



Radiocommunication Bureau (BR)

Circular Letter
CR/365

23 May 2014

To Administrations of Member States of the ITU

Subject: Minutes of the 65th 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 65th meeting of the Radio Regulations Board (17 – 21 March 2014).

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.

A handwritten signature in black ink, appearing to be 'FRANÇOIS RANBY'.

François Ranby
Director

Annex : Minutes of the 65th 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, 17-21 March 2014



Document RRB14-1/17-E
23 April 2014
Original: English

MINUTES*
OF THE
65th MEETING OF THE RADIO REGULATIONS BOARD

17-21 March 2014

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

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

Précis-Writers
Mr T. ELDRIDGE and Mr M. JOHNSON

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 K. BOGENS, TSD/FMD
Mr P. HAI, TSD/BCD
Ms V. GLAUDE, SSD/SNP (Acting head SSD/SNP)
Mr A. MATAS, SSD/SPR
Mr M. SAKAMOTO, SSD/SNP (Acting Head, SSD/SSC)
Mr V. TIMOFEEV, Special Adviser to the Secretary-General
Mr D. BOTHA, SGD
Mr A. GUILLOT, ITU Legal Adviser
Ms K. GOZAL, Administrative Secretary

* 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 65th meeting of the Board. The official decisions of the 65th meeting of the Radio Regulations Board can be found in Document RRB14-1/16.

	Subjects discussed	Documents
1	Opening of the meeting	-
2	Visit by the Secretary-General and Deputy Secretary-General	-
3	Late submissions	-
4	Report by the Director of BR	RRB14-1/8 + Add.1, RRB14-1/DELAYED/1, RRB14-1/DELAYED/2
5	Coordination of the CHINASAT-15 satellite with the YAHSAT-1A satellite	RRB14-1/1, RRB14-1/2
6	Request for a decision by the Radio Regulations Board on the status of frequency assignments in the frequency bands 1 980-2 000 and 2 170-2 180 MHz to the SIRION satellite network under No. 11.48 of the Radio Regulations	RRB14-1/3, RRB14-1/13, RRB14-1/14, RRB14-1/DELAYED/4
7	Request for confirmation by the Radio Regulations Board of the suspension of some satellite networks under No. 11.49 of the Radio Regulations	RRB14-1/9
8	Consideration of satellite networks EXPRESS-11, STATIONAR-16, LOUTCH-10 and VOLNA-6R	RRB14-1/6, RRB14-1/15
9	Application of No. 13.6 of the Radio Regulations	RRB14-1/4, RRB14-1/5
10	Conversion of the current rule of procedure concerning the format used for the submission of information under Resolutions 552 (WRC-12) and 553 (WRC-12)	RRB14-1/10
11	Request for a decision by the Radio Regulations Board on the date of receipt for the submission of the NICASAT-1-30B satellite network	RRB14-1/11, RRB14/DELAYED/3
12	Request for a decision by the Radio Regulations Board on the date of receipt for the submission of the LSTAR-126E-30B satellite network	RRB14-1/12
13	Application of Nos. 9.48-9.49 following assistance requests under No. 9.46 or 9.60	RRB14-1/7
14	Report of the Working Group on the Rules of Procedure	RRB12-1/4(Rev.9)
15	Draft revised rule of procedure on No. 11.44B	RRB14-1/INFO/1
16	RRB participation in the 2014 Plenipotentiary Conference (PP-14) and the 2014 World Radiocommunication Seminar (WRS-14)	-
17	Working groups of the Board	-
18	Dates of remaining meetings in 2014 and indicative meeting dates for 2015	-
19	Approval of the summary of decisions	RRB14-1/16
20	Closure of the meeting	-

1 Opening of the meeting

1.1 The **Chairman** opened the meeting at 1400 hours on Monday, 17 March 2014, and welcomed participants to Geneva.

1.2 The **Director** also welcomed participants, and assured members that as usual the Bureau would provide the Board with all the support it required in its work.

2 Visit by the Secretary-General and Deputy Secretary-General

2.1 In the course of a brief visit to the meeting, the **Secretary-General** expressed his appreciation and thanks for the work carried out by the Board, whose profile and importance had grown constantly over his two terms of office as Secretary-General. The Board's contribution to ITU's success as a whole was recognized by the entire international community, and he urged the Board to continue its valuable work in the same manner in the future, knowing that it could always count on the secretariat's full support. He was very pleased that the five elected officials also worked very well together, and that the work of ITU-R had never been called into question.

2.2 The **Deputy Secretary-General** said that he wished only to echo the words of the Secretary-General, with whom he had worked closely over the past 15 years. And indeed, nobody had ever called into question the work carried out by ITU-R. He looked forward to seeing the Board members again at the two meetings yet to be held in 2014, and wished them every success in their work.

2.3 The **Chairman** thanked the Secretary-General and Deputy Secretary-General for their very encouraging words, and said he was pleased that the Board's work was well appreciated by ITU and the international community as a whole.

2.4 **Mr Magenta** thanked the Secretary-General and Deputy Secretary-General for their unfailing support of the Board and its work. He looked forward to further collaboration and interaction with them both in the years to come, in whatever form that might take.

3 Late submissions

3.1 The **Chairman** drew attention to the following late submissions to the present meeting:

- RRB14-1/DELAYED/1 and RRB14-1/DELAYED/2, containing letters from Switzerland and Croatia, respectively, concerning the interference caused by Italian stations to stations in neighbouring countries;
- RRB14-1/DELAYED/3, containing a letter from the Administration of Nicaragua concerning satellite network NICASAT-1-30B;
- RRB14-1/DELAYED/4, containing a letter from the Administration of Papua New Guinea concerning the SIRION satellite network.

3.2 The Board **agreed**, in accordance with established practice, to take up the above late submissions, for information purposes, under the agenda items to which they related.

4 Report by the Director of BR (Documents RRB14-1/8 and Addendum 1, RRB14-1/DELAYED/1 and RRB14-1/DELAYED/2)

4.1 The **Director** introduced his report in Document RRB14-1/8, drawing attention to Annex 1 which listed the Bureau's actions arising from the decisions of the previous meeting. He noted that Addendum 1 to Document RRB14-1/8 contained a roadmap concerning the actions by Italy to solve interference with its neighbouring countries.

4.2 **Chief SSD**, presenting the sections of the Director's report related to space systems, referred first to § 2 and Annex 3, describing the situation with respect to the processing of space notices, for which data covering February 2014 were also provided to the meeting.

4.3 With regard to § 3 of the report, dealing with the implementation of cost recovery for satellite network filings (late payments), Annex 4 indicated 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. No filing had been cancelled as a result of non-payment of invoices for the considered period.

4.4 Section 5 of the report provided statistics on the implementation of various provisions of the Radio Regulations, mainly related to the suppression of coordination requests.

4.5 As described in § 6 of the report, in response to recent requests from administrations, the Bureau had defined a new class of station for Table 3 in the Preface to the BR IFIC (Space services), in order to distinguish links with Earth stations while in motion in the fixed satellite service in the bands listed under provision No. 5.526 from other links in advance publication information (API), coordination requests under No. 9.7 and notification information under Article 11. The Bureau had issued Circular Letter CR/358 on 14 February 2014 with all relevant information on the new class of station.

4.6 In § 7, the report described how, after successful testing and in addition to the DVD-ROM format, the Bureau was now offering administrations and all other users a secure web-based distribution of the BR IFIC (Space services) in a compressed ISO image file format.

4.7 **Mr Garg** and the **Chairman** commended the Director and the Bureau for all the efforts made and the work accomplished within the specified time limits.

4.8 The **Director**, responding to a query by **Mr Strelets**, confirmed that the new web-based distribution facility was available to all those currently receiving the BR IFIC, including Board members.

4.9 **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. As shown in Table 3.1, most of the submissions received under Plan modification procedures had been under the GE84 and GE06 regional agreements, with very few submissions under the other agreements. The trend had been similar throughout 2013. The data provided in § 4 of Annex 2 of the report concerned the new notices received for broadcasting and other services, with a high level of notices in the latter category, for which over 100 000 assignments had been examined during the period from 1 October 2013 to 31 January 2014. The system appeared to be working well, with the time limits being respected.

4.10 With regard to § 4 of the report, the Bureau had received 234 communications concerning reports of harmful interference and infringements of the Radio Regulations (space and terrestrial services) during the period from 1 October 2013 to 31 January 2014. Tables 1-1 to 1-4 provided statistics on the communications received concerning harmful interference, on the cases of harmful interference concerning terrestrial services, on those concerning space services, and on reports of

infringements of the Radio Regulations. With regard to specific cases, § 4.2.1 dealt with Cuba and the United States, § 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.

4.11 Concerning harmful interference to the VHF/UHF broadcasting (sound and television) service of Cuba, there had been no report of harmful interference involving the Administrations of Cuba and the United States since May 2013. However, there was not yet any indication that the case could be closed.

4.12 Concerning harmful interference to the VHF television broadcasting service of the Administration of Democratic People's Republic of Korea, there had been no report of harmful interference involving the Administrations of the Republic of Korea and the Democratic People's Republic of Korea since August 2013. Nevertheless, there was no indication that the case could be closed.

4.13 The **Chairman** said that the Bureau should be requested to continue monitoring the situation with regard to interference caused to Cuba and to the Democratic People's Republic of Korea and to report to the next meeting of the Board.

4.14 It was so **agreed**.

4.15 Concerning harmful interference to broadcasting stations in the VHF/UHF bands between Italy and its neighbouring countries, **Chief TSD** indicated that on 20 December 2013 the Bureau had communicated the relevant conclusions of the 64th meeting of the Board and the relevant extracts of the roadmap received from the Administration of Italy to the Administrations of France, Croatia, Malta, Slovenia and Switzerland. The information contained in the replies received from the Administrations of France, Croatia, Malta and Slovenia was summarized in § 4.2.2 and showed that, while some cases of interference had been solved, many others remained unsolved. Addendum 1 to Document RRB14-1/8 contained the updated roadmap received from the Administration of Italy, listing each of the cases in detail, followed by more general indications provided in 'final considerations'. The measures adopted were based on the September 2013 Decree, which would be converted into a law in 2014. According to the 'final considerations' of the roadmap, it was envisaged that the process of clearing the spectrum would be completed by 31 December 2014. The measures envisaged included the use of free frequencies on a temporary basis until the new legislation could be applied in full. The law proposed financial compensation measures for broadcasters which voluntarily released the frequencies that were causing interference to services in neighbouring countries. The financial measures still needed to be defined and it was planned to issue regulations shortly to define the terms and conditions for the assignment of the respective frequencies. The 'final considerations' indicated that AGCOM had issued a decision with the aim of starting procedures to exclude from the digital terrestrial TV plan the frequencies recognized at international level and used by neighbouring administrations that were causing situations of interference. AGCOM was preparing to discuss the process with the ministry in order to define the steps to be taken on the basis of the legislation. He noted that it was the first time that the Italian Administration had provided such firm information on the measures planned. However, although measures were envisaged for television, the situation was much less clear on how cases of interference would be resolved for sound broadcasting.

4.16 In a late submission (RRB14-1/DELAYED/1), the Administration of Switzerland indicated that the solutions proposed in the roadmap were too vague to result in the elimination of the interference within a reasonable period, and that the time frame of the end of 2014 was too long. The Swiss Administration would therefore seek solutions through bilateral action, in which the assistance of the Bureau would be welcome. In another late submission (RRB14-1/DELAYED/2), the Administration of Croatia expressed concern at a call for bids published in the Italian Official

Gazette for three additional digital television multiplexes, and noted that three of the channels concerned had been allocated to Croatia under the GE06 Regional Agreement. Italy had not coordinated the rights for the use of those channels with Croatia, and interference was therefore likely. Lastly, a copy of a letter had been received by the Bureau on 14 March 2014 in which the Administration of Italy replied to the letter from the Administration of Croatia concerning the auction of television frequencies. The letter indicated that Italy intended to take measures to ensure that cases of interference did not occur as a result of the use of the frequencies that were to be auctioned.

4.17 He concluded by observing that the Administration of Italy had developed a national plan of frequencies for television which included channels that had not been allocated to it under the GE06 Regional Agreement.

