### Article 2

1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.
2. The rights referred to in paragraph 1 of this article are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities, or make a claim to the continental shelf, without the express consent of the coastal State.
3. The rights of the coastal State over the continental shelf do not depend on

occupation, effective or notional, or on any express proclamation.

4. The natural resources referred to in these articles consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.

### Article 3

The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters as high seas, or that of the airspace above those waters.

### Article 4

Subject to its right to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may not impede the laying or maintenance of submarine cables or pipe lines on the continental shelf.

### Article 5

1. The exploration of the continental shelf and the exploitation of its natural resources must not result in any unjustifiable interference with navigation, fishing or the conservation of the living resources of the sea, nor result in any interference with fundamental oceano-

graphic or other scientific research carried out with the intention of open publication.

2. Subject to the provisions of paragraphs 1 and 6 of this article, the coastal State is entitled to construct and maintain or operate on the continental shelf installations and other devices necessary for its exploration and the exploitation of its natural resources, and to establish safety zones around such installations and devices and to take in those zones measures necessary for their protection.
3. The safety zones referred to in paragraph 2 of this article may extend to a distance of 500 metres around the installations and other devices which have been erected, measured from each point of their outer edge. Ships of all nationalities must respect these safety zones.
4. Such installations and devices, though under the jurisdiction of the coastal State, do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea of the coastal State.
5. Due notice must be given of the construction of any such installations, and permanent means for giving warning of their presence must be maintained. Any installations which are abandoned or disused must be entirely removed.
6. Neither the installations or devices, nor the safety zones around them, may be established where interference may be caused to the use of recognized sea

lanes essential to international navigation.

7. The coastal State is obliged to undertake, in the safety zones, all appropriate measures for the protection of the living resources of the sea from harmful agents.
8. The consent of the coastal State shall be obtained in respect of any research concerning the continental shelf and undertaken there. Nevertheless the coastal State shall not normally withhold its consent if the request is submitted by a qualified institution with a view to purely scientific research into the physical or biological characteristics of the continental shelf, subject to the proviso that the coastal State shall have the right, if it so desires, to participate or to be represented in the research, and that in any event the results shall be published.

#### Article 6

1. Where the same continental shelf is adjacent to the territories of two or more States whose coasts are opposite each other, the boundary of the continental shelf appertaining to such States shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary is the median line, every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

2. Where the same continental shelf is adjacent to the territories of two adjacent States, the boundary of the continental shelf shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary shall be determined by application of the principle of equidistance from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.
3. In delimiting the boundaries of the continental shelf, any lines which are drawn in accordance with the principles set out in paragraphs 1 and 2 of this article should be defined with reference to charts and geographical features as they exist at a particular date, and reference should be made to fixed permanent identifiable points on the land.

#### Article 7

The provisions of these articles shall not prejudice the right of the coastal State to exploit the subsoil by means of tunnelling irrespective of the depth of water above the subsoil.

#### Article 8

This Convention shall, until 31 October 1958, be open for signature by all States Members of the United Nations or of any of the specialized agencies, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention.

#### Article 9

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

#### Article 10

This Convention shall be open for accession by any States belonging to any of the categories mentioned in article 8. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### Article 11

1. This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.
2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

#### Article 12

1. At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1 to 3 inclusive.
2. Any Contracting State making a reservation in accordance with the preceding paragraph may at any time withdraw the reservation by a com-

munication to that effect addressed to the Secretary-General of the United Nations.

### Article 13

1. After the expiration of a period of five years from the date on which this Convention shall enter into force, a request for the revision of this Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

### Article 14

The Secretary-General of the United Nations shall inform all States Members of the United Nations and the other States referred to in article 8:

- (a) Of signatures to this Convention and of the deposit of instruments of ratification or accession, in accordance with articles 8, 9 and 10;
- (b) Of the date on which this Convention will come into force, in accordance with article 11;
- (c) Of requests for revision in accordance with article 13;
- (d) Of reservations to this Convention, in accordance with article 12.

### Article 15

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 8.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

Done at Geneva, this twenty-ninth day of April one thousand nine hundred and fifty-eight.

## **D. 1972 Convention on International Regulations for Preventing Collisions at Sea [extracts]**

THE PARTIES TO THE PRESENT CONVENTION,

DESIRING to maintain a high level of safety at sea,

MINDFUL of the need to revise and bring up to date the International Regulations for Preventing Collisions at Sea annexed to the Final Act of the International Conference on Safety of Life at Sea, 1960,

HAVING CONSIDERED those Regulations in the light of developments since they were approved,

HAVE AGREED as follows: ...

### **Part A. General**

#### **Rule 3. General Definitions**

For the purpose of these Rules, except where the context otherwise requires:

- (a) The word “vessel” includes every description of water craft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on water.
- (b) The term “power-driven vessel” means any vessel propelled by machinery.
- (c) The term “sailing vessel” means any vessel under sail provided that propelling machinery, if fitted, is not being used.
- (d) The term “vessel engaged in fishing” means any vessel fishing with nets, lines, trawls or other fishing apparatus which restrict manoeuvrability, but

does not include a vessel fishing with trolling lines or other fishing apparatus which do not restrict manoeuvrability.

- (e) The word “seaplane” includes any aircraft designed to manoeuvre on the water.
- (f) The term “vessel not under command” means a vessel which through some exceptional circumstance is unable to manoeuvre as required by these Rules and is therefore unable to keep out of the way of another vessel.
- (g) The term “vessel restricted in her ability to manoeuvre” means a vessel which from the nature of her work is restricted in her ability to manoeuvre as required by these Rules and is therefore unable to keep out of the way of another vessel.

The following vessels shall be regarded as vessels restricted in their ability to manoeuvre:

- (i) a vessel engaged in laying, servicing or picking up a navigation mark, submarine cable or pipeline;
- (ii) a vessel engaged in dredging, surveying or underwater operations;
- (iii) a vessel engaged in replenishment or transferring persons, provisions or cargo while underway;
- (iv) a vessel engaged in the launching or recovery of aircraft;
- (v) a vessel engaged in minesweeping operations;

- (vi) a vessel engaged in a towing operation such as renders her unable to deviate from her course.
- (h) The term “vessel constrained by her draught” means a power-driven vessel which because of her draught in relation to the available depth of water is severely restricted in her ability to deviate from the course she is following.
- (i) The word “underway” means that a vessel is not at anchor, or made fast to the shore, or aground.
- (j) The words “length” and “breadth” of a vessel mean her length overall and greatest breadth.
- (k) Vessels shall be deemed to be in sight of one another only when one can be observed visually from the other.
- (l) The term “restricted visibility” means any condition in which visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms or any other similar causes.

## Part B. Steering and Sailing Rules

### Section I. Conduct of Vessels in Any Condition of Visibility

#### Rule 10. Traffic Separation Schemes

- (a) This Rule applies to traffic separation schemes adopted by the Organization.
- (b) A vessel using a traffic separation scheme shall:
  - (i) proceed in the appropriate traffic lane in the general direction of traffic flow for that lane;
  - (ii) so far as practicable keep clear of a traffic separation line or separation zone;
  - (iii) normally join or leave a traffic lane at the termination of the lane, but when joining or leaving from the side shall do so at as small an angle to the general direction of traffic flow as practicable.
- (c) A vessel shall so far as practicable avoid crossing traffic lanes, but if obliged to do so shall cross as nearly as practicable at right angles to the general direction of traffic flow.
- (d) Inshore traffic zones shall not normally be used by through traffic which can safely use the appropriate traffic lane within the adjacent traffic separation scheme.
- (e) A vessel, other than a crossing vessel, shall not normally enter a separation zone or cross a separation line except:
  - (i) in cases of emergency to avoid immediate danger;
  - (ii) to engage in fishing within a separation zone.
- (f) A vessel navigating in areas near the terminations of traffic separation schemes shall do so with particular caution.
- (g) A vessel shall so far as practicable avoid anchoring in a traffic separation scheme or in areas near its terminations.
- (h) A vessel not using a traffic separation scheme shall avoid it by as wide a margin as is practicable.



- (i) A vessel engaged in fishing shall not impede the passage of any vessel following a traffic lane.
- (j) A vessel of less than 20 metres in length or a sailing vessel shall not impede the safe passage of a power-driven vessel following a traffic lane.

