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Subject: Proposal for a Decision of the European Parliament and of the Council
establishing the first radio spectrum policy programme

I. INTRODUCTION

1. The Commission presented its proposal for a Decision of the European Parliament and of the Council establishing the first Radio Spectrum Policy Programme (hereinafter RSPP proposal)¹ in September 2010. The proposal was part of the "broadband package"², aimed at helping the EU fulfil its commitments in the Digital Agenda for Europe³ to give every European access to basic broadband by 2013 and fast and ultrafast broadband by 2020.

¹ Doc. 13872/10.

² The other two measures comprising the 'broadband package' were: a Commission *Recommendation on Regulated Access to Next Generation Access (NGA) networks* [C(2010) 6223], which sets out a common regulatory approach for access to new high-speed fibre networks that requires national telecommunications regulators to ensure an appropriate balance between the needs to encourage investment and to safeguard competition, and a *Broadband Communication* [doc. 13874/10] that sets out a coherent framework for meeting the Digital Agenda's broadband targets and, in particular, outlines how best to encourage public and private investment in fast and ultra-fast broadband networks.

³ Doc. 9981/1/10.

2. The RSPP proposal aims to establish a five-year policy programme to promote efficient radio spectrum management and, in particular, to ensure that sufficient spectrum is made available by 2013 for wireless broadband, which will contribute to bringing fast connections to people in remote areas and to making innovative services available in the EU.

3. At the TTE Council of 2-3 December 2010, Ministers held an exchange of views on the RSPP proposal on the basis of a progress report⁴ and a number of questions⁵ prepared by the Belgian Presidency. At that Council⁶, Ministers:
 - generally welcomed the Commission proposal, acknowledging that radio spectrum could make an important contribution to the digital society, fast wireless services, economic recovery, growth, high-quality jobs and long-term EU competitiveness;
 - identified the provisions on spectrum for wireless broadband as the main and most urgent elements of the proposal, although some delegations underlined that the proposed deadlines for making spectrum available were too ambitious;
 - expressed some reservations regarding proposed actions in the area of spectrum management, such as imposing coverage obligations or other rights-of-use conditions, which should be subject to specific national circumstances (subsidiarity);
 - could understand the usefulness of the proposed inventory of spectrum use in the EU as a potentially useful policy tool but warned about the duplication of efforts, the involved costs, the confidentiality of information;
 - called for EU support, where appropriate, to coordinate cross-border spectrum usage but also confirmed the current arrangements for negotiating spectrum issues in international fora.

⁴ Doc. 16832/10.

⁵ Doc. 16567/10.

⁶ Doc. 17068/10 (Press Release).

4. On the basis of the work carried out on the RSPP proposal under the Belgian Presidency, the Working Party on Telecommunications and the Information Society (WP TELE) examined the RSPP proposal in further detail on the basis of 5 specific topics identified by the Hungarian Presidency, namely aim and scope, competition, deadlines, inventory, international negotiations. Further details on the Council's position on these topics are given in the following chapter.
5. Further to the vote in the European Parliament's Industry (ITRE) Committee on 12 April, the EP Plenary meeting on 11 May gave strong backing to the report from Rapporteur Gunnar Hökmark. With its report, the Parliament seeks to contribute to the securing of sufficient spectrum for wireless broadband so that Europe is able to compete with other global players and can meet increasing consumer and business demand for mobile internet with an array of new services. The Parliament supports the objective of making the 800 MHz band (790-862 MHz, also known as the "Digital Dividend") available for wireless broadband by 1 January 2013, subject to justified derogations.
6. The purpose of the present progress report is to inform Ministers about the progress made by the Council's preparatory bodies with the examination of the Commission's proposal. This progress report identifies the main areas of agreement and it highlights a number of issues where an agreement in principle exists in the Council but which are likely to be discussed further in the forthcoming negotiations with the Parliament.
7. In order to reflect the high degree of consensus on the RSPP proposal that has emerged in the Council since the publication of the proposal in September 2010, a text is annexed to this progress report, which indicates where the majority of delegations wish to see modifications to the Commission's original proposal.

