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IX

BENEFITS OF SATELLITE COMMUNICATIONS

Benefits for the People of the World

The value of satellite communications to society has been demonstrated by the dramatic acceptance and broad participation of many nations in (the International Telecommunications Satellite Consortium)INTELSAT. This section outlines the principal benefits of this new media.

• Enhanced International Telecommunications Services

The unique features of communications satellite technology, treated in the introduction of this report, combine to make available to both developed and developing nations a new medium for international telecommunication. This new transmission means can enhance substantially the capability of existing networks or in some cases make available for the first time an economical method of providing international telecommunications services not heretofore available.

-- Developed Nations

The principal gains in the use of a communication s satellite system by a developed nation are the added

versatility and assurance of service (reliability) when combined with other transmission media to form the total international telecommunications capability.

-- Developing Nations

Satellite communications offer developing nations a most attractive, economical method of obtaining direct access to the developed nations of the world. The broad coverage of a single geostationary satellite, with multiple access capabilities, makes it feasible for a nation to gain access to the Global System by the establishment of a single earth station.

o Intercontinental (transoceanic television)

The advent of satellite communications systems added a new dimension to international communications, namely, the capability to relay television broadcasts of events across the oceans as they take place. For example, during 1968, viewers around the world were able to view in real time the U.S. World Series, the Olympic Games, the APOLLO 7 and 8 lift-off and recovery operation, the U. S. Presidential elections, and many other events.

Future growth in TV usage is expected to rise sharply. The higher capacity INTELSAT IV satellite will allow exclusive channels to be used for TV service, a capability not possible with earlier satellites because of the high demand for telephone circuits. The increased exchange of news and cultural TV programs among nations offers a great potential for better understanding throughout the world.

- Non-Discriminatory Access to the Global System

The United States policy regarding participation in an international satellite communications system was first stated in the Communications Act of 1962 as follows:

"The Congress hereby declares that it is the policy of the United States to establish, in conjunction and in cooperation with other countries, as expeditiously as practicable a commercial communications satellite system, . . which will serve the communication needs of the United States and other countries, . . ."

"The new and expanded telecommunications services are to be made available as promptly as possible and are to be extended to provide global coverage at the earliest practicable date. In effectuating this program, care and attention will be directed toward providing such services to economically less developed countries and areas as well as those more highly developed, . . ."

The above policy was later embodied in the 1964 inter-governmental Agreement Establishing Interim Arrangements for a Global Commercial Communications Satellite System.

This document dated August 20, 1964 states:

"... satellite communications should be organized in such a way as to permit all states to have access to the global system..."

President Johnson reiterated this philosophy in his message of August 14, 1967:

"We support a global system of commercial satellite communications which is available to all nations -- large and small, developed and developing -- on a non-discriminatory basis."

The continued success of the single global system will depend to a great extent on its availability to all countries of the world, without discrimination.

Performance Attributes of Satellite Communications

The fundamental attributes of modern communications satellites as a long-haul transmission medium include an unprecedented degree of versatility and flexibility together with the high capacity that can be achieved at low cost.

- The versatility of satellites is realized by their capability to simultaneously provide telephone, telegraph, data, facsimile and particularly, television service over short as well as inter-continental distances.
- The flexibility of satellites is demonstrated by the ability to simultaneously interconnect a large number of widely dispersed earth station terminals. A single geostationary satellite can provide this multiple access (multi-point) service to an area larger than one-third of the surface of the globe.
- The capacity of satellites can be increased by a quantum step with a nominal increment in investment.
- The capabilities of satellites enable the global telecommunications network to be improved significantly through diversity of means of transmission which provide a synergistic enhancement of the total telecommunications system capability.

Historically, the physical telecommunications (plant) centers of the world have been located near population concentrations and have been constrained by geographical realities. The systems of conventional transmission media of cable and radio evolved in this restricted frame of reference. The inherent ability of locating communications satellite earth stations without regard to geographic constraints, particularly in the interior land masses of developing nations, adds a new capability for improving global telecommunications. This unique capability of the satellite is already reducing the barriers to international information exchange.



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SUMMARYConclusions

The validity of United States policy embodied in the National Aeronautics and Space Act of 1958, and the Communications Satellite Act of 1962, has been demonstrated by the successful achievements of the nation during the last ten years.

These accomplishments in summary include the following:

- Demonstrations of the feasibility of satellite communications for practical uses;
- Establishment of the Communications Satellite Corporation;
- Creation of the unique International Telecommunications Satellite Consortium (INTELSAT);
- Establishment and operation of the initial increments of the Global Commercial Communications Satellite System.

These results verify the economic viability of communications satellite technology for practical applications by an international telecommunication business enterprise. The accelerating growth of international communications traffic the progressive reduction of costs provide the demonstration of economic viability. Furthermore, the growth in the number of INTELSAT member nations provides an additional measure of the benefit of this new transmission medium to

the peoples of the world. The community of nations has been brought closer together by the achievement of intercontinental (transoceanic) television made feasible by the unique attributes of satellite communications.

The unprecedented progress achieved by the International Telecommunications Satellite Consortium (INTELSAT) was made possible by international cooperation and the contributions of the United States. The efficiency of the United States Government-industry team was demonstrated frequently by its management capability and technical competence which produced significant achievements.

Outlook

The pace of communications satellite technology has continued unabated during the last ten years and the prospects for its continued growth are bright. The spectacular achievements in the National Space Program provided the continued growth in communications satellite technology. The NASA Advanced Technology Satellite experiments in the early 1970's will help to demonstrate the feasibility of broader applications of satellite communications as well as experimenting with techniques to expand the capability of this unique medium.

These modern tools of communications satellite technology create a wide spectrum of opportunities for the United States to achieve results beyond the general guidelines contained in the policy objectives of the Communications Satellite Act of 1962. Opportunities are presented for the United States Government-Industry team to make meaningful contributions toward enhancing national and international telecommunications services.

Challenges Ahead

The primary challenge facing the International Telecommunications Satellite Consortium (INTELSAT) in 1969 is for the members to adopt Definitive Arrangements which will continue enlightened institutional, operational and management arrangements. Such arrangements should be flexible in character so that rapid advantage can be taken of unanticipated technological innovations. Further, the Definitive Arrangements should be structured to enable accommodations by the amendment process rather than by requiring updated Definitive Arrangements. Accordingly, the Definitive Arrangements should be viewed as a dynamic mechanism, not something permanent and inflexible, which will enable the Consortium to grow and its members to obtain the benefits of the expanding horizon offered by satellite communications technology.

Revised May 23, 1969

Ad Hoc Interagency Working Group on
INTELSAT Preparatory Committee

List of Papers

1. Summary of Positions on Major Issues (dated April 17, 1969; revised May 8, 1969).
2. United States Policy and Objectives (OTM draft of May 1, 1969; revised May 12, 1969).
3. Scope of Activities (FCC draft, undated; reissued May 8, 1969).
4. Scope of Activities/Obligations of Members (ComSat draft of May 5, 1969; revised May 12, 1969).
5. Obligations of Members and Regional Systems (FCC draft of May 5, 1969; revised May 12, 1969).
6. Membership and Access (State draft of April 29, 1969; reissued May 8, 1969).
7. Legal Form (ComSat draft of April 30, 1969).
8. The Assembly (State draft of April 29, 1969; revised May 8, 1969).
9. The Governing Board (State draft of May 2, 1969; revised May 16, 1969).
10. Manager (FCC draft, undated).
11. Financial Arrangements (ComSat draft of May 5, 1969; reissued May 8, 1969).
12. Procurement (State draft of April 29, 1969; reissued May 8, 1969).
13. Notes on INTELSAT Conference Doc. 10 (State, May 23, 1969).

State--
Summary
of Positions



U. S. Delegation

Paper #1 - Summary of Positions

This paper should be changed to include a summary of U. S. Policy and Objectives.

Recommend following paragraph be added.

1. United States Policy and Objectives: The basic policy of the U. S. is defined in the Communications Satellite Act of 1962.

The policy and objectives of the U. S. concerning Definitive Arrangements for commercial satellite communications are predicated upon the need to assure the continued growth of the single global system initiated under the Interim Arrangements establishing the International Telecommunications Satellite Consortium (INTELSAT). The basic objective of the United States is to continue an efficient, unified business enterprise for the purpose of providing the best possible telecommunications services at the lowest cost to the maximum number of people around the world, through a technically advanced, operationally sound global commercial communications satellite system.

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SUMMARY OF POSITIONS ON MAJOR ISSUES

(The intention of this summary is to suggest positions that would be acceptable to the U.S. and might form the basis of agreement on definitive arrangements.)

1. Scope of Activities. The organization would have international public telecommunications as its primary objective, would also provide domestic services, and could provide specialized services. It could also put up separate satellites for these purposes.
2. Membership and Access. Membership would be confined to members of the ITU, but all states and areas could be permitted direct access on an equitable basis.
3. Legal Form. The organization would have legal personality, but this does not necessarily imply ownership of the space segment or limited liability. We would try in this connection to avoid adverse effects on ComSat's tax position.*
4. Assembly. There would be an Assembly of all governments or signatories, which would have only general responsibilities. Provided the assigned responsibilities are satisfactory (the working paper submitted by India and the UK to Working Group I-B is a generally satisfactory list of functions) it would make decisions without weighted voting on the basis of a two-thirds majority.