## **Section II. Conduct of Vessels in Sight of One Another**

### **Rule 18. Responsibilities between Vessels**

Except where Rules 9, 10 and 13 otherwise require:

- (a) A power-driven vessel underway shall keep out of the way of:
  - (i) a vessel not under command;
  - (ii) a vessel restricted in her ability to manoeuvre;
  - (iii) a vessel engaged in fishing;
  - (iv) a sailing vessel.
- (b) A sailing vessel underway shall keep out of the way of:
  - (i) a vessel not under command;
  - (ii) a vessel restricted in her ability to manoeuvre;
  - (iii) a vessel engaged in fishing.
- (c) A vessel engaged in fishing when underway shall, so far as possible, keep out of the way:
  - (i) a vessel not under command;
  - (ii) a vessel restricted in her ability to manoeuvre;
- (d) A vessel engaged in fishing when underway shall, so far as possible, keep out of the way:

- (i) Any vessel other than a vessel not under command or a vessel restricted in her ability to manoeuvre shall, if the circumstances of the case admit, avoid impeding the safe passage of a vessel constrained by her draught, exhibiting the signals in Rule 28.

- (ii) A vessel constrained by her draught shall navigate with particular caution having full regard to her special condition.

- (e) A seaplane on the water shall, in general, keep well clear of all vessels and avoid impeding their navigation. In circumstances, however, where risk of collision exists, she shall comply with the Rules of this Part.

## **Part C. Lights and Shapes**

### **Rule 27. Vessels Not Under Command or Restricted in Their Ability to Manoeuvre**

- (a) A vessel not under command shall exhibit:
  - (i) two all-round red lights in a vertical line where they can best be seen;
  - (ii) two balls or similar shapes in a vertical line where they can best be seen;
  - (iii) when making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a stern light.
- (b) A vessel restricted in her ability to manoeuvre, except a vessel engaged in minesweeping operations, shall exhibit:

- (i) three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white;
  - (ii) three shapes in a vertical line where they can best be seen. The highest and lowest of these shapes shall be balls and the middle one a diamond;
  - (iii) when making way through the water, masthead lights, sidelights and a stern light, in addition to the lights prescribed in sub-paragraph (i);
  - (iv) when at anchor, in addition to the lights or shapes prescribed in sub-paragraphs (i) and (ii), the light, lights or shape prescribed in Rule 30.
- (c) A vessel engaged in a towing operation such as renders her unable to deviate from her course shall, in addition to the lights or shapes prescribed in sub-paragraph (b)(i) and (ii) of this Rule, exhibit the lights or shape prescribed in Rule 24(a).
- (d) A vessel engaged in dredging or underwater operations, when restricted in her ability to manoeuvre, shall exhibit the lights and shapes prescribed in paragraph (b) of this Rule and shall in addition, when an obstruction exists, exhibit:
- (i) two all-round red lights or two balls in a vertical line to indicate the side on which the obstruction exists;
  - (ii) two all-round green lights or two diamonds in a vertical line to indicate the side on which another vessel may pass;
  - (iii) when making way through the water, in addition to the lights prescribed in this paragraph, masthead lights, sidelights and a stern light;
  - (iv) a vessel to which this paragraph applies when at anchor shall exhibit the lights or shapes prescribed in sub-paragraphs (i) and (ii) instead of the lights or shape prescribed in Rule 30.
- (e) Whenever the size of a vessel engaged in diving operations makes it impracticable to exhibit the shapes prescribed in paragraph (d) of this Rule, a rigid replica of the International Code flag "A" not less than 1 metre in height shall be exhibited. Measures shall be taken to ensure all-round visibility.
- (f) A vessel engaged in minesweeping operations shall, in addition to the lights prescribed for a power-driven vessel in Rule 23, exhibit three all-round green lights or three balls. One of these lights or shapes shall be exhibited at or near the foremast head and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach closer than 1,000 metres astern or 500 metres on either side of the minesweeper.
- (g) Vessels of less than 7 metres in length shall not be required to exhibit the lights prescribed in this Rule.

- (h) The signals prescribed in this Rule are not signals of vessels in distress and requiring assistance. Such signals are contained in Annex IV to these Regulations.

#### Part D. Sound and Light Signals

##### Rule 35. Sound Signals in Restricted Visibility

In or near an area of restricted visibility, whether by day or night, the signals prescribed in this Rule shall be used as follows:

- (a) A power-driven vessel making way through the water shall sound at intervals of not more than 2 minutes one prolonged blast.
- (b) A power-driven vessel underway but stopped and making no way through the water shall sound at intervals of not more than 2 minutes two prolonged blasts in succession with an interval of about 2 seconds between them.
- (c) A vessel not under command, a vessel restricted in her ability to manoeuvre, a vessel constrained by her draught, a sailing vessel, a vessel engaged in fishing and a vessel engaged in towing or pushing another vessel shall, instead of the signals prescribed in paragraphs (a) or (b) of this Rule, sound at intervals of not more than 2 minutes three blasts in succession, namely one prolonged followed by two short blasts.
- (d) A vessel towed or if more than one vessel is towed the last vessel of the tow, if manned, shall at intervals of not more than 2 minutes sound four blasts in succession, namely one prolonged followed by three short blasts. When practicable, this signal shall be made immediately after the signal made by the towing vessel.
- (e) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and shall give the signals prescribed in paragraphs (a) or (b) of this Rule.
- (f) A vessel at anchor shall at intervals of not more than one minute ring the bell rapidly for about 5 seconds. In a vessel of 100 metres or more in length the bell shall be sounded in the forepart of the vessel and immediately after the ringing of the bell the gong shall be sounded rapidly for about 5 seconds in the after part of the vessel. A vessel at anchor may in addition sound three blasts in succession, namely one short, one prolonged and one short blast, to give warning of her position and of the possibility of collision to an approaching vessel.
- (g) A vessel aground shall give the bell signal and if required the gong signal prescribed in paragraph (f) of this Rule and shall, in addition, give three separate and distinct strokes on the bell immediately before and after the rapid ringing of the bell. A vessel aground may in addition sound an appropriate whistle signal.

- (h) A vessel of less than 12 metres in length shall not be obliged to give the above-mentioned signals but, if she does not, shall make some other efficient sound signal at intervals of not more than 2 minutes.
- (i) A pilot vessel when engaged on pilotage duty may in addition to the signals prescribed in paragraphs (a), (b) or (f) of this Rule sound an identity signal consisting of four short blasts.

## **E. 1982 United Nations Convention on the Law of the Sea (1982 UNCLOS) [extracts]**

Adopted in Montego Bay, Jamaica on 10 December 1982.

### **Part II: Territorial Sea and Contiguous Zone**

#### **Section 1: General Provisions**

Article 2. Legal Status of the Territorial Sea, of the Air Space above the Territorial Sea and of its Bed and Subsoil

1. The sovereignty of a coastal State extends, beyond its land territory and internal waters and in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea.
2. This sovereignty extends to the air space over the territorial sea as well as to its bed and subsoil.
3. The sovereignty over the territorial sea is exercised subject to this Convention and to other rules of international law.

#### **Article 3. Breadth of the Territorial Sea**

Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with this Convention.

### **Section 3: Innocent Passage in the Territorial Sea**

#### **Article 19. Meaning of Innocent Passage**

1. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with this Convention and with other rules of international law.
2. Passage of a foreign ship shall be considered to be prejudicial to the peace, good order or security of the coastal State if in the territorial sea it engages in any of the following activities:
  - (a) any threat or use of force against the sovereignty, territorial integrity or political independence of the coastal State, or in any other manner in violation of the principles of international law embodied in the Charter of the United Nations;
  - (b) any exercise or practice with weapons of any kind;
  - (c) any act aimed at collecting information to the prejudice of the defence or security of the coastal State;
  - (d) any act of propaganda aimed at affecting the defence or security of the coastal State;
  - (e) the launching, landing or taking on board of any aircraft;
  - (f) the launching, landing or taking on board of any military device;

- (g) the loading or unloading of any commodity, currency or person contrary to the customs, fiscal, immigration or sanitary laws and regulations of the coastal State;
- (h) any act of wilful and serious pollution contrary to this Convention;
- (i) any fishing activities;
- (j) the carrying out of research or survey activities;
- (k) any act aimed at interfering with any systems of communication or any other facilities or installations of the coastal State;
- (l) any other activity not having a direct bearing on passage.

#### **Article 21. Laws and Regulations of the Coastal State Relating to Innocent Passage**

- I. The coastal State may adopt laws and regulations, in conformity with the provisions of this Convention and other rules of international law, relating to innocent passage through the territorial sea, in respect of all or any of the following:
  - (a) the safety of navigation and the regulation of maritime traffic;
  - (b) the protection of navigational aids and facilities and other facilities or installations;
  - (c) the protection of cables and pipelines;
  - (d) the conservation of the living resources of the sea;
  - (e) the prevention of infringement of the fisheries laws and regulations of the coastal State;

- (f) the preservation of the environment of the coastal State and the prevention, reduction and control of pollution thereof;
- (g) marine scientific research and hydrographic surveys;
- (h) the prevention of infringement of the customs, fiscal, immigration or sanitary laws and regulations of the coastal State.

