



Route de Villejust  
91620 Nozay  
France

To,  
**Shri Sanjeev Kumar Sharma, Advisor**  
**Telecom Regulatory Authority of India,**  
Mahanagar Door Sanchar Bhawan,  
JawaharLal Nehru Marg,  
New Delhi – 110 002.

**Re : Counter - comments on Consultation Paper - Licensing Framework and Regulatory Mechanism for Submarine Cable Landing in India**

Nozay, February 14, 2023

Dear Sir,

This is with reference to TRAI's Consultation Paper on Licensing Framework and Regulatory Mechanism for Submarine Cable Landing in India dated 23.12.2022.

We are grateful to Telecom Regulatory Authority of India for the opportunity given to stakeholders of the submarine telecommunication industry to contribute, via this consultation initiative, with our views on how some regulatory aspects could be revised to strengthen India's position in the world's submarine cable networks.

As background, Alcatel Submarine Networks ("ASN") is a company registered in France and is engaged in the end-to-end construction of short and long-haul submarine telecommunication cable systems, and in the maintenance of such systems. Our activity enables service providers, enterprises, and governments to deliver voice, data, and video communication services to end-users, across the globe. In order to perform contracts for supply, installation and maintenance of cable system, ASN *inter-alia* charters foreign flagged vessels to carry and install on the seabed the fiber-optic cable and other submerged equipment, from their manufacturing facility (or cable depots) to the ports or the areas in the sea where such cables and submerged equipment are to be laid down or repaired.

We note that the consultation paper has been issued to reform the Indian current regulatory system and enable all relevant stakeholders, including ASN, to work smoothly in the submarine cable industry, in India.

Would you please find below ASN's answers to Question 3, Question 7 (which are most relevant to ASN's business) and to the open Question 9 of the Consultation Paper.

Yours respectfully,

Paul Gabla

VP Sales & Marketing

Encl. ASN's responses to the consultation paper

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## Executive Summary

Please find below a summary of our suggestions that we would like to highlight:

- Indian flagged marine maintenance ship would be beneficial.
- Installing stub-cables in India may be of some benefit but would need to be carefully planned.
- Uniformization of the regulatory framework applicable to the submarine cable industry across India is required.
- Simplification and faster procedures with regards to permits, licenses, approvals, is required.
- One website for all permits, licenses, approvals (should be centralized) would ease permitting.
- Incentive taxation rules would increase appetite for investment in submarine cables.
- Simplification of importation and export procedures is required.

**Question 3: Would an undersea cable repair vessel owned by an Indian entity help overcome the issues related to delays in undersea cable maintenance? Please provide justification for your answer.**

The same importation issues apply to maintenance, as they do to installation (cf. *infra*). Clearing in and out of territorial waters for a cable repair adds significant time and cost to the repair operation and does not encourage marine maintenance operations in those waters.

Special conditions should be created to facilitate ease of repair.

Better definition of cable corridors, no fishing zones and no anchor zones would likely reduce the need for repair.

Under the current regulations, an Indian flagged marine maintenance ship would undoubtedly be of benefit. With the number of planned cables, perhaps there would be room for one on either coast (east & west), which could extend their cover to international waters, or neighboring countries too. We would however insist on the importance to maintain the ability of non-Indian flagged vessels to carry out maintenance and installation work in Indian territorial waters, to maintain competitive prices for the owners of the submarine cables and ensure swift repair for the end-users of such submarine cables.

**Question 7: Will it be beneficial to lay Stub-Cables in India? If yes, what should be the policy, licensing, and regulatory framework for laying, operationalizing, and maintaining the stub cable in India? Please answer in detail with the supporting documents, if any.**

For a stub cable to be valued, it would need to at least be installed beyond the territorial waters.

It is likely of key benefit to the permitting durations of a new project.

We see that a separate mobilization of a barge is required for many landings due to the shallow waters off the coast of several of the prime landing targets. Therefore, installing two or three parallel cables whilst the shallow water mobilization is active, could be of some benefit, but issues like number of fiber pairs and cable type would need careful planning.

If the idea was pursued, it would be necessary to create a cable protection corridor (similar to what has been done in Australia) to prevent damage to these stub cables as they may be left for some time before they are connected, and the value of them would be ruined if they are damaged when someone does try to connect. Such group of stub cables would also ideally need to be connected to one or more CLS. Finally, we would suggest that there is more than one group of stub cables on each coast, to provide diversity and thus redundancy and security.

**Question 9: In comparison with other leading countries, what further measures must be undertaken in India for promoting investment to bring submarine cable in India? Please answer in detail with the supporting documents, if any.**

Please find below our responses in respect of the following topics:

- Simplification of the regulatory framework
- Taxation
- Testing and certification requirements for SLTE
- Operational permits and temporary cable ship importation
- Cabotage issues
- Permitting issues
- Logistics

**1. Simplification of the regulatory framework**

We note that Indian regulatory framework that apply to submarine cables exists in the form of notifications, circulars, and regulations issued by different governmental entities which contributes to create complexity and legal uncertainty. For example, there should not be different practices at different ports in India or on taxation matters. Legal uncertainty in India is a major reason for the apprehension of stakeholders to invest in or participate to the construction of submarine cables landing in India.

India would certainly benefit from uniformization, clarification of its legislation and regulations related to the laying and maintenance of submarine cables, which are of strategic importance. Legislation and regulations should not differ from one State to another.