II. OUTCOME OF WORK -- MAIN AREAS OF AGREEMENT

1. Following the examination of the RSPP proposal and the exchange of views at the December 2010 TTE Council under the Belgian Presidency, and on the basis of a detailed examination of the various elements in the proposal under the Hungarian Presidency, a Presidency compromise text was put together, which is annexed to the present progress report. This Presidency text reflects where the majority of Member States believes that changes to the Commission's original proposal are called for.
2. Aim and scope (article 1): delegations agreed that the RSPP should indeed cover all internal market policy areas involving the use of radio spectrum, such as electronic communications services (hereinafter: ECS) but also research, technological development and space, transport, energy and audio-visual. In line with the comments made by Ministers at the December 2010 TTE Council, delegations insisted that the RSPP should not alter the (spectrum) provisions in the recently adopted Regulatory Framework for ECS. In order to ensure compatibility and legal consistency, extensive references to the relevant provisions of this new regulatory framework have been inserted in the RSPP. The attached RSPP text now also provides for the possibility of national measures to pursue general interest objectives, such as in the case of broadcasting where the development of innovative services will continue to require sufficient spectrum availability, and for public order and public security purposes and defence, the latter dimension being particularly important for a number of Member States where the frequencies targeted for wireless broadband are used for defence purposes.
3. General regulatory principles (article 2) and policy objectives (article 3): delegations agreed to make a distinction in the proposal between regulatory principles applicable to all EU policies relying on radio spectrum and principles that are specific to the electronic communications sector. Delegations could generally agree to the proposed policy objectives, which should focus on the priorities of the first RSPP.

4. Enhanced efficiency and flexibility (article 4): delegations agreed that enhancing efficiency and flexibility in the use of radio spectrum are worth pursuing, and at the same time Member States at this stage were not prepared to go beyond what was agreed in the new Regulatory Framework for ECS, which must have been transposed in the Member States as of May 2011. Delegations confirmed that the responsibility for the authorisation and selection procedures of operators or of other spectrum users lies with the Member States, subject to the provisions of the new regulatory framework.
5. Competition (article 5): most delegations agreed that the EU competition rules apply and that the new Regulatory Framework for ECS already contains specific competition provisions. Most delegations believed that competition problems could mainly arise as a result of spectrum issues in the electronic communications sector, as it is in this sector where possible distortions to competition could occur resulting from flexibility, trading and hoarding or other accumulation of spectrum rights. For these reasons, delegations agreed to limit the provisions of this article to electronic communications only and, where relevant, to make appropriate references to the new Regulatory Framework for ECS.
6. Spectrum for wireless broadband (article 6): delegations generally agreed to confirm in the RSPF the commitments already undertaken through Commission Decisions with regard to securing spectrum availability for wireless broadband communications. They also agreed to carry out the authorisation process by 1 January 2012 for the use of the spectrum bands designated in three Commission Decisions⁷ and by 1 January 2013 for the use of the 800 MHz band (the "digital dividend"), subject to the possibility of derogations requested by many Member States where exceptional national or local or cross-border frequency coordination problems would prevent the availability and use of the band.

⁷ Commission Decisions 2008/477/EC (2.5-2.69 GHz), 2008/411/EC (3.4-3.8 GHz) and 2009/766/EC (900/1800 MHz).

7. Spectrum needs for specific Union policies (article 7): delegations agreed that radio spectrum availability needs to be ensured for specific EU policies, such as GALILEO (the EU's global civil navigation satellite system), GMES (the EU's Global Monitoring for Environment and Security programme), public safety, civil protection and disaster relief and R&D services.

8. The radio spectrum inventory (article 8): in principle, delegations could see advantages in establishing a single reference document on the use of radio spectrum in the EU, i.e. the proposed "spectrum inventory". They also agree that the Commission needs to specify what information Member States are supposed to make available for the purpose of establishing the inventory. However, the establishment of the inventory is believed to involve additional administrative effort and costs. For these reasons, the majority of delegations agreed to a modified wording in the proposal, according to which the Commission would develop a methodology for establishing an inventory of existing uses of spectrum, building further on existing legislation⁸ and with the aim to allow the assessment of the technical and/or societal efficiency of existing spectrum uses and to help identifying spectrum bands that could be suitable for refarming and spectrum sharing opportunities in order to support EU policies.