#### **Article 33. Contiguous Zone**

- I. In a zone contiguous to its territorial sea, described as the contiguous zone, the coastal State may exercise the control necessary to:
  - (a) prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea;
  - (b) punish infringement of the above laws and regulations committed within its territory or territorial sea.
2. The contiguous zone may not extend beyond 24 nautical miles from the baselines from which the breadth of the territorial sea is measured.

#### **Part III: Straits Used for International Navigation**

#### **Article 40. Research and Survey Activities**

During transit passage, foreign ships, including marine scientific research and hydrographic survey ships, may not carry out any research or survey activities without the prior authorization of the States bordering straits.

#### Part IV: Archipelagic States

##### Article 51. Existing Agreements, Traditional Fishing Rights and Existing Submarine Cables

1. Without prejudice to Article 49, an archipelagic State shall respect existing agreements with other States and shall recognize traditional fishing rights and other legitimate activities of the immediately adjacent neighbouring States in certain areas falling within archipelagic waters. The terms and conditions for the exercise of such rights and activities, including the nature, the extent and the areas to which they apply, shall, at the request of any of the States concerned, be regulated by bilateral agreements between them. Such rights shall not be transferred to or shared with third States or their nationals.
2. An archipelagic State shall respect existing submarine cables laid by other States and passing through its waters without making a landfall. An archipelagic State shall permit the maintenance and replacement of such cables upon receiving due notice of their location and the intention to repair or replace them.

##### Article 54. Duties of Ships and Aircraft during Their Passage, Research and Survey Activities, Duties of the Archipelagic State and Laws and Regulations of the Archipelagic State Relating to Archipelagic Sea Lanes Passage

Articles 39, 40, 42 and 44 apply mutatis mutandis to archipelagic sea lanes passage.

#### Part V. Exclusive Economic Zone

##### Article 55. Specific Legal Regime of the Exclusive Economic Zone

The exclusive economic zone is an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in this Part, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention.

##### 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 57. Breadth of the Exclusive Economic Zone**

The exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

#### **Article 58. Rights and Duties of Other States in the Exclusive Economic Zone**

1. 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.

2. Articles 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.
3. 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.

#### **Article 59. Basis for the Resolution of Conflicts Regarding the Attribution of Rights and Jurisdiction in the Exclusive Economic Zone**

In cases where this Convention does not attribute rights or jurisdiction to the coastal State or to other States within the exclusive economic zone, and a conflict arises between the interests of the coastal State and any other State or States, the conflict should be resolved on the basis of equity and in the light of all the relevant circumstances, taking into account the respective importance of the interests involved to the parties as well as to the international community as a whole.

### **Part VI. Continental Shelf**

#### **Article 77. Rights of the Coastal State over the Continental Shelf**

1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.



2. The rights referred to in paragraph 1 are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities without the express consent of the coastal State.
3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.
4. The natural resources referred to in this Part consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.

**Article 78. Legal Status of the Superjacent Waters and Air Space and the Rights and Freedoms of other States**

1. The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters or of the air space above those waters.
2. The 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.

**Article 79. Submarine Cables and Pipelines on the Continental Shelf**

1. All States are entitled to lay submarine cables and pipelines on the continental shelf, in accordance with the provisions of this article.
2. Subject to its right to take reasonable measures for the exploration of the continental shelf, the exploitation of its natural resources and the prevention, reduction and control of pollution from pipelines, the coastal State may not impede the laying or maintenance of such cables or pipelines.
3. The delineation of the course for the laying of such pipelines on the continental shelf is subject to the consent of the coastal State.
4. 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 continental shelf or exploitation of its resources or the operations of artificial islands, installations and structures under its jurisdiction.
5. 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.

## Part VII: High Seas

### Section 1. General Provisions

#### Article 86. Application of the Provisions of this Part

The provisions of this Part apply to all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State. This article does not entail any abridgement of the freedoms enjoyed by all States in the exclusive economic zone in accordance with article 58.

#### Article 87. Freedom of the High Seas

- I. The high seas are open to all States, whether coastal or land-locked. Freedom of the high seas is exercised under the conditions laid down by this Convention and by other rules of international law. It comprises, *inter alia*, both for coastal and land-locked States:
  - (a) freedom of navigation;
  - (b) freedom of overflight;
  - (c) freedom to lay submarine cables and pipelines, subject to Part VI;
  - (d) freedom to construct artificial islands and other installations permitted under international law, subject to Part VI;
  - (e) freedom of fishing, subject to the conditions laid down in section 2;
  - (f) freedom of scientific research, subject to Parts VI and XIII.

2. These freedoms shall be exercised by all States with due regard for the interests of other States in their exercise of the freedom of the high seas, and also with due regard for the rights under this Convention with respect to activities in the Area.

#### Article 101. Definition of Piracy

Piracy consists of any of the following acts:

- (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:
  - (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
  - (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
- (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
- (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

#### Article 112. Right to Lay Submarine Cables and Pipelines

1. All States are entitled to lay submarine cables and pipelines on the bed of the high seas beyond the continental shelf.
2. Article 79, paragraph 5, applies to such cables and pipelines.

### **Article 113. Breaking or Injury of a Submarine Cable or Pipeline**

Every State shall adopt the laws and regulations necessary to provide that the breaking or injury by a ship flying its flag or by a person subject to its jurisdiction of a submarine cable beneath the high seas done wilfully or through culpable negligence, in such a manner as to be liable to interrupt or obstruct telegraphic or telephonic communications, and similarly the breaking or injury of a submarine pipeline or high-voltage power cable, shall be a punishable offence. This provision shall apply also to conduct calculated or likely to result in such breaking or injury. However, it shall not apply to any break or injury caused by persons who acted merely with the legitimate object of saving their lives or their ships, after having taken all necessary precautions to avoid such break or injury.

### **Article 114. Breaking or Injury by Owners of a Submarine Cable or Pipeline of Another Submarine Cable or Pipeline**

Every State shall adopt the laws and regulations necessary to provide that, if persons subject to its jurisdiction who are the owners of a submarine cable or pipeline beneath the high seas, in laying or repairing that cable or pipeline, cause a break in or injury to another cable or pipeline, they shall bear the cost of the repairs.

### **Article 115. Indemnity for Loss Incurred in Avoiding Injury to a Submarine Cable or Pipeline**

Every State shall adopt the laws and regulations necessary to ensure that the owners of ships who can prove that they have sac-

rificed an anchor, a net or any other fishing gear, in order to avoid injuring a submarine cable or pipeline, shall be indemnified by the owner of the cable or pipeline, provided that the owner of the ship has taken all reasonable precautionary measures beforehand.

## **Part XIII: Marine Scientific Research**

### **Section 3: Conduct and Promotion of Marine Scientific Research**

#### **Article 245. Marine Scientific Research in the Territorial Sea**

Coastal States, in the exercise of their sovereignty, have the exclusive right to regulate, authorize and conduct marine scientific research in their territorial sea. Marine scientific research therein shall be conducted only with the express consent of and under the conditions set forth by the coastal State.

#### **Article 246. Marine Scientific Research in the Exclusive Economic Zone and on the Continental Shelf**

1. Coastal States, in the exercise of their jurisdiction, have the right to regulate, authorize and conduct marine scientific research in their exclusive economic zone and on their continental shelf in accordance with the relevant provisions of this Convention.
2. Marine scientific research in the exclusive economic zone and on the continental shelf shall be conducted with the consent of the coastal State.

