



Radiocommunication Bureau (BR)

Circular Letter
CR/359

17 February 2014

To Administrations of Member States of the ITU

Subject: **Minutes of the 64th meeting of the Radio Regulations Board**

Pursuant to the provisions of Nos. 13.18 of the Radio Regulations and in accordance with §1.10 of Part C of the Rules of Procedure, please find attached the approved minutes of the 64th meeting of the Radio Regulations Board (27 November – 3 December 2013).

These minutes were approved by the Members of the Radio Regulations Board by electronic means and are available on the RRB pages of the ITU web site.

François Rancy
Director

Annex : Minutes of the 64th meeting of the Radio Regulations Board

Distribution :

- Administration of Member States of the ITU
- Members of the Radio Regulations Board

Annex

Radio Regulations Board
Geneva, 27 November - 3 December 2013



Document RRB13-3/8-E
6 January 2014
Original: English

MINUTES¹
OF THE
64th MEETING OF THE RADIO REGULATIONS BOARD

27 November – 3 December 2013

Present: **Members, RRB**
Mr P.K. GARG, Chairman
Mr S.K. KIBE, Vice-Chairman
Mr M. BESSI; Mr A.R. EBADI; Mr Y. ITO;
Mr S. KOFFI; Mr A. MAGENTA; Mr B. NURMATOV;
Mr V. STRELETS; Mr R.L. TERÁN;
Mr M. ŽILINSKAS; Ms J.N. ZOLLER

Executive Secretary, RRB
Mr F. RANCY, Director, BR

Précis-Writers
Mr T. ELDRIDGE and Ms A. HADEN

Also present: Mr F. LEITE, Deputy-Director, BR and Chief, IAP
Mr Y. HENRI, Chief, SSD
Mr A. MENDEZ, Chief, TSD
Mr B. BA, TSD/TPR
Mr N. VASSILIEV, TSD/FMD
Mr A. MATAS, SSD/SPR
Mr M. SAKAMOTO, SSD/SNP
Mr S. VENKATASUBRAMANIAN, SSD/SSC
Mr N. VENKATESH, SGD
Mr V. TIMOFEEV, Special Adviser to the Secretary-General
Mr A. GUILLOT, ITU Legal Adviser
Ms K. GOZAL, Administrative Secretary

¹ The minutes of the meeting reflect the detailed and comprehensive consideration by the members of the Radio Regulations Board of the items that were under consideration on the agenda of the 64th meeting of the Board. The official decisions of the 64th meeting of the Radio Regulations Board can be found in Document RRB13-3/7+Corr.1.

	Subjects discussed	Documents
1	Opening of the meeting	–
2	Late submissions	–
3	Report by the Director of BR	RRB13-3/3 , RRB13-3/INFO/2
4	Consideration of draft rules of procedure	CCRR/49 ; RRB13-3/4
5	Submission by the Administration of Saudi Arabia concerning the splitting of its satellite network filings at 26° E under Appendix 30B based on the frequency bands	RRB13-3/5
6	Change of notifying administration for the ARTEMIS-21.5E-DR, ARTEMIS-21.5E-LM and ARTEMIS-21.5-NAV satellite networks	RRB13-3/6
7	Consideration of frequency assignments of ASIASAT-CKZ satellite network under No. 13.6 of Radio Regulations	RRB13-3/2
8	Report of the Working Group on the Rules of Procedure	RRB12-1/4(Rev.7) , RRB13-3/INFO/1
9	Election of the vice-chairman for 2014	–
10	Dates of the next meeting and schedule of meetings in 2014	–
11	Approval of the summary of decisions	RRB13-3/7+Corr.1
12	Closure of the meeting	–

1 Opening of the meeting

1.1 The **Chairman** opened the meeting at 1400 hours on Wednesday, 27 November 2013, and welcomed participants to Geneva.

1.2 The **Director** conveyed to members the greetings of the Secretary-General, who owing to his work commitments was unfortunately unable to visit them in person at the present meeting.

1.3 The **Chairman** thanked the Director, and asked him to convey all Board members' greetings to the Secretary-General in return.

2 Late submissions

2.1 The **Chairman** asked the Board to decide how it wished to handle the following four late submissions to the present meeting:

- RRB13-3/DELAYED/1, containing a letter from the Administration of Malta dated 24 October 2013, relating to the interference caused by Italian stations to its stations
- RRB13-3/DELAYED/2, containing a letter from the Administration of China dated 15 November 2013, requesting the Bureau's assistance in relation to the resolution of coordination difficulties between United Arab Emirates and Chinese satellite networks at 51.5° E and 52.5° E
- RRB13-3/DELAYED/3, containing a letter from the Administration of the United Arab Emirates dated 24 November 2013, responding to China's late submission in RRB13-3/DELAYED/2
- RRB13-3/DELAYED/4, dated 27 November 2013, containing a roadmap submitted by Italy concerning the actions it was taking "to solve the interferences with its neighbouring countries".

2.2 The Board **agreed**, in accordance with established practice, to take up RRB13-3/DELAYED/1 and RRB13-3/DELAYED/4 under the agenda item to which they related, namely the Director's report to the present meeting in Document RRB13-3/3.

2.3 Regarding RRB13-3/DELAYED/2, **Mr Strelets** noted that the letter it contained appeared to be a request for the Bureau's assistance, and did not seem to concern the Board directly. Referring to Mr Ito's intervention at the Board's 63rd meeting as reflected in § 6.11 of the minutes of that meeting (Document RRB13-2/12), he said that the matter concerned the two administrations involved in the coordination, and the Bureau if requested by one or both of the administrations to provide assistance, but not the Board. If the Board agreed not to take up RRB13-3/DELAYED/2, it would obviously not take up RRB13-3/DELAYED/3 either, as the latter came in response to the former.

2.4 **Chief SSD** confirmed that RRB13-3/DELAYED/2 contained a request for the Bureau's assistance, which the Bureau was following up with both the administrations involved in the coordination. At the end of its letter of 15 November, however, the People's Republic of China requested clarification of certain parts of the decisions and minutes of the Board's 62nd and 63rd meetings, and it was surely up to the Board rather than the Bureau to provide such clarification.

2.5 **Mr Bessi** said that it might be useful to ask the Chinese Administration to clarify what precisely it was asking of the Board in its letter of 15 November. In any case, the late submission did not relate to any item on the agenda of the present meeting, and therefore the Board should defer its consideration, and that of the United Arab Emirates' response to it in RRB13-3/DELAYED/3, to the Board's 65th meeting.

2.6 Having regard to § 1.6 of the Board's working methods (Part C of the Rules of Procedure), the **Chairman** said that the late submissions from China and the United Arab Emirates should be taken up at the Board's 65th meeting.

2.7 It was so **agreed**.

3 Report by the Director of BR (Documents RRB13-3/3, RRB13-3/INFO/2)

3.1 The **Director** introduced his report in Document RRB13-3/3, drawing attention to Annex 1 which listed the Bureau's actions arising from the decisions of the previous meeting. In addition, the Bureau had invited a delegation of the Islamic Republic of Iran and a delegation of France to a meeting (as indicated in § 4.4 of Document RRB13-3/3) and a delegation of the Islamic Republic of Iran, a delegation of France and a delegation of Saudi Arabia to a meeting (as indicated in § 6.3 of Document RRB13-3/3). He was pleased to inform the Board that those meetings had been successful and the Bureau was satisfied with the outcome, which followed three years of work on the part of the Board and Bureau.

3.2 **Chief SSD**, presenting the sections of the Director's report related to space systems, referred to § 2 and Annex 3, describing the situation with respect to the processing of space notices. He made statistics available that had been updated to include October 2013. The Bureau continued to keep up to date with the treatment of notices. Responding to a query by **Ms Zoller**, he said that although a few of the processing times for October 2013 marginally exceeded the deadline, those were normal seasonal fluctuations. It was, of course, important to carefully observe and ensure that processing times did not further deteriorate, he however expressed confidence that the current level of staff resources of the Bureau was sufficient to keep up with the workload. It would be up to the next plenipotentiary conference to ensure that ITU and the Bureau continue to be adequately funded to maintain compliance with the requirements of international regulations, including the Radio Regulations.

3.3 With regard to § 3 of the Director's report dealing with the implementation of cost recovery for satellite network filings (late payments), the satellite network filings for which payment had been received after the due date but prior to the BR IFIC meeting that would have cancelled them, and which the Bureau continued to take into account, as well as the filings cancelled as a result of non-payment of invoices, were listed in Annex 4 to the report. The implementation of various provisions of the Radio Regulations was covered in § 5 of the report, mainly concerning the suppression of coordination requests. Statistics were provided up to 15 October 2013 for the non-planned services and for the planned services under Appendices 30, 30A and 30B. The Bureau continued to examine carefully submissions related to the respect of the regulatory provisions on the bringing into use and continuing use of frequency assignments and to follow up and request clarification where there was any doubt. Coordination of satellite networks at 25.5°/26° E was dealt with in § 6 of the Director's report. As the Director had said, a tripartite meeting had been held on 12-13 November 2013 under the auspices of the Bureau, as requested by the Board, and the three delegations (from the Islamic Republic of Iran, France and Saudi Arabia) had reached an agreement on the division of the Ku-band at 25.5°/26°. The draft agreement was currently being examined by the Administrations of the Islamic Republic of Iran, Saudi Arabia and France prior to signature. The administrations and operators concerned thanked the Board members for their support and assistance in resolving such a delicate problem. The Bureau was satisfied with the outcome and expected that coordination would now proceed as normal.

3.4 International monitoring information related to space stations was the subject of § 7 of the Director's report. The Bureau had drafted a cooperation agreement that could, as appropriate, be concluded between ITU and administrations having monitoring facilities. The objective of the draft cooperation agreement was set out in § 7.2 and the proposal was that it would cover the provision of data to assist ITU in resolving cases of harmful interference pursuant to Article 15 and No. 13.2 of

the Radio Regulations, the provision of monitoring data – at ITU’s request – in cases of reported interference arising from coordination problems (Article 11, No. 11.41 of the Radio Regulations), and the provision of monitoring data concerning the technical characteristics of GSO satellite systems to ensure the compliance of the actual use with the information recorded by ITU in the MIFR or plans. As indicated in § 7.3, a letter signed by the Secretary-General, with the draft cooperation agreement, had been sent on 6 August 2013 to administrations with monitoring facilities that were part of the international monitoring system. The Bureau, conscious of the innovative character of the approach, requested comments, suggestions and views by those administrations on the proposed draft cooperation agreement.

3.5 With regard to the meeting referred to by the Director, between a delegation of the Islamic Republic of Iran and a delegation of France (as the notifying administration for the intergovernmental satellite organization EUTELSAT), concerning harmful interference affecting transmissions on EUTELSAT satellites at 7° E and 13° E, there had been no more reports of such interference since February 2013, the issue on the troublesome transponder (number 87) was settled on the eve of the meeting, and the two administrations had also agreed that in future immediate measures should be taken to avoid further occurrence of past reported-interference to Iranian transmissions on certain broadcasting channels using Eutelsat satellites. He hoped that the spirit of cooperation exhibited by the two administrations would continue in the future.

3.6 **Mr Magenta, Mr Bessi** and the **Chairman** congratulated the administrations concerned and the Bureau for the progress made. **Mr Ebadi** joined those speakers in congratulating the administrations and the Bureau, and highlighted the hard work of the Secretary-General in helping to achieve progress in various long-standing cases of harmful interference, including that between the United States and Cuba.

3.7 The **Director** observed that the agreement reached between the Administrations of Saudi Arabia, the Islamic Republic of Iran and France, involving two satellites in close proximity, was a great success for the Board and for ITU, and reflected a courageous decision taken by the Board some three years ago. It demonstrated that it was possible to solve problems through the ITU spirit of compromise.

3.8 The Board **approved** its conclusions on the matter as follows:

“The Board appreciated the efforts of the Bureau and the Administrations of Saudi Arabia, Iran and France in the coordination relating to the satellite networks at 25.5°/26° E.

The Board noted with satisfaction that the harmful interference to the satellite networks of EUTELSAT has discontinued and appreciated the efforts of the Bureau and the Administrations of France and Iran in this regard.”

3.9 **Mr Bessi** noted that, according to § 7.2 of the Director’s report, the proposed cooperation agreement would be used not only to resolve cases of harmful interference, but also to ensure compliance with the MIFR.

3.10 **Mr Strelets**, referring to § 7, asked how international monitoring would be implemented. Given the innovative nature of the approach, he would be interested in any feedback from administrations on the draft agreement.

3.11 The **Director** said that there was no protocol for the implementation of monitoring. The draft cooperation agreement would enable ITU to acquire information to support the Board in carrying out its mandate under No. 13.6, as decided by WRC-12. The Bureau would synthesize any relevant information from international monitoring and make it available to the Board. To be credible, the information would have to emanate from at least two sources and cover a sufficiently long period. From his own experience, both a database and monitoring information were needed for spectrum management. For 50 years, ITU had managed with just a database, but the resources are

now close to saturation. Administrations with international monitoring capabilities would be able to help ITU bring its database closer to reality.

3.12 **Ms Zoller** thanked the Director for his clarification of § 7. She recalled that the Board had discussed international monitoring at length at its 62nd meeting and that the Board had supported the use of international monitoring data to resolve cases of harmful interference. But the use of international monitoring data to verify compliance with the MIFR would affect the rights and obligations of Member States, which arose from their frequency assignments in the MIFR. She therefore considered that such a sensitive subject should be dealt with by a WRC. Apparently, a recent RAG meeting had discussed the use of international monitoring to check data in API coordination requests and notifications in regard to satellite networks.