9. International negotiations (article 9): being aware of the need to appropriately safeguard EU interests in the international arena where radio spectrum is discussed, delegations acknowledged that the EU's profile may need to be raised. Member States did not consider it appropriate to settle this horizontal matter in the context of the RSPP. Delegations maintained in the RSPP the possibility for Member States to call for the provision of EU assistance where EU legislation cannot be implemented because of frequency coordination problems.

⁸ Commission Decision of 16 May 2007 on harmonised availability of information regarding spectrum use within the Community, 2007/344/EC.

III NEXT STEPS

1. In the current examination of this proposal as well as of other proposals in the past having a bearing on the availability and use of radio spectrum, such as the new regulatory framework for ECS, delegations in the various Council instances have shown a high degree of solidarity with one another and have made every effort to arrive at a consensus view on the most pertinent issues, as reflected in the annexed compromise text. The Council's preparatory bodies have established (near) consensus or majority views on all of the issues raised in the RSPP proposal and as far as this report on the progress in the Council with the RSPP proposal is concerned, there are no major outstanding issues to report on.
2. Further to Parliaments Plenary adoption of the report by Rapporteur Hökmark, the Commission is expected to come forward soon with its position on Parliament's amendments or with an amended proposal. On this basis, and as the RSPP proposal calls for the making available of spectrum for wireless broadband, the co-legislators, assisted by the Commission, are of the intention to clarify the respective positions and to approximate positions in the forthcoming months in view of reaching an agreement as soon as possible.

**DECISION OF THE EUROPEAN PARLIAMENT AND THE COUNCIL
ESTABLISHING THE FIRST RADIO SPECTRUM POLICY PROGRAMME**

PRESIDENCY COMPROMISE PROPOSAL

Article 1

Aim and Scope

1. This Decision establishes a **multi-annual (2011-2015)** radio spectrum policy programme for the strategic planning and harmonisation of the use of spectrum to ensure the functioning of the internal market **in the Union policy areas involving the use of spectrum such as electronic communications, research, technological development and space, transport, energy and audio-visual.**
2. **This Decision is without prejudice to existing EU law, in particular Directives 2002/20/EC and 2002/21/EC, as well as Decision No 676/2002/EC and Directive 1999/5/EC, and also to measures taken at national level, in compliance with EU law.**
3. **This Decision is without prejudice to measures taken at EU or national level, in compliance with EU law, to pursue general interest objectives, in particular relating to content regulation and audio-visual policy.**
4. **This Decision is without prejudice to the right of Member States to organise and use their spectrum for public order and public security purposes and defence. Where this Decision affects spectrum used by a Member State exclusively and directly for its public security and defence purposes to the extent necessary, the Member State may continue to use this spectrum band for public security and defence purposes until the systems existing in the band at the date of the notification of the harmonisation measure are phased out. That Member State shall duly notify the Commission of its decision.**

Article 2

~~Application of g~~General regulatory principles

1. Member States shall cooperate with each other and with the Commission in a transparent manner, in order to ensure the consistent application of the following general regulatory principles across the Union:
 - ~~(a) encouraging efficient use of spectrum to best meet the increasing demand for use of frequencies;~~
 - ~~(b) applying technology and service neutrality in the use of spectrum for electronic communications networks and services, in accordance with Article 9 of Directive 2002/21/EC (Framework Directive), and where possible for other sectors and applications, in such a way as to promote efficiency of spectrum use, in particular by fostering flexibility, and to promote innovation;~~
 - (a)(e) applying the least onerous authorisation system possible in such a way as to maximise flexibility and efficiency in spectrum usage;**
 - ~~(b)(d) guaranteeing~~ **promoting** the functioning of the internal market, in particular by ~~ensuring~~ **fostering** effective competition;
 - (c) promoting innovation;**
 - (d) in defining the technical conditions of the use of spectrum, take full account of the relevant EU law, including on the limitation of the exposure of the general public to electromagnetic fields;⁹**
 - (e) promoting technology and service neutrality in the right of use of spectrum, where possible.**

⁹ OJ L199, 30.7.1999, p. 59.