4.18 The **Director** added that, after receiving the late submission from Croatia ten days earlier, he had contacted the Italian Administration by telephone. He had been assured that everything possible would be done to avoid interference and to resolve cases in which interference occurred. He had been told that the need to protect the frequency assignments of other countries would be taken into account and that the AGCOM plan included restrictions for transmitters for this purpose. However, the frequency plan had not been divulged, and dialogue should be pursued, if Italy agreed, with a view to undertaking a technical examination of the plan. The main issue was how it might be possible to use frequencies that had been considered incompatible when the GE06 Regional Agreement had been negotiated. It was to be hoped that Italy would take the necessary measures to reassure the countries concerned, particularly in light of the auction process.

4.19 **Mr Žilinskas** welcomed the fact that, after so many years, legal measures were finally being taken by Italy. However, there were still channels in which interference occurred, and it was a matter of concern that no positive steps appeared to be planned in relation to sound broadcasting. Pressure should therefore be maintained, especially for the adoption of the same legal measures for sound broadcasting as for television. The news of the auction process came as a surprise and could undermine the progress that had been announced, which made it even more necessary to urge the Administration of Italy to ensure that the legislation adopted was in harmony with its international obligations regarding the right of neighbouring countries not to suffer from interference.

4.20 **Mr Bessi** welcomed the action that was being taken by the various administrations concerned to resolve the issue. The information provided by the Administration of Croatia in its late submission concerning the Administration of Italy's auction of channels, some of which had been assigned to Croatia, and perhaps to other neighbouring countries, ran counter to the information supplied by AGCOM concerning the measures planned to avoid the use of frequencies that caused interference in neighbouring countries. The Italian Administration should be requested to make its frequency plan available so that the Bureau could ascertain that the use of the channels concerned was protected for neighbouring countries.

4.21 **Mr Ito** emphasized that the difficulties had persisted for many years and the gravity of the problem appeared to increase every time it was examined. The news of the auction process was a surprise, and it undermined the concept of the GE06 Regional Agreement. It was to be hoped that the Italian Administration would take the matter very seriously and would endeavour to reach agreement with neighbouring administrations. He observed that the first sentence of the 'final considerations' in the roadmap in Addendum 1 to Document RRB14-1/8, although central to the document, was very unclear. The Italian Administration should provide comprehensive information to clarify the situation. It was to be hoped that the problems would be resolved at the earliest opportunity in accordance with the GE06 Regional Agreement.

4.22 The **Director** said that there were nevertheless certain positive developments, in particular the references to the new legislation and the efforts that were being made to resolve cases of interference. However, the reported auction process appeared to be a retrograde step. The AGCOM plan needed to be examined in detail to see whether the new frequency assignments which were not assigned to Italy under the GE06 Regional Agreement would cause interference to other countries. He proposed sending a BR team to Rome to try to examine this complex situation in depth.

4.23 **Mr Strelets** agreed that the roadmap provided by Italy was built around its 'final considerations', which were however far from clear. Although legislative provisions had been adopted envisaging measures, including compensation, to free up frequencies that caused interference in neighbouring countries, the compensation still needed to be determined. Moreover, the auction process reported by the Administration of Croatia, which included frequencies that had not been coordinated at the international level, raised a set of new issues that would exacerbate the situation. Although it might be easier to collaborate with a new government, the measures that were to be adopted to improve the situation were still not clear. The proposal by the Director to visit the Italian Administration was very positive.

4.24 **Chief TSD** observed that the most recent letter from the Italian Administration clearly stated that the process of assigning frequencies would be subject to modifications to prevent interference once coordination is effected. Italy claimed that its national frequency plan respected the principle of non-interference and that, in the event of interference occurring, agreement would be reached with the countries concerned. In seeking a solution to the problem, emphasis needed to be placed, on the one hand, on resolving the specific problems of interference and, on the other, on ensuring that Italy acted in accordance with the GE06 Regional Agreement and the Radio Regulations.

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

'With respect to harmful interference to the sound and television broadcasting services caused by Italy to its neighbours (§4.2.2 of the Report of the Director), the Board assessed the roadmap provided by the Administration of Italy in Addendum 1 to Document RRB14-1/8 taking into account the additional information provided in the late submissions received from the Administrations of Switzerland and Croatia in Documents RRB14-1/DELAYED/1 and RRB14-1/DELAYED/2, respectively.

The Board recognized that some positive actions were being undertaken by the Italian Administration to resolve the reported cases of harmful interference and avoid future ones.

Nevertheless, the Board expressed concerns in relation to efforts of the Italian Administration to resolve the pending issues in a reasonable time frame.

The Board noted with concern that:

- Italy proposes to auction TV frequency channels for use which is not in conformity with the GE06 Plan;
- The current version of the roadmap provided by Italy only addresses a few cases of interference and refers, to solve them, to 'Final Considerations' which are not explicit;
- The situation in relation to the FM sound broadcasting service also needs to be addressed urgently by Italy for channels which are not used in conformity with the GE84 Regional Agreement.

The Board instructed the Director to discuss the issue with the Italian Administration, by sending concerned BR officials, to impress upon the Italian Administration that they should resolve the

interference to the broadcast operations of their neighbouring countries at the earliest on the basis of the provisions of the Radio Regulations and GE06 and GE84 Regional Agreements.’

4.26 The Director’s report (Document RRB14-1/8) was **noted**.

5 Coordination of the CHINASAT-15 satellite with the YAHSAT-1A satellite (Documents RRB14-1/1 and RRB14-1/2)

5.1 **Chief SSD** drew attention to Documents RRB14-1/1 and RRB14-1/2, containing letters from the Administrations of China and the United Arab Emirates, respectively, which had been received as late submissions to the Board’s 64th meeting and had consequently been placed on the agenda of the present meeting in accordance with the Board’s working methods as contained in Part C of the Rules of Procedure. Introducing Document RRB14-1/1, he said that China’s letter dated 15 November 2013 contained two elements: a request for assistance under No. 13.3 of the Radio Regulations, with a specific view to making progress on coordination between the Chinese satellite networks at 51.5°E and the United Arab Emirates networks at 52.5°E; and a request for clarification, spelt out in the annex to the letter, regarding elements in the summaries of decisions and minutes of the Board’s 62nd and 63rd meetings.

5.2 Regarding coordination between the networks at 51.5°E and 52.5°E, pursuant to No. 13.3 the Bureau had arranged a coordination meeting between the two administrations and the operators of the two networks on 11 February 2014. Both parties agreed that the major cause of complication yet to be resolved was the sharing difficulties for 2 transponder in C-band, and that a further coordination meeting involving senior management from both satellite operators would be held in April 2014 to pursue the matter further. Regarding the clarifications requested on the decisions and minutes of the Board’s 62nd and 63rd meetings, which concerned the EMARSAT-1G satellite in particular, he considered that the request was directed more to the Board than the Bureau. He went on to introduce Document RRB14-1/2, in which the United Arab Emirates responded to the points raised in China’s letter of 15 November 2013.

5.3 **Mr Ebadi** noted that China had requested the Bureau’s assistance under No. 13.3, which referred to ‘alleged contravention or non-observance of these Regulations’. He wondered what ‘non-observance’ of the Radio Regulations might be involved in the present case.

5.4 **Chief SSD** said the Bureau had followed up China’s request for assistance under No. 13.3 in so far as it related to difficulties in coordinating the satellites networks in China at 51.5E and those of UAE at 52.5E. The Bureau had not wished in any way to call into question the decisions taken by the Board regarding the regulatory status of the satellite networks concerned. Thus, the Bureau had not considered the matter of non-observance of the Radio Regulations, except in so far as the obligation to coordinate was concerned.

5.5 **Mr Garg** recalled that China’s submissions to the Board, as discussed at the 62nd and 63rd meetings, had related basically to the bringing into use and continued use of frequency assignments to the EMARSAT-1G satellite network. China’s contentions had been fully answered by the Bureau, and by the United Arab Emirates, which had indicated that the satellite concerned was used for government communications and for specific periods and, under Article 48 of the Constitution, had provided no further details. The Board had based its decisions on those elements. Although the views and arguments put forward at the 62nd and 63rd meetings of the board might not have been fully clear to the Chinese administration, he saw no ambiguity in them, and hence no reason for the Board to review the decision it had reached in the course of those two meetings. As always, the Bureau stood ready to continue to assist in coordination matters.

5.6 **Mr Bessi** endorsed Mr Garg's comments. Moreover, to his understanding, the Bureau had identified no case of non-observance of the Radio Regulations, and would therefore not be producing any report or draft recommendations to administrations as referred to in No. 13.3. He considered that the case involved a request for assistance in coordination, in which the only new element to note was the encouraging progress made towards coordination, and he therefore saw no reason for the Board to revisit its past decisions on the systems. The Board should urge the administrations concerned to pursue the efforts already made. He considered there was no need now for the Board to respond to China's queries on the Board's decisions (annex to China's letter), given that the Board had debated the matter at length already and no new elements had arisen.

5.7 **Mr Strelets** welcomed the progress made towards resolving the problems between China and the United Arab Emirates. Regarding the clarifications sought by China in the annex to its letter, he recalled that the Board had first seen China's letter as a late submission to the 64th meeting, at which point Mr Bessi had suggested that it might be useful to ask China to clarify what precisely it was asking of the Board (§ 2.5 of Document RRB13-3/8 – Minutes of the Board's 64th meeting). Was China still expecting the Board to reply to its requests for clarification? Or were the responses provided by the United Arab Emirates in Document RRB14-1/2 sufficient? He agreed with the previous speakers that the Board had discussed the subject at sufficient length, and there was no reason for it to review the decisions it had already taken.

5.8 **Chief SSD** reiterated that in responding to China's request the Bureau had restricted its implementation of No. 13.3 to providing assistance with coordination and ensuring compliance with coordination requirements. Regarding non-compliance with the Radio Regulations, the Bureau considered that the Board had dealt with the matter of the status of the Chinese and United Arab Emirates networks at its 62nd and 63rd meetings and that there was no call for the Bureau to intervene in any way in that regard; it had informed the two administrations accordingly. The series of questions raised by China all related to the decisions taken by the Board in the course of its 62nd and 63rd meetings. If, in seeking to make progress on coordination as requested by China, the Bureau identified any non-compliance with the Radio Regulations, it would obviously report thereon. Otherwise, it would simply report on the coordination progress made by China and the United Arab Emirates.

5.9 **Mr Ebadi** commended the efforts made by the Bureau in bringing the Administrations of China and the United Arab Emirates together to negotiate and the progress made. The basic question facing the Board was whether the queries raised by China called for the Bureau to produce a 'report for consideration by the Board, including draft recommendations to the administrations concerned.' If they did not, the Board should deem that no new elements had arisen and should reiterate its past decisions on the matter.

5.10 The **Director** noted that the letters from China and the United Arab Emirates had been submitted some time ago, and the questions raised by China appeared to have been superseded by events. There seemed to be little point in the Board addressing them now. To the extent that China's comments merited further discussion in more general terms, they might better be taken up in other forums, possibly the WRC. **Mr Koffi** agreed.

5.11 **Mr Ito** agreed with previous speakers, stressing that the decisions reached by the Board had been based solidly on the Radio Regulations. He recalled that the case had originally come up based on an appeal by the United Arab Emirates to resolve interference caused by China's system. That had been resolved. The focus had subsequently altered, with China requesting clarification of the status of EMARSAT-1G, which was an earlier-generation system. YAHSAT-1A having been deemed legitimate, EMARSAT-1G was also deemed legitimate, and no appeal had been received on either system. In 2013, China had expressed doubts regarding the status of the satellite, but following extensive discussions it had been considered that a new phase had been entered with the

issue of Circular Letter CR/301, that the basic situation thus established and recognized in regard to filings was legitimate, and that there was consequently no reason to re-examine the status of earlier-generation satellites. If problems arose, it was to be hoped that the administrations concerned would resolve them based on ITU's longstanding principles of mutual good will and trust. On that basis, the Board should close the discussion.

5.12 **Mr Magenta** agreed with the comments made by Mr Ito and the Director. If any further, serious concerns emerged, the matter could be taken to the conference.

5.13 **Mr Strelets** agreed with previous speakers. He also commented that the United Arab Emirates Administration's request that 'the Board instruct the Bureau to advise that the Chinese Administration instruct its operator to freeze the manufacturing of the CHINASAT-15 satellite...' was very unusual, and fell outside the purview of the Board.

