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Journal Title: Telecommunication journal

Journal Issue: Vol. 49, no. 12(1982)

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Article Title : The International Telecommunication Convention from Madrid (1932) to Nairobi (1982) : half a century in the life of the Union

Page number(s): pp. 814-818

The International Telecommunication Convention from Madrid (1932) to Nairobi (1982): half a century in the life of the Union

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THE Plenipotentiary Conference at Nairobi coincided with the 50th anniversary of the one held at Madrid in 1932, which ended with the signing on 9 December of that year of the first "new style" Convention of the International Telecommunication Union.

These fifty years have been marked, moreover, by spectacular telecommunications development and the introduction of new services, matched throughout by the standardization of systems and equipment and international co-operation in the sector.

But what about the basic instrument? How did it develop during this half century? Now that the Nairobi Conference has ended, the time seems ripe to consider the more significant aspects of its development as reflected in the successive Conventions from Madrid to Nairobi.

To start with, let us recall that the term "telecommunication" was defined for the first time in the Madrid Convention as: "Any telegraphic and telephonic communication of signs, signals, writing, facsimiles and sounds of any kind, by wire, wireless or other systems or processes of electric signalling or visual signalling (semaphores)".

Concentrating on the basic principles which shape the Union, its objectives, governing bodies and essential activities, let us consider, as a sort of preliminary "annotated edition", the succession of changes and the more significant innovations that have emerged.

Preamble to the Convention

The preamble to the Madrid Convention (1932) described the Convention as

a treaty between States, affirming that "the... plenipotentiaries of the Governments named above, being assembled in conference in Madrid, have, by common consent and subject to ratification, concluded the following Convention".

The Convention of Atlantic City (1947) expressly recognized "the sovereign right of each country to regulate its telecommunication" and specified that the purpose of the Convention was to ensure "the effectiveness of telecommunication".

The Buenos Aires Convention (1952) added the objective of "facilitating relations between the peoples" by means of telecommunications.

In the Nairobi Convention (1982), the preamble was improved in that it recognizes "the growing importance of telecommunication for the preservation of peace and the social and economic development of all countries" and includes "facilitating ... economic and social development among peoples" as one of the purposes of efficient telecommunication services.

Composition, purposes and structure of the Union

When the International Telegraph and Radiocommunication Regulations were incorporated in the Madrid Convention, the International Telegraph Union and the International Radio Union were merged to form the present International Telecommunication Union (ITU) and countries which belonged to either of the former Unions became Members of the ITU.

The Atlantic City Convention defined Members and Associate Members under *Composition of the Union*.

In the Malaga-Torremolinos Convention (1973), Article 1 on the composition of the Union took its present form and the category of Associate Member was removed. The principle of the universality of the Union was specified, its Members were listed (Annex 1) and the conditions of membership were defined.

The *rights and obligations of Members* are implicit in the provisions of the Convention as a whole. However, the Geneva Convention (1959) was the first to devote a specific article to the "rights of Members in respect of their participation in the conferences, meetings and consultations of the Union", as it appears in the Malaga-Torremolinos Convention, which also specifies that "Members ... shall have the rights and shall be subject to the obligations provided for in the Convention".

The Madrid Convention did not establish the site of the Union headquarters although it referred repeatedly to "the Government of the country in which the Bureau of the Union has its seat". The Bureau was installed at Berne. Article 3, establishing the *seat of the Union* in Geneva, appeared in the Atlantic City Convention (1947).

Article 4 on the *Purposes of the Union* appeared for the first time in the Atlantic City Convention, where they were defined as follows:

- To maintain and extend international co-operation for the improvement and rational use of telecommunication of all kinds.
- To promote the development of technical facilities and their most efficient

operation with a view to improving the efficiency of telecommunication services, increasing their usefulness and making them, so far as possible, generally available to the public.

- To harmonize the actions of nations in the attainment of those common ends.

The second part of the article listed certain means of achieving those ends and required the Union to:

- Effect allocation of the radio frequency spectrum in order to avoid harmful interference.
- Foster the establishment of rates at levels as low as possible consistent with an efficient service and independent financial administration of telecommunication on a sound basis.
- Promote the adoption of measures for ensuring the safety of life.
- Undertake studies, formulate recommendations and publish information for the benefit of all Members.

