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When sabotage becomes piracy: rethinking the legal protection of undersea infrastructure

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Abstract

This article explores whether deliberate attacks on undersea cables and pipelines could be classified as piracy under international law. Amid rising threats to undersea infrastructure and in light of inadequate legal frameworks, it argues for a reinterpretation of the piracy definition in the United Nations Convention on the Law of the Sea (UNCLOS). The article identifies key legal gaps, examines the definitional elements of piracy, and contends that certain attacks may fall within this framework, permitting their interdiction and subsequent prosecution of foreign-flagged vessels. It concludes that such a reinterpretation offers a timely and legally sound approach to enhancing the protection of critical global infrastructure.

Introduction

Undersea cables and pipelines form the backbone of the modern world. These global networks transmit vast volumes of data and energy between continents. It is estimated that fibre-optic cables alone carry up to 99 per cent of the world's digital communications, including financial transactions valued at approximately USD 10 trillion each day (Bueger, Franken & Liebetrau 2022). Economic and societal dependence on this infrastructure is immense. While electricity and gas pipelines may not have the same global reach, they are indispensable to regional and national economies. Recent events in the Baltic Sea and elsewhere have illustrated the vulnerability of these networks.[1]

These infrastructures underpin core state functions yet lie predominantly outside territorial jurisdiction, exposing tensions between sovereignty, interdependence, and the governance of common spaces.

Beyond their technical importance, undersea cables and pipelines offer a revealing lens through which to examine the current limits of the global order. These infrastructures underpin core state functions yet lie predominantly outside territorial jurisdiction, exposing tensions between sovereignty, interdependence, and the governance of common spaces. Their vulnerability illustrates how international law may struggle to accommodate emerging forms of disorder, coercion, and strategic competition in a multipolar environment. As such, the legal challenges surrounding undersea infrastructure speak directly to broader questions of how global orders are evolving and how existing frameworks may need to adapt to new geopolitical and technological realities. Yet even against this backdrop, the legal tools available to respond to intentional acts of sabotage, particularly beyond the 12-nautical-mile territorial sea, remain strikingly limited.

Under UNCLOS, maritime zones beyond the territorial sea include the exclusive economic zone (EEZ) and, beyond this, the high seas. The EEZ extends up to 200 nautical miles from the coast. Within this zone, states have sovereign rights (not sovereignty) for the purpose of exploring, exploiting, conserving, and managing natural resources (UNCLOS, art. 56). They also have limited enforcement powers, for instance in relation to fisheries and marine pollution. However, UNCLOS preserves the freedoms of navigation for all states (UNCLOS, art. 58), and the interdiction of foreign vessels remains tightly circumscribed. On the high seas, even fewer enforcement options are available. Interdiction of foreign-flagged ships is only permitted in cases of piracy, slave trade, unauthorised broadcasting, and ships without nationality

1 For an overview of recent incidents in Europe, see A. Lott, Unconventional Legal Approaches to Protecting Underwater Infrastructure (HCSS, 31 March 2025). For incidents beyond Europe, see e.g. Dan Milmo, 'Risk of undersea cable attacks backed by Russia and China likely to rise, report warns' (The Guardian, 17 July 2025). <https://www.theguardian.com/technology/2025/jul/17/risk-undersea-cable-attacks-backed-russia-china-likely-rise-report-warns> (accessed 11 December 2025).

(UNCLOS, arts. 99, 105, 109, 110).[2] Thus, even when a vessel is suspected of engaging in sabotage, the protections afforded to freedom of navigation significantly constrain the ability of states to interfere.

Although largely privately owned, undersea cables and pipelines underpin critical state functions, including those related to the economy, national security, and governance. This reliance underscores the increasingly blurred boundary between public and private interests, raising difficult legal questions about how responsibility is assigned, particularly where sabotage may be carried out by proxies or under the guise of 'plausible deniability'.

