LEGAL JURISDICTION OVER INTERNATIONAL SUBMARINE CABLES

LEGAL REGIMES

UNITED NATIONS LAW OF THE SEA CONVENTION 1982 (UNCLOS)
Articles 3, 21, 33, 57, 58, 79, 86, 87, 112-115, 297

GENEVA CONVENTION ON THE HIGH SEAS (April 29, 1958) (GCHS)
Articles 1, 26-30

GENEVA CONVENTION ON THE CONTINENTAL SHELF (April 29, 1958) (GCCS)
Article 4

INTERNATIONAL CONVENTION FOR PROTECTION OF SUBMARINE CABLES (1884) (ICPSC)
Articles 1-16

FEDERAL PERMITTING AUTHORITY

1. U.S. TERRITORIAL SEAS (a), CONTIGUOUS ZONE (b) AND EEZ (c)
   (a) PRESIDENTIAL PROCLAMATION 5928 (54 F.R. 77) - 12 MILE
   (b) PRESIDENTIAL PROCLAMATION 7219 (64 F.R. 48701) - 24 MILE
   (c) PRESIDENTIAL PROCLAMATION 5030 (48 F.R. 10601) - 200 MILE

2. FEDERAL COMMUNICATIONS COMMISSION (FCC)
   SUBMARINE CABLE ACT 47 U.S.C. §§ 34-39
   EXECUTIVE ORDER NO. 10530 (May 11, 1959), § 5(a)
     19 FED. REG. 2709
     47 C.F.R. § 1.766
     33 C.F.R. § 322.5(h)(1)(1)

3. U.S. ARMY CORP OF ENGINEERS (USACE)
   33 U.S.C. § 403
   33 C.F.R. § 329.12 - 3 MILE

4. DOMESTIC STATES OF THE UNITED STATES
   U.S. v. CALIFORNIA 332 U.S. 19 (1947)
   U.S. v. MAINE 420 U.S. 515 (1975) - 3 MILE

Prepared by:
Douglas R. Burnett
Squire, Sanders & Dempsey L.L.P.
1095 Avenue of the Americas, 31st Floor
New York, NY 10036
+1.212.407.0150
+1.212.872.9815 (fax)
dburnett@ssd.com
UNITED NATIONS LAW OF THE SEA CONVENTION (UNCLOS) (1982)

Article 3.  Boundaries of the territorial sea.

The High Contracting Parties agree that every State has the right to establish a zone of territorial sea adjacent to its coast, in which it has so far as regards foreign ships and the persons on board thereof, certain rights and powers in respect of navigation and certain other matters.

Article 21.  Laws and regulations of the coastal State relating to innocent passage.

The coastal State may, relating to navigation and certain other matters, exercise jurisdiction in relation to foreign ships and the persons on board thereof, within the territorial sea, subject to the provisions of this Part.

Article 33.  Contiguous zone.

1. A zone contiguous to the territorial sea, described in the contiguous zone, the coastal State may exercise its territory or territorial sea, or a part thereof, subject to the rights and authorities provided for in this Part.

2. The zone may extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

Article 57.  Boundaries of the exclusive economic zone.

The exclusive economic zone shall extend to a maximum distance of 200 nautical miles from the baseline, on which the breadth of the territorial sea is measured.

Article 59.  Rights and duties of other States in the exclusive economic zone.

The exclusive economic zone shall be considered an integral part of the territorial sea of the coastal State, subject to the rights and authorities provided for in this Part.

Article 79.  Submarine cables and pipelines on the continental shelf.

1. All States are entitled to lay submarine cables and pipelines on the continental shelf, in accordance with the provisions of this Part.

2. The laying of such cables and pipelines shall not be considered to be a transgression of the continental shelf, the exclusive economic zone, or the territorial sea.

3. An operation shall be considered to be a transgression of the continental shelf, the exclusive economic zone, or the territorial sea if, without the consent of the coastal State, it involves a breach of any of the laws and regulations of the coastal State, or if it is conducted without due regard to, or without cooperation with, the coastal State.

