

# Malaysia International Connectivity

## Impact of Cabotage Policy on Submarine Cable Operations and Investment

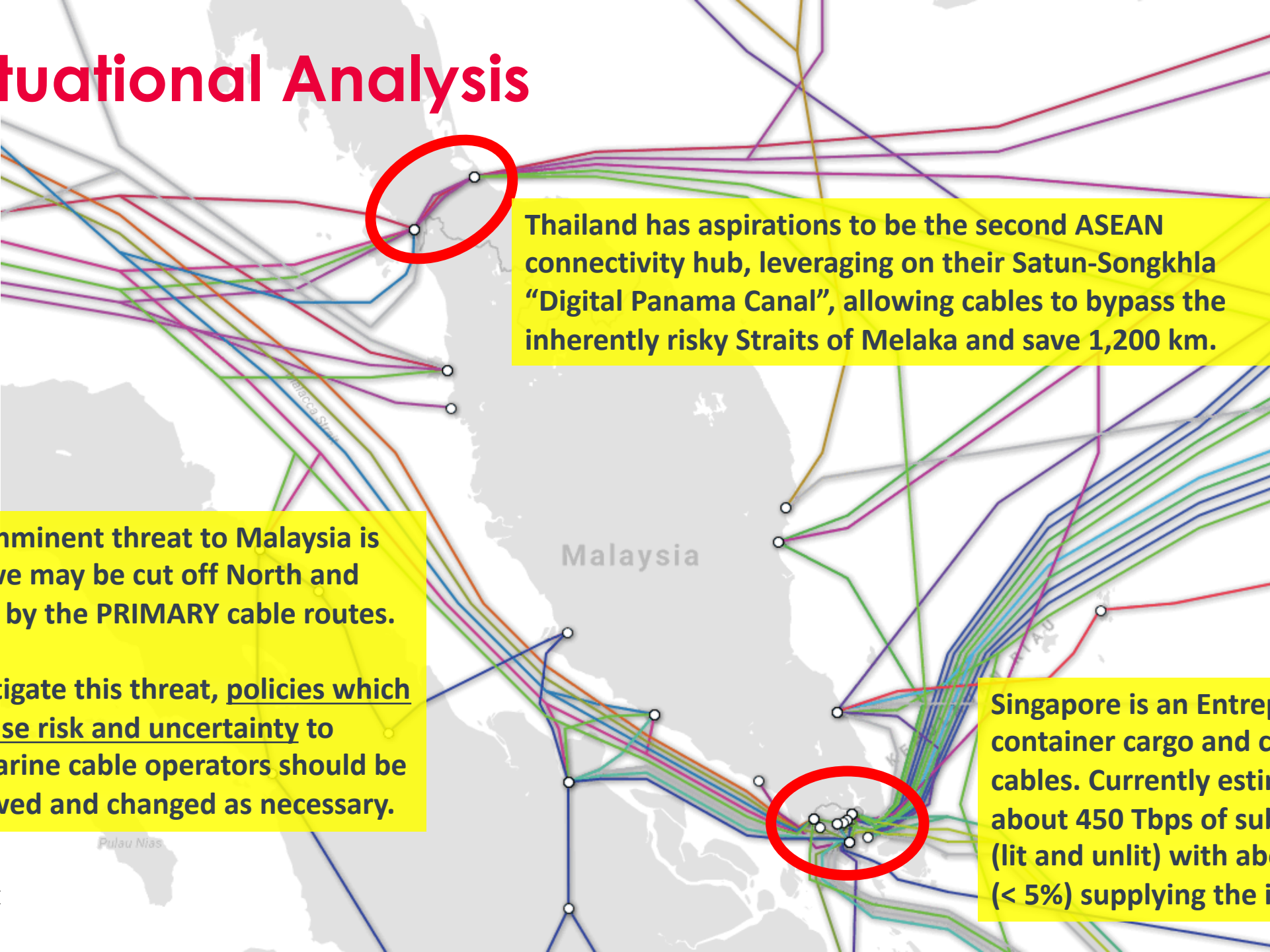
### Position Paper

# Executive Summary

Malaysia's international connectivity is lagging behind regional leaders like Singapore. The primary reason for this is that Malaysia is not a transit hub for trans-regional connectivity between the Indian and Pacific Oceans. One of the key factors for this situation has been highlighted by a submarine cable investor and domestic submarine cable operators, TM and Time DotCom:

- The risk of prolonged outages caused by long delays in permitting (*averaging 27 days for each case prior to January 2019*), for foreign flagged submarine cable repair vessels to commence repair work in Malaysian waters due to our cabotage policy and a lack of suitable domestic DP2 (*Dynamic Positioning Class 2*) cable repair vessels.
- The process for application for a Domestic Shipping License Exemption (DSLE) includes the requirement for the Malaysian Ship Owner's Association (MASA) to issue a Consent Letter (DCL). Disputes between MASA and the Cable operators over the issue of the DCL has been the primary cause of delays.

