



## ICPC News Release

23 June 2017

### **ICPC Issues a New Recommendation on Submarine Cable Operations and Deep Seabed Mining**

LYMINGTON, United Kingdom—The [International Cable Protection Committee \(ICPC\)](#) has issued its much-awaited Recommendation No. 17 titled: *Submarine Cable Operations in Deep Seabed Mining Concessions Designated by the International Seabed Authority*. The Recommendation\* is now publicly available upon request via: [secretary@iscpc.org](mailto:secretary@iscpc.org).

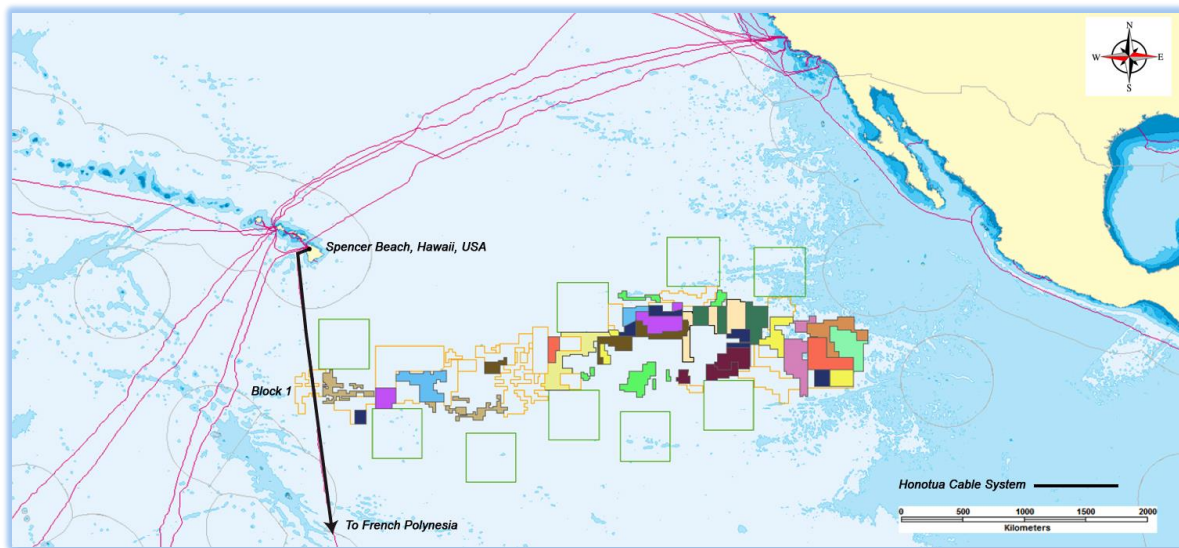
The laying of submarine cables and deep sea mining are both legitimate uses of the seabed, as governed by international law. To allow these two activities to operate in harmony, the ICPC provides best industry practice to facilitate a good working relationship between cable owners, mining contractors and other seabed users.

ICPC Recommendation No. 17 provides procedures for due diligence in the laying and repair of submarine cables in concessions designated by the [International Seabed Authority \(ISA\)](#) for the exploration and/or exploitation of mineral resources in the “Area”. These procedures include practical means for concerned parties to notify one another of their activities, and to minimise any potential conflict through effective consultation.

Under the United Nations Convention on the Law of the Sea (UNCLOS), the ISA has plenary authority to designate and regulate concessions for deep seabed mining in the Area. A mining contractor has been awarded a concession by the ISA and has the exclusive rights to explore and exploit mineral resources in the concession. The Area is defined in UNCLOS as the seabed of Areas Beyond National Jurisdiction (ABNJ) (i.e. outside of the coastal State’s Exclusive Economic Zone (EEZ) or extended continental shelf claim).

UNCLOS also provides for the freedom to lay and maintain submarine cables on the high seas which includes the water column over the Area. This freedom includes the operations incident to the laying of submarine cables such as cable route surveys and repair. The purpose of this ICPC Recommendation is to promote best industry practice with respect to

exercising due regard and facilitate a good working relationship with the ISA, mining contractors and other seabed users in the Area.



▲ **An illustration of the Honotua Cable that crosses the Polymetallic Nodules Block 1. Exploration blocks (polygons) and areas of particular environmental interest (green squares) are based on the ISA’s map <https://www.isa.org.jm/contractors/exploration-areas>. Grey arcs are the seaward limits of Exclusive Economic Zones and the pink lines represent international fibre-optic cables.**

In exercising the freedom to lay and maintain submarine cables on the high seas, UNCLOS provides that these freedoms shall be exercised with due regard for the interest of others in their exercise of the freedom of the high seas as well as with due regard for the rights under UNCLOS with respect to activities in the Area. UNCLOS requires that mining activities in the Area be exercised with reasonable regard for other activities and the marine environment. “Due diligence” and “reasonable diligence” are terms of art that are not defined in UNCLOS. According to *ISA Technical Study No. 14*, these diligence terms are understood to have two components: the first is to notice the activities involved, and the second is meaningful consultation by the activities involved with a view to minimizing conflict. ICPC’s Recommendation No. 17 provides important guidance to avoid conflicts between submarine cables and deep seabed mining operations.

As it has done with many other seabed users such as fishing, shipping, renewable energy, and oil and gas, the cable community through ICPC recommendations and UNCLOS has demonstrated that conflict avoidance is best accomplished by direct coordination and consultation between all seabed users involved. The notion that international regulation is required is simply not accurate as evidenced by this practical recommendation.

\*An [\*ICPC Recommendation\*](#) is a consensus of those in the submarine cable community and in some cases others substantially concerned with its scope and provisions. A

*Recommendation is intended as a guide about best practices to aid cable owners and other seabed users in promoting the highest goals of reliability and safety in the submarine cable environment.*

## References

- Burnett D., Beckman R., and Davenport, T., *Submarine Cables The Handbook of Law and Policy*, Martinus Nijhoff Publishers (2014), chapters 1, 3, and 5.
- Lodge, M, Le Gurun, G., Burnett, D., De Juvigny, A., *Submarine Cables and Deep Seabed Mining-Advancing Common Interests and Addressing UNCLOS “Due Regard” Obligations*, Workshop Report 10-11 March 2015.
- *Submarine Cables and Deep Seabed Mining-Advancing Common Interests and Addressing UNCLOS “Due Regard” Obligations*, ISA Technical Study No. 14 (2015)
- *ICPC Recommendation. No. 17 Submarine Cable Operations in Deep Seabed Mining Concessions Designated by the International Seabed Authority* (Issue 1-31 May 2017)
- *International Submarine Cables and Biodiversity Beyond National Jurisdiction-The Cloud is Beneath the Sea*, Martinus Nijhoff Publishers (July 2017)

**About the ICPC:** The International Cable Protection Committee was formed in 1958 and its primary goal is to promote the safeguarding of international submarine cables against man-made and natural hazards. The organisation provides a forum for the exchange of technical, legal and environmental information about submarine cables and, with more than 160 members from over 60 nations, including cable operators, owners, manufacturers, industry service providers, as well as governments, it is the World’s premier submarine cable organisation. For further information about ICPC visit: <http://www.iscpc.org> or send an e-mail to: [secretary@iscpc.org](mailto:secretary@iscpc.org).

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