Diverging interpretation of a legal text, also have significant financial impacts on stakeholders, in particular when cable ship operations are involved (standby costs).

If such situation occurs, a stakeholder should, within a short timeframe (days), be able to get clarity from a central governmental authority on the applicable and enforceable interpretation across India, of a given legislative enactment.

We should note that such situation has an impact also for the owners and future owners of submarine cables, as a delay in the deployment of the cable will cause delay in revenue generating activities, while the amount of the investment for such an infrastructure is

substantial. Hence, for promoting investment to bring submarine cable in India, the regulatory framework should be urgently reformed, clarified and simplified.

## **2. Taxation**

It would highly valuable from the regulatory to confirm that, with respect to laying and repairing telecommunication submarine cables, Indian authorities can levy customs duties only in respect of equipment installed in the territory (landmass) of India and in the territorial waters (up to 12 nautical miles). Indeed, Article 58 paragraph 1 of the United Nations Convention on the Law of Sea, 1982 (“UNCLOS”) provides that, in the EEZ, all States shall enjoy the freedoms referred to in Article 87 (on the high seas).

Retroactive tax policies should not be applicable, as it is a dissuasive measure for investors.

## **3. Sale of SLTE (testing and certification for telecommunication equipment)**

We note that there is an heavy process for suppliers to comply with for the sale of SLTE which do not bring additional value and, per our experience, such process only exists in India.

Indeed, suppliers are required to provide a list of trusted vendors. It requires to list for each board of the terminal equipment many details, including component vendor and where components are procured.

Furthermore, TR/EMC/safety tests are required to be performed by an Indian lab. For that purpose, equipment must be shipped to India for tests (heavy and long process) while same result could be achieved with test report analysis (similar tests are already done for CE/UL marking). For example, Indonesia relies on test report analysis.

We suggest deleting unnecessary procedures.

## **4. Operational permits and temporary cable ship importation**

With regards to the qualification and work visas for the cable ship crew, we note that the clearance from MOHA/MoD is too long. The time taken for obtaining the clearances needs to be aligned with the industry requirement and thus should be completed in the shortest possible time.

We suggest simplifying this process and making it faster.

With respect to the temporary importation of cable ship, we note that when the cable ship has to be qualified for the issuance of a proforma invoice, the cable ship and ancillary equipment (i.e. ROV) are segregated.

We suggest that the cable ship and ancillary equipment are considered as a whole and are not segregated.

## **5. Cabotage issues**

We note delay and risk of impounding a cable ship, which is required to visit port as part of a clear in/clear out regulation linked to duties declaration for equipment bound for territorial waters (cabotage regulations). We know that there is a risk of local interpretation to charge

duty on the complete cargo. This practice of installing only a small portion of a cable ship's cargo in territorial waters needs to be better provided for in those regulations in order to make the process seamless.

## **6. Permitting issues**

The main issue with the current system is that several permits have to be obtained and the process for obtaining such permits, licenses, approvals are too heavy and are time consuming. Indeed, permits, licenses, approval have to be sought from multiple Indian entities.

We suggest simplifying the process by creating one website for all permits.

With respect to the concern mentioned in the Consultation paper of cases where Indian ILDOs do not have any stake in the consortium owning submarine cable but they seek MHA and MoD clearances on behalf of the cable consortium for laying, maintaining such cables; we do not recommend enforcing stake condition and create a constraint which will reduce the number of investors in India. ILDOs will benefit from the construction of submarine cables and in this perspective such rules are not in favor of the development of submarine cables in India.

## **7. Logistics**

### **7.1 Importer of record for upgrades on existing systems**

In respect of submarine cables owned by a consortium of owners, the owners share the network in a cable and maintenance agreement between them and each landing belongs to a single company. When the owner of point A wants to add capacity that goes from point A to point B and such owner does not own point B, the owner of the landing point B normally carries the importer of record responsibility.

It has been noted recently that Indian companies declined to be importer of record and to provide such services to their consortium partners. It seems that based on recent changes in Indian rules, a company is only permitted to act as importer of record for equipment into India where it has either partially or fully contributed towards the cost of purchase of such equipment.

Such rules are harsh as they imply that a party of a consortium will have to carry out heavy formalities to be importer of record (i.e. incorporation of a company in India) which complicates the process. Such rules are not supporting the long-term development of submarine cable networks in India.

Therefore, we recommend deleting this constraint.

### **7.2 Export and Import procedures**

We recommend simplifying the export process from India by removing the GR WAIVER process.

With respect to BIS Certificate, we recommend removing this process or have a BIS Certificate valid once for all for one type of equipment and such certificate validity would be for an indefinite period of time (as the Type Approval in Kenya).

We recommend allowing importation of refurbished equipment.

**a) Import and export**

We recommend simplifying the temporary importation process for test set of equipment. If products are under warranty, we recommend simplifying the process and allow an importation free of customs duties.

We suggest removing customs duties on repaired equipment if such repair occurred within three years after the first importation. The same rule should apply if equipment is not repaired but replaced.

**b) Transfer**

Taxes and GST should not be applicable for a transfer from one State to another.

**7.3 Terrestrial Equipment Maintenance**

The cycle of repairing/servicing/maintaining terrestrial equipment in the CLS and PoPs (PFE, SLTE, NMS cards, etc.) is a regular requirement for such equipment. However, in India, unless the replacement item carries the same serial number, full duties and taxes are charged. There are also complications of providing advanced replacements in anticipation of a return. This creates significant cost, but also notable delay in the turnaround time in shipping.