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**EXPLANATORY MEMORANDUM**

# SUBJECT: RATIFICATION OF THE WORLD RADIOCOMMUNICATIONS CONFERENCE 2015 (WRC-15) FINAL ACTS

**DATE:** **19 OCTOBER 2016**

# PURPOSE

## To request Parliament to ratify the World Radio Communication Conference (WRC-15) Final Acts, in line with Section 231(2) of the Constitution.

## SUMMARY

* 1. The International Telecommunications Union (ITU) is a United Nations (UN) Member-State body specialising in telecommunications and information technology. The ITU convenes the World Radio Communication Conference (WRC), which is decision-making body binding on Member-States (Treaty conference) which meets every 3 to 4 years, to review and revise the Radio Regulations in order to reflect the latest technological developments, respond to changing market demand and service specific spectrum requirements. At the end of WRC-15, the Minister of Telecommunications and Postal Services, Dr Siyabonga Cwele signed the Final Acts of WRC-15 <http://www.itu.int/dms_pub/itu-r/opb/act/R-ACT-WRC.11-2015-PDF-E.pdf>., which are decisions on the agenda items relating to allocation and assignment of spectrum for various services. The ITU will then incorporate such decisions into the main treaty (the International Radio Regulations) for ratification by Member States. After the WRC-15, various sub-regions begin the process of identifying and updating their priorities in terms of their own national and sub-regional spectrum policies, regulations and plans. For South Africa, this process will begin with the development of Spectrum Policy which will inform the review of the National Radio Frequency Plan.
  2. Key issues adopted at the WRC-15 include the allocation of new spectrum for mobile broadband; studies to support international standards for the Internet of Things (IOT); programmes to support small satellites networks; global deployment of Earth Stations in Motion (ESIM) satellite systems for transport community; as well as allocation to aeronautical mobile-satellite for Dependent Surveillance-Broadcast (ADS-B) for aircrafts. Other decisions upheld at WRC-15 include a No-Change to the spectrum for Digital Terrestrial Television (DTT) network; No-Change to the allocated spectrum for fixed-satellite service in the C-Band, and No-Change to the coordinated Universal time (UTC).

