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DG INFSO/B4

RSPG08-207 (Public version)

PROGRESS REPORT TO RSPG#15 ON 27 FEBRUARY 2008

**REQUEST BY THE EUROPEAN COMMISSION
TO THE RADIO SPECTRUM POLICY GROUP FOR AN OPINION ON**

SPECTRUM ISSUES CONCERNING OUTER EU BORDERS

The first meeting of the RSPG Working Group on spectrum issues concerning outer EU borders (OEB) was held in Madrid on 5th February 2008, under the Chairmanship of the Rapporteur for this activity, Mr. Angel Diez de Frutos.

This first Working Group meeting discussed the following issues, which basically cover all the tasks set out in the Request for Opinion (doc. RSPG07-194 Final of 22nd November 2007).

- Preparation of an inventory of practical cases and analysis of underlying issues (Task 1 of the RfO).
- Identification of appropriate criteria to select spectrum coordination situations eligible for EU-level support (Task 2 of the RfO).
- Appropriate tools to be used, including brief assessment of legal bases (Task 3 of the RfO).
- In the case of a choice between several approaches, an estimate of the merits and disadvantages of each of the proposed approaches, (Task 4 of the RfO).
- A strategy to monitor the results on a periodic basis (Task 5 of the RfO).

The results of the discussions and the preliminary recommendations are presented in the following sections. They are intended to serve as the building blocks for preparation of the draft Opinion.

i. **Practical cases and analysis of underlying issues.**

From a pure technical point of view all the coordination difficulties arise from the fact that the Table of Frequency Allocations of the non-EU neighbouring countries is different from the harmonised EU radio-spectrum in the corresponding frequency bands. This is valid both on the eastern and the southern borders of the Union.

WG agreed that the coordination issues with third countries could be classified in a first attempt in the following categories:

a) Geographical clusters:

On account of the geographical situations of EU Member States and their respective non-EU neighbouring countries, several geographical clusters can be potentially identified:

- **North-Eastern European cluster:** This group is related to spectrum coordination issues between some EU Member States and Russia, Belarus, and likely with Ukraine or Moldova.
- **North African cluster:** This group is related to spectrum coordination issues between some EU Member States and Morocco, Algeria and Tunisia.
- **Eastern Mediterranean cluster:** This group relates to spectrum coordination issues between some EU Member States and Libya, Egypt, Jordan, Israel, Lebanon, Syria and Turkey.
- **Former Yugoslavia cluster:** This group includes spectrum coordination situations between some EU Member States and Serbia, Bosnia & Herzegovina, Montenegro and Albania.

The figure in Annex B depicts the various potential clusters.

- b) Coordination issues with candidate countries: During the accession process, candidate countries have not only to fully adopt the EU electronic communications “acquis”, but also to cooperate with all EU countries. The specific spectrum coordination issues that arise between Member States and acceding countries shall be addressed in this context.
- c) Coordination issues with potential candidate countries (e.g. Western Balkans states).
- d) Coordination with EFTA¹ and other smaller countries: EEA² EFTA States share an identical regulatory framework for electronic communications³ as the

¹ European Free Trade Association: Switzerland, Iceland, Liechtenstein and Norway

² European Economic Area: the EU-Member States and Iceland, Liechtenstein and Norway

³ In this context specifically the Radio Spectrum Decision 676/2002/EC

EU-Member States. Due to the good relationship existing between EFTA countries and EU-Member States it is not likely that coordination difficulties may arise. At the moment no single case has been reported for analysis. The same situation applies with smaller states like Vatican City, San Marino, Monaco and Andorra.

In addition to the above, some of the coordination cases discussed were related to specific frequency bands:

- **UHF Band: (especially the sub-band 790-862 MHz).** An example of the difficulties in this particular sub-band was apparent at the WRC07 that allowed its use for mobile service through RR No.5.316A with severe constraints to Lithuania and Poland.