2. For electronic communications, in addition to the general regulatory principles defined in paragraph 1, the following specific principles shall apply:

- (a) applying technology and service neutrality in accordance with Article 9 of Directive 2002/21/EC and, where possible, the transfer or lease of individual rights to use radio frequencies in accordance with Article 9b of Directive 2002/21/EC in such a way as to promote efficiency of spectrum use;**
- (b) promoting in accordance with Articles 8a and 9 of Directive 2002/21/EC and with the Decision 676/2002/EC the harmonisation of use of radio frequencies across the Union, consistent with the need to ensure effective and efficient use thereof.**

Article 3

Policy objectives

In order to focus on the priorities of this first **multi-annual** Programme, Member States and the Commission shall cooperate ~~in order~~ to support and ~~implement~~ **reach** the following policy objectives:

- (a) encourage efficient management and use of spectrum to best meet the increasing demand for use of frequencies;**
- (b)(a) ~~make work together toward securing~~ sufficient **and** appropriate spectrum ~~available~~ in a timely manner to support Union policy objectives;**
- (b) ~~maximise flexibility in the use of spectrum, to promote innovation and investment, through the application of the principles of technology and service neutrality, the opening of spectrum to new services, and the possibility to trade spectrum rights;~~¹⁰**

¹⁰ This paragraph has been moved to article 4(2).

- (c) ~~enhance the efficient use of~~ **facilitate easy access to** spectrum by harnessing the benefits of general authorisations **for electronic communications in accordance with Article 5 of Directive 2002/20/EC (Authorization Directive)** ~~and increasing the use of such types of authorisation;~~
- (d) maintain and develop effective competition, in particular in electronic communication services, by ~~preventing~~ **seeking to avoid through** ex ante, or ~~remedying~~ ex post, **remedies**, excessive accumulation of radio frequencies by certain economic operators which results in significant harm to competition;
- (e) reduce the fragmentation of the internal market by enhancing coordination and harmonisation of technical conditions for the use and availability of spectrum, as appropriate, ~~including the development of transnational services, and by promoting economies of scope and scale at Union level;~~
- (f) **foster the development of the internal market by promoting economies of scale at Union level;**
- (g)(f) avoid harmful interference or disturbance by other radio or non-radio devices, *inter alia*, by facilitating the development of standards ~~allowing for flexible and efficient use of spectrum,~~ and increasing immunity of receivers to interference, taking particular account of the cumulative impact of the increasing volumes and density of radio devices and applications.
- ~~(g) in defining the technical conditions for the allocation of spectrum, take full account of the results of research certified by the relevant international organisations into the potential effects on human health of electromagnetic field emissions.~~

Article 4

Enhanced efficiency and flexibility

- ~~1. Member States shall adopt by 1 January 2013 authorisation and allocation measures appropriate for the development of broadband services, in conformity with Directive 2002/20/EC of the European Parliament and of the Council on the authorisation of electronic communications networks and services (Authorisation Directive), such as allowing relevant operators, where possible and on the basis of consultations in accordance with Article 11, direct or indirect access to contiguous blocks of spectrum of at least 10 MHz.~~
12. Member States shall foster, in cooperation with the Commission **and where appropriate**, the collective use of spectrum as well as shared use of spectrum.
2. **Member States and the Commission shall cooperate to enhance flexibility in the use of spectrum, to promote innovation and investment, through the possibility to use new technologies and the trading of spectrum rights;¹¹**
3. Member States and the Commission shall cooperate to **foster the development and harmonisation of** standards for radio equipment and telecommunications terminals as well as for electric and electronic equipment and networks based where necessary upon standardisation mandates from the Commission to the relevant standardisation bodies.
4. Member States shall **endeavour to** ensure that selection conditions and procedures promote investment and efficient use of spectrum.
56. ~~Where~~**enever** necessary in order to ensure the effective use of spectrum rights and avoid spectrum hoarding, Member States ~~shall~~ **may** take appropriate measures, ~~including~~ such as financial penalties or the withdrawal of rights. **These measures shall be established and applied in a proportionate, non-discriminatory and transparent manner.**

¹¹ This paragraph was moved from article 3(b).

