

ASEAN ACADEMIC REPORTS ON SUBMARINE CABLES

CIL Academic Symposium, 4 May 2024

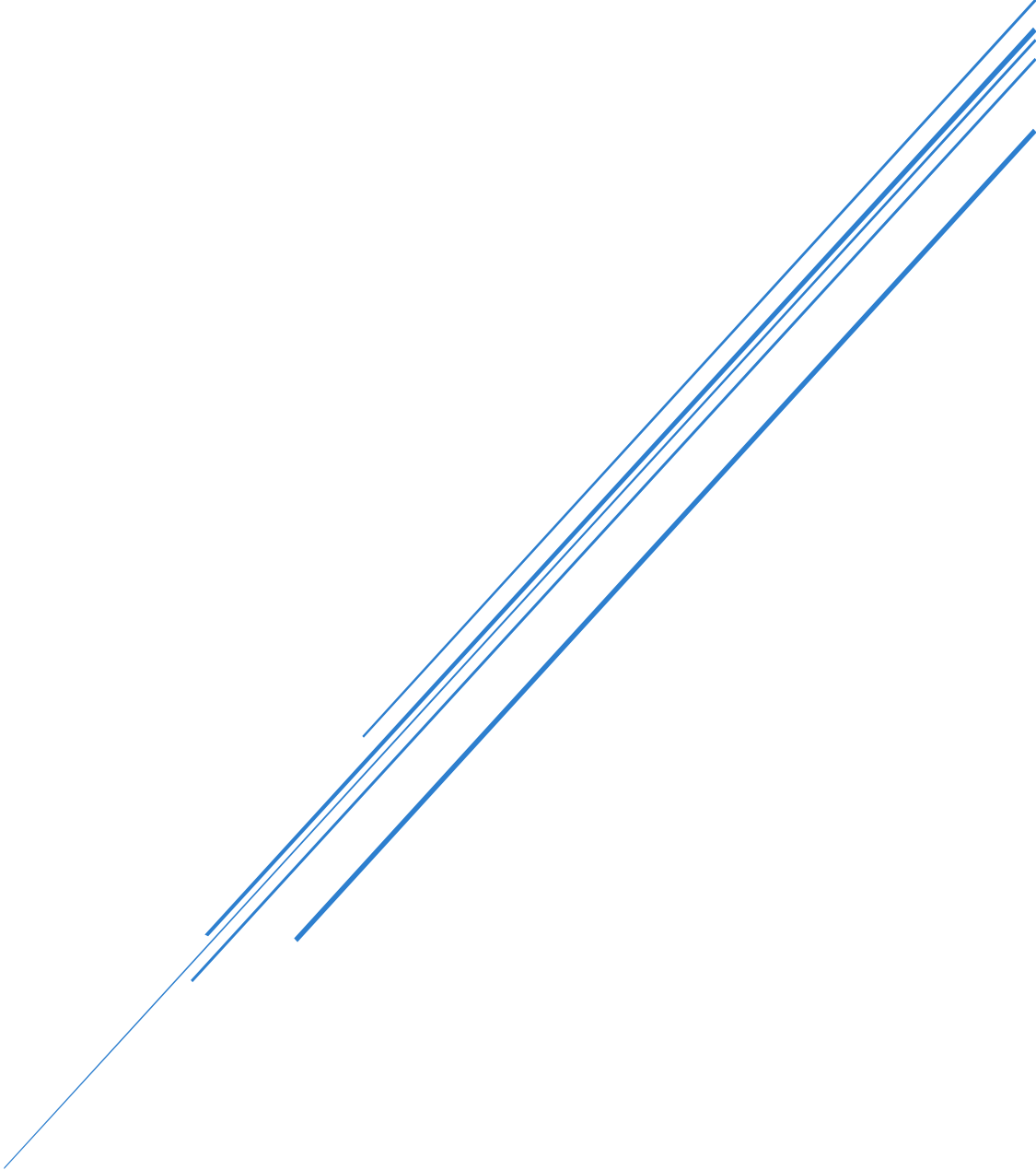


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Forward

On Friday 3 May 2024, the International Cable Protection Committee (ICPC) and the Centre for International Law (CIL) of the National University of Singapore (NUS) organized a one-day Workshop on Submarine Cables at the Orchard Hotel in Singapore. The Workshop followed the Annual Plenary Meeting of the ICPC, and was attended by representatives of the cable industry, and government officials from Singapore, Australia, Brunei, Indonesia, Malaysia, Philippines, Thailand and Vietnam. In addition, CIL sponsored two academics each from Indonesia, Malaysia, Philippines, Thailand and Vietnam to attend the Workshop.

On Saturday 4 May 2024, CIL organized an Academic Symposium on the regulation of submarine cables in Southeast Asia. The Symposium was attended by academics from ASEAN countries who CIL sponsored to attend the ICPC-CIL Workshop. In preparation for the CIL Academic Forum, the academics from Indonesia, Malaysia, Philippines, Thailand and Vietnam prepared country reports outlining the regulation of submarine cables in their respective countries. These reports were summarized in that Academic Symposium.

In addition, Profs Stuart Kaye and Robert McLaughlin summarized the regulation of submarine cables in Australia, and Profs Robert Beckman and Tara Davenport summarized the regulation of submarine cables in Singapore. Finally, Kent Bressie, the international law advisor of the ICPC, summarized the Best Practice Guidelines of the ICPC.

This document combines the country reports of the academics from Indonesia, Malaysia, Philippines, Thailand and Vietnam. CIL hopes that it will serve as the basis for analysing and reviewing the legal issues relating to the regulation of submarine cables in Southeast Asia.

Robert Beckman & Joel Ong

June 2024

INDONESIA

CIL Academic Symposium on Submarine Cables

Orchard Hotel, Singapore - Saturday, 4 May 2024

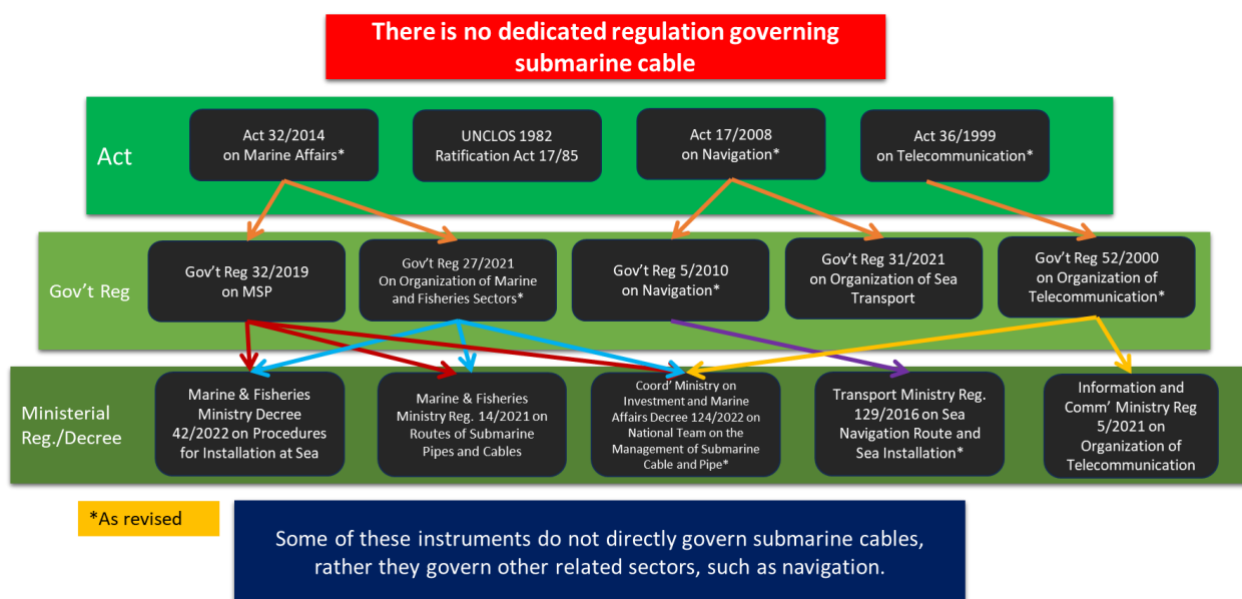
The Regulation and Protection of Submarine Cables in Indonesia

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I. Regulatory Mapping

Indonesia does not currently have a regulatory instrument dedicated to the governance of the installation and protection of submarine cables. The domestic regulations that are relevant to the installation of submarine cables are as presented in the figure below.



From the mapping of regulations presented in the figure above, the ones that are most relevant (most direct) in governing the installation of submarine cables in the maritime space of Indonesia are as follows:

- 1) Government Regulation No. 32/2019 on Marine Spatial Planning.
- 2) Government Regulation No. 27/2021 on the Organization of Marine and Spatial Sectors (replacing Government Regulation No. 6/2020 on Installation at Sea).
- 3) Government Regulation No. 5/2010 on Navigation.

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- 4) Transportation Ministry Regulation No. 129/2016 on Sea Navigation Route and Sea Installation.
- 5) Marine & Fisheries Ministry Regulation No. 14/2021 on Routes of Submarine Pipes and Cables.
- 6) Marine & Fisheries Ministry Decree No. 42/2022 on Procedures for Installation at Sea.
- 7) Coordinating Ministry on Investment and Marine Affairs Decree No. 124/2022 on National Team on the Management of Submarine Cable and Pipe (revised by Coordinating Ministry on Investment and Marine Affairs Decree No. 51/DII/2023).

According to Government Regulation No. 27/2021 on the Organization of Marine and Spatial Sectors, the terminology of “installation at sea” is defined as any installation (including telecommunication cables) on or below the sea surface built in the territorial waters, exclusive economic zone (**EEZ**), and on the **continental shelf**. Consequently, even the installation of submarine cables beyond the territorial waters of Indonesia is subject to this regulation. Pursuant to Article 12 of the Government Regulation No. 27/2021 (further clarified by Marine & Fisheries Ministry Decree No. 42/2022 on Procedures for Installation at Sea), a party wishing to construct an installation at sea must submit a proposal to obtain approval from the **National Team on the Management of Submarine Cable and Pipe (The National Team)** that the work plan is consistent with the marine spatial plan (MSP). The MSP in Indonesia also covers the EEZ and continental shelf. Indonesia’s MSP already includes the corridors for submarine cables (regulated under Government Regulation No. 32/2019 on Marine Spatial Planning).

The National Team has two primary responsibilities: to synchronize pipeline and submarine cable management policies across relevant Ministries and Institutions, and to prepare policy recommendations for their operation and management. The National Team solely manages issues related to the initial phase of laying submarine cables, including permitting and installation; it is unclear whether the National Team manages maintenance, repair, or protection mechanisms.

Requiring a permit (consent) for the installation of submarine cables beyond the territorial waters can be deemed inconsistent with Article 79 of 1982 UNCLOS on the freedom for all states to lay submarine cables and pipelines on the continental shelf. The right of a coastal State to impose requirements to lay submarine cables does not extend beyond its territorial waters. The imposition of a permit regime necessitates the cable owner to pay certain fees to complete the administrative requirements.

II. Relevant Government Agencies

Indonesia does not have a single point of contact responsible for approving the laying, repair and security of submarine cables. The installation of submarine cables within Indonesia's jurisdiction (including in the EEZ and continental shelf), is subject to a permit regime involving various ministries and agencies. There are 20 steps involving various government agencies that a cable owner must undertake in sequence lay cables in the waters under Indonesia's jurisdiction (20-step procedure). With the issuance of Marine & Fisheries Ministry Decree No. 42/2022 on Procedures for Installation at Sea, Indonesia began the implementation of "E-Pipakabel" system to integrate the 20-step procedure involving various government agencies. The efficacy of the new system remains to be seen. The key government agencies involved in the installation of submarine cables in Indonesia are as follows.

