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CONFERENCE

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**PLENARY MEETING**

**Note by the Secretary-General**

**RESOLUTION 80 (WRC-97) - REPORT BY THE  
RADIO REGULATIONS BOARD**

Resolution 80 (WRC-97) instructed the Radio Regulations Board to develop Rules of Procedure to be followed in circumstances reflected in the Resolution.

A Report by the Radio Regulations Board on the action taken pursuant to the Resolution is attached for consideration by the Conference.

Yoshio UTSUMI  
Secretary-General

**Attachment:** Report by the Radio Regulations Board

RESOLUTION 80 (WRC-97)  
**REPORT BY THE RADIO REGULATIONS BOARD (RRB)  
TO WRC-2000**

**Background**

1 The World Radiocommunication Conference, Geneva, 1997 (WRC-97) adopted Resolution 80 (**Annex 1**). The Resolution instructed the Radio Regulations Board to develop Rules of Procedure and cited Nos. S11.30, S11.31, and S11.31.2 to be followed in examining frequency assignment notices and take into account the principles and intent of No. S0.3 of the Radio Regulations. The Rules shall be applied from a date to be decided by WRC-2000. Also, the Resolution established dates for completion of consultation with administrations and required the Board to submit a detailed report to the WRC on the action taken on the Resolution (*resolves* 3).

**Steps taken by the Board**

2 Pursuant to the above-mentioned requirements in the Resolution, the Board has taken a number of actions as outlined below:

2.1 After considerable discussion the Board agreed at its 11th meeting (26-30 January 1998) to adopt a “two-pronged” approach:

- a) To invite administrations through a circular letter to submit ideas with respect to the Resolution so that the RRB could take these into account when developing a proposed Rule of Procedure.
- b) The Board would then request that the Bureau prepare a draft Rule of Procedure based on the Board’s discussion and contributions received from administrations.

2.2 Circular Letter CR/88 of 11 February 1998 invited contributions from administrations of Member States as noted above.

2.3 The Board subsequently considered the issue further at its 12th meeting (20-24 April 1998). No proposals were submitted from administrations, therefore the Board provided guidance to the Bureau to prepare a draft Rule. This draft Rule was considered by the Board at its subsequent 13th meeting (6-14 July 1998) and it was agreed to distribute the draft Rule to administrations for comment. (With Circular Letter CR/101 of 13 July 1998) - **Annex 2**.

2.4 The Board considered the results of the consultation at its 15th meeting (1-5 March 1999). The only comments received were from the Administration of Columbia on its own behalf and on behalf of the Andean Committee of Telecommunication Authorities (CAATEL). Copies of these comments are in **Annexes 3** and **4**. There was extensive discussion by the Board on the draft Rule of Procedure and the comments received and it considered the issue again at its 16th meeting (24-28 May 1999) and 17th meeting (13-17 September 1999) respectively.

2.5 The conclusion reached by the Board was that it would not be appropriate to develop Rules of Procedure that went beyond the current proposed draft that was distributed for comments by administrations in CR/101 of 13 July 1998. The reason the Board arrived at this conclusion is that there are no provisions currently in the Radio Regulations that link the formal notification or coordination procedures with the principles stated in S0.3 of the preamble to the Regulations. However, noting the concerns implicit in Resolution 80, it has developed a possible approach for consideration by WRC-2000.

## Meeting the concerns

3 The Board recognized the concerns expressed during WRC-97 that prompted the adoption of Resolution 80. These were similarly expressed by the two contributions received in response to the proposed draft Rule of Procedure on which comments were invited in Circular Letter CR/101 of 13 July 1998.

3.1 During the various deliberations of the Board it was noted that S0.3 of the Radio Regulations identified radio frequencies and the geostationary-satellite orbit as “limited natural resources”. It was noted also that, the Plenipotentiary Conference in Minneapolis (PP-98) had amended No. 196 of the Constitution (effective from 1 January 2000) to include a reference to “other orbits” in addition to the geostationary orbit. In the context of S0.3 it was observed also that the issue involved “equitable access” to both radio frequencies and the orbit “... taking into account the special needs of the developing countries and the geographical situation of particular countries”.