6. **For electronic communications services, Member States shall adopt by 1 January 2013 allocation and authorisation measures appropriate for the development of broadband services, in conformity with Directive 2002/20/EC of the European Parliament and of the Council on the authorisation of electronic communications networks and services (Authorisation Directive).**¹²

~~75.~~ In order to avoid possible fragmentation of the internal market due to divergent selection conditions and procedures for harmonised spectrum bands allocated to electronic communication services and made tradable in all Member States pursuant to Article 9b of Directive 2002/21/EC, the Commission, in cooperation with Member States, shall ~~develop guidelines~~ **share best practice** on authorisation conditions and procedures for such bands, ~~in particular on infrastructure sharing and coverage conditions;~~

~~6.~~ ~~Whenever necessary in order to ensure the effective use of spectrum rights and avoid spectrum hoarding, Member States shall take appropriate measures including financial penalties or the withdrawal of rights.~~

Article 5

Competition

1. Member States shall ~~maintain and~~ promote effective competition and avoid distortions of competition in the internal market **for electronic communications services** ~~or in a substantial part of it.~~ **in accordance with Directives 2002/20/EC and 2002/21/EC, as well as decision No 676/2002/EC.**

¹² OJ L 108, 24.4.2002, p. 21.

2. In order to ~~implement fully the obligations of paragraph 1, and in particular to ensure that~~ **promote effective competition for electronic communications services** ~~is not distorted by any accumulation, transfer or modification of rights of use for radio frequencies,~~ Member States may adopt inter alia the following measures, which are without prejudice to the application of competition rules **and to the measures adopted by Member States in order to achieve a general interest objective in accordance with Article 9(4) of Directive 2002/21/EC:**
- (a) Member States may limit the amount of spectrum for which rights of use are granted to any economic operator or may attach conditions to such rights of use, such as the provision of wholesale access, in certain bands or in certain groups of bands with similar characteristics, for instance the bands below 1 GHz allocated to electronic communication services;
 - (b) Member States may refuse to grant new rights of use or to allow new spectrum usages in certain bands, or may attach conditions to the grant of new rights of use or to the authorisation of new spectrum usages, ~~when this would lead to~~ **in order to avoid an accumulation of spectrum frequencies by certain economic operators which is likely to result in significant harm to competition; the distortion of competition by any transfer or accumulation of rights of use of radio frequencies;**
 - (c) Member States may prohibit or impose conditions on transfers of spectrum usage rights, not subject to national or Union merger control, when this is likely to result in significant harm to competition;
 - (d) Member States may amend the existing rights in accordance with Article 14 of Directive 2002/20/EC when this is necessary to remedy ex-post ~~excessive accumulation of spectrum frequencies within certain economic operators which significantly harms competition~~ **the distortion of competition by any transfer or accumulation of rights of use of radio frequencies.**

3. Member States shall ensure that authorisation and selection procedures **for electronic communications services** ~~avoid delays and~~ promote effective competition **for the benefit of EU citizens, consumers and businesses.**

Article 6

Spectrum for wireless broadband communications

1. ~~Without prejudice to the principles of service and technology neutrality,~~ Member States, in cooperation with the Commission, shall take all steps necessary to ensure that sufficient spectrum for coverage and capacity purposes is **available allocated for electronic communications services** within **each Member State of the Union**, in order to ~~ensure~~ **enable** that wireless applications contribute effectively to achieving the target for all citizens to have access to broadband of a speed of at least 30 Mbps by 2020.
2. **In order to promote wider availability of wireless broadband services for the benefit of EU citizens and consumers,** Member States shall, by 1 January 2012, **carry out the authorization process for the bands** ~~authorise the use of all the spectrum~~ designated by Commission Decisions 2008/477/EC (2.5–2.69 GHz), 2008/411/EC (3.4–3.8 GHz) and 2009/766/EC (900/1800 MHz) ~~under conditions that provide consumers with easy access to wireless broadband services.~~
3. Member States shall, by 1 January 2013 **carry out the authorization process in order to** make the 800 MHz band available for electronic communications services in line with the harmonised technical conditions laid down pursuant to the Decision No 676/2002/EC. In Member States where exceptional national or local circumstances **or cross-border frequency coordination problems** would prevent the availability of the band, the Commission shall authorise specific derogations until **the end of 2015 in response to a duly motivated application from the Member State concerned.**

If cross-border frequency coordination problems with one or more countries, including acceding or candidate countries, persist after the end of 2015 and prevent the availability of the 800 MHz band, the Commission may authorise exceptional derogations on an annual basis until such obstacles are removed. This paragraph shall also apply to the spectrum co-ordination 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.

