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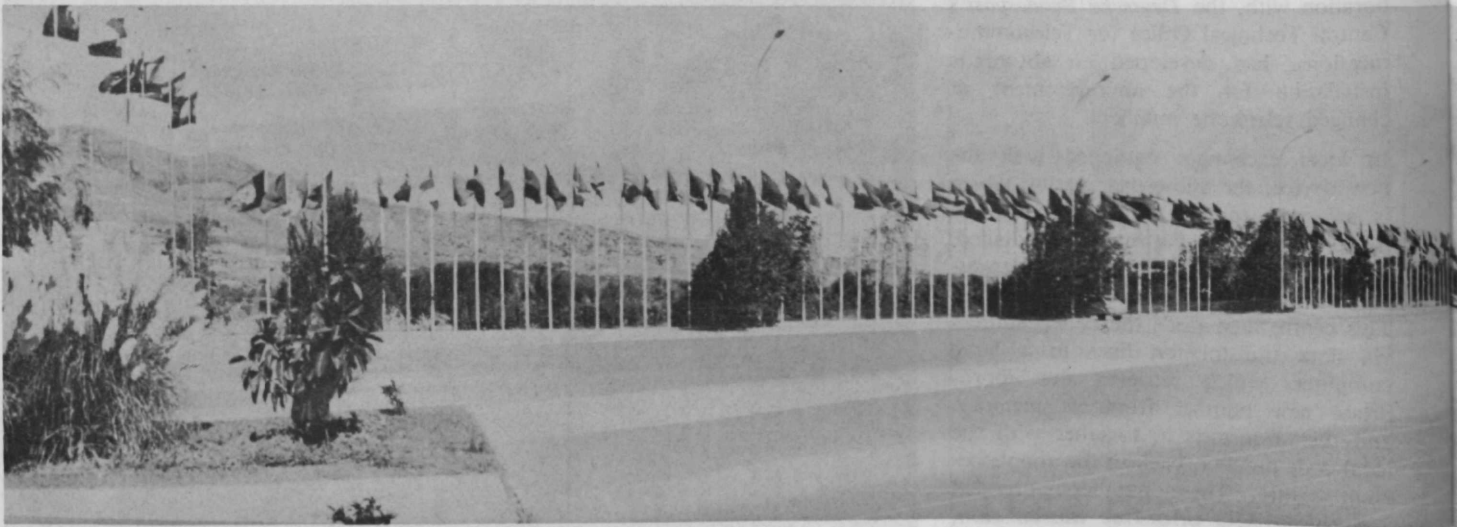
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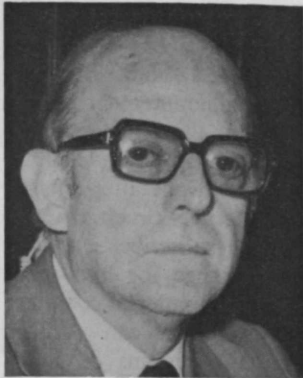
Article Title : The Malaga-Torremolinos Conference : comments by the Chairman

Page number(s): pp. 294-298



The Malaga-Torremolinos Conference

(Comments by the Chairman)



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The Congress Palace, Torremolinos

1. Introduction

It would be no exaggeration to say that the Plenipotentiary Conference of Malaga-Torremolinos was awaited as eagerly as the memorable Conference at Madrid in 1932.

The Madrid Conference (as has been said very often) was convened in circumstances critical for the history of the Union, which still subject to the St. Petersburg Convention of 1875 was going through a somewhat torpid phase, and it culminated in the birth of the International Telecommunication Union (ITU). Telecommunications became "one and indivisible" and the advent of the new Union brought about the disappearance of the cluster of regional unions which had been set up one after the other, more or less in line with the political map of Europe in the last quarter of the 19th and the first quarter of the 20th centuries.

The Malaga-Torremolinos Conference also met at a crucial moment as the ITU was preparing to seek valid and critically important answers (which would shape its future) to a multiplicity of questions, including the following:

□ Should the principle of periodic revision of the basic instrument of the Union be maintained or should a permanent instrument be established?

□ Are the purposes of the Union, as listed in the Montreux Convention, adequate or does the technology on which telecommunications depend demand that they be revised?

