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Picture source: Ocean Affairs Council, August 6, 2025, *Ocean Affairs Council*, <https://www.oac.gov.tw/ch/home.jsp?id=63&parentpath=&mcustomize=news_view.jsp&dataserno=202508060001>.

The ‘Hong Tai 58’ Case and Criminal Jurisdiction Over Submarine Cable Sabotage in ‘New’ Internal Waters

By Huang-Chih Chiang & Po-Hsiang Liao



B ackground

Many States are now facing the threat posed by vessels suspected of engaging in sabotaging submarine cable infrastructure. This has been an issue in the Baltic Sea, and in recent years Taiwan has also been forced to deter and counter attacks on submarine communication cables (see [BBC](#)). While the UN Convention on the Law of the Sea (UNCLOS) serves as the cornerstone of the contemporary oceanic order, it is undeniable that the threats posed by ongoing hybrid operations or “gray zone” operations upon coastal States were not in the minds of the drafters (see e.g., [Ringbom](#)). Therefore, in cases where flag States lack capacity or are unwilling, coastal States might encounter legal difficulties in exercising jurisdiction over the suspect vessels or individuals. To address these issues, abundant discussions on *lex lata* (the law as it exists) and *lex ferenda* (the law as it should be) of the rules of international law of the sea on a theoretical level have been taking place for years (see e.g. [ILA](#)). Although constructive and persuasive arguments have been put forward, whether States adopt these arguments is yet to be seen, partly due to the rareness of actual State practices.

The extremely limited number of actual cases may not be the only issue. A law enforcement operation cannot be considered successful until a conviction is secured by due judicial process. Yet the outcome remains subject to the indeterminacy inherent in the coastal State court’s interpretations of the relevant UNCLOS provisions. The *Eagle S case*, as discussed in a recent post by [Tom Ruys and Yiannis Bamnios](#), illustrates this point. Additionally, the *Eagle S case* is a valuable precedent in the sense that, *inter alia*, it concerns a vessel which was suspected of sabotaging submarine cables beyond territorial seas. And it is for the same reason that the purpose, function and contents of the flag State’s exclusive jurisdiction is once again being revisited.

As such, the *Hong Tai 58* judgment stands in stark contrast. Because the sabotage occurred in the Penghu Channel, the case touches upon Taiwan’s sovereignty and jurisdiction over “new” internal waters, as well as the interpretation of what constitutes non-innocent passage. At the same time, the judgment demonstrates how Taiwan’s courts determine the suspect’s intent and establish the causal link between the vessel’s maneuvers and the damage to the submarine cables.



Taiwan's 'New' Internal Waters and the Hong Tai 58 Incident

Taiwan claimed its first set of baselines in 1999 and has not declared any further baselines since then (See [US State Department](#) at 6, 11-12). The waters between Taiwan and Penghu (also known as the Pescadores) in their entirety are enclosed as Taiwan's internal waters because of the establishment of straight baselines as provided in UNCLOS Article 7. These waters are also called the Penghu Channel, a north-south waterway, in which foreign vessels enjoy the right of innocent passage under UNCLOS Article 8(2). As part of the critical submarine infrastructure connecting Taiwan proper and Penghu, Taiwan-Penghu Subsea Cable No. 3 was completely severed on February 25, 2025 (see [Taiwan Ministry of Digital Affairs](#)). Identified as the prime suspect, the *Hong Tai 58*, a cargo vessel registered in the Togolese Republic, was escorted to Anping Port, Tainan, by the Taiwan Coast Guard on the same day.

Despite the fact that the *Hong Tai 58* was operated by eight crew members — all Chinese nationals — only the captain was indicted by the Tainan District Prosecutors Office. Amended in 2023, the applicable domestic law in this case is Article 72 of the Telecommunications Management Act. While Article 72(1) penalizes any act that intentionally damages submarine infrastructure, acts committed with additional intent to endanger national security or social stability are subject to more severe penalties under Article 72(2). Given suspicions that the *Hong Tai 58* was using a flag of convenience, that it had transported only one cargo in the past few years on record, and had maneuvered around the Taiwan Strait and Penghu Channel in terrible operational and safety conditions, the prosecutor used Article 72(2) for the primary charge (see [BBC](#)). However, in the absence of affirmative evidence, the Prosecutors Office on April 11 charged the captain under Article 72(1).