# Situational Analysis



Thailand has aspirations to be the second ASEAN connectivity hub, leveraging on their Satun-Songkhla “Digital Panama Canal”, allowing cables to bypass the inherently risky Straits of Melaka and save 1,200 km.

The imminent threat to Malaysia is that we may be cut off North and South by the PRIMARY cable routes.

To mitigate this threat, policies which increase risk and uncertainty to submarine cable operators should be reviewed and changed as necessary.

Singapore is an Entrepôt in both container cargo and communications cables. Currently estimated to have about 450 Tbps of sub sea capacity (lit and unlit) with about 15-20 Tbps (< 5%) supplying the island.

# Submarine Cable Market Changes

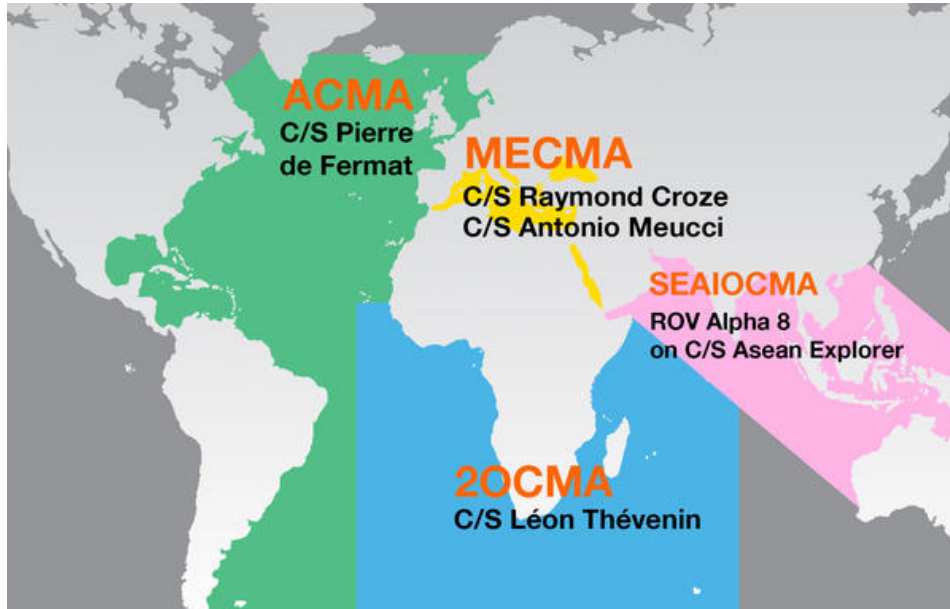
- Internet giants such as Google, Facebook, Amazon Web Services, Microsoft, Netflix, etc make up the lion's share of global Internet traffic, making up 70-80% of Internet content.
- The Internet 'giants' are also transforming the submarine cable business through directly investing in building new cables.
- The global superhighways these giants are building currently pass through Singapore as the ASEAN hub.
- Consequently these giants' data centres are located in Singapore.
- Potentially Thailand's "digital canal" has attractive features to be the alternate route.



# OPPORTUNITY FOR MALAYSIA

- Having the infrastructure of Google, Facebook, Amazon Web Services, Microsoft, Netflix, etc. in Malaysia would have a major boost to Malaysia's aspiration to be the Heart of Digital ASEAN.
- The Internet giants are looking for alternative routes for their submarine cables – after Singapore, Malaysia can be the most attractive target in ASEAN – a combination of location, domestic demand and stability
- There may be a possibility to bring new submarine cable projects with Internet content players in the region to Malaysia such as:
  - The Bay to Bay Express (BtoBE) (Amazon, Facebook) – USA, Hong Kong, Singapore
  - South East Asia Japan Cable 2 (SJC2) (Facebook) – Japan, Korea, Taiwan, Hong Kong, Vietnam, Cambodia, Thailand, Singapore

# REGIONAL MAINTENANCE AGREEMENTS



## South East Asia, Indian Ocean Cable Maintenance Agreement (SEAIOCMA)

- The SEAIOCMA maintenance zone agreement, which is a co-operative organisation managed by 46 cable owners, provides the repair of submarine cables that carry international telecommunications traffic.
- SEAIOCMA spans the area between Djibouti in the west, Perth in the south, Guam in the east and the northern tip of Taiwan.