* ComSat proposes instead of this sentence: "It is assumed in this connection that any significant adverse effect on ComSat's tax position would be overcome."

5. Governing Board. The Governing Board, like the Interim Committee, would be the basic decision-making body. Membership would be based on the largest investments, individually or collectively, but with some additional members selected to ensure broader representation. It would operate on a weighted vote basis, with voting power proportionate to investment. Decisions would require a two-thirds weighted vote, except that no single member, or possibly two or three members, could alone veto a decision favored by all others. However, if there is a provision against veto by two or three members, an affirmative vote of a specified percentage should be required. A requirement that the two-thirds weighted vote include a substantial number of the members of the Board, such as one-third, would be acceptable.
6. Management Question. There would be an international secretariat, headed by a specified official, reporting to the Governing Board, which would handle appropriate administrative, financial and legal activities of the present Manager.

There would be a contract with a specific entity, reporting to the Governing Board, which would perform the operational and technical and associated functions of the present Manager. This entity would be under contract

for a period of not less than seven [five] years, and could be rehired or replaced by the Governing Board at the end of that period. It would be understood, either implicitly or explicitly, that the entity would be ComSat.

There would be no concept of slowly transferring some of this entity's functions to an international body, either during the seven [five] year period or by any fixed date. On the other hand, it would be acceptable to have the question of how best to discharge these functions at the end of the seven [five] year period made the subject of an objective study and the Assembly and Governing Board empowered to adopt a different arrangement without having to amend the agreement.

7. Financial Arrangements. Financial arrangements would be based on the concept of investment related to use, with periodic adjustments. "Use" should be construed as all use of INTELSAT-financed facilities without distinction between international and domestic traffic.
8. Regional Systems. Regional systems outside INTELSAT would be permitted on the basis of a compact regional area, provided the Governing Board has the authority to determine in each case that the proposed system would not be technically or economically incompatible with INTELSAT.

9. Obligations of Members. Members would be obligated not to participate in the establishment or ownership of outside international systems other than regional systems which have been so approved, but could use non-member systems to communicate with non-member countries not using INTELSAT.
10. Procurement. The basic criteria should be best quality, best price, and timely performance. Consistent with this, we can accept the idea of the widest practical international participation.

DTM--
Policy and
Objectives

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May 12, 1969

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USDEL INTELSAT Conference

Position Paper (2)

United States Policy and Objectives
Concerning Definitive Arrangements
For the Continued Development
of
the Single Global Commercial *
Communications Satellite System

Summary

Communications satellites have become the symbol of telecommunications progress, but satellite systems are only a part of a much larger system of domestic and international telecommunications facilities which provide the services required by peoples and nations. If the global commercial communications satellite system is to develop into an efficient viable part of this international telecommunications structure, it must first become an integral part of the total system or, in terms of the Communications Satellite Act of 1962, "as part of an improved global communications network". The policy and objectives of the United States concerning

* Definition: The Single Global Commercial Communications Satellite System: A system utilizing advanced sophisticated communication-electronic and space technology, providing transmission of a wide range of international and domestic public and specialized telecommunications services, by means of satellites and earth stations organized as a single system providing global coverage with the space segment of the system provided by the International Telecommunications Satellite Consortium (INTELSAT) and the terrestrial segments provided by the member nations of the Consortium.

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definitive arrangements for the continued development of communications satellites are predicated upon the need to assure the continued growth of the single global system initiated under the interim arrangements establishing the International Telecommunications Satellite Consortium (INTELSAT). If communications satellites are to meet the challenge of other communications developments, maximum advantage must be taken of the expanding communications, electronics and space technologies organized and mobilized under efficient management to achieve continuing progress.

Introduction

The continually accelerating growth of international communications is symbolic of 20th Century society. The increased interdependence of peoples and nations places unprecedented demands upon improved telecommunications services. The high level of management capability and technological inventiveness of the telecommunications agencies of the developed countries have met this demand within and between the developed countries.

The United States space programs have provided technological resources which, coupled with communications/electronic techniques, have produced communications satellites. These remarkable achievements provided a capability to make available to all the world telecommunications services heretofore

enjoyed by very few nations. They provide a primary tool for expanded international cooperation, improvement of world trade and commerce, and understanding between peoples.

These enhanced international telecommunications capabilities -- the result of technological innovation and accelerating demand -- provide a strong motivating force and a unique opportunity for creating new mechanisms of international cooperation.

Background of United States Policy and Objectives

From President Eisenhower in 1961 to President Nixon in 1969, four Presidents of the United States have held that the capabilities of space and telecommunications technology provided an opportunity for the United States to make these great technological advances available on an equal and non-discriminatory basis to all peoples of the world. The United States Communications Satellite Act of 1962 made these principles a matter of basic national policy. The contribution that American private enterprise has made to both space and telecommunications technology led to the conclusion that the best promise of early and efficient services lay in reliance upon the management unity, competence, and flexibility of a private enterprise institution, working in close association with NASA to provide launch services.

In the passage of the Communications Satellite Act of 1962, the establishment of the Communications Satellite Corporation, and active promotion and participation in the establishment of the International Telecommunications Satellite Consortium (INTELSAT), the United States sought the most direct route to make this new technology available to the greatest number of people at the earliest possible time and at the least cost. It continues to be the primary objective of the United States to use this remarkable technological capability to remove the barriers to inter-communications between peoples and to speed the day when all peoples of the world who have need therefore can enjoy the freedoms of communication which presently exist in very limited parts of the world.

The concept of a single global commercial communications satellite system is based upon experience with the development of advanced communications services within the United States and the conviction that, subject to proper guidance and regulation by governments, a unified systems approach holds the greatest promise of rapid attainment of these objectives. The United States commitment to establishment of a single global system was accepted by the Consortium and the principle was incorporated in the interim arrangements. Therefore, there

are compelling reasons to insure that provisions of the definitive arrangements support this objective in unequivocal terms. Accordingly, the U.S. position on the establishment of regional satellite systems and services outside the institutional framework of INTELSAT will be conditioned by its consideration of their impact upon the efficient attainment of the primary objective of a viable global system.

The foundation of the success which INTELSAT now enjoys was provided in large part by the technological and management competence the United States developed through its telecommunications enterprises and the NASA and Defense space programs. Technological capabilities are continuing to expand under the impact of these combined efforts, and the promise of the late 1970's makes the achievements of the 1960's pale in comparison. The United States Government reaffirms the objectives of the Act and dedicates future technological advances to the objective of improved telecommunications services for all peoples throughout the world.

The Continuing Efforts Toward Definitive Arrangements

The United States considers the fundamental issue in the negotiations for definitive arrangements to be continuation of the progress of the single integrated system of communications satellites toward efficient, economical, universal telecommunications services.

The U.S. Delegation will judge all issues concerning the proposed definitive arrangements in light of how they impact on the continuing progress and probable future success of the global system. Questions which may become issues concerning the scope of activities, membership and access, obligations of members, financial arrangements, procurement, and the impact of regional systems and domestic services are all fundamentally related to the adequacy, efficiency and economy, and the continued integrity and viability of the single global system.

Issues related to the legal form, the Assembly, the Governing Board, and the management question -- in other words, the structural organization and the operational management of the system -- also affect the efficiency, the systems engineering, development, planning, operational and business management competence of the organization responsible for the space segment of the single global system.

LIMITED OFFICIAL USEProposed United States PositionUnited States Policy and Objectives for the Future INTELSAT

The basic objective of the United States is to continue an efficient, unified business enterprise for the purpose of providing the best possible telecommunications services at the lowest cost to the maximum number of people around the world, through a technically advanced, operationally sound global commercial communications satellite system.

The U.S. position on each of these points will be judged against the extent to which they serve the end of providing this system in accordance with the obligations that the United States undertook with respect to its partners in INTELSAT when it participated in the negotiation of the interim arrangements.

The concern of the United States for the continued viability, integrity, efficiency and economy of the single global system is not only on its own behalf as the largest single user, but on behalf of our partners, including the newly developing countries, of which there are now almost 50 in the system.

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The internationally controlled space segment should provide the widest possible range of services, be entirely apolitical, supranational and universally available to serve all legitimate telecommunications needs of all members on a completely non-discriminatory basis and on the most economical possible terms. Unless the U.S. continues to defend this principle, it is not honoring its implied commitments to these smaller countries -- partners in the enterprise.

Provision of coherent efficient management characteristic of responsible business-type enterprise, whose dedication is focused on providing quality service, is equally necessary to the continued progress of INTELSAT. This necessitates non-political, financially responsible methods of decision-making in organizational units charged with providing telecommunications services. Aside from the concept of the single global system, the tough questions relate fundamentally to the problems of management: the nature of the manager; the relative powers of the governing body and an assembly; the concept of an international secretariat; and questions concerning the need for legal personality. In relation to all these problems, the basic U.S. objective is to maintain the capability for efficient business-type of management of all functions necessary to the technical, operational and financial success of the system.

FCC-- Scope
of Activities
3



May 8, 1969

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Position Paper (3)

Scope of Activities

Summary

The definitive arrangements should not contain any limitation whatever on the basic authority of INTELSAT to provide facilities for the transmission of information via satellite facilities.