In other words,

□ Is the ITU in a position to meet the normative and regulatory requirements of the new systems and services or should it limit itself to taking note of what is happening "outside"?

In short,

□ Is the Union capable or not of defining the principles of a global telecommunications policy?

These and many other questions may be answered easily "from the inside" but we must remember, for instance, in space matters—where the most spectacular advances have been made—the signing, in the interval between the Montreux Conference (1965) and the present one, of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, on 27 January 1967; the Definitive Arrangements for the global commercial communications satellite system INTELSAT (21 May 1971) and the Agreement on the creation of an international system and space telecommunication organization, INTERSPUTNIK (15 November 1971).

The feeling of expectation mentioned above was most evident within the ITU

itself (we all remember the debates on the future of the Union at the Montreux Conference and at sessions of the Administrative Council), but it was not limited to the Union; this has been a recurring theme in recent years.^{1, 2, 3, 4}

This widespread awareness of the importance of the Malaga-Torremolinos meeting was uppermost in the mind of the almost 700 plenipotentiaries of more than 130 delegations of Member countries, including about 50 headed by PTT Ministers and many others by ambassadors accredited to Spain, who were present in the "Malaga" room of the Costa del Sol Conference Centre on 14 September 1973 when His Royal Highness Prince Juan Carlos, acting on behalf of H.E. the Head of State, opened the Plenipotentiary Conference of the International Telecommunication Union, Malaga-Torremolinos.

2. The main themes of the Conference

Though it would be difficult, if not impossible, to list a series of items under the heading of "main themes", two groups of quite separate subjects may be distinguished:

— the political matters specifically included in the mandate given to the Conference in Article 6 of the Montreux Convention, and

— those matters—debated with just as much feeling—directly associated with the objectives of the Conference.

2.1 The political panorama

2.1.1 The concept of the "sovereignty" of the Conference and its implications

The fact that the ITU is the oldest of the international organizations for worldwide co-operation and that its relations with the United Nations are governed by a bilateral agreement in which it is recognized as the specialized agency of the United Nations for telecommunications, but without the dependency status of other specialized agencies which have developed within that organization, obviously influences the exercise of its own inviolable sovereignty which was so often referred to in Malaga-Torremolinos. It remains a fact, although it may be considered questionable from the legal point of view, that the exercise of sovereignty goes beyond the bounds of positive law. The truth is that in Malaga-Torremolinos jurisprudence was not created, since precedents on certain subjects of this type were established at Montreux in 1965.

Thus, South Africa and Portugal were excluded from the Plenipotentiary Conference and the other meetings of the ITU.

2.1.2 The question of Guinea-Bissau

The problem raised by the request for admission of Guinea-Bissau as Member of the ITU should be considered in this connection; there was no lack of support for immediate admission, which went further than Guinea-Bissau's own request which invoked the procedure stipulated in the Montreux Convention, the approach which finally prevailed.

2.1.3 Disappearance of some politically controversial subjects

There were a number of very encouraging features about the Conference, including the presence for the first time at the Plenipotentiary Conference of delegations from the People's Republic of China and from the German Democratic Republic. Thus, the former abnormal and controversial situation was brought to an end and a fundamental balance was achieved with positive contributions being made by both delegations, each of which provided a Vice-Chairman of the Conference.

2.1.4 The Israeli-Arab war

In the middle of the Conference, on 6 October 1973, the Arab-Israeli war broke out. Despite this lamentable event, the Conference was able to continue its programme with no other repercussions than the adoption, after a lengthy debate, of a Resolution concerning the interruption of the submarine cable service in the Eastern Mediterranean.

2.1.5 Regional blocs

Regional blocs were possibly more in evidence than political blocs at the Conference, a fact which should not necessarily be considered a negative aspect of the ITU.

The ITU itself recognizes the regionalization of telecommunications, based mainly on geographical considerations and therefore on diversity of development and interests.

This did not necessarily result in unanimity of approach to specific questions nor did it prevent affinities of criteria from making their influence felt on political issues.

2.1.6 Participation of the "third world"

Applying this somewhat ambiguous term to countries which have recently gained their independence, mention should be made, not surprisingly, of the mature and effective participation of many delegations from these countries, a fact which contributed (in no small measure) to the reaching of agreements on points being debated.