The criteria within S0.3 requires administrations in putting into use frequencies and usage of the GSO to take into account the need to:

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

S11.31 ensures that notifications are in conformity with the RR. It is assumed that if stations are operating in conformity with the RR then the usage is rational. The criteria thus fall into two categories:

Criteria to maximize frequency/GSO availability:

- use the resources efficiently;
- use of the minimum number of frequencies possible (economical usage).

Criteria to provide access to others:

- ensure equity of access by all countries;
- take into account the special needs of developing countries;
- take into account the geographical situation of other countries.

3.2 In the context of the principles of S0.3, several members of the Board noted some difficulties likely to be experienced by administrations and in particular the administrations of developing countries.

- a) The “first come first served” concept restricted and sometimes prevented access and use of certain frequency bands and orbit positions.
- b) A relative disadvantage for developing countries in coordination negotiations due to various reasons such as a lack of resources and expertise.
- c) Perceived differences in consistency of application of the Radio Regulations.
- d) The submitting of “paper” satellites that restricted access options.

- e) The growing use of the bands of the Plans of Appendices S30 and S30A by regional, multi-channel systems, which may modify the main purpose of these Plans to provide equitable access to all countries.
- f) The considerable processing delays in the Radiocommunication Bureau are due to the very complex procedures required and the large number of filings submitted. These delays contribute to a coordination backlog of 18 months which could extend to three years and creates uncertain regulatory situations, additional delay in the coordination process that cannot be overcome by administrations, and the possible loss of the assignment because the allotted time is exceeded.
- g) Satellite systems may already be in orbit before completion of coordination.
- h) Statutory time frames, such as in S11.48, may often be insufficient for developing countries to be able to complete the regulatory requirements as well as the design, construction and launch of satellite systems.
- i) No provisions for international monitoring to confirm the bringing into use of satellite networks (assignments and orbits).

#### **Possible solution**

4 Whilst noting the possible concerns outlined above, the Board considered that it could not develop Rules of Procedure that go beyond the guidance included in its proposed draft available in CR/101 of 13 July 1998. Accordingly it was considered to be necessary for other steps to be considered for possible incorporation in the Radio Regulations.

4.1 WRC-2000 is expected to consider the draft Rule of Procedure developed by the Board based on current provisions of the Radio Regulations and adopt it as a regulatory provision.

4.2 In order to assist administrations in the implementation of their satellite systems, the Conference may wish to consider adopting special provisions regarding No. S.03 for example:

#### **ADD**

**S11.44bis** Exceptionally, and in particular in the case of developing countries, an administration may request the Radio Regulations Board to grant an extension of up to a further 12 months, subject to the provisions of **S11.44B** being met, where the conditions specified under Nos. **S11.44C** to **S11.44I** are still preventing the bringing into use of any assignment of a space station of a satellite network.

#### **ADD**

**S11.48bis** Statutory time limits such as in **S11.48**, shall be extended by any periods in excess of the limits stipulated in **S9.2B** and **S9.38** that result from delays in processing in the Bureau.

4.3 The Conference may wish to develop additional procedures to address the following:

- provisions complementary to those in RR S11.44B to S11.44I covering certain difficulties that developing countries might have;
- simplification of the coordination process;
- arrangements for extended assistance, to developing countries in particular;
- use of the international monitoring system for confirmation of the use of the spectrum and any associated orbits.