Discussion

INTELSAT is a unique experiment in international cooperation for the provision of communications services via satellite facilities on a commercial basis. We are in the very infancy of the satellite era and can scarcely visualize, much less have any definitive view, regarding future developments or requirements for the transmission of intelligence via satellite facilities. Many different requirements are constantly emerging. As the organization encompassing within its membership those countries responsible for more than 95% of total international communications traffic and seeking to draw in all ITU members, INTELSAT should be in a position to respond to requests for space segment facilities to meet any requirements whatever for the transmission of intelligence via satellite. Unless such a broad charter is given, the

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ability of this organization to meet legitimate requirements and to serve the interest of all nations would be seriously circumscribed.

Instead of imposing artificial barriers on the scope of INTELSAT's activities, we should press strongly for complete freedom and flexibility for the organization. This does not mean that INTELSAT would necessarily be the only entity providing the space segment of communication facilities. Other entities, groups of nations or individual nations may very well, for sound and sufficient reasons, not desire to take advantage of INTELSAT's capacities and abilities for service and facilities other than public international communications. On the other hand, the Governing Body of INTELSAT may, from time to time, because of economic constraints, limitations of staff or the requirements of its prime charge, the provision of international public communication services and facilities via satellite, determine that it should not offer or respond to requests for particular satellite facilities outside the public communications sphere. These, however, would be ad hoc or policy decisions taken either by potential users of INTELSAT because of the circumstances then existing and should be subject to review or modification as circumstances

change. The basic charter should, however, be as broad as the potential use of the satellite technology itself.

While insisting on the broad charter, we could accept specific constraints such as the following:

- a. That INTELSAT should not undertake the provision of any space segment facility or service that would interfere with its prime function.
- b. That there should be specific economic criteria which must be satisfied before INTELSAT undertakes the provision of a space segment for other than communications services.
- c. That INTELSAT should not undertake to provide space segment facilities for direct broadcasting except in accordance with conditions and standards established by INTELSAT and other competent international organizations.



Comsat-- 4
Obligations
of Members

May 12, 1969

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Position Paper (4)

Scope of Activities/Obligations of Members

I. INTERNATIONAL SERVICES

A. INTELSAT's Authority with Respect to International Services

1. Public Services

INTELSAT should have as its primary objective the provision of space segment facilities for international public telecommunications requirements. Public telecommunications are the traditional point-to-point services, including telephony, telegraphy, telex, data transmission, radio and television relay.

2. Specialized Services

INTELSAT should be authorized to provide space segment facilities to meet the international specialized telecommunications requirements of members. In addition, INTELSAT should be authorized to cooperate in the establishment of independent user-owned and financed satellites for international specialized services. Specialized services are defined as those which are not considered public, such as aeronautical,

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earth resources, data collection, and direct broadcasting.

B. Obligations of Members with Respect to International Services

1. Public Services

Members should be obligated to utilize INTELSAT facilities to meet all of their international public telecommunications requirements subject to the single proviso that they would have the right to establish independent facilities to meet such requirements if the Governing Body makes a prior determination that such facilities:

- a) are limited to use by a geographically compact group of states linked by cultural or economic ties;
- b) are technically compatible with the INTELSAT system; and
- c) will not have substantial adverse economic effects on INTELSAT.

2. Specialized Services

Members should have the right to establish independent satellites to meet their specialized service requirements, subject to a prior determination by the Governing Body that such systems are technically

compatible with the INTELSAT system and subject to consultation with the Governing Body concerning their economic compatibility with existing INTELSAT facilities established to meet such requirements.

While we should seek the power of determination for the Governing Body with respect to technical compatibility of outside satellites both for public services and for specialized services, we could accept something less, such as a recommendation with respect thereto by the Governing Body or, failing that, coordination or consultation with the Governing Body, provided it is clear that the sponsoring countries are obliged to make their plans known to the Governing Body for its consideration and to seek to resolve any problem that may emerge.

II. DOMESTIC SERVICES

A. INTELSAT's Role with Respect to Domestic Services

INTELSAT should be authorized to meet domestic telecommunications requirements either through circuits in satellites also serving international traffic requirements, or in INTELSAT-financed satellites established to serve the domestic needs of a single member or members. In addition,

INTELSAT should be authorized to cooperate in the establishment of independent user-owned and financed satellites dedicated to domestic use.

B. Obligations of Members with Respect to Domestic Services

Members should have the right to establish independent satellite systems to satisfy their domestic requirements. However, no independent system should be established without a prior determination by the Governing Body as to the technical compatibility of the proposed system with the INTELSAT system.

III. FINANCIAL OBLIGATIONS

All members would be obligated to contribute to the costs of all INTELSAT-financed satellites. However, if there is strong objection to this we could accept a provision making contributions obligatory only for INTELSAT-financed satellites of the global system, i.e., not for specialized satellites.



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of Mem. and
Reg. System

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Position Paper (5)

Obligations of Members and Regional Systems

Introduction and Summary

The U.S. position has been that Parties and Signatories will utilize only the INTELSAT space segment to satisfy their international public telecommunications services requirements and will not establish or join in the establishment of any other space segment to meet such requirement. This position would not permit any regional systems outside INTELSAT, nor would it permit members to use a non-INTELSAT space segment to communicate with non-members who do not choose to utilize the INTELSAT system. This position leaves each member free to establish a space segment solely to serve its domestic requirements, subject only to a prior determination of the Governing Body concerning frequencies, orbital slots and harmful interference.

With two limited exceptions, the position the U.S. has taken with respect to the establishment or use of non-INTELSAT space segments for international public telecommunications services is sound and should be fully supported. However, we should be prepared to accept regional systems, subject to prior

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determinations of the Governing Body that they will not have substantial adverse economic effects on INTELSAT and are technically compatible. We should also be prepared to accept use of a non-INTELSAT space segment solely for the purpose of communicating with non-member countries not using INTELSAT. With respect to both regional and domestic systems, we should seek a requirement for a prior determination of technical compatibility by the Governing Body, but should be prepared, if necessary, to accept prior consultation.

Discussion

The basic commitment to a single global system for international public telecommunications services appears to have general acceptance, and extended discussion seems unnecessary. Only the possible exceptions (i.e., so-called regional systems and communications via non-INTELSAT space segments with non-members not using INTELSAT) are seriously in dispute.

Thus far, the proposals tabled by the U.S. have made no provision for regional systems. Further, some other countries are opposed to such systems, principally because of fear of the economic consequences, and it can be argued that any regional system will carry international communications which can and should be carried by the single global system.

However, the Europeans and some others strongly favor regional systems, and we should be prepared to accept them as a practical necessity, but only if there are provisions adequately safeguarding the interests of INTELSAT and of the individual members against their proliferation. First, there should be an acceptable definition of a regional system. The definition proposed by the Europeans appears satisfactory (i.e., a system serving a compact area with economic or cultural ties). It may not even be necessary to insist on such a definition limiting the "region" if there are adequate requirements for technical and economic compatibility, as discussed below.

Second, establishment of any regional system should be subject to a prior determination by the Governing Body that such system will be technically compatible with planned INTELSAT operations. Regional systems should certainly not be permitted which would interfere with planned usage by the INTELSAT space segment of limited

frequencies or orbital slots^{1/} or which would cause harmful interference. It may be argued that only prior consultation with INTELSAT should be required on these technical matters, particularly if consultation is all that is required in the case of a domestic system. However, even in the latter event, every effort should be made to obtain a prior technical determination in the case of regional systems, since otherwise

1/ The limitations on orbital slots are dual in nature. In the first place, under the present limited availability of frequencies, satellites must be separated by some distance in order to avoid mutual interference. While the minimum separation distance has not yet been determined, all agree that a limited finite number of satellites can be placed in synchronous orbit. The second and more serious constraint is that the useful positions in synchronous orbit are much more severely limited by the needs for mutual visibility between various populated areas. Therefore, although 360° of orbital space are available in the equator, the requirements of mutual visibility effectively limit the placement of satellites in the Pacific Ocean Basin to some 20° in order to maintain mutual visibility between the Western United States and Thailand. In the Atlantic Ocean Basin there is greater flexibility, but still, satellites which are to encompass Iran on the one hand, and earth stations in the U.S. on the other hand, are limited to less than a 30° range. The tightest constraints of all are present in the Indian Ocean Basin where satellites have very little range in order to insure mutual visibility between Japan and the United Kingdom. Obviously relatively free duplication of systems operating on the same frequency in any of these ocean basins would soon be a strain on available useful orbital slots.

there is a real danger that INTELSAT operations may be seriously affected,^{2/} and they are distinguishable from purely domestic systems which involve communications traditionally under the sole control of each individual country.

Third, and by far most important, establishment of any regional system should be subject to prior determination by the Governing Body that it would be economically compatible with INTELSAT. Specifically, there should be a determination that any such system would not have an undue adverse economic effect on INTELSAT operations. It would be unreasonable and even foolhardy to permit members to drain off international traffic if it would imperil the economic viability of the single global system or even if it would result in any significant increase in per channel costs over the system. The undeveloped countries would be most affected if there were serious adverse impact on the system and they could not derive benefit from any regional system without incurring duplicate earth station costs they could ill afford. Given these circumstances, a prior determination of economic compatibility,

^{2/} Thus, for example, there is a possibly much greater adverse effect upon INTELSAT from orbital slots of a regional system than from such slots in the case of a domestic system (see note 1, supra).

rather than mere consultation, is an essential prerequisite to establishment of a regional system. As a practical matter, however, we should be prepared to give the Europeans assurance that we will raise no economic objection to a purely European regional system to be used for television distribution with any other traffic incidental to the main purpose.

