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Settlement of Space-Related Disputes (2)

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ESTABLISHMENT OF A SPECIALIZED TRIBUNAL UNDER THE INTERNATIONAL
TELECOMMUNICATION UNION TO ADJUDICATE DISPUTES AS A MEANS TO IMPROVE THE
EFFICIENCY OF THE MANAGEMENT OF THE RADIO-FREQUENCY SPECTRUM

Abstract

The radio-frequency spectrum of the geostationary-satellite orbit is an integral part of outer space, which is increasingly in demand by a large and growing number of services. At the same time, the radio-frequency spectrum is a unique limited natural resource, which is about to be exhausted. In this connection it is important to make sure that it is used as set forth in the 1967 Outer Space Treaty, based on equality of all states. The International Telecommunication Union (ITU) is a focal point of international cooperation of various states in this field. Its Radiocommunication Sector (ITU-R) plays a vital role in the global management of the radio-frequency spectrum aiming to ensure its rational, equitable, efficient and economical use and deals with quite a lot of disputes involving administrations of the ITU member states and satellite operators and related to the status, coordination, notification and recording of frequency assignments; contestation of decisions made by the Radiocommunication Bureau; cases of harmful interference, and other issues related to the application of the ITU Radio Regulations. Such disputes fall under the jurisdiction of the Radio Regulations Board ("Board"). Notwithstanding the fact that the Board, which consists of experts from various countries and meets several times a year, promptly makes independent and competent decisions, such procedure of adjudication has a number of drawbacks. In the first place, the current administrative treatment of disputes prevents parties from personally taking part therein thus making a dispute non-adversary. Secondly, decisions of the Board can be revised by World Radiocommunication Conferences, which makes them non-final. Thirdly, decisions of the Board are recommendatory and, thus, non-binding. These defects can be avoided if disputes are adjudicated by other jurisdictional bodies (international arbitration institutions). However, none of them is specialized enough, and none includes ITU experts. This is why a specialized arbitration institution with sufficient authority based on the principles of justice and acting under the ITU to adjudicate disputes related to the radio-frequency spectrum will help improve the efficiency of the use of such resource, assure equal protection of the interests of all states and become an extra guarantee that international treaties in the field of space activity are observed. Taking into account that nearly all modern states are members of the ITU and that the ITU is unconditionally recognized the world over and has a flawless reputation, all this will help to have disputes adjudicated by this new tribunal.