3.13 **Mr Nurmatov** said that the Secretary-General's letter mentioned in § 7.3 had been discussed by the RCC commission on frequency spectrum and satellite orbits usage management, at its meeting in October 2013, in Astana, Kazakhstan. The commission had recognized the importance of international monitoring in resolving problems of harmful interference to satellite networks. It nevertheless had noted that broadening the scope of the use of international monitoring, with the involvement of administrations, to include checking compliance with the MIFR, raised legal and technical matters that might affect other administrations, as well as having potential financial implications. In that regard, he drew attention to Council Decision 563 (modified 2013) on the Council Working Group on Financial and Human Resources, which included in the group's terms of reference "To consider criteria to determine the financial and strategic implications of the establishment of Memoranda of Understanding (as well as Memoranda of Cooperation and Agreement) to which the ITU is or will be a party". The RCC commission considered that the practical implementation of the proposed cooperation agreement required full discussion within ITU, by the Council and plenipotentiary conference.

3.14 **Mr Bessi** said that the Director had clarified matters. The results of international monitoring by monitoring centres accepted by ITU would be submitted to the Board in information documents when necessary to assist the Board in taking decisions. In the past, the Board had used available information in reaching its decisions, and in the future, it would have at its disposal information emanating from international monitoring centres. A decision on the scope of the use of international monitoring information should be taken by a world radiocommunication conference. With regard to the implementation of No. 13.6 of the Radio Regulations, the Board would base its decisions on information from administrations, complemented by information documents prepared by the Bureau and including information from international monitoring stations.

3.15 **Mr Strelets** noted that Article 16 of the Radio Regulations, which applied to both terrestrial and space services, set out the procedures related to international monitoring. He drew attention, in particular, to No. 16.7, which stated that "The Bureau shall record the results supplied by the monitoring stations participating in the international monitoring system, and shall prepare periodically, for publication by the Secretary-General, summaries of the useful monitoring data received by it including a list of the stations contributing the data." The use of monitoring data was subject to the Radio Regulations, and it was clear from that provision that international monitoring information was not prepared for the convenience of the Board. If the Board wanted such information to be submitted to it in information documents, as Mr Bessi suggested, then a rule of procedure should be drafted to that effect.

3.16 **Mr Bessi** said that his previous comments had related to the application of No. 13.6 in the context of non-geostationary satellite networks. He saw Article 16 as being applicable to geostationary satellite and terrestrial networks.

3.17 The **Director** confirmed that his remarks had concerned No. 13.6. Responding to the comments made by Mr Strelets, he said that he did not see in Article 16 any provisions that had regulatory consequences. The Bureau's preparation of summaries of the results supplied by the

monitoring stations for publication was for the purposes of transparency and had no regulatory consequences. If the results indicated non-conformity with the Radio Regulations, then the Bureau would so inform the administrations concerned but would not cancel any filings. Mr Nurmatov had mentioned a concern expressed within the RCC that the monitoring information could be used for regulatory purposes and could affect the rights of administrations. Ms Zoller had categorized the subject as being sensitive. The Board, however, was used to dealing with sensitive subjects, and it would be the Board – not the Bureau – that would decide what use to make of information from international monitoring. In his view, it would be useful to have some experience with the use of international monitoring information prior to WRC-15. His advice was to try it out and see whether the matter needed to be discussed at WRC-15. International monitoring would be addressed in the Director’s report to WRC-15.

3.18 **Mr Koffi** said that it would be interesting to see the content of the draft cooperation agreement and asked for copies to be made available to the Board.

3.19 The **Director** said that copies of the draft cooperation agreement would be circulated to Board members. In terms of content, however, the essence of the agreement was reflected in § 7 of his report.

3.20 **Mr Ebadi** observed that, as noted by Ms Zoller, the Board had previously discussed the matter at length, and the RAG had also taken up the subject. Referring to Article 16, he said that he had difficulty in understanding No. 16.1 and in particular the phrase “to help ensure efficient and economical use of the radio-frequency spectrum” in the context of international monitoring.

3.21 The **Director** recalled that the Constitution (CS78) referred to the “efficient and economical use of the radio-frequency spectrum”. In his view, the efficient use of the spectrum required the accurate recording of assignments in the MIFR. In reality, there were instances of non-compliance with the Radio Regulations, both in regard to assignments and modifications to assignments, and for that reason there was a need for an international monitoring system.

3.22 **Chief TSD** added that there was regular monitoring of terrestrial services and that the results were published every three months. Reported instances of non-compliance were drawn to the attention of the administrations concerned, by the Bureau, and corrective action was requested. Such monitoring to verify emissions was carried out under Nos. 16.1 and 16.7.

3.23 **Mr Strelets** thanked the Director and Chief TSD for their clarifications but pointed out that Chapter IV of the Radio Regulations dealt with “Interferences” and comprised just two Articles – Article 15 (Interferences) and Article 16 (International monitoring) – thereby linking international monitoring with solving the problems of harmful interference. The proposed cooperation agreement went beyond the existing regulations, as the Bureau was well aware, given its request, noted in § 7.3 of the Director’s report, for feedback from administrations because of “the innovative character of this approach”. The matter should be discussed in the appropriate forums, as stated by Ms Zoller and Mr Ebadi. International monitoring had already been discussed by RAG and the Council. It now needed to be discussed by the plenipotentiary conference and the world radiocommunication conference.

3.24 The **Director** stressed that the Bureau would continue to work in the same regulatory environment as at present. Because No. 13.6 directed the Bureau to act in a certain way in response to “reliable information available”, it was reasonable to infer that the Bureau should be able to obtain reliable information. There was no need to modify the Radio Regulations in order to enable the Bureau to get information. Furthermore, it seemed preferable to obtain information from administrations rather than the operators concerned. Often the problems of compliance with the Radio Regulations concerned bringing into use and were brought to the attention of the Bureau when other administrations (or operators) challenged the information provided by the administration concerned. In such cases, there could be conflicts of interest and, in line with No.

13.6, the Bureau needed reliable sources of information, hence the need for international monitoring. He reiterated that, as at present, it would be the Board – not the Bureau – that decided how the information would be used.

3.25 **Mr Ebadi** said that the more the matter was clarified, the greater were his difficulties with the proposed approach. Because Articles 15 and 16 constituted a chapter on “Interferences”, he supported the view expressed by Mr Strelets that international monitoring should be used only to resolve problems of interference.

3.26 The **Director** said that § 7 of his report set out two aspects to the use of international monitoring information: first, in cases of harmful interference; and second, in verifying compliance with technical characteristics, in particular in cases of bringing into use (for example, the positioning of spot beams). He pointed out that cases of harmful interference arose under Article 4 as well as under Article 15. Other cases arose under No. 13.6 and other provisions. Any possible regulatory consequences would be dealt with only by the Board, and he was sure that the Board would not take any decision that failed to take account of sensitivities or difficulties.

3.27 The **Chairman** invited Board members to give further thought to the subject.

3.28 **Chief TSD**, presenting the sections of the Director’s report related to terrestrial systems, drew attention to Annex 2, which provided information on the processing of notices for terrestrial services. Despite the increasing number of submissions, all notices had been processed within the regulatory time limits. In § 4 of the Director’s report, a series of tables covering the period January to September 2013 provided statistics on communications received concerning harmful interference (space and terrestrial services), a summary of cases of harmful interference concerning terrestrial services, a summary of cases of harmful interference concerning space services, and reports of infringements. With regard to specific cases, § 4.2.1 dealt with the United States and Cuba, § 4.2.2 dealt with Italy and neighbouring countries, and § 4.2.3 dealt with the Republic of Korea and the Democratic People’s Republic of Korea.

3.29 Concerning harmful interference to the VHF/UHF broadcasting (sound and television) service of Cuba, the Board **noted** that there had been no report of harmful interference involving the Administrations of the United States and Cuba since May 2013.

3.30 Concerning harmful interference to the VHF television broadcasting service of the Administration of the Democratic People’s Republic of Korea, **Chief TSD** informed the Board that the Republic of Korea had announced analogue switch-off at the end of 2012.

3.31 The Board **noted** that there had been no report of harmful interference involving the Administrations of the Democratic People’s Republic of Korea and the Republic of Korea since August 2013.

3.32 Concerning harmful interference to broadcasting stations in the VHF/UHF bands between Italy and its neighbouring countries, **Chief TSD** said that all the reports of harmful interference had been posted on the ITU website. The Administration of Slovenia had informed the Bureau that the harmful interference caused by Italian stations persisted. The Administration of Switzerland had indicated that Italy’s roadmap of June 2013 did not contain any information concerning its broadcasting services that were still affected by the harmful interference caused by Italian stations. The Administration of Croatia had sent the Bureau copies of more than 500 reports of harmful interference that Croatia’s broadcasting service had addressed to the Administration of Italy. There had, however, been some progress. He drew attention to the late submission from the Administration of Malta (Document RRB13-3/DELAYED/1), which stated that “the interference affecting Malta’s GE06 channel 60 has been resolved and a reduction in the interference levels on some other channels has been registered. However, the said reductions are not considered adequate and Malta expects that further remedies will be taken by Italy to completely resolve these interferences.” The Administration of Malta noted that at a meeting on 10 October 2013, Italy had

made a commitment “to resolve the interference on channel 38 and 56 by mid-November 2013.” He further drew attention to the late submission from the Administration of Italy (Document RRB13-3/DELAYED/4), called a roadmap but in reality an information document from Italy to the Board summarizing past and planned actions to resolve the cases of interference concerning Malta, France, Croatia, Slovenia and Switzerland. The Italian Administration informed the Board that it had issued a decree on 24 September 2013 regulating the use of residual and free frequencies, the top priority being the “substitution of frequencies causing harmful interferences towards stations of neighbouring countries”.

3.33 The **Chairman** observed that the tenacity of the Board, the Director and the Secretary-General had finally produced results and that those efforts should continue until the remaining cases of harmful interference caused by Italian stations were resolved.

3.34 **Mr Žilinskas** was pleased that the efforts of the Bureau, the Secretary-General and the Board were getting better results. A step had been taken by the Italian Administration, and he hoped for further progress. It was curious, however, that Italy tended to send its documents to the Board at the last minute. To get the full picture, the Board would need to see the responses from the neighbouring countries in order to assess the value of the attractive promises contained in Italy’s late submission. Personally, he was concerned to see that the Italian Administration emphasized that it had not ratified the GE-84 Agreement, which might mean that it did not intend to resolve the harmful interference to sound broadcasting. The Board should consider the subject of the harmful interference caused by Italy to neighbouring countries in the context of the excellent and clear explanation given by the Legal Adviser in Document RRB13-3/INFO/2. The countries concerned might wish to take appropriate measures.

3.35 **Mr Strelets** said that the Board had achieved many positive results – the Democratic People’s Republic of Korea and Cuba had stopped reporting harmful interference, agreements had been reached between the Islamic Republic of Iran and France, and between the Islamic Republic of Iran, France and Saudi Arabia – and he hoped that the problems of harmful interference caused by Italy could be solved just as successfully. It was difficult for the Board to judge the effectiveness of the measures set out in Document BBR13-3/DELAYED/4, but it seemed that multilateral meetings under the auspices of the Bureau might be the way forward.

3.36 **Mr Koffi** congratulated Italy on its efforts and welcomed its new proposals for solving the problems. The final section of Document RRB13-3/DELAYED/4, in particular, seemed to reflect concrete progress.

3.37 **Mr Ito** thanked those who had worked hard to achieve progress but pointed out that the problems were not yet resolved. He suggested that the Administration of Italy should be asked to send regular interim progress reports to the Board.

3.38 The **Chairman** agreed that periodic reports would be helpful. He suggested that the Board should thank Italy for its efforts in providing information and urge it to resolve the remaining problems as soon as possible.

3.39 **Ms Zoller** agreed with the Chairman and congratulated those who had made their best efforts to move the situation towards resolution. The Board also had before it the analysis provided by the Legal Adviser in Document RRB13-3/INFO/2, which related to the subject being discussed, and she asked when that document would be taken up.

3.40 The **Chairman** asked Chief TSD to introduce Document RRB13-3/INFO/2 in the absence of the ITU Legal Adviser.

3.41 **Chief TSD** agreed to highlight some of the points raised in the document, noting that the Legal Adviser would be present later in the meeting to answer any questions raised by Board members. As stated in Document RRB13-3/INFO/2, while the Italian Administration was a

signatory to the GE-06 Regional Agreement, it had to date not formally “approved” the agreement. Italy’s status as a signatory, while not making it a “Contracting Member” (party) to the Agreement, nevertheless imposed upon it some significant obligations. Also, the fact that the Italian Administration had on several occasions applied Article 4 of the GE-06 Regional Agreement was not without legal consequence. Article 18 of the 1969 Vienna Convention on the Law of Treaties, to which Italy had been a party since 25 July 1974, provided that “a State is obliged to refrain from acts which would defeat the object and purpose of a treaty.... until it shall have made its intention clear not to become a party to the treaty”. Thus, as a signatory to the GE-06 Regional Agreement, Italy should not authorize the bringing into use of a frequency assignment that was not in conformity with the agreement or plan in question. The Italian Administration had to date applied Article 4 of the GE-06 Regional Agreement on seven occasions, for some 8 000 assignments, despite a fundamental principle of law whereby “no one may at the same time claim to enjoy a right and to be free of the obligations attaching to it”. As an ITU Member State party to the Constitution, Convention and Radio Regulations, Italy was bound to apply the provisions of those treaties, in particular Article 45 of the Constitution dealing with harmful interference and the provisions of the Radio Regulations that existed to protect the radio services of other countries. Although ITU’s legal framework did not provide for any coercive mechanism or sanctions in the event of a Member State’s failing to comply with its obligations with respect to a treaty concluded under the auspices of the Union, Article 6 of the GE-06 Regional Agreement offered arbitration as a legal channel through which to settle disputes.