1) Ministry of Fisheries and Maritime Affairs with the National Team on the Management of Submarine Cable and Pipe

The Ministry of Fisheries and Maritime Affairs is responsible for preparing and overseeing the implementation of marine spatial planning (MSP), including the installation of corridors for submarine cables. The National Team is a rather newly established entity, initially formed to help prepare the regulation on the routes of submarine cables and pipes (later issued as Marine & Fisheries Ministry Regulation No. 14/2021 on Routes of Submarine Pipes and Cables). The approval of the National Team for the installation proposal is the first step in the 20-step procedure to acquire the permit to lay submarine cables in Indonesia.

2) Ministry of Transportation

Although submarine cables are mostly regulated under the regime of marine affairs (the jurisdiction of Ministry of Fisheries and Maritime Affairs), some aspects of submarine cable installation are also regulated by the Ministry of Transportation. Article 31 of Government Regulation No. 27/2021 on the Organization of Marine and Spatial Sectors gives a mandate to the Minister of Transportation to establish safety zoning for installations at sea to protect the installations from interference and to ensure installation, maintenance, and decommissioning activities can take place safely. Installation at sea is also subject to the provisions under the Transportation Ministry Regulation No. 129/2016 on Sea Navigation Route and Sea

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Installation. A party wishing to install submarine cables must conform to the administrative and technical requirements regulated under this ministerial regulation.

3) Ministry of Communication and Information

Responsible for issuing business license for telecommunication activity for cables landing in Indonesia.

4) Ministry of Defense

Responsible for issuing security clearance to allow the cable owner/operator to conduct installation activities at sea.

III. The Protection of Submarine Cables

There is no dedicated regulation aimed at the protection of submarine cables in Indonesia. The attempt to protect submarine cables (and installations at sea in general) is integrated with the spatial separation efforts within the marine spatial planning. The agency responsible for ensuring the protection of installation at sea is Directorate General of Sea Transport under the Ministry of Transportation. Indonesia is currently still developing a monitoring system for submarine cables. For monitoring purposes, the Directorate General requires cable owners or operators to periodically report the condition of its installed cables. This is to ensure that the presence of submarine cables does not pose any threats to shipping and navigation safety and security. The evaluation of submarine cables should also adhere to the technical provisions of the Routes of Submarine Pipes and Cables, and any cables that no longer comply with these provisions or are no longer in use must be removed.

The monitoring and security of installed cable is also monitored by *Badan Keamanan Laut* (Indonesian Maritime Security Agency), a non-ministerial agency. The monitoring is based on the MoU made between it and the Indonesian Association of Submarine Cable (ASKALSI) in 2019. The data from ASKALSI on the damage profile of submarine cables within Indonesian waters in 2018 shows the following statistics out of 40 cases:

- a) Caused by fisheries activity: 40%.
- b) Caused by anchoring outside of shipping route: 15%.
- c) Caused by natural events (natural geology and hydro-biology): 45%.

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To detect and monitor submarine cable disruptions related to fishing activities, the Indonesian government has implemented Transportation Ministry Regulation 18/2022. This regulation mandates the installation and activation of Automatic Identification Systems (AIS) on specific types of vessels sailing in Indonesian waters. The implementation of this measure can significantly mitigate the possibility of damage to submarine cables.

In addition, Marine and Fisheries Ministry Regulation No. 31/2020 has established environmental restrictions such as the establishment of Marine Protected Areas (MPAs). This regulation includes a list of permitted activities, permitted activities subject to conditions, and restricted activities, including placement installation at sea, shipping, fishing, or anchoring. However, this regulation does not directly address the installation of submarine cables.

IV. Recognition of Submarine Cables as Critical Communication Infrastructure

Indonesia has yet to explicitly recognize all submarine cables as critical communication infrastructure. Nevertheless, the President of Indonesia has issued Presidential Regulation No. 82/2022 on the Protection of Vital Information Infrastructure. The regulation focuses only on cyber protection of critical communication infrastructure. The protection of submarine cables is not mentioned in the presidential regulation. The nomination of an object as a critical communication infrastructure is proposed by the owner of the communication infrastructure to the relevant ministries (in this case: the Ministry of Communication and Information). Aside from the nomination as critical communication infrastructure, another relevant acknowledgement would be the nomination as a national vital object. However, when it comes to submarine cables, Indonesia has only given the nomination to a submarine power cable infrastructure (connecting Java and Bali).

V. Penalties for Interference Against Submarine Cables

Currently, there is no domestic regulation explicitly declaring that the intentional interference with submarine cables is a criminal offence. Nevertheless, Article 38 of Act No. 36/1999 on Telecommunication prohibits any act that may cause physical and electromagnetic disturbances to telecommunication operations and is punishable to a maximum of six years of imprisonment and/or a fine of up to IDR600.000.000,- (around SGD50.500).

VI. Applicability of Domestic Criminal Law on Violation Against Telecommunication System Beyond Indonesian Territorial Waters

Interference with telecommunication cables which occurs beyond the territorial waters is still subject to national criminal laws under the new Indonesian Criminal Code (Act 1/2023). The new criminal code will enter into force on 1 January 2026. However, the applicability will likely only be limited to cables landing in Indonesia (to satisfy the requirements of consequence under Article 4 [3] and crime against the interest of Indonesia under Article 5).

Subdivision 1 Territorial Principle

Article 4

Criminal provisions in the Law shall be applicable to Any Person who committed:

- a. Crime within the territory of the Unitary State of the Republic of Indonesia;
- b. Crime in Indonesian Ship or Indonesian Aircraft; or
- c. Crime in the field of information technology or other Crimes which consequences are experienced or occurred within the territory of the Unitary State of the Republic of Indonesia or in Indonesian Ship or Indonesian Aircraft.

Protective Principle and Passive Nationality Principle

Article 5

Criminal provisions in the Law shall be applicable to Any Person outside of the territory of the Unitary State of the Republic of Indonesia who committed a Crime against the interest of the Unitary State of the Republic of Indonesia related to:

- a. state security or state administration process;
- b. dignity of the President, Vice President, and/or Indonesian Officials abroad;
- c. currency, seal, state stamp, stamp duty, or Securities issued by Indonesian Government, or credit card issued by Indonesian banking;
- d. Indonesian economy, trading, and banking;
- e. sailing and aviation safety or security;
- f. safety or security of buildings, equipment, and national assets or the state of Indonesia;
- g. safety or security of electronic communication system;
- h. Indonesian national interests as stipulated in the Law; or
- i. Indonesian Citizens based on international agreement with the country where the Crime occurred.

MALAYSIA

THE LEGISLATIVE FRAMEWORK & GOVERNANCE OF SUBMARINE CABLES IN MALAYSIA

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In the rapidly evolving digital landscape, submarine cables have become essential for Malaysia's growth within the ASEAN region. The nation's digital economy has surged, with internet traffic growing annually at an average rate of 52% from 2010 to 2021, reaching 24EB in 2021 (O'Connor et al., 2020). Malaysia boasts five prominent service providers and is connected to 23 international submarine cable systems, with a combined potential capacity of 551 Tbit/s (O'Connor et al., 2020). The government aims to position Malaysia as the premier destination for submarine cable landings in Southeast Asia by 2025. Submarine cables are critical components of Malaysia's Critical National Information Infrastructure (CNII), recognized by the National Cyber Security Agency of Malaysia (NACSA) in 2020. These cables are vital for national security, overseen by NACSA and the National Security Council (MKN). Safeguarding these cables is crucial for Malaysia's cybersecurity and resilience in an interconnected world, reflecting the nation's status as a leader in the digital revolution. In order for Malaysia to achieve a resilient digital ecosystem, protection of submarine cables becomes essential through initiatives such as the 12th Malaysia Plan and the National Digital Network Plan (*Jalanan Digital Negara* [JENDELA]) (MCMC, 2021).

The government of Malaysia aspires to position Malaysia as the number one destination for submarine cable landings within Southeast Asia by the year 2025 as part of its digital economy blueprint. According to a comprehensive report by the Department of Statistics Malaysia (DOSM) (2019), the digital economy made a remarkable contribution of RM289 billion, equivalent to more than 19.1% of the country's Gross Domestic Product (GDP). A key finding

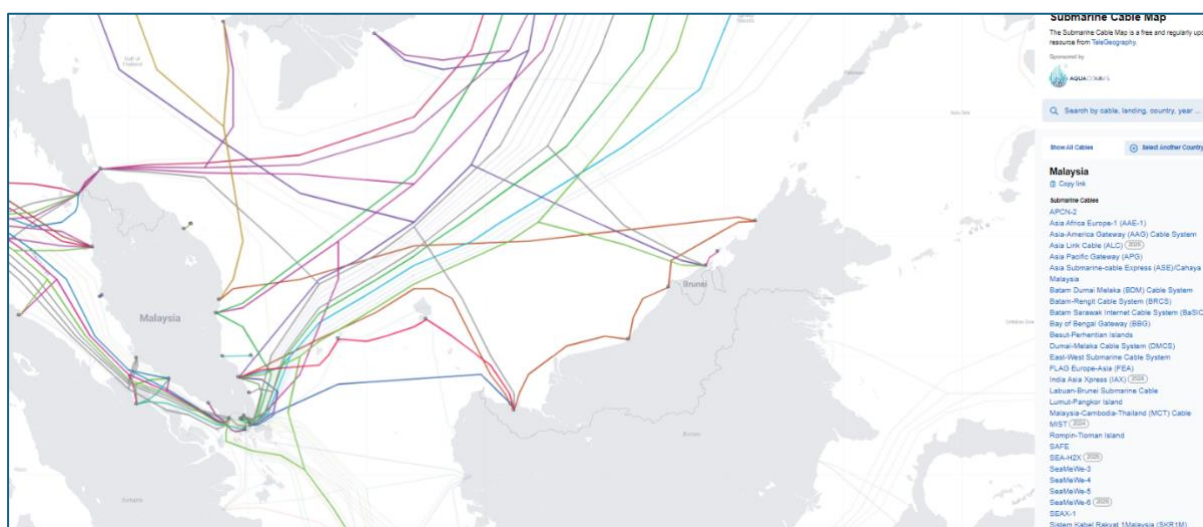
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of this study highlights the significance of digitalization in shaping Malaysia's economic trajectory. As part of a forward-looking vision, the Malaysian government has embarked upon a journey outlined in the Malaysia Digital Economy Blueprint (MyDigital). The Malaysia Digital Economy Blueprint (MyDigital) 2021 aims to raise the share of the digital economy in the GDP to an impressive 22.6% by 2025 [MCMC, 2021; EPU, Malaysia Digital Economy Blueprint (MyDigital) 2021]. It is remarkable that this pursuit persists despite the challenges posed by the COVID-19 pandemic. Although the pandemic has had a profound impact on the digital economy, it continues to grow exponentially, serving as a beacon of hope. Digital technologies have been rapidly adopted because of the pandemic-induced paradigm shift, particularly social media and e-commerce. This shift has had a profound impact on Malaysia as demonstrated in the 2021 e-Conomy SEA report, which highlights the emergence of approximately three million new digital consumers (O'Connor et al., 2020). In addition, existing digital consumers increased their engagement, utilizing 4.2 additional digital services on average compared to 2020 (O'Connor et al., 2020). The 2022 edition of the regional report for Asia Pacific Economic Cooperation (APAC) (2022), titled "Economic Impact of Google's APAC Network Infrastructure," now includes an economic focus on Malaysia. This reflects Google's investments in the region, particularly two submarine cables scheduled to arrive in Malaysia by 2024, the MIST (<https://www.submarinecablemap.com/submarine-cable/mist>) and IAX (<https://www.submarinecablemap.com/submarine-cable/india-asia-xpress-iax>) cables. As a result of Google's strategic investments in advanced submarine cable infrastructure, Malaysia is emerging as a digital powerhouse. Dynamic growth in internet traffic and a growing demand for enhanced online experiences distinguish the nation's digital economy. The country's integration into the global digital arena is a testament to the far-reaching impact of strategic technological investments made through these underwater cables.