This fact should be considered as a positive achievement now that the Union has 146 Members.

2.2 The achievements and frustrations of the Conference

2.2.1 The great dilemma—Constitution or Convention?

The compromise formula arrived at in Torremolinos, to maintain the Convention for the time being with a structure similar to that of a Constitution plus a set of General Regulations, did not perhaps satisfy many delegations.

Nonetheless, it cannot be denied that the valuable work done by the Constitutional Charter Study Group, set up under Montreux Resolution No. 35, did produce

results and it seems likely that this question will be settled definitively at the next Plenipotentiary Conference, if—as is to be hoped—the Administrative Council carries out successfully the task assigned to it by the Conference.

2.2.2 Wider representation

Following the example of previous Conferences and in line with the increase in the Membership of the Union, the number of seats on the Administrative Council was increased to 36.

It should be recorded that the numerous formulae proposed for rotation in the composition of the Administrative Council were rejected systematically inasmuch as they implied a diminution of the *sovereign right* of every State to elect or be elected without restriction. It should be pointed out, however, that in fact 32% of the members of the new Administrative Council have had their mandates renewed, which represents a sound balance between renewal and continuity and should as such be rated positively.

2.2.3 The problem of the "Territories"

Another innovation in the new Convention is the abolition of the status of Member of the Union in the case of non-autonomous territories⁵ administered by other Members.

It must be recognized that such a decision is more political than practical in nature. From a strictly pragmatic point of view, it may be that the consequences will tend to be unfavourable without it being possible to use the possession of two votes by certain Member countries as a valid argument justifying such an exclusion.

2.2.4 The finances of the Union

The Conference was confronted by two problems of a financial nature: the debts of certain Members in the past and the contributory unit in the future.

A satisfactory solution having been found for the settlement of accounts in arrear (Resolution S of the Final Acts), the discussions reached a "climax" in the debate on Article 15 of the Convention and the widely supported, associated proposal by 27 countries (see Document No. 224) to replace the existing system with free choice of class of contribution



Main entrance to the Congress Palace

according to a discontinuous scale by a much wider scale such as that applied in the United Nations. The consequences in general would have been a reduction in the quotas of those countries which now contribute in the $\frac{1}{2}$ unit class and a considerable increase in the contributions of the major contributors.

The decision of the Conference should be regarded as well-considered and prudent; the proposal having been energetically rejected by the "major contributors", it was pointless to impose it by a majority vote. The Conference nonetheless gave the Administrative Council precise instructions to seek a solution which would take account of the opinions expressed at the Conference.

It should be pointed out, as a curiosity, that here again the argument of sovereignty was used, in this case in support of the right to free choice of class of contribution.

Article 15 of the Malaga-Torremolinos Convention maintains the Montreux system with the addition of a $1\frac{1}{2}$ unit class.⁶ Members are free to choose their class of contribution for defraying Union expenses.

It does introduce something new, however—the loss of a Member's voting rights at Conferences and meetings when the amount of its arrears equals or exceeds its contributions for the two previous years.

Time will show whether this decision, which has a precedent in the United Nations, will be effective.

2.2.5 Greater emphasis on space matters

The Plenipotentiary Conference decided to make specific mention of space telecommunications in various parts of the new Malaga-Torremolinos Convention.

Article 4 states that the Union shall "coordinate efforts with a view to harmonizing the development of telecommunications facilities, notably those using space techniques, with a view to full advantage being taken of their possibilities"; Article 10 specifies among the essential duties of the International Frequency Registration Board (IFRB) the obligation "to effect... an orderly recording of the positions assigned by countries to geostationary satellites" and

The Malaga-Torremolinos Conference

also "to perform any additional duties, concerned with ... the utilization of the geostationary orbit."

Resolution U on the application of science and telecommunication technology in the interest of developing countries, instructs the International Radio Consultative Committee (CCIR): "to pursue as a matter of urgency its studies of technical and operational questions leading up to the establishment of low-capacity earth stations and associated satellite systems in order to satisfy the urgent needs of the least developed countries ..."; Resolution EE gives precise instructions to the Administrative Council and the Secretary-General on collaboration with the international organizations interested in space radiocommunications.

