

## THE PROCEDURE OF FILING AND INTERNATIONAL LEGAL PROTECTION OF THE INTERSPUTNIK'S PLANNED SATELLITE NETWORKS

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### INTRODUCTION

The use of frequencies and associated orbits, which are "limited natural resources"<sup>1</sup> is vital need for operation activity of all international telecommunications organizations. But under the 1992 ITU Constitution, membership of the ITU remains open only to States and consequently the frequency-orbit resource can belong to states only, but not to international organizations. How to resolve this problem? In regard to INTERSPUTNIK it decided to file its orbital slots by asking the Member countries to facilitate the filing, coordination and notification of possible INTERSPUTNIK's orbital slot.

This procedure is based on two legal documents: 1. "The Procedure of ITU notification of satellite networks planned by INTERSPUTNIK and their international legal protection"<sup>2</sup>, adopted in 1994 by the Committee of Plenipotentiaries (Operating Committee) and approved by the

Board; 2. The Agreements concluded by the Director General of INTERSPUTNIK and the notifying Administrations of the Member countries of the Organization. At the present moment four INTERSPUTNIK's Member countries (Cuba, Belarus, Ukraine and Mongolia) have filed with the ITU Radio Regulations Board satellite networks for the INTERSPUTNIK's operation. By this way 20 geostationary orbital slots were allocated to INTERSPUTNIK, comprising three regions of the world.

#### 1. Procedure of filing of the INTERSPUTNIK planned satellite networks

First of all it's necessary to note that the decision to submit a filing for the planned satellite networks to the ITU is taken by the INTERSPUTNIK's Committee of Plenipotentiaries (Operations Committee) upon presentation by the Director General. According the provisions of the ITU Radio Regulations (RRs) any INTERSPUTNIK's national Administration, which act in the name and on behalf of other Administrations for to bring into use a frequency assignment must notify this frequency assignment to the Radiocommunication Bureau.<sup>3</sup>

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According to the above INTERSPUTNIK procedure the terms and conditions applicable to notification and international legal protection of a planned satellite network shall be stipulated by agreement concluded by the Director General of INTERSPUTNIK and the appropriate notifying Administration.<sup>4</sup>

The first step for the Director General is to prepare in agreement with the INTERSPUTNIK Administration the materials for advanced publication in the Weekly Circular. The purpose of this advanced publication is to give other States the possibility of looking at the information and communicating with the "notifying Administration" if they think there is a risk of interference.<sup>5</sup> After submitting to ITU Application for coordination through the notifying Administration the process of coordination shall be executed by the Director General in agreement with the INTERSPUTNIK Administrations. The coordination materials shall be sent via the notifying administration to ITU for analysis and publication to the national administrations with whose satellite networks coordination should be effected. Presently, ITU is responsible to analyze coordination materials and to define the list of those Administrations concerned with which a new network should be coordinated.

The Bureau examines this notice both with respect to its conformity with the Constitution, the Convention, relevant provisions of the Radio Regulations and with respect to its conformity with the appropriate Regional Plan. If the Bureau's findings are favorable it shall record the notified frequency/orbital position in the Master Register.

## 2. International legal protection of the INTERSPUTNIK system

For the purpose of the international legal protection (ILP) of INTERSPUTNIK's existing and planned satellite networks, the Director General analyzes ITU Weekly Circular concerning non-INTERSPUTNIK's satellite networks. If any satellite network affects INTERSPUTNIK's satellite networks, the Director General shall transmit taking into account Article 45 of the ITU Constitution<sup>6</sup>, INTERSPUTNIK's objections through the notifying Administration to the Administration responsible for the published network with a copy to the ITU Radiocommunication Bureau.

At the end of a three month period from the date of dispatch of the proposed response to a regular Weekly Circular of the ITU, the Director General shall prepare a general conclusion regarding the materials of the effecting network.

The Director General shall then transmit the final version of INTERSPUTNIK's conclusion to the notifying Administration concerned for submission to the Administration concerned to notify the necessity of coordination. Copies of this conclusion are forwarded to the ITU Radiocommunication Bureau. The conclusion is sent on behalf of those INTERSPUTNIK Administrations whose concurrence has been obtained.

In exceptional cases the Director General may transmit the comments regarding the materials of the ITU Weekly Circular concerned through the notifying administration for submission to the affecting Administration with a copy to the ITU, on behalf of all INTERSPUTNIK Administration.

Any INTERSPUTNIK Administration which does not concur in such submission shall notify the Director General.

3. Conditions of using orbital positions and frequency assignments of the INTERSPUTNIK satellite networks

The conditions of using satellite networks are stipulated by agreements concluded by the Director General of INTERSPUTNIK and the notifying Administrations. The notifying Administrations confirm INTERSPUTNIK's exclusive right to use filed orbital positions and frequency assignments. Any notifying Administration shall reserve the right of use of the orbital slots under the ITU Radio Regulations in the event of INTERSPUTNIK's dissolution. In the event INTERSPUTNIK does not use the frequency resource of the networks within fixed period after signing the Agreement, the appropriate Administration of the member state shall have all rights of utilization of such frequency resource.

The INTERSPUTNIK Directorate will bear all the expenses related to filing, coordination and notification of the INTERSPUTNIK satellite networks.

Conclusions

Access to the frequency orbital resource is a requisite condition for any activity related to the entire spectrum of satellite communications services. Any country's private companies, which operate their own communications satellites, provide such access via relevant government authorities (telecommunications Administrations) that are legally responsible for the most efficient use of the national frequency resource in the geostationary orbit. In the case of

international intergovernmental organizations of satellite communications the approach is slightly different because such organizations can file satellite networks via their member countries. Different international organizations use different procedure to file planned satellite networks. Moreover, given the privatization of most the governmental satellite communications operators, one can expect tangible changes in the procedures used earlier.

As far as INTERSPUTNIK is concerned, it has elaborated and is using an efficient procedure to file the organization's planned satellite networks based on a whole package of international legal documents.

1. See Article 44 para 2 of the ISS4 ITU Constitution as amended by the 1998 ITU Plenipotentiary Conference.
2. See INTERSPUTNIK D.C. 7/7-94. Conf.
3. Art. 5.1.1. Appendix 30, RRs.
4. Notifying administration means an ITU member administration discharging the obligations arising from the ITU Constitution and Convention, representing an INTERSPUTNIK member and acting in the name and on behalf of a certain number of INTERSPUTNIK administrations.
5. Art. 99.3 RRs.
6. Art. 45 ITU Constitution: "All stations, whatever their purposes, must be established and operated in such a manner as not to cause harmful interference to the radio services or communications of other members or of recognized operating agencies, or of other duly authorized operating agencies, which carry on a radio service, and which operate in accordance with the provisions of the Radio Regulations".