This article examines whether attacks on undersea cables and pipelines may, under certain conditions, fall within the definition of piracy. If accepted, this interpretation would permit all states to interdict foreign-flagged vessels involved in, or preparing for, acts of intentional damage to undersea infrastructure in the EEZ or on the high seas.

While this article focuses on legal classification, the layout and ownership of undersea cables and pipelines are shaped by colonial and postcolonial power dynamics. Many cable routes trace colonial-era telegraph lines. These enduring topographies influence today's global communications architecture, with key chokepoints often near former imperial hubs. This legacy fuels contemporary tensions over access and control, showing that protecting undersea infrastructure is not just a technical issue but one rooted in geopolitics and structural inequality (Starosielski 2015).

This article next outlines the definitions of undersea cables and pipelines, before turning to gaps in the current legal framework. It then examines the definition of piracy under UNCLOS and assesses whether attacks against undersea infrastructure satisfy the definition's elements. The final section considers the legal and operational implications of classifying such acts as piracy and the opportunities this interpretation may offer for strengthening the protection of critical infrastructure.

Definition of undersea cables and pipelines

International law governing undersea infrastructure is primarily found in UNCLOS, which is strongly influenced by the 1884 Convention for the Protection of Submarine Telegraph Cables. Despite their long-standing regulatory roles, neither treaty defines the terms 'cable' or 'pipeline'. Some commentators argue that the 1884 Convention's scope is limited to telegraph cables, (Halog, Margat & Stadermann 2023), but this view is not widely accepted.

The International Law Association (ILA), a network of scholars and practitioners, considers telegraph cables to be the direct precursors of modern fibre-optic and power cables and thus interprets UNCLOS in light of this understanding (ILA, First Interim Report 2020, paras 11–14). This article adopts the ILA's approach. Accordingly, the term 'cables' refers to both fibre-optic and power cables, while 'pipelines' includes all maritime pipelines used to transport oil or gas. For ease of reference, the term 'undersea infrastructure' is used to refer collectively to both.

2 A 'maritime casualty' is defined as 'a collision of vessels, stranding or other incident of navigation, or other occurrence on board a vessel or external to it resulting in material damage or imminent threat of material damage to a vessel or cargo' (Guilfoyle 2009).

Gaps in the current legal framework

Most academic commentary highlights significant gaps in the existing legal framework. The ILA has noted that nothing in UNCLOS 'expressly permits warships of States other than the flag State to interdict vessels suspected of breaking or injury of submarine cables or pipelines in the high seas' (ILA 2024: para 47). Beckman notes that 'there are serious security gaps in the current legal regime and that neither the 1884 Cable Convention nor UNCLOS adequately address the issue of intentional damage caused to submarine cables' (Beckman 2014: 289). This is a conclusion echoed by many (e.g. Liao 2019, 458; Matley 2019; Burnett 2021: 1675; Bueger & Liebetrau 2021: 398; Davenport 2024; Halog, Margat & Stadermann 2023; Shepherd 2020: 208).

A variety of proposals have been put forward to close these gaps. Some rely on the interpretation and extension of existing treaties or principles of customary international law. For example, one proposal suggests drawing on the environmental provisions in UNCLOS (Sari 2025). Articles 220 and 221 confer limited pollution-related enforcement powers on coastal states in the EEZ. These provisions do not apply to sabotage of submarine cables, which does not amount to 'pollution from vessels' under Article 220 and rarely involves a 'maritime casualty'.[3] They apply to pipelines only where damage results in pollution or a credible threat of pollution, such as the release of oil or gas, which may reasonably be expected to cause major harmful consequences to the coastal state (ILA 2024: para. 69). Article 221 therefore offers a narrow basis for action, as it is triggered only by pollution or a threat of pollution arising from a maritime casualty, significantly limiting its relevance for sabotage involving undersea infrastructure, especially cables.