The activities to be undertaken to meet the objectives were amended and were specified in all subsequent Conventions, with the exception of the Buenos Aires Convention, as follows: the Geneva Convention (1959) required the Union to "co-ordinate efforts to eliminate harmful interference ... and to improve the use made of the radio frequency spectrum" and to "foster the creation, development and improvement of telecommunication equipment and networks in new or developing countries by every means at its disposal, especially its participation in the appropriate programmes of the United Nations"; the Malaga-Torremolinos Convention also instructed it to "co-ordinate efforts with a view to harmonizing the development of telecommunications facilities, notably those using space techniques".

The Nairobi Convention includes among the purposes of the Union "to promote and to offer technical assistance to developing countries in the field of telecommunications" and stipulates that to achieve that objective the Union should "foster international co-operation in the delivery of technical assistance to the developing countries".

Anticipating Article 5, *Structure of the Union*, various articles appeared in the Madrid Convention on such organs of the Union as: the Plenipotentiary Conference, administrative conferences and the International Consultative Committees, which in those days were the Inter-

national Telegraph Consultative Committee (CCIT), the International Telephone Consultative Committee (CCIF) and the International Radiocommunication Consultative Committee (CCIR); there was also the Bureau of the Union which, although not a permanent organ, was the forerunner of the General Secretariat mentioned in the Atlantic City Convention.

The latter also mentions the Administrative Council and, as a permanent organ, the International Frequency Registration Board (IFRB). The International Telegraph and Telephone Consultative Committee (CCITT) also came into being with the amalgamation of the CCIF and the CCIT.

In the Malaga-Torremolinos Convention, a distinction is drawn between the Plenipotentiary Conference, which had always been known as such, administrative conferences and the Administrative Council, on the one hand, and the permanent organs, which were the General Secretariat, the IFRB, the CCIR and the CCITT, on the other.

The organizational structure of the Union gives it a federal character which differentiates it from the other United Nations specialized agencies.

No specific article was devoted to the *Plenipotentiary Conference* until the Atlantic City Convention. It was mentioned along with administrative conferences in the Madrid Convention, which also stated that "the provisions of the present Convention are subject to revision by conferences of plenipotentiaries of the Contracting Governments", making these conferences the supreme body of the Union, although their status was not explicitly established until the Convention of Montreux (1965).

Besides the power to revise the Convention, already stipulated in the Madrid version, the Atlantic City Convention contained a specific list of the Plenipotentiary Conference's duties. Let us now consider these together with the changes that have been made in other Conventions:

"Shall consider the report of the Administrative Council on the activities of the Union": the content of this report underwent various changes, more formal than substantial in subsequent Conventions, and the Nairobi one specified that it should relate to "the activities of all the organs of the Union since the previous Plenipotentiary Conference".

"Shall establish the basis for the budget of the Union for the next five years." The Buenos Aires Convention specified this function together with the need to

"determine a fiscal limit for the ordinary expenditure" and, instead of "the following next five years", read "until the next Plenipotentiary Conference". The Malaga-Torremolinos Convention added that the fiscal limit on expenditure should be determined "after considering a programme of the administrative conferences and meetings". The wording of this provision has been amended in the Nairobi Convention and the factors to be taken into account in determining the limit now include, rather vaguely, "any medium-term plan submitted by the Administrative Council".

"Shall finally approve the accounts of the Union", which in the Malaga-Torremolinos Convention became "shall examine the accounts of the Union and finally approve them, if appropriate".

"Shall elect the Members of the Union which are to serve on the Administrative Council." This electoral power was subsequently broadened to include, in the Geneva Convention, the Secretary-General and Deputy Secretary-General, in the Malaga-Torremolinos Convention, the members of the IFRB and, in the Nairobi Convention, the Directors of the International Consultative Committees.

"Shall, if necessary, enter into ... or revise any ... agreement between the Union and any other international body." This provision was expanded in the Buenos Aires Convention to cover the examination of provisional agreements concluded by the Administrative Council, which was empowered to do so.

The final requirement was to "deal with such other telecommunication questions as may be necessary".

The Buenos Aires Convention included the establishment by the Plenipotentiary Conference of the basic salary scales of elected officials and of all the Union staff, and the Malaga-Torremolinos Convention, the provision of "any general directives dealing with the staffing of the Union".

What had previously been implicit was written out in the Geneva Convention (1959) which instructed the Plenipotentiary Conference to "determine the general policies for fulfilling the purposes of the Union".

The interval between Plenipotentiary Conferences was first established as five years in the Atlantic City Convention. The Geneva and Montreux Conventions made no stipulation in this respect, while that of Malaga-Torremolinos stated "It shall be convened at regular intervals and normally every five years". The Nairobi Convention states that "the

interval between successive Plenipotentiary Conferences shall not exceed six years".