As a regional communication hub with over six cable landing stations connecting to 23 international cables (Telegeography, 2023), the protection of submarine cables is of utmost importance. In terms of legislative framework, Section 22 of the 1984 Exclusive Economic Zone Act mandates consent for cable installation, but it is only applicable to specific zones, leaving territorial waters vulnerable. The complex interplay of several legislations, including the Penal Code, Merchant Shipping Ordinance 1950, Communications and Multimedia Act 1998 and other legislations further complicates the regulatory environment. There is a need for a comprehensive approach in Malaysia because existing regulations are fragmented. As we strive to make cable systems remain secure, it is imperative to bridge gaps in legal protection,

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security protocols, and collaboration. In order to enhance the protection and governance of submarine cables, a systematic examination of Malaysia's legal and regulatory landscape is urgently required. The safeguarding of this Critical National Information infrastructure (CNII)'s integrity is of paramount importance for the country at this juncture (Bueger & Liebetrau, 2021; Mon & Mohd Rusli, 2021). In summary, submarine cables are integral to Malaysia's digital economy, facilitating remarkable internet traffic growth and positioning the country prominently in the regional digital landscape.



Source: *Submarine Cable Map in Malaysia, Telegeography (2024)*

<https://www.submarinecablemap.com/country/malaysia>

1. List of the national laws and policies governing submarine cables.

- (a) **Malaysia's Cyber Security Strategy 2020-2024**, notably its Pillar 1 initiative, aims to safeguard CNII sectors and offer guidance against cyber threats but lacks explicit mention of submarine cable protection (MKN, 2020).
- (b) In line with Malaysia's digital economy blueprint, the nation's government aspires to position Malaysia as the foremost destination for submarine cable landings within Southeast Asia by the year 2025 [EPU, **Malaysia Digital Economy Blueprint (MyDIGITAL)** 2021].

- (c) **National Transport Policy (NTP) 2019-2030** would be able to propel the nation in its logistic endeavors with enhancements in road, rail, air and maritime sectors, and their interconnectivity is to help Malaysia realize its target as a Regional Distribution Hub.

(1) National Laws

(i) Exclusive Economic Zone Act 1984

PART VII SUBMARINE CABLES AND PIPELINES

Consent of Government necessary for delineation of course for laying of submarine cables and pipelines.

Section 22.

(1) No person shall lay submarine cables or pipelines in the exclusive economic zone or on the continental shelf without the consent of the Government as to the delineation of the course for the laying of such cables and pipelines.

(2) Without prejudice to subsection (1), the Government may impose such conditions as it may consider necessary for the laying or maintenance of such cables and pipelines in the exercise of its right to take reasonable measures for the exploration of the continental shelf, the exploitation of natural resources and the prevention, reduction and control of pollution from such cables or pipelines.

DUTY OF OWNER OF SUBMARINE CABLE OR PIPELINE

Section 23.

The owner of any submarine cable or pipeline which has fallen into disuse or is beyond repair shall forthwith inform the Government thereof and shall, if so, directed by the Government, remove such cable or pipeline within such period of time as the Government may direct. It should be noted, however, that the application of this provision is mainly restricted to the EEZ and continental shelf, which leaves regulatory gaps beyond these boundaries, especially within territorial waters (Mon & Mohd Rusli, 2021) and (Annathurai.R.M, 2022).

(ii) Territorial Sea Act 2012

According to the Territorial Sea Act 2012, the Yang di-Pertuan Agong exercises sovereignty over the territorial sea, including the seabed and subsoil. As a result, submarine cables and pipelines laying in Malaysia's territorial seas or cables and pipelines traversing Malaysia's territorial seas fall under Malaysian sovereignty and require Malaysian authorization prior to their installation according to existing federal law, including the Territorial Sea Act.

SOVEREIGNTY IN RESPECT OF THE TERRITORIAL SEA

Section 4.

The sovereignty in respect of the territorial sea, and in respect of its bed and subsoil, is vested in and exercisable by the Yang di-Pertuan Agong (monarch or Ruler) in right of Malaysia.

(iii) Merchant Shipping Ordinance 1952

PART XIII A - CONTROL OF SHIPPING

Section 491B. Notification to the Director of Marine of activity engaged by a ship.

(1) Any ship which is engaged or intends to engage in any of the following activities:

- (a) dredging;
- (b) mining, including exploration and exploitation;
- (c) cable and pipe laying;
- (d) marine construction, including the construction of jetties and wharves;
- (e) dumping of any material;
- (f) sports, leisure or recreational activity;
- (g) survey;
- (h) cleaning, including cleaning of cargo tanks;
- (i) transportation, discharging or loading of wastes;
- (j) pilotage;
- (k) ship-to-ship activity; or
- (l) any other activity as determined by the Director of Marine

in Malaysian waters shall be required to notify the Director of Marine, in such form as may be prescribed by him, of such activity.

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(2) Subsection (1) shall not apply to -__

- (a) any boat that is licensed under section 475; or
- (b) any ship that is registered under this Ordinance and is solely engaged or intended to be engaged in sports, leisure or recreational activity.

(3) The Director of Marine, upon receiving the notification, may impose such terms and conditions as he thinks fit, including prescribing the fees for anything to be done or permitted to be done under this Ordinance, on the activity.

(4) The owner, master or agent of the ship or any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

PART IIB - THE DOMESTIC SHIPPING LICENCING BOARD

Section 65L. Licence for domestic shipping.

(1) No ship shall engage in domestic shipping without a licence.

(2) Any owner, charterer, master or agent of any ship contravening this section, shall be guilty of an offence and on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment not exceeding one year or both.

(3) The following vessels are exempted from subsection (1):

- (a) any ship under fifteen tons nett;
- (b) any vessel licensed under section 475;
- (c) in relation to the State of Sabah, any vessel licensed under the Merchant Shipping Ordinance 1960 of Sabah;
- (d) in relation to the State of Sarawak, any vessel licensed under the Merchant Shipping Ordinance 1960 of Sarawak [Sarawak Ord. 2/60]; and
- (e) any ship belonging to or in the employment of the Government of Malaysia or any State thereof or any Port Authority therein.

(iv) Fisheries Act 1985

Power of Minister to make regulations.

Section 61. The Minister may make regulations specifically or generally for the proper conservation, development and management of maritime and estuarine fishing and fisheries in Malaysian fisheries waters and in respect of related industries, for the proper conservation, development, management and regulation of turtles beyond the jurisdiction of any State in Malaysia, and for the implementation of the provisions of this Act, including but not restricted to regulations for all or any of the following purposes:

(a).....

:

(aa).....

(ab) to provide for compensation payable to Malaysian citizens, the Government of Malaysia or the Government of a State in Malaysia in the event of any loss or damage caused by foreign fishing vessels to local fishing vessels, their fishing appliances or catches, or to cables, pipelines or other property belonging to Malaysian citizens, the Government of Malaysia or the Government of a State in Malaysia;

(v) Penal Code

MISCHIEF BY INJURY TO TELEGRAPH CABLE, WIRE, ETC.

Section 431A.

Whoever commits mischief by cutting or injuring any electric telegraph cable, wire, line, post, instrument or apparatus for signaling, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

(2) Other relevant legislations

(i) Communications and Multimedia Act 1998 [Act 588] Act

Communications and Multimedia (Licensing) (Amendment) Regulations 2001 [Act 1998]

(ii) National Land Code (Act 56 of 1965)

Chapter 3 | Rights of Access To, and Use of, Alienated Lands

Part Five (A) | Disposal of Underground Land

(iii) Continental Shelf Act 1966 (Act 83)

Regulations | Section 6

2. the functions of the government agencies that are responsible for approving the laying, repair and security of cables landing in your territory or being laid on the seabed in your maritime zones;

Currently, approvals must be obtained from the inter-committee at the National Security Council (MKN) thereafter the Ministry of Transport (MOT), Malaysia Marine Department (MMD) and other relevant authorities. As a result, there is a lack of clarity regarding the competent authorities and the completion of the process. The delays resulting from lengthy permitting procedures can have an adverse effect on telecommunications and critical infrastructure (Jumrah.W, *Personal Interview*, July 2023)

(a) Malaysia Marine Department (MMD)

Marine Survey:

It begins with a thorough marine survey (reference to section 491B Merchant Shipping Ordinance 1952), often initiated by a desktop survey (DTS). A variety of factors are assessed during this process, including landing points, seabed conditions, marine habitats, regulatory requirements, and obstacles (Ford.R et.al, 2014). (Mamatsopoulos, V.A. et.al, 2020) In determining the final cable route position, safety is prioritized, as well as avoiding potential hazards such as fishing areas, anchorage zones, and sensitive environmental sites.

(i) Desktop survey (DTS)

(ii) Consider topography, seabed bathymetry, geology, marine habitats, crossings, regulatory requirements, international boundaries.

(iii) Determine final cable route position.

(b) Fisheries Department

The Department of Fisheries is to be consulted before the laying of submarine cables and pipelines and the compensation shall be paid whenever necessary for the interruptions with any fishing activities in the designated areas for the laying of submarine cables.

(c) National Security Council (MKN)

Cable installation application begins as National Security Council (MKN) as the leading agency provides its consent; the relevant authorities have been contacted, and the survey has been completed which may take up to 6 months or up to a year. The application to MKN is made under Section 22 of the Exclusive Economic Zone Act 1984.

(d) Ministry of Transport Malaysia (MOT)

Upon receipt of approval from MKN the application is then forwarded to MOT for the application of Domestic Shipping License (DSL) for the installation which is usually granted between 3 to 5 days. After the receipt of DSL, the cable installation process is deployed by a specially equipped vessel, operated by a crew of trained professionals, along a predetermined route (Ford.R et.al, 2014)..

Cable Repair and Maintenance

As a result of Malaysia's cabotage policy, under part *Part IIB of MSO 1952*, foreign-flagged vessels are not permitted to conduct repairs unless a Malaysia-flagged vessel is available for the purpose (Jumrah.W, *Personal Interview*, July 2022). The status of DSL in Malaysia, especially exemptions, penalties, and the online DSL application process are time consuming. DSL is divided into 4 types of licenses, namely Temporary, Unconditional, Conditional and Provisional Licenses and each application is approved based on the ship's criteria outlined by the Domestic Shipping Licensing Board (LPPDN). Currently the status of exemption for DSL application for cable installation, repair, maintenance are being reviewed by the Ministry. As of today, foreign registered vessels may only participate in domestic shipping if the Ministry of Transport is of the opinion that Malaysian vessels are unable to meet the demands of certain sectors. In Malaysian waters, any foreign submarine cable that intend to conduct repairs requires a permit known as a *Domestic Shipping License (DSL)(ESDL)*

3. the existence of any inter-agency committee on the protection and security of submarine cables.