These moderate allusions to space questions (and proposals of a wider scope were submitted) are obviously opportune.

2.2.6 Elected officials

The Plenipotentiary Conference assumed responsibility for the election in future of the members of the International Frequency Registration Board, which up to now has been the prerogative of the administrative radio conferences.

There was lengthy discussion of whether the Directors of the International Consultative Committees should also be elected by the Plenipotentiary Conference but the *status quo* was retained, i.e. election by the Plenary Assembly of the appropriate Committee; the subject will no doubt be brought up again at the next Plenipotentiary Conference.

The proposal to create a second post of Deputy Secretary-General was not accepted, though it did receive considerable support; the advantages were not clear and the economic implications weighed heavily.

2.2.7 Re-election of the Secretary-General and Deputy Secretary-General

There were clear majorities for continuation of the team in office; Mr. Mohamed Mili (Tunisia) was re-elected to the post of Secretary-General and Mr. Richard E. Butler (Australia) to the post of Deputy Secretary-General, which can only be interpreted as a significant and well-

deserved mark of approval for the way in which the business of the Union has been conducted by its two highest officials.

2.2.8 Technical co-operation

In the field of technical co-operation, which is of the utmost concern to the majority of developing countries and to which the Malaga-Torremolinos Conference paid due attention, an important innovation should be mentioned—the creation in the ITU of a special technical co-operation fund, separate from the UNDP funds which it administers and made up of voluntary contributions in cash or in other forms, to meet the requirements of developing countries which submit urgent requests for assistance to the ITU (Final Acts—Resolution II).

On the other hand, the Conference rejected the proposal to create regional technical co-operation offices which would to some extent have replaced the present regional experts; the proposal was aimed at decentralizing the administration of UNDP funds.

2.2.9 Languages

Despite certain economic considerations which did not prevail, the new Convention established reciprocal interpretation between Chinese, English, French, Russian and Spanish, at all conferences and meetings of the Union, and interpretation between these languages and Arabic at Plenipotentiary and administrative conferences.

Nevertheless, the Conference took into account the financial implications for the language services and instructed the Administrative Council to carry out a comprehensive study of the problems involved (Final Acts—Resolution QQ).

3. Conclusions

There will certainly be no lack of specialists who in the months ahead will deal exhaustively with each and every one of the above points which, from the Chairman's rostrum, seemed to be the most significant, and many others no less important.

After six weeks of intensive work, I am sure that the balance is clearly positive.

We are at the beginning of a new stage (to end in Nairobi in five years' time) in the unceasing progress of our Union towards the new horizons which lie ahead and are still to be discovered.

Once more, as Chairman of the Plenipotentiary Conference of Malaga-Torremolinos, I must emphasize the effective collaboration of all those who contributed to the success of the Conference, particularly the Vice-Chairmen, the Chairmen of Committees and the officials of the ITU, headed by the Secretary-General and Deputy Secretary-General, without whose enthusiastic participation such success would not have been possible.

(Original language: Spanish)

Notes

¹ Address by Clay T. Whitehead, Director of the Office of Telecommunications Policy, to the meeting sponsored by the American Bar Association (14 July 1971).

² "The future of the International Telecommunication Union", Report for the 1973 Plenipotentiary Conference (by David M. Leive), sponsored by the American Society of International Law.

³ "Global communications in the space age—towards a new ITU", Report of an international conference held in Sidi-Ferruch, Algeria, sponsored by the John and Mary R. Markle Foundation and the Twentieth Century Fund (1972).

⁴ Seminar held at St. Jean-Cap-Ferrat, France (October 1971) co-sponsored by the Twentieth Century Fund (New York) and the Carnegie Foundation for International Peace (New York/Geneva).

⁵ Territories represented by the French Overseas Post and Telecommunication Agency; Spanish Saharian Territory; Territories of the United States of America; Overseas Territories for the international relations of which the Government of the United Kingdom and Northern Ireland are responsible; Portuguese Overseas Provinces.

⁶ 30-unit class	8-unit class
25-unit class	5-unit class
20-unit class	4-unit class
18-unit class	3-unit class
15-unit class	2-unit class
13-unit class	1½-unit class
10-unit class	1-unit class
	½-unit class