Another proposal to extend existing treaties is for counterterrorism treaties to provide a basis for prosecuting intentional damage to undersea infrastructure (Beckman 2014; Davenport 2015). While the 1997 Terrorist Bombing Convention and the 1988 SUA Convention oblige parties to criminalise terrorism in their domestic law, they do not authorise interdiction of foreign-flagged vessels.

Another approach is to advocate for the development of new legal instruments. For example, there have been calls for a dedicated treaty for the protection of underwater infrastructure beyond territorial waters (Coventry 2024). Although treaties can be concluded relatively quickly – the Terrorist Bombing Convention, for instance, was drafted within a year – a new instrument on undersea infrastructure is unlikely to attract the participation of the most relevant states.[4] Moreover, if such a treaty follows the model of existing counterterrorism conventions, then it would not permit the boarding of foreign-flagged vessels without the consent of the flag state.

Still other proposals focus on the adoption of resolutions by the United Nations Security Council or other international organisations, but these face similar challenges. For example, while the Security Council could, in theory, adopt a resolution expanding the enforcement

3 A "maritime casualty" is defined as 'a collision of vessels, stranding or other incident of navigation, or other occurrence on board a vessel or external to it resulting in material damage or imminent threat of material damage to a vessel or cargo' (UNCLOS, art. 221(2)).

4 The 'most relevant' states include those with significant dependence on submarine cables or pipelines and/or substantial naval or maritime enforcement capacity. These include, among others, the United States, China, Russia, Singapore, Japan, Australia, the UK, France and Norway. Without their participation, a treaty regulating activities affecting undersea infrastructure beyond territorial waters would have limited practical effect.

powers of coastal states, such a measure would likely face a veto.[5] Likewise, initiatives at the International Maritime Organization may face political resistance and are unlikely to achieve consensus among member states. Suggestions to push for coordinated diplomatic action within the EU and NATO may enhance policy coherence but cannot, in themselves, change international law.

One approach that is actively being used in some places is to establish safety or protection zones around undersea infrastructure in the EEZ, within which certain activities – such as anchoring – are either restricted or prohibited. Although the legality of such zones has been questioned, countries such as Denmark, New Zealand, and Australia have unilaterally established protection zones within their respective EEZs. Yet, as Lott notes, the prevailing view is that Article 60(4) UNCLOS does not permit safety zones around most cross-border submarine cables and pipelines, and even where coastal States adopt a more expansive interpretation in practice, such zones remain confined to the EEZ and do not authorise the interdiction of foreign-flagged vessels suspected of sabotage (Lott 2024).

One final proposal – examined in detail in the remainder of this article – is to reinterpret the definition of piracy under UNCLOS to encompass intentional attacks against undersea infrastructure.

Reframing attacks on undersea infrastructure as piracy

A more immediate and pragmatic approach would be to classify attacks on undersea infrastructure as piracy.

Many of the proposals outlined above face significant challenges. A more immediate and pragmatic approach would be to classify attacks on undersea infrastructure as piracy. Piracy is defined in Article 101 of UNCLOS as:

> (a) Any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or aircraft, and directed:
> (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
> (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State.

As noted in section 1, UNCLOS grants states only limited rights to board foreign-flagged vessels. Piracy is one of the few exceptions that triggers universal enforcement jurisdiction. The courts of the state that carries out a seizure of a suspected pirate ship may impose penalties and decide on the fate of the ship and its property (UNCLOS, art. 105). Even so, successful prosecutions for piracy remain relatively rare, often due to evidentiary difficulties, political sensitivities, or lack of domestic legal frameworks (Kontorovich and Art 2010).

The definition of piracy is complex and has generated extensive legal debate.[6] Most scholars agree that piracy consists of four or five key elements:

5 On 27 March 2023, the UN Security Council voted on a draft resolution concerning the Nord Stream pipeline incident. The resolution, tabled by Russia and co-sponsored by several other states, condemned the 'act of sabotage' against Nord Stream 1 and 2 and called on the Secretary-General to establish an international commission to investigate. The draft, however, failed to pass as it did not receive the necessary support – garnering only three votes in favour (from Brazil, China, and Russia) and twelve abstentions. (UN Security Council, 9295th meeting, SC/15243, 27 March 2023).