3. Coastal States shall, in normal circumstances, grant their consent for marine scientific research projects by other States or competent international organizations in their exclusive economic zone or on their continental shelf to be carried out in accordance with this Convention exclusively for peaceful purposes and in order to increase scientific knowledge of the marine environment for the benefit of all mankind. To this end, coastal States shall establish rules and procedures ensuring that such consent will not be delayed or denied unreasonably.
4. For the purposes of applying paragraph 3, normal circumstances may exist in spite of the absence of diplomatic relations between the coastal State and the researching State.
5. Coastal States may however in their discretion withhold their consent to the conduct of a marine scientific research project of another State or competent international organization in the exclusive economic zone or on the continental shelf of the coastal State if that project:
  - (a) is of direct significance for the exploration and exploitation of natural resources, whether living or non-living;
  - (b) involves drilling into the continental shelf, the use of explosives or the introduction of harmful substances into the marine environment;
  - (c) involves the construction, operation or use of artificial islands, installations and structures referred to in articles 60 and 80;
  - (d) contains information communicated pursuant to article 248 regarding the nature and objectives of the project which is inaccurate or if the researching State or competent international organization has outstanding obligations to the coastal State from a prior research project.
6. Notwithstanding the provisions of paragraph 5, coastal States may not exercise their discretion to withhold consent under subparagraph (a) of that paragraph in respect of marine scientific research projects to be undertaken in accordance with the provisions of this Part on the continental shelf, beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, outside those specific areas which coastal States may at any time publicly designate as areas in which exploitation or detailed exploratory operations focused on those areas are occurring or will occur within a reasonable period of time. Coastal States shall give reasonable notice of the designation of such areas, as well as any modifications thereto, but shall not be obliged to give details of the operations therein.
7. The provisions of paragraph 6 are without prejudice to the rights of coastal States over the continental shelf as established in article 77.
8. Marine scientific research activities referred to in this article shall not

unjustifiably interfere with activities undertaken by coastal States in the exercise of their sovereign rights and jurisdiction provided for in this Convention.

## **Part XV. Settlement of Disputes**

### **Section 3. Limitations and Exceptions to Applicability Of Section 2**

#### **Article 297. Limitations on Applicability of Section 2...**

- I. Disputes concerning the interpretation or application of this Convention with regard to the exercise by a coastal State of its sovereign rights or jurisdiction provided for in this Convention shall be subject to the procedures provided for in section 2 in the following cases: ...
  - (a) when it is alleged that a coastal State has acted in contravention of the provisions of this Convention in regard to the freedoms and rights of navigation, overflight or the laying of submarine cables and pipelines, or in regard to other internationally lawful uses of the sea specified in article 58;

## 2. Other Relevant Documents

### A. IMO Circular No. 282 on the Prohibition of Anchoring in the Straits of Malacca and Singapore dated 6 November 2009

#### Information concerning Anchoring in the Traffic Separation Scheme in the Straits of Malacca and Singapore

At the request of the Governments of Indonesia, Malaysia and Singapore, the information contained in the annex, concerning anchoring in the traffic separation scheme in the Straits of Malacca and Singapore, is brought to the attention of Member Governments.

#### ANNEX

#### PROHIBITION OF ANCHORING IN THE STRAITS OF MALACCA AND SINGAPORE

There has been a proliferation of vessels anchoring within the Traffic Separation Scheme (TSS) and Precautionary Areas in the Straits of Malacca and Singapore as well as between the landward limits of the TSS and approaches to the ports. These vessels pose a risk to the safety of navigation by obstructing port approaches and traffic flow.

There have been several reported cases of collision incidents involving vessels as well as reports on submarine cable damage caused by such indiscriminate anchoring of vessels at non designated anchorages along the Straits of Malacca and Singapore.

Mariners are therefore reminded not to anchor in all areas in the TSS of the Straits of Malacca and Singapore (Rule 10 (g) of the COLREGs also refers); as well as between the landward limits of the TSS and approaches to the ports. Vessels entering

any port in any of the littoral States are to anchor in the anchorages designated by the respective littoral States only.

Mariners are hereby given notice that the Maritime Authorities of Indonesia, Malaysia and Singapore will closely monitor the identities and locations of vessels that are anchoring indiscriminately. The relevant authority will take appropriate action including reporting to the flag State of the vessel.

Where submarine cable damage occurs, the relevant authority will promptly share information with the cable owner(s) and other interested parties to facilitate legal proceedings to recover compensation from the owners and masters of vessels responsible for the damage.

In exceptional circumstances such as an emergency where anchoring cannot be avoided, mariners are advised to carefully ascertain the location of submarine cables from nautical charts and publications to avoid anchoring over these cables.

Dated: 6 November 2009

Issued by:

Directorate General of Sea Transportation, Indonesia  
 Marine Department of Malaysia  
 Maritime and Port Authority of Singapore

**B. Memorandum of Understanding between the International Cable Protection Committee and the International Seabed Authority dated 25 February 2009**

Request for observer status in accordance with rule 82, paragraph 1 (e), of the rules of procedure of the Assembly on behalf of the International Cable Protection Committee

**Note by the Secretariat**

1. The International Cable Protection Committee (ICPC) is a global organization representing the telecommunications and cable-laying industry. It was established in 1958 to promote the safeguarding of submarine cables against manmade and natural hazards, and to provide a forum for the exchange of technical and legal information pertaining to submarine cable protection methods and programmes, including exchanging information on the location of existing and proposed cables. As of September 2009, ICPC had 100 members (consisting of governmental administrations and commercial companies that own or operate submarine cables) from 54 countries. It is mandated to provide leadership and guidance on issues related to the planning, installation, operation, maintenance and protection of submarine cables.
2. Members of the International Seabed Authority will recall that, during the fifteenth session, as part of the ongoing practice of arranging technical briefings for the representatives of members of the Authority present in Kingston on matters relevant to the work of the Council and the Assembly, the Council was given a briefing on the work of ICPC in the form of a presentation by a representative of ICPC. In discussions thereafter, members of the Authority noted that, while the laying of submarine cables is a freedom of the high seas, it was in the interests of both the Authority and the members of ICPC to cooperate to avoid potential conflicts between the laying of cables and activities in the Area. It was further noted that both organizations also had a strong interest in the protection of the marine environment from adverse impacts arising from their respective activities. It was therefore suggested that ICPC should be invited to become an observer to the Assembly in accordance with rule 82, paragraph 1 (e), of the rules of procedure.
3. Following further discussions between the secretariat of the Authority and ICPC, it was considered desirable to conclude a short memorandum of understanding setting out the scope and purpose of cooperation between the two organizations. The text of the memorandum, which was signed by the Secretary-General of the Authority and the Chairman of ICPC on 15 December 2009 and 25 February 2010, respectively, is reproduced in the annex to the present document.

4. The Assembly is invited to:
  - (a) Take note of and approve the memorandum of understanding between the Authority and ICPC as contained in the annex to the present document;
  - (b) Invite ICPC to participate in the Assembly in the capacity of observer, pursuant to rule 82, paragraph 1 (e), of the rules of procedure of the Assembly.

### ANNEX

The purpose of this memorandum of understanding is to specify the scope of cooperation between the International Cable Protection Committee Ltd (hereinafter referred to as "the ICPC") and the International Seabed Authority (hereinafter referred to as "the Authority").

#### WHEREAS:

The ICPC is an organization representing the submarine cable industry that has been established to promote the security and safeguarding of submarine cables against man-made and natural hazards;

Submarine cables provide critical infrastructure, and the laying of submarine cables is one of the freedoms of the high seas under articles 87 and 112 to 115 of the United Nations Convention on the Law of the Sea of 10 December 1982 ("the Convention"), which freedoms shall be exercised by all States with due regard for the interests of other States and for the rights under the Convention with respect to activities in the Area, defined in article 1, paragraph 1 (1), of the Convention as the seabed and ocean

floor and subsoil thereof, beyond the limits of national jurisdiction;

The Authority is the organization through which States parties to the Convention shall, in accordance with Part XI of the Convention and the Agreement relating to the implementation of Part XI of the Convention adopted on 28 July 1994 by the United Nations General Assembly in its resolution 48/263 ("the Agreement"), organize and control activities in the Area, particularly with a view to administering the mineral resources of the Area;

Both the ICPC and the Authority have a strong interest in the protection of the marine environment from harmful effects arising from their respective activities;

Increased cooperation between the ICPC and the Authority would help to avoid potential conflicts between the laying and maintaining of submarine cables and current and future activities in the Area;

#### THE ICPC AND THE AUTHORITY THEREFORE AGREE:

1. To consult, where appropriate and practical, on issues of mutual interest, with a view to promoting or enhancing a better understanding of their respective activities;
2. To invite each other's representatives to attend and participate in the meetings of their respective governing bodies as observers in accordance with the rules of procedures of such bodies;
3. To exchange where practicable, or to facilitate by direct liaison with the owners of international cable systems, information on cable routings and



prospecting and exploration areas, subject to confidentiality provisions;

4. To cooperate, where appropriate and practical, in the collection of environmental data and information and, where possible, to exchange standardized data and information;
5. To conduct, where appropriate, cooperative studies and seminars;
6. To invite each other's representatives to participate in relevant meetings of experts and workshops;
7. That this memorandum of understanding is without prejudice to agreements concluded by either party with other organizations and programmes;
8. That the cooperation between the two organizations referred to herein

is subject to the requirements of confidentiality of data and information imposed upon the Authority by the Convention, the Agreement and the relevant rules, regulations and procedures of the Authority in respect of data and information submitted to it by applicants and contractors for exploration and exploitation in the Area and upon the ICPC in accordance with its rules, articles and member approval as provided therein;

9. That this memorandum of understanding will come into effect upon its signature by the Chairman of the ICPC and the Secretary-General of the Authority. It may be terminated by any of the parties by giving to the other a written notice six months prior to the proposed date of termination.