As of now National Security Council (MKN) is the lead agency for submarine cables in Malaysia. As for the protection of submarine telecommunication cables, service providers such as Telekom Malaysia (TM) collaborate with **the Malaysian Coastguard (Malaysian**

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Maritime Law Enforcement Agency) to safeguard the submarine cables. And they also utilize their own resources to protect/secure the cables. In case of damage to the cables, MKN shall be notified immediately for permission for repair which may take at least 2-3 months. In order to avoid longer network disruptions, service providers are required to invest more for redundancy.

Law	No dedicated legislation
Agency in charge (Licensing/Repair)	National Security Council
Critical National Information Infrastructure	No legislation or policy in place expressly recognise submarine communication cables as CNII
Cable Installation/Permit/Licensing	Lengthy process (at least 2-3 months)
Damage and Repair	Permission from NSC for cable repair (2-3 months) Need investment for redundancy
Security and law enforcement	Cable owners collaborate with the Malaysian Coastguard (MMEA) to patrol the area where cables are being laid and the cables owners also do the monitoring themselves
Environmental Impact Assessment (EIA)	<ul style="list-style-type: none"> • Not required under the law • Marine Survey under Sec 491B MSO 52

4. any legislation declaring that submarine telecoms cables are “critical communications infrastructure”; and

There is yet to have a legislation in Malaysia which expressly acknowledges that submarine telecommunication cables are critical communication infrastructures. However, National Cyber Security Agency of Malaysia (NACSA), which is a leading policy making body under the Prime Minister Department of Malaysia defines the Critical National Information Infrastructure (CNII) as follows:

CNII is defined as critical system that includes “*information assets (electronic), networks, functions, processes, facilities and services in an information and communications technology (ICT) environment that is important to the country where any disruption or destruction to it can have an impact on national defense and security, national economic stability, national image, the Government's ability to function, public health and safety as well as individual privacy.*”

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- ❖ The CNII sectors are:
 - Government
 - National Defence and Security
 - Banking and Finance
 - Information and Communications
 - Energy
 - Transportation
 - Emergency Services
 - Water
 - Health Services
 - Agriculture and Plantation
 - Trade, Industry and Economy

As the submarine communication cables which carry the 99 % of the internet traffic which is essential for the day-to-day business of all the key CNII mentioned above, it can safely be argued that such cables should be considered as the critical communication infrastructures. It is recommended that Malaysia should have the clear policy recognition by recognizing submarine cables as the critical national infrastructure along with the dedicated legislation relating to the laying and installation of submarine cables as well as the protection and security of such cables.

5. any legislation providing that the intentional cutting or interference with submarine cables is a crime under the laws of your State.

In addressing the consequences of cable damage, it is crucial to emphasize the importance of the Penal Code, albeit within a general context under section 431A of the Penal Code (Penal Code, 1976). This highlights the need for more tailored and precise regulations specifically designed to address the unique challenges and nuances associated with the protection of submarine cables. Currently, the legal framework has a wide applicability, which leaves room for ambiguity, thus necessitating specialized provisions that address the intricacies of the protection of submarine cables.

Penal Code

MISCHIEF BY INJURY TO TELEGRAPH CABLE, WIRE, ETCE

Section 431A.

Whoever commits mischief by cutting or injuring any electric telegraph cable, wire, line, post, instrument or apparatus for signaling, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

Explanation—The injuring here must be of such a nature as to prevent the use of the electric telegraph cable, wire or line, for telegraphing, otherwise the offence will be punishable under section 426.

PUNISHMENT FOR COMMITTING MISCHIEF

Section 426. Whoever commits mischief shall be punished with imprisonment for a term which may extend to * five years or with fine or with both.

References

Communication and Multimedia Act (1988)

Exclusive Economic Zone Act, (1984)

Environmental Quality Act (1974)

Fisheries Act, (1985) Malaysia.

Merchant Shipping Ordinance, (1952)

Territorial Sea Act, (2012)

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PHILIPPINES

Submarine Cable Legal and Regulatory Framework in the Philippines

By: Maria Isabel R. Cañaverall and Ana Lourdes L. Cosme

Introduction

Data from TeleGeography shows that there are 18 in-service submarine cable systems in the Philippines as of 2024.¹ Of these 18, 8 are domestic while 10 are international that traverse local landing stations.² Seven additional international cable systems are expected to be completed within the next three years.³

With regard to ownership, all domestic cable systems are owned by Philippine telecommunications companies, save for the Sorsogon-Samar Submarine Fiber Optical Interconnection Project (SSSFOIP) which is owned by the National Grid Corporation of the Philippines.⁴ International cables are owned by consortiums comprised of foreign and local companies.⁵

Legal and Regulatory Framework

Under Philippine jurisdiction, there is no single, comprehensive law or regulatory body dedicated solely to submarine cables. The deployment and operations of submarine cables in the Philippines are addressed by various legal frameworks and regulated by different government agencies with the relevant mandates and policies.

1. Laying and Maintenance

National Telecommunications Commission

The foundation for regulating submarine cables for telecommunications lies in Republic Act (R.A.) No. 7925 or the “Public Telecommunications Policy Act in the Philippines.” This law

¹ TeleGeography, Submarine Cable Map: Philippines, <https://www.submarinecablemap.com/country/philippines> (last visited Apr. 29, 2024).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

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establishes the National Telecommunications Commission (NTC) as the primary regulatory body for telecommunications services in the Philippines.⁶

Furthermore, under R.A. No. 7925, the NTC also has the following responsibilities:

- a. Adopt an administrative process which would facilitate the entry of qualified service providers and adopt a pricing policy which would generate sufficient returns to encourage them to provide basic telecommunications services in unserved and underserved areas;
- b. Ensure quality, safety, reliability, security, compatibility and inter-operability of telecommunications facilities and services in conformity with standards and specifications set by international radio and telecommunications organizations to which the Philippines is a signatory;
- c. Mandate a fair and reasonable interconnection of facilities of authorized public network operators and other providers of telecommunications services through appropriate modalities of interconnection and at a reasonable and fair level of charges, which make provision for the cross subsidy to unprofitable local exchange service areas so as to promote telephone density and provide the most extensive access to basic telecommunications services available at affordable rates to the public;
- d. Foster fair and efficient market conduct through, but not limited to, the protection of telecommunications entities from unfair trade practices of other carriers;
- e. Promote consumers welfare by facilitating access to telecommunications services whose infrastructure and network must be geared towards the needs of individual and business users;
- f. Protect consumers against misuse of a telecommunications entity's monopoly or quasi-monopolistic powers by, but not limited to, the investigation of complaints and exacting compliance with service standards from such entity; and
- g. In the exercise of its regulatory powers, continue to impose such fees and charges as may be necessary to cover reasonable costs and expenses for the regulation and supervision of the operations of telecommunications entities.⁷

The primary authority to install, operate, and maintain telecommunications services in the country emanates from franchises granted by Congress to telecommunications companies. These franchises often include granting the telecommunications companies authority to construct, install, maintain, and operate submarine cables as part of their telecommunications

⁶ An Act to Promote and Govern the Development of Philippine Telecommunications and the Delivery of Public Telecommunications Services, Rep. Act No. 7925, § 5 (1995).

⁷ *Id.*

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infrastructure. An example of this is R.A. No. 7372 which grants Isla Communications Company a franchise to install, operate, and maintain telecommunications services, to wit:

Section 1. xxx

The grantee is authorized xxx to lay submarine telecommunications cables in the surrounding waters of the Philippines and for the purpose of connecting its telecommunications systems with other telecommunications systems operated by others within the Philippines and with the telecommunications systems of other countries, as may be necessary and best adapted to said provision of telecommunications services, and to connect and keep connected its telecommunications system to other telecommunications systems for the interconnection of telecommunications services within the territory of the Republic of the Philippines and between the Republic of the Philippines and other countries and territories.⁸

These franchises also impose upon telecommunications companies the responsibility of first obtaining the permission of the NTC to install, maintain and operate telecommunications infrastructure which include submarine cables.⁹ This authority takes the form of a “Certificate of Public Convenience and Necessity” or a CPCN. A CPCN refers “to a grant consistent with the telecommunications policies and objectives to a qualified applicant, after due notice and hearing of a final authority to own, operate and maintain a public telecommunications facility/service by the NTC.”¹⁰

In an effort to increase competition in the internet service market in the Philippines, NTC issued Memorandum Circular No. 06-10-08. This circular mandates that companies who own the landing stations must allow other companies who own backhaul networks to connect to their landing stations.¹¹ This will facilitate the interconnection of backhaul networks to all cable landing stations.¹²

In 2023, President Ferdinand Marcos Jr. issued Executive Order No. 32 which aims to streamline the permitting process for building telecommunications and internet infrastructure in the Philippines. One of its key features is that it limits the requirements for the construction, installation, repair, operation, and maintenance of telecommunications and internet infrastructure. Some of the requirements that are relevant to the installation of submarine cables include: 1) an Environmental Compliance Certificate issued by the Department of Environment

⁸ An Act Granting the Isla Communications Co., a Franchise to Install, Operate and Maintain Telecommunications Services within the Territory of the Republic of the Philippines and International Points and for Other Purposes, Rep. Act No. 7372, § 1 (1992). (Emphasis supplied.)

⁹ *Id.* § 9.

¹⁰ National Telecommunications Commission (NTC) Mem. Circ. No. 08-09-95, § 1(11) (1995) (Phil.).

¹¹ NTC Mem. Circ. 06-10-08, § 3-6 (2008) (Phil.).

¹² *Id.* § 2.

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and Natural Resources if the proposed project is within an environmentally critical area; 2) a Special Use Agreement in Protected Areas issued by the Protected Area Management Board if the proposed project is within a protected area; and 3) a Strategic Environment Plan Clearance from the Palawan Council for Sustainable Development if the proposed project site is within the Province of Palawan.¹³

Maritime Industry Authority

The Maritime Industry Authority (MARINA) was created under Presidential Decree No. 474 to supervise and regulate the maritime industry of the Philippines.¹⁴ One of its core functions is the regulation of all water transport utilities.¹⁵

In line with this, MARINA issues special permits to domestic maritime entities intending to temporarily use foreign-registered vessels within the country's territory.¹⁶ Those who intend to use such vessels in connection with cable-laying activities are required to present a contract with the NTC.¹⁷ In projects involving submarine telecommunications cables, a clearance from the National Security Council must also be secured prior to filing an application for the special permit issued by MARINA.¹⁸

Although not mandated by any law or regulation, certain companies also submit information regarding their submarine cables to the National Mapping and Resource Information Authority (NAMRIA) to ensure that their facilities are included in its nautical charts and publications, as well as taken into account for future construction projects in the area.

2. Security

There is no inter-agency committee for the protection of submarine cables in the Philippines. Rather, security of submarine cables is covered by and subsumed under different laws.

¹³ Streamlining the Permitting Process for the Construction of Telecommunications and Internet Infrastructure, Exec. Ord. No. 32, § 2(d) (2023).

¹⁴ Providing for the Reorganization of Maritime Functions in the Philippines, Creating the Maritime Industry Authority, and for Other Purposes, Pres. Dec. No. 474, § 4 (1974).

¹⁵ *Id.* § 2(c).

¹⁶ Maritime Industry Authority (MARINA) Circ. No. 2011-04 (2011) (Phil.). *See* An Act Promoting the Development of Philippine Domestic Shipping, Shipbuilding, Ship Repair and Ship Breaking, Ordaining Reforms in Government Policies Towards Shipping in the Philippines, and for Other Purposes, Rep. Act No. 9295, § 6 (2004).

¹⁷ *Id.*, part VII.