3.42 The **Chairman** asked whether members of the Board had any questions that they wished the ITU Legal Adviser to answer.

3.43 **Mr Ebadi** asked which law would apply if administrations decided to go to arbitration. He also wanted to know where the arbitration would take place. Would it be in Geneva?

3.44 **Mr Strelets** said that the analysis provided by the Legal Adviser was of interest to all administrations and he suggested that the document should be posted on the Board’s webpage. Also, to ensure that the information was brought to the attention of the administrations concerned, the Bureau should send the document to all administrations affected by harmful interference from Italy. He pointed out that not all administrations read the documents that were posted on the Board’s webpage.

3.45 **Mr Bessi** said that the document was clear and he had no additional questions. The Board should consider what steps to take in order to get the maximum value from the document.

3.46 **Ms Zoller** agreed with Mr Strelets that the analysis by the Legal Adviser had profound implications for all administrations, in particular with regard to the obligations that they incurred by signing the final acts of treaty conferences to apply the texts (even if they did not ratify the treaty concerned). Perhaps the analysis by the ITU Legal Adviser might be sent to all administrations via a circular letter.

3.47 **Mr Magenta** said that, although the analysis by the Legal Adviser dealt with a specific administration that had signed but not ratified the GE-06 Regional Agreement, other administrations were in the same position and the document applied more generally. He wished to know how a dispute would be dealt with if both parties had signed the agreement but neither had ratified it.

3.48 The **Chairman** said that there was a consensus in the Board that the document provided by the Legal Adviser would be useful to administrations. He asked for the Director’s views about giving the document a wider circulation.

3.49 The **Director** saw no problem in sending the document to the administrations concerned, namely Italy and neighbouring countries. He agreed with Mr Magenta, however, that the principles

set out in the document were also of general interest and considered that a generalized version would be more suitable for sending to all administrations.

3.50 **Mr Bessi** said that the document as it stood would be a valuable input to bilateral meetings among the administrations concerned. If ITU sent out a generalized version of the text to all administrations, they would wonder why that had been done.

3.51 **Mr Ebadi** was against embarking on legal proceedings to resolve disputes between administrations. Even if one of the administrations that was suffering harmful interference from Italy decided to go to arbitration to settle the dispute, the outcome would have no practical consequences and the only result would be to drag matters out for an even longer period. Progress would be made on the basis of a proper roadmap, and Italy had made a start in that respect. He advised against embarking on any unnecessary legal procedures.

3.52 **Mr Magenta** observed that Document RRB13-3/INFO/2 was an official document of the present meeting and was therefore open to all administrations. He supported the comments made by Mr Bessi and Mr Ebadi.

3.53 The **Chairman** subsequently invited the ITU Legal Adviser to respond to the questions raised by Board members.

3.54 The **ITU Legal Adviser** said that he would not repeat the information contained in Document RRB13-3/INFO/2, which Chief TSD had already presented to the Board on his behalf, but would attempt to respond to the questions that had been transmitted to him via the secretariat. The first question concerned the place and legal regime for arbitration, should the parties resort to arbitration in accordance with Article 41 of the Convention. Unless the parties reached agreement on the place of arbitration prior to the start of the arbitration process, the arbitrator or arbitrators would decide on the place. Thus the place of arbitration would not necessarily be Geneva. Rather, the choice would depend on the parties concerned or, in the event of their failure to agree on a place, the choice would be made by the arbitrator or arbitrators. The arbitrator or arbitrators would decide which law was applicable. That would probably be positive international law in force at the time of the dispute. Positive international law was based on the relevant treaties and customary laws, as well as general principles of law, in particular the principles of international law. The arbitrator or arbitrators could also base their decision, on a subsidiary basis, on elements of doctrine. However, unless foreseen in a possible arbitration agreement between the parties, the arbitrating body would not be able to base its judgement on considerations of expediency or equity. Further, they themselves could decide on the validity of any disagreement with regard to their own competence. The second question was whether it would be preferable to work on a roadmap, given that it would take a long time to reach a solution through arbitration. Arbitration was a long and costly process, especially if the role and function of the arbitrator were not agreed by the parties in advance of the arbitration procedure. Better a good agreement than a bad process. His own view was that it was better to work on resolving the problem through non-legalistic means. Even if arbitration was obligatory and the arbitration process resulted in a judgement, there was no obligatory mechanism in international law for executing that judgement. Ultimately, therefore, any solution was based on the good faith of the parties concerned. The third question was whether the study could be disseminated to all the countries affected by the harmful interference, or even more broadly to all Member States. Preparing the analysis had taken time because the issue of the obligations of a State that was solely signatory to a treaty constituted one of the most technically complex areas of international law. By its very nature, the analysis was divisive, especially among ITU Member States concerned by the problem at hand. In his view, the role of the ITU secretariat was to bring Member States together and to foster consensus. He would therefore be reluctant to disseminate the document broadly, although he hoped that the analysis had been useful. The fourth question concerned the situation of two administrations neither of which had ratified the agreement. The analysis in Document RRB13-3/INFO/2 did not cover that eventuality as that was not the

question raised. Two countries that had not ratified a treaty were not parties to the treaty and could not call for the treaty to be respected. Thus the situation was a non-problem, legally speaking. He hoped that he had answered all the Board's questions and was ready to give any further clarification required.

3.55 The **Chairman** thanked the Legal Adviser for the analysis in Document RRB13-3/INFO/2 and for his answers to the questions raised by the Board.

3.56 **Mr Strelets** and **Mr Magenta** suggested that the Legal Adviser might be invited to prepare an updated version of Document RRB13-3/INFO/2 for the special topic area of the RRB webpage, recasting the text in general terms and adding the supplementary information that he had provided in response to questions by members of the Board.

3.57 **Mr Ebadi** and **Mr Bessi** asked whether there was anything that ITU could do to push for an arbitration decision to be implemented, for example with regard to the MIFR.

3.58 The **ITU Legal Adviser** said that there would be no problem in redrafting the document to avoid any reference to a particular administration, in order to make the text general. Concerning the Union's scope for action in implementing an arbitral decision, he pointed out that it was difficult to reply to a theoretical question. ITU's remit would depend on the arbitral decision itself. If two Member States went to arbitration to settle a dispute between them, then ITU would not be a party to the arbitration although it could be associated in the arbitration through having to provide information or data, for example. In order to act, ITU would have to have a mechanism for putting an arbitral decision into effect. In order to curtail or suspend the rights of Member States, ITU would need the legal provisions that would enable it to do so. Otherwise, there could be no implementation mechanism because ITU was not a party to the arbitration. With regard to costs, according to CV 517 (in Article 41 of the Convention), "Each party shall bear the expense it has incurred in the investigation and presentation of the arbitration. The costs of arbitration other than those incurred by the parties themselves shall be divided equally between the parties to the dispute." Thus, ITU's costs would have to be covered by the parties to the arbitration. The universality and legal integrity of ITU legal instruments depended on ITU Member States becoming parties, whereas a situation in which Member States were signatories but not parties (because they had not, for example, ratified the instrument concerned) created a complex legal problem that weakened the legal obligations of Member States and jeopardized the good functioning of the Union.

3.59 The **Chairman** thanked the Legal Adviser for his responses to the further questions raised by Board members. The Board shared his view that goodwill was the cornerstone of the functioning of ITU and indeed any international organization. With regard to the advice provided by the Legal Adviser, he suggested that the Board conclude as follows:

"The Board appreciated the special study prepared by the ITU Legal Adviser in Document RRB13-3/INFO/2. Considering the usefulness of this study, the Board instructed the Bureau to post an appropriately updated version of the document to the special topic area of the RRB webpage."

3.60 It was so **agreed**.

3.61 Responding to a query by **Mr Bessi**, the **Chairman** confirmed that the RRB webpage was accessible to all TIES users.

3.62 The **Chairman** invited the Board to resume its consideration of the harmful interference between Italy and neighbouring countries. He asked whether Board members had any further questions they wished to raise.

3.63 **Mr Žilinskas**, referring to Document RRB13-3/DELAYED/1, asked whether the interference to Malta's channels 38 and 56 had indeed been resolved by mid-November 2013, as promised by Italy.

3.64 **Chief TSD** reported that he had recently communicated with Malta and learned that those cases still remained unresolved.

3.65 The **Chairman** suggested that the Board conclude as follows:

“With respect to harmful interference to the sound and television broadcasting services caused by Italy to its neighbours (§4.4.2 of the Report of the Director), the Board took into account the information in Document RRB13-3/DELAYED/1 and the roadmap provided by the Administration of Italy in Document RRB13-3/DELAYED/4. The Board instructed the Bureau to post this roadmap to the special topic area of the RRB webpage and to forward the relevant extracts to the administrations concerned requesting their comments on the proposed way forward. The Board noted that the roadmap did not address all the issues of interference to the TV broadcasting stations nor did it address interference to the FM broadcasting services of the neighbouring countries. The Board appreciated the efforts made by the Administration of Italy for providing this roadmap and urges the Administration of Italy to resolve the remaining interference issues as a matter of urgency and to provide a complete roadmap covering all cases of interference. The Board also requested the Bureau to support the organization of bilateral or multilateral meetings, as appropriate, between the Administrations concerned to resolve the issue.”

3.66 It was so **agreed**.

3.67 **Mr Žilinskas** congratulated the Bureau for the excellent work done in the recent period, particularly noting the enormous number of terrestrial services notices received by the Bureau and processed without delay.

3.68 The Director’s report (Document RRB13-3/3) was **noted**.

4 Consideration of draft rules of procedure (Circular Letter CCRR/49; Document RRB13-3/4)

4.1 The **Chairman** invited the Board to take up the draft new or modified rules of procedure in Circular Letter CCRR/49, along with the comments received from 14 administrations reproduced in Document RRB13-3/4.

Rules on Article 5 of the Radio Regulations

ADD 5.132A, ADD 5.145A and ADD 5.161A

4.2 **Chief TSD** introduced the draft new rules, noting that the only comments received on them from administrations had been to endorse them.

4.3 The draft new rules were **approved**, with immediate entry into force.

MOD 5.399

4.4 **Chief TSD** said that the modification proposed to the rule of procedure was consequent to the changes made by WRC-12 to the text of No. 5.399 of the Radio Regulations.

4.5 **Ms Zoller** drew attention to the comments made and text proposed by the French Administration in Annex 6 to Document RRB13-3/4, which obviated the need to consult another rule by providing its substance directly.

4.6 **Chief SSD**, while not objecting to the French proposal, pointed out that the purpose of including cross-references in the rules of procedure rather than spelling out substance was to ensure that any updates to a given rule were automatically made to other rules concerned.

4.7 **Mr Žilinskas, Mr Bessi** and **Mr Strelets** supported France’s proposal, which **Chief TSD** also endorsed.

4.8 The Board **approved** the following text for the revised rule on No. 5.399, for immediate entry into force:

“The Board instructed the Bureau when recording assignments to stations of the radiodetermination-satellite service operating in the frequency band 2 483.5-2 500 MHz to which this footnote applies to place Symbol R in Column 13B2 and a reference to footnote 5.399 in Column 13B1”.

Rules on Article 11 of the Radio Regulations

ADD 11.41 and 11.41.2

4.9 **Chief SSD** introduced the draft new rule, which had been prepared as a consequence of the Board’s discussion at its 63rd meeting of Circular Letter CR/343, which had contained a section on the application of the provisions in question. The draft indicated, in its § 1, the obligation incumbent upon the notifying administration under No. 11.41.2 when submitting notices under No. 11.41, and the consequences of failure to comply; and, in its § 2, the action to be taken by the Bureau, with specific reference to No. 13.3, in the case of a challenge being submitted by an administration indicating that no effort had been made by the notifying administration to effect coordination with it. He noted that in their comments all administrations supported § 1 of the draft new rule. Several administrations, however, preferred either to delete § 2 or amend it to indicate that the Bureau would consult the administrations concerned before reporting the matter to the Board for consideration.

4.10 **Mr Bessi** said that § 1 could be adopted unchanged, since no administrations had challenged it. In view of the comments by administrations, § 2 of the draft should be either deleted or amended as indicated by Chief SSD.

4.11 **Mr Ebadi** questioned whether there was any need to retain § 1 if § 2 was deleted: § 1 appeared simply to be explanatory, whereas § 2 was to contain the substantive part of the draft new rule.

4.12 **Ms Zoller** endorsed Mr Bessi’s remarks, and suggested that § 2 be deleted, as proposed by several administrations.

4.13 **Mr Kibe** noted that all administrations appeared to agree that § 1 should be retained, although the United Arab Emirates called for a new rule of procedure on No. 11.38. That administration’s concerns nevertheless appeared to be catered for. In his view § 1 should be retained, whereas § 2 should be deleted as it went beyond the intentions of WRC-12.

4.14 **Mr Strelets** agreed that § 2 could be deleted. Regarding the United Arab Emirates’ proposal for a new rule on No. 11.38, his understanding was that the Bureau already proceeded as outlined by the United Arab Emirates, thus there was no need for a new rule of procedure.

4.15 **Mr Bessi** agreed with previous speakers that § 2 could be deleted. He considered that a new rule on No. 11.38 as proposed by the United Arab Emirates, taking account of Nos. 11.41 and 11.41.2, might be very useful to administrations.

4.16 **Mr Terán** agreed that § 2 should be deleted.

4.17 The **Chairman** recalled that the intention was that the new rule on Nos. 11.41 and 11.41.2 indicate how the Bureau would proceed in the case of an administration asserting that no effort had been made by the notifying administration to coordinate with it. However, several administrations considered that reference to No. 13.3 was inappropriate, as it should be applied only if specifically invoked by an administration.