6 For a detailed analysis of the debate, see ILC 2024, A/CN.4/767

i. Any illegal acts of violence or detention, or any act of depredation;
ii. Committed for private ends;
iii. By the crew or the passengers of a private ship or a private aircraft;
iv. Directed against another ship or aircraft, or against persons or property on board such ship or aircraft;
v. On the high seas or in a place outside the jurisdiction of any State.

Each element of the definition requires careful consideration, particularly as applied to undersea infrastructure. Most have, moreover, been the subject of considerable academic debate (see ILC 2024).

Before analysing the elements, it is important to note that the current definition of piracy has deep historical roots. The codification process began in 1924, when the League of Nations identified piracy as an issue suitable for international regulation. This prompted the Harvard Law School's 1932 Draft Convention on Piracy, which became a foundational source for subsequent treaty provisions.[7]

In 1954, the International Law Commission (ILC) drew heavily on the Harvard Draft when preparing the Draft Articles on the High Seas, which formed the basis for the 1958 Convention on the High Seas. These, in turn, informed the piracy provisions in UNCLOS, with Article 101(a)(ii) added by the ILC. Yet even as the drafting unfolded, piracy was not regarded as a matter of practical urgency. States had already questioned its contemporary relevance during the League of Nations codification effort in the 1920s, and a similar sentiment persisted through the ILC discussions in the 1950s. By the time negotiations for the Third United Nations Conference on the Law of the Sea began in the 1970s, piracy was widely considered a relic of the past.[8]

During the ILC's work on the law of the sea in the mid-1950s, the Commission focused on questions of jurisdiction, the distinction between piracy and other maritime crimes (e.g. mutiny), the definition of 'private ends', the issue of public versus private vessels, and the legal scope for universal jurisdiction, rather than attacks against infrastructure (Rubin 1988: 305–347). Consequently, the drafting history offers little guidance in relation to undersea infrastructure.

In any case, the drafting history is only a supplementary means of treaty interpretation. The primary source is the ordinary meaning of the treaty's text, interpreted in light of its context and purpose (Vienna Convention on the Law of Treaties 1969, art. 31). The next sections considers the five elements of piracy and their potential interpretations in relation to attacks on undersea infrastructure.

i. Illegal acts of violence or detention, or any act of depredation

The first element is notably broad. Most commentators agree that it encompasses acts against persons or property, such as undersea infrastructure. It may consist of a single incident and does not require theft, intent to steal, or even actual damage (ILC 2024: para 77). One of the most prominent issues in the literature concerns the significance of the word 'illegal' qualifying 'acts of violence or detention'. Various interpretations have been proposed – some based on domestic law, others on international law – but none would exclude attacks on undersea

7 On early doctrinal developments, see also Stiel 1905; Perels 1903; and von Martens 1795, which helped shape twentieth-century understandings of piracy and privateering.
8 For the drafting history, see A. P. Rubin, The Law of Piracy (2nd ed., 1998), 305–347.

infrastructure. Petrig and Geiß note that the qualification is 'self-evident' and that it refers 'to the illegality of the acts under the law of the State which decides to exercise its adjudicative jurisdiction over acts of piracy and to prosecute alleged offenders under its domestic laws' (Petrig & Geiß 2011:60). The same interpretation has been put forward for similar requirements in various counterterrorism treaties. Ultimately, the meaning could be clarified through subsequent state practice (Vienna Convention on the Law of Treaties, art. 31(3)(b)).

ii. The private ends requirement

The 'private ends' requirement arguably presents the greatest hindrance for classifying attacks on undersea infrastructure as piracy.