5.14 **Mr Žilinskas** supported all previous speakers.

5.15 The **Chairman** proposed that the Board conclude on the matter as follows:

'The Board carefully considered Documents RRB14-1/1 and RRB14-1/2. Considering the decisions of the 62nd and 63rd meetings of the Board and noting that a meeting had taken place between the Chinese and UAE Administrations in February 2014 with the assistance of the BR and the next meeting is scheduled to be held in April 2014 in China, the Board invited both administrations to continue their efforts to find a mutually satisfactory solution.'

5.16 It was so **agreed**.

6 Request for a decision by the Radio Regulations Board on the status of frequency assignments in the frequency bands 1 980-2 000 and 2 170-2 180 MHz to the SIRION satellite network under No. 11.48 of the Radio Regulations (Documents RRB14-1/3, RRB14-1/13, RRB14-1/14 and RRB14-1/DELAYED/4)

6.1 **Mr Matas (SSD/SPR)**, introducing Document RRB14-1/3, said that the Bureau had received a Resolution 49 (Rev. WRC-12) submission from the Administration of Australia on 26 February 2013 indicating that the ICO-F2 satellite had been used to bring into use on 25 February 2013 the frequency assignments in the band 1 980-2 000 and 2 170-2 180 MHz to the SIRION satellite network. On 12 and 13 September and 18 October 2013, the Administration of Papua New Guinea had provided Resolution 49 information to the Bureau indicating that the same ICO-F2 satellite network had been used to bring into use on 1 September 2013 the frequency assignments in the bands 1 980-2 000 and 2 170-2 180 MHz to the OMNISPACE F2 satellite network. On 27 September 2013, the Administration of Australia had requested the Bureau to suspend the frequency assignments in the bands 1 980-2 000 and 2 170-2 180 MHz to the SIRION satellite network under No. 11.49 as of 25 May 2013. On 25 October 2013, the Bureau had informed the Administration of Australia that, according to the Administration of Papua New Guinea, the ICO-F2 satellite, under the responsibility of that administration for the operation of the 1 980-2 000 and 2 170-2 180 MHz bands, and without objection from the Administration of the United Kingdom for the use of the satellite, had been used to bring into use the frequency assignments to the OMNISPACE F2 satellite network for Papua New Guinea in the bands 1 980-2 025 and 2 170-2 200 MHz. It had also been highlighted that there had not been any agreement with the Administration of the United Kingdom to allow the Administration of Australia to bring into use the frequency assignments to the SIRION satellite network using the ICO-F2 satellite. The Bureau had added that, in accordance with the minutes of the 13th plenary meeting of WRC-12 (Document CMR12/554) regarding the use of a satellite of another administration, in the absence of

no objection from the Administration of the United Kingdom for the Administration of Australia to use the ICO-F2 satellite network, the Bureau considered that it had no option but to initiate cancellation of the frequency assignments to the SIRION satellite network from the MIFR in accordance with No. 11.48 of the Radio Regulations on the grounds that they had not been brought into use within the regulatory period. On 29 October 2013, the Administration of Australia had requested the Bureau not to proceed with the cancellation of the SIRION satellite system and on 3 December 2013 had provided evidence of transmissions by ICO-F2 bringing into use the frequency assignments concerned. On 11 December 2013 the Bureau had reiterated its request for evidence that the Administration of the United Kingdom had not objected to the use of the ICO-F2 satellite, taking into account the letter dated 4 December 2013 from the Administration of the United Kingdom to the Administration of Australia indicating that it was unable to agree to the use of ICO-F2 to bring into use the SIRION satellite network. In the absence of any such information, and in particular in view of the objection of the Administration of the United Kingdom, the Bureau had announced its intention to initiate cancellation of the frequency assignments in the bands 1 980-2 000 and 2 170-2 180 MHz to the SIRION satellite network in accordance with No. 11.48. On 17 January 2014, the Administration of Australia had requested the Bureau to bring the matter to the attention of the Board and to hold in abeyance any actions to cancel the SIRION network pending the Board's decision at the present meeting.

6.2 Document RRB14-1/13 contained a submission from the Administration of Australia setting out the reasons why it considered that the minutes of WRC-12 had not been used correctly by the Bureau in reaching its decision to cancel the SIRION network. Document RRB14-1/14 contained a submission from the Administration of the United Kingdom indicating that the Administration of Australia had not sought its agreement to use the ICO-F2 satellite to bring into use the SIRION network. Finally, a late submission from the Administration of Papua New Guinea (RRB14-1/DELAYED/4) contained a letter indicating that Omnispace had not been able to reach agreement on cooperation and use of the ICO-F2 satellite for bringing into use the SIRION satellite network.

6.3 The **Chairman** outlined the main issues arising in relation to the request for a decision by the Board. First, the Board needed to examine whether the Bureau had applied the Radio Regulations correctly, particularly in light of the challenge raised by the Administration of Australia concerning the application of the decision set out in the minutes of WRC-12. A second issue concerned the administration that was responsible for the ICO-F2 satellite, and whether or not the satellite was owned by a company based in the United Kingdom. It was clear that the Administration of the United Kingdom was not responsible for the S-band frequencies that were to be used by the SIRION satellite network. Finally, the timelines for the implementation of the decision by WRC-12 had not been defined and, although a period of 90 days was mentioned in that decision, it was not clear what the period covered.

6.4 **Mr Ito** said that the main grounds for Australia's appeal were the use by the Bureau of a decision set out in the minutes of WRC-12 to cancel frequency assignments to a satellite network. However, the use of the WRC minutes in that way might not be a problem, given the clear need for agreement to be obtained for the use of the satellite. The case of the ZOHREH-2 satellite network bore certain similarities with the present case in regard to the need to obtain authorization from the administration responsible for a satellite in the event that it was owned, leased and operated by different parties. In the present case, neither the Administration of the United Kingdom nor that of Papua New Guinea had authorized the use of the frequency assignments concerned on the ICO-F2 satellite. Moreover, it was clear that it had not been possible to reach a business agreement for the use of the ICO-F2 satellite by the SIRION satellite network. No. 18.1 of the Radio Regulations clearly established the requirement to obtain a licence for the operation of a transmitting station, issued by or on behalf of the government of the country to which the station was subject. That

provision applied in the present case and the situation was clear: authorization had not been obtained for the use of the ICO-F2 satellite network by the SIRION satellite network.

6.5 **Mr Strelets** emphasized that the situation was very complex and confused regarding the administration that was responsible for the ICO-F2 satellite network and the frequency assignments, and from which administration authorization would need to be obtained for the use of the satellite on those frequencies. The minutes of the 13th plenary meeting of WRC-12 provided that an administration could bring into use frequency assignments for one of its satellite networks by using a space station which was under the responsibility of another administration or intergovernmental organization, provided that the latter administration, after being informed, did not object within 90 days from the receipt of information. The Administration of Australia held that, with the submission and publication of Resolution 49 information, the administration responsible had been informed and had failed to make any objections within the 90 day period specified in the minutes. He considered that in that respect the Australian Administration had acted in full conformity with the Radio Regulations, the minutes and the Rules of Procedure and had therefore been entitled to use the ICO-F2 satellite to bring the frequency assignments into use.

6.6 **Mr Bessi** noted that, in accordance with the decision of WRC-12, as recorded in the minutes of its 13th plenary meeting, the administration responsible for a space station needed to be informed and to agree, or not to object within 90 days, if the station were to be used by another party. The Australian Administration therefore required authorization to bring its frequencies into use using the ICO-F2 satellite. A problem had arisen when it had been informed by the Bureau that those frequencies were used by Papua New Guinea. The Administration of Australia had failed to show that the frequencies had been brought into use correctly and No. 11.48 of the Radio Regulations was therefore applicable. In his view, the matter at issue was a question of good sense, in that the agreement of the owner of a satellite needed to be obtained for its use by another party. On 3 December 2013, the Administration of Australia had requested authorization from the Administration of the United Kingdom, which had objected within 90 days. By requesting authorization, the Administration of Australia had applied the decision set out in the minutes of WRC-12, but when the response was not favourable it had decided to contest the applicability of the minutes. The Bureau had acted correctly in not accepting the request by the Administration of Australia for the suspension of the frequency assignments.

6.7 **Mr Garg** agreed that the situation was complex and that all the aspects needed to be examined thoroughly. The general principle was set out in the minutes of WRC-12 concerning the need for permission, or no objection, regarding the use of a satellite belonging to another administration. In the present case, however, there was ambiguity concerning the ownership of the satellite and the administration responsible for the frequency assignments when they had been operated to bring into use the SIRION satellite network. He therefore asked the Bureau to clarify the situation with regard to responsibility for the S-band frequencies brought into use for the SIRION satellite network, as well as the date from which the Administration of Papua New Guinea could be considered responsible for the S-band frequencies used by the satellite. The Director or the ITU Legal Adviser, as appropriate, might also be requested to provide clarifications concerning the status of the decision set out in the minutes of WRC-12.

6.8 **Mr Ebadi** said that it appeared from publicly available information that the ICO-F2 satellite had been launched in 2001 with a predicted lifetime of 12 years. The question therefore arose as to whether the satellite was still in orbit. Following the bankruptcy of its original owners, the current majority shareholder was based in London, and there therefore seemed to be no ambiguity about the administration responsible for the satellite, namely the United Kingdom. With regard to the status of the decision set out in the minutes of WRC-12, it had to be recognized that

not all issues could be covered specifically by the Radio Regulations. The key point was that the decision had been agreed by WRC-12.

6.9 **Mr Žilinskas** emphasized that it was a basic human principle that, when wishing to use someone else's property, it was necessary to ask permission to do so. The late submission from the Administration of Papua New Guinea showed that the Administration of Australia was well aware of that requirement. The decision set out in the minutes of WRC-12 was clear about the 90 day response period. If the Administration of the United Kingdom had not replied within that period, the situation would be more complex. The Bureau should therefore indicate whether, and if so when, any objection had been received from the Administration of the United Kingdom.

6.10 **Mr Koffi** agreed that the Bureau should indicate whether the Administration of the United Kingdom had made an objection within 90 days of being informed of Australia's intention to use the ICO-F2 satellite to bring into use the frequencies to the SIRION network. He further agreed that the decision contained in the minutes had the status of a decision by the WRC, although it would be useful to hear the opinion of the ITU Legal Adviser on that matter.

6.11 **Chief SSD**, in reply to the questions raised, indicated that the Bureau used the decisions contained in the minutes of the plenary meetings of the WRC as guiding principles for the application of the Radio Regulations and the development of rules of procedure. With regard to the 90 day period set out in the decision in question, it was the view of the Bureau that the publication of a Resolution 49 submission could not be regarded as informing the administration concerned. Certain of the communications reproduced in the documents before the Board, and particularly in the late submission from the Administration of Papua New Guinea, showed that the Administration of Australia was well aware of the minutes of the Plenary meeting on the leasing of satellites and that it had made its request for authorization after the frequencies had been brought into use. The Administration of the United Kingdom stated clearly that it had not authorized the use of the satellite to bring into use the SIRION satellite network, and the Bureau had therefore considered that the bringing into use of the frequencies was not valid. He added that the issue of the real ownership of the satellite network was very complex. There was a need to differentiate between the ownership of satellites by companies or financial institutions and the notion of responsibility of administrations in regard to their use according to the Radio Regulations. The information available led to the conclusion that ICO-F2 was under the responsibility of the Administration of the United Kingdom, although the S-band frequencies used by the satellite were not recorded by this Administration. In the present case, authorization for the use of the satellite on those frequencies by the SIRION network had not been given by either the Administration of the United Kingdom or that of Papua New Guinea. Moreover, no indication had been received that the satellite was no longer in orbit or was inactive. A communication had been received from the Administration of the United Kingdom clearly indicating that it objected to the use of the satellite by the SIRION satellite network and information had been provided by the Administration of Papua New Guinea that it had permission to use the satellite. The ICO-F2 satellite had been registered with the United Nations Office for Outer Space Affairs under the responsibility of the United Kingdom.