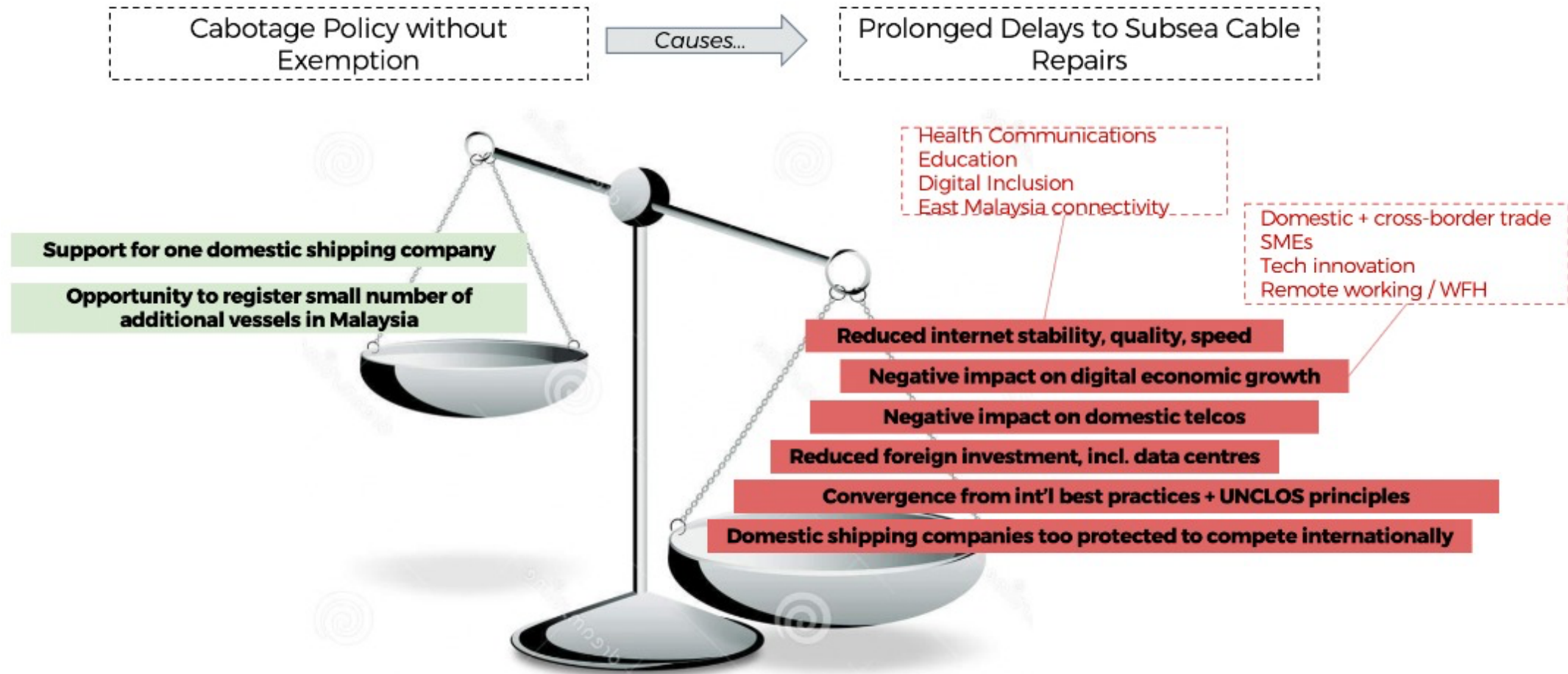
- SEAIOCMA contracts cable ship operators ASEAN Cable Ship Pte. Ltd. (ACPL), Indian Ocean Cable Ship (IOCPL) and Global Marine, to repair cables within the area of coverage.
- ACPL was set up by the ASEAN Telecommunications Authorities (Telekom Malaysia Berhad, CAT Telecom Public Company Limited, Eastern Telecommunications, PT Indosat Tbk, Telekom Brunei Berhad & Singapore Telecommunications Ltd).

# IMPACT OF CABOTAGE POLICY

- Malaysian Cabotage policies (APPENDIX A) restrict submarine cable deployment and operations in Malaysian waters to Malaysian Flag Vessels – Applications for DSLE took an average 27 days (prior to Jan 2019) which means cable repairs are delayed almost a month and increase operational risk and cost for cable operators
  - Such permit delays accumulate to almost 100 days annually for submarine cable repairs in Malaysian Territorial Waters and Exclusive Economic Zones
- As cable systems with TM and Time DotCom participation come under the SEAIOCMMA maintenance agreement, cable repair operations are coordinated by SEAI COMA, including selecting the appropriate cable repair ship from contracted cable ship operators.
  - Cabotage policies delaying SEAIOCMMA from choosing the best repair ship quickly therefore negatively impacts the operations of SEAIOCMMA and Malaysia's aspirations to attract more submarine cable investments.