The 'private ends' requirement has likewise been the subject of considerable debate. Two main interpretations have emerged: one holds that any acts not authorised by a state are 'for private ends', while the other defines the element as the opposite of 'political ends' (ILC 2024: para 87). The 'private ends' requirement arguably presents the greatest hindrance for classifying attacks on undersea infrastructure as piracy. In general, actions by private individuals are not attributable to a state under international law. However, attribution may arise if individuals or groups act under the instruction, direction, or control of a state, or if their conduct is subsequently acknowledged and adopted by the state as its own (ILC 2001: arts. 8 and 11). Therefore, attacks on undersea infrastructure carried out by non-state actors without a clear connection to a state may be considered an act of piracy, whereas acts attributable to a state are excluded from the definition. This limitation arguably helps preserve a legal distinction between criminal conduct and acts of state, yet it also creates an operational consequence: where a state conducts or supports an operation under a cloak of plausible deniability, attribution may be impossible to establish. In such circumstances, the absence of confirmed state responsibility enables affected states to classify the conduct as piracy and to rely on the associated enforcement jurisdiction. The implications of this dynamic will be examined further below.

iii. Acts by the crew or passengers of a private ship or aircraft

The term 'ship' is interpreted broadly, and the literature also addresses the status of autonomous and remotely operated craft. For example, the Institute of International Law has concluded that 'crew' can encompass those who operate uncrewed vehicles, suggesting that acts involving remote or autonomous vehicles may also fall within the definition of piracy.[9] Importantly, none of these interpretations would exclude attacks on undersea infrastructure by the crew or passengers of a private vessel from qualifying as piracy. On the contrary, this broad interpretation ensures that evolving maritime technologies may be included.

iv. The 'two-vessel' requirement

The fourth requirement has also generated considerable controversy and is often referred to as the 'two-vessel' or 'dual condition' requirement (ILC 2024: para 107). According to this interpretation, acts committed aboard a single ship by its crew or passengers do not fall within the definition of piracy. This was confirmed in the Arctic Sunrise arbitration, where it was stated that an 'essential requirement of Article 101 is that the act of piracy be directed against another ship'.[10] However, this traditional interpretation appears to conflate the requirements of subparagraph (i) and (ii) and fails to account for the significance of the disjunctive 'or' in the

9 Institute of International Law, Report of the Eleventh Commission, Piracy, present problems, p. 199.
10 Annex VII Arbitral Tribunal, Arctic Sunrise Arbitration, PCA Case No. 2014-02 (The Netherlands v. Russian Federation), Award on the Merits of 14 August 2015, para 238.

text. Article 101(a)(i) of UNCLOS does expressly require that the act be committed 'against another ship or aircraft', supporting the two-vessel interpretation. By contrast, Article 101(a)(ii) omits this requirement, instead referring to acts 'against a ship, aircraft, persons or property in a place 'outside the jurisdiction of any State'.

On its ordinary meaning, piracy under Article 101(a)(ii) could therefore be read to encompass:

> Any illegal acts of violence … or any act of depredation, committed for private ends by the crew … of a private ship … and directed against … property in a place outside the jurisdiction of any State.

The Institute of International Law has observed that, while the terms 'violence' and 'detention' refer to illegal acts against persons, 'depredation' appears to denote acts against property (Institute of International Law, Report (2021), p 189). This interpretation opens the door to the possibility that attacks on undersea infrastructure could fall within the definition of piracy, provided they are committed in a place outside the jurisdiction of any state, discussed immediately below.

v. Geographic scope: high seas or areas beyond national jurisdiction

The final element of the definition concerns the geographical scope of piracy. Two specific zones are mentioned: acts occurring 'on the high seas' under subparagraph (i), and acts committed 'in a place outside the jurisdiction of any State' under subparagraph (ii).