### **C. 2010 UN General Assembly Resolution on Oceans and law of the sea adopted on 7 December 2010 [extracts]**

Adopted by 123 votes to 1 with 2 abstentions on 7 December 2010

The General Assembly,

Recognizing that fibre optic submarine cables transmit most of the world's data and communications and hence are vitally important to the global economy and the national security of all States, conscious that these cables are susceptible to intentional and accidental damage from shipping and other activities, and noting that these matters have been brought to the attention of States at various workshops and seminars, and conscious of the need for States to adopt national laws and regulations to protect submarine cables and render their wilful damage or damage by culpable negligence punishable offences,

121. Calls upon States to take measures to protect fibre optic submarine cables and to fully address issues relating to these cables, in accordance with international law, as reflected in the Convention, encourages greater dialogue and cooperation among States and the relevant regional and global organizations to promote the security of such critical communications infrastructure and, in this regard, notes the attention given to this matter in the Okinawa Declaration of the eighth Asia-Pacific Economic Cooperation ministerial meeting on the telecommunications and information industry, held in Okinawa, Japan, on 30 and 31 October 2010;

### 3. Examples of National Cable Protection Legislation

#### A. 1963 Submarine Cables and Pipelines Protection Act of Australia

An Act relating to the Protection of Submarine Cables and Pipelines beneath the High Seas

##### 1. Short title

This Act may be cited as the Submarine Cables and Pipelines Protection Act 1963.

##### 2. Commencement

This Act shall come into operation on the day on which it receives the Royal Assent.

##### 3. Saving of other laws

(1) This Act shall be read and construed as being in addition to and not in derogation of or in substitution for any other law of the Commonwealth or of a State or Territory.

(2) The reference in the last preceding subsection to a law of the Commonwealth includes a reference to the Imperial Act known as the Submarine Telegraph Act, 1885, insofar as that Act is part of the law of the Commonwealth.

##### 4. Extension of Act to Territories

This Act extends to all the Territories.

5. Act applies only to cables and pipelines beneath the high seas

(1) This Act applies only to a submarine cable or pipeline, or that part of a submarine cable or pipeline:

- (a) that is beneath the high seas or in the exclusive economic zone; and
- (b) that is not a submarine cable (within the meaning of Schedule 3A to the Telecommunications Act 1997) in a protection zone (within the meaning of that Schedule).

(2) In subsection (1):

*exclusive economic zone* has the same meaning as in the Seas and Submerged Lands Act 1973.

*high seas* has the same meaning as in the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982.

##### 5A. Application of the Criminal Code

Chapter 2 of the Criminal Code applies to all offences created by this Act.

Note: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

##### 6. Act binds Crown

This Act binds the Crown in right of the Commonwealth or of a State and any authority constituted by or under a law of the Commonwealth, a State or a Territory.

7. Persons not to break or injure submarine cables or pipelines

- (1) A person commits an offence if the person engages in conduct and the conduct results in a ship registered in Australia or in a Territory breaking or injuring:
- (a) a submarine telegraph or a telephone cable in such a manner as might interrupt or obstruct telegraphic or telephonic communications; or
  - (b) a submarine pipeline; or
  - (c) a submarine high-voltage cable.

Penalty: \$2,000, or imprisonment for 12 months.

- (1A) A person commits an offence if the person engages in conduct and the person is negligent as to whether the conduct will result in a ship registered in Australia or in a Territory breaking or injuring:
- (a) a submarine telegraph or a telephone cable in such a manner as might interrupt or obstruct telegraphic or telephonic communications; or
  - (b) a submarine pipeline; or
  - (c) a submarine high-voltage cable.

Penalty: \$1,000, or imprisonment for 3 months.

- (2) Where:
- (a) a breakage of, or an injury to, a cable or pipeline is caused by persons acting with the sole object of saving their lives or their ships; and
  - (b) those persons took all necessary precautions to avoid

breaking or injuring the cable or pipeline,

the last preceding subsection does not apply in relation to the break or injury.

(3) In this section:

engage in conduct means:

- (a) do an act; or
- (b) omit to perform an act.

## 8. Liability for breaking or injuring a cable or pipeline

If a person, in the course of laying or repairing a submarine cable or pipeline of which he is the owner, causes a break in or injury to another cable or pipeline, he is liable to bear the cost of repairing the break or injury.

## 9. Indemnity for loss of anchor etc

If, after all reasonable precautionary measures have been taken, an anchor, a net or any other fishing gear belonging to a ship is sacrificed in order to avoid injuring a submarine cable or pipeline, the owner of the ship is entitled to be indemnified for his loss by the owner of the cable or pipeline.

## 10. Punishment of offences

- (1) An offence against this Act may be prosecuted either summarily or upon indictment, but an offender is not liable to be punished more than once in respect of the same offence.
- (2) In summary proceedings against a person for an offence against this Act, the court shall not impose on that person, in respect of the offence, a penalty exceeding one thousand dollars or im-

prisonment for a term exceeding three months.

### 11. Jurisdiction of courts

(1) Subject to the succeeding provisions of this section:

- (a) the several courts of the States are invested with federal jurisdiction; and
- (b) jurisdiction is conferred on the several courts of the Territories,

with respect to offences against this Act.

(2) The jurisdiction invested in or conferred on courts by the last preceding subsection is invested or conferred within the limits (other than limits having effect by reference to the places at which offences are committed) of their several jurisdictions, whether those limits are as to subject-matter or otherwise, but subject to the conditions and restrictions specified in paragraphs (a), (b) and (c) of subsection (2) of section thirty-nine of the Judiciary Act 1903-1960.

(3) The jurisdiction invested in, or conferred on, a court of summary jurisdiction by this section shall not be judicially exercised except by a Chief, Police, Stipendiary, Resident or Special Magistrate.

(4) The trial on indictment of an offence against this Act, not being an offence committed within a State, may be held in any State or in any Territory.

(5) Subject to this Act, the laws of a State or Territory with respect to the arrest and custody of offenders or persons

charged with offences and the procedure for:

- (a) their summary conviction;
- (b) their examination and commitment for trial on indictment;
- (c) their trial and conviction on indictment; and
- (d) the hearing and determination of appeals arising out of any such trial or conviction or out of any proceedings connected therewith,

and for holding accused persons to bail apply, so far as they are applicable, to a person who is charged in that State or Territory with an offence against this Act.

(6) Except as provided by this section, the Judiciary Act 1903-1960 applies in relation to offences against this Act.

## B. 1996 Submarine Cables and Pipelines Protection Act of New Zealand

An Act—

- (a) to provide better protection of submarine cables and pipelines; and
- (b) to continue, or enable, the implementation of obligations on New Zealand under various international conventions relating to protection of submarine cables and pipelines; and
- (c) to consolidate and amend the Submarine Cables and Pipelines Protection Act 1966

### 1. Short Title and commencement

- (1) This Act may be cited as the Submarine Cables and Pipelines Protection Act 1996.
- (2) This Act shall come into force on the day on which it receives the Royal assent.

### Part 1. Preliminary provisions

#### 2. Interpretation

In this Act, unless the context otherwise requires,—

*anchor* includes an anchor chain and an anchor cable;

*approved maritime surveillance equipment* means any maritime surveillance equipment of a kind approved by the Minister under section 35;

*cable* includes works within the meaning of section 2 of the Electricity Act 1992 and a line within the meaning of sec-

tion 5 of the Telecommunications Act 2001;

*Director* means the person who is for the time being the Director of Maritime New Zealand under section 439 of the Maritime Transport Act 1994;

*enforcement officer* means—

- (a) a constable;
- (b) an officer in command of a ship of the New Zealand Naval Forces;
- (c) an officer of the New Zealand Naval Forces of the rank of Midshipman or above.