Administrative conferences are mentioned in the Madrid Convention under which their basic duty, which remains unchanged, was to revise "the provisions of the Regulations annexed to the present Convention".

In the Atlantic City Convention they were divided into administrative conferences, radio administrative conferences and extraordinary administrative conferences. The first two were qualified in the Buenos Aires Convention as "ordinary", a point which was implicit in the previous Convention given the extraordinary nature of the third, and a new category was added, namely, special conferences which included regional and service conferences. This classification was simplified in the Montreux Convention, which referred to world administrative conferences and regional administrative conferences.

Their duties, too, have evolved, although the basic one of revising the Regulations annexed to the Convention has always been retained. Thus, all the Conventions from Atlantic City to Montreux mentioned the duty of radio administrative conferences to elect the members of the IFRB; those from Atlantic City to Geneva specified that they should "deal with all other matters deemed necessary within the terms of the Convention and the General Regulations and any directive given by the Plenipotentiary Conference". In subsequent Conventions this function was limited, revision of the General Regulations being removed and a stipulation being inserted in the Conventions of Montreux and Malaga-Torremolinos reading: "Administrative conferences shall normally be convened to consider specific telecommunication matters. Only items included in their agenda may be discussed by such conferences". Lastly, the Nairobi Convention goes even further by stating: "When adopting resolutions and decisions, administrative conferences should take into account the foreseeable financial implications and shall try to avoid adopting resolutions and decisions which might give rise to expenditure in excess of the upper limits on credits laid down by the Plenipotentiary Conference".

Regional administrative conferences will be able to deal only with "specific telecommunication questions of a regional nature" and their decisions "must in all circumstances be in conformity with the provisions of the Administrative Regulations", a provision which has appeared in all the Conventions since Montreux.

Under the Atlantic City Convention, the *Administrative Council* was established as the body which "in the intervals between Plenipotentiary Conferences, ... shall act on behalf of the Plenipotentiary Conference within the limits of the powers delegated to it by the latter".

The same Convention laid down that the Council "shall be composed of 18 Members of the Union elected by the Plenipotentiary Conference with due regard to the need for equitable representation of all parts of the world". The Members ... are eligible for re-election. The number was increased to 25 at Geneva, to 29 at Montreux, to 35 at Malaga-Torremolinos and to 41 at Nairobi.

Each Member has one vote, as was already provided at Atlantic City. This principle, although not so worded in the later Conventions of Malaga-Torremolinos and Nairobi, is still valid since it is stipulated that "each Member of the Council shall appoint a person to serve on the Council ...".

While the Atlantic City Convention provided "In cases not covered by the General Regulations, it (the Administrative Council) may adopt its own rules of procedure", the formulation "The Administrative Council shall adopt its own rules of procedure" appeared in the Convention of Buenos Aires and is still used today.

Other tasks of the Administrative Council include taking "steps to facilitate the implementation by the Members of the provisions of the Convention, of the Administrative Regulations, of the decisions of the Plenipotentiary Conference, and, where appropriate, of the decisions of other conferences and meetings of the Union", as provided in the Convention of Atlantic City although the present wording dates from Malaga-Torremolinos; ensuring "the efficient co-ordination of the work of the Union", a provision in the Atlantic City Convention which was supplemented at Malaga-Torremolinos by the words "and exercise effective financial control over its permanent organs"; the Geneva Convention specified the promotion of international co-operation, especially through Union participation in the appropriate programmes of the United Nations; lastly, the Nairobi Convention requires that the Council "shall determine each year the policy of technical assistance".

Although the Bureau of the Union might be termed the forerunner of the *General Secretariat*, since it was already mentioned in the Madrid Convention, the latter body was created by the Atlantic City Convention which stated that it should be directed by a Secretary-General aided by two Assistant Secretaries-

General, a number which was reduced to one by the Geneva Convention. The number of times persons could be re-elected to these posts was unlimited until the Nairobi Convention, which stipulates that they may be re-elected only once.

The Secretary-General's responsibility to the Administrative Council for the performances of his duties first appeared in the Atlantic City Convention. The formulation was revised in the Geneva Convention which stated that he was responsible "for all the administrative and financial services of the Union". The present improved wording appeared in the Montreux Convention which made the Secretary-General responsible "for all the administrative and financial aspects of the Union's activities".

His authority to "act as the legal representative of the Union" was introduced in the Montreux Convention.

