



CIL

CENTRE FOR INTERNATIONAL LAW
National University of Singapore

2024 ICPC – CIL WORKSHOP REPORT

LAW OF THE SEA AND SUBMARINE CABLES

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SUPPORTING ORGANISATIONS



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ABOUT THE WORKSHOP



GOVERNMENT OFFICIALS AND ACADEMICS FROM ASEAN MEMBER STATES

The Oceans Law and Policy team of the NUS Centre for International Law (CIL) co-organized a one-day Workshop on 3 May 2024, with the International Cable Protection Committee (ICPC), and supported by the Infocomm Media Development Authority of Singapore (IMDA) and the Department of Foreign Affairs and Trade of Australia (DFAT). The Workshop focused on key law of the sea issues affecting the installation, repair, and protection of submarine cables and prospects for further collaboration between industry and governments to address those issues.

The Workshop was held at the Orchard Hotel, Singapore. The Workshop followed the annual Plenary Meeting of the ICPC, which was held at the same venue from 30 April to 2 May.

The workshop was attended by approximately 80 delegates from ICPC members, 20 ASEAN government officials sponsored by the Singapore and Australian Governments, 20 Singapore and Australia government representatives, and 10 ASEAN academics sponsored by CIL.

Feedback from government, academic, and industry participants confirmed that the Workshop's presentations and discussions were useful and insightful. There was a general consensus among the participants on the need for more discussions and greater collaboration between the public and private sectors.

WELCOME ADDRESSES AND ORGANISATION OF THE WORKSHOP



Dr Tara Davenport (Co-Head, Ocean Law & Policy Programme CIL), Mr Graham Evans (ICPC Chair) and Mr Kent Bressie (ICPC International Law Adviser) welcomed the delegates. They stressed the importance of cables in providing approximately 99% of the world's connectivity and stated that they were very pleased that representatives of many ASEAN countries could participate in the Workshop.

The speakers explained the long-standing relationship between CIL and ICPC. This included the 2009 ICPC-CIL Workshop on Submarine Cables, which resulted in *Submarine Cables: The Handbook of Law and Policy* (Martinus Nijhoff, 2014). The Handbook was edited by Douglas Burnett of ICPC and Professors Robert Beckman and Tara Davenport of CIL.

The Handbook explains the history and development of submarine cables and provides an overview of the submarine cable industry and cable operations. It also gives an overview of the international legal regime governing submarine cables and traces the history of the legal regime from the 1884 Convention for the Protection of Submarine Telegraph Cables (1884 Convention) to the 1982 UN Convention on the Law of the Sea (UNCLOS). Many of the chapters in the Handbook were authored by members of the ICPC.

The Workshop was organised in four panels: **(1)** Spatial and Competing Use Issues for Submarine Cables, **(2)** Permits and Policies for the Laying and Repair of Cables, **(3)** Security of Submarine Cables, and **(4)** 2023 BBNJ Treaty and Submarine Cables. In each panel, there was a moderator and one speaker each from industry, academia, and government. Half of the time in each session was devoted to questions and comments from the audience.



*FROM LEFT TO RIGHT: RYAN WOPSCHALL (WOPSCHALL CONSULTING LLC AND ICPC)
TIM SCOLTOCK (DFAT AUSTRALIA), ROBERT BECKMAN (NUS CIL), AND KENT BRESSIE (ICPC).*

PANEL 1: "SPATIAL AND COMPETING USE ISSUES FOR SUBMARINE CABLES"

This panel focused on how industry and governments can address competing use issues for cables transiting maritime zones in which coastal States have either sovereignty or sovereign rights and jurisdiction over economic activities, and other States have the freedom to lay submarine cables under UNCLOS. It also considered ways to improve cable protection and resilience where there may be competing or emerging activities in the marine environment.

The world's oceans are used ever more intensively for a variety of activities. In addition to submarine cables, these activities include: fishing; shipping; energy resource development (including oil, gas, wind, and marine hydrokinetic projects); mining (for seabed minerals, sand, and gravel); dredging and dumping; bioprospecting; carbon sequestration; marine scientific research; and military activities.