L Band: 1452-1479.5 MHz. (Suitable at EU level for the provision of multimedia services). An example of the constraints in this band is indicated by the fact that in order to protect aeronautical stations of a neighbouring country, a T-DAB station of 1 kW e.r.p. with antenna height of 150 m should not be located within the distance of 150 km from the borderline of the affected EU countries.

- **C Band: 3.4-3.6 GHz.** The figure in Annex A illustrates an area close to the border of the North-Eastern EU Member States (about 100 Km wide) that can not be used for IMT applications on account of a very strict field value to protect other services having been adopted at WRC07, unless agreement with neighbouring countries can be reached.

Because of the fact that some EU Member States that might have cases to report, have not submitted so far such information, it was considered advisable that a Questionnaire be annexed to this report so as to make it available to all RSPG members, with the invitation to provide responses to the Rapporteur (annex C).

ii. **Identification of appropriate criteria to select spectrum coordination situations eligible for EU-level support**

Contributions were received from Cyprus, France Lithuania and Hungary.

The WG group has identified the following approach:

- i. Member States shall make all practicable efforts to reach an agreement with the neighbouring non-EU or acceding countries on bilateral/multilateral basis.
- ii. Only when a Member State has exhausted the previous mechanism, the assistance of the European Commission shall be provided.

The WG recognized that the issues could be classified as technical, political or both.

Coordination situations with acceding countries:

Given that all acceding countries have to adopt the EU electronic communications “acquis” and have to cooperate with all Member States in the implementation of the legislation and policies, coordination situations with these countries could be addressed in this framework. The points shown below should be taken into account:

- It should be a requirement for all acceding countries to cooperate with all Member States for the purpose of effective application of the provisions of Article 9, paragraphs 1 and 2, of the Framework Directive (2002/21/EC) (“management of radiofrequencies for electronic communication services”) throughout the Community.
- It should be a requirement for all acceding countries to cooperate with all Member States in all international and regional forums as regards the establishment and coordination of radiocommunication systems.
- If an acceding country does not act in accordance with the requirements above, all available tools should be utilized by EU institutions to ensure compliance.

Coordination situations with non-EU countries:

The principles below should be followed in order to support and assist individual Member States or a group of Member States, who need to coordinate spectrum issues with non-EU countries when implementing harmonisation measures adopted at EU level.

- Cooperation between EU and non-EU countries could be promoted through regional programs (see next section).
- When existing applications in non-EU countries can limit the introduction and use of EU harmonised electronic communications networks in several Member States, the information on such limitations should be notified to the Commission pursuant to Articles 7 and 6(2) of the Radio Spectrum Decision and published in accordance with Article 5 of the Radio Spectrum Decision.
- Member States shall make all practicable efforts to reach an agreement with the neighbouring non-EU countries on bilateral/multilateral basis, in order to eliminate constraints for implementation of EU harmonisation measures.

In both cases, coordination situations between a Member State and an acceding country and coordination situations between a Member State and a non-EU country, when the Member State declares that satisfactory results could not be achieved in bilateral/multilateral negotiations, the Member State can ask for the assistance of the Commission to use its existing international relations, , and possibly for a coordinated EU action at international level. The EC will use all the available tools on a case by case basis to address persisting coordination issues.

Some members of the WG expressed the view that in case a Member State, which due to coordination problems with neighbouring acceding or non-EU countries, cannot implement binding EU harmonization measures (e.g. EC Decisions) in certain geographical areas, the Member State shall be relieved of such obligation until coordination is completed in a way that makes it possible for the Member State to implement its obligations under the harmonization measure.

iii. Potential tools to be used and assessment of legal bases

An individual contribution was received to help advancing on this subject. Reference is made also to doc RSPG07-178

The WG agreed that the tools that can ultimately be used by the EU to assist Member States in coordination issues with non-EU countries, including acceding countries, when implementing harmonisation measures adopted at EU level, can be classified in the following categories:

- Tools possessing legal basis (binding in the Community).
- Tools providing some negotiating opportunities .
- Other tools not in the previous categories (mostly co-operation instruments).