# IMPACT OF REVOKING THE EXEMPTION

8

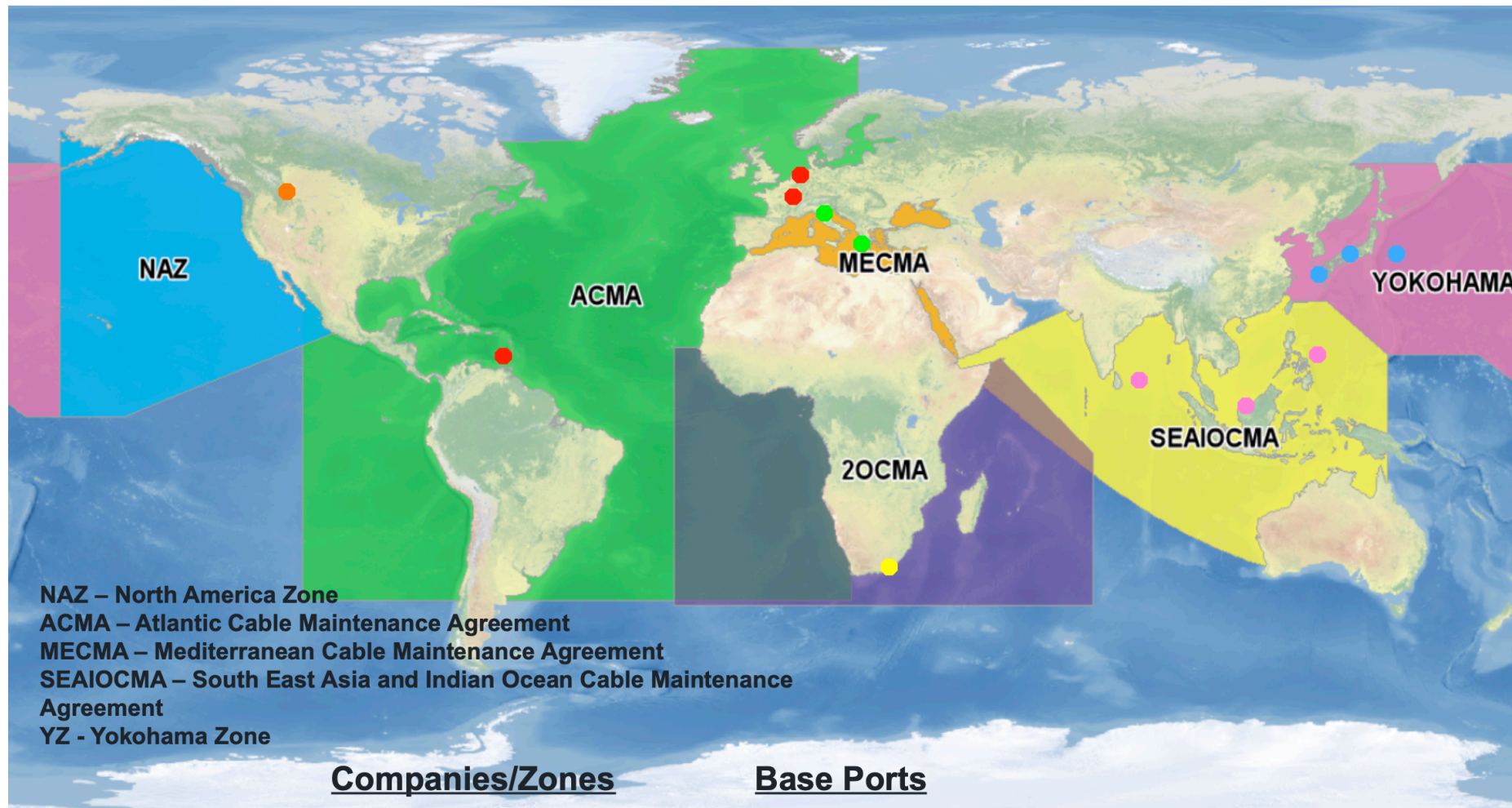


**THANK YOU**

# APPENDIX A: REGIONAL CABLE MAINTENANCE AGREEMENTS

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## APPENDIX B: MALAYSIAN CAPABILITY

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### *Malaysian Submarine Cable Operator and Vessels*

# Optic Marine Services (OMS) Group

13



Country of registration: **Indonesia**  
Cablesip Name: **Ile de Re**  
Baseport: **Jakarta, Indonesia**

Owner/Operator: [PT. PLO \(Pelayan Lintas Optik\)](#) / [Optic Marine Services International Limited](#)  
Purpose: Installation / Repair  
Cable Capacity: 5,040 tons  
Notes: ROV / 3m Plough Capability

DP1



Country of registration: **France**  
Cablesip Name: **Peter Faber**  
Baseport: **Mindelo, Capo Verde**

Owner/Operator: [Optic Marine Services International Limited](#) / [Cable Maintenance Offshore Limited](#)  
Purpose: Installation / Repair  
Cable Capacity: 1000 tons / 362 m3  
Notes: ROV Capability

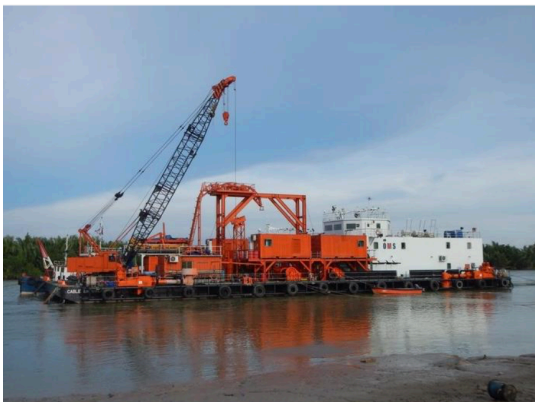
DP1



Country of registration: **Indonesia**  
Cablesip Name: **Teneo**  
Baseport: **Jakarta, Indonesia**

Owner/Operator: [Optic Marine Services International Limited](#) / [PT. PLO \(Pelayan Lintas Optik\)](#)  
Purpose: Installation / Repair  
Cable Capacity: 575 tons / 452 m3  
Notes: Plough / ROV capability