Governments are also increasingly concerned about conservation of the marine environment, with increasing environmental regulation and adoption of marine protected areas (MPAs). All of these developments pose challenges for the routing and protection of submarine cables.

Although UNCLOS establishes a set of rights and responsibilities for States in maritime zones extending seaward from the coast, it does not set out exactly how spatial and competing uses should be coordinated. For example, UNCLOS article 58 provides that States have the freedom to lay cables in the Exclusive Economic Zone (EEZ) of coastal States, and that States engaged in submarine cable activities and coastal States must each give "due regard" to the rights of the other in the EEZ. UNCLOS articles 78 and 79 provide that: (a) States have the freedom to lay cables on the Continental Shelf, subject to reasonable measures of the coastal State for resource exploration and exploitation and pipeline pollution control; (b) the coastal State must not

infringe on or unjustifiably interfere with other rights and freedoms specified in UNCLOS; and (c) pipeline routes, but not cable routes, are subject to coastal State consent (although many coastal States impose consent requirements for cables on the Continental Shelf, in some cases misclassifying them as “structures”). UNCLOS articles 87 and 147 provide that “activities in the Area” (i.e., deep seabed mining) must be carried out with due/reasonable regard for other activities in the marine environment, and vice versa. These provisions give rise to differences because they are very general and there are very few tribunal decisions interpreting them.

Moreover, it was pointed out that it is not clear who coastal States should consult in the cable industry in order to give “due regard” to existing or planned cables when planning economic activities in their EEZ. Although cable operators often act as if they have rights and responsibilities under UNCLOS, the treaty assigns such rights and responsibilities only to States. Therefore, one recommendation was to develop guidelines on how industry and governments could collaborate to implement “due regard” obligations.

The speaker from industry emphasised the importance of having diversity in the network coverage to avoid congestion, and that both government and industry share a common interest in the location of cable routes and landing stations. However, another factor to consider is how the selection of landing points would affect the infrastructure of terrestrial networks on land. A point of consensus among participants was that early engagement between industry and government is crucial, including the need to engage with local and state agencies in assessing the feasibility of cable projects.

This is because some regulators may not be familiar with cables, and may have other priorities such as the promotion of fisheries, exploitation of hydrocarbon resources, or construction of wind farms.

In this regard, a view was raised that sensitivities to the particular environment in which a cable project is undertaken is essential. One example to that effect is that in some instances, spatial separation of cables might not be possible as a best practice if there are nearby offshore wind farms or MPAs. Given the decades-long design life span of submarine cables, one key issue that was identified was the need to discuss how to collaborate with other marine users and identify the right contact persons in government. Another potential issue is the conflicting concerns between cable owners’ desire to diversify their networks and governmental regulatory requirements which may impact routing, such as the establishment of cable protection corridors. Other issues raised were the potential implications of the implementation of the 2023 Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction (BBNJ Treaty) and the implications of deep seabed mining authorised by the International Seabed Authority on the laying of cables.

A speaker also explained the Australian requirements for permits for owners of telecommunications infrastructure, and how Australia holds mandatory and frequent consultations with other relevant agencies in government before granting permits to lay cables. The framework on how protection zones can be designated was also explained, as well

as other issues, including penalties for offences in such zones, the lead enforcement agencies for various aspects of protection zones, consultations with industry, and streamlining the application process by appointing a government agency to be the conduit to all stakeholders. Another point which was shared was that Australia holds awareness programmes for stakeholders on its regulations to ensure awareness among the shipping industry on the location of cables. Other issues that were identified included the current lack of sufficient protection zones in Australia and the security reforms in the Australian telecommunications sector, including the development of critical infrastructure regulations.