4.18 **Chief SSD** endorsed the Chairman’s comments, adding that the intention of the Bureau in proposing § 2 had simply been to ensure transparency regarding the provisions that could be

invoked by administrations in the case of conflict between administrations in the application of No. 11.41.2. The Bureau could readily agree with deletion of § 2, as it was clearly the Board's understanding that an administration could request the application of No. 13.3 when maintaining that a notifying administration had made no effort to coordinate with it. Regarding a possible new rule on No. 11.38, he said that the text of the provision itself was clear, and when the Bureau returned notices with unfavourable findings its practice had long been to give an indication of the appropriate action, with reference to Nos. 11.41 and 11.41.2 when relevant along with the associated deadlines of application.

4.19 The **Chairman** proposed that the Board agree to retain § 1 in the draft new rule, as so many administrations had supported it, but to delete § 2, and to approve the draft new rule thus amended for application as of 1 January 2014.

4.20 It was so **agreed**.

MOD 11.44

4.21 **Chief SSD** recalled that the rule of procedure on No. 11.44 had been discussed at the Board's previous (63rd) meeting, based in particular on § 2.4.1 of Circular Letter CR/343. Following the discussion, the Bureau had drafted an additional paragraph that would ensure that information on bringing into use corresponded to the real occupancy of the geostationary satellite orbit. The comments from administrations were mainly positive. Only the Administration of Brazil objected, arguing that the concept of "reliable information available" was subjective. Other administrations suggested changes or requested clarification. He offered to circulate a revised draft, taking those comments into account.

4.22 The **Chairman** asked Board members if they wished to comment on the proposed draft rule, so that the Bureau could take their comments into account along with those of administrations when preparing a revised draft.

4.23 **Mr Ebadi** said that most of the concerns expressed by administrations related to the use of the word "real". In his view, the drafting proposed by the Administration of the United Arab Emirates was the clearest.

4.24 **Mr Strelets** agreed with the comments made by the Administration of Brazil. The subjective nature of "reliable information" meant that administrations were subject to the arbitrary implementation of such a sensitive provision as No. 13.6 because the term was nowhere defined. To date, the Board had considered information from administrations as being reliable, but had to decide whether outside information was reliable. In his opinion, the first step would be to define "reliable information". Perhaps the Legal Adviser might be consulted on the matter.

4.25 **Mr Ebadi** recalled that the definition of "reliable information" had been discussed for hours by the WRC without success, and the outcome had been that the conference had left it to the Board to decide what constituted "reliable information". He was not in favour of asking the Legal Adviser because the Radio Regulations provided no basis for taking the advice of the Legal Adviser. If there was a difficulty, then it should be submitted to the WRC for decision.

4.26 **Ms Zoller** supported Mr Ebadi. She did not think it possible for the Board to make a prescriptive definition of "reliable information", since the concept would always be open to interpretation by Member States. The Board had to live with the responsibility of judging what constituted "reliable information" in each particular case. She noted that the French Administration asked the Board to clarify the status of the information provided in Circular Letter CR/343 concerning No. 11.44. The Administration of Sweden supported the conclusion reached by the Board at its 63rd meeting that "a rule of procedure should not introduce additional data requirements that were not adopted by WRC-12".

4.27 **Mr Ito** supported Mr Ebadi and Ms Zoller. It was important for the Board to discuss the meaning of “reliable information” but – like the philosophical discussion of the meaning of justice – it would not end up with a definition. The Board had to do its job and decide what constituted “reliable information” in the cases that came before it.

4.28 **Mr Bessi** agreed with Mr Ebadi and Ms Zoller. The Bureau had tried to clarify the matter of “reliable information” in Circular Letter CR/343 but administrations had rejected that approach. He found the drafting proposed by the United Arab Emirates and that proposed by the United States equally acceptable. Further, because the Bureau had professional responsibility for the MIFR, whenever the Bureau concluded that an assignment had not been brought into use in accordance with the regulations, it should apply No. 13.6.

4.29 Based on a revised text prepared by the Bureau, the Board **approved** the following new paragraph to be added to the rule of procedure on No. 11.44, for entry into force on 1 January 2014:

“The Board considered possible means to ensure that information regarding the bringing into use of frequency assignments to a satellite network under Nos. 11.44/11.44B corresponds to the deployed space station of the geostationary satellite orbit, with the capability of transmitting or receiving in the assigned frequencies. The Board concluded that whenever it appears from reliable information available that an assignment has not been brought into use in accordance with Nos. 11.44/11.44B, the provision of No. 13.6 shall apply.”

4.30 **Mr Ebadi** said that the matter of what constituted “reliable information” should be brought to the attention of WRC-15 through the Director’s report to the conference.

4.31 **Mr Ito**, supported by **Mr Magenta**, suggested that the Board’s work submitted to WRC-12 under Resolution 80 should be cited, and the matter should be dealt with again by WRC-15. **Mr Bessi** also agreed that the matter should be taken up by WRC-15.

4.32 **Mr Strelets** agreed with Mr Ebadi and Mr Ito. Nevertheless, two years remained until WRC-15 and the Board needed a working definition of “reliable information” to use in the meantime. He suggested that the Board should follow the understanding reached in its work under Resolution 80, which WRC-12 had not rejected.

MOD 11.44B

4.33 **Chief SSD** introduced the draft modifications to the rule of procedure on No. 11.44B, referring closely to the reasons given beneath them in Circular Letter CCRR/49. The draft modifications had been prepared further to the Board’s discussion of Circular Letter CR/343 at its 63rd meeting, and were presented in the form of new paragraphs (ADD 5 and ADD 6). Both new paragraphs addressed the case of a notification of a frequency assignment under Nos. 11.15/11.25, § 5.1.3 of Appendix 30, § 5.1.7 of Appendix 30A or § 8.1 of Appendix 30B including a date of bringing into use before the date of receipt of the notice. ADD 5 stipulated that the date of bringing into use “shall not be earlier than 120 days (ninety-day space station deployment plus thirty-day confirmation) before the date of receipt of the notification information with the confirmation of bringing into use under No. 11.44B to be provided to the Bureau within thirty days from the end of the ninety-day period, in order for the assignment to be entitled to the rights and obligation derived from its recording in the MIFR...”. ADD 6 sought to provide a regulatory approach for a case in which a complete notice for recording a frequency assignment in the MIFR was received by the Bureau with the information that the assignment had already been brought into use more than 120 days before the date of receipt of the notice: the notice would be considered receivable by the Bureau, but “the notified date of bringing into use of the assignment shall be considered not in conformity with the requirement of No. 11.44B and provisions relating to elimination of harmful interference and suspension of use shall not be applicable for the period between the notified date of bringing into use and 120 days before the date of receipt of the notice.” Moreover, a “confirmed date of bringing into use, 120 days before the date of receipt of the complete notification

information, shall be recorded in the MIFR instead of the notified date submitted in the Appendix 4 form....”.

4.34 He said that some of the administrations that had submitted comments supported the approaches enshrined in the texts proposed by the Bureau, others did not, and some proposed improvements to the texts, for example Canada and the United States, which the Bureau deemed acceptable.

4.35 **Mr Kibe** noted that administrations were divided on their comments on the proposed modifications to the rule of procedure on No. 11.44B, with some administrations supporting the approach proposed and others maintaining that it was not in line with the decisions taken by WRC-12 in regard to the regulatory provision. Sweden, for example, said that there was no clear basis for the texts proposed, and that if there was a need to clarify the time between notifying and bringing into use the matter should be referred to the WRC for decision. Perhaps the best way forward would be to base further discussion on texts that incorporated the improvements proposed by Canada and the United States.

4.36 **Mr Bessi** said that the administrations that had submitted comments appeared not to call into question the substance of ADD 5, although he considered that the wording proposed by Canada for that paragraph was appropriate. Regarding the case addressed by ADD 6, certain administrations questioned the proposed approach of recording in the MIFR a date of bringing into use of 120 days before notification, rather than the real date of bringing into use, and maintained that the MIFR should reflect the real situation as regards satellite operations. He agreed with those administrations, and said that ADD 6 should be reformulated accordingly.

4.37 **Mr Ito** said that the matter was far from clear. It did not merely concern definition of bringing into use, but also the fundamental question of when precisely international recognition commenced. For example, an administration might bring a satellite into use for 120 days and then have to suspend it for one reason or another; could it submit a letter of notification with a date of bringing into use and suspend the satellite at the same time, and still expect international recognition? Did phrases like “shall continue to be taken into consideration” in No. 11.44.1 imply international recognition? To his understanding, international recognition commenced as from the time of registration. He sought the Bureau’s understanding of the concept of international recognition.

4.38 **Mr Strelets** said that when WRC-12 had taken decisions regarding the period during which a satellite should operate in order to be considered as having been brought into use, it had not anticipated the knock-on effect of that decision in regard to other provisions. Hence the number of comments received from administrations, with several administrations seeing no need for a rule of procedure or seeing no regulatory basis for it, or asserting that notification should not be the only mechanism for informing the Bureau of bringing into use, or maintaining that notification of bringing into use should not be linked with time limits, perhaps placing pressure on administrations to notify bringing into use without regard to the coordination status of the assignments, etc.

4.39 The **Chairman** recalled that, pursuant to No. 13.0.1, rules of procedure should be adopted only when there was a clear need for them.

4.40 Responding to further comments by **Mr Strelets, Mr Ebadi, Mr Ito** and the **Chairman** on the way forward in the light of the comments received, **Chief SSD** said although seven administrations appeared to be against the draft modifications, almost as many had voiced support for them, with Canada, the Russian Federation, the United Arab Emirates and the United States both supporting and suggesting improvements to the texts. He proposed to prepare revised texts for the Board’s subsequent consideration, taking into account several of the improvements suggested. Regarding the date of bringing into use communicated by administrations, ADD 6 reflected the fact that that date should be indicated in the notification

information submitted, bearing in mind that certain rights and obligations linked to bringing into use – for example, in connection with protection from harmful interference or for suspension purposes – came into play only with notification, as appeared to be recognized by all the administrations that had submitted comments. Responding to Mr Ito’s question regarding No. 11.44.1, he said that the phrase “shall continue to be taken into consideration” did not refer to international recognition, which came into play only upon the submission of information under No. 11.15. Lastly, he drew attention to the need for the Board to consider new ADD 7 proposed by the United States (Annex 13 to Document RRB13-3/4), according to which complete notices received by the Bureau prior to the period indicated in No. 11.44, with a date of bringing into use more than 120 days before receipt of the notice by the Bureau, with confirmation of the bringing into use date having previously been received under No. 11.44B, would be considered receivable by the Board. That proposed new text had a bearing on the fundamental question of whether or not a date of bringing into use could be submitted independently from notification.

4.41 **Ms Zoller** said that the Board should discuss the fundamental issues identified thus far with a view to revising the texts proposed by the Bureau, and should recirculate the revised texts to administrations for further comment given the importance of the issues and divergence of views.

4.42 It being so **agreed**, the **Chairman** requested Chief SSD to incorporate in ADD 5 and ADD 6 the improvements suggested by administrations where appropriate, and to submit the revised texts to the Board for further consideration along with ADD 7 proposed by the United States.

4.43 **Chief SSD** subsequently drew attention to new versions of ADD 5 and ADD 6 revised to incorporate the suggestions submitted by Canada, the United Arab Emirates and the United States; and to ADD 7 proposed by the United States, which met the concern expressed that it should be possible for administrations to submit a date of bringing into use by means other than an Appendix 4 notice under Nos. 11.15/11.25, § 5.1.3 of Appendix 30, § 5.1.7 of Appendix 30A or § 8.1 of Appendix 30B. He stressed that one fundamental difficulty encountered by the Bureau when preparing Circular Letter CR/343 and the draft rules of procedure in ADD 5 and ADD 6 was that the texts had to, and indeed did, respect the fact that the only means authorized by the Radio Regulations for submitting a date of bringing into use was the Appendix 4 notification form. That constraint was even more important in regard to the Plans, in so far as bringing into use could take place only when all coordination had been completed. He pointed out that any decision taken by the Board on ADD 7 could have repercussions on ADD 5 and ADD 6.

4.44 **Mr Ito** said that a clear understanding of the proposed texts was essential. With particular regard to ADD 7, for example, in a case where bringing into use was confirmed after the ninety-day space-station deployment period and within the thirty-day confirmation period but before the date of receipt by the Bureau of the complete notification notice, was he right in understanding that the filing concerned did not enjoy international recognition in the period between the date of confirmation of bringing into use and notification (entry in the MIFR)? And if something happened to warrant suspension between the date of confirmation of bringing into use and notification, was he right in understanding that suspension was not acceptable under the Radio Regulations?

4.45 **Chief SSD** said that the Bureau shared Mr Ito’s understanding. The frequency assignments concerned might have some status in regard to harmful interference, deriving from coordination having been completed, but the Bureau would have difficulty with a request for suspension of the assignments since they would not enjoy international recognition deriving from notification. Hence the Bureau’s comments in regard to ADD 7, that the Radio

Regulations did not include any means by which a date of bringing into use could be provided to the Bureau other than in an Appendix 4 notice under Nos. 11.15/11.25, § 5.1.3 of Appendix 30, § 5.1.7 of Appendix 30A or § 8.1 of Appendix 30B, as appropriate. If ADD 7 was approved as it currently stood, it would not be in conformity with the provisions of the Radio Regulations on the bringing into use of the frequency assignments.

4.46 **Mr Strelets** gave the example of a satellite network for which all required regulatory procedures were completed with an announced date of launch of, say, 3-4 years later. Thus, the satellite was duly registered, but obviously could not complain of harmful interference and enjoy the full benefits of international recognition until such a time as it had actually been placed in orbit and had been deployed for ninety days and the Bureau had been informed of that deployment within the thirty-day period. Such were often the real circumstances of satellite deployment, which were not reflected in the Bureau's proposals. To his understanding, however, No. 11.44B dealt solely with the deadline by which an administration must provide the Bureau with confirmation of compliance with the ninety-day deployment period, and to his understanding new ADD 7 proposed by the United States reflected the same substance.