DP1



Country of registration: **Indonesia**  
Cablesip Name: **Cable Empowered**  
Baseport: **Batam, Indonesia**

Owner/Operator: [Optic Marine Services International Limited](#)  
Purpose: Shallow Water Cable Layer  
Cable Capacity: 450 tonnes / 220 m3  
Notes: Plough Capability

DP1

OMS currently has a single Shallow Water Barge Malaysian Flagged



Country of registration: **Malaysia**  
Cablesip Name: **Cable Orchestra (was Fu Xing)**  
Baseport: **Port Kelang, Malaysia**

Owner/Operator: [Optic Marine Services International Limited](#)  
Purpose: Shallow Water Cable Layer  
Cable Capacity: 706 tonnes / 587 m3  
Notes: Plough Capability

DP1



# ASEAN Cableship Pte. Ltd. (ACPL)

14



Country of registration: **Singapore**  
Cableship Name: **Asean Restorer**  
Baseport: **Singapore**

Owner/Operator: [ASEAN Cableship Pte Ltd.](#)   
Purpose: Repair/Lay  
Cable Capacity: 2100 tons  
Notes: Plough/ROV capability

DP2



Country of Registration: **Indonesia**  
Cableship Name: **Asean Explorer**  
Baseport: Batam, **Indonesia**

Owner/Operator: [ASEAN Cableship Pte Ltd.](#)   
Purpose: Repair/Lay  
Cable Capacity: 5760 tons  
Notes: Plough/ROV capability

DP2



Country of Registration: **Indonesia**  
Cableship Name: **Asean Protector**  
Baseport: Batam, **Indonesia**

Owner/Operator: [ASEAN Cableship Pte Ltd.](#)   
Purpose: Deep burial for shore ends for optical and power cable installation  
Cable Capacity: 1000 tons  
Notes: Injector/Rocksaw/Sled/Air-lift capability

DP2

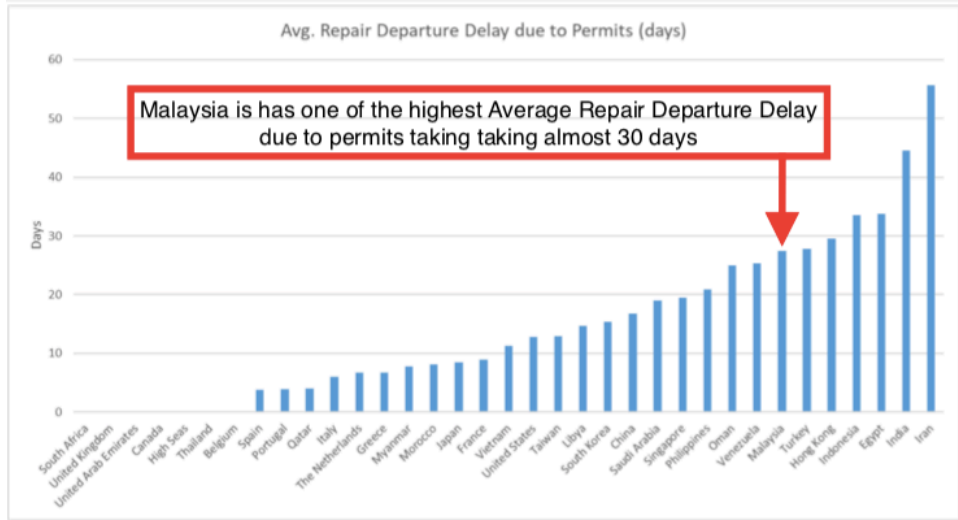
# APPENDIX C: Malaysia's Cabotage Policy

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## *Summary of Key Issues*

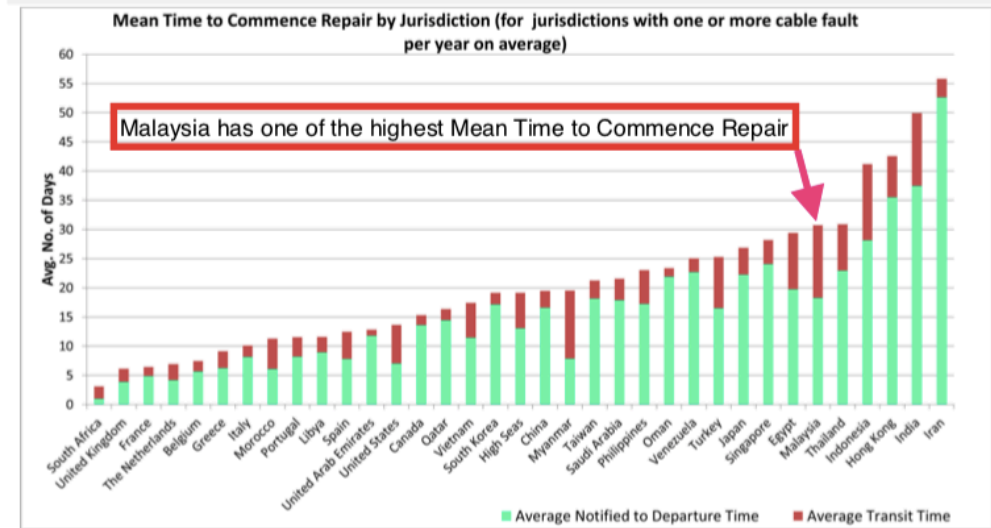
# SUBMARINE CABLE REPAIR DELAYS INCREASE OPERATIONAL RISK AND IMPACT CABLE INVESTMENTS INTO MALAYSIA