6.12 **Mr Strelets** noted that the more closely the matter was examined the more complex it became. It was frequently the case that one administration was responsible for the operation of a satellite, while another was responsible for the use of certain frequencies, with certain rights being leased to other parties under commercial agreements. The correspondence attached to Document RRB14-1/3, and particularly the letter from ACMA dated 3 December 2013, appeared to show that the SIRION satellite network had been brought into use with the full consent of and at the initiative of Omnispace, although there then seemed to have been a disagreement between the operators, which was beyond the purview of the Board. In the circumstances, there would be no need to seek the agreement of the Administration of the United Kingdom. The decision in the minutes of WRC-

12 referred to objections being raised by the responsible administration, but there was no mention of the need for the explicit consent of that administration to be given when a system was being brought into use.

6.13 **Mr Ebadi** raised the question of whether two administrations could notify the use of a low orbit satellite which, at certain times, covered different areas of the globe, which was a situation that did not appear to be covered by the Radio Regulations. No administration other than that of the United Kingdom claimed responsibility for the ICO-F2 satellite, which meant that at least that issue was clear.

6.14 **Mr Ito** considered that, in conformity with No. 18.1, the Administration of Australia needed to demonstrate that authorization had been obtained from the Administration of the United Kingdom for the use of ICO-F2 by the SIRION satellite network.

6.15 **Mr Bessi** added that, in conformity with the decision set out in the minutes of WRC-12, the responsible administration needed to make an objection. However, before it could do that, the administration wishing to make use of the satellite would have to request authorization to do so from the responsible administration. In the present case, the Administration of Australia would therefore have had to inform that of the United Kingdom of its wish to use the satellite, and the United Kingdom would have had to indicate that it had no objections within 90 days of being so informed.

6.16 **Mr Žilinskas** said that it was clear from the clarifications provided by Chief SSD that the Administration of the United Kingdom had indicated its objection to the use of ICO-F2 by the SIRION satellite network within the necessary time limits, and in so doing had acted in conformity with the Radio Regulations and the decision in the WRC-12 minutes. The main issue before the Board was therefore clear. However, certain of the other interesting and important questions raised by the Administration of Australia lay outside the competence of the Board and would have to be addressed by the WRC or perhaps the Bureau.

6.17 The **Chairman** noted that various questions had arisen during the discussion relating to the ownership of the ICO-F2 satellite, whether it was still in orbit and the operator of the satellite. It was also necessary to clarify whether there was any evidence of consent having been given for the use of the satellite by the SIRION network. With regard to the status of the decisions set out in the minutes of the WRC in relation to the other instruments of the Union, he noted that a suggestion had been made for clarification by the ITU Legal Adviser, whom he proposed to invite to the meeting to provide a legal opinion on that question.

6.18 It was so **agreed**.

6.19 The **Director** observed that it would be preferable to avoid talking about the ownership of satellites. Under No. 18.1 of the Radio Regulations, no satellite could be operated without a licence being issued by the administration to which the space station was subject. That implied that only one administration could be responsible for issuing such a licence, and accordingly for any interference resulting from the use of the satellite, which was the consideration that had guided WRC-12 in its decision. If the use of a satellite was to be transferred to another administration, explicit authorization would be required, which was why the Bureau had not acceded to the request by the Administration of Australia.

6.20 The **ITU Legal Adviser**, referring to the decision in the minutes of the 13th plenary meeting of WRC-12 (Document CMR12/554), said that the decision, which had been approved by WRC-12 without any objection by the negotiating parties, was binding on the Bureau as a subsidiary body of the WRC, and therefore needed to be taken into account by the Bureau. The decision clearly did not have the value of a treaty for ITU Member States, as it had not been subject

to a formal ratification procedure in the same way as a treaty. The decision had the status of an authentic interpretation of a treaty, as it had been reached by consensus by the members through the agreement set out in the minutes and clarified the interpretation of a provision or provisions of the treaty. An authentic interpretation was an interpretation which emanated from the body empowered to adopt the treaty. It was the highest level of interpretation of a treaty and was difficult to contest because it originated from the community that had negotiated the treaty or provision.

6.21 **Mr Strelets** observed that, in accordance with the explanations provided by the ITU Legal Adviser, the decision reported in the minutes in inverted commas had gone through several stages of approval, had been agreed to without objections and therefore had a certain legal status. With regard to the substance of that decision, and in particular the 90 day period within which objections needed to be raised once an administration had been informed that another administration wished to make use of a satellite for which it was responsible, the question in the present case was whether the publication of a Resolution 49 submission, which was circulated to all administrations, could be considered as informing the administration responsible and setting in motion the 90 day period. Or, on the other hand, should an administration planning to make use of a satellite under the responsibility of another administration make a specific request on an individual basis seeking the consent of that administration, and then transmit such consent to the Bureau? It was therefore necessary to define more closely what was meant by informing an administration and the 90 day limit for raising objections.

6.22 The **ITU Legal Adviser** said, in the first place, that it was not for the secretariat to interpret the provisions adopted by the WRC. However, from a simple reading of the text, it did not appear to him that the legislators had intended to specify a particular form of informing the administrations concerned, either through the general information contained in a circular, or through a bilateral or targeted form of information. There was insufficient information in the decision set out in the minutes to conclude that the legislators wished to impose any specific manner of informing the administrations concerned.

6.23 The **Chairman** concluded that the minutes of the WRC for which no objection had been raised had legal force, unless they were appealed to a higher body. However, the question arose of what would happen if, despite acknowledging that the Bureau had applied the provisions of the minutes correctly, the Board nevertheless decided for compelling reasons to overturn the decision of the Bureau. Would that run counter to the decision of the WRC?

6.24 **Mr Bessi** concluded from the explanations provided by the Legal Adviser that decisions set out in the minutes of plenary meetings of the WRC supplemented the provisions of the treaty and had to be applied by administrations and the Bureau. He requested further clarification regarding a situation in which an administration which applied the Radio Regulations correctly sought to require that such application be limited to the provisions of the Radio Regulations, and that decisions set out in WRC minutes not be applied.

6.25 **Mr Ebadi** noted the claim by the Administration of Australia that there was no official provision establishing the validity of decisions contained in WRC minutes for the purposes of enforcement. He wondered whether there might be some means of recognizing the official status of decisions in minutes, perhaps even in the final acts of ITU treaties.

6.26 In response to the questions raised, the **ITU Legal Adviser** observed that the purpose of the decision contained in the minutes of WRC-12 was to clarify a treaty, not to run counter to the Radio Regulations. However, the decision did not amount to a new or amended provision of the treaty, as it had not been subject to the ratification procedure. The Board would be justified in overturning a decision of the Bureau to apply the provisions of the minutes of the WRC if it considered that the decision was contrary to the Radio Regulations. Decisions set out in WRC minutes were not *stricto*

senso part of a treaty, and had not been subject to a ratification process. Any official recognition in a treaty that decisions contained in minutes formed part of that treaty would appear to be very inadvisable. He agreed with the understanding, outlined by **Mr Garg**, that the minutes of WRC plenary meetings did not have the same force of law as a treaty, such as the Radio Regulations, as they had not been signed and ratified by the members, but that they constituted authentic guiding principles for the interpretation of the treaty and in guiding the work of the Bureau and the Board.

6.27 **The Chairman** thanked the ITU Legal Adviser for his opinions, which had addressed most of the basic questions raised by the members of the Board.

6.28 **Mr Strelets** noted that it was often difficult to identify responsibilities relating to a space station, the operation of which might be under the responsibility of one administration, while certain frequencies were assigned to another administration, which was therefore responsible for ensuring their compatibility in terms of non-interference. Greater clarity was required, particularly concerning the authority from which authorization had to be obtained for the use of a satellite.

6.29 **Mr Bessi** said that it was his understanding that decisions set out in WRC minutes had to be applied and that the Bureau had acted correctly. In his view, it was a matter of common sense that the administration responsible for a space station had to be informed directly in order to obtain its agreement for the use of a satellite, and that the general publication of Resolution 49 information was not sufficient for that purpose. He emphasized that it was very difficult for administrations to take fully into account all the information published by the Bureau, and that in situations such as the one under examination, they needed to be informed specifically.

6.30 **Mr Žilinskas** added that further clarification was also necessary concerning the possible consequences if an administration raised an objection to the use of a satellite after the 90 day period indicated in the minutes of the 13th plenary meeting of WRC-12.

6.31 **Mr Garg** considered that the legal status of the approved minutes of the WRC had been largely clarified. However, a number of further questions had been raised by the members of the Board. In his view, one of the main issues that arose was the extent to which the objection by the Administration of the United Kingdom concerning the use of the satellite was valid, as it was no longer responsible for the S-band frequency assignments on the ICO-F2 satellite. He did not consider that the Board should go too deeply into the commercial aspects of the matter, but should focus on the regulatory issues. However, it was clear that without some agreement between the operators, the SIRION network could not have been brought into use.

6.32 **Mr Ito** observed that the e-mail communication dated 25 May 2013 in Attachment D to ACMA's letter to the Director dated 3 December 2013 (see attachments to Document RRB14-1/3) indicated that it had not been possible to reach agreement for the use of the ICO-F2 satellite for the bringing into use of the SIRION filings; that e-mail had been sent on the 88th day of the bringing into use process. When submitting the Resolution 49 information, the Administration of Australia needed to show clearly that it had obtained the right to use the satellite, but the situation with regard to that right appeared to have changed before the end of the 90 day period. It might be necessary to request the Administration of Australia to withdraw its Resolution 49 submission.

6.33 **Mr Strelets** said that his view of the situation was somewhat different. The Administration of Australia had submitted information directly to the Bureau under Resolution 49 concerning the bringing into use of the frequencies to the SIRION satellite network, which had been authorized at that time by Omnispace. However, Omnispace had withdrawn its authorization on the 88th day of the process. Moreover, it was not clear that the communication from Omnispace, which consisted in essence of private correspondence, constituted a legally valid document on which the Bureau or Board could base its decision. The objections raised by the Administrations of Papua New Guinea and the United Kingdom had been notified well over six months after the beginning of the process.

He therefore considered that the Administration of Australia had been in conformity with its legal requirements and that its request for the suspension of the frequencies should be granted.

6.34 **Chief SSD** said that, although the S-band filings had been suppressed for the Administration of the United Kingdom in 2012, at its request, that administration remained responsible for the use of other frequencies on the ICO-F2 satellite, particularly in the C-band. He added that it was possible for an administration to be responsible for a satellite without having responsibility for certain frequencies used by that satellite. In the present case, although the Administration of the United Kingdom was no longer responsible for the use of the S-band frequencies used by the ICO-F2 satellite, it retained responsibility for the use of the satellite.

6.35 **Mr Garg** considered that, in light of the clarification by Chief SSD, the Administration of Australia had acted in full conformity with the Radio Regulations when submitting information under Resolution 49, as a result of which all administrations had been informed. What was at issue was therefore the question of cancellation, which was a significant action. With regard to the e-mail from Omnispace dated 25 May 2013, it had been attached to a communication from ACMA to the Bureau. ACMA therefore clearly regarded it as objective and the Bureau had acted correctly in taking the communication into account. **Mr Magenta** agreed that attachments to official communications from an administration should be accepted as being from the administration.

6.36 **Mr Bessi** observed that the documentation did not demonstrate that a request had been made by the Administration of Australia to the administration responsible for ICO-F2, namely the United Kingdom, requesting authorization for use of the satellite by the SIRION satellite network. According to the WRC-12 minutes, authorization needed to be sought from the administration responsible for the space station that was to be used. **Mr Ito** added that when making a Resolution 49 submission it was necessary for the administration concerned to show that it had completed the necessary negotiations with the administration responsible for the space station. Thus, before submitting information under Resolution 49, it was first necessary to inform the administration responsible for the satellite of the intention to make such a submission. **Mr Koffi** considered that it was clear that the Administration of Australia had not explicitly and officially informed the Administration of the United Kingdom that it wished to use the ICO-F2 satellite, which was under the responsibility of the United Kingdom. **Mr Magenta** agreed that the Administration of the United Kingdom did not appear to have been informed directly by the Administration of Australia of the intention to use the ICO-F2 satellite.

6.37 **Mr Garg** emphasized the complexities of the case, noting that the Bureau had taken the safe course and had taken into account the objection received from the Administration of the United Kingdom. **Mr Strelets** said that it was unclear whether authorization needed to be obtained from the administration responsible for the satellite or for the frequencies, which in this case were different. **Mr Žilinskas** agreed that it was unclear why it was necessary to seek the consent of the Administration of the United Kingdom for the use of frequency assignments for which it was not responsible.

