



**Asia-Pacific
Economic Cooperation**

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Agenda Item: 1

The Framework for Submarine Cable Protection in New Zealand

Submitted by: New Zealand



**Workshop and Information Sharing on
Submarine Cable Protection
Singapore
13 April 2009**

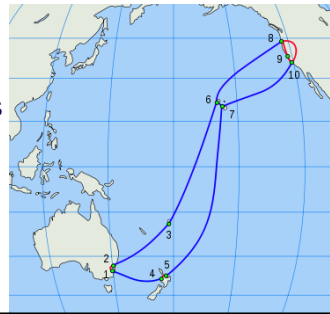
The Framework for Submarine Cable Protection in New Zealand

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Introduction

- Submarine Cables and Pipelines Protection Act 1996
 - Administered by the Ministry of Transport
 - Regime for **liability and offences** regarding damage done to submarine cables and pipelines
 - Establishes a **protection regime** which enables the creation of protected areas
- Submarine Cables
 - Power and Telecommunications connecting North and South Islands
 - Telecommunications cables connecting NZ with Australia and North America



Submarine Cables and Pipelines Protection Act 1996

- Key Purposes of the Act:
 - To provide **better protection** of submarine cables and pipelines
 - To continue, or enable, the **implementation of international obligations** relating to protection of submarine cables and pipelines
- Under the Act the Governor-General, on advice from the Minister of Transport, is empowered to declare **protected areas** and to **make regulations** for a range of purposes

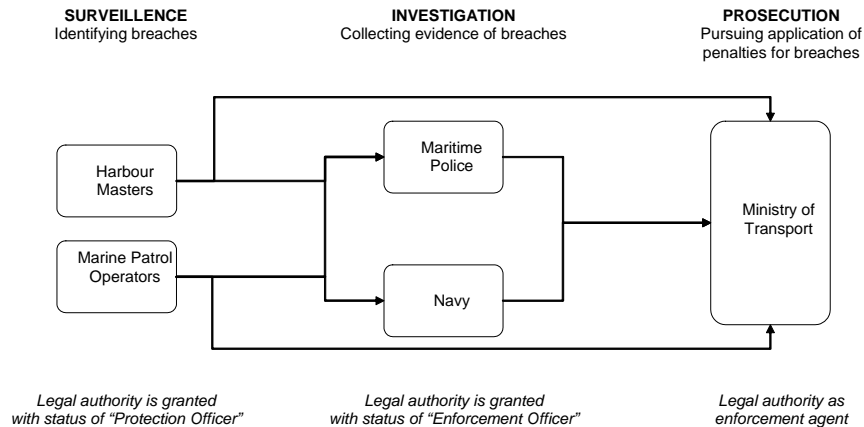
Protected Areas

- Specified zone within which **ships are prohibited from anchoring or fishing** to guard submarine cables and pipelines from the risk of damage
- Protected area orders may apply differently for different ship types or types of fishing operation, and can differ in respect of particular areas within the protected area
 - Orders **usually apply in respect of all ships and all methods of fishing**

Declaring Protected Areas

- Applications made to Minister of Transport
- Minister publicly consults on any applications, providing a reasonable opportunity for public submissions
- Minister must have regard for submissions before making a recommendation to the Governor-General as to whether an area should be declared as protected under the Act