In the discussions, a question was raised on whether there were solutions to the fact that in practice competing use issues often arise from a lack of awareness about submarine cables, or because cable companies lack timely information about other planned activities. Participants stated that a problem in many countries is that industries and government agencies often operate in silos. After discussions, there was consensus that inter-agency coordination was essential. Another concern raised was that it is difficult to understand who is planning activities in the ocean space and what their timelines are, which creates further difficulties in engaging with other stakeholders to discuss how to collaborate as early as possible since there are no good existing procedures in place. There was consensus among the audience on the importance of recognizing the challenges of addressing various competing uses.

There were also questions on how governments can work together on a bilateral, regional, or global level to address competing issues within their jurisdictions and beyond national jurisdiction.

One response stressed the need for a consistent approach across regions, and bilaterally on assets shared between two countries. There could also be a third-tier approach for engagement, including holding dialogues and producing analysis and research reports. It was highlighted that all landing States for a particular cable system have a shared interest in maintaining its connectivity and collaborating on activities related to that cable. The example given was that excavation activities on land in one State had affected a cable, and consequently the entire network for all States in which a particular cable system lands.

A question was posed on best practices and how industry and governments can move forward since they are sovereign actors. One issue raised was the lack of documents on how governments and industry are actually collaborating – or should collaborate – with each other, and a suggestion was made that to ensure the resilience and security of cables, an example of a best practice to follow is Australia. The maintenance of cables in disputed waters was another hurdle raised by the audience and a commentator highlighted that cable protection corridors offer the benefit of not having to repair cables because the corridor is well protected, removing the need for spatial separation based on ICPC's Government Best Practices for Protecting and Promoting Resilience of Submarine Telecommunications Cables (ICPC Best Practices). One issue raised was that in congested areas, stakeholders have to discuss and agree on how repair operations can take place, but there is often no mechanism to disseminate information to other industries (such as the offshore wind). Therefore, it was suggested that notification platforms and processes

should be developed to coordinate marine spatial planning not just with the cable industry, but also with any other stakeholders.

Another question that was raised was how the due regard obligation with regard to the installation and operation of a cable applies to out-of-service cables. The question posed whether there is an obligation on States or cable owners to remove out-of-service cables, and if not, on how to deal with this issue. It was responded that while UNCLOS does not address recovery of out-of-service cables because most references in UNCLOS were on installation (with no mention of recovery), there are general due regard obligations. Hence, the question is whether the installation and continuing presence of such out-of-service cables is impeding or causing issues for other States in exercising their high seas rights. Discussions also recognized the need for continuing research on the long-term environmental impact of such out-of-service cables, and one participant raised concerns about the economic feasibility of recovering disused cables.

Other issues raised included the fact that there is no regional cable protection committee in Asia or the ASEAN region, the heightened risk of multiple faults in protection zones from significant environmental events or malicious activities, and the lack of a master plan on the landing of cables. However, it was pointed out that protection zones give the cable industry the certainty that their assets will be protected. One participant recommended that one government could serve as the focal point for other governments in terms of coordination in the region. Another participant recommended that a survey be conducted on the various touchpoints for cables in different government agencies.

Significantly, there was consensus among participants from both government and industry that a mechanism to ensure early coordination is critically important, and that the value and impact of digital infrastructure makes cables a priority. This requires governments to designate one agency as a single point of contact and coordinate to streamline engagements with the industry on new cable installation projects, as well as allowing consultations with respect to cable protection zones. This would provide huge benefits of connectivity and ensure the security of cables.

The framework on how protection zones can be designated was also explained, as well as other issues, including penalties for offences in such zones, the lead enforcement agencies for various aspects of protection zones, consultations with industry, and streamlining the application process by appointing a government agency to be the conduit to all stakeholders. Another point which was shared was that Australia holds awareness programmes for stakeholders on its regulations to ensure awareness among the shipping industry on the location of cables. Other issues that were identified included the current lack of sufficient protection zones in Australia and the security reforms in the Australian telecommunications sector, including the development of critical infrastructure regulations.

