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Dear Senator Helms:

AT&T depends upon undersea fiber optic cables to carry the bulk of our international telecommunications traffic. We enclose for your reference an information packet describing AT&T's submarine cable network. We believe this information underscores the critical commercial significance of that network. We hope it also helps to acquaint you with AT&T's interest in the use of the seabed for its provision of global telecommunications services over that network.

It is essential that we protect that undersea cable network from damage and disruption. The main purpose of this letter, therefore, is to urge the United States Senate to give its advice and consent to accede to the Law of the Sea Convention, and to ratify the Agreement relating to the Implementation of Part XI of the Convention. The requested action by the Senate will enable us to better protect our cables and recover for damage to the cables. AT&T respectfully asks that this advice and consent be given at the earliest opportunity.

AT&T's concern is straightforward. AT&T and other U. S. owners of such undersea telecommunications facilities become involved in matters of international law in their efforts to recover their losses from parties whose vessels have damaged their undersea cables. AT&T's efforts against such offending vessel owners and their underwriters have had limited success. Over the past 17 years, we have achieved some recovery in cases involving only 13 such cable failures. The scope of the problem is so evident when one considers that, since 1990, almost half of the 134 reported failures of international submarine cable were caused by third party vessels.

The recovery of damages in these cases reduces the operating expense of the cable owners and enables them, in turn, to benefit their customers in the form of lower rates for international telecommunications services. News of a significant damage recovery also provides a deterrent against careless or uncaring vessel owners. As indicated, however, AT&T and other U. S. cable owners have been frustrated in their cable protection and damage recovery efforts by serious shortcomings in existing submarine cable law. Illustrations of this problem are readily available.

In the typical case of damage by third party vessels, repairing damaged undersea cable and restoring service to telecommunications users costs in excess of \$2 million. Yet our existing federal statute (47 U.S.C., Section 21) imposes a maximum criminal penalty of only \$5,000 upon those who violate submarine cable laws and cause this level of damage to undersea cables.

Under these circumstances it is not surprising that, in February 1996, the U. S. Attorney in Florida declined to prosecute a vessel owner caught intentionally destroying an undersea telephone cable. And on several other occasions, the U. S. Coast Guard has declined to enforce obligations imposed on vessels and their owners under international law. Despite strong evidence against the violators in each of these cases, these agencies evidently determined that there would be insufficient return on their resource investment to support the assignment of full time legal and investigative personnel to an incident carrying such an insignificant maximum criminal penalty.

These examples make clear that if we are to have any meaningful protection, we must have in place a level of fines that considers and reflects the level of damage inflicted by such criminal violations. In addition we need legal framework that establishes clear jurisdiction in cable damage cases, and that provides specific

authority to award damages. When nearly half of the 134 failures in international submarine cable since 1990 have been externally inflicted as previously noted, the need for increased legal protection is clear.

Many of the shortcomings in existing law are addressed and corrected in the U N. Convention on the Law of the Sea (UNCLOS,). UNCLOS expands the right to lay submarine cable in the oceans of the world and expands international protection for those cables. Articles 79 and 112 of UNCLOS have established the rights of nations and private parties to lay cable on the continental shelf (subject to reasonable review by the adjoining coastal state) and in the bed of the high seas. Universal codification of these rights would inhibit any single such coastal state from attempting unilaterally and unreasonably to thwart such rights.

Article 113 requires that all states must adopt laws that make damage to submarine cable, done willfully or through negligence - including behavior likely to result in cable damage - a punishable offense. Article 114 provides that if owners of a submarine cable, in landing or repairing their cables damage the cable of another, they must bear the cost of repairs. Article 115 provides that vessel owners who can prove they sacrificed an anchor or fishing gear to avoid damaging a cable, can recover their loss against the cable owner, provided that the vessel took reasonable precautionary measures beforehand.

To take full advantage of UNCLOS, the United States must become party and implement its provisions through legislation. This requirement is readily satisfied by much needed updating of the Submarine Cable Act of 1888. This law can and should be amended to conform to UNCLOS. We would be pleased to provide additional information and suggested amendments to your Committee.

Ratification of UNCLOS is of extreme importance to all U.S. providers of international telecommunications services. Beyond the obvious matters of national security associated with the protection of our undersea facilities, there are economic impact issues. The U. S. companies whose undersea facilities are at stake here are major U. S. enterprises and significant source of revenue, jobs and economic wellbeing for American citizens and businesses, at home and abroad.

Due to the rapid globalization of business, fiber optic capacity will have increased some 3000% from 1989 to the year 2000. With the explosion of data traffic on the information superhighway, fueled by greater use of the Internet, multimedia services and video conferencing, it has never been more important to our U. S. economic infrastructure to assure the protection and reliability of international submarine cables. UNCLOS will enable us to achieve that goal and maintain that protection.

We have attempted in this letter, Mr. Chairman, to outline the salient points of UNCLOS as they very positively affect U. S. owners and operators of international submarine cables. I would be more than happy, at your convenience, to brief you or any of your staff in person with regard to any of the matters raised in this letter. In addition, AT&T remains ready and willing to appear and testify at any hearings that your Committee may schedule on this subject.

We remain most grateful, Mr. Chairman, for your attention to this matter.

Very truly yours,

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