4.47 **Mr Bessi** said that the Bureau's understanding of the matter and indeed approach to it were logical, given that, in order to comply with No. 11.44B, assignments could not be brought into use more than 120 days prior to the date of submission of notification. There was a vacuum, but there was no clear justification for resolving the problem by establishing a link between No. 11.44B and the date of bringing into use. WRC-12 had adopted No. 11.44B, not for that purpose, but in order to clearly establish a period of deployment for satellites and a deadline for informing the Bureau thereof.

4.48 The **Chairman** agreed with Mr Bessi, but said that either the problem identified had to be resolved through provisions of some kind, or must be brought to the attention of the WRC.

4.49 **Mr Ebadi** said that the establishment of a period of 120 days in the texts before the Board, based on 90 days of deployment plus 30 days for informing the Bureau, was flawed, since the period for informing the Bureau could be anything between 1 and 30 days.

4.50 **Chief SSD** said that the approach based on the 120-day period was not the same in ADD 5 as in ADD 6.

4.51 **Ms Zoller** said that several administrations had objected to the fact that the draft rules appeared to establish a link between date of bringing into use and notification, whereas no such link had been established by the WRC in 2012 or before. The Board should clarify its understanding of that matter before seeking to edit the texts now before it.

4.52 **Mr Strelets** said that, in considering the texts before it, the Board was departing further and further from the intent of the WRC and the approach of the Board prior to WRC-12, and was thoroughly overcomplicating matters. The Board members themselves were at pains to understand the periods referred to in the first two sentences of ADD 5, so how could they expect all the ITU administrations with differing levels of experience to understand them? The United States' suggested approach to the issue might offer a simpler way forward, but he tended to agree with the several administrations that had commented that there should be no rules of procedure, as they would just make things worse. No general rule could be applicable to all the different scenarios that could arise when it came to registration of a filing, launch and bringing into use. The rules might make sense in terms of BR processing, but they could well baffle operators and investors, who first and foremost wanted to be sure of the status of a filing before launching and bringing into use a satellite. The main problem with the draft rules was that they failed to cater for the real concerns of satellite network operators.

4.53 **Mr Ebadi** agreed with Mr Strelets. The Board could discuss the draft rules for hours and still reach no conclusion. He tended to agree with the several administrations that had called for no rules, leaving any problem to be dealt with if and when it arose.

4.54 **Mr Ito** agreed with the two previous speakers, but pointed out that the Board had been instrumental in creating the difficulty it now faced, and should make every effort to resolve the problem.

4.55 **Mr Magenta** agreed with Mr Ito. WRC-12 had agreed to the approach put forward by the Board, and the Board should now continue its work on the matter.

4.56 The **Chairman** asked the Bureau if any serious problems would be faced if no rule of procedure was adopted, on the understanding that if problems arose they would be dealt with on a case by case basis or a rule of procedure would be developed to deal with them.

4.57 The **Director** recalled that at its 63rd meeting the Board, noting that various administrations had difficulty with certain proposed practices of the Bureau as reflected in Circular Letter CR/343, had called for a rule of procedure to be developed for what was obviously a very sensitive issue. It was a bit late to go back now.

4.58 **Mr Ebadi** said that certain administrations had objected to the practices reflected in Circular Letter CR/343 because they did not share the Bureau's understanding of the decisions taken by the WRC. An attempt was being made to resolve the problem by means of a rule of procedure, but without success. In his view, the Bureau should apply No. 11.44B without the practices reflected in its circular letter, and if problems arose the matter should be referred to the WRC. The majority of administrations making comments considered that no link should be drawn between date of bringing into use and notification, and that view should be respected. He therefore saw no call for a rule of procedure.

4.59 **Chief SSD** said that only some of the 193 ITU administrations had seen fit to submit comments on the draft modified rule on No. 11.44B, and of those submitting comments several of the major satellite administrations had supported the draft modifications. The WRC had modified No. 11.44B, but had not foreseen the repercussions of that modification in regard to other provisions of the Radio Regulations. The reasons given beneath the draft modified rule explained why, in accordance with the relevant provisions, information regarding bringing into use had to be submitted in the same manner, under Appendix 4, and why the date of bringing into use could not be more than 120 days prior to notification. That was the consequence of the decisions taken by WRC-12, and the intention of the draft texts before the Board was certainly not to make the Bureau's work easier.

4.60 **Mr Bessi** said that the Board would be going beyond its mandate in trying to resolve the vacuum to which he had referred by means of a rule of procedure. The solution proposed by the Bureau with the draft rule worked, but went beyond the substance of No. 11.44B. He agreed with Mr Ebadi that the matter could be resolved only by the WRC, and considered that meanwhile the existing rule on No. 11.44B should suffice.

4.61 **Ms Zoller** said that the situation was complex and difficult, and somewhat of the Board's making. If the practices of the Bureau in applying No. 11.44 or No. 11.44B required explanation, the Board should pursue its consideration of rules of procedure to explain those practices. If there was no need for such explanations, the Board could discontinue its present discussions.

4.62 Referring to Mr Ebadi's comments, the **Director** said that the Bureau had to have a practice with regard to the application of No. 11.44B, and did not see how the provision should be applied except as reflected in the draft texts before the Board. What other approach could the Bureau have, and how else could the practice be reflected? Perhaps a rule of procedure should be developed on the notification of bringing into use.

4.63 **Mr Ebadi** said that it was not just his view, but that of several administrations, that a link should not be made between bringing into use and notification.

4.64 **Mr Strelets** said that several administrations maintained that the practice reflected in the draft rule under consideration ran counter to the spirit of the discussions that had taken place at WRC-12. He agreed with Mr Bessi that the extremely important question of whether or not a link should be drawn between bringing into use and notification should be referred to the conference, as called for by Sweden.

4.65 The **Chairman** suggested that the matter be discussed by the Board's Working Group on the Rules of Procedure.

4.66 It was so **agreed**.

4.67 **Mr Ebadi** (Chairman of the Working Group on the Rules of Procedure) subsequently reported that views on the draft modified rule on No. 11.44B had been divided within the working group. Although general agreement had been reached on a text for ADD 5, but not on a text for ADD 6 (two texts had been presented), several Board members had considered that further time was required for reflection. Others had wanted more discussion to take place in the plenary of the Board, while others had expressed the view that consideration of the matter should be deferred to the next meeting.

4.68 The **Chairman** invited the Board to resume its discussion of ADD 5 and ADD 6.

4.69 **Chief SSD** drew attention to revised texts for ADD 5, ADD 6 and ADD 6 (MOD), with accompanying overhead-projected diagrams. He introduced the new text for ADD 5, with two diagrams illustrating scenarios entitled Case 1 and Case 1bis, dealing with cases of notification submitted before the end of the applicable regulatory period for bringing into use. Case 1 directly reflected ADD 5, in which the date of bringing into use communicated to the Bureau was within 120 days of the submission of complete notification. Case 1bis reflected a situation in which bringing into use preceded the submission of complete notification by more than 120 days. For both cases, the diagrams sought to clarify as from when international recognition and the rights associated therewith would apply. Further to comments by **Mr Ito**, **Mr Strelets** and **Mr Bessi**, he inferred that the text proposed for ADD 5 appeared to be acceptable, with international recognition and the rights and obligations deriving from recording in the MIFR applying as from the date of receipt of notification. Regarding Case 1bis, the scenario did not relate directly to ADD 5, but had been produced for the purpose of further consideration as to the date from which international recognition applied: from the date of notification, as in Case 1, or from a date prior to notification not exceeding 120 days?

4.70 Following further comments by **Ms Zoller**, **Mr Ebadi** and **Mr Ito**, **Mr Strelets** said that it was obvious that Board members had many more comments and questions on the texts and diagrams provided. Noting that seven administrations maintained that no new rule of procedure was required on No. 11.44B, whereas the Bureau maintained the contrary, he proposed that the Bureau study the matter further, taking into account the comments made by Board members and those submitted by administrations, with a view to submitting the results of the study to the Board for consideration at its 65th meeting.

4.71 **Chief SSD** said that the Bureau would obviously carry out the proposed study if requested to do so. He nevertheless pointed out that, although some of the comments made by administrations could be used to improve the texts of the draft rules, any texts prepared by the Bureau would be substantively the same as those proposed in Circular Letter CRR/49, as they reflected the Bureau's understanding of how the Radio Regulations, and No. 11.44B in particular, should be applied.

4.72 **Mr Žilinskas** drew attention to the comments made by France reproduced in Annex 6 to

Document RRB13-3/4, that the draft rule on No. 11.44B proposed in Circular Letter CCRR/49 would mean recording in the MIFR dates of bringing into use which would be determined by the date of receipt of notices and would therefore no longer correspond to the operational realities of satellites in orbit, thereby greatly reducing the reliability of the MIFR and making it more difficult for administrations to use it; and that the proposed rule might also result in an increase in applications of No. 11.41. The same concerns had been expressed by other administrations, such as Sweden and Norway. The effect would be that, once the Bureau had been informed of bringing into use, frequency assignments would be notified without full implementation of the coordination process. To his understanding, that was already happening, so he failed to see what difference the draft rules would make in that regard. He endorsed the Bureau's proposal now before the Board in ADD 5.

4.73 **Chief SSD** said that if notification was received with a date of bringing into use subsequent to that notification, such a case was adequately covered by the Radio Regulations, for example No. 11.47, and it was clear that international recognition was related to receipt of the notification information. Things were less clear in the case of the submission of notification before the end of the applicable regulatory period, with a date of bringing into use prior to notification. That was the issue which ADD 5 and ADD 6 endeavoured to address, for a date of bringing into use within 120 days of notification, and a date of bringing into use over 120 days prior to notification, respectively. Views were particularly divided on what date of bringing into use should be retained when the date of bringing into use preceded notification by over 120 days, which ADD 6 sought to deal with. Certain administrations maintained that the real date, as contained in the notification information, should be retained and not a date equal to the date of notification minus 120 days.

4.74 **Mr Ito** said that there was probably room for agreement on the texts proposed, but the diagrams confused matters.

4.75 **Mr Bessi** said that the new text proposed for ADD 6, while taking account of various comments made by administrations, still appeared to indicate that the date retained as that of bringing into use would be the date of notification minus 120 days. He found that approach hard to accept, for the reasons given by some administrations, namely that it would mean that the MIFR did not reflect reality, with possible repercussions for networks.

4.76 Following a proposal by **Mr Magenta** that a drafting group be set up on the draft texts, **Mr Strelets**, supported by **Mr Ebadi**, said that much further discussion was required on the draft rule, and he proposed that consideration of the matter be deferred to the next meeting. **Ms Zoller** agreed, noting that to defer the matter should not be a problem, especially since several administrations were of the opinion that no rule of procedure was needed anyway. She said that it would be useful for an information document to be posted by the Bureau on the Board's website to help members in their preparations for the next meeting, reflecting the comments made at the present meeting.

4.77 **Chief SSD** said that the Bureau would prepare and web-post in January 2014 an information document presenting revised texts for the rule, taking account of administrations' and Board members' comments.

4.78 The Board **agreed** to conclude as follows:

“Regarding the Rule of Procedure on No. 11.44B, the Board decided to continue discussion of this Rule of Procedure at its next meeting. The Board instructed the Bureau to prepare an information document, taking into account the comments received from Administrations and from the Members of the Board at this meeting and to post it on the RRB webpage by the end of January 2014.”

Rules on Article 21 of the Radio Regulations

ADD Table 21-2

4.79 **Chief TSD** introduced the proposed new text to be added to the rule of procedure on Table 21-2 in Article 21 of the Radio Regulations. Responding to a comment by **Ms Zoller**, he confirmed that the proposed text did not change the power limits set by the conference.

4.80 **Mr Bessi**, supported by **Mr Strelets** and **Ms Zoller**, suggested that the last paragraph, starting “Consequently, in Column 1 of the Table 21-2 of Article 21...”, should be deleted because it appeared to make a change in the Radio Regulations. **Ms Zoller** added that, if “Region 1” was added to Table 21-2, as envisaged in the last paragraph, then the rule of procedure would no longer be necessary.

4.81 The proposed addition to the rule of procedure on Table 21-2, amended by deleting the last paragraph, was **approved**, with immediate entry into force.

Rules on Appendix 30 (ADD 5.1.3), Appendix 30A (ADD 5.1.7) and Appendix 30B (ADD 8.1)

4.82 The Board **agreed** to defer discussion of those draft rules pending the outcome of its consideration of the draft modifications to the rule on No. 11.44B.

Rules on Appendix 30B (ADD § 2.2 of Annex 4)

4.83 The draft rule of procedure on § 2.2 of Annex 4 to Appendix 30B was **approved**, with entry into force on 1 January 2014.

Rules concerning the GE-06 Regional Agreement

ADD Appendix 2.1, Section A2.1.8.1

4.84 **Mr Hai (TSD/BCD)** introduced the draft new rule, the purpose of which was to clarify how the basic interpolation factor $A_0(F_s)$ had been calculated at RRC-06 and was now implemented in application of the GE-06 Agreement, reflecting the fact that the method was consistent with the latest version of Recommendation ITU-R P.1546. The method was already integrated in the relevant software used by the Bureau. No comments had been made by administrations except in support of the draft new rule. Responding to a comment by **Mr Žilinskas**, he said that if the method in Recommendation ITU-R P.1546 changed, the Recommendation would no longer be applicable in calculating the interpolation factor $A_0(F_s)$, since use of the criteria in the GE-06 Agreement remained mandatory.

4.85 **Mr Ebadi** and **Mr Žilinskas** supported the draft new rule of procedure.

