



## **Ban on use of satellite phones in India: 6 years on and violations still occur**

Following the Mumbai terror attacks in 2011, the Directorate General of Shipping (DGS) in India banned the use of “Thuraya, Iridium and other such satellite phones” in Indian waters.

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At the time of its entry into force, the information was distributed extensively and local agents also bring it to the attention of vessels arriving in Indian ports. However, crew members continue to be penalized by Indian authorities for violating type: asset-hyperlink id: 3020809e46b144d1994a18cf6605cf09.

### **Definition of Indian waters**

Indian waters usually refer to the territorial waters of India which extend 12 nautical miles from the baseline. However, Indian Customs waters extend up to the contiguous zone which is measured 24 nautical miles off the baseline. Furthermore, the Indian Government has extended the Customs Act 1962, and the Customs Tariff Act 1975 to certain designated areas on the Continental Shelf and the Exclusive Economic Zone to include certain installations, structures and platforms.

### **Use of INMARSAT phones, dual phones and sat-sleeves**

DGS circular 02/2012 bans the use of “*Thuraya, Iridium and other such Satellite*” phones, which appears to extend the ban to INMARSAT phones. However, some port circulars appear to limit the ban only to non-INMARSAT phones. Notwithstanding the above, Indian authorities are likely to rely on the DGS order and Indian legislative requirements in the event of an investigation and caution is advised when proceeding to such ports. Our correspondent, James Mackintosh informs us that there have been instances where authorities have not raised any issues in respect of fixed Fleet Broadband (FBB) phones, however whether this practice will continue, is uncertain.

Dual phones are available, which can operate both in satellite and GSM mode. The use of such phones may be a violation of the requirements and custom authorities have seized phones with dual features.

The ban also extends to the use of sat-sleeves. These are adapters which can transform a regular phone into a satellite phone.

### **Satellite phones in citadel for anti-piracy purposes**

There are unfortunately no clear guidelines on satellite phones located in the citadel. It is therefore advised that permission is obtained in advance for such phones from the Department of Telecommunications. It is possible that if a satellite phone is used in the event of a piracy attack, the authorities may not take any action.

### **How to get a satellite phone authorized for use in Indian waters**

Currently, a No Objection Certificate (NOC) can be obtained from the Indian Department of Telecommunications for [INMARSAT-B](#), [INMARSAT-C](#), [INMARSAT-M](#), [INMARSAT-Mini M](#), [INMARSAT- Multimedia Mini M \(M4\)](#). Members wishing to obtain an NOC for the satellite phones on their vessels, can apply to the CS Cell of Department of Telecommunications. Usually, the permission is granted for a period of three years from the date of the issue of the license. For Inmarsat Mini M and M4, clearance is likely to be needed from the Ministry of Home Affairs (MHA) before an NOC can be obtained from the Department of Telecommunications (DOT).

Following information would generally be required at the time of applying for an NOC:

- Name of the party
- Full address of the party
- Place of use of INMARSAT terminals

- Period of use of INMARSAT terminals
- Purpose for which INMARSAT terminals will be used
- Type of Terminal for which an NOC is required
- Number of terminals for which an NOC is required.

### **The penalties for violation**

The unauthorised use of satellite phones in Indian waters is punishable with a fine and/or imprisonment up to three years. According to our correspondent, James Mackintosh, monetary fines imposed have generally been in the region of USD 500 – USD 1,000, but there have been some cases where the custom authorities have seized the satellite phone and valued the same at about USD 2,500. The Custom authorities sought to confiscate the seized satellite phone as “goods” impose a fine of USD 2,500, i.e. equal to the value of the phone, and an additional penalty of around USD 1,500 on the Master and/or owners of the vessel. There have also been cases where the offending seafarers have been issued with a show cause notice, although no seafarer appears to have been imprisoned so far.

### **Conclusion**

Members and clients should provide guidance to their Masters to declare the satellite phones before entering Indian waters. Crew members should be made aware not only of the relevant requirements but also of the severe consequences of a breach. Upon a vessel’s arrival in an Indian port, custom authorities would usually require satellite phones to be kept in a locker under custom’s seal. However, companies should not wait until such time, and should have procedures in place to prevent crew from using satellite phones as soon as the vessel enters Indian waters. Having the satellite phone not in use but turned on, may be sufficient to alert the authorities, as the phone would still communicate with the satellite in the background. All relevant actions taken onboard in this regard should be logged. Shipowners should contact their local agent for queries or if clarification is needed as they would be best placed to provide up-to-date requirements.

We would like to thank James Mackintosh & Co., our correspondent in India, and HP Law for their contribution to this alert.