Because the ITU Constitution/Convention and Radio Regulations (RR) are international treaties, they are binding among its signatories and hence in the Community. The WG considered therefore that the tools provided by ITU should be mentioned first.

ITU (International Telecommunication Union)

The ITU Radiocommunication Sector (ITU-R) plays a vital role in the global management of the radio-frequency spectrum and orbit-spectrum resources, and aside from the World and Regional Radiocommunication Conferences provides a framework for Bilateral/Multilateral agreements that are legally binding.

ITU Radio Regulations and the EU Member States subsidiarity principle should be taken into consideration before requesting EU involvement on spectrum coordination issues at the borders of European Union with neighbouring countries.

Article 6 of the ITU Radio Regulations provides for any bilateral or multilateral agreements on cross-border spectrum coordination.

EU negotiation/cooperation mechanisms

The mechanisms mentioned below do not have any legal basis and, consequently, are not legally-binding. In addition, not all of these mechanisms apply to every potential coordination situation.

The bilateral and regional dialogues on “Information Society”

These dialogues offer relevant opportunities to discuss international cooperation in the area of the Information Society. These "Dialogues" increasingly focus on regulatory issues. Bilateral and regional dialogues are taking place with the US, Japan, China, Russian Federation, and others.

Accession Negotiations and Relationships with Candidate countries (Turkey, Croatia, FYROM) and potential Candidate countries

Acceding countries have to adopt the EU electronic communications “acquis” and have to cooperate with all Member States in their implementation. In this respect, accession negotiations are conducted on the basis of an agreed framework between every acceding country and the EU. Within this formal dialogue conducted between the EU and these countries the aim is to prepare them for the information society and electronic communications "acquis" in view of their future EU accession. In this context, issues of particular interest such as specific spectrum policy matters can also be addressed.

The European Neighbourhood Policy (ENP) and the Euro-Mediterranean Partnership (EUROMED)

Bilateral ENP Action Plans agreed between the EU and each partner is the central element of the European Neighbourhood Policy, which set out an agenda of political and economic reforms with short and medium-term priorities.

The Euro-Mediterranean Partnership provides a wide framework of political, economic and social relations between the Member States of the European Union and Partners of the Southern Mediterranean.

Since 2004 the Mediterranean Partners are also included in the European Neighbourhood Policy (ENP).

Relations between the European Union and the African, Caribbean and Pacific (ACP) states

The Cotonou Agreement is a global Agreement, introducing radical changes and ambitious objectives while preserving the “acquis” of 25 years of ACP-EU cooperation. It is based on five interdependent pillars with the underlying objective of the fight against poverty: an enhanced political dimension, increased participation, a more strategic approach to cooperation focusing on poverty reduction, new economic and trade partnerships and improved financial cooperation.

Note that ACP states are not located near the EU borders and therefore coordination situations with EU members are not likely to appear.

CEPT (European Conference of Postal and Telecommunications Administrations)

The CEPT maintains good relations with the Arab League and African countries, and potential uncoordinated spectrum situations with these countries could be handled in some cases through CEPT.

EFIS, a database managed by ERO under an EU mandate and updated by CEPT administrations, provides some visibility on the usage of spectrum in the CEPT countries. Regarding EFIS, the WG agreed that it could be beneficial to promote the structure of this tool to third countries in order to have a comparison mechanism of the different Frequency Allocation Tables. (Note however, that the Russian Federation has refused to put their assignments on EFIS).

A contribution by Portugal provided a list of relevant CEPT coordination related recommendations and reports.

