



ANNEX 2

RADIO REGULATIONS BOARD

Report to WRC-03 on Resolution 80 (Rev.WRC-2000)

1 WRC-2000 tasked the Radio Regulations Board (RRB or the Board) under Resolution 80 as follows:

"resolves

to instruct the Radio Regulations Board to carry out studies and consider possible draft Recommendations and draft provisions linking the formal notification, coordination and registration procedures with the principles contained in Article 44 of the Constitution and No. 0.3 in the Preamble to the Radio Regulations, and to report to WRC-03 with regard to this Resolution".

2 Background

2.1 The RRB provided WRC-2000 with a report regarding Resolution 80 (WRC-97) in Document WRC-2000/29. This report provided draft provisions to modify the Radio Regulations in order to satisfy Resolution 80 (WRC-97). WRC-2000 did not adopt the Board's recommendations and decided to carry the work forward to WRC-03.

2.2 During several meetings starting in 2000, the Board considered approaches to satisfy Resolution 80 and established a working group of the Board to carry out the work. During this time the Board considered input documents from Columbia, Sweden, Luxembourg, Netherlands, Norway, Director of BR (including APT discussions) and the report of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space.

2.3 In its initial analysis in 1998 of the regulatory framework related to Article 44 of the Constitution, the Board noted that previous Conferences have implemented the two major principles of the Constitution for sharing the spectrum and orbit resource (also mentioned now in No. S0.3), i.e. the equitable access and efficient use, by defining appropriate procedures.

2.4 In the process of establishing the ITU's space-related regulation, emphasis was laid, from the outset, on **efficient and rational utilization**. This concept was implemented through a "first come, first served" procedure. This procedure of "coordination before use" is based on the principle that the right to use a satellite position is acquired through negotiation with the other administrations concerned by the actual usage of a portion of the spectrum and orbital segment. This procedure offers means of achieving efficient spectrum/orbit management; it serves to fill the gaps in the orbit as needs arise and results, in principle, in a very effective distribution of space stations. The

progressive exploitation of the orbit/frequency resources and the resulting likelihood of congestion of the geostationary-satellite orbit prompted ITU Member countries to consider more and more seriously the question of **equitable access** in respect of the orbit/spectrum resources. This resulted in the creation (and introduction into the ITU regulatory regime) of frequency/orbital position plans in which a certain amount of frequency spectrum is set aside for future use by all countries, particularly those which are not in a position, at present, to make use of these resources. In these plans, each country has a predetermined orbital position associated with the free use, at any time, of a certain amount of frequency spectrum. In fact, in the opinion of many administrations, these plans, together with the associated procedures, guarantee for each country equitable access to the spectrum/orbit resources, thereby safeguarding their basic rights.

The ITU's approach vis-à-vis the principles of efficiency of use and equity in access of the spectrum-orbit resources has been merely to have put them into effect through two major - conceptually different - procedural mechanisms which were developed and implemented, namely:

- a) *a priori* planning procedures (mainly to meet the need for ensuring **equitable access** to orbit/spectrum resources) and;
- b) coordination procedures (with the main aim of ensuring **efficiency** in the orbit/spectrum use).

2.5 During the various deliberations of the Board it was noted that No. 196 (Article 44) of the Constitution identified radio frequencies and the geostationary-satellite and other orbits as "limited natural resources". In the context of No. 196 of the Constitution it was observed also that the issue involved "equitable access" to both radio frequencies and the orbit "... taking into account the special needs of the developing countries and the geographical situation of particular countries".

2.6 The criteria within No. 196 of the Constitution requires that administrations in putting into use frequencies and usage of the GSO to take into account the need to:

- ensure rational use;
- use the resources efficiently;
- use the minimum number of frequencies possible (economical usage);
- operate in conformity with the Radio Regulations;
- ensure equity of access by all countries;
- take into account the special needs of developing countries;
- take into account the geographical situation of other countries.

3 Discussion

3.1 The Board developed and considered a list of items to be addressed in its report to WRC-03, they included:

3.1.1 The Report of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space to its thirty-ninth session (27 March to 6 April 2000). It was noted that the Legal Subcommittee recommended that access to the GSO should be in an equitable manner and according to the Radio Regulations and that administrations having access to the orbit/spectrum resource should take all practicable steps to allow developing and other countries equitable access. Further, countries should file requests in accordance with the provisions of the Radio Regulations.

3.1.2 No. 96 of the Constitution whereby the Board should take action in other areas not covered by the Rules of Procedure.

3.1.3 Resolution 2 and Resolution 4 (Rev.ORB-88) whereby the lifetime of a satellite was discussed but no final definition of satellite lifetime was made. A process may be required to revalidate satellite filings beyond a time period of 15 years with the purpose of increasing the availability of orbit and spectrum use to all countries by not providing any permanent priority to any country for the use of those orbit/spectrum resources.

3.1.4 Article 44 of the Constitution.

3.1.5 The Preamble and Article 1 of the Constitution.

3.1.6 Determination of a body to take any decision regarding the application of equitable access provisions.

3.1.7 Procedures applied in the bands subject to a Plan are mainly intended to provide equitable access. Nevertheless, the Plan modification procedures that are based on first come first served principles improve the efficient utilization of the spectrum and orbit resources.

3.1.8 In the unplanned bands the use of the spectrum and orbit resources is more efficient but is based on a first come first served approach that may not provide for equitable access.

