

DEHUKAM International Workshop

Legal Status of Submarine Cables, Pipelines and ABNJ

Submarine Cables in the Sargasso Sea

-- Lessons for the Prep-Com

Tara Davenport & Zhen Sun

Overview

- **The Sargasso Sea**
- **Cable Operations in the Sargasso Sea**
- **Sargasso Sea Workshop**
- **Lessons for the Prep-Com**

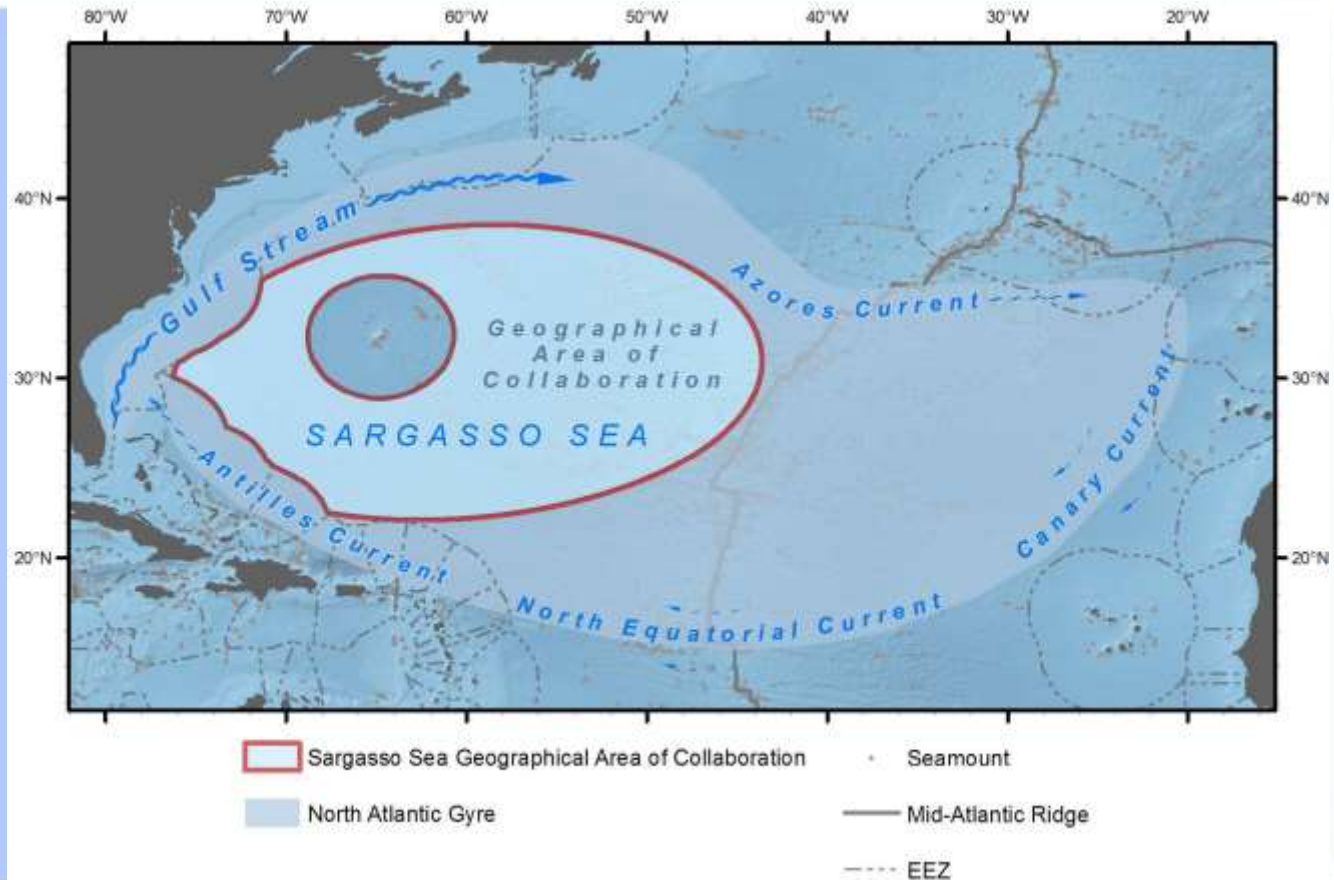
Sargasso Sea

– A Vital Ecosystem of Global Importance



The Sargasso Sea

2014 Hamilton Declaration:
The portion of **high seas** and the **Area** under that portion of the high seas (excluding the EEZ and TS around Bermuda, and the extended CS of neighbouring states).