Average Departure Delay due to Permits



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(Note that data for the United States includes repairs not only in the TW and EEZ of mainland USA but in its "Unincorporated Territories" of the Territory of Guam and the Commonwealth of the Northern Mariana Islands (CNMI))

Average Repair Commencement Time



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(Note that data for the United States includes repairs not only in the TW and EEZ of mainland USA but in its "Unincorporated Territories" of the Territory of Guam and the Commonwealth of the Northern Mariana Islands (CNMI))

Malaysian Cabotage rules under the Merchant Shipping Act require non-Malaysian flagged submarine cable repair ships to obtain a Domestic Shipping License Exemption (DSLE). Our average 27 day permitting process is almost 4X longer than the 1 week considered to be global best practice. Over a one year period, these permitting delays accumulate to about **100 days**.

How this negatively impacts investments:

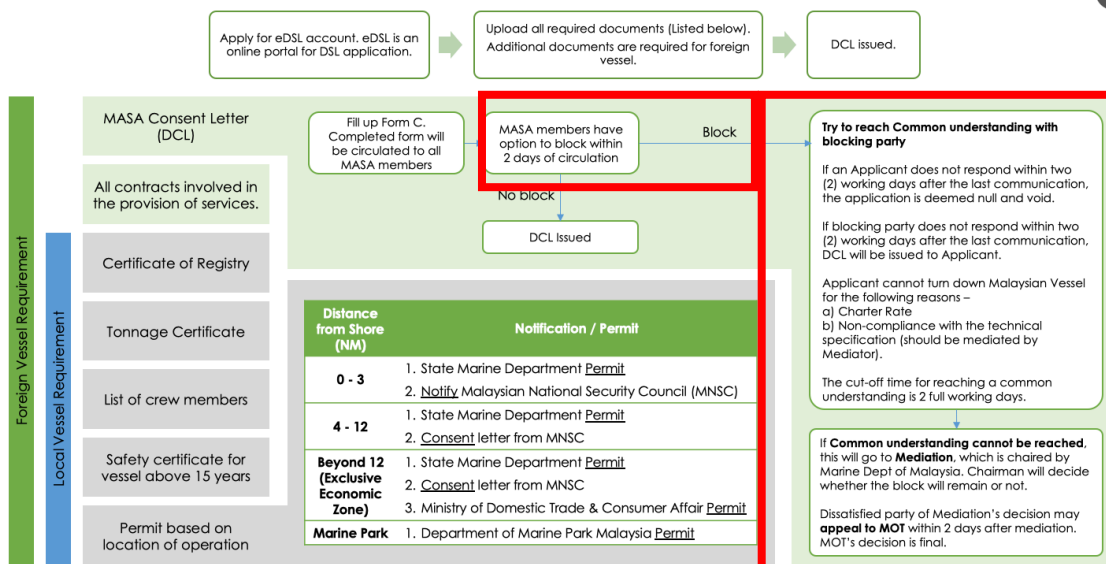
1. Submarine cable systems in Malaysian waters have a high risk of downtime due to delays in repairing cable outages (*Malaysia averages 6 outages a year*) – this discourages cable systems from considering landing in Malaysia which may impact our aspirations for global connectivity.
2. Without extensive international connectivity, global cloud providers do not see Malaysia as an attractive location for their data centre investments.



# Cause of Permitting Delays

- Submarine Cable Ships are very specialized vessels and are in short supply due to the demand for deploying new cables as well as maintaining and repairing cable faults. There are about 60 such vessels globally and **Malaysia has a single Malaysian flagged barge for shallow water operations (as of November 2020)**. (see Appendix B)
- When a cable fault occurs, the cable operator will need to mobilize the nearest available ship with suitable capability (depending on water depth, weather conditions, sea conditions, etc). In many cases, a foreign flagged cable ship will be needed, requiring the cable operator to apply for a **Domestic Shipping License (DSL)**.
- In order to obtain a DSL for a foreign vessel the current process requires the **Malaysian Shipowners Association (MASA)** to issue a **consent letter (DCL)**.
- MASA members can **block the issue of a DCL** resulting in a delay in the issue of the DSL. **On average the delay is 27 days.**

## Processes for Domestic Shipping License (DSL)



- MASA will not issue the DCL if their members want the cable repair job which will lead to a mediation process if the cable operator cannot reach a common understanding with MASA.
- Disputes have resulted from a difference of opinion between cable operators and MASA members on the suitability of their vessel for the job.
- There is also a potential conflict of interest when MASA member OMS has Indonesian flagged vessels which will not be subject to the blocking of the DCL.**

# Cabotage Policy in Malaysia

18

- Introduced on 1.1.1980 (under Part IIB of the Merchant Shipping Ordinance 1952) to promote national shipping industry

## KEY PROVISIONS

65A

- “domestic shipping” means the use of a ship to **provide services, other than fishing**, in the Federation waters or the exclusive economic zone”

Submarine cable related activities falls under Domestic Shipping

65KA

- “**No ship other than a Malaysian ship** may engage in domestic shipping.”
- “A **person not qualified to own a Malaysian ship** as provided by section 11 **shall not charter or otherwise engage any Malaysian ship for domestic shipping** except under and in accordance with such conditions as the Minister may direct or prescribe.”