¹⁸ National Security Council, Guidelines in the Granting of Clearance for Foreign-registered Vessels to Operate in Philippine Territorial Waters, *as cited in* MARINA Adv. No. 2018-34 (2018).

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R.A. No. 11659 designated telecommunications as critical infrastructure.¹⁹ Under the law, critical infrastructure “refers to any public service which owns, uses, or operates systems and assets, whether physical or virtual, so vital to the Republic of the Philippines that the incapacity or destruction of such systems or assets would have a detrimental impact on national security [...]”²⁰ As a result of this designation, full foreign ownership of entities engaged in the operation and management of telecommunications is subject to the qualification that the country of the foreign national grants reciprocal rights to Philippine nationals; otherwise, ownership is capped at 50%.²¹ Furthermore, entities controlled by or acting on behalf of foreign governments and foreign state-owned enterprises are prohibited from making both initial and subsequent investments in telecommunications companies after the law takes effect.²²

Since submarine cables are key components of telecommunications infrastructure, they can be considered as critical infrastructure whose foreign ownership must adhere to the restrictions set by R.A. No. 11659.

On the other hand, with respect to the physical security of the cables, R.A. No. 10515 or the “Anti-Cable Television and Cable Internet Tapping Act of 2013” penalizes the willful damage or destruction of the facilities and accessories of cable internet service providers,²³ as well as the interception of any signal transmitted through such facilities.²⁴ Both acts are punishable with imprisonment, a fine, or both, at the discretion of the court.²⁵ Similar to its role in telecommunications, submarine cables are also vital in cable internet infrastructure as they are used to transmit signals. As such, they qualify under the category of facilities used by cable internet service providers. Therefore, any intentional harm or destruction inflicted upon these cables constitutes a direct violation of R.A. No. 10515.

In some cases, intentional cutting of submarine cables had been prosecuted as malicious mischief under the Revised Penal Code.²⁶ The elements of malicious mischief are as follows:

¹⁹ An Act Amending Commonwealth Act No. 146, Otherwise Known As The Public Service Act, As Amended, Rep. Act No. 11659, § 2(e) (2002) (Phil.).

²⁰ *Id.*

²¹ Rep. Act No. 11659, § 25.

²² *Id.* § 24.

²³ An Act Prohibiting and Penalizing Unauthorized Interception, Reception or Use of Any Signal or Service over a Cable Television System or Cable Internet System And/or Network, and for Other Purposes, Rep. Act No. 10515, § 4(d) (2013) (Phil.).

²⁴ *Id.* § 4(a).

²⁵ *Id.* § 5.

²⁶ Lorenz S. Marasigan, *PLDT to Intensify Campaign against Illegal Cable Cutting*, Business Mirror (Sept. 27, 2022), <https://businessmirror.com.ph/2022/09/27/pldt-to-intensify-campaignagainst-illegal-cable-cutting/>; See Revised Penal Code, art. 327, Act No. 3815 (Phil.).

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1. That the offender deliberately caused damage to the property of another;
2. That such act does not constitute arson or other crimes involving destruction; and
3. That the act of damaging another's property be committed merely for the sake of damaging it.²⁷

The third element of malicious mischief requires that the act be done “merely for the sake of damaging” the property. However, it is worth noting that in the Philippines, cables are often cut for the purpose of selling their individual components.²⁸ In these cases, it may be more appropriate to charge the perpetrators with theft or qualified theft.

Evidently, the existing law on intentional cable cutting only covers those done within the Philippine territory. The Philippines has yet to comply with its obligations under the United Nations Convention on the Law of the Sea to enact a law criminalizing the intentional cutting of or interference with submarine cables done by Philippine-registered vessels in the high seas.²⁹

Conclusion

The current legislative and regulatory frameworks on submarine cable operations in the Philippines are fragmented and incomplete. Given the vital role of submarine cables in ensuring robust telecommunications and internet services domestically and internationally, it is imperative that a comprehensive legal framework be established in the country. This should not only streamline regulatory processes but also enhance the security, maintenance, and expansion of this critical infrastructure. Furthermore, a dedicated regulatory body or the rationalization of the roles of existing agencies may prove to be beneficial to manage the submarine cable networks in the country.

²⁷ Taguinod v. People, G.R. No. 185833, 659 S.C.R.A. 23, 30 (Oct. 12, 2011) (Phil.).

²⁸ Joe Zaldarriaga, *Stronger Collaboration Needed versus Cable Theft*, Philippine News Agency (Nov. 15, 2022), <https://www.pna.gov.ph/opinion/pieces/579-stronger-collaboration-needed-versus-cable-theft>.

²⁹ See United Nations Convention on the Law of the Sea art. 113, Dec. 10, 1982, 1833 U.N.T.S. 397.

THAILAND

Management of Submarine Cables in Thailand: An Overview of Thai Laws

Prepared by Krisdakorn Wongthikun and Nawaporn Seneewong Na Ayutthaya

1. Thai Laws on National Laws and Policies Governing Submarine Cables

1.1 A list of the primary Thai laws and regulations specific to submarine cables

1.1.1 Declarations of Right Regarding the Laying of Submarine Cables

- Proclamation establishing the Breadth of the Territorial Waters, of 6 October 1966³⁰
- Royal Proclamation establishing the Exclusive Economic Zone of the Kingdom of Thailand, 23 February 1981³¹

1.1.2 “Submarine Cable Network” as a Telecommunications Business Requiring License

- Telecommunications Business Act, B.E. 2544 (2001)
- Act on the Organization to Assign Radio frequency and to Regulate the Broadcasting and Telecommunications Services B.E. 2553 (2010)

Subordinate Legislation

- Notification of the National Broadcasting and Telecommunications Commission Re: Nature and Categories of Telecommunications Business Requiring Telecommunications Business License (Announced on the 10th day of May B.E. 2562 (2019))
- Notification of the National Broadcasting and Telecommunications Commission Re: Criteria and Procedure for Granting Telecommunications Business License (Announced on the 5th day of March B.E. 2563 (2020))
- Notification of the National Broadcasting and Telecommunications Commission Re: Standard conditions for licensing telecommunications business operations (Announced on the 12th day of March B.E. 2564 (2021))

³⁰ Whereas Thailand always maintains that the sovereignty of Thailand extends, beyond its land territory and its internal waters, to a belt of sea adjacent to the coast, described as the territorial sea, including the airspace over the territorial seas as well as its bed and subsoil.

³¹ Section 3 “In the exclusive economic zone, the freedoms of navigation and overflight and of the laying of submarine cables and pipelines shall be governed by international law.”

1.1.3 Laying Submarine Cables as an Encroachment Over, Into, and Under Waters Within the Sovereignty of the Kingdom of Thailand, Requiring Permission

- Navigation in the Thai Waters Act, B.E. 2456 (1913), *Section 117*³²

Subordinate Legislation

- o Ministerial Regulation No. 63 (B.E. 2537) issued under the Navigation in the Thai Waters Act B.E. 2456 (1913)

1.1.4 Protection of Submarine Cables from Damage Caused by Anchoring or Dredging Activities and Petroleum Operations

- Navigation in the Thai Waters Act, B.E. 2456 (1913), *Sections 209, 210*
- Petroleum Act, B.E. 2514 (1971), *Sections 74, 107*
- Thailand-Malaysia Joint Authority Act, B.E. 2533 (1990)

Subordinate Legislation

- o Ministerial Regulation No.4 (B.E. 2540) issued under the Thailand-Malaysia Joint Authority Act, B.E. 2533 (1990), *Regulation 9*

1.1.5 Protection of the Marine Environment from Damage Caused by Laying Submarine Cables

- Navigation in the Thai Waters Act, B.E. 2456 (1913), *Sections 119 Bis, Section 120*
- Enhancement and Conservation of National Environmental Quality Act B.E 2535 (1992), *Section 42, Section 43 and Section 45.*
 - o Where the area to be laid the submarine cable overlaps with the area protected by National Park Act B.E. 2562 (2019), the National Park Act will prevail.
 - o If the area are not covered by the National Park Act but fall within the **Notification of Ministry of Natural Resources and Environment for the specific area that should be governed by the protection measure, there will be restriction not to harm such area. However, this type of notification varies in different areas, depend on the importance and the environmental treat for each of the area. Not all of Thailand coastal area will be subject to this type of notification. For example, Notification of Ministry of Natural Resources and Environment** regarding the environmental protection

³² *Section 117* No person shall construct any building or any other thing in such a way that causes encroachment over, into and under any river, canal, marsh, reservoir, lake that is used as a public travelling route or for common use, or any sea within the Thai waters or on the beach of such sea unless he or she has obtained permission from the Harbour Master.

....

zoning and measure in Banglamung District and Sattahip District of Chonburi Province B.E. 2535 (A.D.2010).

- National Park Act B.E. 2562 (2019)
- Act on the Promotion of Marine and Coastal Resources Management B.E. 2558 (2015).

1.2 General policies

Ministry of Digital Economy and Society's 5-Year Operational Plan for 2020-2024 focuses on the advancement of the digital economy.

- Establish and expand the global submarine cable infrastructure for international communication. The primary metric is the capability of the submarine cable infrastructure, which encompasses a new global network linking Thailand to other countries in the Asia-Pacific area.
- In addition, the Thai government is actively promoting Thailand as a hub for digital information exchange within the ASEAN region, with the goal of establishing itself as the central location for this purpose. This involves consistently improving the effectiveness of the global internet network through a range of initiatives.
- An example of such a project is the development of a new global submarine cable network called ASIA Direct Cable (ADC). This entails the collaborative establishment of a novel submarine cable network linking Thailand with other countries in the Asia-Pacific region. The project involves the participation of six member countries: Thailand, China, Singapore, the Philippines, Japan, and Vietnam. The cable has a length of 9,400 kilometers and is financed with a budget of 2,000 million baht.

2. Thai Laws on Government Agencies and Their Functions

2.1 Identifying Key Thai Government Agencies Responsible for Approving the Laying of Cables Landing in Thai Territory or Being Laid on the Seabed in Thailand's Maritime Zones

The Marine Department: Laying submarine cables can be considered an encroachment into the Thai territorial sea. Section 117 of the Navigation in Thai Waters Act, B.E. 2456 (1913), states that no person shall construct any structure in such a way that it causes encroachment over, into, or under any sea within Thai waters or on the beach of such sea, unless he or she has obtained permission from the Marine Department

Department of Forestry: Regulating over the application of **Forests Act B.E. 2484 (1941)**. If the cable is laid from the coast of Thailand, the operator may have to clear the forest, especially the mangrove forest. The laws related to requesting permission are: **Forests Act B.E. 2484 (1941)**.

Ministry of Natural Resources and Environment: Regulating over the application of Enhancement and Conservation of National Environmental Quality Act B.E 2535 (1992). If the cable is laid from the coast of Thailand in the area where the Notification of Ministry of Natural Resources and Environment is applied, the operator may have to make sure that the operation of laying the submarine cable is not prohibited by such notification.

The National Broadcasting and Telecommunications Commission : According to Telecommunications Business Act, B.E. 2544 (2001), any person intending to operate a telecommunications business, including those involving submarine cable networks which require a Type Three license, must obtain permission through NBTC. The steps involved in laying lines are specified in Section 39 of the Telecommunications Business Act, B.E. 2544 (2001) for licensees providing telecommunications services. Before submitting a detailed diagram to the NBTC for approval, licensees must first draw out the boundaries for laying lines. Upon approval, licensees are given the authority to install their lines.

To ensure that the equipment used in providing telecommunications services operates efficiently and adheres to the prescribed technical standards, Section 33 of the Telecommunications Business Act, B.E. 2544 (2001) mandates that licensees in the telecommunications industry are responsible for maintaining, repairing, and fixing their telecommunications networks, equipment, and devices.