Article 101(a)(ii) was introduced by the ILC to cover acts against persons or property 'on an island constituting 'terra nullius' or on the shores of an unoccupied territory' (ILC 1956: 282) This was primarily a policy-driven addition, rather than one based on established case law or legal principles (Rubin 1988: 322).

At first glance, subparagraph (ii) might appear to exclude acts committed in the EEZ. However, Article 58(2) of UNCLOS clarifies that Articles 88 to 115 – including Article 101 on piracy – apply to the EEZ 'in so far as they are not incompatible' with the EEZ regime. Most commentators agree that there is no incompatibility, in which case the piracy provisions would apply in the EEZ (ILC 2024: para 116). Accordingly, the geographic limitation is generally understood to only exclude acts committed within a state's territorial sea. Such acts, even if they meet the other elements of piracy under Article 101, fall outside the scope of the definition and are instead governed by the coastal state's domestic law; in practice, they are classified as armed robbery to distinguish them from piracy.[11]

vi. Can attacks on undersea infrastructure be piracy?

As the preceding analysis demonstrates, attacks on undersea infrastructure can, in principle, meet the definitional elements of piracy under Article 101(a)(ii) of UNCLOS – provided they are committed by non-state actors, for private ends, and occur beyond the territorial sea. This interpretation is grounded in the ordinary meaning of the treaty text and supported, albeit indirectly, by its drafting history.

11 Within the territorial sea, the coastal state can rely on several grounds to undertake enforcement measures against ships suspected of intentional damage to submarine cables and pipelines. Within the UK's territorial sea, acts of sabotage against undersea infrastructure would not be treated as piracy but would rather fall under the Criminal Damage Act 1971. (see Hirst 2003, 305).

While the exclusion of acts of states narrows the scope of piracy, it arguably also preserves international stability by reducing the risk of diplomatic escalation or retaliatory enforcement between states.

The main legal constraint to this interpretation is the 'private ends' requirement, which excludes acts attributable to states. In some cases, a ship's crew may receive remuneration for carrying out sabotage, but this does not, in itself, resolve the issue. What matters is not the presence of payment, but the degree of control exercised by a state.[12] Even where individuals are paid, the act will not satisfy the 'private ends' requirement if their conduct is not attributable to a state under international law. Conversely, where such control cannot be established, remuneration does not preclude classification as piracy. While the exclusion of acts of states narrows the scope of piracy, it arguably also preserves international stability by reducing the risk of diplomatic escalation or retaliatory enforcement between states. By limiting piracy to private actors, UNCLOS reinforces the legal distinction between individual criminal acts and interstate conflict.

The so-called 'two-vessel' requirement does not preclude that attacks on undersea infrastructure may constitute piracy. Article 101(a)(ii) refers to acts directed against 'property in a place outside the jurisdiction of any state', omitting the need for a second vessel. This broader language supports the inclusion of fixed infrastructure, such as undersea cables and pipelines, within the definition.

Although this interpretation is not novel, it remains underexplored in the literature and, apart from one pre-UNCLOS example, has not been reflected in state practice.[13] Nevertheless, several commentators have acknowledged its potential. Burnett and Green note that 'submarine cable depredation appears easily situated within Article 101' (2008, 577), while Guilfoyle, Paige, and McLaughlin argue that 'depredations against submarine cables in the high seas by non-State actors may constitute piracy' (2022: 673). The ILA has likewise concluded that this interpretation is legally plausible, although it notes that 'it is uncertain whether States will accept that they have this right vis-à-vis intentional damage to submarine cables and pipelines under [UNCLOS] Articles 101 and 105' (ILA 2024: para. 50).

In sum, while the reinterpretation of Article 101(a)(ii) to include attacks on undersea infrastructure remains largely untested in practice, it is legally supportable and consistent with the general rule of treaty interpretation. It offers a pragmatic legal pathway for extending enforcement jurisdiction in response to evolving threats against critical subsea assets.