Unless exempted, no foreign ship or foreign company allowed to do domestic shipping

65L

- “No ship shall engage in domestic shipping **without a licence.**”
- 5 categories** of vessels are **exempted** from licensing requirement

Submarine cable related vessel are not exempted from getting license

65U

- “Without prejudice to any other powers conferred by this Part, the **Minister may, by notification in the Gazette, exempt any ship from any of the provisions** of this Part or any regulations made thereunder upon such terms and conditions as he may deem fit.”

Ministry had granted exemptions on just 3 occasions in the past

# Cabotage Policy Scenario

Requirements to fulfill before carrying out submarine cable related activities:

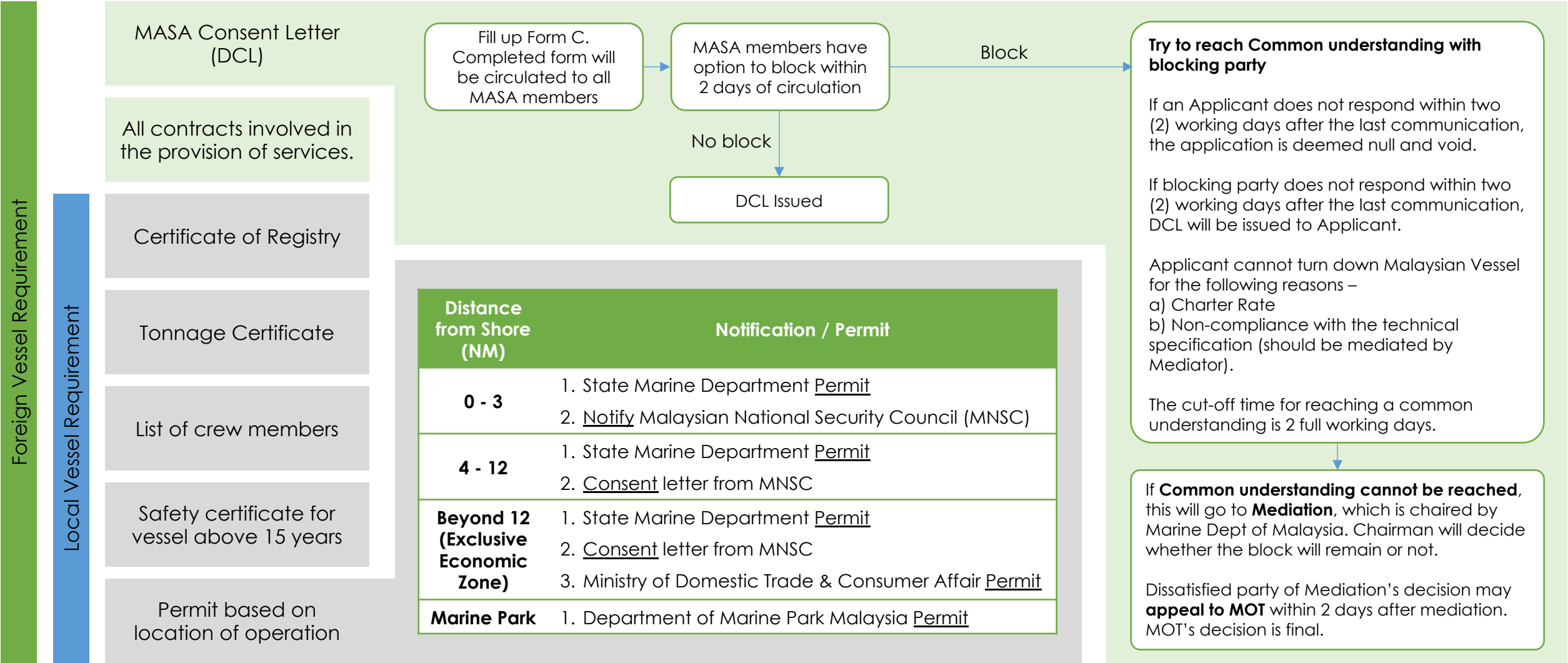
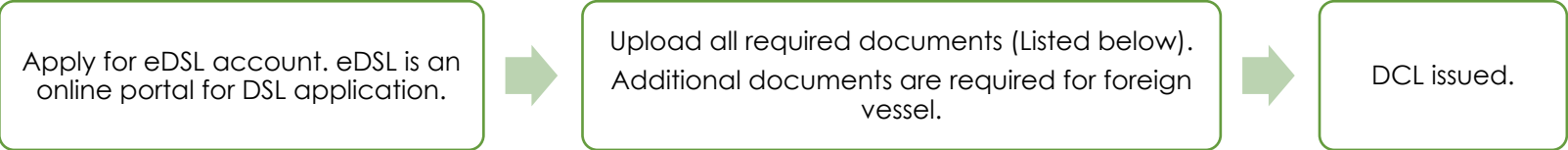
	MALAYSIA FLAGGED VESSEL	FOREIGN FLAGGED VESSEL
MALAYSIAN COMPANY	1. Get DSL	1. Get exemption for foreign vessel (65KA) 2. Get DSL
FOREIGN COMPANY	1. Get exemption for foreign company (65KA) 2. Get DSL	1. Get exemption for foreign vessel (65KA) 2. Get exemption for foreign company (65KA) <b>3. Alternative to 1) and 2) : Incorporate offshore company in Labuan and register the vessel under MISR</b> 4. Get DSL