In the discussions, a question was raised on whether there were solutions to the fact that in practice competing use issues often arise from a lack of awareness about submarine cables, or because cable companies lack timely information about other planned activities. Participants stated that a problem in many countries is that industries and government agencies often operate in silos. After discussions, there was consensus that inter-agency coordination was essential. Another concern raised was that it is difficult to understand who is planning activities in the ocean space and what their timelines are, which creates further difficulties in engaging with other stakeholders to discuss how to collaborate as early as possible since there are no good existing procedures in place. There was consensus among the audience on the importance of recognizing the challenges of addressing various competing uses.

There were also questions on how governments can work together on a bilateral, regional, or global level to address competing issues within their jurisdictions and beyond national jurisdiction. One response stressed the need for a consistent approach across regions, and bilaterally on assets shared between two countries. There could also be a third-tier approach for engagement, including holding dialogues and producing analysis and research reports. It was highlighted that all landing States for a particular cable system have a shared interest in maintaining its connectivity and collaborating on activities related to that cable. The example given was that excavation activities on land in one State had affected a cable, and consequently the entire network for all States in which a particular cable system lands.

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The maintenance of cables in disputed waters was another hurdle raised by the audience and a commentator highlighted that cable protection corridors offer the benefit of not having to repair cables because the corridor is well protected, removing the need for spatial separation based on ICPC's Government Best Practices for Protecting and Promoting Resilience of Submarine Telecommunications Cables (ICPC Best Practices).



FROM LEFT TO RIGHT: ANDY PALMER-FELGATE (EDGE NETWORK SERVICES)
STUART KAYE (ANCORS, AUSTRALIA), AILEEN CHIA (IMDA), AND JOHN WROTTESELEY (ICPC & ESCA).

PANEL 2: “PERMITS AND POLICIES FOR THE LAYING AND REPAIR OF CABLES”

The first speaker explained how Singapore has established a single point of contact, consistent with the ICPC Best Practices. It also requires armoring, spatial separation, and use of geospatial identification systems (such as Automatic Identification Systems (AIS) and Vessel Identification Systems (VIS)) to identify vessels in proximity to cables, and anchoring restrictions. Singapore is also a signatory to the ASEAN Guidelines on Strengthening Resilience and Repair of Submarine Cables and has entered into the Singapore-Australia Digital Economic Agreement.

This was followed by an explanation on how Australia has ratified the 1884 Convention, and how Australian jurisdiction differs at the State and National level. States have jurisdiction up to 3 nautical miles from the coast, whereas the national government has jurisdiction beyond that.

The Commonwealth has powers over postal telegraphic telephonic services, but not other kinds of cables. Also, domestic cables are only subject to the Telecommunications Act 1997 if they pass through cable protection zones, and who they are not regulated if they fall outside such zones. The authority for that Act is vested in the Australian Communications and Media Authority (ACMA). Ownership is broadly defined to include control beyond beneficial ownership to persons who can actually make decisions directly or indirectly, and a cable proposer – a proposer of an activity – can seek specific governmental protection for its cable under the Act. There is also a specific provision in the Act on compliance with ICPC Recommendations (which are directed to the industry itself, as opposed to the ICPC Best Practices). The need to comply with other legislation was also discussed, including the Environment Protection and Biodiversity Conservation Act 1999, which sets minimum environmental standards and requires a consideration of the impact of cables on MPAs and protected species as well as the impact on native title and heritage protection.

There were also discussions on how Australia manages cables within or near offshore wind farms, on coastal State jurisdiction and the permitting processes, and seabed occupancy licenses and landing licences in the territorial sea. Early consultation with other stakeholders was also emphasised.

Some key industry concerns were highlighted where permitting can impact project timescales in different maritime jurisdictions (Territorial Sea, Exclusive Economic Zone, and the Continental Shelf). Inconsistent interpretation of UNCLOS was highlighted as an area that can create uncertainty for cable installers. For example, some States apply their environmental regulations to submarine cables in their EEZ even though there are no provisions in UNCLOS providing that coastal States have such authority. It was also noted that various stakeholders in coastal States have increasingly been raising objections to cable installations in the EEZ, particularly as the demand for seabed space increases with development of other emerging industries such as offshore renewable energy.

