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Information Society and Media Directorate-General

Electronic Communications Policy  
**Radio Spectrum Policy Group**  
**RSPG Secretariat**

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**RSPG12-420**

## **RADIO SPECTRUM POLICY GROUP**

### **Draft request for report on EU Assistance in Bilateral coordination**

## Draft Request for Report on Cross-border coordination

### 1. INTRODUCTION

Article 6 of the Radio Spectrum Policy Program<sup>1</sup> foresees a series of concrete measures to ensure that already harmonised spectrum will be effectively made available for use by specific deadlines. In particular paragraph 4 deals with the 800 MHz band, including provisions to allow for derogations in specific cases.

*“4. By 1 January 2013, Member States shall carry out the authorization process in order to allow the use of the 800 MHz band for electronic communications services. The Commission shall grant specific derogations until 31 December 2015 for Member States in which exceptional national or local circumstances or cross-border frequency coordination problems would prevent the availability of the band, acting upon a duly substantiated application from the Member State concerned. If a Member State's substantiated cross-border frequency coordination problems with one or more countries, including candidate or acceding countries, persist after 31 December 2015 and prevent the availability of the 800 MHz band, the Commission shall grant exceptional derogations on an annual basis until such problems are overcome. Member States to which a derogation has been granted under the first or second subparagraph shall ensure that the use of the 800 MHz band does not prevent the availability of that band for electronic communications services other than broadcasting in neighboring Member States. This paragraph shall also apply to the spectrum coordination problems in the Republic of Cyprus arising from the fact that the Government of Cyprus is prevented from exercising effective control in part of its territory.”*

One of the anticipated cases possibly delaying implementation is related to difficulties in cross border spectrum re-planning and in particular extra-EU cross-border coordination.

On this issue the RSPP, at article 10, paragraph 2, states:

*“The Union shall, upon request, assist Member States with legal, political and technical support to resolve spectrum coordination issues with countries neighbouring the Union, including candidate and acceding countries, in such a way that the Member States concerned can observe their obligations under Union law. In the provision of such assistance, the Union shall use all its legal and political powers to promote the implementation of Union policies. The Union shall also support efforts by third countries to implement spectrum management that is compatible with that of the Union, so as to safeguard the spectrum policy objectives of the Union”*.

On 17 February 2012 the World Radio Conference (WRC-12) approved the Resolution 232 on the *“Use of the frequency band 694-790 MHz by the mobile, except aeronautical mobile, service in Region 1 and the related study”*.

In order to fulfil the tasks of the above resolves, ITU decided to start the appropriate study in response to this Resolution. In addition, it is expected that the RSPG working group on

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<sup>1</sup> The Radio Spectrum Policy Programme is adopted with Decision of the European Parliament and of the Council of 14 March 2012 n. 243/2012/EU.

broadband will address the issue of the 700 MHz and the impact of the new mobile service allocation in this band, effective only after WRC-2015 and subject to Resolution 232 (WRC-12), in terms of cross border coordination will need to be addressed.

Finally, the RSPG adopted in February 2012 an Opinion on "bilateral assistance in spectrum coordination" in view of facilitating the resolution of the issues in cross-border spectrum coordination. This RSPG Opinion highlights the cases and the applicable principles for the implementation of the EU assistance and introduces the notion of RSPG "good offices" in relation to negotiations between EU countries, as follows:

*"3. PRINCIPLES FOR EU ASSISTANCE AND USE OF THE "GOOD OFFICES" OF THE RSPG IN BILATERAL NEGOTIATIONS WITH THIRD COUNTRIES AND BETWEEN EU COUNTRIES*

- *Member States have the responsibility of negotiating cross-border frequency coordination agreements with their neighbours (EU or non EU countries).*
- *In the case where one or more Member States face a difficulty in reaching cross-border frequency agreement or is affected by harmful interference, in particular in a band which is subject to EU implementation measures, they should have the possibility to ask for EU assistance or use of the "good offices" of the RSPG.*
- *Necessary technical background shall be developed in CEPT and, when relevant, ITU.*
- *Common EU political approaches may be deployed regarding frequency coordination with countries neighbouring the Union in order to facilitate resolution of the issue. This assistance shall only be provided when requested by one or more Member States.*
- *In case of an internal EU cross-border frequency coordination issue, the RSPG may be requested to act by providing "good offices".*
- *These processes are not intended to replace ITU coordination procedures, when applicable.*

*4 Opinion of the RSPG*

*a. Recommended process for EU assistance in bilateral negotiations with third countries*

*The process described below details how the RSPG may advise the EC on relevant actions to provide assistance to one or more Member States in bilateral negotiations with third countries.*

*Identification of the need for EU assistance: When one or more Member States have difficulties in cross-border coordination or from harmful interference with third countries which prevents them reaching the envisaged benefits of the implementation of an EU policy in a frequency band, they may request the RSPG Chairman to put the matter on the agenda of a RSPG meeting. This may also apply in cases where there is a strong EU interest even if no implementation measures have yet been adopted. The intention would be to inform the RSPG group and the European Commission about their difficulties during the meeting and ask for EU assistance.*