HCM Agreement (Vilnius agreement)

The HCM Agreement provides for detailed administrative procedures concerning frequency co-ordination and also includes technical provisions. This Agreement deals with the co-ordination of frequencies between 29.7 MHz and 39.5 GHz, for the purposes of preventing mutual harmful interference to the Fixed Service and the Land Mobile Service and optimising the use of the frequency spectrum. The non-EU countries included in this agreement are Croatia, Liechtenstein and Switzerland. The countries having signed the agreement are mainly countries along the Rhine and the Danube.

The above tools apply, when suitable, mostly for terrestrial services. Concerning space services, international coordination of both space stations and earth stations should be handled within the ITU framework. The ITU manages frequency allocations at global level and establishes the regulatory procedures that govern the

use of the orbital positions and the associated frequency bands. These procedures are internationally recognised and adhered to by all ITU member states. This ITU framework has an excellent record of success and has allowed the deployment of the satellite infrastructure that is currently in orbit (comprising more than 200 geostationary satellites and a variety of non-geostationary systems). Therefore, the implication of a European approach in such a strictly defined context is likely to offer no added-value.

iv. Procedures in the case of a choice between several approaches

So far only one approach has been identified:

1. Assessment of the coordination situation-
2. Member States shall make all practicable efforts to reach an agreement with the neighbouring non-EU or acceding countries on bilateral/multilateral basis-
3. Only in the case a Member State has exhausted the previous mechanism, the assistance of the European Commission can be requested-

The WG discussed briefly the situation where it could be anticipated that difficulties in the coordination with third countries was likely to be encountered, but concluded that even in this case the proposed approach should be adhered to.

As mentioned in section ii) the possibility to distinguish between technical and political issues and to classify a particular contentious situation from a technical or political standpoint or both was discussed during the meeting.

v. A strategy to monitor the results and added-value of the proposed mechanism on a periodic basis

When a Member State requires EU support to solve spectrum coordination issues with neighbouring non-EU or acceding countries (in accordance with the approach defined), the Commission after the EU intervention by the Commission services, should inform the RSPG about the outcome of such intervention, and provide an assessment of the process and possible recommendations to improve its effectiveness.

The RSPG as a consultative body, should be in charge of the inventory and revision of the solved cases, in order to recommend when appropriate the most effective policies to the European Commission. Cases will be reported to RSPG on a regular basis by the EC and lessons will be learnt as to the relative efficiency of each tool so that best practice can be established.

vi. Other issues discussed by the Working Group

Regarding EC harmonisation measures (EC Decisions) that can not be implemented in some geographical areas of EU Member States, because coordination with neighbouring non-EU countries is not proved to be feasible, and therefore a deviation from the EU harmonised measures is needed, along with the possibility to implement in the concerned frequency band a different radio communication solution, the WG could not agree on whether or not this issue should be addressed in this Opinion.

The RSPG#15 is asked for guidance on this matter.

vii. Schedule

The Working Group considered that the originally proposed schedule was not realistic and unanimously agreed to request RSPG#15 to adjust the work calendar as follows:

- RSPG#16: (June 2008): Preliminary draft Opinion
- RSPG#17: (November 2008): Adoption of the RSPG Opinion

viii. Future work of the Group

The next meeting of the Working Group has been arranged for 29th April 2008.