3.1.9 Providers of global/regional satellite services should offer equitable access to the services they provide so that available capacity is used in order to facilitate efficient use of the spectrum resource. Providers should consider concessional access where they may have underutilized capacity.

3.1.10 That satellite systems may be envisioned for use on a single country coverage, multi-country coverage (sub-regional or regional), and worldwide coverage. Such uses are also dependent on the market for the service, investment potential, national authority licensing for domestic use, and competition between service providers. Licensing may include conditions to provide telecommunications for social uses within a country. Regional and worldwide systems should provide non-discriminatory access to their services.

3.1.11 That one satellite platform may be used to provide service to multiple countries and that each country could separately notify the frequency assignments it uses.

3.1.12 That some administrations have determined that there is excess capacity in many of the existing systems in the unplanned bands, and that some satellite operators have indicated that the excess capacity makes it difficult to implement new satellite systems due to reduction of income. The non-connectivity of satellite systems and lack of universal standards adversely affects the efficient use of the spectrum resource. Nevertheless it was recognized that countries may wish to establish systems using their own satellites.

3.1.13 Satellite networks providing subregional, regional or worldwide coverage do not hold any guarantees as to the quality, dependability or continuity of the services provided outside the territory of the licensee country. Private systems providing subregional, regional and worldwide coverage have been developed and countries have been acknowledging the presence within their territories of satellite footprints that may provide services within their national boundaries, as well as cross-border services. Such systems promote and stimulate the globalization and expansion of economies as well as cooperation in the fields of tele-education and assistance in cases of natural disaster (earthquakes, floods, tornadoes, etc.).

3.1.14 The acceptance of systems providing subregional, regional and worldwide coverage is the fruit of the international cooperation that initially led to the establishment, through intergovernmental agreements, of global and regional satellite systems .

3.1.15 With the privatization of intergovernmental global/regional satellite service providers, the concern of countries which do not have their own satellite system is focused on non-discriminatory

access and on the need for guarantees of continuity and quality of the services. This is of particular importance in cases where the satellite option is the only one available for communications pertaining to emergency situations, social services and education *inter alia* to meet the needs of rural and dispersed populations, whose geographic location (such as in mountainous areas) makes it difficult to provide other means of telecommunication.

3.1.16 Because there are legal, political, and economic issues involved, the Board recommends that WRC-03 take the above points into consideration when treating Resolution 80. Moreover, in the interests of securing equitable access to the spectrum/orbit, there would seem to be a need for concerted actions including a BR/BDT agreement with the developing countries aimed at assisting them, from the system design stage through to the coordination stage in resolving any difficulties.

3.2 In the context of the principles of No. 196 of the Constitution, the Board noted some perceived difficulties likely to be experienced by administrations and in particular the administrations of developing countries.

3.2.1 A relative disadvantage for developing countries in coordination negotiations due to various reasons such as a lack of resources.

3.2.2 Access options are restricted by the proliferation of "paper" satellites that need to be taken into account.

3.2.3 The considerable processing delays in the Radiocommunication Bureau are due to the very complex procedures required and the large number of filings submitted that are disproportionate to the resources available in the BR. These delays contribute to a coordination backlog of 18 months which could extend to three years. This creates uncertain regulatory situations, additional delay in the coordination process that cannot be overcome by administrations, and the possible loss of the assignment because the allotted time is exceeded. Incompatibilities between services in shared bands also contribute to the coordination difficulties.

3.2.4 Statutory time frames, such as in No. 11.48 of the Radio Regulations, could be insufficient for developing countries to be able to complete the regulatory requirements in addition to the difficulties related to the design, construction and launch of satellite systems.

3.2.5 There are no provisions for international monitoring to confirm the bringing into use or ceasing operation of satellite networks (assignments and orbits).

4 Suggestions to WRC-03 in respect to *resolves 2* of Resolution 80

4.1 The Board submits the following recommendations to the conference to consider as concepts intended to satisfy the tasking of *resolves 2*) of Resolution 80 (WRC2000):

4.1.1 Special measures for countries submitting their first satellite filing.

4.1.1.1 On an exceptional basis, special consideration could be given to countries submitting their first filing for a satellite system taking into account the special needs of developing countries.

4.1.1.2 Such consideration should take into account the following:

- Impact on other administrations
- Satellite service of the system (i.e. FSS, MSS, BSS).
- Frequency band covered by the filing.
- System is intended to meet the direct needs of the country(s) concerned.

4.1.2 Extension of the regulatory time limit for bringing into use.

4.1.2.1 Conditions could be specified under which extensions might be granted on an exceptional basis to developing countries when they are not able to complete the regulatory date requirements so that sufficient time for design, construction, and launch of satellite systems is made available.

4.1.2.2 The conditions created under 4.1.2.1 should be included in the Radio Regulations as provisions that would allow the Radiocommunication Bureau to grant the extension.

4.2 Other considerations

4.2.1 In regard to Resolution 86 (Rev. Marrakesh 2002) the Conference may wish to take into account the following:

- *noting* b) of the Resolution wherein Resolution 80 (Rev WRC2000) is cited.
- *resolves to request the 2003 and subsequent world Radiocommunication conferences including point i)*

4.2.2 The Board further recommends that, when treating Resolution 80, the conference consider the conceptual approaches mentioned in 4.1 bearing in mind Resolution 86.
