
Agenda item: PL 4.5

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Note by the Secretary-General

CONTRIBUTION FROM JAPAN

COMMENTS ON THE ITU'S ROLE AS SUPERVISORY AUTHORITY OF
THE INTERNATIONAL REGISTRATION SYSTEM FOR SPACE ASSETS UNDER THE
SPACE PROTOCOL

I have the honour to transmit to the Member States of the Council a contribution received from **Japan**.

Dr Hamadoun I. TOURE
Secretary-General

Contribution from Japan

ISSUES TO BE MADE CLEAR BEFORE DECIDING WHETHER OR NOT ITU COULD BECOME THE SUPERVISORY AUTHORITY OF THE INTERNATIONAL REGISTRATION SYSTEM FOR SPACE ASSETS UNDER THE SPACE PROTOCOL

Background

The Council-13 decided, through its Decision 576 (C13/107), to authorize the Secretary-General to continue to express interest in ITU becoming the Supervisory Authority of the “International Registration System for Space Assets under the Space Protocol (hereinafter referred as “the Protocol”)”, upon or after the entry into force of the Protocol, and to authorize the Secretary-General or his representative to continue to participate in the work of the Preparatory Commission as an observer. The Council-13 also instructed the Secretary-General to submit to Council-14 and the next Plenipotentiary Conference a report on the outcomes of the Preparatory Commission and the financial, juridical and technical implications of ITU taking on the role of the Supervisory Authority, taking into account developments of the Preparatory Commission up to that time and addressing the clarifications sought by the Council at previous sessions.

In connection with Council-14, the Secretary-General reports, by its Doc. C14/13, on the second session of the Preparatory Commission held in Rome, Italy on 27-28 January 2014 and also requires that Council-14 is invited to note this document and authorize the Secretary-General to continue to express ITU’s interest in becoming the Supervisory Authority, noting that the matter of whether or not ITU could become the Supervisory Authority should not be prejudged at this stage. The Secretary-General further submits a follow-up report to the questions and comments raised by the Administrations of Japan, Australia, the Philippines, Germany, France, India, Mali, Nigeria, Argentina, Sweden, China, Turkey and the United States of America during Council 2012 and Council 2013 relating to the possible role of the International Telecommunication Union (ITU) as Supervisory Authority of the International Registration System for Space Assets and presents some information, clarification and background in this regard by its Doc. C14/INF/12.

Discussion

Japan appreciates the preparatory work of the Secretary-General (i.e. C14/13 and C14/INF/12) regarding possible role of ITU as the Supervisory Authority of the Protocol. These documents make clear some concerned aspects, however, Japan believes there are still some aspects to be made clear and it is essential for the Member States to discuss these remaining aspects. Japan also believes the more information on the discussion of Preparatory Commission and draft regulations for the Protocol should be provided.

Therefore, Japan submits the following comments to help further discussions on this matter at this Council and the forthcoming Plenipotentiary Conference.

1. Correlation of the mandate/activities of ITU and the role of Supervisory Authority
 - (1) According to clarifications in response to Questions 4 & 5 in C14/INF/12, it was addressed that *“Preliminary legal review shows that the participation of ITU as Supervisory Authority for the future registration system would be consistent with Article 1 of the ITU Constitution and would not be incompatible with other provisions of the ITU Constitution and Convention.”* Japan

recognizes at this moment that the participation of ITU as Supervisory Authority would not be in contradiction with and would not cause negative impact to the mandate of ITU in view of the ITU Constitution.

- (2) In addition, this clarifications also includes the view that *"This activity would also be complementary to ITU activities in managing spectrum/orbit resources for satellite networks."* as considerable positive impact for ITU activities. However, there is no further clarification about how activities on Supervisory Authority of the Protocol could complement to ITU activities in managing spectrum/orbit resources for satellite networks/systems? Therefore, Japan would like the Secretary-General to clarify what part/area of the ITU activities will be considered as complementary to the activities on the role of the Supervisory Authority more in detail.
- (3) Japan also would like the Secretary-General to identify any other positive impact to ITU activities by the role of the Supervisory Authority, if it is available.

2. Progress of discussions in Preparatory Commission for draft regulations for the Protocol

- (1) Japan was unofficially informed (as of December 2013) that the draft regulations for the Protocol stipulated that all the Registrar has to register an space-asset identification information. In addition, we also anticipated that items necessary for the space-asset identification are being focused on such as "manufacturer's name", "manufacturer's serial number" and "model number", according to the expected view before the 2012 diplomatic Conference. We would like the Secretary-General to confirm the above is correct.
- (2) According to clarifications in response to Questions 1 & 2 in C14/INF/12, it was summarized that "the Supervisory Authority is concerned solely with the International Registry. It has no responsibility for interpretation of the Protocol, its implementation in matters not pertaining to the Registry or any other functions or activities not related to the Registry. Interpretation is ultimately a matter for national courts, which for this purpose can have regard to the Official Commentary on the Convention and Space Protocol. Similarly, the Supervisory Authority is not responsible for adjudicating on a particular registration, nor does it give instructions to the Register to change any data relating to a particular registration." Japan recognizes at this moment that the Supervisory Authority would have no power to change/modify any data relating to a particular registration.
- (3) Considering the above, Japan would like the Secretary-General/Director of Radiocommunication Bureau to confirm whether ITU intends to adopt the space-asset identification registered under the Protocol as "reliable information available" defined in the **RR 13.6** and other provisions or not. If so, it should be verified whether the ITU Member States may suffer any inconvenience and/or disadvantage by such unexpected/unintended use of space-asset identification and whether the ITU should play a role of the Supervisory Authority of the Protocol who could determine the range of space-asset identification.

3. Human resources and financial burden of Union

- (1) The ITU Secretary-General has already dispatched his staff to the Committee of government experts, the 2012 diplomatic Conference, the Preparatory Committee and other relevant meetings, as an observer, and has expressed an interest in becoming the Supervisory Authority. Japan considers, however, that ITU must defray costs on this issue at its own expense until the Protocol comes into force (i.e. the Supervisory Authority is able to obtain the fee to recover costs). The Secretary-General should clarify the estimated amount of initial

and operational costs, their own expense to be defrayed, what budget forecast for the activities.

4. Impact of denial of ITU to be the Supervisory Authority

Suppose that the 2014 ITU Plenipotentiary Conference (PP-14) declines ITU to become the Supervisory Authority, the Secretary-General and the Preparation Commission, if necessary, should evaluate a negative impact on the each stakeholders such as UNIDROIT, Registrants under the Protocol, space assets holders (debtor of funds), and other responsible entities.

5. Information disclosure and mechanisms to submit comments

According to paragraph 10 of [C14/13](#), the Member States of the Council could access all documents related to the second session of the Preparatory Commission, through ITU's restricted website. However, Japan is facing the difficulty to access to the documents by not obtaining identification and passwords, even now. Nor have we received any response from officers in charge regardless our inquiry on them by email so far.

Furthermore, in view of the importance of this issue, Decision 576 in the Council 2013 "instructed the Secretary General to identify mechanisms by which ITU Member States and Sector Members can review or provide comments on the ITU role as the Supervisory Authority". We regret to point out that little effort to identify such mechanisms has been made so far, even now less than half a year from PP-14. Due to this little effort, the benefit of Member States and Sector Members who are interested in this matter are jeopardizing, therefore, Japan urges the ITU Secretary-General to construct and identify such mechanisms at the earliest convenience.