The *International Frequency Registration Board* (IFRB) first appears in the Atlantic City Convention with as its essential duties "to effect an orderly recording of frequency assignments made by the different countries" and "to furnish advice to Members ... with a view to the operation of the maximum practicable number of radio channels". The Buenos Aires Convention added "to any additional duties concerned with the assignment and utilization of frequencies ... in preparation for or in pursuance of the decisions of a (competent) conference" and "to maintain such essential records as may be related to the performance of its duties". The Malaga-Torremolinos Convention included "recording of the positions assigned by countries to geostationary satellites" and "advice to Members ... with a view to the equitable, effective and economical use of the geostationary satellite orbit". Lastly, the Nairobi Convention instructs the IFRB to take account of "the needs of Members requiring assistance, the specific needs of developing countries, as well as the special geographical situation of particular countries" and "to provide technical assistance in making preparations for and organizing radio conferences ... and assistance to the developing countries in their preparations for these conferences".

Under the Atlantic City Convention the IFRB was composed of "independent members, all nationals of different countries". It was the Geneva Convention that first stated that the Board should consist of 11 members, a number which was reduced to 5 by the Montreux Convention.

The *International Consultative Committees* were referred to in the Madrid

Convention as having the task of studying "questions relating to the telecommunication services".

Although not explicitly mentioned until Atlantic City, the International Telegraph Consultative Committee (CCIT), the International Telephone Consultative Committee (CCIF) and the International Radio Consultative Committee (CCIR) were already in being before that date. The merger of the first two of those Committees is foreseen in Protocol II annexed to the Buenos Aires Convention and the International Telegraph and Telephone Consultative Committee (CCITT) thus appears in the Geneva Convention.

The role assigned jointly to the International Consultative Committees in the Madrid Convention was specified in respect of each Committee at Atlantic City. Briefly, it may be said that they conduct studies and formulate recommendations, the CCIR on "technical and operating questions relating specifically to radiocommunication" and the CCITT on "technical, operating and tariff questions relating to the telecommunication services", with the exception of those that fall within the competence of the CCIR.

The administrations of Members of the Union and private recognized operating agencies have been members of the International Consultative Committees since these were set up.

The Plenary Assemblies, although not explicitly named in the Madrid Convention, have been in existence since the creation of the International Consultative Committees and the Study Groups appear in the Atlantic City Convention. The World and Regional Plan Committees are mentioned in the Montreux Convention.

Prior to the Atlantic City Convention, which refers to the Directors of the CCIs, their secretariats were the responsibility of the Bureau of the Union.

Although the *Co-ordination Committee* was introduced in 1948, it was first mentioned in the Montreux Convention. Some of the functions then assigned to it were not retained in either the Malaga-Torremolinos or the Nairobi Conventions, and at present its duty is to "advise and give the Secretary-General practical assistance on all administrative, financial and technical co-operation matters affecting more than one permanent organ, and on external relations and public information" as well as to "consider matters with which it is entrusted under the Convention and any matters referred to it by the Administrative Council".

When created, it consisted of the Secretary-General, as Chairman, the Deputy Secretary-General, the Directors of the International Consultative Committees and the Chairman of the IFRB. Under the Nairobi Convention, the Vice-Chairman of the IFRB also has become a member.

Since the Government of the Swiss Confederation was responsible for the organization of the Bureau of the Union, the Madrid Convention contained no provision concerning the status of Union staff. No specific article appeared until the Geneva Convention, although the subject was dealt with at Atlantic City in the article on the General Secretariat. The article with its present title, *Elected officials and staff of the Union*, was introduced in the Montreux Convention. It laid down the General principles to be followed by the officials in the performance of their duties and by Members in their relations with them: "neither the elected officials nor the staff of the Union shall seek or accept instructions from any government or from any other authority outside the Union", and they were forbidden to "participate in any manner or have any financial interest whatsoever in any enterprise concerned with telecommunications".

The article specified that elected officials "shall all be nationals of different countries, Members of the Union" and emphasized that staff should be recruited "on as wide a geographical basis as possible".

Article 17 of the Madrid Convention, on the Bureau of the Union, established principles which, broadly speaking, have been included in the subsequent Conventions in a single article entitled *Finances of the Union*.

The Madrid Convention quoted a scale of contributory units from 3 to 25, with a total of six classes. Two more classes of 30 units and 1 unit were added at Atlantic City. The Buenos Aires Convention introduced the half-unit and five other intermediate units. The Nairobi Conference has extended the scale to include classes of 40 units and 1½ units as well as 1/4 and 1/8 units, the last-named to be reserved "for the least developed countries as listed by the United Nations and other countries determined by the Administrative Council". Since the Madrid Convention every Member has been free to choose its class of contribution.