ANNEX 1

RESOLUTION 80 (WRC-97)

**Due diligence in applying the principles  
embodied in the Constitution**

The World Radiocommunication Conference (Geneva, 1997),

*considering*

- a) that Articles 12 and 44 of the Constitution (Geneva, 1992) lay down the basic principles for the use of the radio-frequency spectrum and the geostationary-satellite orbit;
- b) that those principles have been incorporated in the Radio Regulations through No. **S0.3**;
- c) that, in accordance with Nos. **S11.30**, **S11.31** and **S11.31.2**, notices shall be examined with respect to the provisions of the Radio Regulations, including the provision relating to the basic principles, appropriate rules of procedure being developed for the purpose,

*resolves*

1. to instruct the Radio Regulations Board, as a matter of urgency and within the framework of Nos. **S11.30**, **S11.31** and **S11.31.2** of the Radio Regulations, to develop the rules of procedure to be followed in examining due compliance with the principles reflected in No. **S0.3** in the process leading up to the recording of frequency assignments in the International Frequency Register. These rules shall be applied from a date to be decided by the 1999 World Radiocommunication Conference (WRC-99);
2. that the Board shall circulate the draft of these rules of procedure to administrations by 31 October 1998 with a view to receiving comments by 31 March 1999;
3. that the Board shall submit to WRC-99 a detailed report on the action taken on this Resolution.

## ANNEX 2

### Rules concerning the preamble to the Radio Regulations

#### Due diligence in applying the principles embodied in the Constitution

##### 1 Introduction

WRC-97 in its Resolution 80 instructed the RRB to develop Rules of Procedure to be followed by the Radiocommunication Bureau (BR) when examining due compliance with the principles incorporated in the Constitution and the Radio Regulations which instruct administrations to

*“bear in mind that radio frequencies and the geostationary-satellite orbit are limited natural resources and that they must be used rationally, efficiently and economically, in conformity with the provisions of these Regulations, so that countries or groups of countries may have equitable access to both, taking into account the special needs of the developing countries and the geographical situation of particular countries”*  
(No. 196 of the Constitution, S0.3 of the Radio Regulations).

These Rules of Procedure have been developed to implement that instruction. As *resolves 1* in Resolution 80 refers specifically to No. S11.31, it might be concluded that these Rules of Procedure should exclude consideration of provisions contained in Article S9 for coordination and those related to conformity with the Plans. However, as the following considerations are general, no specific distinction was found necessary.

##### 2 Guiding principles

The whole Radio Regulations are based on the principles outlined above. They have been developed with the aim to use the radio frequencies and the GSO rationally, equitably, efficiently and economically.

The likelihood of congestion in particular frequency bands and particular arcs of the geostationary orbit has prompted Member States to deploy special means to guarantee equitable access and efficient exploitation of those limited resources. To this effect two procedural mechanisms were implemented:

- *a priori* planning to ensure equitable access to the spectrum/orbit resource; and
- coordination procedures to ensure efficiency in the use of that resource.

These mechanisms are embedded in the provisions of the Radio Regulations including the Plans appended thereto, the Regional Agreements and the Resolutions from WARCs/WRCs. This fact ensures that the BR, in applying the specific provisions related to coordination and registration of frequency assignments to stations of various terrestrial and space radiocommunication services, observes and effectively applies those principles.

### 3 Relevant provisions of the Radio Regulations

The provisions of the Radio Regulations that have an impact on the regulatory and technical examination of frequency assignment notices by the Radiocommunication Bureau with respect to the efficient use of and the equitable access to the usable radio-frequency spectrum and satellite orbits, can be grouped in several categories (references in bold have mandatory character):

- provisions which are setting general principles (e.g. S0.2, S0.3, S0.4, S4.1, S12A.2, S16.1);
- provisions which are setting general rules concerning the use of frequencies with a view to obtaining economy in the use of frequencies (e.g. S3.3, S3.4, S3.9, S15.1, S24.4, S24.6, S43.1, S43.2, **S43.4**, S52.69);
- provisions which are guiding the administrations in the choice of frequencies, taking into account the propagation mechanisms (e.g. S4.11, S4.12, S43.5);
- provisions which are setting the emission characteristics with the intent to contribute to the efficient use of the spectrum (e.g. S3.4, **S3.5-S3.7**, S3.9, **S4.5**, S15.9);
- provisions which specify the modulation characteristics (e.g. **S3.15**, **S5.57**, **S5.64**, **S5.79**, **S5.80**, **S5.218**, **S24.2**, **S52.55**);
- provisions which are setting power limits with the intent to contribute to greater reuse of frequencies or the protection of the GSO (e.g. **S5.86**, **S5.92**, S5.96, **S5.105**, **S5.106**, **S5.107**, S5.124, **S5.125**, **S5.129**, **S5.147**, **S5.152**, **S5.154**, **S5.482**, **S5.485**, **S21.3**, **S21.5**, **S21.8**, **S21.14**, **S23.7**, **S52.56**, **S52.104**, **S52.117**, **S52.127**, **S52.143**, **S52.144**, **S52.172**, **S52.184 - S52.186**, **S52.188**, **S52.219**, **S52.220**, **S52.227**, **S52.260**);
- provisions which are setting pfd limits with the intent to contribute to an efficient sharing between different services (e.g. **S5.311**, **S5.407**, **S21.6**, **S22.5** and many other provisions making reference to RS46).