Legal Status of the Sargasso Sea

- **1982 United Nations Convention on the Law of the Sea**
 - Part VII **High Seas** & Part XI **the Area**
- **Areas Beyond National Jurisdiction**
 - It is beyond the limits of the territorial sea and the EEZ of Bermuda, United States and the Caribbean States;
 - It is beyond the limits of continental shelf and extended CS claims of the neighboring States;

Initiatives to Protect the Sargasso Sea

- **ABNJ – Not under jurisdiction Not under protection**
- **Sargasso Sea Alliance – Non-binding**
 - Formed in 2010, a *partnership* led by Bermuda in *collaboration* with science organisations and individuals to promote awareness of protection;
- **Sargasso Sea Commission – Non-binding**
 - Established in 2014 by the governments of the Azores, Bermuda, Monaco, UK and US through the Hamilton Declaration, a *political non-binding* statement.
 - Exercises a *stewardship* role for the Sargasso Sea and keep its health, productivity and resilience under continual review.

Implications for Cables in the Sargasso Sea

- **Art. 87(1)(c) & 112:** All States have the **freedom** to lay submarine cables on the sea bed of the high seas and the Area;
- **Art. 79(5) & 87(2):** States must have **due regard** obligation;
- **Art. 113-115:** All States shall **legislate** to ‘protect’ cables;
- **Art 206:** When States have reasonable grounds for believing that planned activities under their jurisdiction or control may cause *substantial pollution of or significant and harmful changes to the marine environment*, they shall, as far as practicable, **assess** the potential effects of such activities on the marine environment and shall communicate reports of the results of such assessments in the manner provided in article 205.

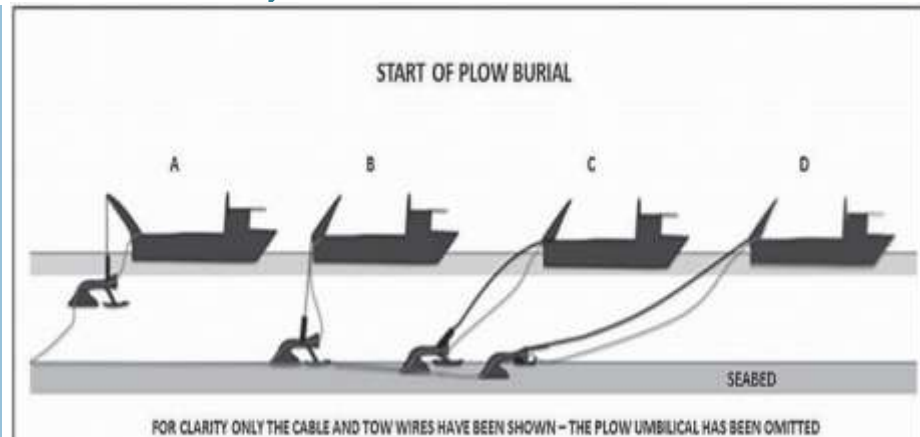
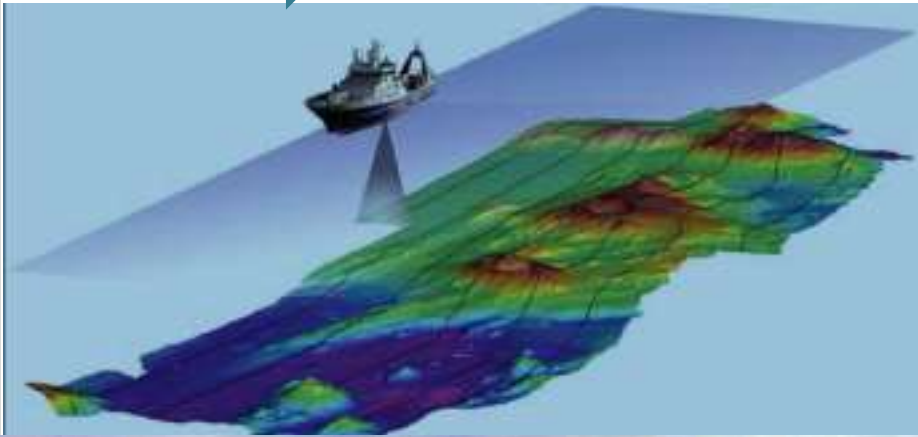
Cable Operations in the Sargasso Sea