4.86 The draft new rule of procedure was **approved**, with immediate entry into force.

4.87 The Board **agreed** to conclude on its consideration of the draft rules of procedure as follows:

“The Board considered the draft Rules of Procedures circulated to administrations in Circular Letter CCRR/49, along with the comments received from Administrations in Document RRB13-3/4. With the exception of the draft Rule of Procedure on No. 11.44B and those parts of the Rules of Procedure concerning Part A1 of Appendices 30, 30A and 30B related to No. 11.44B, the Board approved all the proposed draft Rules of Procedure in Circular Letter CCRR/49 with some modifications. The approved Rules of Procedure are provided in the Annex to the Summary of Decisions.”

5 Submission by the Administration of Saudi Arabia concerning the splitting of its satellite network filings at 26° E under Appendix 30B based on the frequency bands (Document RRB13-3/5)

5.1 **Mr Sakamoto (SSD/SNP)** introduced Document RRB13-3/5 containing a request by the Administration of Saudi Arabia for the splitting of its satellite network filings at 26° E under Appendix 30B based on the frequency bands. The original request by the Administration of Saudi Arabia was contained in Attachment 3. The Bureau's reply, reproduced in Attachment 2, indicated that in general "The splitting of networks while preserving the initial regulatory status for each of them may adversely impact the interference situation in some cases." He informed the Board, however, that the splitting of the C-band and Ku-band frequency assignments requested in the present case by the Administration of Saudi Arabia would not change the interference situation. He drew attention to Attachment 1, in which the Administration of Saudi Arabia requested that the matter be considered by the Board. Responding to a query by **Mr Ebadi**, he said that it was not clear what benefits splitting would offer an administration, unless perhaps the administration wanted the different filings to have different fates. In reply to a question by **Mr Bessi**, he said that he knew of no similar cases.

5.2 **Mr Žilinskas** queried the Bureau's statement that splitting might affect the interference situation. He asked in what cases that might occur.

5.3 **Mr Strelets** understood that splitting was possible from a technical point of view but expressed concern that there might be confusion over the names of beams in the subsequent publication of special sections. He asked how the Bureau would deal with that.

5.4 **Ms Zoller** recalled that WRC-12 had instructed the Board to approve a rule of procedure on the consolidation of geostationary networks, and the Board had done so. Now the Board was being asked to allow the opposite to happen, and the Board would have to consider the matter carefully. **Mr Ito** endorsed that view.

5.5 **Mr Sakamoto (SSD/SNP)** said when the interferences are that aggregated among beams, the interference situation might be changed, if beams were split. Regarding the potential confusion over the names of beams, the Bureau could give each new satellite network a new name comprising both the old name and a new identifier. The Bureau would then repeat the publications for each of beams under the new split satellite network, affixing a note each time indicating that such publication was in accordance with the Board's decision.

5.6 **Mr Ebadi** assumed that the satellite network filings concerned would retain their original dates of receipt.

5.7 **Mr Bessi** said that the Board should consider the matter from a regulatory standpoint, irrespective of why the administration was making the request. He had no difficulty in agreeing to the request. If another such case arose, it should be considered on its own merits.

5.8 **Mr Žilinskas** agreed that such requests should be treated on a case by case basis. In the present case, he could agree to the request by the administration of Saudi Arabia, given that there would be no impact on the interference situation and that cost-recovery would be applied.

5.9 **Ms Zoller** said that it would be preferable to approve a rule of procedure on the matter. The Bureau could not act in such cases because there was no relevant provision in the Radio Regulations and no rule of procedure. With regard to cost-recovery for splitting, it might be necessary for the Council to modify its Decision 482.

5.10 **Mr Ebadi** suggested that, if more cases arose, the Board might consider adopting a rule of procedure on the matter. In the present case, the Bureau had confirmed that the interference situation would remain unchanged and there would be no impact on other networks.

5.11 **Mr Koffi** said that he could agree to developing a rule of procedure if it was absolutely necessary. In the present case, he could agree to the request by the Administration of Saudi Arabia because splitting would have no impact on the interference situation and cost-recovery would be implemented.

5.12 **Mr Ito** considered that administrations could make requests concerning consolidating or splitting beams. If there was no impact, the Board could agree to the request. If there was an impact, the Board might refuse the request. There was probably no need for a rule of procedure.

5.13 The **Director** said that, in his view, it would be best to examine cases in depth in order to clearly identify where problems might arise.

5.14 **Mr Strelets** agreed with Ms Zoller that there was a need for a rule of procedure. Furthermore, cost recovery as such was not the Board's responsibility. He did not, however, object to granting the request by the Administration of Saudi Arabia.

5.15 **Mr Terán** said that the request by the Administration of Saudi Arabia was neither regulated nor prohibited. There would be no change in the technical parameters and no impact on the interference situation. ARABSAT was willing to pay cost-recovery fees, and the costs for the procedures that the Bureau would have to undertake were already established. The Bureau did not foresee any interface problem arising if the beams were split. He did not think that a rule of procedure was needed, in particular because any new case was likely to be different from the present case.

5.16 **Mr Žilinskas** agreed with Mr Ebadi, Mr Ito and Mr Terán. If such cases became frequent, the Board could consider the need for a rule of procedure.

5.17 **Mr Nurmatov** said that there seemed to be no reason not to accede to the request by the Administration of Saudi Arabia. He agreed that, if such cases became frequent, the Board might think about requesting the Bureau to prepare a rule of procedure on the matter.

5.18 **Chief SSD** said that the Board's discussion of the very first case of a request concerning the splitting of satellite network filings had given the Bureau useful guidance. The Bureau understood that requests to split filings would be acceptable only if the new arrangement did not increase interference to other networks, did not increase the sensitivity of the modified network, and cost-recovery was applicable to all the new publications necessitated by the modification.

5.19 The **Chairman** suggested that the Board approve its conclusions as follows:

“The Board considered in depth the submission by the Administration of the Kingdom of Saudi Arabia in Document RRB13-3/5 requesting the Radiocommunication Bureau to split its existing ARABSAT-AXB26E and ARABSAT-AX26E satellite network filings under AP30B into two sets of network filings, one set of network filings for the frequency assignments in the 6/4 GHz bands and another set of network filings for the frequency assignments in the 13/10-11 GHz bands, without any changes in the technical parameters and the regulatory status of those files.

In this regard, the Board noted that:

- 1) There are no provisions in the Radio Regulations or Rules of Procedure that prohibit splitting of satellite network filings.
- 2) The Bureau has confirmed that there will be no impact on the interference situation as a result of this splitting of the ARABSAT-AXB26E and ARABSAT-AX26E satellite network filings.
- 3) The frequency assignments in the ARABSAT-AXB26E satellite network have three different regulatory statuses. In order to maintain the respective regulatory statuses of the frequency assignments during the splitting process, ARABSAT-AXB26E would have to be split into six satellite network filings. The frequency assignments in the ARABSAT-

AX26E satellite network have one regulatory status; therefore, this network would have to be split into two satellite network filings.

Considering the above, the Board decided to instruct the Bureau to carry out the splitting of the ARABSAT-AXB26E and ARABSAT-AX26E satellite networks in two sets of network filings, one set containing the frequency assignments in 6/4 GHz bands and the other set containing the frequency assignments in 13/10-11 GHz bands, as requested by the Administration of the Kingdom of the Saudi Arabia. The Board also decided that considering such cases being rare, any future requests of this type would be considered on a case-by-case basis.”

5.20 It was so **agreed**.

6 Change of notifying administration for the ARTEMIS-21.5E-DR, ARTEMIS-21.5E-LM and ARTEMIS-21.5E-NAV satellite networks (Document RRB13-3/6)

6.1 **Mr Matas (SSD/SPR)**, introducing Document RRB13-3/6, said the Administration of France, acting as the notifying administration for the intergovernmental organization European Space Agency (ESA) on behalf of the ESA administrations and Canada (F/ESA), and the Administration of the United Kingdom (G) had jointly informed the Bureau that the ESA 2013 Council had approved the change of notifying administration for the ARTEMIS-21.5E-DR, ARTEMIS-21.5E-LM and ARTEMIS-21.5E-NAV satellite networks from F/ESA to G (see Annex 3 to Attachment 1 and Attachment 2 to Document RRB13-3/6). The ESA 2013 Council had also recorded a consensus by the ESA Member States that the transfer of the three satellite network filings, including all related coordination and notification matters, from F/ESA to G would be effective on 1 January 2014.

6.2 The **Chairman** recalled that the Board had dealt with other cases of a change of notifying administration, including a change from the Administration of the United States to the Administration of the Netherlands for certain Intelsat networks, as well as a change from the Administration of Belarus to the Administration of the Russian Federation for certain Intersputnik networks for which the Board had developed a rule of procedure to cater for the fact that the original notifying administration did not agree to the change. In the case now under consideration, however, both the original notifying administration and the new notifying administration appeared to agree to the change.

6.3 **Mr Ebadi** said that the case appeared to be similar to the Intelsat case, but different to the Intersputnik case where the notifying administration had not agreed to the change: all the administrations involved in the case now before the Board agreed with the change of notifying administration. The network concerned was a government service one and not commercial. The change was straightforward and the Board should accept it.

6.4 **Mr Ito** agreed with Mr Ebadi, noting the similarity between the present case and the Intelsat case on which the Board had taken a decision at its 12th meeting. He had consulted the minutes of the Board meetings that had discussed the Intelsat change, and noted that after discussing it at length the Board had accepted the change on the understanding that it was a special case. The Board could adopt the same rationale and reach the same conclusion in the present case.

6.5 **Mr Kibe, Mr Bessi, Mr Nurmatov, Mr Koffi and Mr Žilinskas** agreed that the case was straightforward, and the Board should accept the change, in particular in view of its past decision regarding the Intelsat networks.

6.6 **Mr Strelets** agreed, but wondered why the matter had been submitted to the Board for consideration; surely such a change of notifying administration should be automatic when all parties involved agreed to the change?

6.7 **Ms Zoller** also agreed that the Board should accept the change, and noted that the Administrations of France and the United Kingdom were requesting the Bureau to publish the change in a special section before 31 December 2013.

6.8 **Mr Magenta** also considered that the Board should agree to the change, by “noting” the information provided by the administrations concerned rather than “approving” it, in line with its past decision on the Intelsat networks.

6.9 **Mr Ito** supported Mr Magenta. So too did **Mr Strelets**, who noted that in its letter to the Bureau the French Administration had indicated: “If it is necessary for the Bureau to present this case to the consideration of the 64th meeting of the Radio Regulations Board.....,kindly transmit this letter to the members of the Board.” Thus, the administrations concerned did not necessarily expect a decision as such from the Board.

6.10 The **Chairman** asked the Bureau whether there was any regulatory obstacle to its effecting the change notified: did the Radio Regulations allow it, and were there any implications?

6.11 **Chief SSD** said that a change of notifying administration was a delicate issue in so far as it touched upon the rights and obligations of administrations, and the Bureau did not consider itself empowered to take a decision on it. The decision by the Board at its 12th meeting regarding the Intelsat networks had been taken following long discussions, and had been accompanied by qualifications relevant to the present case, in particular the fact that the Board’s acceptance of the transfers for the Intelsat networks should not be regarded as setting a precedent. Despite there being no technical or regulatory difficulties in implementing the change presented by the Administrations of France and the United Kingdom, therefore, the Bureau considered that it was up to the Board rather than the Bureau to deal with such a sensitive issue. If the change was accepted by the Board, a special section reflecting it was ready for publication before the end of 2013.

6.12 **Ms Zoller** noted that a rule of procedure existed dealing with a change of notifying administration for an intergovernmental organization, and the case under consideration appeared to meet the criteria set in that rule.

6.13 **Chief SSD** said that the rule of procedure referred to by Ms Zoller dealt with a change of notifying administration between two administrations within the same intergovernmental organization, whereas the case before the Board involved a change from a notifying administration representing the administrations of an intergovernmental organization to an individual administration not representing the intergovernmental organization, i.e. F/ESA to G. He nevertheless agreed that the principles in the rule of procedure were applicable to the present case, and noted that both as an ESA Member State and as the United Kingdom Administration (G), the United Kingdom agreed to the change of notifying administration in question.

6.14 **Mr Ebadi** said that he understood the reasons why the Bureau had seen fit to refer the case to the Board for decision, and he saw no reason for the Board not to accept the change of notifying administration.

6.15 **Mr Strelets** stressed that the Board must be clear as to whether it would be authorizing the change of notifying administration or accepting notification of the change. Even if the rule of procedure referred to by Ms Zoller had been developed to deal with a slightly different scenario, the change before the Board fully complied with the principles and terms contained in it, with both the former and new notifying administrations, the legal representative of the intergovernmental organization and all concerned member administrations unanimously agreeing to the change. With all provisions of the Radio Regulations and Rules of Procedure thus complied with, he failed to see how the Board could say no to the change. He therefore viewed the matter in terms of the Board being notified of the change rather than being in a position to authorize or reject it.

6.16 **Mr Koffi** said that the French Administration's primary request in its letter of 6 November 2013 was for the Bureau to publish the change, and in his view the Board was not called upon to take a decision as such on the matter. It should simply note the information.

6.17 The **Chairman** recalled that the Bureau had submitted the matter to the Board because it affected the rights and obligations of Member States. He asked the Bureau precisely what it expected of the Board.

6.18 **Chief SSD** said that, regardless of whether the Board noted, accepted or approved the change before it, the Bureau was hoping for a clear indication of whether or not the change was acceptable and in conformity with the ITU Constitution, Convention and Radio Regulations. The change was similar to that accepted by the Board for the Intelsat networks back in 1998, but was not covered by any existing rule of procedure.

6.19 **Ms Zoller** endorsed Chief SSD's comments. However, the change before the Board complied with the basic principles contained in the rule of procedure she had referred to, and bore close similarities with the Intelsat submission accepted by the Board at its 12th meeting. She therefore saw no reason for the Board not to take the same decision now as at its 12th meeting.