Section 34 of the Telecommunications Business Act, B.E. 2544 (2001) pertain to the regulatory requirements for engineers and device inspections in the telecommunications industry. Section 34 mandates that Type Three licensees must employ a specified number of engineers with qualifications set by the NBTC. These engineers are responsible for overseeing the operation, installation, inspection, and maintenance of telecommunications networks, equipment, and devices to ensure they meet prescribed technical standards.

Should a licensee fail to comply with these provisions (Sections 33, 34), Article 64 grants the Secretary-General of the NBTC the authority to intervene. Under this article, the Secretary-General can order the licensee to cease the violating activities and mandate rectifications or improvements to be made within a specified timeframe to ensure compliance and proper operational standards are met.

Section 66 of the Telecommunications Business Act, B.E. 2544 (2001) details penalties for non-compliance with the Secretary-General's orders. If a licensee fails to comply and the appeal period expires or the Commission upholds the order, the Secretary-General may issue an administrative fine of no less than twenty thousand baht per day. Further violations, such as disregarding a license suspension or causing significant public harm, authorize the NBTC to suspend or revoke the license.

Notification of the National Broadcasting and Telecommunications Commission Re: Standard conditions for licensing telecommunications business operations (Announced on the 12th day of March B.E. 2564 (2021) requires that the the license holder must establish measures to manage emergencies and disasters. This includes preparatory measures before an incident occurs, measures to be implemented during the incident, and measures to be taken

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after the incident. Additionally, the licensee must submit a cybersecurity plan to the NBTC before commencing service.

2.2 Identifying Key Thai Government Agencies Responsible for Securing Cable Landings in Thai Territory and Cable Laying on the Seabed in Thailand's Maritime Zone

2.2.1 The Marine Department

2.2.2 Royal Thai Navy

2.2.3 Thai Maritime Enforcement Command Center (Thai-MECC)

The National Maritime Interests Protection Act B.E. 2562 (2019), under Article 17, establishes the Thai Maritime Enforcement Command Center (Thai-MECC) within the Office of the Prime Minister. The center, directly overseen by the Prime Minister and with the Deputy Director position held by the Commander-in-Chief of the Royal Thai Navy, is charged with the overarching responsibility of safeguarding various maritime interests, including essential infrastructure like submarine cables, which are crucial for national communication and security. The Thai-MECC has broad powers under Section 19 to monitor and report on potential threats to maritime interests, and Sections 27 and 28 detail Thai-MECC's authoritative role in times of both normalcy and emergency. Under Sections 27 and 28, it takes command over state agencies in both normal and emergency situations to manage, mitigate, and resolve issues affecting these interests. This encompasses coordinating actions against any incidents that could impact maritime activities, including those related to submarine cables, thereby ensuring a comprehensive approach to national maritime security and emergency management. The center's responsibilities are not limited to specific maritime assets but extend to all elements defined as national maritime interests.

3. Thai Laws on Inter-agency Committee on Submarine Cable Protection

None.

4. Thai Legislation on Submarine Cables as “Critical Communications Infrastructure”

While Thai legislation does not explicitly categorize submarine cables as “Critical Communications Infrastructure”, the National Maritime Interests Protection Act B.E. 2562 (2019) highlights them expressly as a vital component of Thailand's “*national maritime interests*”. This Act defines these interests as the benefits derived from maritime activities, including the laying of submarine cables. It categorizes these activities as essential uses of the maritime zone—areas over which Thailand exercises sovereignty or sovereign rights—underscoring the importance of protecting submarine cables as a national interest.

5. Thai Laws Against Intentional Interference

The laws in Thailand that criminalize the intentional cutting or interference with submarine cables are as follows:

5.1 Navigation in the Thai Waters Act B.E. 2456 (1913)

Under Sections 209 and 210 of the Navigation in the Thai Waters Act, B.E. 2456 (1913), when a cable or structure is laid underwater within Thai territorial waters, the Marine Department is required to mark the location with a high pole featuring a large, round, white board labeled in both Thai and English to warn against anchoring or dredging. Additional marking devices like buoys may be used if deemed appropriate by the Harbour Master. Vessels are prohibited from anchoring or dredging within 100 meters of these installations. Violators who anchor in these restricted zones, or whose activities damage the underwater installations, face fines ranging from 300 to 3,000 baht. If such actions result in damage, the responsible party could also face up to six months in prison, fines between 1,000 to 10,000 baht, or both, and must cover the repair costs of the damaged installations. Moreover, under Article 211, if any vessel sails across the said prohibited zone without pulling the anchor above the water in such a way that it can be seen, it shall be deemed that such vessel has dredged the anchor across the prohibited zone.

5.2 Petroleum Act, B.E. 2514 (1971)

Under Section 74 of the Petroleum Act, B.E. 2514 (1971), any concessionaire conducting petroleum operations in offshore areas is explicitly prohibited from engaging in activities that obstruct the laying of submarine cables or cause damage to them. To ensure compliance, Section 107 stipulates that any concessionaire who violates these guidelines will be subject to a penalty, facing fines up to ten thousand Baht. These provisions are designed to protect the integrity of submarine cable infrastructure critical for communications and other services.

5.3 Criminal Code B.E. 2499 (1956)

Under Section 4 whoever committing an offence within Thai's jurisdiction, including territorial sea, shall be punished according to this law. The offence committed in any Thai vessel or airplane irrespective of any place of Thai vessel or airplane shall be deemed as being committed within the Thai's jurisdiction. In addition, regarding the Offences Against the external security of the Kingdom, Section 123 the intentional act on procures of the information kept to be secret for the safety of the country shall be imprisoned not less than ten years. Section 124 whoever does any act in order that any other person may know or obtain any information, document or anything which is kept secret for the safety of the Country,

shall be punished with imprisonment not exceeding ten years. If such offence is committed whilst the Country is engaged in the battle or war, the offender shall be punished with imprisonment of five to fifteen years. If such act in Section 124 is to facilitate a foreign state, the offender shall be punished with death or imprisonment for life. Section 125 any person who counterfeiting, fabricating, detaining, hiding, concealing, removing, damaging, destroying, or losing or rendering any of document or plan concerning the interest of State in the international affairs, shall be imprisoned up to ten years.

Under Section 235 any act rendering the public communication of the post, telegraph, telephone or wireless to be obstructed, shall be imprisoned up to three years or fined no more than six thousand Baht, or both. Section 358 any person who damage, destroy, or cause the depreciation of value or rendering useless the property belonging to the other person or which the other person to be the co-owner, such person to be said to commit mischief, and shall be imprisoned up to three years or fined no more than six thousand Baht, or both. Section 360 any person who damages, destroys, or causes the depreciation of value or rendering useless the property used or possessed for public benefit, shall be imprisoned up to five years or fined no more than ten thousand Baht, or both.

5.4 Cyber Security Maintenance Act B.E. 2562 (2019)

Under section 5 there shall be a committee called the “National Cyber Security Committee” (or NCSC) which is authorized to regulate the policy on the related cyber security maintenance according to Section 9 of the Act. And there shall be the Cyber Security Supervisory Committee (CSSC) which subject to the duties stipulates in Section 13, for example, to oversee, monitor, and supervise the operation of the National Centre for Co-ordination of the Computer System Security Maintenance and the incident action as well as computer forensic science. Under Section 45 state agencies, regulatory or supervisory agencies and critical information infrastructure agencies have the duty to prevent, handle and reduce cyber threat risks in accordance with the code of practice and framework standard for the cyber security maintenance. In the case where State agencies, regulatory or supervisory agencies or critical information infrastructure agencies are unable to act or perform in accordance with its duty, the Office may render assistance with respect to personnel or technological matters to such agencies at their request. In this regard, Section 48 reiterate that the critical information infrastructure denotes activities which is importance to national security, military security, economic security and internal peace and order and it is the duty of the Office to support and assist the prevention, handling and reduction of cyber threat risks, in particular, cyber threats affecting or occurring to critical information infrastructure.

If there might be case of threat to the cyber security, it is provided in Section 58 that where a cyber threat occurs or is expected to occur to an information system within the oversight and responsibility of any State agency or critical information infrastructure agency, such agency shall take action in inspecting its relevant data, computer data and computer systems and also surrounding circumstances for the purpose of assessing whether the cyber threat has actually occurred. If the inspection reveals that the cyber threat has occurred or is

expected to occur, it shall take action for preventing, handling and reducing cyber threat risks in accordance with the code of practice and framework standard for the cyber security maintenance of such agency and notify the matter to the Office and its regulatory or supervisory agency expeditiously.

5.5 Personal Data Protection Act B.E. 2562 (2019)

If the interference occurs to the “personal data”³³ according to the Personal Data Protection Act, the operator of such cable might also be deemed as Data Controller³⁴ or Data Processor³⁵. In case where the interference cause the leak of personal data, the Data Controller may also be liable to the failure of data protection act. As the Act required under Section 27 that the Data Controller shall not use or disclose Personal Data without the consent of the data subject, unless it is the Personal Data which is collected without requirement of consent under the personal data protection act.

5.6 Computer-Related Crime Act B.E. 2550 (2007)

If the interference falls within the Computer-Related Offences of Part 1³⁶ of the Computer-Related Crime Act B.E. 2550 (2007), the person who cause such crime shall be penalized. This part focuses on penalizing the hacker which could be the person who intentionally interferes with the submarine cable.

Regarding the duty of the owner of the cable, Under Section 26 A service provider³⁷ shall maintain traffic data for a period of time, also a service provider shall keep user’s data as necessary for the purpose of identifying the user from the first day of such a service and store such user’s data for a period not less than ninety days from its expiry date. Any service provider who fails to comply with this Section shall be liable to a fine not exceeding Five Hundred Thousand Baht.

³³ **Section 6** In this Act, “Personal Data” means any information relating to a Person, which enables the identification of such Person, whether directly or indirectly, but not including the information of the deceased Persons in particular.

³⁴ **Section 6** Data Controller” means a Person or a juristic person having the power and duties to make decisions regarding the collection, use, or disclosure of the Personal Data.

³⁵ **Section 6** Data Processor” means a Person or a juristic person who operates in relation to the collection, use, or disclosure of the Personal Data pursuant to the orders given by or on behalf of a Data Controller, whereby such Person or juristic person is not the Data Controller.

³⁶ Section 5 – Section 17 of the Computer-Related Crime Act

³⁷ Section 3 ...

service provider” means:

(1) a person who, either in his own name or in the name or for the benefit of another person, provides to other persons with access to the internet or the ability to communicate by other means through a computer system.

(2) a person who stores computer data for the benefit of other persons.

VIETNAM

Vietnam's Legal Regulations on Submarine Cables

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SUMMARY

- The two most important legal documents referring to undersea cables are the Vietnamese Law of the Sea 2012 and the Telecommunications Laws 2009 (going to be replaced by Telecommunications Law 2023 from the 1st of July 2024). Other codes, decrees and directives, etc. provide extra substance to the legal framework.
- Multinational telecommunications lines are classified as the construction of highest level of importance. Vietnam laws also suggest that enterprises are encouraged or have the priority to install and operate telecom projects on the seabed.
- Three main types of violations are (i) licenses violations; (ii) violations against regulations on shared use, security and cyberinformation; and (iii) with criminal offenses for telecommunication infrastructures' sabotage, with different levels of penalties.
- Vietnam adopts a whole-of-government approach by involving multiple agencies in the processes of issuing permits, laying, maintenance and protection of submarine cables. Main stakeholders include the Ministry of Information and Communications (MIC), the Ministry of National Defense (MND), the Ministry of Foreign Affairs (MFA), the Ministry of Public Security (MPS), the Ministry of Natural Resources (MONRE), etc.