Surveying of
Cable Routes

Laying of
Cables

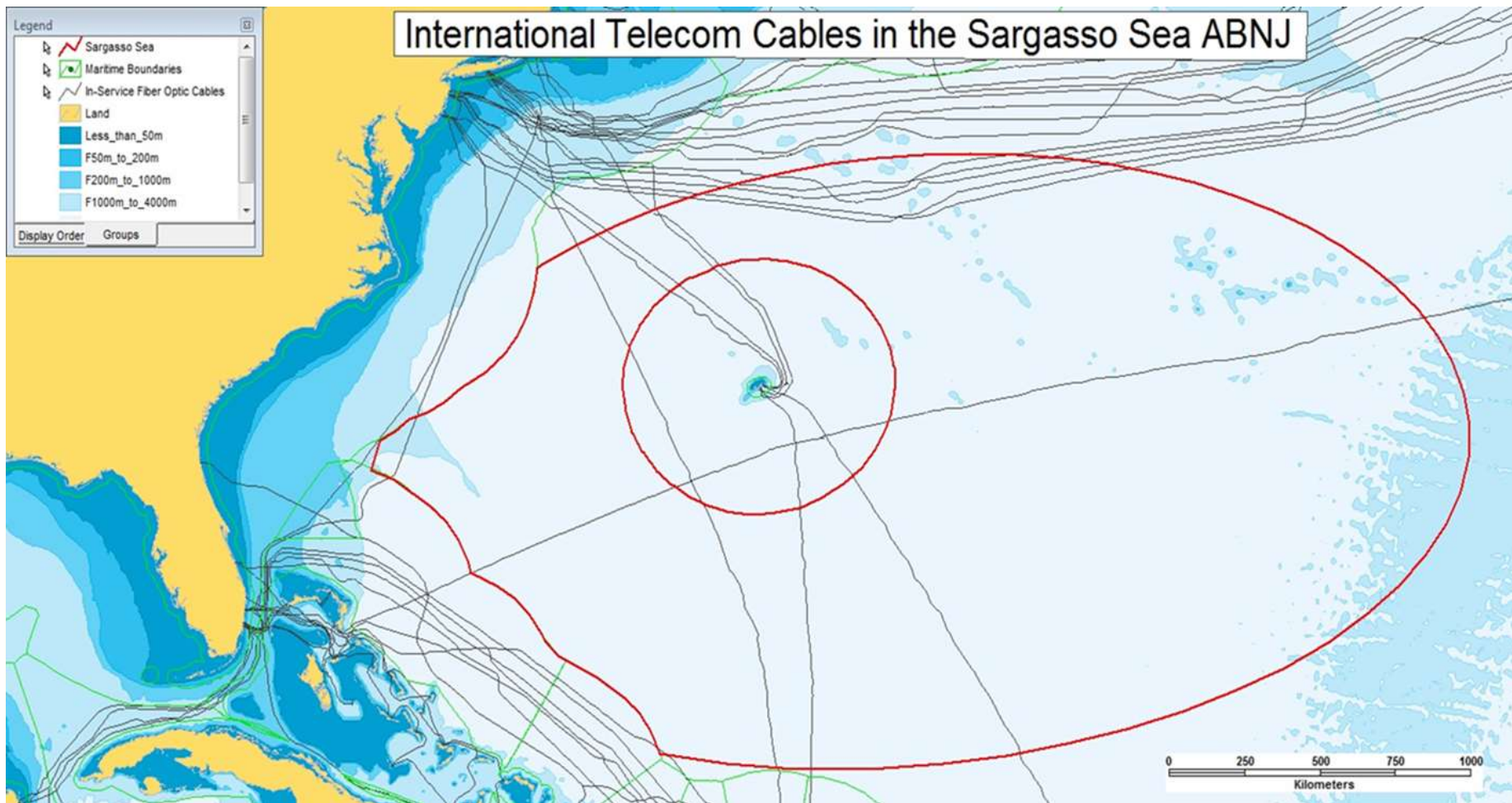
Repair and
Maintenance

End of Life/Out
of Service

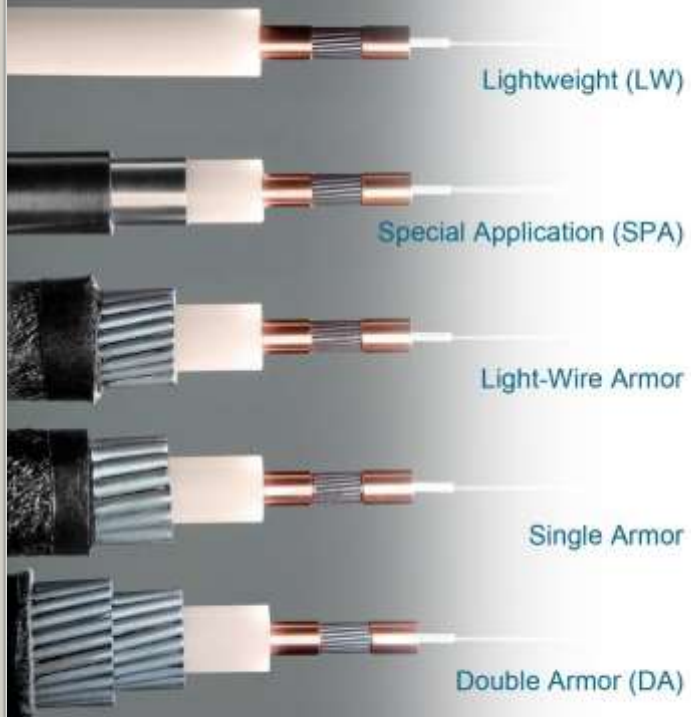


System Name	Ready For Service (upgrade)	Length (Overall) KM	Owner	Landing Points
APOLLO	2003 (2012/2014)	12,700	Alcatel, Apollo SCS Limited C&W	Brookhaven (USA), Lannion (France), Manasquan (USA), Widemouth (UK)
CB-1	2009	1,448	Cable Company Ltd., Verizon	Bermuda, Charleston, RI (USA)
COLUMBUS III	1999 (2012)	9,833	Columbus III Consortium	Conil (Spain), Hollywood (USA), Lisbon (Portugal) Mazara (Italy), Ponta Delgada (Portugal)
GEMINI BERMUDA	2007	1,500	C&W, Verizon	Manasquan (USA), Bermuda
GLOBENET	2001 (2010)	22,960	Globenet	Bermuda, Boca Raton (USA), Fortaleza (Brazil), Maiquetia (Venezuela), Rio de Janeiro (Brazil) Tuckerton (USA)
MAC	2000 (2010/2011)	7,461	Global Crossing	Brookhaven (USA), Hollywood (USA), St Croix (US Virgin Islands)
TAT 14	2001	15,453	TAT-14 Consortium	Blaabjerg (Denmark), Katwijk (Netherlands), Manasquan (USA), Norden (Germany), Saint-Valery-en-Caux (France), Tuckerton (USA), Widemouth (UK)
TGN TRANS-ATLANTIC	2001 (2013)	12,670	Tata Communications	Highbridge (UK), Saunton Sands (UK), Wall Township (USA)

Existing Cables in the Sargasso Sea



Impact of Cables in the Sargasso Sea



Submarine cable for deep sea areas

Submarine cable for shallow sea areas



- Cable ships are operated by trained and experienced crews and specialist with concern for safety and environment;
- Lightweight cable (17-20mm) laid on the surface of the seabed without burying, avoided seamounts;
- Few repairs (3 repairs in 2008-2013);
- No new cables planned in near future (likely follow well established routes).

2014 Workshop on Submarine Cables in the Sargasso Sea

- **Objectives:**

- To start a dialogue between the cable industry and the SSC regarding best environmental and industry practice for cable operations in the Sargasso Sea

- **Key Issues Discussed:**