6.20 **Mr Ebadi** said that the decision towards which the Board was converging should include reference to No. 96 of the ITU Constitution and § 1.4*f*) of Part C of the Rules of Procedure, which referred to the Board's consideration of matters that could not be resolved by the Bureau.

6.21 The Board **agreed** to conclude on the matter as follows:

"The Board considered Document RRB13-3/6-E to fall under the category of other matters that cannot be resolved through the application of the Rules of Procedures (see CS96 and part 1.4*f*) of Part C the Rules of Procedure).

The Board carefully considered the correspondence from the Administrations of France, acting as the notifying administration of the intergovernmental organization European Space Agency (ESA) on behalf of the ESA administrations and Canada (F/ESA) and the Administration of United Kingdom of Great Britain and Northern Ireland (G), jointly informing the Radiocommunication Bureau that the ESA 2013 Council approved the transfer of notifying administration of the ARTEMIS-21.5E-DR, ARTEMIS-21.5E-LM and ARTEMIS-21.5ENAV satellite networks from F/ESA to G. The Board also noted that the correspondence from the Administration of United Kingdom of Great Britain and Northern Ireland agreeing to assume the function of notifying administration of the ARTEMIS-21.5E-DR, ARTEMIS-21.5E-LM and ARTEMIS-21.5E-NAV satellite networks as of 1 January 2014 and to observe and respect the associated rights and obligations stipulated in the Radio Regulations.

The Board came to the following conclusions:

- 1) The treatment of the change of the notifying administration which acts as the notifying administration of a satellite network on behalf of a group of named administrations is addressed only in the Rules of Procedure and only for the case where the network remains within the intergovernmental organization. In this case, the intergovernmental organization is requesting to transfer the satellite networks from France acting on behalf of the intergovernmental organization European Space Agency (ESA) to the Administration of the United Kingdom of Great Britain and Northern Ireland. Nevertheless, certain principles in the Rule of Procedure have been met. Namely, that the Bureau has received written notification from the legal representative of the intergovernmental organization, ESA, to effect the change of notifying administration and written agreement from the newly named administration to act as the notifying administration and to observe and respect the associated obligations.
- 2) There is no problem of a regulatory or procedural character.

- 3) Given the above, the Board agreed the Bureau could accede to the request to change the notifying administration of the ARTEMIS-21.5E-DR, ARTEMIS-21.5E-LM and ARTEMIS-21.5E-NAV satellite networks from F/ESA to G as from 1 January 2014 and publish this change in a relevant BR IFIC (Space Services) before 31 December 2013.
- 4) The Board's acceptance of the transfer of these filings should not be regarded as setting a precedent. Each case must be considered on the basis of its specific circumstances."

7 Consideration of frequency assignments of ASIASAT-CKZ satellite network under No. 13.6 of the Radio Regulations (Document RRB13-3/2)

7.1 **Mr Venkatasubramanian (SSD/SSC)** introduced Document RRB13-3/2, in which the Bureau, in accordance with No. 13.6, requested a decision by the Board for cancellation of frequency assignments to the ASIASAT-CKZ satellite network in the bands 10.95-11.2 and 19.7-21.2 GHz. Outlining the case, he said that, following a request by the Bureau under No. 13.6 for clarification of the bringing into use of frequency assignments to the aforementioned networks with the notified characteristics recorded in the MIFR, the Administration of China had initially (letter of 22 May 2012) responded that the frequency assignments to the ASIASAT-CKZ satellite network at 105.5° E in all ten bands 3 400-4 200 and 5 725-6 725 MHz and 10.95-11.2, 11.45-11.7, 12.2-12.75, 13.75-14.5, 17.7-18.8, 19.7-21.2, 27-28.6 and 29.5-31 GHz had been brought into use by satellites AsiaSat 3S and AsiaSat-7 since 24 April 2012. Based on publicly available information regarding the transponders carried on the two satellites, the Bureau had, in line with Circular Letter CR/301, requested evidence from China on 7 August 2012 of operation in the C, Ku and Ka bands and identification of the actual frequency bands on board the satellites at 105.5° E. Following a reminder from the Bureau dated 24 September 2012, China had provided downlink spectrum plots and uplink information on 17 December 2012 and 17 February 2013 for a series of bands, further to which the Bureau, on 30 April 2013, had requested China to provide evidence for the remaining bands. On 5 June 2013, the Administration of China had responded that the AsiaSat-7 satellite had drifted from 105.5° E, and had requested suspension of frequency assignments to ASIASAT-CKZ as from 11 March 2013. On 24 July 2013, the Bureau had informed the Chinese Administration that the partial evidence provided in support of use of the frequency assignments in the eight bands 3 400-3 620, 3 660-3 680 and 3 690-3 700 MHz and 11.45-11.461, 11.481-11.526, 11.546-11.56, 11.58-11.591 and 11.611-11.7 GHz was deemed sufficient to justify continuous operation in those bands, whereas no evidence had been provided that the two bands 10.95-11.2 and 19.7-21.2 GHz had been brought into use, and that therefore the Bureau had no option but to request RRB at its 64th meeting to cancel the frequency assignments in those two bands. No reply had been received from China to that letter. Considering therefore that those two bands had not been brought into use, the Bureau had taken the decision at the 1027th BR IFIC weekly meeting on 19 September 2013 to request cancellation by the Board of the assignments in those two bands in accordance with No. 13.6. Annex 1 to the document presented the case in detail, and Attachment 1 contained the related correspondence exchanged between the Bureau and the Administration of China.

7.2 Providing further clarifications at the request of **Mr Ebadi**, he said that although satellite AsiaSat-7 had drifted, AsiaSat 3S had remained in position, with the capacity to operate certain C and Ku bands.

7.3 Responding to a question by **Mr Bessi**, he said that based on publicly available information the Bureau had questioned whether all the frequency bands concerning ASIASAT-CKZ had been brought into use. It had accepted the evidence provided by China regarding the use of eight bands, but China had failed to provide any evidence for the two bands for which cancellation was therefore now proposed.

7.4 **Mr Žilinskis** noted from China's letter of 17 February 2013 that some of the beams of the satellites involved were pointed outside Hong Kong, and he wondered if that could be the reason

why no evidence had been provided for the two bands called into question by the Bureau.

Mr Venkatasubramanian (SSD/SSC) said that Hong Kong was within the service area of the beams for which the Bureau was proposing cancellation.

7.5 **Mr Strelets** said that the entire issue appeared to beg the question as to what, in the application of No. 13.6, had been used by the Bureau as “reliable information” to question China’s answers regarding its use of assignments, and on what grounds the Bureau should consider some of the information provided by China reliable, and other information provided by China unreliable.

7.6 **Mr Venkatasubramanian (SSD/SSC)** said that the Bureau’s two main sources of information were the satellite operator’s site and sites on which launch service and satellite tracking providers published technical details of the satellite launched. Evidently the Bureau believed administrations when they submitted information, but sometimes saw fit to query it when reliable information elsewhere appeared to contradict it.

7.7 **Mr Strelets** said that he was far from convinced that the information available on operators’ sites could be regarded as “reliable” information; for example, some resources were announced for a given use prior to satellite launch and were used differently subsequently. The information was often far from complete, and much of it was in fact advertising. Only the person who posted the information could say what was reliable and what was not. He also noted that, on the one hand, the Bureau had spoken of using “publicly available” information, and not “reliable” information as required in the application of No. 13.6; and on the other hand, the Chinese Administration had shown considerable cooperation and goodwill in providing more documents than required under the Radio Regulations. He failed to understand the logic followed by the Bureau in the present case.

7.8 The **Chairman** said he understood that, based on the information it had found, the Bureau had sent a query to the Chinese Administration, and had accepted all the information sent back by the administration. Only where information had not been forthcoming had the Bureau questioned matters further, leading to the proposed cancellation.

7.9 **Chief SSD** confirmed the Chairman’s understanding. The Chinese Administration had provided information confirming the bringing into use of all bands save the two for which cancellation was now proposed, and when the Bureau had asked for information on those bands, none had been sent.

7.10 **Mr Nurmatov**, sharing Mr Strelets’ doubts, also raised questions regarding what should be deemed reliable information, noting China’s claims, in its exchange of correspondence with the Bureau, to be using all ten frequency bands relating to the ASIASAT-CKZ network.

7.11 **Mr Žilinskas** said that the Bureau might appear to have been pressurizing the Chinese Administration somewhat, but apparently with good reason, given that something did appear to be missing in the information provided. Indeed, if the Bureau did not put a bit of pressure on administrations, how could results be expected in terms of cleaning up the spectrum? China had failed to provide spectrum plots in certain bands, but had provided sample plots instead, claiming that it was difficult to obtain plots from coverage areas outside Hong Kong. The Bureau’s approach had been both logical and professional, and if China had been using frequencies for purposes other than those previously announced, it should have informed the Bureau accordingly and that information would have been accepted.

7.12 **Ms Zoller** said that the Board had before it all the correspondence exchanged between the Bureau and the Chinese Administration, and the successive steps required under No. 13.6 were clearly spelt out in the provision. The Bureau had consulted the operator’s website, and based on what could be regarded as reliable information it had taken no steps other than to consult the administration concerned, leading to an exchange of correspondence that had lasted about a year. The Bureau had requested specific information several times, and had seen fit to accept the

information provided by China in regard to eight bands, but no information had been forthcoming on two bands. Based on that lack of information, the Bureau was now turning to the Board for a decision on whether the assignments for which no information had been provided should be maintained, modified or suppressed. Since no information had been provided on the two bands, since China, despite having had ample time to do so, had not responded to the Bureau's announcement that in the absence of a reply from China it would have no choice but to seek cancellation of the assignments from the Board, and since it seemed unlikely that any reply would be forthcoming from China now, she saw no objection to cancelling the assignments concerned.

7.13 **Mr Bessi** noted that in its letter dated 30 April 2013 the Bureau had informed the Chinese Administration that unless it provided evidence of the operation of 10 frequency bands, the Bureau would have no option but to ask RRB to cancel all the relevant frequency assignments to the network concerned in accordance with No. 13.6. Subsequently, on 5 June 2013, the Chinese Administration had informed the Bureau that satellite AsiaSat-7 had drifted from 105.5° E, and had therefore requested the Bureau to suspend the frequency assignments to ASIASAT-CKZ under No. 11.49 as from 11 March 2013. Did that suspension relate to all ten frequency bands, or to the two bands now being considered for possible cancellation? The Bureau had not replied directly to that letter from China, but had indicated that eight bands appeared to be in order, whereas two did not and would be submitted to the Board with a view to their cancellation under No. 13.6. It was perfectly possible that China had not understood precisely what the Bureau was asking for in its letter of 24 July 2013, which might explain why China had not replied. Perhaps it should be made fully clear to China what missing information it was being asked to provide, and pending a reply the Board should not take a decision on the matter at the present meeting.

7.14 **Mr Ito** said that he endorsed the action taken by the Bureau. The Board must be consistent in ensuring compliance with Article 44 of the Constitution and that spectrum was not left reserved but unused.

7.15 **Mr Magenta** requested clarification of what problems might be faced if the two bands proposed for cancellation were maintained in the MIFR. Were the two bands included in China's indication, in its letter of 17 February 2013, that the frequency assignments to the ASIASAT-CKZ network had been brought into use on 24 April 2012, as confirmed by China in its fax of 22 May 2012?

7.16 **Mr Strelets** stressed the importance of the fact that the Board was using for the first time the new powers vested in it by WRC-12. It was considering, under No. 13.6 of the Radio Regulations, a specific case of disagreement between the Bureau and the administration concerned regarding the regular use of frequency assignments to satellite network ASIASAT-CKZ at 105.5° E. While fully supporting the considerable work carried out by the Bureau to ensure the effective use of the radio spectrum and the geostationary orbit, the Board needed to very carefully and sensitively consider all aspects of the activity concerned, affecting as it did the economic, technical and sometimes political spheres of activity of ITU Member States. Careful analysis of the correspondence exchanged between the Bureau and the Administration of China raised several questions regarding both the actions of the Bureau and the responses received from China.

7.17 Regarding the Bureau's actions, first, as already pointed out, the basis for the application of No. 13.6 lay in the availability to the Bureau of "reliable" information. Unfortunately, the Bureau operated only with the notion of "publicly available" information, and he was not convinced that the two concepts were legally equivalent. Moreover, that information had been provided neither to the Administration of China nor to the Board members. Second, starting with the Bureau's second letter, of 7 November 2012, the Bureau had required the administration to consider removing from the MIFR the frequency assignments to satellite network ASIASAT-CKZ if their use had been discontinued. He recalled that in its first letter, of 7 May 2012, the Bureau had asked for confirmation of the date of bringing into use of the frequency assignments to satellite network ASIASAT-CKZ. Something was not logical, but most importantly there was a violation of the principle of "presumption of innocence". Why should the administration prove something to the Bureau? If the Bureau had "reliable" information, the facts thereof should be presented to the administration and the administration should clarify the situation. If the Bureau had no such information, why was the administration having to justify itself to the Bureau in its correspondence? Third, in the fax of 26 November 2012, the head of the Space Systems Coordination Division had written that "in the absence of a response to the queries, the Bureau believes that it might have no other option than to initiate the cancellation of frequency assignments to the subject network from the MIFR". Following WRC-12, however, it was no longer the Bureau's function to cancel frequency assignments to satellite networks, even in the event of non-response from an administration. Fourth, in a letter dated 30 April 2013, the Chief of the Space Services Department had required the administration to provide information in accordance with Circular Letter CR/343, in particular § 2.4.1 thereof. In accordance with the decision taken by the Board at its previous meeting, however, any request by the Bureau must always be within framework of the requirements of the Radio Regulations. Lastly, (although he still had a number of comments resulting from his inability to understand the Bureau's conclusions), with no confirmation of the use of ten bands, the Board was invited to consider the cancellation of 2 bands. He stressed that the Director should under no circumstances take his remarks as criticism of the Bureau, whose efforts in that area were enormous; only those who did nothing made no mistakes.