Where the derogation referred to in the first and second subparagraphs has been granted, the Member State concerned shall ensure that the use of the 800 MHz band shall not prevent the availability of that band for electronic communications services other than broadcasting in the neighbouring Member States. ~~In accordance with Article 9 of Directive 2002/21/EC, the Commission, in cooperation with the Member States, shall keep under review the use of the spectrum below 1GHz and assess whether additional spectrum could be freed and made available for new applications.~~

4. Member States, in cooperation with the Commission, shall ~~ensure that the provision of~~ **promote** access to broadband ~~content and services using the 790-862 MHz (800MHz) band is encouraged~~ in sparsely populated areas, ~~in particular through coverage obligations;~~ in doing so, they shall examine ways and, where **appropriate** necessary, take appropriate measures to ensure that the freeing of the 800 MHz band does not adversely affect programme making and special events (PMSE) users.
5. The Commission, **in close cooperation with Member States**, is invited to adopt, as a priority, appropriate measures, ~~pursuant to Article 9b(3) of the Directive 2002/21/EC~~, to ensure that Member States allow **transferring or leasing** ~~trading~~ within the Union of spectrum usage rights in **one or more of** the harmonised bands 790–862 MHz (the "800 MHz band"), 880–915 MHz, 925–960 MHz, 1710–1785 MHz, 1805–1880 MHz, 1900–1980 MHz, 2010–2025 MHz, 2110–2170 MHz, 2.5–2.69 GHz, and 3.4–3.8 GHz.

6. ~~If necessary, Member States and the Commission shall ensure~~ **Member States and the Commission may consider** ~~shall ensure~~ the availability of ~~additional~~ **sufficient** spectrum bands for the provision of harmonised satellite services, **including for** broadband access that will cover the whole territory of the Union including the most remote areas with a broadband offering enabling Internet access ~~at a comparable price to terrestrial offerings.~~

Article 7

Spectrum needs for specific Union policies

1. Member States and the Commission shall ensure spectrum availability and protect the radio frequencies necessary for monitoring the Earth's atmosphere and surface, allowing the development and exploitation of space applications and improving transport systems, in particular for the global civil navigation satellite system GALILEO, for the Global Monitoring for Environment and Security programme GMES, and for intelligent transport safety and transport management systems;
2. In cooperation with the Member States, the Commission shall conduct studies ~~and examine the possibility to design authorization schemes~~ which would contribute to a low-carbon policy, by saving energy in the use of spectrum as well as ~~by~~ **consider** making spectrum available for wireless technologies with a potential for improving energy saving, including smart energy grids and smart metering systems;
3. If necessary, the Commission shall, ~~in cooperation with the Member States ensure~~ **foster** that sufficient spectrum is made available under harmonised conditions to support the development of safety services and the free circulation of related devices as well as the development of innovative interoperable solutions for public safety and protection, civil protection and disaster relief;

4. Member States and the Commission shall ~~review the spectrum needs of,~~ and collaborate with ~~the scientific community,~~ **to identify a number of research and development initiatives and innovative applications that may have a major socio-economic impact and/or potential for investment and consider the spectrum needs of such applications and prepare for the allocation of sufficient spectrum to such applications under harmonised technical conditions and the least onerous administrative burden.**

Article 8

*Inventory ~~and monitoring~~ of existing uses and **monitoring of emerging needs for spectrum***

1. ~~The Commission, assisted by the Member States, which~~ **On the basis of the information provided by the Member States pursuant to the Commission Decision on harmonised availability of information regarding spectrum use within the Community (Decision 2007/344/EC), shall provide all appropriate information on spectrum, shall create an inventory of existing spectrum use and of possible future needs for spectrum in the Union, ~~in particular in the range from 300 MHz to 3 GHz.~~ **the Commission shall in cooperation with the Member States develop a methodology for establishing an inventory of existing uses of spectrum, pursuant to the Radio Spectrum Decision 676/2002/EC, taking utmost account of the opinion of the Radio Spectrum Policy Group (RSPG).**¹³**

¹³ As established by Decision 2002/622/EC and as amended by Decision 2009/978/EC.