*high seas* means all parts of the sea that are not included in the territorial sea or in the internal waters of a country;

*image*, in relation to approved maritime surveillance equipment, includes a photograph, information stored in electronic form, and the display and transmission of pictorial or digital information;

*internal waters of New Zealand* means the internal waters of New Zealand as defined by section 4 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977;

*master* means a person (except a pilot) having command or charge of a ship;

*Minister* means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime

Minister, is for the time being responsible for the administration of this Act;

*New Zealand ship* means a ship that is registered under the Ship Registration Act 1992; and includes a ship that is not registered under that Act but is required or entitled to be registered under that Act;

*owner*,—

- (a) in relation to a ship registered in New Zealand under the Ship Registration Act 1992, means the registered owner of the ship;
- (b) in relation to a ship registered in any place outside New Zealand, means the registered owner of the ship;
- (c) in relation to a fishing ship, other than one to which paragraph (a) or paragraph (b) applies, means the person registered as the owner of the ship under section 57 of the Fisheries Act 1983;
- (d) in relation to a ship to which paragraph (a) or paragraph (b) or paragraph (c) applies, if, by virtue of any charter or demise or for any other reason, the registered owner is not responsible for the management of the ship, means the charterer or other person who is for the time being so responsible;
- (e) in relation to an unregistered ship or a registered ship that does not have a registered owner, means the person who is for the time being responsible for the management of the ship;

*owner*, in relation to a submarine cable or submarine pipeline, includes the person who, if the cable or pipeline has ceased to be used, owned the cable or pipeline at the time it ceased to be used;

*pipeline*, means a pipeline used or intended to be used for the conveyance of gas (including natural gas), petroleum, oil, water, or any other mineral, liquid, or substance; and includes all fittings, pumps, tanks, appurtenances, or appliances used in connection with a pipeline;

*protection officer* means a protection officer appointed under section 16;

*ship* means every description of boat or craft used in navigation, whether or not it has any means of propulsion; and includes—

- (a) a barge, lighter, or other like vessel;
- (b) a hovercraft or other thing deriving full or partial support in the atmosphere from the reaction of air against the surface of the water over which it operates;
- (c) a submarine or other submersible.

*submarine cable* means a cable that lies beneath the high seas or the territorial sea of New Zealand or the internal waters of New Zealand;

*submarine pipeline* means a pipeline that lies beneath the high seas or the territorial sea of New Zealand or the internal waters of New Zealand;

## Application

### 3. Act to bind the Crown

This Act binds the Crown.

#### 4. Application of Act

This Act applies to acts or omissions—

- (a) by a person within the territorial sea of New Zealand or the internal waters of New Zealand; or
- (b) by a person on board or by means of a New Zealand ship on the high seas; or
- (c) by a New Zealand citizen or a person ordinarily resident in New Zealand on board or by means of a ship, other than a New Zealand ship, on the high seas.

#### 5. Other Acts not affected

The provisions of this Act are in addition to, and not in substitution for, the provisions of any other enactment and, except as expressly provided by this Act, nothing in this Act derogates from the provisions of any other enactment.

### Part 2. Protection and enforcement

#### Liability for damage to submarine cable or pipeline

#### 6. Civil liability Other Acts not affected

Nothing in this Act limits or affects the liability for damages of any person in respect of any damage to a submarine cable or submarine pipeline.

#### 7. Liability in respect of damage to cable or pipeline

A person who, in the course of laying or repairing a submarine cable or submarine pipeline of which the person is the owner, damages another submarine cable or

submarine pipeline, is liable for the cost of repairing that damage, and such liability—

- (a) is in addition to any other liability to which the person may be subject; and
- (b) applies whether or not—
  - (i) the damage to the submarine cable or submarine pipeline was caused by that person's negligence; or
  - (ii) the person has been convicted of an offence relating to that damage.

#### Indemnity for loss of certain equipment

#### 8. Indemnity for loss of certain equipment

- (1) Subject to subsection (2), if after all reasonable precautions have been taken, an anchor, a net, or any other fishing equipment belonging to a ship is sacrificed in order to avoid damaging a submarine cable or submarine pipeline, the owner of the ship is entitled to be indemnified for that owner's loss by the owner of the cable or pipeline.
- (2) An owner of a ship is not entitled to be indemnified under subsection (1) if a person is convicted of an offence against section 11(1) or section 13 arising out of the conduct that would, but for this subsection, give rise to the indemnity.

#### Submarine cable or pipeline that has ceased to be used

- 9. Owner of submarine cable or pipeline that has ceased to be used to notify Minister



- (1) The owner of a submarine cable or submarine pipeline, as the case may be, shall, immediately after the use of the submarine cable or submarine pipeline has ceased, notify the Minister in writing that the cable or pipeline has ceased to be used.
- (2) Every person who fails to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

#### **10. District Court may order removal of abandoned submarine cable or pipeline**

- (1) On the application of the Minister, a District Court may order that a submarine cable or submarine pipeline, or part of the cable or pipeline, that, in its opinion,—
  - (a) is unlikely to be used again; and
  - (b) constitutes a hazard to fishing operations or the anchoring of ships—
 be removed by the owner of the submarine cable or submarine pipeline, at the owner's expense, from the territorial sea of New Zealand or the internal waters of New Zealand, as the case may be, within such time and in accordance with such conditions as may be specified in the order.
- (2) If the owner of a submarine cable or submarine pipeline that has been ordered to be removed under this section fails to comply with all or any part of the order, within the time specified in the order or within such further

period as the District Court may allow, the Minister may—

- (a) carry out all or any part of the work ordered to be carried out, and do all things incidental to the work; and
- (b) recover the costs for carrying out the work referred to in paragraph (a) from the owner of the submarine cable or submarine pipeline, as the case may be, as a debt due to the Crown.

#### **Offence to damage submarine cable or pipeline**

#### **11. Offence to damage submarine cable or pipeline**

- (1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$250,000 who—
  - (a) wilfully or negligently either damages, or causes or permits a ship or equipment belonging to a ship to damage, a submarine cable or submarine pipeline; or
  - (b) is the owner or master of a ship that is used in the commission of an offence against paragraph (a).
- (2) An owner or master of a ship who is convicted of an offence against paragraph (a) of subsection (1) is not liable for an offence against paragraph (b) of that subsection arising out of the same course of conduct.
- (3) It is a defence to a prosecution for an offence against this section if the defendant proves that the damage which is alleged to constitute the offence was

caused by persons acting with the sole object of saving life or a ship after having taken all reasonable precautions to avoid the damage.

- (4) For the purposes of this section, a person who causes an event by an act or omission which he or she knows would probably cause it, being reckless whether that event happens or not, is deemed to have caused it wilfully.

### Prohibition on certain activities in protected areas

#### 12. Protected areas

- (1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, declare any of the following areas to be a protected area for the purposes of this Act:
- (a) an area within the internal waters of New Zealand;
  - (b) an area within the territorial sea of New Zealand;
  - (c) an area within the exclusive economic zone of New Zealand (as described in section 9 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977).
- (2) The Minister shall not make a recommendation under subsection (1) unless—
- (a) the Minister has first consulted with such persons or organisations representing such persons as the Minister considers would be affected by the order; and
  - (b) those persons or organisations have a reasonable opportunity to make submissions to the Minister; and
  - (c) the Minister has regard to those submissions.
- (3) A failure to comply with subsection (2) does not affect the validity of any Order in Council made under subsection (1).
- (4) An Order in Council under subsection (1) may—
- (a) apply—
    - (i) generally in respect of an area to which it relates;
    - (ii) differently in respect of specified areas or classes of areas within the general area specified in the Order in Council;
    - (iii) generally in respect of all ships;
    - (iv) differently in respect of specified ships or classes of ships;
    - (v) generally in respect of all methods of fishing;
    - (vi) differently in respect of specified methods of fishing;
  - (b) impose requirements in respect of specified ships or classes of ships that must be met before a ship or class of ships qualifies for exclusion from the application of the order.
- (5) The Minister shall publish a notice of the making of an Order in Council under subsection (1) in—

- (a) each of the metropolitan daily newspapers published in Auckland, Wellington, Christchurch, and Dunedin, respectively; and
  - (b) the Gazette.
- (6) The Minister may, by notice in the Gazette, declare that an Order in Council under this section does not apply in respect of a specified ship or class of ships, and may in like manner vary or revoke any such notice.
- (7) A declaration under subsection (6) may be made unconditionally or upon or subject to such conditions that are specified in the notice.
- (8) Notwithstanding the provisions of an Order in Council under this section, any such notice has effect according to its tenor.
- (9) Subsections (2), (3), and (5) apply, with such modifications as may be necessary, to the making of a declaration under subsection (6).

Compare: 1966 No 5 ss 7, 7A(2); 1977 No 96 ss 4, 5

Section 12 (1)(c): amended, on 1 August 1996, pursuant to section 5(4) of the Territorial Sea and Exclusive Economic Zone Amendment Act 1996 (1996 No 74).

### 13. Offences in respect of protected areas

(1) Subject to subsection (3), if—

- (a) fishing operations are conducted from a ship in an area declared to be a protected area in respect of that ship under section 12(1); or

- (b) a ship is anchored in any such area— the owner and the master of the ship each commits an offence and is each liable on summary conviction to the appropriate penalty under section 15.