### 4 Other relevant regulatory provisions

In the review of the provisions for coordination and notification of frequency assignments relating to space services, WRC-97 developed several new regulations.

By Resolution 49 (WRC-97) administrations are required to provide due diligence information, i.e. provide evidence that the intended use of the spectrum/orbit resource is a real project to be implemented in a certain time frame.

S11.44 now limits the time between the receipt by the Bureau of the request for advance publication of the description of a satellite network and the date of its bringing into use to five years (previously six years). This delay, during which the network is protected vis-à-vis later new networks, can be extended by two years (previously three years) if the due diligence information in accordance with Resolution 49 can be provided, the coordination is effectively under way or other specified circumstances justify an extension.

The same provisions now also clarify that it is not sufficient to bring into use only one assignment of the whole network in order to maintain the ongoing protection for all assignments in the network. Rather is each assignment now treated on its own and can thus lose its right to protection. These new regulations thus enhance considerably the possibilities to access the spectrum/orbit resources in that they eliminate the obligation to protect unreal projects.

## **5 Conclusions**

In its examinations, the BR shall continue to take account of those provisions which have mandatory character. As in the past, non-conformity with such provisions will result in an unfavourable finding.

The BR shall remind administrations, when appropriate and in an economical way, of those provisions dealing with the rational, efficient and economical use of the spectrum/orbit resource which are of a general nature, are addressed to administrations, do not have a mandatory character and consequently cannot be taken into account in the examinations of the BR.



ANNEX 3

Santa Fe de Bogotá, 19 January 1999

From: Ministry of Communications, Colombia  
To: Mr V. Timofeev,  
Chairman,  
Radio Regulations Board  
References: Resolution 80 (WRC-97)  
Circular Letter CR/101

Dear Mr Chairman and members of the Board,

The Administration of Colombia hereby informs you that it has received the above-mentioned circular-letter in which the Board submits for the Members' consideration draft Rules of Procedure for implementation of the provisions contained in No. S0.3 of the Radio Regulations, in fulfilment of the task given to the Board by the 1997 World Radiocommunication Conference (WRC-97) in *resolves 2* of Resolution 80.

Our Administration, having carefully studied Annex 2 to Circular Letter CR/101, concerning due diligence in applying the principles embodied in the Constitution, hereby submits the following comments for your consideration.

1 Colombia considers that the aforementioned annex does not constitute a set of Rules of Procedure which will ensure due compliance with the principles reflected in No. S0.3 in the process leading up to the recording of frequency assignments in the International Frequency Register.

Thus, this Administration is of the opinion that the proposal submitted to the Union's membership for consideration does not fulfil the task set by WRC-97, as it does not establish or identify the Rules of Procedure required for effective due diligence in applying the principles embodied in the Constitution.

2 Given that the last WRC devoted particular attention to the urgent need to endow the ITU Radio Regulations with Rules of Procedure that will ensure due compliance with No. S0.3, the proposal should necessarily comprise a prescriptive text setting out the necessary procedural provisions, as was approved by the Member States.