Another aspect of obligations of members concerns the use of space segments established by non-member countries. Of particular relevance to this question is the USSR Molniya system. This system is at present a highly elliptical system particularly designed to serve the USSR's particular needs. It appears, however, that the USSR may be proposing to supplant it with a synchronous system using a satellite placed in orbit in the Indian Ocean Basin. On the one hand, it is clear that all of the comments made above with respect to economic and technological considerations are also applicable to the use of a satellite system of non-members. On the other hand, it is clear that there is one essential difference, and that is that non-member countries having separate systems may not be using the INTELSAT system and members can communicate by satellite with such non-members only via a separate system. If non-members maintain their own systems which members are allowed to use to communicate with them, it would appear that inducements to become members

of INTELSAT may be reduced. These considerations argue for prohibiting the use of non-member systems by INTELSAT members. However, there are several contrary considerations. First, there are other inducements for membership. INTELSAT members have access to all developments of the system; have a voice in the planning, designing and operation of the system; and have a voice in the standards of the earth stations to be used for the system. Most important, the non-member country could use its system to communicate only with those members willing to go the expense of establishing duplicate earth stations. Only by using INTELSAT could such non-members establish satellite communications with a significant number of INTELSAT members. In any event, it seems highly unlikely that permitting members to use an outside system solely to communicate with non-members not using INTELSAT will be determinative of whether the USSR or other countries will join or use the INTELSAT system and would seem to have, at most, minimal adverse impact on INTELSAT's operations. Further consideration should be given to the problem which may arise if the USSR Molniya system becomes international in the Eastern Bloc countries and those countries also desire to join INTELSAT. One solution might be to treat Molniya as a regional system subject to the test suggested above. Another

problem could arise if the USSR does not join but becomes a user of INTELSAT. In that event, what happens to possible continued use of Molniya by INTELSAT members?

Finally, while members would be free to establish space segments outside INTELSAT solely to serve their domestic needs, we should have such systems subject to a prior determination by the Governing Body with respect to technical compatibility for the same reasons as indicated above as to regional satellites. However, if there is strong feeling that establishment of such domestic satellites should be solely the prerogative of each individual member, we should be prepared to settle for prior consultation on technical matters.

Conclusion

The expressed goal of INTELSAT should be, then, creation of a single global system for public communications. There should be no outright prohibition against regional systems, but such systems should be subject to a determination by INTELSAT that their creation would not have substantial adverse economic effect upon INTELSAT and subject to determination, or at least consultation, concerning technical compatibility. There should be no prohibitions against the use of communication satellites of non-member countries for communications with

non-member countries not using INTELSAT. (Policy of relationships between INTELSAT and the Russian system should be further considered if Russia either joins INTELSAT or uses the system without joining.) Domestic systems limited to handling traffic within any given country should be permitted, subject to a determination by INTELSAT, or at least consultation, with respect to orbital slots, use of frequencies and prevention of interference.

(Note: See Attachment A, for fuller discussion of economic problems.)

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Attachment A to
USDEL INTELSAT Conference
Position Paper

Obligations of Members and Regional Systems

Economic Constraints on Regional Systems

The economic constraints are four-fold. The first of these results from the fact that satellites in synchronous orbit have the unique ability of interconnecting all earth stations which are mutually visible to the satellite. However, any particular antenna of any earth station can communicate with only one satellite at a given time. Accordingly, if more than one satellite is placed into orbit over any one of the three ocean basins (Atlantic, Pacific or Indian Oceans) any country which desires to communicate with all other countries having earth stations in that ocean basin must duplicate its antenna. This would impose a serious financial burden, particularly on lesser developed countries, because the cost of an earth station is relatively fixed. Thus, the cost per circuit is almost directly related to the number of circuits handled via the particular antenna. The costs of duplication can, therefore, largely vitiate the benefits which all have envisioned would flow from the exploitation of the satellite technology.

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Secondly, it must be realized that the total cost of the system includes not only the cost of the space segment, but also all of the earth stations having access to it. For example, a country which has a need for 24 channels to communicate with other countries in the ocean basin would, under current circumstances, probably have an annual cost of close to \$50,000 per circuit for operation, maintenance and depreciation of its earth station. If there were to be two satellites, one of the global system and one regional in the same ocean basin with which it desired to communicate, it would be required to duplicate its antenna and assume the burden of several thousand dollars in additional annual expenses. Thus, its effective cost per channel for the same 24 channels could rise from \$50,000 to \$75,000 or more per annum. Such increase not only affects each country duplicating its antennas, but also the country with which it communicates even if the latter does not build a duplicate antenna. This is so because generally tolls for the important message telephone services are divided equally between the two countries involved in completing a circuit. The country at the other end, therefore, in its fixing of charges would have to take into account the increased requirements of the first country which has duplicated its antenna.

Thirdly, if in the presence of two satellites any particular country, or group of countries, did not desire to duplicate antennas, they might very well forego the unique advantage of direct communication with all other countries in the ocean basin. Such communication would then be indirect and would require landline extension at one or both ends. Thus, the advantages from a business, social and general communication of interest which flow from direct communications would tend to be lost. In addition, users of the services would be required to pay the cost of the extended land line hauls made necessary by the direct communication.

There is a fourth consideration of an economic nature. This consideration relates to the cost of the space segment. Satellites of the space segment are growing relatively more expensive with each generation as their complexity and power increases and as they require heavier and much more expensive boosters to position them in synchronous orbit. On the other hand, the costs per available circuit are reduced because the capacity of satellites increases much more rapidly than its cost. However, this potential can be realized only as actual use is made of the available capacity. Thus, a satellite of the INTELSAT IV generation will cost approximately twice as much as one of the INTELSAT III generation but will have more than

four times the INTELSAT III capacity. In addition, the expected life and orbit of the INTELSAT IV will be 40% longer than that of INTELSAT III. Thus, in theory, the cost per circuit-year of the INTELSAT IV should be considerably less than that of the INTELSAT III. However, this potential can be realized only when the available circuits are actually used and paid for. If under these circumstances duplication of the space takes place and the rate of fill is cut in half, the potential benefits of the INTELSAT IV could be vitiated.



State--Mem-
bership and
Access 6

May 8, 1969

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USDEL INTELSAT Conference

Position Paper (6)

Membership and Access

Summary

Membership would be confined to members of the ITU, but all states and areas could be permitted direct access on an equitable basis.

Membership

Working Group C of Committee I recommended unanimously that membership in INTELSAT should be open to member states of the ITU, with one member of the Group, Tunisia, recommending that states not members of ITU also could be admitted by an appropriate majority vote of the proposed Assembly (Com. I/94).

In the discussion of membership in Committee I, a large number of members, including the U.S., supported the requirement of ITU membership and it was clear that a large majority of those concerned support this concept. A few Arab and Latin American members and several communist country observers spoke in favor of admitting non-ITU members.

The issue can be regarded as largely settled if we stick with the position we have taken in favor of the ITU criterion since it is not a potential sticking point with anyone who takes

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the opposite view. A reversal, on the other hand, probably would precipitate a real battle, with uncertain outcome. The issue is not a significant practical issue in INTELSAT and not worth a major battle.

The Soviet Union has indicated an interest in eliminating the ITU membership requirement and making eligibility for membership universal. However, this is no different from the Soviet line in all other international bodies, and their failure to achieve such a universal membership rule in other organizations has not deterred them from participating in those organizations. There is no reason to believe that this would be a fundamental obstacle to Soviet participation in INTELSAT.

Access

The question here is direct access to the system, through their earth stations, by non-members.

An overwhelming majority of the many members that addressed themselves to this question, including the U.S., favored allowing direct access by non-members, on an equitable basis, and the question can be regarded as settled in principle.

Working Group C of Committee I agreed unanimously on a draft article, using the words "pursuant to appropriate equitable arrangements" (Annex 2 to Com. I/94). The term "equitable" was used instead of "non-discriminatory" in order to avoid a controversy as to whether charges taking

account of members' capital investment and risk would be discriminatory. The words "telecommunications entities in states, countries, and areas not members of the Organization" were used to avoid an issue as to whether certain areas (such as East Germany) are or are not "states" and to avoid any implication of recognition of the regimes in those areas.

Working Group 3 of Committee III recommended unanimously that the organization, in establishing space segment utilization charges for non-members, should take account of the fact that non-members have not borne any of the risks and obligations of membership (Doc. 16, Appendix C). The paragraph setting this forth would be added to the article recommended in Committee I. It was understood in Committee III to mean that a rate charged to non-members should take account of both the cost of the members' capital and the risk they have taken in investing in the system. Hence, assuming this recommendation is accepted, "equitable" charges would include compensation for capital and risk. Details would be left to the Governing Board. The recommended wording is perhaps better than the U.S. draft (Article VIII(d)) because it makes clear that account is to be taken of risk as well as capital cost.