7.18 Regarding the correspondence received from the Administration of China, the latter had actively cooperated with the Bureau and had endeavoured to provide detailed answers to questions, to the extent even of providing spectrum plots for the frequency bands under inquiry. On each occasion, evidence had been presented of satellite emissions outside the bands whose use had been recognized by the Bureau. In its last letter, the Administration of China had stated that satellite AsiaSat-7 had temporarily drifted from orbital position 105.5° E in March 2013, and it was therefore not possible to provide additional frequency plots. From the legal viewpoint, everything appeared to be logical. There had been full cooperation with the Bureau and an emergency situation in orbit. However, in its first letter, dated 22 May 2012, the Administration of China had stated that the band 10.95-11.2 GHz was used on two satellites, AsiaSat 7 and AsiaSat 3S, whereas only one satellite had drifted, therefore it was not clear why additional frequency plots could not be provided. In addition, if only one satellite had drifted, why suspend the use of the other satellite? Things were not clear. Thus, the Board faced a difficult task in taking its decision. Further, the decision ultimately taken would make clear the manner in which difficult decisions were reached by the Board, i.e. whether based on the basic instruments of the Union and specific documents received from administrations, or based on subjective feelings, opinions or preferences.

7.19 One solution had been proposed by Mr Bessi, who had pointed out that the Board was in a position of great uncertainty in the absence of information from the Administration of China. Thus, the first option consisted of the need to request additional information from China and defer action on the matter to the Board's next meeting. The second option followed on from the practice adhered to by the Bureau until recently. If, further to a request by the Bureau regarding the use of frequency assignments to a satellite network, an administration had requested suspension of the use of

assignments to a satellite network under No. 11.49, the Bureau had suspended such use. That constituted a practical and progressive way of establishing order regarding the Master Register's reflection of real use, and administrations received a clear signal regarding the practical actions to be taken by an administration to establish order with its operators. China, for example, had asked for suspension of use as from 11 March 2013, leaving 2 years and 3 months for the frequency assignments to have been brought into use. Thus, within a relatively short period of time for satellite communications, the Administration of China would have to reconfirm the bringing into use of all frequency assignments at the orbital position in question. And it really would have to do that. If the administration did so, the Board and the Bureau would consider that the use of the frequency assignments corresponded with the MIFR, and if it did not, he was convinced that the Administration of China itself would request cancellation of the frequency assignments not used.

7.20 It should be borne in mind that administrations very often found themselves in the middle, between the Bureau and the operators. The course of action to be taken by an administration was not always straightforward, especially when for example an investor was in another country or a satellite network was being used for other countries. He considered that the Board should proceed in a progressive and consistent manner, basing itself on transparent procedures and working methods, with the aim of achieving efficient use of the frequency/orbit resource based on the provisions of the basic instruments of the Union. Therefore, in the face of considerable uncertainty in terms of information and complexities regarding correspondence, he requested the Chairman to consider the two options he had presented.

7.21 **Mr Venkatasubramanian (SSD/SSC)** specified that when requesting suspension, China had requested suspension of the entire ASIASAT-CKZ network, and not simply part of it. Responding to Mr Magenta's question, he said that the consequences of cancelling the two bands under discussion would obviously be negative for China, which would be denied their use, but positive for other administrations wishing to use them. Regarding China's assertion that it had brought all ten bands into use, he said that once the Bureau received all relevant information relating to bringing into use, Resolution 49 and so on, it checked publicly available information and if it appeared from that information that not all bands were being used it consulted the administration concerned. Responding to Mr Strelets, he said that many of the points raised appeared to fall within the competence of the WRC. Regarding any disagreement between the Bureau and the Chinese Administration, the latter had never expressed any disagreement with the Bureau on the action taken by it. When asked for information, China had responded, save to the Bureau's last correspondence of 24 July 2013 despite having ample time to reply. Regarding Mr Strelets' reference to publicly available information and reliable information, there was no definition of "reliable information", but at WRC-12 indications had been given as to how the Bureau used available information in the application of No. 13.6. The Bureau did not take any actual action based on the publicly available information it found, but used it as a basis for requesting clarification from an administration. In the present case, China had fully cooperated by responding to all the Bureau's correspondence, save its last letter of 24 July 2013. Regarding suspension, the Bureau accepted requests only when bringing into use had been confirmed, which it had not been for the two bands under consideration.

7.22 **Mr Nurmatov** said that other cases involving proposed cancellation had been far more straightforward than the present case, in that they had involved satellites not placed in orbit or insufficient periods of use. In the present case, there did appear to be disagreement between the Bureau and the Chinese Administration, in so far as the latter had informed the Bureau that all ten bands pertaining to ASIASAT-CKZ had been brought into use whereas the former maintained that two bands had not. China had provided only example frequency plots, not actual plots, for the two bands, so it remained unclear whether the two bands were in use or not. Should the Board accept the administration's word despite the lack of evidence that the two bands were in use, thereby possibly setting a dangerous precedent for the future and perhaps going against the WRC's intention in

adopting No.13.6 with its reference to “reliable information”? Or should the Board agree to cancellation despite the administration’s assertions, and if so, on what reliable grounds? He tended to agree with Mr Strelets, that further information needed to be gathered before any decision was taken.

7.23 The **Chairman** agreed with Ms Zoller’s analysis of the case. Based on information available on the operator’s website, the Bureau had entered into detailed correspondence with the Chinese Administration and, based on the information provided by China, had inferred that eight out of ten bands pertaining to the network in question were in use. Cancellation was proposed for two bands only. Some elements of the case might not be fully clear, but no real evidence of use of the two bands had been provided by China. He considered that the Bureau’s handling of the case was fully in accordance with No. 13.6

7.24 **Mr Magenta** said that the Bureau appeared to have applied the provisions of No. 13.6 correctly, step by step, leading up to the proposed cancellation of the two bands. China could have replied to the Bureau’s last correspondence but had decided not to. The only other reasons possible for China’s non-response would have to be of an administrative nature.

7.25 Responding to comments by **Mr Ebadi, Chief SSD** said that the Bureau’s letter to China of 7 May 2012 related to the application of Nos. 11.44 and 11.47, and to confirmation of the future bringing into use of assignments, not to the application of No. 13.6 which had been brought into play subsequently for the reasons already explained.

7.26 **Mr Bessi** said that under No. 13.6 the Board was called upon to assist the Bureau in cleaning up the MIFR. The Board could either agree to cancel assignments in the two bands, or maintain them, and should consider the consequences of both courses of action before taking a decision. If it opted to maintain the assignments, they would be recorded permanently in the MIFR despite the fact that they might not really exist. And if they did not exist, the Board would have failed in its duty to help the Bureau to clean up the MIFR. There were indeed some grey areas – for example, the Bureau had not given China any clear deadline by which to respond to its latest correspondence – but China had had ample time to respond and had not done so. If, on the other hand, the Board opted to cancel the assignments and subsequently the assignments proved to exist, they could always be reinstated by the WRC based on a request by China, thus that decision by the Board would be reversible. Therefore, albeit with some reluctance, he considered that if the Board was required to take a decision on the matter at the present meeting, it should cancel the two bands as proposed by the Bureau.

7.27 **Ms Zoller** said that she had reviewed all the correspondence exchanged between the Bureau and the Chinese Administration, and considered that the Bureau had applied No. 13.6 correctly. The change made by WRC-12 to No. 13.6 had come into effect on 1 January 2013, which explained why the nature of the correspondence between the Bureau and China had changed over the months, with the Bureau clearly recognizing that it had now become the Board’s responsibility to decide whether or not to cancel assignments under No. 13.6. The Bureau had accepted China’s evidence that eight out of ten bands had been brought into use, even though in fact the plots provided did not cover those eight bands in their entirety. No evidence had been provided for the other two bands. China had had more than four months to respond to the Bureau’s last correspondence, and as it had not done so she considered that the Board could go ahead and cancel the two bands.

7.28 **Mr Koffi** endorsed Ms Zoller’s comments regarding the Bureau’s application of No. 13.6, which it had applied step by step and correctly. China had replied to all the Bureau’s correspondence save to its last letter, in which the Bureau had made it clear that it would be requesting a decision by the Board to cancel the two bands. He considered that a decision on the matter should be deferred to the Board’s next meeting, and in the meantime China should be requested to respond to the Bureau’s letter of 24 July.

7.29 **Mr Ebadi** endorsed Ms Zoller's comments.

7.30 **Mr Strelets** stressed that the Board had to have full and proper reasons for cancelling assignments, which it did not have in the present case, whereas the administration concerned had indicated that all assignments had been brought into use and had submitted a request for their suspension. The Board should now request China to provide evidence that the assignments had been brought into regular use by March 2013, the date from which suspension had been requested. He therefore supported the approach proposed by Mr Koffi. When a reply was received from China, the Board could decide on the matter.

7.31 **Mr Žilinskas** supported Ms Zoller and other Board members who agreed with the Bureau that the two bands should be cancelled.

7.32 The **Chairman** proposed that, for the reasons given by Ms Zoller and supported by other members, the Board conclude as follows:

“The Board examined the matter and noted that the Radiocommunication Bureau had correctly applied the provisions of No. 13.6 of the Radio Regulations, conducting several consultations with the Administration of China.

The Board noted that the Administration of China:

- did not provide the clarifications requested by the Bureau on the use of the frequency bands 10.95-11.2 and 19.7-21.2 GHz of the ASIASAT-CKZ satellite network;
- did not respond to the Bureau's letter indicating its intention to ask the RRB at its 64th meeting for a decision to cancel these frequency assignments;
- did not provide any additional information for consideration by the Board.

Hence the Board decided to instruct the Bureau to cancel the frequency assignments in the frequency bands 10.95-11.2 and 19.7-21.2 GHz of the ASIASAT-CKZ satellite network from the MIFR.”

7.33 It was so **agreed**.

7.34 **Mr Strelets** said that he would have liked the text of the Board's decision to have reflected the fact that in the course of the Bureau's handling of the case, the regulatory regime in regard to No. 13.6 had changed, with the provisions revised by WRC-12 coming into force on 1 January 2013. He also noted that four of the five replies received from China had confirmed that the two bands now cancelled were in use, and that the fifth reply had reported an exceptional situation regarding the satellites in orbit. Moreover, the decision had been taken by the Board despite certain members being opposed to it.

8 Report of the Working Group on the Rules of Procedure (Documents RRB12-1/4(Rev.7) and RRB13-3/INFO/1)

8.1 The Board **noted** the following report by its Working Group on the Rules of Procedure, which met on the afternoon of 2 December 2013:

“The Working Group on Rules of Procedure (RoPs) considered the proposed draft RoP on RR 11.50 (Document RRB13-3/INFO/1), as well as the “List of Proposed Rules of Procedure” in Document RRB12-1/4 (Revision 7). The Working Group agreed to update Document RRB12-1/4 (Revision 7) to reflect the RoPs approved at the 64th meeting.”

8.2 **Ms Zoller** requested that the revised document include the date of coming into effect of each of the rules of procedure.

8.3 It was so **agreed**.

8.4 The **Chairman** thanked the working group and particularly its Chairman, Mr Ebadi, for their efforts. Supported by **Mr Ito** and **Ms Zoller**, he said that the major part of the discussion of the draft rule of procedure on No. 11.44B had properly taken place in the plenary of the Board (and was thus minuted) because of its interest to administrations.

9 Election of the vice-chairman for 2014

9.1 **Mr Magenta** proposed Mr Žilinskas to serve as vice-chairman of the Board in 2014. Because Mr Žilinskas was currently serving his final term as a member of the Board, the new Board that would take office following PP-14 would then have a free hand in choosing its chairman.

9.2 Mr Žilinskas was **elected** Vice-Chairman of the Board for 2014 by acclamation.

10 Dates of the next meeting and schedule of meetings in 2014

10.1 The Board **confirmed** 17-21 March 2014 as the dates of its 65th meeting.

10.2 The Board **noted** the following provisional dates for its subsequent meetings in 2014: 30 July – 5 August (66th meeting) and 17-21 November (67th meeting).

11 Approval of the summary of decisions (Document RRB13-3/7 and Corrigendum 1)

11.1 The summary of decisions (Document RRB13-3/7+Corr.1) was **approved**.

12 Closure of the meeting

12.1 The **Deputy-Director** informed the Board that Mr Venkatesh would retire before the next Board meeting, and that Mr de Botha would replace him as secretary of the Board.

12.2 The **Chairman** expressed the Board's appreciation of the excellent support that Mr Venkatesh had always provided to it. He also thanked Board members and the Bureau for their valuable contributions to the Board's work at the present meeting and throughout 2013.

12.3 **Mr Ebadi** and the **Director** thanked the Chairman for his leadership and Mr Venkatesh for his work, and wished all colleagues a joyous festive season and a happy new year. Joining in those thanks, **Mr Magenta** noted that Mr Venkatasubramanian would also be retiring and thanked him also for his work. **Ms Zoller** thanked Mr Venkatesh and Mr Venkatasubramanian for their services, and congratulated the Chairman on his very able leadership of the Board throughout 2013.

12.4 **Mr Venkatesh** and **Mr Venkatasubramanian** thanked speakers for their kind words.

12.5 The **Chairman** also thanked speakers for their kind words, wished everyone a happy Christmas and all the best for the new year, and closed the meeting at 1230 hours on Tuesday, 3 December 2013.

The Executive Secretary:
F. RANCY

The Chairman:
P.K. GARG