(2) Subject to subsection (3), every person who fails to comply with, or acts in contravention of, an Order in Council under section 12(1) commits an offence and is liable on summary conviction to the appropriate penalty under section 15.

(3) A person is not liable for an offence against this section involving a ship to which a notice under section 12(6) applies.

(4) Where in proceedings for an offence against this section, an enforcement officer or a protection officer gives evidence that he or she observed—

- (a) a net, line, rope, chain, or any other thing used in connection with fishing operations being towed by, or operated or suspended from, a ship; or
- (b) an anchor being lowered or suspended from, or raised by, a ship,—

it shall be presumed that, in the absence of evidence to the contrary, fishing operations were being conducted from the ship or the ship was anchored, as the case may be.

(5) Where in proceedings for an offence against this section, evidence is given of an image made by approved maritime

surveillance equipment, being an image showing—

- (a) a net, line, rope, chain, or any other thing used in connection with fishing operations being towed by, or operated or suspended from, a ship; or
- (b) an anchor being lowered or suspended from, or raised by, a ship,—

it shall be presumed that, in the absence of evidence to the contrary, fishing operations were being conducted from the ship or the ship was anchored, as the case may be.

#### 14. Defences in respect of certain offences

- (1) It is a defence to a prosecution for an offence against section 13 if the defendant proves that any anchoring which is alleged to constitute the offence was necessary for the purpose of saving life or a ship.
- (2) It is a defence to a prosecution for an offence against section 13 if the defendant proves that the defendant took all reasonable steps to prevent the commission of the offence.

#### 15. Penalties in respect of certain offences

Every person who commits an offence against section 13 is liable on summary conviction,—

- (a) to a fine not exceeding \$100,000, if—
  - (i) the offence was committed in the course of conducting an activity for the purpose of

producing a commercial gain; or

- (ii) a ship, which is used for an activity that has, as its predominant purpose, the making of a commercial gain, was used in the commission of the offence.

- (b) to a fine not exceeding \$20,000, if the offence was committed, otherwise than in any of the circumstances specified in paragraph (a).

#### Appointment and powers of protection officers, etc

#### 16. Protection officers

- (1) The Minister may from time to time, by notice in the Gazette, appoint a person to be a protection officer.
- (2) For the purposes of this Act, an enforcement officer is deemed to be a protection officer.

#### 17. Ship may be ordered from protected area

- (1) If a protection officer believes on reasonable grounds that a ship or equipment belonging to a ship is being used in a protected area in the commission of an offence against section 13, the protection officer may, by any means of communication, order the master of the ship to remove the ship from that area.
- (2) Without derogating from any other provision of this Act, a master who, without reasonable cause, fails within a reasonable period of time to comply with an order given under this sec-

tion, commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

### 18. Seizure of fishing equipment in protected area

- (1) A protection officer who finds fishing equipment may seize the equipment if he or she believes on reasonable grounds that—
  - (a) the area in which he or she finds the equipment is declared to be a protected area by an Order in Council under section 12(1); and
  - (b) the equipment has been left there by a ship to which the order applies.
- (2) A protection officer who has seized fishing equipment under subsection (1) shall without delay arrange for notice of the seizure to be posted at the Police station nearest to where the seizure was made.
- (3) Subject to subsection (4), a protection officer shall return fishing equipment seized under subsection (1), at the expense of the person, to a person who establishes ownership to the satisfaction of the protection officer.
- (4) If ownership of the fishing equipment is not established under subsection (3) within 60 days after the posting of the notice of seizure under subsection (2),—
  - (a) the fishing equipment becomes the property of the Crown subject only to those encumbrances, liens, and interests of which a protec-

tion officer is aware at the time the fishing equipment becomes the property of the Crown; and

- (b) the fishing equipment may be sold or otherwise disposed of as the Minister thinks fit.

### 19. Master to identify ship

- (1) If,—
  - (a) a protection officer believes on reasonable grounds that a ship or equipment belonging to a ship is being used in the commission of an offence against section 13; and
  - (b) a request for identification is made to the ship by the protection officer,—
 

the master of the ship must advise the protection officer of the master's name, owner's name, ship's name, place of registry, register number, and such further information as may be relevant to the identity of the master and owner and the identity of the ship that may be requested by the protection officer.

- (2) A master who, without reasonable cause, fails within a reasonable period of time to comply with subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

### Powers of enforcement officers, etc

### 20. Power to obtain documents and information

- (1) If an enforcement officer has reasonable cause to believe that an offence is

being or has been committed against this Act by or from or in relation to a ship, the enforcement officer may, for the purposes of enforcing the provisions of this Act,—

- (a) require the owner or the master or a member of the crew of the ship to produce a certificate, official logbook, or other document in the possession or under the control of the owner, master, or crew member that relates to the ship:
  - (b) require the master to produce a certificate of registration, charter, or other document, or to provide other information relating to the owner of the ship:
  - (c) require the master of the ship, or any other person on board the ship, to produce a document, or to give an explanation or information, as may be necessary to assist in identifying the location, conduct, and movements of the ship, or the actions of any person on board the ship at the time relevant to the suspected commission of an offence against this Act:
  - (d) take or make copies of a document produced under this section, if the document is relevant to the suspected commission of an offence against this Act.
- (2) An enforcement officer may—
- (a) take possession of and remove any such document from the place where it is kept for such period

of time as is reasonable in the circumstances; and

- (b) require a person to reproduce, or assist the enforcement officer to reproduce, in usable form any information recorded or stored on a document electronically or by other means.
- (3) Nothing in paragraph (b) or paragraph (c) of subsection (1) requires a person to answer a question if to do so would tend to incriminate that person.
- (4) For the purposes of this section document means a document in any form; and includes—
- (a) any writing on or in any material; and
  - (b) information recorded or stored by means of a tape recorder, computer, or other device; and material subsequently derived from information so recorded or stored; and
  - (c) a record, book, graph, or drawing; and
  - (d) a photograph, film, negative, tape, disk, or other device in which 1 or more visual images are embodied or stored so as to be capable (with or without the aid of equipment) of being reproduced.
- (5) Every person who fails without reasonable cause to comply with subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

## 21. Power of seizure

- (1) An enforcement officer may seize a ship or other property if the officer believes on reasonable grounds that the ship or other property is being used in the commission of an offence against section 13.
- (2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 who—
  - (a) resists or obstructs an enforcement officer exercising the power of seizure under this section; or
  - (b) fails without reasonable cause to comply with the requirements of an enforcement officer exercising the power of seizure under this section.

## 22. Persons assisting enforcement officer

An enforcement officer exercising a power conferred on the officer by this Act may call upon a person in the vicinity for assistance, and every person so called upon is authorised to render such assistance.

## 23. Enforcement officer to produce evidence of authority to act

Every enforcement officer exercising a power conferred by section 20 or section 21 shall, at the time of exercising that power, and thereafter on reasonable request, produce—

- (a) evidence that that person is an enforcement officer; and
- (b) evidence of that person's identity.

## Provisions relating to seized property

### 24. Custody of property seized

- (1) Subject to sections 25 and 26, property seized under section 21 shall be held in the custody of the Crown and shall not be released until—
  - (a) a decision is made not to lay an information in respect of the alleged offence for which the property was seized; or
  - (b) an information against the person charged with the offence for which the property was seized is dismissed,—

and, in that event, it must be released immediately from the custody of the Crown.

- (2) The decision whether or not to lay an information in respect of an alleged offence for which property is seized under section 21 shall be made as soon as reasonably practicable after the property is seized.

### 25. Release of property by Minister

- (1) The Minister may, at any time after property has been seized under section 21 and before the completion of proceedings in respect of the alleged offence for which the property was seized under that section, on application by—
  - (a) the person from whom the property was seized; or
  - (b) the owner or person entitled to the possession of the property seized,—

release the property to that person under bond in such sum and under such sureties and conditions (if any) as the Minister may specify.

- (2) If the person to whom property is released under subsection (1) fails to comply with the conditions of a bond or with a condition specified by the Minister,—
  - (a) the property may be resealed at any time at the direction of the Minister; and
  - (b) the Minister may, in the case of failure to comply with the conditions of a bond, apply to a District Court for an order for estreat of the bond.
- (3) If the Minister applies for an order for estreat of the bond, the Registrar shall fix a time and place for the hearing of the application, and shall, not less than 14 days before the time fixed, cause to be served on every person bound by the bond a notice of the time and place so fixed.
- (4) If, on the hearing of the application, it is proved to the satisfaction of the court that a condition of the bond has not been kept, the court may make an order to estreat the bond to such an amount as it thinks fit to any person bound by the bond on whom notice is proved to have been served in accordance with subsection (3).
- (5) A penalty payable under subsection (4) is recoverable as if it were a fine.

