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India's Practice on Cable Repairs: An Appraisal

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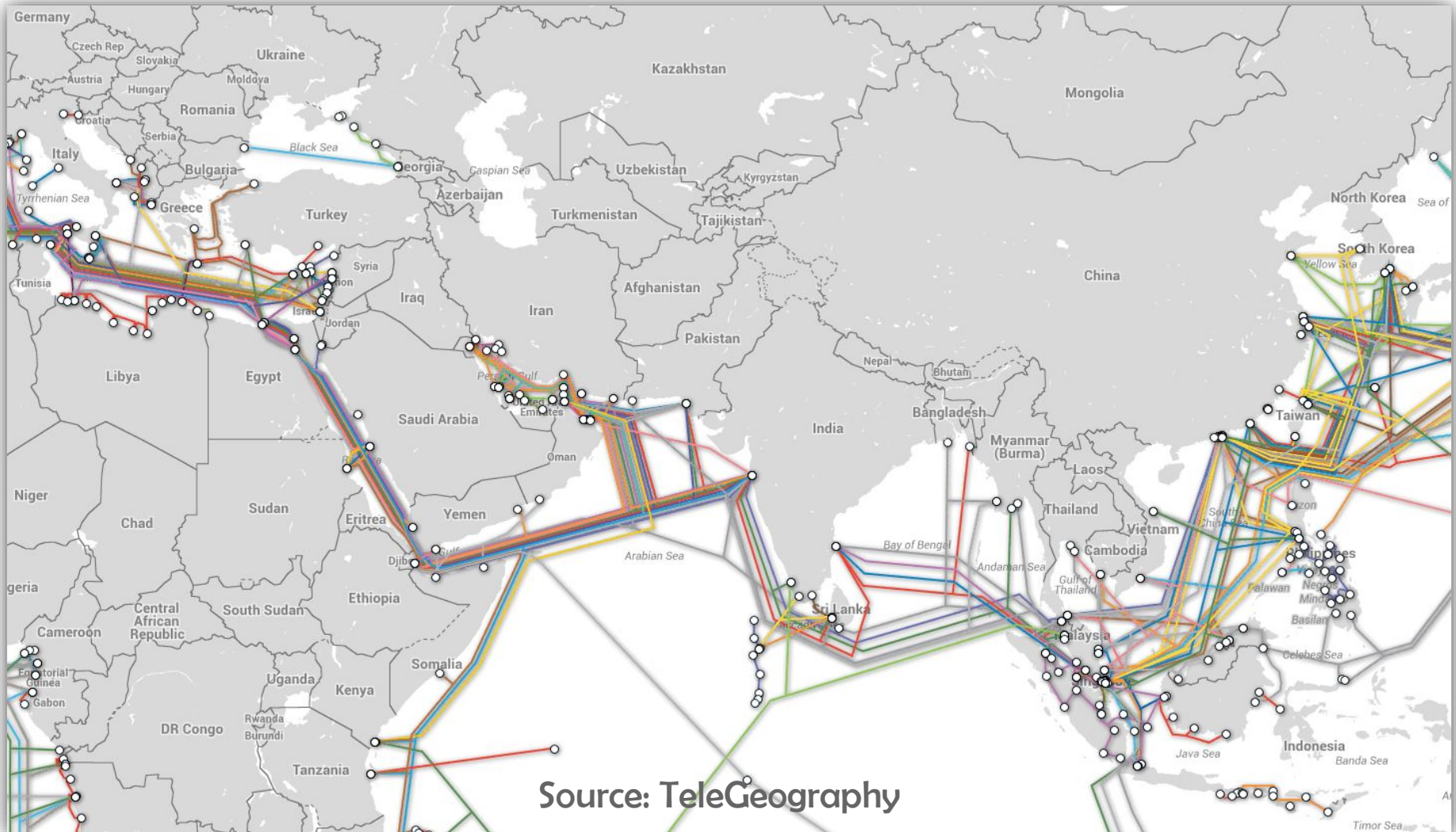


The United Nations General Assembly in 2014:
“Submarine cables are critical communications
infrastructure... and the maintenance, including the
repair, of these cables is important.”

Outline

- I. Case for Indian Cable Industry - Background
- II. International Legal Regime - UNCLOS
- III. Indian Regulatory Framework: The Law and Practice
- IV. The Way Forward

Case for Indian Cable Industry - Background



Source: TeleGeography

Case for Indian Cable Industry - Background

Why is India important to the global cable network?

- Digital connectivity of States connected by the cables
- Geographic location – Indian peninsula
- Outsourcing business and IT

Why are cables important to India?

- Offshore Connectivity via cyberspace
- National Security
- Growing economy

Case for Indian Cable Industry - Background

Why is India considered a chokepoint in global cable industry?