6.38 The **Director** recalled that the Bureau had requested the Administration of Australia to indicate the manner in which it had requested authorization for the use of the satellite. He added that, in accordance with the minutes of the 13th plenary meeting of WRC-12, the 90 day period ran from when the responsible administration had been informed, not from the publication of Resolution 49 information.

6.39 The **Chairman**, summarizing the main points that had arisen during the course of the debate, observed that, as pointed out by the Administration of Australia, the most drastic action possible was the cancellation of frequency assignments. The question before the Board was therefore whether the assignments should be suspended under No. 11.49 of the Radio Regulations,

as requested by the Administration of Australia, or whether they should be cancelled. The Administration of the United Kingdom, which was responsible for the satellite, had not made its objections known within the 90 day period. The Administration of Papua New Guinea, which was responsible for the frequency assignments, had also failed to raise its objection within that period. However, there was a reluctance on the part of the responsible administrations to allow the use of the satellite by the Administration of Australia. Although in Document RRB14-1/14 the Administration of the United Kingdom indicated that it had not been informed of the action proposed, it must have received the Resolution 49 submission. There could be no doubt that the Bureau had acted correctly throughout the matter, and in accordance with its usual practice. However, the question arose as to whether the Board had sufficient information at its disposal to make a decision on the case at its present meeting, or whether it should request further information and defer its decision until its next meeting.

6.40 **Mr Žilinskas** observed that the Bureau had adhered scrupulously to its usual practice in the present case in relation to the information provided. That was essential, because important interests rested on its actions. For that reason, the Bureau was always careful to send reminders when replies to its communications were not received. In the present case, the application of the 90 day period indicated in the minutes of WRC-12 was at issue, and the question arose as to what the consequences would be of failing to react within that period. In that respect it needed to be recalled that decisions set out in the minutes of the WRC did not carry the same legal weight as the provisions of the Radio Regulations. Moreover, great caution needed to be exercised, as the parties concerned could be at risk of losing very valuable assets if they failed to be sufficiently vigilant. Without the necessary safeguards, there was a possibility that operators or administrations could act unfairly, or even covertly.

6.41 **Mr Ito** agreed that the submission of information under Resolution 49, without prior specific information being provided to the administration concerned, did not suffice in terms of ensuring authorization to use satellites under the responsibility of another administration. If it was not sufficiently vigilant, the responsible administration could easily miss the opportunity to indicate that it was not in agreement with the proposed action, which could result in significant losses.

6.42 **Mr Garg** wondered whether, in light of the complexities and ambiguities of the case, the benefit of the doubt could be given to the Administration of Australia. However, if there remained differences of opinion within the Board, it would be better to seek further information.

6.43 The **Director** said that the decision recorded in the minutes of WRC-12 had been intended to facilitate the creation of rights. Great care should be exercised so that it was not transformed into a provision through which rights could be lost. It was a general principle under the Radio Regulations, for example in Nos. 9.48 and 9.49, that whenever there was a possibility of the loss of rights, there were always safeguards, in the form of reminders or the acknowledgement of the communications sent. In its decision, the Board should therefore be careful not to set a precedent which might facilitate the loss of rights.

6.44 The **Chairman** agreed that whatever decision the Board took it would be setting a precedent and that it therefore needed to exercise great caution. He consequently proposed that all the necessary information should be sought, through the Director, so that a fully informed decision could be taken at the next meeting.

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

‘The Board carefully considered Documents RRB14-1/3, RRB14-1/13 and RRB14-1/14, and noted the information in RRB14-1/DELAYED/4, as well as the explanations provided by the Legal Adviser regarding paragraph 3.12 of the minutes of the 13th Plenary of WRC-12. Given the

complexity of the matter, a number of questions were raised which needed further clarification and information. Consequently, the Board decided to defer its decision on this case to its 66th meeting.’

6.46 The Board also **agreed** to communicate the following questions to the Director, for consideration by the Bureau and, where appropriate, transmission to the Legal Adviser:

- ‘In connection with paragraph 3.12 of the ‘Minutes’ of the 13th Plenary meeting of WRC-12, what should be the method of ‘informing’ the responsible administration? Is a Res. 49 publication in BR IFIC enough for information?’
- Is sending Res 49 data to the ITU equivalent to the actions to seek agreement of the other administration if the satellite considered is notified by that administration?
- What are the consequences for not fulfilling obligations according to provision 3.12 of the ‘Minutes’ of the 13th Plenary of WRC-12?
- In case the filing, operation and licensing of the satellite are under the responsibility of different administrations, which is the ‘responsible administration’ that has been identified in provision 3.12 of the ‘Minutes’ of the 13th Plenary of WRC-12?
- Is the ICO-F2 satellite still operational? BR is to kindly establish the status from BR records, inquiring with UK as well as from other publically available information.
- Which was the ‘responsible administration’ for the space station ICO-F2 relating to S-band frequencies during the period 25 February to 25 May 2013, after these frequency assignments had been suppressed by UK?’

7 Request for confirmation by the Radio Regulations Board of the suspension of some satellite networks under No. 11.49 of the Radio Regulations (Document RRB14-1/9)

7.1 **Mr Matas (SSD/SPR)** introduced Document RRB14-1/9, in which the Bureau sought confirmation by the Board that four requests for suspension of the use of satellite networks were receivable despite having been received more than six months after the date on which use was suspended.

7.2 Responding to a question by **Mr Garg**, he said that the United States had not indicated the reasons for which its requests for suspension had been submitted after the six-month deadline stipulated in No. 11.49. The Administration of Saudi Arabia had indicated that its request had reached the Bureau after the deadline owing to an error with an automatic fax dispatch machine. Responding to a question by **Mr Ebadi**, who asked whether the Bureau had looked into the concerned networks in application of No. 13.6 of the Radio Regulations, he said that, based on the information available to it, the Bureau was convinced that all four networks under consideration had been brought into use in compliance with the relevant provisions of the Radio Regulations. The Bureau saw no reason not to accept the requests for suspension.

7.3 **Chief SSD** confirmed that the Bureau had satisfied itself that there had indeed been satellites in operation for the networks concerned up until the commencement of the requested suspension. The Bureau had received no information causing it to doubt whether any of the frequency assignments concerned had been used.

7.4 **Mr Strelets** noted that the requests for suspension for the three United States networks had been received by the Bureau some nine months ago, and involved suspension commencing well over six months prior to the submission of the requests. The very important question of whether or not deadlines could be exceeded was being discussed in other forums, for example ITU-R Working Party 4A. Recognizing that there was a clear infringement of the Radio Regulations in the case

under consideration, he wondered why the Bureau had waited so long before bringing the present cases before the Board.

7.5 **Chief SSD** recalled that when the Board had adopted the rule of procedure on No. 11.49, it had considered whether the six-month deadline for the submission of requests for suspension could be exceeded. The original draft rule prepared by the Bureau had excluded any such possibility, thus respecting the precise terms of No. 11.49. The Board had nevertheless seen fit to take into account certain comments received from administrations to the effect that strict enforcement of the six-month deadline might be overly harsh and would not allow for authentic oversights by administrations. In view of those comments, the Board had amended the draft rule to make the six-month deadline indicative rather than strictly binding, which was why the Bureau accepted requests for suspension received after the six-month deadline in No. 11.49. According to the rule on No. 11.49, when the Bureau determined under No. 13.6 that an assignment had not been in operation for over six months, it asked the administration concerned for explanations, with the understanding, again in accordance with the rule on 11.49, 'that an untimely notice may not be relied upon to extend the suspension period beyond the period provided for in No. 11.49...'. He confirmed that the question of whether the six-month deadline was indicative or strictly binding was under discussion in other forums, and the provision was being brought to the attention of WRC-15 for clarification.

7.6 **Mr Strelets** questioned whether the Board had agreed to relaxation of the strict application of the six-month deadline when it had discussed the draft rule of procedure on No. 11.49. At WRC-12, extension of the suspension period to three years had been closely linked with the requirement for the request for suspension to be submitted within 6 months. The provision itself was perfectly clear on that requirement. Moreover, under Nos. 13.6, 11.50 and other provisions, the Bureau was empowered to investigate the use of frequency assignments, but nowhere was any link established between those provisions and No. 11.49, as appeared to be suggested by the Bureau. Noting that No. 13.6 required immediate action by the Bureau in regard to all assignments, he asked once again why the Bureau had waited so long before bringing the United States' three requests for suspension to the attention of the Board.

7.7 **Chief SSD** said that conferences had not imposed on the Bureau the duty of monitoring the use of all satellites constantly; matters came up for investigation under No. 13.6 for specific reasons, for example at the instigation of other administrations, in the course of the Bureau's application of other provisions of the Radio Regulations, etc. Regarding the application of No. 11.49, the Bureau could not suspend the use of assignments not in service, and adopted the same approach for all cases, namely the requirement for a satellite to be in service operating the assignments recorded in the Master Register up to the proposed date of suspension. Regarding the six-month deadline in No. 11.49, he invited members to consult the last sentence of § 2.1 of the rule of procedure on the provision, and stressed that any relaxation of the strict application of the deadline could not lead to extension of the three-year suspension period.

7.8 The **Director** added that there had been some delay in bringing the requests to the attention of the Board because the Bureau had decided to group all such requests together before doing so. If administrations took more than six months to submit their suspension requests, the consequence could be neither extension of the suspension period nor cancellation of the networks concerned, since No. 11.49 did not provide for either.

7.9 **Mr Ito** noted that No. 11.49 was clear in regard to assignments being cancelled if their suspension exceeded three years, but failed to indicate the consequences of non-compliance with the six-month deadline for notifying the Bureau of the suspension. Although No. 13.6 could be applied to cases under No. 11.49, he agreed with Mr Strelets that no formal link existed between the two provisions. Under the present circumstances, the Board's hands were tied, and there was no

option but to accept the requests for suspension indicated in the document. The problem should perhaps be brought to the attention of WRC-15.

7.10 **Mr Koffi** wondered what the precise intent had been of including the six-month deadline in No. 11.49.

7.11 The **Director** said that the WRC's intent had been to avoid situations that had arisen in the past, when administrations had announced - and sometimes only when obliged to do so - that networks had been suspended several years after the commencement of the suspension.

7.12 **Mr Bessi** said that the explanations given by the Bureau made it clear to him that the rule of procedure on No. 11.49 gave administrations some flexibility regarding the six-month deadline, but in no way extended the maximum suspension period of three years. The Bureau had applied the Radio Regulations and associated rules of procedure correctly in deeming receivable the four requests for suspension in Document RRB14-1/9. He nevertheless wondered whether it was necessary for the Bureau to submit such cases to the Board for consideration, since there was no such obligation in either No. 11.49 or its rule of procedure. Should the Board in fact decide the matter?

7.13 **Chief SSD** said that the Bureau had chosen to group the suspension requests together and seek the Board's confirmation of its course of action *a posteriori* given that, although the Bureau's treatment of the requests was in conformity with the rule on No. 11.49, it might not be considered in full conformity with No. 11.49 itself in regard to the six-month deadline.

7.14 **Mr Strelets** said that to his understanding No. 11.49 could be applied only to assignments recorded in the MIFR, benefiting from and subject to all the rights and obligations that went with that status. No. 11.49 could not be applied to assignments at the coordination stage. It was clear from the provision that networks not brought back into use after the three-year period were to be cancelled, but the consequences of non-compliance with the six-month deadline were not clear. Various different approaches were being discussed in other forums, for example Working Party 4A, with some proposals suggesting sanctions of different kinds for non-compliance with the deadline - thus recognizing that failure to comply was an infringement of the Radio Regulations. It was a complex and sensitive matter, and the Board should be aware that administrations referred to the Board's rules of procedure when considering options. Thus, the Board must make sure its approach was sound and not liable to meet with the conference's disapproval. To accept that the six-month deadline was flexible would mean it could be exceeded by any period, from one day to two and a half years.

7.15 **Mr Magenta** considered that the Bureau had acted correctly in its application of the Radio Regulations and associated rules of procedure in the case in hand. However, in his view the six-month deadline in No. 11.49 should be applied without flexibility, as any other approach would be untenable.