3 A list of the provisions in force that could be related to the subject is certainly a point of departure for carrying out the task set in Resolution 80 (WRC-97), but it can hardly constitute the requisite instrument for ensuring, guaranteeing and rendering truly effective the observance and application of the basic principles governing the use of the radio-frequency spectrum and the geostationary-satellite orbit.

For, if it did, there would have been no need for Resolution 80 to hand down clear instructions for the formulation of the Rules of Procedure required for due compliance with the provisions of No. S0.3, there would have been no point in the Conference's adopting the resolution, and there would be no need to revise the procedure in force for the use of frequencies and the geostationary-satellite orbit.

4 The Administration of Colombia therefore considers that while Annex 2 may be regarded as an approach put forward by the Board, in that it contains those provisions of the Radio Regulations applicable to such principles, it is not adequate to satisfy the decisions adopted by the

world radiocommunication conference, at which the Members of the Union implicitly recognized the insufficiency of the existing regulations and the need to introduce new provisions for the purpose.

5 Acceptance of the Board's conclusion, to the effect that BR should continue, as hitherto, to comply with the existing provisions, would not only fail to provide the recommended legislative solution, but would also imply disregarding the Union's clear instructions and requirements on the subject.

6 Since the substance of the principles set forth in No. S0.3 goes much further than simply calling upon administrations to observe those principles, it is imperative that the Board should prepare and develop rules that truly and effectively enable BR to examine notices from the viewpoint of S0.3, so that all countries or groups of countries may enjoy equitable access to the geostationary-satellite orbit, taking into account the special needs of the developing countries and the geographical situation of particular countries.

7 A brief study of the radio-frequency and geostationary-satellite orbit notification and registration procedures applied hitherto, following the rules that supposedly, in the Board's view, are sufficient to guarantee such equitable access, clearly reveals that the results achieved hardly fulfil the objective of the principles laid down by the Union.

8 It is difficult to fathom why the Board proposes that the Radiocommunication Bureau be instructed to continue its examinations without taking account of the instructions given in Resolution 80.

9 Colombia also fails to understand how the lack of contributions from administrations can serve as justification for dispensing the Board of its duty under Resolution 80; as a body of experts, the Board should take all the necessary measures to ensure that the task handed down by the Conference is executed, and collaborate with administrations to this end.

In the light of the above, the Administration of Colombia hereby expresses its opposition to the Board's approach to the effect that the provisions relating to the rational, efficient and economic use of the spectrum/orbit resource cannot be taken into account in the Bureau's examinations, and respectfully requests the Board to proceed with implementation of the task handed down in Resolution 80 (WRC-97) by preparing the requested Rules of Procedure for submission to the Members of the Union for consideration.

Since it is the Board which has the capability and expertise to draw up such Rules and, for that very reason, was given the task by the Conference, the first important step would be for it to prepare a draft, for subsequent submission to administrations requesting them to send in contributions and comments. The Board's inversion of the logical order of that process has had the practical consequence of making it impossible for administrations to present their comments, let alone contributions, precisely because in order to do so they require the expertise and experience which are lacking, particularly in the developing countries, which are those most interested in the adoption of the measures in question.

Colombia therefore wishes to request the Board, in the first instance, to develop a draft of the Rules of Procedure, so that, in fulfilment of its duties, it may then proceed with consultations, the presentation of reports and the receipt of comments, based on which it may prepare the final version of the said draft Rules.

Yours faithfully,

Claudia de Francisco  
Minister of Communications

ANNEX 4

Santa Fe de Bogotá, 28 January 1999

From: Ministry of Communications, Colombia  
To: Chairman of RRB  
Our Ref.: 0095  
Subject: Resolution 80 (WRC-97)  
Circular Letter CR/101

**For the attention of the Chairman and members of RRB**

Dear Sirs,

The Andean Committee of Telecommunication Authorities (CAATEL) held its seventh Extraordinary Meeting from 20 to 22 January 1999 in Cartagena de Indias, Colombia.

One of the items on the agenda concerned the Rules of Procedure for application of the principles embodied in the Constitution - Resolution 80 (WRC-97), in respect of which the Andean Committee of Telecommunication Authorities adopted Resolution CAATEL VII - EX-46.