Advantages of classifying attacks as piracy under UNCLOS

Undersea infrastructure is crucial to modern society yet remains highly vulnerable. Existing treaties such as the 1884 Cable Convention and UNCLOS provide a fragmented and, in many respects, outdated framework ill-suited to address the challenges posed by deliberate attacks on undersea infrastructure. As illustrated above, various proposals have been made to fill this legal gap, but many of these options face serious practical or political limitations.

12 See Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, ICJ Reports 1986, pp. 53 ff., paras 93 ff.; Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), ICJ Reports 2007, pp. 206 ff., paras 396 ff.

13 Already in 1869, the US proposed that attacks against undersea cables be viewed as an act of piracy (ILA 2024, para 78). See also International Law Institute, Piracy, Present Problems, 11th Commission, Rapporteurs: Tullio Scovazzi & Tullio Treves, at 164.

Given the limitations of existing tools and potential resistance to developing new ones, reinterpreting piracy provisions offers a promising and underexplored legal solution. Unlike other proposals, it would have the advantage of immediately activating the enforcement provisions of UNCLOS, particularly the right of all states to seize pirate ships and prosecute suspected perpetrators. However, while such a right exists in international law, its effective implementation would still require a clear mandate in domestic law.

It is true that recasting attacks on undersea infrastructure as piracy would still exclude state-sponsored acts of sabotage, which fall outside the definition due to the 'private ends' requirement. Yet this is not necessarily a disadvantage, as clear state involvement would instead engage the rules on state responsibility. Much of the current activity targeting undersea infrastructure moreover appears under a 'cloak of plausible deniability' – arguably, this very ambiguity allows states to treat such attacks as piracy and thereby activates a criminal rather than a state responsibility response.

Despite the legal plausibility of this interpretation, it is not yet supported by state practice or judicial confirmation. If states are reluctant to classify such acts as piracy, they may likewise be hesitant to take enforcement action or recognise the jurisdiction of other states to do so.

Thus, for this reinterpretation to operate in practice, states would need to take several steps. First, domestic criminal law must be aligned with the full scope of Article 101(a)(ii), ensuring that national piracy offences encompass acts directed against property and fixed infrastructure, and that courts are empowered to exercise universal jurisdiction over such offences. Second, states that support this approach could issue coordinated interpretative statements clarifying that deliberate attacks on undersea cables or pipelines by non-state actors fall within the definition of piracy. Third, operational arrangements would need strengthening: states could develop common protocols for interdiction, evidence collection, and chain-of-custody in suspected sabotage cases, supported by enhanced, real-time information-sharing mechanisms.

Regional organisations such as ASEAN, the African Union, or the Pacific Islands Forum could provide platforms for dialogue and endorsement.

Finally, broadening support beyond Western states would be essential. Many states in the Global South rely heavily on subsea connectivity and may favour a more robust enforcement regime if it enhances security without diminishing navigational freedoms. Regional organisations such as ASEAN, the African Union, or the Pacific Islands Forum could provide platforms for dialogue and endorsement. Over time, such alignments could build a coherent pattern of state practice capable of shaping the interpretation of UNCLOS.

While the reinterpretation of piracy offers a legally grounded stopgap, its uptake will depend on political will. Some states, such as the US, EU member states, Japan, and Australia, may be more inclined to support expanded enforcement mechanisms. However, building consensus around such a reinterpretation is likely to face resistance from states concerned about freedom of navigation and from coalitions that view universal enforcement as a potential encroachment on sovereign prerogatives.

The need to respond to piracy is far more than theoretical. Incidents such as the Nord Stream pipeline explosions in 2022, the damage to Baltic telecommunication and energy cables in 2023 and 2024, and increasing pressure on cable networks in the South China Sea illustrate the geopolitical salience of these legal gaps. Addressing these issues requires further scholarly engagement, targeted policy debate, and, crucially, concerted action by states with a strategic interest in safeguarding global communications and energy infrastructure.

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