7.16 **Mr Ebadi** said that application of the provisions of the Radio Regulations should be in compliance with the principles enshrined in the ITU Constitution, with a view to ensuring the most efficient use of the spectrum and orbit and avoidance of spurious practices, such as satellite hopping with coordination with numerous countries left pending.

7.17 The **Director** said that one fundamental problem was that No. 11.49 failed to indicate what action should be taken in the event of failure to comply with the six-month deadline, which meant that the Bureau had little option but to accept suspension requests that did not comply with the deadline. In a sense, however, administrations penalized themselves by submitting suspension requests late, since in any event the suspension period would commence on the date of suspension indicated in the request and could not exceed three years.

7.18 The **Chairman** suggested that the Board agree to confirm the Bureau's request for confirmation of the acceptance of the suspension requests in Document RRB14-1/9.

7.19 **Mr Strelets** said that the Board should be very careful in taking any such decision, which would set a precedent. What if an administration submitted a suspension request two years after expiry of the six-month deadline? If the Board confirmed the requests for suspension in Document RRB14-1/9, perhaps it should do so conditionally, for example subject to the WRC not ruling otherwise or making certain conditions applicable to late requests.

7.20 **Mr Žilinskas** endorsed Mr Strelets' comments, and recalled that the Board had been accused once in the past of extending a regulatory deadline.

7.21 **Mr Ebadi** said that the Board could not simply endorse extension of the six-month deadline.

7.22 The **Chairman** noted that the Board would be asking a Board working group to look into issues that should be brought to the attention of WRC-15, and the matter under discussion could be one such issue. Nevertheless, a decision was required of the Board on the case in hand, and that decision could refer to the possible need for WRC-15 to review No. 11.49 in the light of the Board's discussions. The Board should not overlook the possible effects on other administrations of non-compliance with the six-month deadline.

7.23 The **Director** suggested that the Board's Working Group on the Rules of Procedure might discuss the rule of procedure on No. 11.49, possibly with a view to amending it.

7.24 **Mr Strelets** said that acceptance of the requests in Document RRB14-1/9 would have no real effect on other administrations. He nevertheless asked what the Bureau would do if it ascertained, for example in applying No. 13.6, that certain assignments had not been in use for two and a half years and if the administration concerned, when confronted with the issue, requested suspension of use of the frequency assignments. He recalled that No 13.12A g) stipulated that rules of procedure 'shall avoid any relaxation to the application of the corresponding provisions of the Radio Regulations...'.
The **Chairman** said that the Board should not overlook the possible effects on other administrations of non-compliance with the six-month deadline.

7.25 **Chief SSD** said that the Bureau's understanding of the last sentence of § 2.1 of the rule of procedure on No. 11.49 was that requests for suspension submitted beyond the six-month deadline stipulated in No. 11.49 were receivable by the Bureau, even two and a half years after assignments had stopped operating. The total suspension period, however, could not exceed three years. If that understanding was incorrect, perhaps the Board should amend the rule of procedure it had approved.

7.26 **Mr Strelets** said that the approach thus resulting from application of the rule of procedure ran counter to the intention of the WRC when in 2012 it had agreed to extend the suspension period to three years while setting a firm deadline by which administrations were required to submit their suspension requests. To be completely flexible with application of the six-month deadline would do nothing to encourage administrations to submit their suspension requests in a timely manner and would therefore do little to foster the efficient use of spectrum and orbit.

7.27 The **Chairman** said he was not in favour of amending the rule on No. 11.49 at the present juncture, as it was being discussed in other forums such as the Special Committee and Working Party 4A.

7.28 **Mr Bessi** said that to his understanding the Bureau had applied the rule of procedure on No. 11.49, and in particular § 2.1 thereof, correctly, and had not been under any obligation to seek confirmation from or even inform the Board of its acceptance of the four requests for suspension. The Board should simply note the information.

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

‘The Board discussed the issue in detail. It was clarified that No. 11.49 and related provisions, as well as the relevant Rules of Procedure on No. RR 11.49, are silent on the action to be taken if the information about suspension was not received within the stipulated period of six months. It was also clarified that the total period of suspension, in any case, could not exceed the period provided in No. 11.49. Accordingly, the Board noted that the Bureau had applied the RR provisions and the Rules of Procedure on No. 11.49 correctly and took note of the decision of the BR to accept the requests for suspension of the satellite networks mentioned in Document RRB14-1/9.

The Board also considered that WRC-15 may wish to review No. 11.49.’

8 Consideration of satellite networks EXPRESS-11, STATIONAR-16, LOUTCH-10 and VOLNA-6R (Documents RRB14-1/6 and RRB14-1/15)

8.1 **Mr Matas (SSD/SPR)** introduced Document RRB14-1/15 containing a submission by the Administration of the Russian Federation regarding the status of the frequency assignments to the EXPRESS-11, STATIONAR-16, LOUTCH-10 and VOLNA-6R satellite networks. The Russian Administration explained that for many years it had been operating the frequency assignments to those satellite networks at orbital position 145°E using ‘Gorizont’ type satellites, which had allowed the networks in question to be operated in the C, Ku and L frequency bands until August 2012, when it had planned to replace a satellite that had broken down by launching the satellite EXPRESS-MD2. However, the launch of that satellite on 7 August 2012 had failed owing to a problem with the upper rocket stage. On 25 January 2013, the Russian Administration had therefore informed the Bureau, under No. 11.49 of the Radio Regulations, of the temporary suspension of the use of the frequency assignments to those networks at orbital position 145°E from 20 August 2012. The Bureau, for its part, as indicated in Document RRB14-1/6, had been unable to identify any satellite operating under the satellite networks concerned at 145°E up until the requested date of suspension, and therefore, in line with BR Circular Letter CR/301 of 1 May 2009, had initiated action in accordance with No. 13.6 of the Radio Regulations on 28 February 2013. On 26 March 2013, it had informed the Administration of the Russian Federation that it had identified two satellites that had been located at orbital position 145°E until November 2008, and that the position had then been left vacant for almost four years until the GORIZONT 30 satellite had been drifted to within 1 degree of the position for 42 days between September and October 2012. The Bureau had therefore once again requested the Administration of the Russian Federation to provide evidence of continuous operation of the satellite networks concerned at that position and to identify the actual satellites and frequency bands which had been in use between November 2008 and the requested date of suspension. The Bureau had added that, in the absence of such clarification, it might have no other option than to initiate the cancellation of all the frequency assignments to the four satellite networks.

8.2 Following further exchanges of correspondence with the Administration of the Russian Federation, which had not however provided the additional information requested, on 13 August 2013 the Bureau had drawn the attention of the Administration of the Russian Federation to the minutes of the 13th plenary meeting of WRC-12 (Document CMR12/554) dealing with the case of satellite failure, in the event of which, at the request of the notifying administration, the case might be submitted to the Board for a case-by-case decision, regarding in particular the application of No. 11.49 of the Radio Regulations. Even though the WCR-12 decision did not explicitly mention the case of launch failure, the Bureau had suggested that the Administration of the Russian Federation might request the Board for a decision to retain the frequency assignments concerned in the MIFR and suspend them under No. 11.49. On 1 October 2013, however, the Administration of

the Russian Federation had indicated its disagreement with that course of action. In Document RRB14-1/15, the Administration of the Russian Federation added that it was unable to identify any provisions of the Radio Regulations or Rules of Procedure linking notification of suspension of use under No. 11.49 with application of No. 13.6, and that the Bureau therefore appeared to be applying procedures that were not consistent with the provisions of the Radio Regulations. The Bureau was therefore drawing the attention of the Board to the disagreement between the Administration of the Russian Federation and the Bureau regarding the cancellation of all frequency assignments to the EXPRESS-11, STATIONAR-16, LOUTCH-10 and VOLNA-6R satellite networks and was submitting the matter to the Board for investigation and decision in accordance with No. 13.6 of the Radio Regulations.

8.3 The **Chairman** observed that the issue under consideration was whether the frequency assignments should be suspended under No. 11.49, as requested by the Administration of the Russian Federation, or cancelled in conformity with No. 13.6, which was the action that the Bureau had indicated that it would have to take unless the Board decided otherwise. The Administration of the Russian Federation was seeking a review of the decision by the Bureau under Article 14 of the Radio Regulations.

8.4 **Mr Bessi** pointed out that there was no direct reference to No. 13.6 in provision No. 11.49. Although the relevant rule of procedure, in its § 2, did indeed refer to No. 13.6, that reference was in the context of information relating to suspension of use. His concern was that the retroactive application of No. 13.6 in such circumstances might cause problems for administrations and would not encourage them to bring situations of the kind that had arisen in the present case into conformity with the Radio Regulations. Another issue that arose was whether, if the Administration of the Russian Federation was not seeking the application of the WCR-12 decision related to satellite failure, the Board would be able to consider it as a case of *force majeure*.

8.5 **Mr Garg** said that the suggestion made by the Bureau that the Administration of the Russian Federation should submit the matter to the Board in conformity with the minutes of the 13th plenary meeting of WRC-12 (Document CMR12/554), related to satellite failure, bore certain similarities in principle with the action proposed by the Russian Administration in Document RRB14-1/15. The Board might consider the request by the Russian Administration as being much the same as the approach suggested by the Bureau, in which case the matter would be largely resolved.

8.6 **Mr Žilinskas** noted that there had been no satellite at orbital position 145°E since 2008 and asked why the Bureau had only recently become aware of that. He added that a case of *force majeure*, such as the present one, lay within the purview of the Board. Finally, he requested the Bureau to indicate whether acceding to the request of the Administration of the Russian Federation would have any repercussions in terms of coordination with other networks.

8.7 The **Director** replied that the Bureau did not have the necessary resources or means to check the use of all frequencies continuously. The resources available were used when the occasion arose, and normally when an administration requested the suspension of frequency assignments, in which case the Bureau checked the situation. He added that in a recent case which presented certain similarities with the matter under discussion, the Board had considered that launch failure constituted a case of *force majeure*, and it would not therefore be difficult to reach a similar conclusion in the present case. The alternative was to examine whether the frequency assignments had still been in use prior to August 2012. In that regard, he recalled that the Bureau had not yet taken any action under No. 13.6 and had referred the matter to the Board for investigation and decision.

8.8 **Mr Ito** considered that the case raised the difficult issue of whether launch failure could be considered as *force majeure*. Prior to the launch failure, the frequencies had been recorded legitimately in the MIFR and had not been challenged, and there would have been no change in that situation if the launch had not failed. Once a problem of that nature arose, however, it was very dangerous to start asking retroactive questions. No blame could be attached to the Bureau for not having sufficient resources to be able to monitor the use of frequency assignments on a constant basis. If it was agreed that the present case constituted *force majeure*, the Board would be in a position to accede to the request by the Administration of the Russian Federation without having to investigate a series of retroactive questions.

8.9 **Mr Nurmatov** agreed that the possibility for the Bureau to take action under No. 13.6 in cases where administrations requested the suspension of frequency assignments under No. 11.49 could encourage administrations to hide certain details out of a fear of the cancellation of their frequency assignments. He recalled that if the satellite launch had been successful, there would have been no issues concerning the frequency assignments. He agreed that in the present case launch failure should be considered as *force majeure*.

8.10 **Chief SSD** observed that when the Bureau was informed under No. 11.49 of the suspension of a frequency assignment, it was almost always informed after the event, which meant that to seek any information on the use of the frequency assignments up to the suspension date would inevitably involve retroactive action. International recognition of frequency assignments was based on their continuous operation in conformity with their characteristics recorded in the MIFR. However, in the present case there had been no satellite at orbital position 145°E for the previous four years before the requested suspension date. As no provision in the Radio Regulations clearly established that launch failure was a case of *force majeure*, the Bureau had suggested that the Administration of the Russian Federation might seek guidance from the Board

8.11 **Mr Garg** and the **Chairman** proposed, in light of the discussion, that the Board should consider the launch failure as constituting a case of *force majeure*. On that basis, the request by the Administration of the Russian Federation for the suspension of the frequency assignments under No. 11.49 could be accepted effective from 20 August 2012. The Board could also consider that the Bureau had applied the respective provisions correctly.