- Legal framework
- Balancing cable operations with competing activities
- Environmental impact assessment
- Exchange of information
- Marine data collection through environmental sensors

Environment and Cable Operations

- Is EIA an obligation for cable operations in ABNJ? If yes, who's obligation it is?
- Are there common EIA standard for cable operations?
- Which State/international body to receive and valuate the EIA report?
- Would cable operation affect 'activities in the Area'? Does the Authority have any role in cable operations?
- How to identify damages, which entity to be hold responsible, which forum to settle the dispute?
- **Who can represent cables in ABNJ, which States have the right to regulate/protect cables?**

Lessons for the Prep-Com

- In its resolution 69/292 of 19 June 2015, the UNGA decided to develop **an international legally binding instrument under the UNCLOS** on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.
- A **Preparatory Committee** was established to make substantive recommendations to the UNGA on the elements of a draft text.
- First Session: 28 March to 8 April 2016; report to the UNGA by the end of 2017 on its progress.

Environmental Agenda at the Prep-Com

- Promoting a comprehensive ecosystem-based management regime for the ABNJ;
- Establish a framework for EIA and strategic environmental assessments;
- Establish the institutional mechanisms necessary to implement the negotiated commitments;

Submarine Cables and the New Instrument

- **Objectives:**

- to ensure the freedom to lay submarine cables in ABNJ is preserved;

- **Possible Solutions:**

- Short-term: ICPC's efforts to collaborate with SSC and ISA to bridge the gap and establish best practice;
- Long-term: institutionalize the cable industry, bring cables under the regulation and protection of 'A' State;

SUBMARINE CABLES

*The Handbook of
Law and Policy*

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