4. Be a punishable offence. This provision shall apply also to conduct calculated or likely to result in such breaking or injury.

5. The law and regulations of the coastal State shall be applied to such cables and pipelines, and any activities connected therewith, in such an area as to be a transgression of the continental shelf, the exclusive economic zone, or the territorial sea.

6. No foreign ship or vessel shall employ any device or method for the exploration of the territorial sea or the exclusive economic zone which would cause environmental pollution.

7. The provisions of this Part shall apply to all areas of the sea that are not included in the exclusive economic zone, in the territorial sea, or in the internal waters of a State, and in the archipelagic waters of an archipelagic State. This Article does not entail any restriction of the freedoms enjoyed by all States in respect of the exclusive economic zone, as defined in accordance with Article 68.

8. The freedom of navigation of all vessels is guaranteed.

9. The laying of submarine cables and pipelines shall not be considered to be a transgression of the continental shelf, the exclusive economic zone, or the territorial sea.

10. An operation shall be considered to be a transgression of the continental shelf, the exclusive economic zone, or the territorial sea if, without the consent of the coastal State, it involves a breach of any of the laws and regulations of the coastal State, or if it is conducted without due regard to, or without cooperation with, the coastal State.

11. The law and regulations of the coastal State shall be applied to such cables and pipelines, and any activities connected therewith, in such an area as to be a transgression of the continental shelf, the exclusive economic zone, or the territorial sea.

12. No foreign ship or vessel shall employ any device or method for the exploration of the territorial sea or the exclusive economic zone which would cause environmental pollution.

13. The provisions of this Part shall apply to all areas of the sea that are not included in the exclusive economic zone, in the territorial sea, or in the internal waters of a State, and in the archipelagic waters of an archipelagic State. This Article does not entail any restriction of the freedoms enjoyed by all States in respect of the exclusive economic zone, as defined in accordance with Article 68.

14. The freedom of navigation of all vessels is guaranteed.

15. The laying of submarine cables and pipelines shall not be considered to be a transgression of the continental shelf, the exclusive economic zone, or the territorial sea.

16. An operation shall be considered to be a transgression of the continental shelf, the exclusive economic zone, or the territorial sea if, without the consent of the coastal State, it involves a breach of any of the laws and regulations of the coastal State, or if it is conducted without due regard to, or without cooperation with, the coastal State.

17. The law and regulations of the coastal State shall be applied to such cables and pipelines, and any activities connected therewith, in such an area as to be a transgression of the continental shelf, the exclusive economic zone, or the territorial sea.

18. No foreign ship or vessel shall employ any device or method for the exploration of the territorial sea or the exclusive economic zone which would cause environmental pollution.

19. The provisions of this Part shall apply to all areas of the sea that are not included in the exclusive economic zone, in the territorial sea, or in the internal waters of a State, and in the archipelagic waters of an archipelagic State. This Article does not entail any restriction of the freedoms enjoyed by all States in respect of the exclusive economic zone, as defined in accordance with Article 68.

20. The freedom of navigation of all vessels is guaranteed.

21. The laying of submarine cables and pipelines shall not be considered to be a transgression of the continental shelf, the exclusive economic zone, or the territorial sea.

22. An operation shall be considered to be a transgression of the continental shelf, the exclusive economic zone, or the territorial sea if, without the consent of the coastal State, it involves a breach of any of the laws and regulations of the coastal State, or if it is conducted without due regard to, or without cooperation with, the coastal State.

23. The law and regulations of the coastal State shall be applied to such cables and pipelines, and any activities connected therewith, in such an area as to be a transgression of the continental shelf, the exclusive economic zone, or the territorial sea.

24. No foreign ship or vessel shall employ any device or method for the exploration of the territorial sea or the exclusive economic zone which would cause environmental pollution.

25. The provisions of this Part shall apply to all areas of the sea that are not included in the exclusive economic zone, in the territorial sea, or in the internal waters of a State, and in the archipelagic waters of an archipelagic State. This Article does not entail any restriction of the freedoms enjoyed by all States in respect of the exclusive economic zone, as defined in accordance with Article 68.