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

‘The Board considered the request from the Administration of the Russian Federation to suspend the use of the frequency assignments for satellite networks EXPRESS-11, STATIONAR-16, LOUTCH-10 and VOLNA-6R at orbital position 145°E. After detailed discussion, the Board concluded that:

- a) The BR has applied the provisions of RR correctly;
- b) Taking into account the specific situation presented by the Administration of the Russian Federation on the launch failure of EXPRESS-MD2, the request from the Administration of the Russian Federation was acceptable in principle.

On this basis the Board instructed the BR to apply No 11.49 for the above frequency assignments effective from 20 August 2012.’

8.13 **Chief SSD** said that, since the new three-year suspension period under No. 11.49 was applicable as from 1 January 2013 to any requests for suspension submitted as from 6 months prior to that date, use of the frequency assignments to the four Russian networks EXPRESS-11, STATIONAR-16, LOUTCH-10 and VOLNA-R would be suspended as from 20 August 2012 for a period of three years.

9 Application of No. 13.6 of the Radio Regulations (Documents RRB14-1/4 and RRB14-1/5)

Request for a decision by the Radio Regulations Board for cancellation of all frequency assignments of the INDOSTAR-1 satellite network under No. 13.6 of the Radio Regulations (Document RRB14-1/4)

9.1 **Mr Matas (SSD/SPR)** introduced Document RRB14-1/4, which requested a decision by the Board for cancellation of all frequency assignments of the INDOSTAR-1 satellite network under No. 13.6 of the Radio Regulations on the grounds that the Administration of Indonesia had failed to provide evidence of continuous operation of the INDOSTAR-1 satellite network at 107.7°E.

9.2 **Mr Magenta, Mr Strelets, Mr Koffi, Mr Terán and Mr Garg** said that the Bureau's request for cancellation was fully justified.

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

'The Board considered that the BR applied correctly the relevant provisions of the Radio Regulations and the Rules of Procedure. The Board agreed with the analysis of the BR and, given the information provided, decided to cancel the frequency assignments of the INDOSTAR-1 satellite network under No. 13.6 of RR.'

Request for a decision by the Radio Regulations Board for cancellation of all frequency assignments of the INDOSTAR-107.7E satellite network under No. 13.6 of the Radio Regulations (Document RRB14-1/5)

9.4 **Mr Matas (SSD/SPR)** introduced Document RRB14-1/5, which requested a decision by the Board for cancellation of all frequency assignments of the INDOSTAR-107.7E satellite network under No. 13.6 of the Radio Regulations on the grounds that the Administration of Indonesia had failed to provide evidence of continuous use of INDOSTAR-107.7E at 107.7°E and identification of the actual satellite in operation at 107.7°E.

9.5 **Mr Bessi, Mr Koffi and the Chairman** noted the similarities between the present case and that submitted in Document RRB14-1/4 and said that the request for cancellation was fully justified.

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

'The Board considered that the BR applied correctly the relevant provisions of RR and the Rules of Procedure. The Board agreed with the analysis of the BR and, given the information provided, decided to cancel the frequency assignments of the INDOSTAR-107.7E satellite network under No. 13.6 of RR.'

10 Conversion of the current rule of procedure concerning the format used for the submission of information under Resolutions 552 (WRC-12) and 553 (WRC-12) (Document RRB14-1/10)

10.1 **Mr Sakamoto (SSD/SNP)**, introducing Document RRB14-1/10, said that at its meeting in February 2014 Working Party 4A had considered a proposal for the conversion of the current rule of procedure concerning the format used for the submission of information under Resolutions 552 (WRC-12) and 553 (WRC-12) into provisions of the Radio Regulations. The proposal was to revise Resolution 55 (Rev. WRC-12) to confirm the current practice, as stated in the rule of procedure, and to add a footnote to Articles 9 and 11 of the Radio Regulations referring to Resolution 55. Having

regard to No. 13.0.1 of the Radio Regulations, the working party had agreed that the proposal should be brought to the attention of the Board, through the Director of BR, for consideration.

10.2 **Mr Ebadi** said that the Working Group on the Rules of Procedure would be examining several potential rules of procedure for incorporation in the Radio Regulations, which would be submitted to WRC-15 as part of the Director's report in conformity with No. 13.0.1. The working group should examine the present proposal, in accordance with its usual practice, in preparation for WRC-15.

10.3 **Mr Garg** noted that the proposal appeared to be appropriate and should be examined by the Board's working group. The only question was one of procedure. The proposal could either be submitted for examination to the Special Committee and the CPM, or could be included in the Report of the Director to WRC-15 under No. 13.0.1.

10.4 **Mr Bessi** suggested that the proposal should not be examined in detail in the plenary of the Board, but should simply be referred to the Working Group on the Rules of Procedure. **Mr Koffi** and **Mr Magenta** agreed.

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

'The Board noted Document RRB14-1/10 and decided to allocate it to the Working Group on Rules of Procedure to take into consideration in the preparation on WRC-15 agenda item 9 for possible inclusion in the Director's Report.'

11 Request for a decision by the Radio Regulations Board on the date of receipt for the submission of the NICASAT-1-30B satellite network (Documents RRB14-1/11 and RRB14/DELAYED/3)

11.1 **Ms Glaude (SSD/SNP)**, introducing Document RRB14-1/11, along with the information provided in RRB14/DELAYED/3, outlined the communication problems (fax, mail) that had arisen between April and November 2013 in connection with Nicaragua's submission on 19 April 2013 for the introduction of an additional system under § 6.1 of Article 6 of Appendix 30B for the NICASAT-1-30B satellite network at orbital position 84.4°W. Eventually, on 6 November 2013, the Nicaraguan Administration had recontacted the Bureau by e-mail to inquire about the status of its submission, and the subsequent exchange of correspondence had led to the submission of the requested missing information and clarification by Nicaragua, but to the setting of a new date of receipt for the network in accordance with the rules of procedure on receivability of forms of notice, namely 28 November 2013 instead of 19 April 2013. Nicaragua had contested the setting of that new date of receipt due to non-reception of the Bureau's correspondence between April and November 2013 and, recognising the application of the Rule of Procedure on Receivability of forms of notice by the Bureau, had requested that the matter be submitted to the Board with a view to reinstating the initial date of receipt.

11.2 **Mr Ebadi** said that it was not the first time that communication problems had arisen between the Bureau and administrations. Perhaps the Bureau should ensure that it received regular updates on administrations' contact details, and consider the possibility of submitting copies of its correspondence to the official representatives of the countries in Geneva.

11.3 **Mr Garg** suggested that the Director look into the best possible approach to solving the problems of communication with administrations, recognizing that no one solution would be appropriate for all parties.

11.4 **Mr Strelets** observed that developing countries could regularly face the kind of communication problems described in Document RRB14-1/11, and the Bureau could perhaps consider how best to react when administrations remained silent on their submissions for an extended period. In considering the case in hand, the Board would need to know how much work would be involved in reinstating the original date of receipt for the NICASAT-1-30B satellite network, and the effect of such reinstatement on other networks submitted in the period between the initial and newly set dates, bearing in mind the importance of the network to Nicaragua as the first network of a developing country.

11.5 **Chief SSD** said that it was a constant concern of the Bureau to ensure that correspondence was exchanged successfully between it and administrations, particularly where issues regarding the completeness of filing submissions and regulatory deadlines were involved. However, the Bureau could not follow up each and every letter or message it sent to administrations, and it was also the responsibility of administrations to ensure that the Bureau had their valid contact details. Efforts were constantly being made to further improve matters, by officializing on a case-by-case basis a formal e-mail address for the processing of satellite networks submissions in addition to the official fax and mail addresses. Further efforts were also being introduced in the light of the communication problems encountered in the cases before the Board at its present meeting (Nicaragua and Lao People's Democratic Republic). As requested by WRC-12 in its Resolution 907 (WRC-12) the Bureau was also investigating modern and secure electronic means of exchange between the Bureau and administrations based on web interface. Regarding the potential consequences of reinstating the original date of receipt for NICASAT-1-30B, three new networks had been submitted in the coordination arc of interest between 19 April and 28 November 2013, and the Bureau would simply have to redo the examinations for those networks.

11.6 **Mr Magenta** said that the Rules of Procedure existed to help administrations apply the Radio Regulations correctly, not to punish administrations. Administrative problems could arise, particularly for developing countries embarking on unfamiliar procedures for the first time. The case under consideration involved Nicaragua's first satellite network, in a process in which the administration was showing every intention of fulfilling its regulatory obligations to the best of its ability. He considered that the Board should accede to Nicaragua's request.

11.7 **Mr Bessi** said that the Bureau had applied the rules of procedure on receivability correctly and should be commended for its endeavours to resolve the communication problems encountered. Nicaragua, for its part, had demonstrated its intention to fulfil its regulatory obligations and see its project through, for example by contacting the Bureau when it had received no correspondence from the Bureau for some time. The Board was being asked, not to cancel assignments, but to choose between two different dates of receipt. Coordination requirements might change if the newly set date was retained, but Nicaragua would not lose all its rights by any means. Noting that three networks had been submitted in the period between the two dates to be chosen from, he asked whether a technical analysis of the impact of reinstating the earlier date of receipt could be effected during the present meeting.

11.8 **Mr Žilinskas** endorsed Mr Bessi's comments. The Constitution and Convention gave the Board the latitude to take such a decision, though it would depend on the analysis to be effected by the Bureau.

11.9 **Mr Terán** agreed with previous speakers. If a technical analysis showed that the impact on other networks would not be too great, the Board should retain the earlier date of receipt. He commended the Bureau's efforts to eliminate problems of correspondence between itself and administrations, and suggested that consideration be given to requiring acknowledgment of receipt of mail, so that everything was fully documented in the event of problems arising.

11.10 **Mr Koffi** said that the Bureau had acted correctly, and the Nicaraguan Administration had shown good faith and good will in seeking to fulfil its duties. The Board should accede to its request. Communication problems were faced constantly in developing countries, and thought should be given to using the diplomatic bag of the administrations as the surest means of correspondence.

11.11 **Mr Garg** agreed with previous speakers that the Board should endeavour to be sympathetic towards Nicaragua's request. However, correspondence problems of the kind referred to really should not exist in the modern world, and both the Bureau and administrations should do their utmost to ensure that they did not. He wondered whether the service coverage of Nicaragua's network was domestic or wider, since, as in the past, it would be easier for the Board to accede to the request if coverage was only domestic.

11.12 **Mr Bessi** noted that a decision by the Board to reject Nicaragua's request could jeopardize the bringing into use of the network, which was to be Nicaragua's first. Nicaragua had demonstrated good faith and should not be penalized. He therefore proposed that the Board accede to the request, while stressing that its decision was taken on a case-by-case basis and should not be seen as setting a precedent for future cases.

11.13 **Mr Strelets** supported Mr Bessi, adding that Nicaragua's submission was part of the Appendix 30B Plan approach, which sought to guarantee access to orbit for all countries.

11.14 The **Chairman** proposed that the Board conclude as follows:

'The Board considered that the BR had acted correctly in applying the RR and relevant Rules of Procedure. The Board recommended to the BR to continue exploring all means of communication to contact an administration whenever communication difficulties occur.

The Board decided, as a specific case, to instruct the BR to reinstate the date of receipt for the submission of the NICASAT-1-30B satellite network as 19 April 2013 and instructed the BR to take the necessary actions in this regard.'

11.15 It was so agreed.

12 Request for a decision by the Radio Regulations Board on the date of receipt for the submission of the LSTAR-126E-30B satellite network (Document RRB14-1/12)

12.1 **Ms Glaude (SSD/SNP)** introduced Document RRB14-1/12, outlining the communication problems that had arisen between the Bureau and the Administration of the Lao People's Democratic Republic in relation to the submission of its LSTAR-126E-30B satellite network, which had led to the Bureau setting a new date of receipt for the network of 2 January 2014 instead of the original date of receipt of 22 August 2013. Noting the similarities between that case and Nicaragua's submission for its NICASAT-1-30B network and the fact that it would be logical to treat the two cases in the same manner, the Bureau was requesting the Board to decide which date of receipt should be retained for the LSTAR-126E-30B satellite network.

12.2 **Mr Garg** said that, unless the Bureau pointed to any dissimilarities, the case now under consideration should be treated in exactly the same manner as Nicaragua's request.