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State Draft
June 19, 1969

US DEL. INTELSAT CONFERENCE
Position Paper 7A
LEGAL FORM

Summary of Position

INTELSAT's legal structure should permit Signatories to retain direct participation in the management and operation of INTELSAT and must continue the Signatories' liability for INTELSAT's obligations. Although the United States position has been that this is best assured if INTELSAT remains a joint venture without legal personality, the United States will agree that INTELSAT be given legal personality and capacities necessary for it to act in its own name, provided that it is not made a corporation and that there is no basic change in the distribution of decision-making responsibility. The United States also prefers that Signatories, rather than INTELSAT, continue to own INTELSAT space segment assets. A provision giving INTELSAT legal personality and certain capacities is included in the delegation's revision of Document 10.

Background of Position

The United States position has been that, under the definitive arrangements, INTELSAT should continue as a joint venture without legal status separate from its participants. INTELSAT's business would continue to be conducted through Signatories acting on behalf of INTELSAT either as Manager or as Signatory. Ownership of INTELSAT assets and liability for its obligations would remain directly in the Signatories rather than in

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a separate entity. In Committee II and its Working Group on Legal Status, the United States position found no support. Most, if not all, other nations favored giving INTELSAT separate legal personality. The objective of most of them is to provide a legal framework upon which INTELSAT can build in order to operate independently of its participants, principally ComSat. In a number of other cases the position proceeds from a sense that an international organization should or must have legal personality regardless of its practical use.

The United States has had the further difficulty that an INTELSAT with legal personality might be treated as a corporation rather than a partnership for purposes of ComSat's federal income tax. However, the Internal Revenue Service has now ruled that an INTELSAT having legal personality, but without free transferability of ownership interests and without limited liability of owners for INTELSAT obligations, need not be treated as corporation, and may continue to be treated as a partnership.

Explanation of Position

The United States can accept a separate legal personality for INTELSAT to the extent necessary for the performance of its functions. In particular, the Conference would expect INTELSAT to be given the capacities to (i) contract, (ii) acquire and dispose of real and personal property, and (iii) institute legal proceedings. This would permit business activities to be carried on directly in the name of INTELSAT. Since it is essential to INTELSAT's partnership tax treatment, the United States must maintain the principle that the Signatories remain liable as partners for INTELSAT obligations. The United States may argue that unlimited liability is essential to INTELSAT's business credit.

The United States opening position will be that INTELSAT space segment assets should continue to be owned by Signatories in undivided shares rather than by INTELSAT. Supporting argument will be drawn from the underlying concept of INTELSAT that it is a co-operative communications effort and from the historical practice that international communications facilities which are jointly procured and operated are jointly owned. If, however, no significant support for continued separate ownership of the space segment assets develops, the United States can agree that INTELSAT may own such assets if the FCC rules that notwithstanding such ownership, ComSat may continue to include its aliquot share of them in its rate base.

Mr. J. Conell

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

May 19, 1969

MEMORANDUM

TO: Mr. Abott Washburn
Deputy Chairman U.S. Delegation to INTELSAT Conference

FROM: FCC Staff

SUBJECT: Undivided ownership of the physical assets of the space segment.

1. It is our view that the underlying motive behind the drive to give INTELSAT legal personality is the desire to interpose a strong entity between Comsat and members of INTELSAT. Thus, the drive for legal personality has been paralleled with a drive for a Secretary General and an International Secretariat which would perform both the administrative and technical functions for INTELSAT and deprive Comsat of any part of the managerial role. Because of the desire to have an entity other than Comsat contract and carry out all of the functions of INTELSAT, this legal entity is to be endowed with powers to contract, acquire, hold and dispose of property and to sue or be sued.

2. It appears to us that we have met the substance behind the drive by agreeing, first, to an Administrative Secretariat to take over some of Comsat's functions as Manager and, second, to endowing the organization with a legal personality which would enable it to contract and to carry on the various functions of INTELSAT in its own name (albeit through its agents, the International Secretariat and Comsat, as manager). Under these circumstances, it appears to us that we can make a strong argument in favor of maintaining ownership of the physical assets of INTELSAT on an undivided basis as has obtained under the Interim Arrangements. The argument would be based upon the following:

- a. Undivided ownership reflects the basic underlying concept of Intelsat.

INTELSAT provides only a portion of the total communications link between the customers at the two ends of the circuit. Essentially this link is used by the operating entities at each end to provide service directly to the customers desiring to communicate with each other. The entire basis and philosophy of the organization is built upon the concept of ownership related to use. In essence, the various member nations of INTELSAT have joined, in

order to have available to them directly, a facility to give them more efficient and economical international communications. They invest in this facility amounts which are designed to be related as closely as possible to their actual use of the facility and we are proposing periodic adjustments to keep ownership directly related to use. In essence, therefore, each member supplies that proportion of the total investment, maintenance and operating sums necessary to supply such member with the number of circuits he requires in relation to the total number of circuits required by all members. Under the contrary proposal, members would no longer own directly the facilities they were creating for their use, but instead would have an interest in INTELSAT, an organization with separate identity and functions. In this respect INTELSAT is, of course, entirely different from an organization like the World Bank which collects its funds from certain countries for the purpose of lending them to the other countries. These funds are fungible so that no part of the contribution of any country is identifiable in the sums loaned to another country. It is, therefore, necessary for the Bank itself to have the funds and parcel them out, and similarly, to collect on loans to have additional funds available. In INTELSAT the contribution of each country is directly related to its own present and foreseeable proportionate needs.

- b. The concept of undivided ownership is also the one which is historically obtained when international communications facilities have been jointly procured and operated.

This is true of all of the transatlantic cables, the Puerto Rico cables and the Pacific cables. While historical precedents are not necessarily the final answer, good reason should exist for changing from a heretofore successful method of international operation to a different method, particularly when no one has suggested any technical, operational or economic benefits which would result from the change.

In sum, we believe that we should strongly support continued ownership of the physical aspects of the space segment in undivided shares by the members of INTELSAT on the foregoing bases:

- (a) The parallelism between the concept of INTELSAT and undivided ownership;
- (b) The long standing precedents in the field of international communication which demonstrate the successful operation under the undivided ownership concept.

Our private concern about undivided ownership goes beyond these arguments. It is based on an almost intuitive feeling, which is difficult to document, that giving INTELSAT ownership of the assets may change its nature to our detriment, may decrease U.S. and Comsat influence for efficient operation and may eventually tend in the direction of taking control of international facilities from the individual countries and giving it to INTELSAT.

To our foreign partners, we can stress that there is no need to go against (a) and (b), above, because we have satisfied the underlying motivations for INTELSAT ownership by the other steps we are taking. Thus, undivided ownership does not affect any future developments as to manager, etc.; these developments, if agreed upon, can be implemented just as readily under the concept of undivided ownership.

Mr O'Connell

DEPARTMENT OF STATE
THE LEGAL ADVISER

May 12, 1969

TO: INTELSAT - Governor Scranton
FROM: L/E - Alden Lowell Doud *ald*
SUBJECT: Legal Form Position Paper

The committee you appointed to consider this paper met today. The following attended: Mr. Donahue (ComSat), Mr. Gantt (ComSat), Mr. Leive (ComSat), Mr. Ende (FCC), Mr. Greenburg (FCC), Mr. Miller (State), Mr. Doud (State). The State draft of May 7 was dealt with.

The committee discussed the paper on the hypothesis that INTELSAT would continue to be a partnership for United States income tax purposes and that ComSat could continue to include its investment in INTELSAT in its rate base. The committee agreed that continued separate ownership of the INTELSAT space segment assets should be the United States' opening position. Since many members may believe that INTELSAT ownership of these assets (as well as limited liability) is a logical and even inevitable consequence of legal personality, the committee agreed that the position must be presented in the best possible light so as to obviate any impression that the U.S. is giving only lip service to legal personality. It was suggested that this position be supported by arguments about the nature of the INTELSAT organization and its evolution, particularly the philosophical undesirability of interposing an entity between the assets and the owner-user of the assets. It was also suggested that the members may not resist the position if the U.S. points out that its willingness to change its position on legal personality and on the Secretariat meets the great part of the demands to reduce the dominant role of the Manager. Presented in this light, separate ownership might be a relatively acceptable position.

Mr. Ende agreed to reduce reasons in support of the position to writing and to furnish them before your departure next Monday. No one believed that the position, if rejected after efforts to sell it, should be a sine qua non of the new agreement.

We suggest that it may be useful to test the notion of continued separate ownership as part of your discussions on other United States positions.

A number of specific suggestions for language changes in the State draft of May 7 were made. It was agreed that a final draft should await IRS action on the tax question and FCC action on the rate base question.

Clearances:

E/TD - Mr. Miller *ald* FCC - Mr. Greenburg *ald* ComSat - Mr. Donahue *ald*

Mr. O'Connell

DEPARTMENT OF STATE
THE LEGAL ADVISER

May 14, 1969

TO: INTELSAT - Governor Scranton
FROM: L/E - Alden Lowell Doug *ald*
SUBJECT: INTELSAT Tax Status

Bill Miller and I attended a meeting at the IRS today on this problem with Bruce Lane, ComSat's Assistant General Counsel for tax matters, his associate Jim Amdur, and Bill English.

The IRS' opening suggestion was that the specific phrase "juridical personality" be deleted from all INTELSAT papers and from the draft agreement. We responded that this would be impossible to negotiate. We then had an extended discussion of the meaning of "juridical personality" in the context of international law and international organizations, the upshot of which was that ComSat and this office were asked to amend their respective draft submissions to include an explanation of "juridical personality" and a statement that its use was not tantamount to creating an international corporation.