MAIN CONTENT

1. Key regulations governing submarine cables

Vietnam has not had a law dedicated to submarine cables solely but there have been multiple documents regulating the importance of cables, as well as the permit/licensing, maintenance and protection of this infrastructure, with specific assigned stakeholders.

The most prominent sources include: Vietnam's Law of the Sea 2012 No. 18/2012/QH13 (dated dated June 21, 2012)³⁸; and Telecommunications Laws No. 41/2009/QH12 (dated

³⁸ <https://vanban.chinhphu.vn/default.aspx?pageid=27160&docid=163056>.

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November 23, 2009)³⁹ and No. 24/2023/QH15 (dated November 24, 2023)⁴⁰, with the latter replacing the former⁴¹.

Other related documents include:

- The Government's Decree No. 25/2011/ND-CP (dated April 6, 2011) detailing and guiding the implementation of the Telecommunications Law⁴²; No. 162/2013/ND-CP (dated November 12, 2013) on the penalties for administrative violations committed within territorial waters, islands and continental shelf⁴³; and No. 174/2013/ND-CP (dated November 13, 2013) on the penalties for administrative violations against regulations on post and telecommunications, information technology and radio frequency⁴⁴, etc.
- The Prime Minister's Directive No. 30/2007/CT-TTg (dated December 13, 2007) to reinforce the protection of telecommunications submarine cables and insurance of the safety of international telecommunications⁴⁵; the Prime Minister's Decision No. 36/QĐ-TTg (dated January 11, 2024) on approving the information and communications infrastructure master plan for the period of 2021-2030, with a vision toward 2050⁴⁶, etc.
- The Ministry of Construction's Circular No. 06/2021/TT-BXD (dated June 30, 2011) on the classification of constructions and guidelines for application in management of construction⁴⁷;
- The Ministry of Finance's Circular No. 273/2016/TT-BTC (dated November 14, 2016) on defining the collection rates, exemption, regime of collection, remittance, management and use of charges for telecommunications operation rights and fees for grant of telecommunications service business licenses and licenses for telecommunications operations⁴⁸;

³⁹ <https://vanban.chinhphu.vn/default.aspx?pageid=27160&docid=92518>.

⁴⁰ <https://thuvienphapluat.vn/van-ban/Cong-nghe-thong-tin/Luat-Vien-thong-24-2023-QH15-535782.aspx>.

⁴¹ Law No. 24/2023/QH15 on Telecommunications (the "New Telecoms Law"), replacing Law No. 41/2009/QH12 on Telecommunications (the "2009 Law"). The 2023 Law will enter into force from the July 1, 2024.

⁴² <https://thuvienphapluat.vn/van-ban/Cong-nghe-thong-tin/Nghi-dinh-25-2011-ND-CP-huong-dan-Luat-Vien-thong-121713.aspx>.

⁴³ <https://thuvienphapluat.vn/van-ban/Bo-may-hanh-chinh/Thong-tu-105-2022-TT-BQP-huong-dan-Nghi-dinh-162-2013-ND-CP-xu-phat-hanh-chinh-tren-cac-vung-bien-549006.aspx>.

⁴⁴ <https://thuvienphapluat.vn/van-ban/Cong-nghe-thong-tin/Nghi-dinh-174-2013-ND-CP-quy-dinh-xu-phat-vi-pham-hanh-chinh-buu-chinh-vien-thong-cong-nghe-thong-tin-213651.aspx>.

⁴⁵ <https://thuvienphapluat.vn/van-ban/Cong-nghe-thong-tin/Chi-thi-30-2007-CT-TTg-tang-cuong-bao-ve-tuyen-cap-vien-thong-ngam-tren-bien-bao-dam-an-toan-vien-thong-quoc-te-59865.aspx>.

⁴⁶ <https://english.luatvietnam.vn/thong-tin/decision-36-qd-ttg-2024-approve-information-and-communications-infrastructure-master-plan-for-2021-2030-289707-d1.html>.

⁴⁷ https://thuvienphapluat.vn/van-ban/EN/Xay-dung-Do-thi/Circular-06-2021-TT-BXD-classification-of-constructions-of-construction-investment/482505/tieng-anh.aspx#google_vignette.

⁴⁸ <https://english.luatvietnam.vn/circular-no-273-2016-tt-btc-dated-november-14-2016-of-the-ministry-of-finance-defining-the-collection-rates-exemption-regime-of-collection-remitt-112300-doc1.html>.

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- The Office of the Government’s Official Correspondence No. 3591/VPCP-CN (dated June 29, 2007) on preventing damage to submarine telecommunications cables at sea⁴⁹;
- The National Assembly’s Criminal Code No. 100/2015/QH13⁵⁰ (November 27, 2015), etc.

2. Specific regulations

2.1. About the significance of submarine cable

Vietnam Telecommunications Law No. 41/2009/QH12 and No. 24/2023/QH15 by the National Assembly: In these two legal documents, the rights and obligations of domestic and foreign telecommunications enterprises that want to install submarine cables in Vietnam are stated. They both note that enterprises are given priority on the seabed or use the seabed preferentially to install or operate telecom infrastructure projects.

Ministry of Construction’s Circular No. 06/2021/TT-BXD: The Annex classified multinational telecommunications lines as the construction of highest level of importance.

Prime Minister’s Decision No. 36/QĐ-TTg: The document stipulates that Vietnam should implement 2-4 additional international telecommunications cable lines by 2025 and develop 4-6 more international undersea fiber optic cable lines by 2030.

Telecom Law 2009 ⁵¹	Article 57. Planning of telecommunications works	1. Public telecommunications works are given priority in using spaces, ground surface, underground spaces, river bed and sea bed. Public telecommunications service provision spots may be located first of all at railway stations, car terminals, seaports, airports, border gates and other public places to satisfy needs of telecommunications service users.
Telecom Law 2023 ⁵²	Article 13. Rights and obligations of telecommunications enterprises	2. Providers of network infrastructure services have the following rights and obligations: b) To be allowed to preferentially use space, ground surface, underground space, river bed, sea bed, and public land for building telecommunications infrastructure under the planning, technical standards and regulations;
Ministry of	Note 1.3.9. About the	The multinational lines are classified as the

⁴⁹ <https://thuvienphapluat.vn/cong-van/Cong-nghe-thong-tin/Cong-van-3591-VPCP-CN-phong-chong-xam-hai-cap-vien-thong-ngam-tren-bien/83274/loi-dung.aspx>.

⁵⁰ <https://lawnet.vn/en/vb/Law-No-100-2015-QH13-criminal-code-4AF41.html>.

⁵¹ <https://vanban.chinhphu.vn/default.aspx?pageid=27160&docid=92518>.

⁵² <https://thuvienphapluat.vn/van-ban/Cong-nghe-thong-tin/Luat-Vien-thong-24-2023-QH15-535782.aspx>.

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Construction's Circular No. 06/2021/TT-BXD ⁵³	importance of Telecommunication signal transmission line	construction with the highest level of importance ⁵⁴ .
Prime Minister's Decision No. 36/QĐ-TTg ⁵⁵	Part II. Development requirements	Article 2.a (development requirements until 2025): Implement and invest in 2-4 additional international telecommunications cable lines. Article 2.a (development requirements until 2030): develop 4-6 more international undersea fiber optic cable lines by 2030.

2.2. About the right to lay cables and issuing permits

Vietnam's Law of the Sea 2012 (No. 18/2012/QH13) by the National Assembly: The document stipulates that Vietnam respects the right to lay submarine cables and pipelines of other states. Any party seeking to lay submarine cables and pipelines in Vietnam's maritime zones (Vietnam's EEZ and continental shelves) must obtain written approval from Vietnamese authorities.

Telecommunications Laws 2009 and 2023 (replacing the 2009 version): In general, provisions of the 2023 Law on submarine cables are unchanged compared to the 2009 version. The most important addition is the introduction of the national plan on telecommunications development under Article 8. The Article stipulates a new condition for granting telecommunication licenses for the laying of submarine cables and pipelines in Vietnam's maritime zones.

Law of the Sea 2012 ⁵⁶	Article 16. Legal status of the exclusive economic zone	The State of Vietnam respects the freedoms of navigation and overflight, the right to lay submarine cables and pipelines and lawful uses of the sea by other states in Vietnam's EEZ in accordance with this Law and treaties to which the Socialist Republic of Vietnam is a contracting party, provided that those operations are not detrimental to the sovereign rights, jurisdiction and national maritime interests of Vietnam. The laying of submarine cables and pipelines is subject to written consent of competent Vietnamese authorities.
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⁵³ <https://thuvienphapluat.vn/van-ban/Xay-dung-Do-thi/Thong-tu-06-2021-TT-BXD-phan-cap-cong-trinh-xay-dung-480818.aspx>.

⁵⁴ Authors' interpretation of the document's labelling, not a quote from the document.

⁵⁵ <https://english.luatvietnam.vn/thong-tin/decision-36-qd-ttg-2024-approve-information-and-communications-infrastructure-master-plan-for-2021-2030-289707-d1.html>.

⁵⁶ <https://vanban.chinhphu.vn/default.aspx?pageid=27160&docid=163056>.

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	<p>Article 18. Legal status of the continental shelf</p>	<p>The State of Vietnam respects the right to lay submarine cables and pipelines and other lawful uses of the sea by other states on the continental shelf of Vietnam in accordance with this Law and treaties to which the Socialist Republic of Vietnam is a contracting party, provided that those operations are not detrimental to the sovereign rights, jurisdiction and national maritime interests of Vietnam.</p> <p>The laying of submarine cables and pipelines is subject to written consent of competent Vietnamese authorities.</p>
<p>Telecommunications Law 2009</p>	<p>Article 34. Telecommunications licenses</p>	<p>3. Licenses for telecommunications operations include:</p> <p>a) License for installation of undersea telecommunications cable lines which is valid for 25 years or less and granted to organizations that install undersea telecommunications cable lines ashore or across the internal waters, territorial seas, continental shelf or exclusive economic zones of Vietnam;</p>
	<p>Article 37. Conditions on grant of licenses for telecommunications operations</p>	<p>1. A Vietnamese or foreign organization will be granted a license for installation of undersea telecommunications cable lines when fully satisfying the following conditions:</p> <p>a) Committing to complying with provisions of Vietnamese laws;</p> <p>b) Committing to refraining from causing pollution of the marine environment:</p> <p>c) Committing to refraining from performing activities other than survey, installation, maintenance and repair of telecommunications cable lines;</p> <p>d) Providing adequate, accurate and timely information related to cable lines to the specialized management agency in charge of telecommunications:</p> <p>e) Submit to the inspection, supervision and control by competent state agencies upon conducting survey, installation, maintenance or repair of cable lines in Vietnamese seas and bear all expenses for inspection, control or instruction activities.</p>