The impact of the establishment of Marine Protected Areas (MPAs) on submarine cables was also highlighted as an issue which can create regulatory uncertainty, particularly if the MPAs were created in areas beyond national jurisdiction prior to adoption of the BBNJ Treaty. In some regions, submarine cables are recognised as being compatible with MPAs depending on such designations, but this practice is not uniform. Consequently, this has created permitting/regulatory challenges which the industry must then navigate.

Finally, it was further noted that there is a lack of published, centralised, and publicly-available spatial information on Area Based Management Tools (ABMTs).

On the subject of pain points, a view was raised on permit predictability. Industry seeks regulatory certainty at an early stage in order to make investment decisions. It was explained that in some States, there is a lack of clarity on processes, dependencies and timelines, and often with multi-agency consultations and/or disaggregated consent processes. In some States, there are unpublished or unofficial requests from government agencies in the midst of the permit procedures. In some States, different agencies in the same government may not use the same maps. Further, in some States, requirements of government agencies sometimes change in the midst of the approval process (from early engagement to final permitting). In addition, statutory timelines for licensing may not be met by the government agencies. These issues can have significant impact on a project – with significant costs to industry. For example, further marine surveys may be required if the government requests that routes be changed late in the permitting process, cable ships may no longer be available to lay the cable, or the delay may have supply chain impacts. Therefore, a published and transparent process is important to industry.

Suggestions were made to have (1) clear designation of telecommunications cables as critical infrastructure (including the obligatory charting of cables etc.), (2) creating coordinated permitting regimes and a single government point of contact to guide the cable industry through permitting, (3) educating regulators on

the criticality of cables as critical infrastructure and on peer-reviewed scientific literature confirming the neutral to benign impact of cables on the marine environment, (4) publishing clear regulations and adhering to them, (5) establishing clear and consistent decision frameworks that do not change over the course of permitting without reason (for example, a change in legislation, establishment of new MPAs etc. that may take place after the survey and manufacture of cables have taken place but before such cables are installed).

A question from the floor was on how, from an industry and government perspective, cable permits can be obtained in a timely and cost-effective manner. In terms of installation, a recommendation was for operators who intend to land cables to engage governments early given the different priorities of different government agencies and the need to de-conflict, and to have certainty and clearer processes to assist in the process. In terms of repairs and minimising delays, given that repairs are quite consistently conducted with the same ships, people, and equipment, governments can consider pre-authorizing certain aspects of repairs in order to expedite the approval process.

Further key points on efficient cooperation between industry and government were:

- 1) Having an exchange of views for industry and government and to hear pain points and considerations from government, to find common ground to accommodate various interests.
- 2) The floor recognized that they share a global interest in being connected.
- 3) Further room to collaborate on diverting traffic and protecting cables when there are disruptions to cable systems.

4) Clear requirements for the laying and repair of cables (beyond legislation), including the administrative processes.

5) Considering nuances to specific locations and establishing a legal framework to address local needs.

6) A concern was raised that if cable route corridors are established but not properly policed, it may heighten the risk of cable damage from anchoring and fishing activities and result in multiple points of failure.

7) To empower competency and capacity-building within governments on applicable rules of international law pertaining to cables.

A question was posed on Environmental Impact Assessment (EIA) requirements for laying of cables, and whether pipelines and cables are distinguished in EIA guidelines because the risk to the environment from pipelines is much greater. A concern was also raised on "sector creep", such as the permitting frameworks for cables from offshore wind farms which may be applied inappropriately to telecommunication cables, and the need to ensure that the distinctions are clear.