The presiding IRS official was Mr. Hatfield of the Income Tax Division. It seems clear that his division is prepared to go along with a favorable ruling. Mr. Hatfield closed the meeting by asking representatives of the IRS' General Counsel whether the turn of our discussion would not mean that you could be assured that there would be favorable ruling. Their response was that it seemed we were heading in that direction.

By the close of the first INTELSAT conference, the United States was saying unofficially that if we could solve domestic problems we might give on the issue of "legal personality." In our view we could now exhibit forward movement by your stating in Europe that the U.S. believes its domestic problems will be solved favorably and could therefore negotiate an agreement including "legal personality" if domestic problems are resolved as expected. We hope to be able to cable the final ruling to you in Europe.

It should be borne in mind, however, that in our view limited liability of INTELSAT partners for INTELSAT obligations does not follow from legal personality. This view, we believe, is legally sound, but a substantial number of others hold to the contrary. Unlimited liability is essential to INTELSAT's partnership status under the U.S. Internal Revenue Code. The IRS has said it is satisfied with silence on the point in the agreement plus the legal opinion of the State Department. We will not, however, be in a position to acquiesce in stated views to the contrary or to act inconsistently with the principle of unlimited liability.

Clearance: TD - Mr. Miller *ald*

U.S. POSITION PAPER

LEGAL FORM

Summary of Position

INSERT

INTELSAT's legal structure should permit the Signatories to retain direct participation in the rights and obligations of the Organization. This can best be ensured if INTELSAT remains an unincorporated joint venture. However, the U.S. will agree if it appears necessary to do so that INTELSAT be imbued with legal personality and capacities to the extent necessary to act as an entity in the exercise of its functions and achievement of its purposes, provided there is no significant adverse effect on Comsat's tax and rate position or change from the basic attributes of an unincorporated joint venture. A provision imbuing INTELSAT with such personality and capacities is attached.

Background of Position

The U.S. position has been that under the definitive arrangements INTELSAT should continue as a joint venture without independent legal status separate from its participants. Primary reliance would continue to be placed upon conducting INTELSAT's business through the individual Signatories, acting for and on behalf

Insert: "The U.S. view is that no compelling reason exists for a fundamental change from the unincorporated joint venture form of organization established under the Interim Arrangements and that such an institutional arrangement possess basic attributes which lead to an efficient and successful international business undertaking."

of INTELSAT either as Manager or as Signatory. Further, the ownership and administration of INTELSAT assets and the liability for INTELSAT's financial obligations would bear directly upon the Signatories rather than on a separate legal entity.

This position met with considerable opposition during deliberations in Committee II and its Working Group on Legal Status, a significant number of our partners favoring the establishment of INTELSAT as legal personality separate from its partners. The principal objective of those partners is not to create explicit legal capacities for INTELSAT which would better enable Comsat to carry out the management functions of the Organization. Rather, by establishing INTELSAT as a separate and distinct legal entity they would provide the basis for INTELSAT's operational independence from its participants, of which Comsat is their primary concern.

Explanation of Position

The U.S. can accept imbuing INTELSAT with legal personality to the extent necessary for the exercise of its functions and the achievement of its purposes, and, in particular, the capacity to (i) contract; (ii) acquire and dispose of real and personal property, and (iii) institute legal proceedings. This would enable INTELSAT to present itself as an entity in respect of business

activities but should not dictate any organizational restructuring of INTELSAT or modification of the concept of direct participation by the Signatories in the ownership, in undivided shares, of the space segment and the obligations derived in connection therewith. Specifically, acceptance of such a position should not result in the abandonment of the following basic attributes of the joint venture:

- (i) the ownership of the space segment being retained in undivided shares by the Signatories,
- (ii) the Signatories remaining liable as partners for the debts and obligations of the Organization, and
- (iii) the performance of basic management functions, including space segment procurement, by the majority partner, Comsat.

*SUBSTITUTE

[Adherence to these conditions will best ensure the ~~continued leadership of the U. S. in commercial satellite communications,~~ avoid significant adverse effects on the U. S. participant's tax position, and ensure that Comsat will be treated for regulatory rate base purposes as the direct owner of the U. S. share of the space segment.]

* Substitute: Adherence to these conditions will best insure the continued unity and efficiency of system management and foreclose the opportunity to convert management to an international committee. It will further avoid significant adverse effects, etc.

ATTACHMENT

INTELSAT shall possess juridical personality to the extent necessary for the exercise of its functions and the achievement of its purposes, and, in particular, the capacity to:

- (1) contract;
- (ii) acquire and dispose of real and personal property;
- (iii) institute legal proceedings.

State Draft
May 7, 1969

U.S. Position Paper
Legal Form

Summary of Position

INTELSAT's legal structure should permit Signatories to retain direct participation in the management and operation of INTELSAT and should continue the Signatories' liability for INTELSAT's obligations. Although the United States position has been that this is best assured if INTELSAT remains a joint venture, the United States will agree that INTELSAT be given legal personality and capacities necessary for it to act on its own behalf, provided there is no significant tax cost to Comsat or basic change in the distribution of decision-making responsibility from the joint venture. A provision giving INTELSAT legal personality and certain capacities is attached.

STATE
DRAFT

Background of Position

The United States position has been that, under the definitive arrangements, INTELSAT should continue as a joint venture without legal status separate from its participants. INTELSAT's business would continue to be conducted through Signatories acting on behalf of INTELSAT either as Manager or as Signatory. Ownership of INTELSAT assets and liability for its obligations would remain directly in the Signatories rather than in a separate entity. In Committee II and its Working Group on Legal Status, the United States position found no support. Most, if not all, other nations favored giving INTELSAT separate legal personality. The objective of most of them is to provide a legal framework upon which INTELSAT can build in order to operate independently of its participants, principally

Comsat. In a number of other cases the position proceeds from a sense that an international organization should or must have legal personality regardless of its practical use. .

Explanation of Position

The United States can accept a separate legal personality for INTELSAT to the extent necessary for its functions and purposes. In particular, this means giving it the capacities to (i) contract, (ii) acquire and dispose of real and personal property, and (iii) institute legal proceedings. This would enable INTELSAT to act on its own behalf in business activities but should not imply any radical redistribution of the powers of the Board of Governors or of the technical and operational duties of the Manager. Furthermore, it should not mean any retreat from the principle that the Signatories remain liable as partners for the obligations of INTELSAT, so long as such liability seems important either to INTELSAT's credit as a business or to Comsat's tax costs. The United States would also prefer that ownership of the space segment be retained in undivided shares by the Signatories themselves. If no significant support for continued separate ownership of the space segment assets develops, the United States can agree that INTELSAT may own such assets.



May 8, 1969

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USDEL INTELSAT Conference
Position Paper (8)
The Assembly

Summary

There would be an Assembly of all governments or signatories, which would have only general responsibilities. Provided the assigned responsibilities are satisfactory (the working paper submitted by India and the UK to Working Group I-B is a generally satisfactory list of functions) it would make decisions without weighted voting on the basis of a two-thirds majority.

Composition

The first question is who should sit in the Assembly, governments or telecommunications entities (signatories). The U.S. approach is to leave this choice to the member governments rather than require one or the other in the agreements. When we say governments or signatories we mean one or the other or both, and the proposal to send governments or signatories should be read in this sense.

There was a proposal at the Conference to divide the Assembly into two tiers, one governmental, which would meet at less frequent intervals, and one for entities, which would meet more frequently, perhaps annually. We have not opposed

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this alternative, but our position is to support a single Assembly with either governments or telecommunications entities participating.

In the discussion in Committee I, 14 countries favored a single Assembly composed of governments; no one spoke for a single Assembly composed of entities; 6, including the U.S., favored a single Assembly composed of governments or entities as governments may decide for each meeting; 3 favored two Assemblies (the four-tier concept), and 2 more would accept that if it were the majority choice. Thus, 60% of the members who spoke on the issue preferred a single Assembly of governments. The four-tier approach has not gained significant support and probably will not be pushed.

Powers of the Assembly

The U.S. conception of the role of the Assembly has been, from the outset, that the Assembly should be relatively weak as compared with the Governing Body. Our October 1967 paper proposed that the Assembly be empowered: (1) to receive and consider a report from the Governing Body concerning the organization's activities and performance during the preceding year and the organization's plans and programs for the future; (2) to consider and approve or disapprove recommendations of the Governing Body concerning any change of Manager or the arrangements between the

organization and the Manager; (3) to receive and consider such other reports as shall be furnished to it by the Governing Body and to act upon all such matters referred to it by the Governing Body; and (4) to discuss matters relating to operation of the INTELSAT system and make recommendations thereon to the Governing Body.

Our initial proposal was augmented in our draft agreements (Doc. 10) by addition of the following Assembly powers: (1) selection of a limited number of representatives to be seated on the Governing Body; (2) consider and act upon any recommendation of the Governing Body concerning the upper limit on net contribution to the system by members; (3) consider and act upon recommendations by the Governing Body to amend the Operating Agreement; (4) consider proposed amendments to the intergovernmental agreement and determine whether or not a plenipotentiary conference of the Parties should be convened for that purpose; and (5) consider and act upon recommendations that Parties are deemed to have withdrawn from the agreements for failure to comply with their obligations.