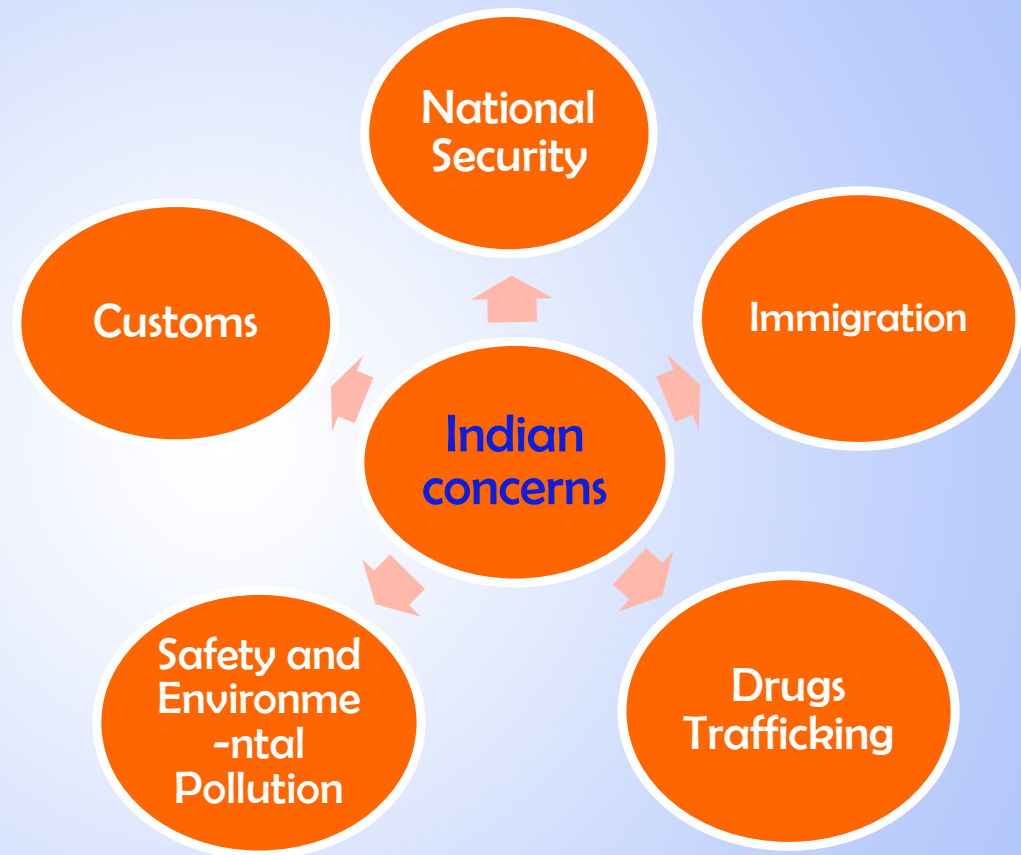


India takes the
longest mean time to
commence repair

Source: Verizon, ICPC



Case for Indian Cable Industry - Background



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International Legal Regime – UNCLOS

- The international legal framework governing submarine cables is set out in 1982 United Nations Convention on Law of the Sea (UNCLOS)
- 167 States Parties to UNCLOS till date

International Legal Regime – UNCLOS

Cables Under Sovereignty

In the territorial sea –

- The coastal State has sovereignty over 12 nm from the coast
- Ships conducting cable repairs do not constitute innocent passage
- Thus, the coastal State has the right to regulate the laying and repair of submarine cables in this zone

International Legal Regime – UNCLOS

Cables Outside Sovereignty

- All States enjoy the freedom to lay cables in the exclusive economic zone (EEZ) and continental shelf
- The freedom to lay cables includes the freedom to maintain and repair them
- In exercising their freedom to lay submarine cables, States must have due regard for the rights and duties of the coastal State

International Legal Regime – UNCLOS

Cables Outside Sovereignty

| Freedom of other States | Right of Coastal State |
|--|---|
| Freedom to lay or maintain the cables. | <u>Reasonable measures</u> for the exploration of the continental shelf and exploitation of its natural resources |
| No consent is required for delineation of the course of cables | If they land in their territory or territorial sea |

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Indian Regulatory Framework

- India is a party to UNCLOS
- The Indian legislation regulating cables –
The Territorial Waters, Continental Shelf, Exclusive Economic Zone
and Other Maritime Zones Act, 1976 (the **Maritime Zones Act**)
- The legislation regulating ships, including cable ships:
The Merchant Shipping Act, 1958

Indian Regulatory Framework

- In the EEZ and continental shelf, the Indian government may not impede the laying or maintenance of cables, subject to any measures for protecting the interests of India
- Consent of the Indian government is required for delineation of the course of cables

Indian Regulatory Framework

- In the EEZ or continental shelf, license or letter of authority is required from the Indian Government to –
 - Explore or exploit any resources
 - Search, excavation or research
 - Drill or construct offshore terminal, installation or other structure or device therein for any purpose whatsoever
- Oil and gas regulations imposed on cables

Indian Regulatory Framework



Source: ASEAN Cableship

Indian Regulatory Framework

List of permits required for cable repairs –

1. Ministry of Home Affairs (MoHA) Clearance
2. Ministry of Defence (MOD) Clearance
3. Indian National Shipowners' Association (INSA) Clearance
4. Specified Period License
5. Customs Clearance
6. Vessel Importation and re-export
7. Vessel Conversion from foreign to coastal running and vice versa
8. Naval Inspection and Security Clearance
9. Port Clearance (Inward and Outward)

Indian Regulatory Framework

Permit Chain:

For example, repair in the territorial waters:

- Vessel Importation
- Vessel Conversion from foreign to coastal running and vice versa
- Specified Period License
(cable repairs considered to be coasting trade)
- Naval Clearance

Indian Regulatory Framework

- Cables are treated in the economic zone as they are in the territorial sea
- The provisions of oil and gas are applied to submarine cables
- It is considered as a vessel engaged in coasting trade
- Different rules are applied in different Indian ports

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The Way Forward

- Submarine cables recognized as “critical infrastructure”
- Lead Agency
- Single window clearance
- Cooperation and dialogue between the government and cable industry



The Way Forward

- Vertical and Horizontal bureaucratic hurdles removed
- Government observers on board
- Maritime Zones Act amended to conform with UNCLOS
- Eliminate extension of oil and gas regulations to cables
- Streamline the permit process

CONSISTENCY, COORDINATION, COOPERATION

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Thank you
for your kind attention



Any Queries?

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