

1884 CONVENTION FOR THE PROTECTION OF SUBMARINE TELEGRAPH CABLES

Adopted in Paris, France on 14 March 1884

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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, willfully 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.¹

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 as little delay as possible, and, at the latest, at the expiration of a year.²

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.]³

¹ 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).

² Instruments of ratification were exchanged 16 March 1885

³ 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."

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

Provided always that the stipulations of the said Convention shall be applicable to any of the abovenamed 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.⁴

Each of the abovenamed 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.

[Signatures not reproduced here.]

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.

**DECLARATION, EXPLANATORY OF ARTICLES 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 recognised 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 "willfully" 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, the 1st December, 1886.

[Signatures not reproduced here.]

**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.

[Signatures not reproduced here.]