During the first session of the Conference the powers of the Assembly received a good deal of attention in Working Group B of Committee I. Views expressed by the members could be categorized loosely as in two basic groups, those favoring

a relatively weak Assembly and those favoring a strong Assembly. Ten countries, including the U.S., favored the relatively weak body; twelve favored a strong Assembly. The weak role group was led by the U.S., U.K., Japan, Canada, India and Germany. The strong role group was led by France, Sweden, Switzerland, Mexico and Brazil.

Toward the end of the Conference Working Group B received a proposed list of Assembly powers jointly submitted by India and the U.K. (Com. I/111, pp 8-9). The U.S. spokesman expressed support for this list with reservations on the question of the internationalized manager, the appointment of an arbitral panel, and the role of the Assembly in approving specialized services. With these reservations, however, it appears that it would be entirely consistent with the U.S. goals on this issue to support the further consideration of the India-UK list of powers while working for appropriate modifications. That list includes, in effect, all the powers we had previously suggested for the Assembly.

Concerning specific functions on the India/U.K. list on which we reserved:

(i) We would prefer not to have the Assembly approve the appointment of the head of the Secretariat, leaving this entirely to the Governing Body.

(ii) If the existing arbitration agreement is to be carried over essentially intact in the definitive arrangements, we would prefer that the arbitration panel be selected by the Governing Body, but there do not appear to be compelling reasons why the Assembly could not have a role in the panel selection.

(iii) The UK/India proposal does not take a position on the role the Assembly would have with respect to specialized services. We would support that the Governing Board be able to act on specialized service proposals without Assembly approval.

Voting in the Assembly

Our initial position (October 1967) on Assembly voting was "All decisions of the Assembly shall require the concurrence of a majority of the members of the Assembly holding at least two-thirds of the investment shares of the organization". This is essentially a combination of one nation-one vote and weighted voting. We added to this proposal in Doc. 10 a "present and voting" clause.

At the first session of the Conference the U.S. and Mexico expressly favored weighted voting in the Assembly, with New Zealand saying "perhaps" and Spain agreeing on significant questions. Chile and France (which favored a strong Assembly) said voting should depend on powers. On the assumption that

the Assembly would be weak, Canada, Germany, India, Japan, Malaysia and the U.K. favored one nation-one vote. There were 10 others favoring one nation-one vote without conditions, about half of which also clearly favored a strong Assembly.

There is obviously very little support for weighted voting in the Assembly, but we should not concede the point as a change in our position without a clear relationship to a relatively weak Assembly. Going into discussion we could say that the weighted element of our proposed vote could be dropped if it is clear that the Assembly will not enter into the Governing Body's responsibilities and powers.

At the Conference 15 countries favored requiring a numerical two-thirds majority vote on important or substantive questions, but would accept a simple majority for routine and procedural questions. Most would favor expressed identification of at least some major issues which would require the two-thirds vote. There was no suggestion of simple majority on all issues and no suggestion of two-thirds on all issues. The U.S. position on this point should be with the apparent consensus favoring two-thirds on major issues, given elimination of the weighting element.



May 16, 1969

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USDEL INTELSAT Conference

Position Paper (9)

The Governing Board

Summary:

The Governing Board, like the Interim Committee, would be the basic decision-making body. Membership would be based on the largest investment, individually or collectively, but with some additional members selected to ensure broader representation. It would operate on a weighted vote basis, with voting power proportionate to investment. Decisions would require a two-thirds weighted vote, except that no single member, or possibly two or three members, could alone veto a decision favored by all others. However, if there is a provision against veto by two or three members, an affirmative vote of a specified percentage of the investment represented on the Governing Body should be required. A requirement that the two-thirds weighted vote include a substantial number of the members of the Board, such as one-third, would be acceptable.

Functions:

The basic thrust of our position on Board functions has been from the outset that it should take over ICSC functions, with a few additions relating to contracting with the Manager and overseeing the Secretariat. Only certain things assigned

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to the Assembly would be subtracted from the current ICSC functions. Working Group B of Committee I reached no conclusions on this subject, but it appears to be the general view of the members that the ICSC functions should be retained as is, appropriately adjusted to take account of the Assembly.

Canada, Germany and India proposed a list of functions for the Board in Com. I/76. We proposed a briefer list, condensing and combining many individual parts of this list. The substantive differences in the two lists are based primarily on differing assumptions regarding the functions of the Assembly and the existence of a Secretariat and presumably can be resolved rather easily when these questions are settled. For example, Com. I/76 includes appointment of the head of a secretariat, his deputy and a staff, and responsibility to set wage scales and other administrative standards for the secretariat. Presumably we too would give the Board such powers if there is to be a Secretariat.

On the general question of Board functions, decisions on structure, scope of services and Assembly powers will affect the outcome, so the U.S. position on Board functions should be somewhat flexible within the general concept of following ICSC functions as closely as possible. We will

want to reserve to the Board final decisions on all significant financial, technical and operational questions. The U.S. position on the Board's role concerning the arbitration panel will depend on the outcome of the arbitration agreement negotiations, but for the present we should support maintenance of the present ICSC responsibility of selecting arbitration panel members from among the nominees of member countries.

Composition

Working Group B of Committee I agreed unanimously that representation on the Board should be by Signatories, to be accompanied by such advisers as they may wish. It was generally agreed that the size should be limited and, in terms of specific numbers, Algeria, Kuwait and Pakistan said no more than 25; Canada, Germany and India said 22; Australia and the Philippines suggested 20; and Israel and Kenya suggested 18. No one suggested more than 25 or less than 18. More than a dozen countries (US) which spoke on the question (about 75% of all that addressed the question) favored seating members which possessed singly or jointly a minimum investment share. The additional U.S. proposal that any five members could seat a representative regardless of vote was supported by Algeria and Thailand, while Chile (and others expressly and by implication) opposed it as contributing

to an unwanted increase in the size of the Board. While Algeria, Venezuela and Kenya sought more attention to geographical distribution in determining representation on the Board, more than half a dozen countries (US) suggested Assembly appointment (usually appointment of about 4 countries was suggested) to assure geographical representation.

The U.S. position on this issue, set forth in Article VI of Doc. 10, was that single and joint holders of a specified minimum investment share, representatives of any five countries, and Assembly-appointed members may be seated. However, we probably could accept any formula which will seat the largest investors, accommodate some small investors, assure reasonable geographic representation, and keep the total number of members within a reasonable limit.

An analysis of the possible makeup of the Governing Board under four possible formulas is attached. It suggests that there would be little practical difference between formulas to seat the 10 or 12 largest investors or holders of 2% or 1.5% and that there will be no room for members appointed by the Assembly if there is a ceiling of 20 (or 22) members.

Voting

The U.S. position in Document 10 on voting is that (a) votes should be proportionate to investment; (b) no

member has more than 50% of the total vote; (c) majority weighted vote on procedural questions and two-thirds majority on substantive questions, although unanimity is to be sought on all issues. Thailand and the UK are the only other countries expressly supporting voting directly proportionate to investment. Kuwait and Canada proposed spreading the voting power through an equal base veto to each member, plus a vote reflecting relative investment or use levels. Algeria, Greece and Syria supported such a proposal.

About 10 countries have expressed concern on the veto powers of the largest 1, 2 and 3 investors. In principle, the U.S. and the UK agreed during the Conference that some provision could be made to limit the veto power of the largest members, but the UK expressed serious concern about the possibility that the smaller investors could impose decisions on 2 or 3 of the largest investors. No conclusions or consensus emerged on this issue. The UK proposal for overcoming the problem of large investors overriding the small investors was to require a numerical majority of the Board as well as the weighted vote to carry an affirmative decision. While this seems an overly strong reaction, we could accept a similar proposal that would require that at least one-third

of the members concur in a decision supported by at least two-thirds of the weighted vote.

As a going-in position for the U.S. on the veto issue in the Governing Board, we should agree that no single member should have a veto, provided all other members vote affirmatively, i.e. absences or abstentions would count, in effect, as negative votes. Adjustments of that position to a provision against veto by 2 or 3 members could be made at a later time. However, if there is to be a provision against veto by 2 or 3 members, there should be a requirement for an affirmative vote of a specified percentage (perhaps 40%) as well as an affirmative vote by all other members of the Board, i.e. with absences or abstentions counting in effect as negative votes. This would avoid affirmative decisions by a small percentage of the investment. It would permit veto by the largest three, but not by the U.S. and two small investors.

Only Kenya has recommended equal votes for all members of the Governing Board, but that proposal is in the context of a curious composition formula; 6 largest members, 6 middle members and 6 small members geographically representative.

The record is not sufficiently specific to report any grouping, trend or consensus on the voting majorities required, but it seems likely that a two-thirds majority of

weighted votes will be adopted for substantive issues. This is the U.S. position. On procedural issues some have recommended a simple majority of Board members while the U.S. supports a simple majority of weighted votes. It does not appear to be necessary or desirable to modify our existing position on majorities at this time.

Attachment A -

Representation in the Board of Governors.

REPRESENTATION IN THE BOARD OF GOVERNORS

Introduction

The purpose of this paper is to examine alternative formulations for individual and group representation on the basis of investment shares in the Board of Governors under the definitive arrangements. Under each alternative, representation would also be available on the basis of any five Signatories joining together, and the Assembly could, as necessary, select representatives to bring the total number of representatives to 20. These latter two assumptions follow Article VI of the U. S. draft Intergovernmental Agreement, presented to the INTELSAT Conference.