In accordance with its Article 5, I hereby submit to you a copy of that Resolution.

Yours faithfully,

Claudia de Francisco  
President of CAATEL

**Annex:** as mentioned.

RESOLUTION CAATEL VII - EX-46

**The Andean Committee of Telecommunication Authorities (CAATEL)**

*considering*

1. that the World Radiocommunication Conference (WRC-97), in its Resolution 80, instructed the Radio Regulations Board, as a matter of urgency, to develop the rules of procedure to be followed in examining due compliance with the principles reflected in No. S0.3 of the Radio Regulations in the process leading up to the recording of frequency assignments in the International Frequency Register;
2. that WRC-97 instructed the Board to circulate the draft of those rules of procedure to administrations by 31 October 1998 with a view to receiving comments by 31 March 1999;
3. that the Chairman of the Radio Regulations Board, by Circular letter CR/101 of 13 July 1998, circulated the document entitled "Rules concerning the Preamble to the Radio Regulations - Due diligence in applying the principles embodied in the Constitution", containing the following conclusion: "In its examinations, the BR shall continue to take account of those provisions which have mandatory character. As in the past, non-conformity with such provisions will result in an unfavourable finding. The BR shall remind administrations, when appropriate and in an economical way, of those provisions dealing with the rational, efficient and economical use of the spectrum/orbit resource which are of a general nature, are addressed to administrations, do not have a mandatory character and consequently cannot be taken into account in the examinations of the BR";
4. that the aforementioned document and its conclusions do not constitute the draft rules of procedure enabling BR to examine due compliance with the principles reflected in No. S0.3 of the Radio Regulations;
5. that the rules of procedure for application of Article 44 of the ITU Constitution and of No. S0.3 of the Radio Regulations should be geared towards guaranteeing equitable access to the geostationary-satellite orbit and associated frequencies, taking into account the special needs of the developing countries and the geographical situation of particular countries,

*resolves*

ARTICLE 1. To make known its disagreement with the view expressed by the Radio Regulations Board in Annex 2 to Circular Letter CR/101, to the effect that provisions dealing with the rational, efficient and economical use of the spectrum/orbit resource cannot be taken into account in the examinations of BR. Such disagreement is based on the fact that, under the terms of No. 78 of the Constitution (Geneva, 1992), the functions of the Radiocommunication Sector are to fulfil the purposes of the Union "by ensuring the rational, equitable, efficient and economical use of the radio-frequency spectrum by all radiocommunication services, including those using the geostationary-satellite orbit", and, that one of the functions of the Radio Regulations Board is specifically "the performance of any additional duties, concerned with the assignment and utilization of frequencies, as indicated in No. 78 of this Constitution". It is thus clear that both the Board and BR, as well as the entire Radiocommunication Sector, have an obligation to ensure that their actions are geared towards guaranteeing the rational, efficient and economical use of the spectrum/orbit resource.

ARTICLE 2. To request the Radio Regulations Board to develop the rules of procedure for examination of due compliance with the principles reflected in No. S0.3 of the Radio Regulations in the process leading up to the recording of frequency assignments, as it was instructed to do by the World Radiocommunication Conference in Resolution 80 (WRC-97).

ARTICLE 3. To remind the Board that the rules of procedure to be developed should provide adequate provisions which, in line with the principle of equitable use of the geostationary orbit, guarantee to administrations that do not have access to orbital positions their right to use the geostationary orbit.

ARTICLE 4. To approach Consultative Committee III of CITEL with a view to ensuring that the work being done in preparation for the 2000 World Radiocommunication Conference (WRC-2000) includes the study and follow up of the subject of due compliance with the relevant authorities.

ARTICLE 5. To request the President of CAATEL to submit this Resolution to the Radio Regulations Board and to Standing Consultative Committee III of the Inter-American Telecommunication Commission (CITEL) on behalf of the Administrations of the member countries of the Andean Community; namely Bolivia, Colombia, Ecuador, Peru and Venezuela.

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