12.3 **Mr Ebadi** agreed, stressing that exactly the same arguments applied to the present case as to Nicaragua's submission.

12.4 **Mr Bessi** sought confirmation from the Bureau that the two cases were essentially the same. It was unclear whether the Administration of the Lao People's Democratic Republic had even

received the Bureau's most recent correspondence to it, informing it of the new date of receipt and the Bureau's intention to bring the matter to the attention of the Board; thus it was also unclear whether or not the Administration of the Lao People's Democratic Republic accepted the new date of receipt. It seemed the Bureau was submitting the case to the Board on its own initiative rather than at the administration's request.

12.5 **Chief SSD** said that the two cases were essentially the same in terms of a new date of receipt being set based on the fact that missing information had been submitted to the Bureau after expiry of the period allowed in the rules of procedure on receivability. Indeed, the Administration of the Lao People's Democratic Republic had expressed its wish to keep the original date of receipt by requesting an extension of the period of 30 days to reply to the completeness request received too late by surface mail. Given the similarity between the two cases, the Bureau had taken it upon itself to submit the matter to the Board.

12.6 **Mr Magenta** said that, in view of the similarity between the two cases, the case now before the Board should be treated in exactly the same manner as Nicaragua's submission. He noted that communication problems could be aggravated over the end-of-year period.

12.7 **Mr Strelets** agreed, noting that the Administration of the Lao People's Democratic Republic had been only about fifteen days late in providing the missing information.

12.8 **Mr Ebadi** noted that, even if the Administration of the Lao People's Democratic Republic had not requested the Bureau to bring the case to the Board for decision, under § 1.4 j) of Part C of the Rules of Procedure the Director could bring any item to the Board for examination.

12.9 The **Chairman** proposed that the Board conclude as follows:

'The Board considered that BR had acted correctly in applying the RR and relevant Rules of Procedure.

It was recognised that communication problems occurred in this case.

The Board decided, as a specific case, to instruct the Bureau to reinstate the date of receipt for the submission of the LSTAR-126E-30B satellite network as 22 August 2013 and instructed the BR to take the necessary actions in this regard.'

12.10 It was so **agreed**.

13 Application of Nos. 9.48-9.49 following assistance requests under No. 9.46 or 9.60 (Document RRB14-1/7)

13.1 **Mr Ito** said that, as the present matter had been initiated by the Administration of Japan, he would not normally be entitled to participate in the discussion in conformity with No. 98 of the Constitution. However, Document RRB14-1/7 consisted of a proposal of a general nature, and he therefore believed that it would not be contrary to CS 98 for him to contribute to the debate.

13.2 **Mr Ebadi, Mr Magenta, Mr Strelets** and the **Chairman** agreed that CS 98 did not apply in the present case and that Mr Ito should consider himself free to participate in the discussion.

13.3 **Mr Sakamoto (SSD/SNP)**, introducing Document RRB14-1/7, explained that when the Bureau received a request for assistance from an administration under No. 9.46 or 9.60 of the Radio Regulations, in application of No. 9.46 or 9.61, as appropriate, it requested the administration concerned to provide an immediate acknowledgement, an early decision or the relevant information, depending on the case. If there was no response from the administration within 30 days of the request by the Bureau, the provisions of Nos. 9.48 and 9.49 were applicable. Given the serious regulatory consequences of the application of Nos. 9.48 and 9.49, the Bureau took the following

action at the end of the 30 day period: in the absence of a response from the administration within the thirty-day period, the Bureau sent a reminder allowing another fifteen-day period for response; if the administration did not respond to the reminder within the additional fifteen-day period, the Bureau informed it of the application of Nos. 9.48 and 9.49 to the frequency assignments concerned and sent a copy of that communication to the administration that had requested assistance. The Bureau considered that the practice thus outlined protected the interests of the administrations concerned, even though it could be regarded as extending the 30-day regulatory period. The current approach followed by the Bureau had been applied for a long time and had not given rise to any difficulties. While understanding the need for the approach from a practical point of view, the Administration of Japan considered that it would be appropriate to include the additional action taken by the Bureau in a rule of procedure. It was therefore seeking the advice of the Board on whether a process should be initiated under No. 13.12A of the Radio Regulations for the drafting of a rule of procedure.

13.4 **Mr Ebadi** considered that the Bureau was extremely generous in sending administrations a second reminder. He recalled that, under No. 13.0.1, the Board should develop a new rule of procedure only when there was a clear need with proper justification for such a rule. In the present case, the Bureau acknowledged that no difficulties arose in practice. He was therefore uncertain whether there was a need for a new rule.

13.5 **Mr Ito** observed that, although the practice followed by the Bureau was very sound, it was a practice that the Bureau had adopted at its own initiative, but was not institutionalized by the Radio Regulations. In his view, it would therefore be better to draft a rule of procedure, and the question of the need for amendment to the Radio Regulations could then be raised at WRC-15.

13.6 **Mr Bessi** considered that the practice followed by the Bureau was a matter of good sense and had not raised problems, either with administrations which requested assistance or with those from which assistance was requested. However, the practice was not in conformity with the Radio Regulations. Thus, if any rule of procedure were to be developed setting out the current practice, it would be necessary to raise the issue with the WRC with a view to amending the Radio Regulations.

13.7 **Mr Koffi** said that the current practice had never given rise to difficulties, but might do so in future, and therefore agreed that it should be set out in a rule of procedure or an amendment to the Radio Regulations.

13.8 **Mr Magenta** proposed a step-by-step approach of first instructing the Bureau to prepare a draft rule of procedure, which could be considered by the Board at its next meeting, when a decision could be taken on whether it was necessary to propose an amendment to the Radio Regulations.

13.9 **Mr Ebadi** recalled that No. 13.12A b) called for any practice used by the Bureau in the application of the provisions of the Radio Regulations to be identified and proposed for inclusion in the Rules of Procedure. **Mr Strelets** agreed that practices followed by the Bureau should be set out in rules of procedure.

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

‘After having considered all aspects relating to this item, the Board decided to instruct the BR to convert current practice, as required by RR 13.12A b), into a draft Rule of Procedure for consideration by the Board.’

14 Report of the Working Group on the Rules of Procedure (Document RRB12-1/4(Rev.9))

14.1 **Mr Ebadi** (Chairman of the Working Group on the Rules of Procedure), referring to Document RRB12-1/4(Rev.9), drew attention to those rules of procedure for which no decision had yet been taken concerning the meeting of the Board at which they would be discussed, namely: the draft revised rule of procedure on No. 11.44B; and the draft new rule stemming from the 13th WRC-12 plenary meeting, concerning satellite failure during the ninety-day bringing into use period. The former was to be discussed by the present meeting (see § 15 below). With regard to the latter, the Bureau should be left to decide at which meeting of the Board the matter would be examined, depending on the progress made by ITU-R with the relevant studies.

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

‘The Board noted that the Working Group on Rules of Procedure has reviewed Document RRB12-1/4 (Revision 9) and agreed to update and post the updated document on the RRB website for further review at the 66th meeting.’

15 Draft revised rule of procedure on No. 11.44B (Document RRB14-1/INFO/1)

15.1 **Chief SSD** introduced Document RRB14-1/INFO/1, containing a new draft revised rule of procedure on No. 11.44B of the Radio Regulations, which took account of comments received from administrations prior to the Board’s 64th meeting and comments by Board members at that meeting. The new text was presented in the form of three scenarios (Cases 1-3) along with diagrams illustrating the different time-lines according to which the date of bringing into use might be notified, in relation to notification under Article 11 or the equivalent Plan procedures. For Case 1, no change was proposed to the existing rule of procedure (NOC 4). For Case 2, new text was put forward (ADD 5). For Case 3, new text was put forward (ADD 6), along with alternative text (*ADD 6 alternative*) that took account of suggestions made by certain administrations in their comments on Circular Letter CCRR/49. It was nevertheless to be noted that *ADD 6 alternative* was not in conformity with No. 11.44B as adopted by WRC-12, but could provide a temporary solution pending the matter’s consideration by WRC-15, if the Board so agreed.

15.2 Responding to a comment by **Mr Ebadi**, he confirmed that the Special Committee had discussed the matter, but had reached no conclusions.

15.3 Following some initial comments by **Mr Ito**, **Mr Strelets** and the **Chairman**, **Mr Bessi** said that further reflection and discussion appeared to be needed by Board members, perhaps including by e-mail in the interval between the present and the 66th meeting, before the Board could agree to a new draft to be sent out to administrations for comment.

15.4 **Mr Ito** said that, to facilitate the Board’s reflection and deliberations, it would be useful if the Bureau could prepare a comprehensive explanation of how the present situation in regard to No. 11.44B had emerged. The **Chairman** supported that proposal, as did **Mr Strelets**, who commented that the scenario for which the Board was seeking to cater in the form of a rule of procedure was perhaps not entirely realistic in today’s satellite world.

15.5 The **Director** said that, even if the Board did not adopt a rule of procedure on the matter prior to WRC-15, any work carried out by the Board in the meantime would no doubt prove useful to administrations when they tackled the subject at the WRC. In any event, in line with Mr Bessi’s suggested way forward, it would be better for the Board to improve its understanding of the issue as

much as possible before seeking to agree on new text for dissemination to administrations for comment.

15.6 The **Chairman** proposed that the Board conclude on the matter as follows:

‘The Board considered the draft Rule of Procedure and decided that more information would be required to consider this matter at the next meeting.’

15.7 It was so **agreed**.

16 RRB participation in the 2014 Plenipotentiary Conference (PP-14) and the 2014 World Radiocommunication Seminar (WRS-14)

16.1 Having regard to No. 141A of the ITU Convention and recognizing that it was preferable for the Board to be represented by members not standing for re-election, the Board **agreed** that Mr A.R. Ebadi and Mr P.K. Garg would represent the Board at the 2014 Plenipotentiary Conference (PP-14).

16.2 The Board also **agreed** that, in line with past practice, the Chairman of the Board would represent the Board at the 2014 World Radiocommunication Seminar (WRS-14).

17 Working groups of the Board

17.1 The **Chairman** said that the Working Group on the Rules of Procedure was virtually a standing group of the Board, and would continue to meet until the end of 2014 with Mr Ebadi as its chairman and Mr Bessi as its vice-chairman. When reconstituted in 2015, it would have to elect a new chairman and vice-chairman. He intended to set up a new working group on matters to be brought to the attention of WRC-15 and to maintain the Working Group on Resolution 80 as a separate working group, given the importance of the work it was to carry out. That working group’s current chairman, Ms Zoller, was not eligible for re-election to the Board by PP-14, and therefore a new chairman would have to be appointed in 2015.

17.2 **Mr Ebadi** said that Mr Bessi, if re-elected to the Board by PP-14, would make an ideal candidate for chairman of the Working Group on the Rules of Procedure as from 2015, as he was currently the group’s vice-chairman.

18 Dates of remaining meetings in 2014 and indicative meeting dates for 2015

18.1 The Board **confirmed** 30 July–5 August and 17-21 November as the dates of its 66th and 67th meetings, respectively.

18.2 The Board **noted** the following indicative dates for its meetings in 2015:

- 68th meeting: 16 – 20 February or 23 – 27 February
- 69th meeting: 1 – 5 June or 15 – 19 June
- 70th meeting: 12 – 16 October or 19 – 23 October.

19 Approval of the summary of decisions (Document RRB14-1/16)

The summary of decisions (Document RRB14-1/16) was **approved**.

20 Closure of the meeting

20.1 The **Chairman**, speaking on his own behalf and that of the entire Board, **Mr Ito** and **Mr Magenta** expressed their appreciation to Mr F. Leite, Deputy-Director of BR, who would be retiring before the Board's next meeting, for his valuable and unfailing support both to them and the Board over the years that they had known him.

20.2 **Mr Leite** said that it had been an honour and a pleasure for him to work with the Board and its members over the years, and to see how technical and regulatory expertise could combine with friendship and multilateralism to help solve highly complex radiocommunication issues. He wished members all the very best for the future.

20.3 The **Chairman** thanked everyone who had contributed to the success of the meeting, and wished all members a safe journey home. He closed the meeting at 1210 hours on Friday, 21 March 2014.

The Executive Secretary:
F. RANCY

The Chairman:
S.K. KIBE