*EU assistance:*

- *First step is to ensure that all technical material is available through CEPT or ITU deliverables. If not, the technical material should be provided by CEPT, possibly under an EC mandate, or by the individual Members States.*

- *Second step, when it is clear that the cross-border coordination or harmful interference issue cannot be solved by normal ITU and bilateral negotiation processes, the EU may use all its legal and political powers in order to facilitate resolution of the issue,<sup>2</sup>.*

*Reporting: Involved parties should report regularly to RSPG on the progress regarding actions and their outcomes*

- b. *Recommended process for use of the “good offices” of the RSPG in bilateral negotiations between EU countries*

*The process described below details how the RSPG may provide “good offices” to assist in bilateral negotiations between EU countries.*

*Identification of the need for EU assistance: When one or several Member States have difficulties in cross-border coordination or from harmful interference with another EU country, they may request the RSPG Chairman to put the matter on the agenda of a RSPG meeting. They would report their difficulties during the meeting and ask for RSPG to bring its good offices to bear on the issue. RSPG may decide to respond positively to this request and set up relevant actions.*

*RSPG good offices:*

- *The RSPG would request a representative of a Member State, not directly involved and agreed by concerned parties, to chair a working group addressing the matter. This group should investigate the coordination or harmful interference issue and propose a balanced approach or solution to the concerned countries.*
- *The use of the good offices of the RSPG does not provide for any “enforcement” and still relies on the good will of the EU Member States.*

*Reporting: The results of the working group shall be presented to the RSPG for consideration and the RSPG will report the results to the Commission. “*

The RSPG also clarified that the request for “good offices” may also come from a country which has already signed the EU Treaty, while not being formally in the Union, and should accordingly be evaluated by RSPG.

## **2. REQUEST FOR REPORT**

In its 2012 work programme the RSPG announces that it intends to address the issue of spectrum coordination and to deal with the assistance process as defined in the 2012 Opinion on “EU assistance in bilateral negotiations with third countries and between EU countries”.

Given the context described in the introduction, over the next future Member States face a number of challenges of different nature in the field of cross border coordination amongst Member States and between Member States and non EU countries. There are mandatory obligations stemming from the Regulatory Framework and the Radio Spectrum Policy Program, in particular for proceeding within set deadlines to authorise the already harmonised

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<sup>2</sup> *Regarding the special case of accession countries, a Member State may seek to ask for the good offices of the RSPG as provided under paragraph 4(b).*

bands, including the first digital dividend in the 800 MHz band, for ensuring the most efficient use of spectrum, for addressing possible cases of cross border interference.

Additionally there is the introduction of the RSPG “good office” procedure for assisting Member States and possibly accession countries within the intra-EU cross border coordination process.

Finally there is the need to address the new complexity deriving from the consideration given by ITU to the new allocation of the 700 MHz band to the mobile service, effective only after WRC-2015 and subject to Resolution 232 (WRC-12), and the need to take account of a new strategic roadmap, for the moment limited to studies and compatibility analyses and assessment of demand. In particular, as reported in the introduction, ITU itself recognizes there is a need for countries to assess the consequences of a new allocation of the mobile service below 790 MHz on the equitable access to spectrum in the GE06 Plan. This may indicate the need to study the best approach which could be considered in spectrum coordination, at least between EU countries, depending on the options which would be considered for the future use of this frequency band.

All the above challenges would call for the RSPG to report to the Commission on how to organize the various activities in the spectrum coordination area and carry out the related tasks. However not all the work should be carried out at once, due also to the fact that some activities may require input by parallel on-going processes (such as the future spectrum for wireless broadband (item 1 of the RSPG Work Programme 2012) or the interim results of the ITU and CEPT studies on the second digital dividend, or the inventory process as set out by the art. 9 of the RSPP) and some others are not predictable such as the specific request for assistance by Member States.

In this context the Commission therefore requests the RSPG to develop one or more Reports **on organising and assisting the cross-border spectrum coordination process** in implementing the provision of the Radio Spectrum Policy Programme.

The Report(s) should therefore

- Monitor the re-planning and release of spectrum bands already harmonised as specified in Article 6 of the RSPP, in order to assist about any implementation difficulty relating to cross-border coordination (intra-EU or with a country outside EU) which would be reported by a Member State and, if needed, to suggest the most appropriate organisational framework to handle these cases ;
- Analyse the impact of the new ITU resolution on 700 MHz band and how this could affect the cross-border spectrum co-ordination process;
- Liaising with the WG that deals with the challenges for the spectrum for wireless broadband in order to coordinate the work, suggest any set of actions and timeline that would help Member States facing the issue of spectrum coordination in the relevant bands;

Depending on the outcome of the first Reports and/or the developments of the regulatory and technological context, including the advance of the inventory process and of standardisation and other technical studies, other Reports or Opinions may be required or this Request for Report may be amended.

### 3. ORGANISATIONAL ASPECTS

Deliverable:	RSPG Report(s)
Timing:	First Report November 2012
Public Consultation:	No
Rapporteur:	Eric Fournier (ANFR)