



Henrik's 6 Steppingstones

Henrik's FIRST base: *Pure Online* (“cross-border”)

-  No cross-border physical shipment or tangible things are involved, and
-  At least one user is a foreigner, that is, non-resident or non-national in the State or court's forum in question

Transportation (physical items) ↔ **Transmission** (bits - electronic)

Henrik's SECOND base: *No one owns Cyberspace*




The Internet should not belong to any single State or special group of States




The public international computer network is something “given to mankind”



Henrik's THIRD base: *The discussion of Cyberspace issues should be limited*

 Special International Internet Law will be needed only for areas where the Internet fundamentally has created new issues and in cases where borders have been crossed

 Other instances – use “old times” rules in public international law, and not worth discussing here for example order of tangible goods via the Internet should be regarded as nothing but a modern mail-order method. The goods still have to be shipped physically and pass custom at the State-border

Henrik's FOURTH base: *No Worldwide Jurisdiction besides Universal Jurisdiction*

 **Worldwide jurisdiction** has never been allowed

for example Information warfare and Piracy (copyright infringement / illegal downloading)

Henrik's New Term: "Global Jurisdiction" – a statute taken on its "wording" reaches all alien cybernauts who can be anywhere in the world

 **Universal jurisdiction** is ONLY allowed when the **international community** has accepted this for a LIMITED and SPECIFIC issue,

for example War-crime and Piracy (on the sea)

Henrik's FIFTH base: *Internet Protocols has become customary law*

If MIT professor William Mitchell¹ and several others² are right that "code is law", and if the TCP/IP-protocol according to the constructors of the Internet is the "Constitution of the Internet", and none of the users in the World (governments, international organizations and individuals) since the establishment of the protocols has demanded it changed over the last 20 years,




one can fairly assert, that this **international basic protocol-code for international computer network** - which Lessig describe as law - **has become customary international law**,

which can be advanced before and used by the International Court of Justice in the Hague.

Henrik Spang-Hanssen: Cyberspace & International Law on Jurisdiction, page 341

1. In Cyberspace (a "city of bits") code is the Law, William Mitchell, City Of Bits: Space, Place, And The Infobahn 23-24 (MIT Press, 1995)
2. Lawrence Lessig, Legal Issues in Cyberspace: Hazards on the Information Superhighway: Reading the Constitution in Cyberspace, 45 Emory.L.J. 869, 899 (1996)

Henrik's SIXTH base: *Computer programmers & lawyers are rule-makers for Cyberspace*

-  IP/TCP is ruling the Internet
-  Law is ruling Cybernauts' behaviour
-  Technicians & legal scholars & legislators have to Cooperate before legislation of Cyberspace can be effective