<p>Telecom Law 2023⁵⁷</p>	<p>Article 8. National plan on telecommunications development</p>	<p>1. National plan on telecommunications development is integrated into the information and communications infrastructure planning, with a view to setting objectives, principles and orientations for development of telecommunications market, infrastructure, technologies and services and solutions thereto.</p>
	<p>Article 33. Telecommunications license</p>	<p>3. Licenses for telecommunications operations include:</p> <p>a) License for installation of undersea telecommunications cable lines which is valid for 25 years or less and granted to organizations that install undersea telecommunications cable lines ashore or across the Vietnam’s maritime zones;</p>
	<p>Article 38. Conditions on grant of licenses for telecommunications operations</p>	<p>1. A Vietnamese or foreign organization will be granted a license for installation of undersea telecommunications cable lines when fully satisfying the following conditions:</p> <p>a) Committing to complying with provisions of Vietnamese laws;</p> <p>b) Committing to refraining from causing pollution of the marine environment:</p> <p>c) Committing to refraining from performing activities other than survey, installation, maintenance, repair and un-installation of telecommunications cable lines;</p> <p>d) Providing project proposal to install telecommunications cables at sea in accordance with the master plan on information and communication infrastructure; the law and regulations on national defense, security and environmental protection; and other relevant law and regulations;</p> <p>e) Submit to the inspection, supervision and control by competent state agencies upon conducting survey, installation, maintenance, repair or un-installation of cable lines in Vietnamese seas and bear all expenses</p>

⁵⁷ <https://thuvienphapluat.vn/van-ban/Cong-nghe-thong-tin/Luat-Vien-thong-24-2023-QH15-535782.aspx>.

		for inspection, control or instruction activities.
	Article 43. Charge for the right to telecommunications operation	1. Charge for the right to telecommunications operation is a sum of money payable by an organization to the State to be entitled to establish a telecommunications network or provide telecommunications services. This charge shall be determined on the basis of scope and size of the telecommunications network and telecommunications service turnover; volume and value of allocated telecommunications resources: level of use of space, ground surface, underground space, river bed and sea bed for establishing the telecommunications network or building telecommunications works and public telecommunications service points.
Circular No 273/2016/TT-BTC ⁵⁸	Fee chart (Annex)	(Author's interpretation of the document's labelling): License fee for laying, repairing and maintaining submarine cables is VND 1,000,000 per project per visit. Fee for license renewal, re-issuance or amendment is VND 500,000/project. ⁵⁹

2.3. About protection

Vietnam's Law of the Sea 2012: It mandates that parties exercising the right of innocent passage within Vietnam's territorial waters are obligated to ensure the protection of cables and pipes.

Decree No. 162/2013/ND-CP⁶⁰ and No. 174/2013/ND-CP⁶¹: They stipulate the penalties for administrative violations in the waters, islands and continental shelf of Viet Nam. As Decrees 162 and 174 were both developed in 2013 to provide the guidance for implementation of the 2009 Telecommunications Law, they were subjected to be revised in accordance with the 2023 Law. However, no draft decree is available at the moment.

⁵⁸ <https://thuvienphapluat.vn/van-ban/EN/Cong-nghe-thong-tin/Decree-No-25-2011-ND-CP-detailing-and-guiding-the-implementation/123358/tieng-anh.aspx>.

⁵⁹ Fee Schedule, Circular No 273/2016/TT-BTC dated 14 November 2016 of the Ministry of Finance on the telecommunication license fees and Article 30(2)(d) of Decree guiding the implementation of the Telecommunication law.

⁶⁰ <https://thuvienphapluat.vn/van-ban/Bo-may-hanh-chinh/Thong-tu-105-2022-TT-BQP-huong-dan-Nghi-dinh-162-2013-ND-CP-xu-phat-hanh-chinh-tren-cac-vung-bien-549006.aspx>.

⁶¹ <https://thuvienphapluat.vn/van-ban/Cong-nghe-thong-tin/Nghi-dinh-174-2013-ND-CP-quy-dinh-xu-phat-vi-pham-hanh-chinh-buu-chinh-vien-thong-cong-nghe-thong-tin-213651.aspx>.

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Criminal Code No. 100/2015/QH13: The document stipulates the punishment/fine for spreading software programs harmful to telecommunications network, obstruction or disruption of telecommunications network, etc.

Law of the Sea of Vietnam 2012	Article 24. Obligations while conducting innocent passage	Foreign organizations and individuals, while conducting innocent passage in Vietnam's territorial sea are obliged to observe Vietnamese laws and regulation on: c) Protection of cables and pipes;
Decree No. 162/2013/N D-CP ⁶²	Article 14. Violations against regulations on laying of submarine cables and pipelines, and exploitation of tidal and wind energy within the territorial waters, islands and continental shelf	1. A fine ranging from VND 400,000,000 to VND 500,000,000 shall be imposed for drilling or cutting or performing any acts aimed to adversely affect normal operations of submarine cables and pipelines legally installed within the territorial waters, islands and continental shelf of the Socialist Republic of Vietnam. A fine ranging from VND 800,000,000 to VND 1,000,000,000 shall be imposed for one of the following violations: a) Installation of submarine cables and pipelines without obtaining a written approval from a competent authority of Vietnam; b) Illegal exploitation of tidal energy, wind energy and other non-living resources.
Decree No. 174/2013/N D-CP ⁶³	Article 17. Violations against regulations on license to install submarine telecommunications cables	1. A fine ranging from VND 100,000,000 to VND 140,000,000 shall be imposed for provision of inaccurate or insufficient information concerning cable routes to Ministry of Information and Communications. 2. A fine ranging from VND 140,000,000 to VND 170,000,000 shall be imposed for construction or installation of cable routes inconsistently with

⁶² <https://thuvienphapluat.vn/van-ban/Bo-may-hanh-chinh/Thong-tu-105-2022-TT-BQP-huong-dan-Nghi-dinh-162-2013-ND-CP-xu-phat-hanh-chinh-tren-cac-vung-bien-549006.aspx>.

⁶³ <https://thuvienphapluat.vn/van-ban/Cong-nghe-thong-tin/Nghi-dinh-174-2013-ND-CP-quy-dinh-xu-phat-vi-pham-hanh-chinh-buu-chinh-vien-thong-cong-nghe-thong-tin-213651.aspx>. Other related articles in the same document include: Article 13. Violations against regulations on telecommunications license; Article 14. Violations against regulations on announcement or change in contents of telecommunications license; Article 38. Violations against regulations on shared use of telecommunications infrastructure; Article 39. Violations against regulations on security of telecommunications infrastructure; Article 71. Violations against regulations on cyberinformation security and incident response.

		<p>diagram or coordinates of cable routes licensed by a competent state authority. A fine ranging from VND 170,000,000 to VND 200,000,000 shall be imposed for any of the following violations:</p> <p>a) Doing works other than survey, installation, maintenance or repair of telecommunications cable routes within the territorial waters of Vietnam;</p> <p>b) Performing the survey, installation, maintenance or repair of telecommunications cable routes without obtaining the permission from a competent state authority. Suspend the license to install submarine telecommunications cables for 01 - 03 months</p>
<p>Criminal Code No. 100/2015/QH13⁶⁴</p>	<p>Article 286. Spreading software programs harmful for computer networks, telecommunications networks or electronic devices</p>	<p>1. Any person who deliberately spreads a software program that is harmful for a computer network, telecommunications network or an electronic device in any of the following circumstances shall be liable to a fine of from VND 50,000,000 to VND 200,000,000 or face a penalty of up to 03 years' community sentence or 06 - 36 months' imprisonment.</p>
	<p>Article 287. Obstruction or disturbance of computer networks, telecommunications networks or electronic devices</p>	<p>1. Any person who deletes, damages or changes a software program or electronic data or illegally obstructs the transmission of data of a computer network, telecommunications network or an electronic device or otherwise obstructs or disturbs a computer network, telecommunications network or an electronic device in any of the following circumstances, except for the cases in Article 286 and Article 289 hereof, shall be liable to a fine of from VND 30,000,000 to VND 200,000,000 or face a penalty of 06 - 36 months' imprisonment.</p> <p>2. This offence committed in any of the following circumstances carries a fine of from VND 200,000,000 to VND 1,000,000,000 or a penalty of 03 - 07 years' imprisonment:</p> <p>e) The offence results in suspension or the computer network, telecommunications network or electronic</p>

⁶⁴ <https://lawnet.vn/en/vb/Law-No-100-2015-QH13-criminal-code-4AF41.html> (only a portion of the punishment/fine is extracted here).

		device for a period from 24 hours to under 168 hours or from 10 to under 50 times within 24 hours; 3. This offence committed in any of the following circumstances carries a penalty of 07 - 12 years' imprisonment: a) The offence is committed against a system of data which is classified information or an information system serving national defense and security .
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3. Governmental stakeholders

3.1.Regarding planning and approving cable projects

Article 18 of the Decree “Detailing and Guiding the Implementation of a number of Articles of the Telecommunication Law” (25/2011/ND-CP)⁶⁵: the license to install telecommunications cables is received by the specialized telecom management agency which is the Telecommunications Authority (VNTA) of the Ministry of Information and Communications (MIC).

- MIC shall issue, re-issue, amend, supplement, and revoke telecommunications licenses and request termination of telecom service provision activities.⁶⁶
- The projects should also send documents to the Ministry of National Defense, the Ministry of Foreign Affairs, and relevant agencies and organizations for consultation.⁶⁷

3.2.Regarding laying, monitoring, repairing and protecting cables

Article 25 of Decree 25/2011/ND-CP⁶⁸: the document stipulates that after the license is approved, the specialized telecommunications management agency coordinates with the General Staff of the Ministry of Defense to allow vessels to enter Vietnamese waters for survey, installation, maintenance, and repair telecommunications cable line at sea under the license and provisions of law.

⁶⁵ <https://thuvienphapluat.vn/van-ban/EN/Cong-nghe-thong-tin/Decree-No-25-2011-ND-CP-detailing-and-guiding-the-implementation/123358/tieng-anh.aspx>

⁶⁶ https://thuvienphapluat.vn/van-ban/Cong-nghe-thong-tin/Nghi-dinh-25-2011-ND-CP-huong-dan-Luat-Vien-thong-121713.aspx?anchor=dieu_25

⁶⁷ https://thuvienphapluat.vn/van-ban/Cong-nghe-thong-tin/Nghi-dinh-25-2011-ND-CP-huong-dan-Luat-Vien-thong-121713.aspx?anchor=dieu_25

⁶⁸ <https://thuvienphapluat.vn/van-ban/Cong-nghe-thong-tin/Nghi-dinh-25-2011-ND-CP-huong-dan-Luat-Vien-thong-121713.aspx>

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*PM's Directive No. 30/2007/CT-TTg*⁶⁹: It mandates that the Border Guard, Navy and Viet Nam Coast Guard (all under the Ministry of National Defense) are to ensure the security of telecommunication submarine cables.

- The Police coordinate with the telecommunication companies to ensure the security of landing stations of telecommunication submarine cables, and investigate and press charges for acts causing harm to telecommunication submarine cables.
- The People's Committees of coastal areas are in charge of educating people about the importance of telecommunication submarine cables and their security.

*Official document No. 3591/VPCP-CN*⁷⁰ of the Office of the Government on preventing damage to submarine telecommunications cables at sea: It stipulates that, in the event of illegal undersea cable exploitation, the Ministry of Natural Resources and Environment, Ministry of Information and Communications, Ministry of National Defense, Ministry of Public Security, and Ministry of Culture and Information will collaborate with the People's Committees of coastal provinces to address the issue.

- The mechanism is similar to Directive No. 30/2007/CT-TTg.

⁶⁹

https://www.un.org/oceancapacity/sites/www.un.org.oceancapacity/files/files/Projects/Norad/OGS/vietnam_ogs_advanced_unformatted_version.pdf.

⁷⁰ <https://thuvienphapluat.vn/cong-van/bo-may-hanh-chinh/cong-van-2717-vpcp-cn-khai-thac-cap-ngam-trai-phep-tren-bien-dong-cua-mot-so-tau-179368.aspx>.