The Madrid Convention referred to a limit on the general expenses of the Bureau of the Union and stated that expenditure for Plenipotentiary Conferences and administrative conferences should be borne by all the Governments taking part therein in proportion to the

contribution which they pay for the working of the Bureau of the Union".

The Atlantic City Convention classified expenditure as ordinary and extraordinary, the former including the costs of the Administrative Council and the permanent organs of the Union and the latter the expenses of Plenipotentiary Conferences, administrative conferences and meetings of the International Consultative Committees. These expenses were borne by the Members which agreed to participate in the conferences and meetings, in a manner similar to that established by the Madrid Convention. The Geneva Convention included in Union expenses those of the Administrative Council and the permanent organs of the Union as well as the costs of the Plenipotentiary Conferences and world administrative conferences, stipulating that "expenses incurred by special conferences ... of a regional nature ... shall be borne ... by all the Members ... of that region, and by any Members of other regions which may have participated in such conferences".

The Nairobi Conference also includes in the expenses of the Union the costs of "technical co-operation and assistance provided to the developing countries".

The article on *languages* in the Madrid Convention provided "the language used for drawing up the acts of Conferences and for all the documents of the Union in French" and "in the discussions at conferences the French and English languages are admitted". The Atlantic City Convention made Chinese, English, French, Russian and Spanish the official languages of the Union and specified "in case of dispute, the French text shall be authentic". It also stated that the final documents of the Plenipotentiary Conferences and administrative conferences as well as the service documents of the Union should be drawn up in those languages, while all other documents were to be published in English, French and Spanish. The Buenos Aires Convention introduced the classifications "working" languages—Spanish, French and English—and "official" languages which, besides these three, included Chinese and Russian.

The Malaga-Torremolinos Convention provided for the use of Arabic at Plenipotentiary Conferences and administrative conferences, while the Nairobi Convention has made it an official language.

Curiously enough, it was not until the Malaga-Torremolinos Convention that an article appeared on the *Legal capacity of the Union* reading "The Union shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and

the fulfilment of its purposes". It may be said to have been implicit in the previous Conventions, however, and in Annex 5 to the Atlantic City Convention, containing the Agreement between the United Nations and the International Telecommunication Union, the United Nations recognized the International Telecommunication Union as one of its specialized agencies enjoying the privileges and immunities granted to those bodies.

Conclusion

What does the future hold? Above all, concern for the stability of the Union, which was first voiced at Montreux but did not arouse much enthusiasm at Torremolinos. Interest was revived at Nairobi and there is no longer any hesitation about the need for a constitutional Charter (or Constitution) which affirms the lasting nature of certain standards and basic provisions, to give solidity and permanence to the Union.

This concern is reflected in Resolution COM 8/5.

The Nairobi Conference adopted almost 80 Resolutions, Recommendations and Opinions, many of which will affect the very structure of the Union as well as the operation and possibly the future of some of the permanent organs. These include:

- Resolution PLEN/3 (provisional title) on the rationalization of work by the application of modern office technology;
- Resolution PLEN/11 on attendance at ITU meetings of liberation organizations recognized by the United Nations;
- Resolution PLEN/14 on the development of national frequency management;
- Resolution PLEN/16 on cost profiles for conferences and meetings;
- Resolution PLB/1 on computerization within the IFRB;
- Resolution PLC/4 establishing permanent liaison with other organizations, particularly UNESCO, on the "International Programme for the Development of Communication";
- Resolution COM 4/8 on decisions adopted by administrative conferences and plenary assemblies of the International Consultative Committees which have financial implications;
- Resolution COM 6/1 on ITU regional presence;
- Resolution COM 6/3 on budgetary and organizational aspects of ITU

technical co-operation and assistance;

- Resolution COM 6/13 on the interrelations between telecommunication infrastructure and socio-economic development;
- Resolution COM 6/15 on the establishment of an independent international commission for world-wide telecommunications development;
- Resolution COM 7/1 concerning a review in the light of changing circumstances of the long-term future of the International Frequency Registration Board;
- Resolution COM 7/7 on the official and working languages of the Union;
- Resolution COM 8/2 on participation of international organizations in Union activities;
- Resolution COM 8/4 on the role of the ITU in the development of world telecommunications.

This list, which is not exhaustive will have to be carefully examined, particularly by the Administrative Council, in order to provide the next Plenipotentiary Conference, to be held in France in 1989, with a proper framework for the International Telecommunication Union of the year 2000.

(Original language: Spanish)