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FROM LEFT TO RIGHT: ROBERT MCLAUGHLIN (ANCORS, AUSTRALIA), DEAN VEVERKA (SOUTHERN CROSS CABLES), LEONG KWANG IAN (MINDEF, SINGAPORE), AND ROBERT BECKMAN (CIL).

PANEL 3: "SECURITY OF SUBMARINE CABLES"

There was a sharing of domestic law perspectives for regulators and views on how industry and regulators can cooperate, and the rights of States under the 1884 Convention and UNCLOS to protect submarine cables under international law. This included a sharing on Singapore legislation criminalising intentional damage to installations or plants for telecommunications, and on licences to cable-laying companies. It was mentioned that like most common law jurisdictions, Singapore laws are not extra-territorial in nature unless expressly stated. Given the interconnectivity of cables, it was emphasised that protecting cables in the territorial sea alone is insufficient and a broader view should be taken where all States in whose territory cables land have an interest in protecting them. This followed a discussion on extraterritorial prescriptive jurisdiction beyond the flag State and State of

nationality where it was argued that based on the objective territoriality principle, States have the right to criminalise deliberate or negligent damage as a first step, although enforcement jurisdiction was also recognised as an issue. States would be unable to enforce their laws on the high seas or in another State's territorial waters, and they would have to work through processes to cooperate with other States for mutual criminal assistance to assist in investigation or extradition. Therefore, States should also consider adopting or adapting existing practices under the 1884 Convention, including procedures for allowing vessels who incurred damage from avoiding damage to cables to seek indemnity from cable-laying companies, and to report cable damage and location to authorities. A suggestion was made to consider looking at the legal regime governing piracy against ships and the information exchange platforms established under that regime. Another suggestion was to consider interference to cables by ships to be an act of "piracy", but

concerns were raised on the fear of abuse and whether States would accept an innovative interpretation of the definition of piracy in UNCLOS to include an “act of violence” against a submarine cable outside the territorial sea of any State. Another concern was that if armed conflict breaks out as in the Red Sea, it may not be possible for States to prevent the cutting of cables or to ensure their repair.

The provisions of the 1884 Convention were also elaborated in detail, particularly Article 10 which provides that warships have a right to visit merchant ships suspected of cutting a cable to collect evidence and report to the flag State, but they do not have the power to search or arrest the suspect ship. Also, this right of visit only applies to State Parties to the 1884 Convention, which has not been widely ratified, and a suggestion was made that States should consider ratifying the 1884 Convention. The relevance of the law of armed conflict and laws of naval warfare to the security of submarine cables were also briefly discussed, including the issue of whether States have a right to cut cables in an armed conflict. It was submitted that because of historical reasons, cables are not regarded as neutral, and could be the first targets of war.

An industry view was offered on the shared responsibility of industry and governments on the security of cables, including dealing with threats which may be physical or cyber initiated. Physical threats include fishing, anchoring, seismic activity, as well as malicious attacks and sabotage. Cyber threats include corruption of user data, loss of control of network management systems or access and control systems. However, it was pointed out that there are limitations to

securing cables because they cannot be hidden, buried or armoured sufficiently, or always guarded along entire routes. Nevertheless, not indicating the location of cables on navigation charts is not an option because this would exacerbate the majority of faults from fishing or anchoring damage. Potential solutions include physical and logical security policies such as ensuring personnel on network management systems are fully vetted and screened. It was explained that many governments do threat assessments on cables. It was emphasised that communication and cooperation between governments and industry is essential to identify and mitigate risks. Questions from the floor included the extent to which landing stations are important to the security of cables, the existence of sensing techniques for securing cables, and the need for inter-agency collaboration on cybersecurity.

Finally, the session concluded with a question on recommendations between industry and government on how to enhance the protection of cables. It was explained that there are existing working groups which are expanding background, education, and awareness on cables to foster reliability through workshops, regional, or local engagements etc. It was also suggested that States should utilise the existing laws rather than invent new law, and the cable industry and States should reduce geopolitical reservations.