**2 key requirements:**  
1. Exemption  
2. DSL

**DSL = Domestic Shipping License (Requirement under 65L)**

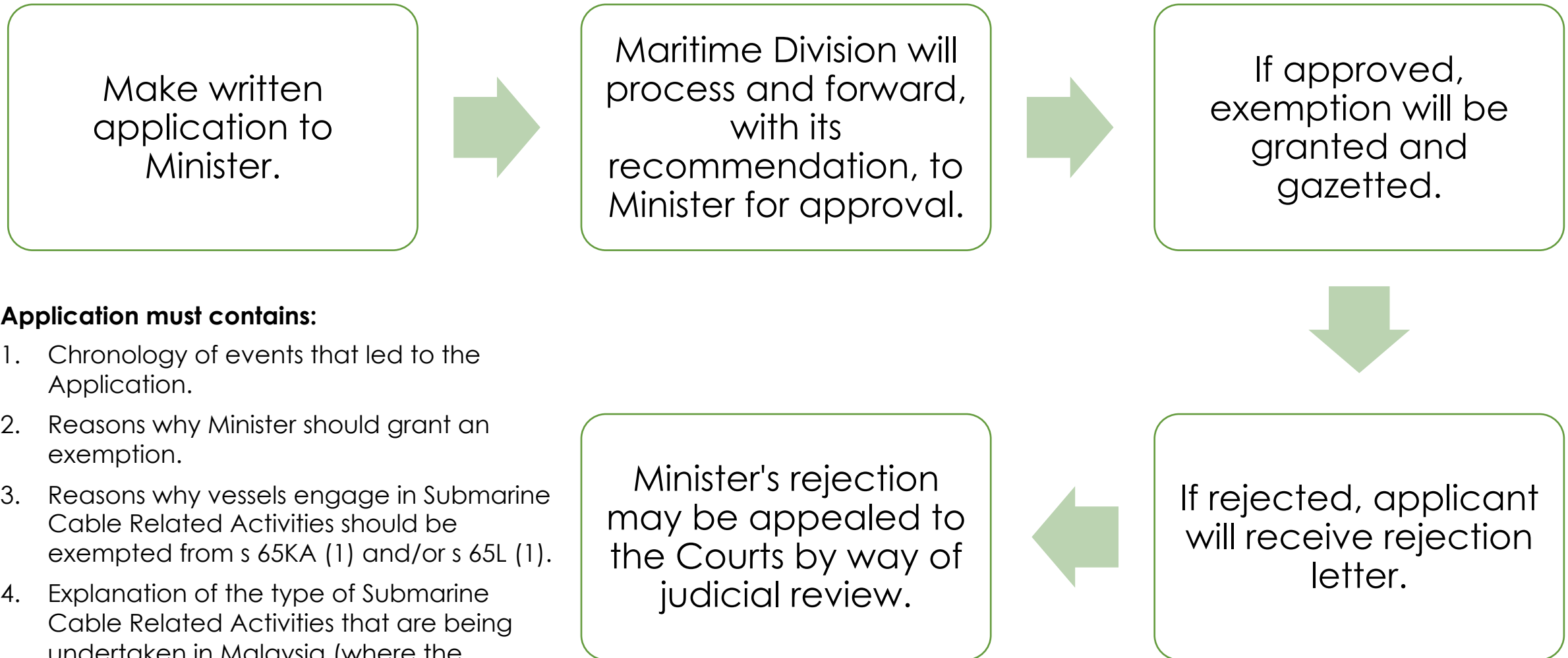
**MISR = Malaysian International Ship Registry**

# Processes for Domestic Shipping License (DSL)



# Processes for Minister's Exemption

21



## Application must contains:

1. Chronology of events that led to the Application.
2. Reasons why Minister should grant an exemption.
3. Reasons why vessels engage in Submarine Cable Related Activities should be exempted from s 65KA (1) and/or s 65L (1).
4. Explanation of the type of Submarine Cable Related Activities that are being undertaken in Malaysia (where the activities will take place, the expected duration of the project, purpose of the project and what are the project management policies in place).