1. **STRATEGIC FOCUS OF THE MEMORANDUM**
   1. The allocation of spectrum is a critical national interest as spectrum is a scarce resource that requires its utilisation to be streamlined; spectrum also supports a number of key national priorities including universal broadband roll-out, universal broadcasting roll-out, satellite communication services, aircraft services, maritime and the ocean economy programmes, environmental public protection and disaster relief, emergency services and security services, as well as other future programmes to support economic transformation and to realise the National Development Plan (NDP) objectives.
   2. The WRC considers the allocation of spectrum based on changes in the demand of particular uses of spectrum, as well as the benefits of new technology and the development of new spectrum based technology solutions. Following the outcomes of the WRC-15, the revised International Radio Regulations (IRR) will be reviewed within the national context, aligned to the National Spectrum Policy and a new National Radio Frequency Plan will be developed for spectrum allocation effective from 1 January 2017. The efficient and equitable allocation of spectrum by the WRC has a significant impact on the economic growth of South Africa.
2. **DISCUSSION**
   1. WRC-15, was held under the auspices of the ITU, a specialised agency of the United Nations (UN) and took place in Geneva from 2 to 27 November 2015. The Conference concluded on 27 November 2015 after four (4) weeks of intensive debate and dialogue by over three thousand (3000) delegates from one hundred and sixty (160) countries. This global forum focused on the evolution of radio technologies and uses where spectrum allocations and provisions necessary to this evolution are decided.
   2. The South African delegation, led by the Minister Siyabonga Cwele comprised of approximately 42 persons from Government, Sate-Owned Companies, the Independent Communications Authority of South Africa (ICASA), and the private sector.
   3. Depending on the issue, South African positions were advanced in the form of South African proposals, Southern African Development Community (SADC) Common Proposals, African Common Proposals (AFCPs), or multi-country proposals with other African Administrations. After four weeks of intense negotiations and approximately 250 proposals considered in response to more than 30 agenda items, WRC-15 concluded its work on 27 November 2015. A significant number of important, treaty-binding decisions dealing with a range of complex technical and regulatory issues were taken. These were consistent, in large measure, with South African positions and objectives considered by Government and industry stakeholders prior to the Conference and adopted by Cabinet prior to WRC-15. Among the key results of WRC-15, in which South Africa had a particular interest, were, in summary form, the following:
      1. WRC-15 agreed on technical conditions for 700 Megahertz (MHz) band International Mobile Telecommunication (IMT) identification in Region 1, and also allocated and identified for IMT globally harmonised bands in the Ultra-High Frequency (UHF), L and C-bands for the development of mobile broadband on a worldwide scale, while fully protecting the other services currently operated in these bands. This decision paves the way for the offering of mobile broadband at an affordable price in currently underserved areas and for bringing significant additional resources in areas where demand is already very high.
      2. Agreement was reached on the allocation of radio-frequency spectrum for global flight tracking in civil aviation for improved safety. This was achieved in record time to meet the expectations of the global community.
      3. Also concerning the aeronautical sector, WRC-15 opened the way for the development by International Civil Aviation Organization (ICAO) of worldwide standards for Unmanned Aircraft Systems (UAS), and identified the regulatory conditions that may be applied to such systems internationally. WRC-15 also agreed on spectrum for wireless avionics intra-communications.
      4. WRC-15 also took decisions that will improve the quality and safety of automotive transport and the allocation of spectrum for short-range automotive radar applications.
      5. A fixed satellite service allocation will pave the way to provide global broadband connectivity for the transportation community by permitting earth stations in motion.
      6. WRC-15 decided to defer taking a decision on the future reference time-scale, including the modification of coordinated universal time (UTC), pending further studies by international organisations, industry and user groups on this issue.
      7. By identifying harmonised spectrum at 694-894 MHz, WRC-15 enables mobile broadband communications for robust and reliable mission-critical emergency services for public protection and disaster relief (PPDR).
      8. New allocations have been made for Earth-exploration satellite services with higher resolution radar imagery for improved global monitoring of the environment and climate.
   4. The WRC-15 revisions of the IRR made several changes that impact on the international allocation and use of the radio-frequency spectrum. As part of the IRR, these changes will become imperative to South Africa. An analysis of the outcomes is contained in **Annexure A**.
   5. The IRR will have to be ratified by South Africa; in line with sections 34(1), (2), and (7) of the Electronic Communications Act (Act No. 36 of 2005). South Africa’s ratification of the Amendments does not impose any legal obligations on it. However, South Africa must protect radio communication services operating in neighbouring countries, which services operate in terms of the IRR and Amendments**. Annexure B** on Modification, Additions and Suppression to the table of allocation provides the WRC-15 outcomes which has an impact on the radio frequency plan of the Republic. The modifications, additions and suppression to the table of frequency allocation will be implemented in the National Radio Frequency Plan.
3. **IMPLEMENTATION PLAN**
   1. A National Team has been established and operational for implementation of the outcomes of WRC-15 and preparations for WRC-19. Departments of Communications (DOC), Science and Technology (DST), International Relations and Cooperation (DIRCO), Defence (DOD), Transport (DOT), State Security Agency (SSA), as well as State Owned Entities including Telkom SOC, Sentech, South African Broadcasting Corporation (SABC), South African Maritime Services (SAMSA), South African Weather Services (SAWS), Air traffic and Navigation, Civil Aviation Authority; ICASA, ICT industry and the private sector have been consulted.
4. **FINANCIAL IMPLICATIONS**
   1. The implications relating to the cost, migration, assignment and new allocation of spectrum will be catered for by each sector and operating entities.
5. **LEGAL AND CONSTITUTIONAL IMPLICATIONS** 
   1. The Outcomes of the WRC-15, the Final Acts will come into force on 1 January 2017. The DTPS is leading a process of the Review of the National Radio Frequency Plan, aligning the allocation to the National Spectrum Policy priorities.
   2. Legal Opinions have been provided by Office of the Chief State Law Adviser: Department of Justice and Constitutional Development (**Annexure C**) and Office of the Chief State Law Adviser (International Law) at DIRCO (**Annexure D**).
   3. The Final Acts of the World Radio Conference fall within Section 231 (2) of the Constitution and therefore subject to ratification by Parliament. A new National Radio Frequency Plan is currently being developed and the Regulator will allocate spectrum accordingly.
6. **RECOMMENDATION**

It is recommended that Parliament considers and approves the ratification of the World Radio Communication Conference (WRC-15) Final Acts in line with Section 231 (2) of the Constitution.