FROM LEFT TO RIGHT: KRISTINE DALAKER (ANCORS, AUSTRALIA), KENT BRESSIE (ICPC), AND TARA DAVENPORT (CIL).

PANEL 4: "2023 BBNJ TREATY AND SUBMARINE CABLES"

A comprehensive overview of the BBNJ treaty was provided in this session, including the geographic scope of "areas beyond national jurisdiction," which includes not only the high seas, but the Area, i.e., the seabed and subsoil beyond the limits of the continental shelf. An interesting point was raised that since cable companies are not States but rather private actors, they may not have stakeholder participation rights under these processes. This is because institutions established under the treaty, including the Conference of Parties (COP), consists of State parties to the convention. It was recommended that the COP ensures that submarine cable issues are appropriately addressed through stakeholder engagement, processes, use of the clearing house mechanism, and inclusion of submarine cable-related expertise within the Scientific and Technical Body.

It was noted that the submarine cable industry might take some comfort in the fact that the BBNJ Treaty is an implementing agreement under UNCLOS rather than an agreement under the auspices of the U.N. Environment Programme.

It was further shared that the conduct of EIAs under the BBNJ treaty will be a State-led process whereby the scientific and technical body established under the BBNJ Treaty will adopt standards and guidelines, resulting in the internationalization of EIAs. One issue that will have to be resolved is that of jurisdiction and control over cables in areas beyond national jurisdiction. A question remains on which States should exercise such jurisdiction or control over submarine cables - landing States, flag States of the cable vessels, or all States? One panellist noted that as a practical matter, it is likely to be the landing States, as they already often apply EIA requirements in areas under national jurisdiction.

It was also pointed out that in terms of the BBNJ Treaty and UNCLOS, Article 5 concerning the non-prejudice savings clause states that nothing in the BBNJ process will prejudice existing freedoms and protections, and shall not undermine existing relevant global, regional, subregional and sectoral bodies. However, it was noted that the latter provision is not helpful for cables because there is no inter-governmental body responsible for the regulation of cables. Although it has some government members, the ICPC is an NGO, not an inter-governmental body.

Adoption of the BBNJ Treaty is the first-step in a long process of operationalizing its various institutions. Therefore, it was recommended that governments and industry participate in treaty implementation activities to address submarine cable protection and resilience and to ensure that the provisions of UNCLOS addressing submarine cable installation and maintenance are not undermined. It was also recommended that the ICPC continue to consult with States, and that the prospects for collaboration between governments and industry would include engagement, dialogue, and awareness on cables in areas beyond national jurisdiction. It was noted that cables have not been a focus of environmental concern in the BBNJ discussions when compared to other issues such as fishing, shipping, and deep seabed mining. In the discussion, there were proposals on the various ways the cable industry could participate and contribute in the international, regional, and national efforts under the BBNJ Treaty. It was also noted that remaining uncertainties with the BBNJ Treaty also present opportunities for more favourable implementation, as many issues under the treaty remain yet to be decided or clarified.

Concerns were raised on the disproportionate number of environmental NGOs as opposed to cable industry representatives in the BBNJ treaty negotiations, the scope of mandate of the ICPC as a body, the screening element of the BBNJ's EIA process, and regulatory uncertainties and potential delays which may arise on the laying of cables in areas beyond national jurisdiction. One interesting proposition brought up from the floor was on the technology of distributed sensing from cables which could perhaps be used as Area Based Management Tools (ABMTs) to monitor and study the environment, or how that could inform States making ABMT proposals at the COP since there are obligations under ABMTs for ongoing monitoring. It was agreed that continued engagement and collaboration efforts should be sustained and consistent.



CONCLUSION

The Workshop contributed greatly to the understanding of current and ongoing developments in the region on the regulation and protection of submarine cables, particularly in terms of promoting greater mutual understanding between industry and governments on common areas of interest and potential concerns.

We are confident that the Workshop will serve as a platform for the continuation of research and the organization of future events relating to the regulation of submarine cables both globally and in Southeast Asia.