## 26. Release of property by court

- (1) Where property has been seized under section 21,—
  - (a) the person from whom the property was seized; or
  - (b) the owner or person entitled to the possession of the property seized,—

may, in accordance with this section, apply to a District Court or the High Court, as the case may be, for an order releasing the property to that person, and any such release may be subject to such sureties and conditions as the court may specify.

- (2) Where the property does not exceed \$200,000 in value, the application shall be by way of originating application made to a District Court and the rules relating to the practice and procedure of District Courts for the time being in force under the District Courts Act 1947 apply with respect to every such application.
- (3) Where the property exceeds \$200,000 in value, the application shall be by way of originating application made to the High Court and the High Court Rules apply with respect to every such application.

## Proceedings for offences, etc

### 27. Consent of Attorney-General required for certain proceedings

- (1) Notwithstanding anything in any other enactment, proceedings for an offence against this Act or regulations



under this Act, being an offence that is alleged to have been committed—

- (a) outside the territorial sea of New Zealand; or
- (b) on board or by means of a ship, other than a New Zealand ship; or
- (c) by a person who is not a New Zealand citizen or a person ordinarily resident in New Zealand,—

shall not be instituted in any court except with the consent of the Attorney-General and on his or her certificate that it is expedient that the proceedings should be instituted.

- (2) Notwithstanding subsection (1), a person may be arrested, or a warrant for a person's arrest may be issued and executed, and the person may be remanded in custody or on bail, but no further proceedings shall be taken until the Attorney-General's consent under subsection (1) has been obtained.

## 28. Evidential provisions relating to approved maritime surveillance equipment

- (1) In proceedings against a person for an offence against this Act or regulations under this Act, the production of an image produced by approved maritime surveillance equipment, being an image—
  - (a) recording the presence or position of a ship; and
  - (b) recording the date on which the image was taken, the time when the image was taken, and the location at which the image was taken,

or recording any of those particulars,—

is, in the absence of proof to the contrary, sufficient evidence that the ship was present in a particular position or that the image was taken on that date or at that time or at that location, as the case may be.

- (2) The production in evidence in the proceedings of an image that appears to be an image referred to in subsection (1) is, in the absence of proof to the contrary, sufficient evidence that the image was produced by approved maritime surveillance equipment.

## 29. Offence to tamper or interfere with approved maritime surveillance equipment

Every person commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 who—

- (a) tampers with approved maritime surveillance equipment; or
- (b) interferes with—
  - (i) approved maritime surveillance equipment; or
  - (ii) the operation of approved maritime surveillance equipment.

## 30. Evidence of testing and accuracy of approved maritime surveillance equipment

- (1) In proceedings for an offence against this Act or regulations under this Act, the production of a certificate (or a document that appears to be a copy of the certificate) that appears to be signed by the Director or by a person

authorised by the Director, as to the testing and accuracy of approved maritime surveillance equipment referred to in the certificate, is admissible as evidence that the equipment referred to has been tested and is accurate.

- (2) Every document that appears to be a copy of a certificate issued under subsection (1) shall, in the absence of proof to the contrary, be presumed to be a true copy.
- (3) Every certificate issued under subsection (1) shall, in the absence of proof to the contrary, be presumed to have been signed by a person duly authorised to sign it; and it is not necessary for the certificate to show on its face that the person signing it was so authorised.

#### Forfeiture of property on conviction

##### 31. Forfeiture of property on conviction

- (1) On the conviction of a person for an offence against—
  - (a) section 11; or
  - (b) section 13, in any case where the penalty imposed in respect of the offence is specified in section 15(a),—
 

the District Court in which the conviction is entered may order that a ship or other property used in respect of the commission of the offence be forfeited to the Crown.
- (2) Where any property is forfeited to the Crown under subsection (1), the property shall upon forfeiture vest in

the Crown absolutely and free of all encumbrances, liens, and interests.

##### 32. Court may grant relief to third party

- (1) Subject to subsection (2), if property has been forfeited to the Crown under section 31(1), a person who claims that the person had an interest in the forfeited property prior to its forfeiture to the Crown may, in accordance with this section, apply to the District Court that ordered the forfeiture or the High Court, as the case may be, for an order under subsection (6) of this section.
- (2) Nothing in subsection (1) applies to—
  - (a) a person who was involved in the commission of the offence in respect of which the property has been forfeited; or
  - (b) a person who did not acquire his or her interest in the property in good faith and who knew or had reason to believe at the time of the acquisition that the property was or would be involved in the commission of the offence in respect of which the property has been forfeited.
- (3) Where the property forfeited under section 31(1) does not exceed \$200,000 in value, the application shall be by way of originating application made to, and filed in, the office of the District Court that ordered the forfeiture.
- (4) Except as modified by subsection (3), the rules relating to the practice and procedure of District Courts for the

time being in force under the District Courts Act 1947 apply with respect to every such application made to the District Court that ordered the forfeiture.

- (5) Where the property forfeited under section 31(1) exceeds \$200,000 in value, the application shall be by way of originating application made to the High Court and the High Court Rules apply with respect to every such application.
- (6) If the court is satisfied that—
- (a) the applicant is a person to whom subsection (1) applies; and
  - (b) the applicant's claim to an interest in the property is valid,—

the court may make an order—

- (c) declaring the nature, extent, and value of the applicant's interest in the property; and
  - (d) either—
    - (i) directing the Crown to transfer the interest to the applicant; or
    - (ii) declaring that there is payable by the Crown to the applicant an amount equal to the value of the interest declared by the court.
- (7) The court may make an order under this section on such terms and conditions as the court thinks fit.

### 33. Minister's powers in respect of forfeited property

- (1) The Minister may sell or otherwise dispose of property that is forfeited to the Crown under section 31(1) as the Minister thinks fit.
- (2) A person who had a legal or equitable interest in such property prior to its forfeiture to the Crown may apply to the Minister within 30 days after the conviction for the release of the property so forfeited.
- (3) On an application under subsection (2), the Minister may order the release of such property on payment to the Crown of such amount as the Minister thinks appropriate, being an amount not exceeding the amount the property forfeited is estimated by the Minister to be likely to realise if sold by public auction in New Zealand.

### 34. Forfeiture of property or redemption payment is in addition to any other penalty

A forfeiture ordered by the court under section 31(1) or a redemption payment imposed by the Minister under section 33(3) is in addition to, and not in substitution for, any other penalty that may be imposed by the court.

## Part 3. Miscellaneous provisions

### 35. Approved maritime surveillance equipment

The Minister may from time to time, by notice in the Gazette, approve equipment of any kind to be approved maritime

surveillance equipment for the purposes of this Act.

### 36. Regulations

The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) regulating the navigation or conduct of ships engaged in the laying, repairing, or maintenance of submarine cables or submarine pipelines and prescribing the lights or signals to be displayed by those ships while engaged in those operations;
- (b) prescribing the duties of owners of submarine cables or submarine pipelines in respect of the marking or definition of those cables and pipelines and prescribing records to be kept in respect of the location of those cables or pipelines;
- (c) regulating the navigation or conduct of ships in relation to other ships engaged in the laying, repairing, or maintenance of submarine cables or submarine pipelines or in relation to those cables or pipelines or in relation to buoys or signals indicating the presence or proximity of those cables or pipelines;
- (d) prescribing the duties of persons in respect of reporting damage caused or likely to be caused to submarine cables or submarine pipelines;
- (e) prescribing offences against the regulations and defining the persons or classes of persons liable to conviction for those offences;

- (f) prescribing fines not exceeding \$50,000 for offences against the regulations;
- (g) providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration of this Act;

### 37. Repeals and savings

- (1) The enactments specified in the Schedule are hereby repealed.
- (2) Notwithstanding the repeal of the Submarine Cables and Pipelines Protection Act 1966 by subsection (1), every Order in Council, regulation, and notice made under that Act and in force immediately before its repeal shall, until revoked, continue in force after the repeal of that Act as if it had been made under this Act.
- (3) The Governor-General may from time to time, by Order in Council,—
  - (a) make regulations amending, or revoking in whole or in part, any regulations continued in force by subsection (2); or
  - (b) make Orders in Council amending, or revoking in whole or in part, any orders continued in force by subsection (2).
- (4) The Minister may from time to time, by notice in the Gazette, amend, or revoke in whole or in part, any notice continued in force by subsection (2).