Angel Diez de Frutos

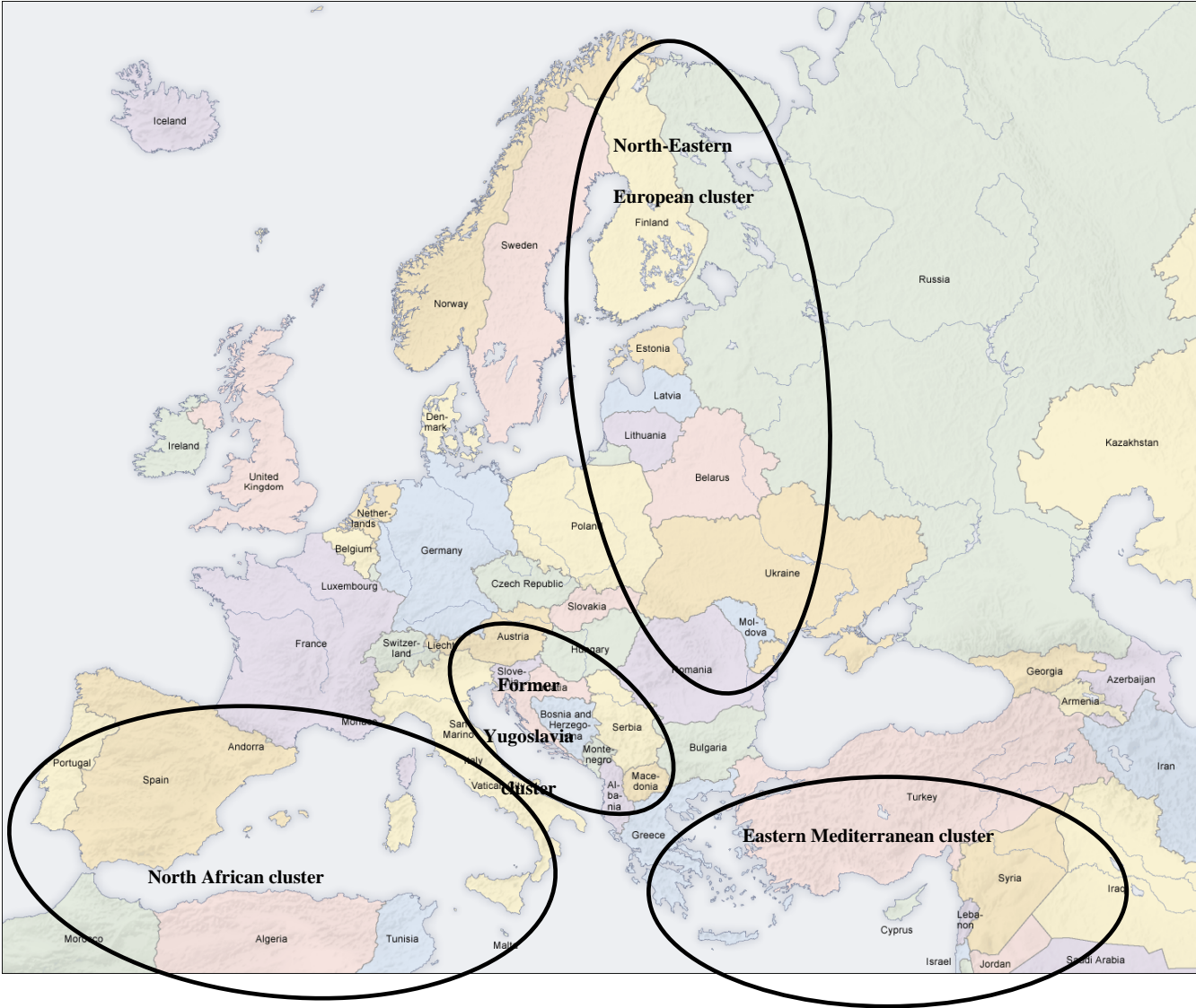
Rapporteur

February 2008

ANNEX A



Buffering zone to protect fixed-satellite service of Russia and Belarus



QUESTIONNAIRE

Spectrum issues concerning outer EU borders

E.U. MEMBER STATE

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Case 1			
Neighbouring Country	Band	Allocated Service (EU-Member State)	Allocated Service (Neighbouring Country)
Remarks			

Case 2			
Neighbouring Country	Band	Allocated Service (EU-Member State)	Allocated Service (Neighbouring Country)
Remarks			

Case 3			
Neighbouring Country	Band	Allocated Service (EU-Member State)	Allocated Service (Neighbouring Country)
Remarks			

Case 4			
Neighbouring Country	Band	Allocated Service (EU-Member State)	Allocated Service (Neighbouring Country)
Remarks			