The Tainan District Court delivered its judgment on June 12, sentencing the captain to three years in prison (initially the judgement was not made public due to concerns over releasing confidential and sensitive information. It was eventually disclosed in a Tainan District Court's [press release](#) with no English translation). In this judgement, in addition to acknowledging the significant adverse impact on Taiwan and Penghu following the severance of the submarine cables, the court's reasoning centered around *dolus indeterminatus* — a crime where the perpetrator's intention is directed at an indeterminate victim — as provided in Article 13(2) of the Criminal Code. Based on the following elements, the court found that the captain was aware, and could reasonably have foreseen,



that his orders would very likely result in damage to the submarine cables; and yet, he nonetheless decided to proceed. First, the electronic chart system on the *Hong Tai 58* indicated where the Taiwan-Penghu Subsea Cable No. 3 was located. Second, the area concerned was publicly designated as a non-anchoring area by the Taiwanese government. Third, in addition to anchoring in a non-anchoring area, the captain ordered the *Hong Tai 58* to continue to maneuver in a zigzagging pattern after anchoring. Following the prosecutor's appeal against the sentence, the Taiwan High Court Tainan Branch Court upheld the district court's judgment on August 29, thereby making the case final (the judgement was disclosed in Taiwan High Court Tainan Branch Court's [press release](#) with no English translation).

Legal Implications

Although no international law issues were directly discussed in the judgments, this case sheds some light in the context of “gray zone” operations against Taiwan. First, this is the first case in which Taiwan successfully exercised jurisdiction over a crime, committed by a foreigner, on a foreign-flagged vessel engaged in sabotaging submarine infrastructure in internal waters. Further, as the Penghu Channel is regarded as internal water under UNCLOS Article 8(2), “it may be argued that these waters are more akin in status to the territorial sea than to the internal waters proper” ([Kai Trümpler](#) art. 8 at 96; para. 31). It is widely recognized that, as noted in the ILA report, “[c]oastal States, pursuant to their sovereignty over the territorial sea, have the prima facie competence to take monitoring measures, enforcement and other prevention measures, prosecution of offences, and establish State responsibility of States *vis-à-vis* intentional damage to submarine cables and pipelines connected to artificial islands, installations and structures in the territorial sea” ([ILA](#) para. 144). Moreover, by maneuvering while at anchor, the *Hong Tai 58* made its passage non-innocent under, *inter alia*, UNCLOS Articles 19(2)(c), 19(2)(k), and 19(2)(l). Taiwan, therefore, was entitled to take any necessary enforcement measures against the *Hong Tai 58* in accordance with UNCLOS Articles 25(1).

Finally, as far as criminal investigations against the crew were concerned, acts involving the intentional sabotage of submarine infrastructure can be regarded as crimes producing effects within the coastal State, and as acts disturbing the peace of the coastal State, within the meaning of UNCLOS Articles 27(1)(a) and 27(1)(b). Consequently, although the Penghu Channel is not internal waters proper, Taiwan had a strong legal basis to exercise



jurisdiction over both the *Hong Tai 58* and its crew. What Taiwan has done in the present case affirms existing doctrinal suggestions and contributes to the development of the international law of the sea, particularly with respect to the interpretation of non-innocent passage.

Conclusion

The international law of the sea issues in Taiwan's *Hong Tai 58* case appear relatively uncontroversial when compared with the *Eagles S* case. The principal distinction stems from the geographic location of the alleged conduct. In the *Hong Tai 58* case, the central questions concern how and why the vessel's passage was non-innocent, and the extent of Taiwan's jurisdiction over its new internal waters. By contrast, the *Eagle S* case required Finland, in its capacity as a coastal State, to overcome the constraints of the flag State's exclusive jurisdiction under UNCLOS Articles 92, 97, and 113. At present, Taiwan has not yet had the opportunity to establish a precedent on responding to sabotage of submarine infrastructure beyond its territorial sea. But it appears that, given the continuing and unabated hybrid operations targeting Taiwan, it is likely only a matter of time before such an occasion arises.

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