2. The inventory referred to in paragraph (1) shall allow the assessment of the technical efficiency of existing spectrum uses ~~and the identification of inefficient technologies and applications, unused or inefficiently used spectrum~~ **and shall help to identify spectrum bands that could be suitable for refarming** and spectrum sharing opportunities **in order to support Union policies set out in this decision.** ~~‡~~ **This assessment** shall take into account future needs for spectrum based on consumers' and operators' demands, and of the possibility to meet such needs.
3. The inventory referred to in paragraph (1) shall review the various types of spectrum usage by both private and public users, and **where applicable help to identify spectrum bands** that could be ~~assigned or re-allocated~~ **designated** in order to increase their efficient use, promote innovation and enhance competition in the internal market, **explore new ways for dynamic spectrum access**, to the benefit of both private and public users, while taking into account the potential positive and negative impact on existing users of such bands.

Article 9

International negotiations

- ~~1. The Union shall participate in international negotiations relating to spectrum matters to defend its interests, acting in accordance with Union law concerning, among other things, the principles of internal and external competences of the Union.~~
- ~~2. Member States shall ensure that international agreements to which they are a party in the context of the International Telecommunications Union (ITU) are in conformity with existing Union legislation, and in particular with the relevant rules and principles of the Union regulatory framework on electronic communications.~~
- ~~3. Member States shall ensure that international regulations allow the full use of frequency bands for the purposes for which they are designated under Union law, and that a sufficient amount of appropriately protected spectrum is available for Union sectoral policies.~~

14. The Union shall ~~provide~~, upon request, **assist Member States with legal**, political and technical support to ~~Member States in their bilateral negotiations with non-Union neighbouring countries including candidate and acceding countries~~, to resolve spectrum coordination issues ~~that prevent Member States from implementing their obligations under Union law regarding spectrum policy and management~~. **with Union neighbouring countries including candidate and acceding countries in such a way that the Member States concerned can respect their obligations under Union law.**

In the provision of such assistance, the EU shall use all its legal and political powers to promote the implementation of EU 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 Union spectrum policy objectives.

25. When negotiating with third countries **in a bilateral or multilateral environment**, Member States shall be bound by their obligations under Union law. When signing or otherwise accepting any international obligations regarding spectrum, Member States shall accompany their signature or any other act of acceptance by a joint declaration stating that they shall implement such international agreements or commitments in accordance with their obligations under the treaties.

Article 10

Cooperation among various bodies

1. The Commission and the Member States shall cooperate to enhance the current institutional setting, in order to foster co-ordination at Union level of the management of spectrum, including in matters directly affecting two or more Member States, with a view to developing the internal market and ensuring that Union spectrum policy objectives are fully achieved. ~~They shall seek to promote Union spectrum interests outside the Union in accordance with Article 9.~~

2. The Commission and Member States shall ~~ensure that~~ **encourage** standardisation bodies, CEPT, ~~and~~ the Commission's Joint Research Centre **and all relevant parties to** closely cooperate in ~~any~~ technical issues ~~whenever necessary~~ to **promote** ~~ensure~~ the efficient use of spectrum. To this end, they shall maintain a coherent link between spectrum management and standardisation in such a way as to enhance the internal market.

Article 11

Public consultation

Wherever appropriate, the Commission shall organise public consultations to collect the views of all interested parties as well as the views of the public in general on the use of spectrum in the Union.

Article 12

Reporting

By 31 December 2015, the Commission shall conduct a review of the application of this radio spectrum policy programme and report to the European Parliament and the Council on the activities developed and the measures adopted pursuant to this Decision.

Article 13

Notification

Member States shall apply these policy orientations and objectives by 1 July 2015 unless otherwise specified in the preceding articles.

They shall provide the Commission with all information necessary for the purpose reviewing the application of this Decision.

Article 14

Entry into force

This Decision shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.