Implementation of Protection Orders



Protection under the Act

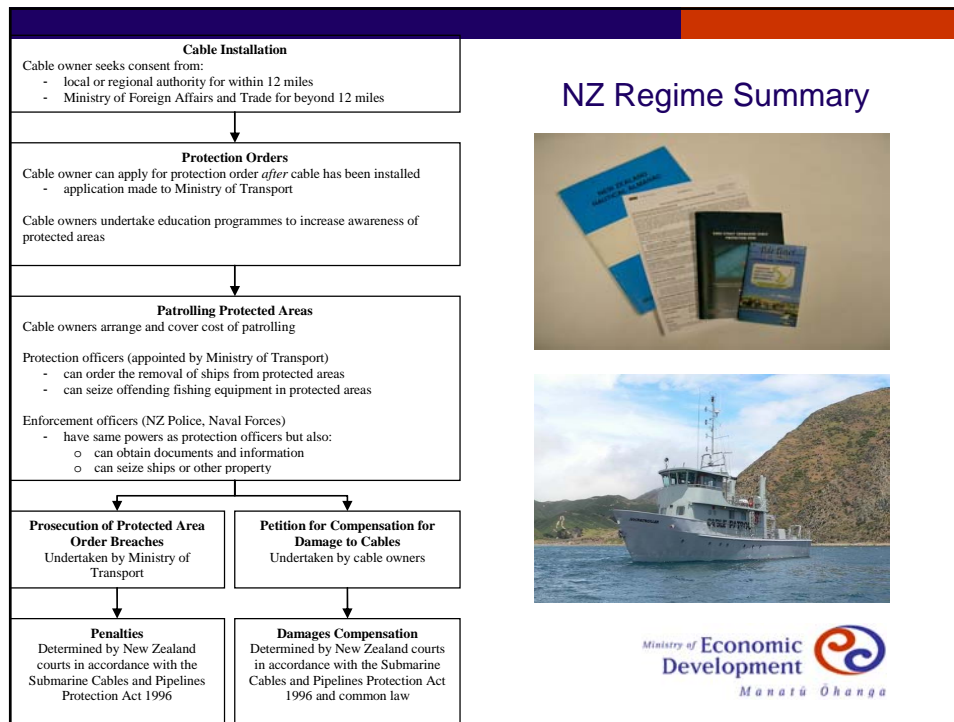
- A person who, in the course of laying or repairing a submarine cable or pipeline, damages another submarine cable or pipeline is liable for the cost of repairing that damage
- Any person who wilfully or negligently damages a submarine cable or pipeline is liable to a fine of up to NZ\$250,000
- Any person who fishes or anchors within a protected area is liable to a fine of up to NZ\$100,000 (maximum of NZ\$20,000 for persons undertaking recreational activity), and any ship or other property being used to commit an offence in a protected area may be seized
 - The Ministry of Transport conducts around one prosecution per year for breaches of protected areas

Regulations

- The Act enables the Governor-General, on advice from the Minister of Transport, to make regulations for a number of purposes including:
 - Regulating the navigation or conduct of ships engaged in the laying, repairing, or maintenance of submarine cables or pipelines and prescribing the lights or signals to be displayed by those ships while engaged in those operations
 - Prescribing the duties of owners of submarine cables or pipelines in respect of the marking or definition of those cables and pipelines and prescribing records to be kept in respect of the location of those cables or pipelines

Regulations

- Regulating the navigation or conduct of ships in relation to other ships engaged in the laying, repairing, or maintenance of submarine cables or pipelines or in relation to buoys or signals indicating the presence or proximity of those cables or pipelines
- Prescribing the duties of persons in respect of reporting damage caused or likely to be caused to submarine cables or submarine pipelines
- Prescribing offences against the regulations and defining the persons or classes of persons liable to conviction for those offences
- Prescribing fines not exceeding NZ\$50,000 for offences against the regulations



Strengths and Weaknesses of the New Zealand Regime

- **Strengths**
 - Rules prohibit activities in absolute terms (no fishing or anchoring for all boats and all types of fishing)
 - Burden of proof is on those present in protected areas
 - Permits not required for repairs outside of the territorial sea
- **Weaknesses**
 - Protection Orders cannot be introduced until after cables have been installed
 - In practice the penalties being imposed through the courts are well below the limits in the Act
 - Some stakeholders do not consider that enforcement is given a high enough priority by the agencies involved

Scope for International Cooperation

- Ensuring that cables are protected across multiple jurisdictions
- Coordination of permit regimes
 - Ensuring cross-jurisdictional access to repair cable faults
- Cooperation on route diversity
 - Managing undersea choke points for cable routes
- Operational co-operation
 - Scarcity of cable laying and repair vessels

Summary

- Submarine Cables and Pipelines Protection Act 1996
 - Protects unseen infrastructure
 - Enables the Crown to prosecute for breaches of protection zones
- The New Zealand economy depends heavily on the infrastructure protected under the Act
- The Act helps to ensure New Zealand's vital communications links with the world are protected

Further Information

- The Submarine Cables and Pipelines Protection Act 1996
 - <http://www.legislation.govt.nz/act/public/1996/0022/latest/DLM375803.html>
- Protected Areas
 - <http://www.legislation.govt.nz/regulation/public/2009/0041/latest/DLM1847710.html>
- Ministry of Transport
 - <http://www.transport.govt.nz>
- Maritime New Zealand
 - <http://www.msa.govt.nz/pollution/pipelines.asp>
- Seaworks
 - <http://www.seaworks.co.nz/>