Four alternatives are examined. In the first, each Signatory among the ten largest investors would be entitled to a representative on the Board of Governors; each group of Signatories that agreed to combine investment shares for purposes of representation and whose combined investment shares equaled to or exceeded the lowest investment share needed for individual representation would also be entitled to a representative. The second alternative is exactly like the first, except that the basis for representation would be the largest twelve rather than ten investors.

The third alternative would require a Signatory to hold at least 2.0 per cent of the INTELSAT investment to have an individual representative on the Board of Governors. The fourth alternative would require an investment share of 1.5 per cent to have an individual representative. In addition, any Signatory or group of Signatories whose investment share equaled or exceeded 2.0 per cent in alternative three or 1.5 per cent in alternative four, would be entitled to a representative on the Board of Governors.

Summary of Results

The probable composition of the Board of Governors for the years 1972 and 1973 was examined under each alternative. It was discovered that the results obtained under alternative one (top 10 members) and alternative three (2.0 per cent) were

virtually identical, and the results under alternative two (top 12 members), and alternative four (1.5 per cent) were also similar. In addition, it was found that the role of the Assembly would be minimal under all of these alternatives, as the Board of Governors would exceed 20 members in each case.

Methodology

INTELSAT traffic estimates were used to determine the probable investment shares of Signatories. ICSC-36-10 as revised by ICSC-37-10 was considered to be the most reliable source of traffic estimates presently available. NASCOM traffic was included in the estimates. See attachment.

Groups of Signatories, including potential members of INTELSAT, that might form under (ii) and (iii) were determined on the basis of past INTELSAT practice and probable future trends.

Alternative 1

Description

The Board of Governors would be composed of:

- (i) one representative from each Signatory whose investment share, taken as a percentage, is among the ten largest investment shares of all of the Signatories;
- (ii) one representative from each group of Signatories who have agreed to combine their investment shares for purposes of representation, and whose combined shares are not less than the lowest investment share, taken as a percentage, which is required for representation to (i) above;
- (iii) one representative from each group of five or more Signatories that agree to joint representation, whatever the size of their combined investment shares.
- (iv) Provided the number of representatives selected pursuant to (i), (ii), and (iii) does not exceed 20, that number of representatives required to bring the total to 20 as may be selected by the Assembly.

Alternative 1

The results for the years 1972 and 1973 would be as follows:

(i) pursuant to (i), the following countries would be represented:

<u>1972</u>	<u>1973</u>
1. United States	1. United States
2. United Kingdom/Ireland	2. United Kingdom/Ireland
3. Japan	3. Japan
4. Australia	4. Pakistan
5. Pakistan	5. Australia
6. Philippines	6. Italy/Vatican
7. Spain/Portugal	7. Philippines
8. Italy/Vatican	8. Spain/Portugal
9. France/Monaco	9. France/Monaco
10. Canada	10. Canada

(ii) Pursuant to (ii), it is possible that the following groups would be created:

11. Colombia/Venezuela/ Ecuador	11. Thailand/New Zealand/ Malaysia/Singapore
12. India/Ceylon/Indonesia	12. Colombia/Venezuela/Ecuador
13. Brazil/Peru	13. Germany/Denmark/Norway/ Sweden
14. Argentina/Chile	14. Brazil/Peru
15. Germany/Denmark/ Norway/Sweden	15. India/Ceylon/Indonesia
16. VietNam/China/Korea	16. Argentina/Chile
17. Thailand/New Zealand/ Malaysia/Signapore	17. VietNam/China/Korea

(iii) Pursuant to (iii), it is possible chat the following groups would be created:

18. Netherlands/Belgium/ Luxembourg/Switzerland/ Austria/Liechtenstein	18. Netherlands/Belgium/ Luxembourg/Switzerland/ Austria/Liechtenstein
19. Arab Group	19. Arab Group
20. Arab Group	20. Arab Group
21. Central American Group plus Mexico	21. Central American Group plus Mexico
22. African Group	22. African Group
23. Greece/Turkey/Iran/ Yugoslavia/Israel	23. Greece/Turkey/Iran/ Israel/Yugoslavia

Alternative 1 (cont'd.)

(iv) Because the total number of representatives arrived at pursuant to (i), (ii), and (iii) would exceed 20 representatives, no representatives would be selected by the Assembly.

Alternative 2

Description

The Board of Governors would be composed of:

- (i) one representative from each Signatory whose investment share taken as a percentage is among the twelve largest investment shares of all of the Signatories.
- (ii), (iii), and (iv) are the same as in Alternative 1.

Alternative 2

The results for the years 1972 and 1973 would be as follows:

(i) Pursuant to (i), the following countries would be represented:

<u>1972</u>	<u>1973</u>
1. United States	1. United States
2. United Kingdom/Ireland	2. United Kingdom/Ireland
3. Japan	3. Japan
4. Australia	4. Pakistan
5. Pakistan	5. Australia
6. Philippines	6. Italy/Vatican
7. Spain/Portugal	7. Philippines
8. Italy/Vatican	8. Spain/Portugal
9. France/Monaco	9. France/Monaco
10. Canada	10. Canada
11. Brazil	11. Germany
12. Germany	12. Brazil

(ii) Pursuant to (ii), it is possible that the following groups would be created:

13. Thailand/Indonesia/ New Zealand/Malaysia/ Singapore	13. India/Ceylon
14. Argentina/Chile	14. Argentina/Chile
15. India/Ceylon	15. Venezuela/Colombia
16. VietNam/China/Korea	16. VietNam/China/Korea
17. Venezuela/Colombia	17. Thailand/Indonesia/ New Zealand/Malaysia/Singapore

(iii) Pursuant to (iii), it is possible that the following groups would be created:

18. Belgium/Netherlands/ Luxembourg/Austria/ Switzerland/Liechtenstein	18. Belgium/Netherlands/ Luxembourg/Austria/ Switzerland/Liechtenstein
19. Denmark/Norway/Sweden (Finland/Iceland)	19. Denmark/Norway/Sweden (Finland/Iceland)
20. Arab Group	20. Arab Group
21. Arab Group	21. Arab Group
22. Central American Group plus Mexico	22. Central American Group plus Mexico
23. African Group	23. African Group
24. Greece/Turkey/Iran/ Israel/Yugoslavia	24. Greece/Turkey/Iran/ Israel/Yugoslavia

Alternative 2 (cont'd.)

(iv) Because the total number of representatives arrived at pursuant to (i), (ii), and (iii) would exceed 20 representatives, no representatives would be selected by the Assembly.

Alternative 3

Description

The Board of Governors would be composed of:

- (i) one representative from each Signatory whose investment share is not less than 2.0% of the investment shares of all the Signatories.
- (ii) one representative from each group of Signatories that have agreed to combine their investment shares for purposes of representation and whose combined investment shares are not less than 2.0% of the investment shares of all the Signatories.
- (iii) and (iv) are the same as in Alternative 1 and 2.

Alternative 3 (2%)

The results for the years 1972 and 1973 would be as follows:

(i) Pursuant to (i), the following countries would be represented:

<u>1972</u>	<u>1973</u>
1. United States	1. United States
2. United Kingdom /Ireland	2. United Kingdom/Ireland
3. Japan	3. Japan
4. Australia	4. Pakistan
5. Pakistan	5. Australia
6. Philippines	6. Italy/Vatican
7. Spain/Portugal	7. Philippines
8. Italy/Vatican	8. Spain/Portugal
9. France/Monaco	9. France/Monaco
10. Canada	10. Canada

(ii) Pursuant to (ii), it is possible that the following groups would be created:

11. Brazil/Peru	11. Brazil/Peru
12. Germany/Denmark/Norway/ Sweden	12. Germany/Denmark/ Norway/Sweden
13. India/Ceylon	13. India/Ceylon
14. Colombia/Venezuela	14. Argentina/Chile
15. Argentina/Chile	15. Viet Nam/Korea/China
16. Viet Nam/China/Korea	16. Thailand/Indonesia/ New Zealand/Malaysia/ Singapore
17. Thailand/Indonesia/ New Zealand/Malaysia/ Singapore	17. Colombia/Venezuela/Ecuador

(iii) Pursuant to (iii), it is possible that the following groups would be created:

18. Netherlands/Belgium/ Luxembourg/Switzerland/ Austria/Liechtenstein	18. Netherlands/Belgium/ Luxembourg/Switzerland/ Austria/Liechtenstein
19. Arab Group	19. Arab Group
20. Arab Group	20. Arab Group
21. Central American Group plus Mexico	21. Central American Group plus Mexico
22. African Group	22. African Group
23. Greece/Turkey/Iran/ Yugoslavia/Israel	23. Greece/Turkey/Iran/ Yugoslavia/Israel

Alternative 3 (Cont'd.)

(iv) Because the total number of representatives arrived at pursuant to (i), (ii), and (iii) would exceed 20 representatives, no representatives would be selected by the Assembly.

Alternative 4

Description

The Board of Governors would be composed of:

- (i) one representative from each Signatory whose investment share is not less than 1.5% of the investment shares of all the Signatories.
- (ii) one representative from each group of Signatories that have agreed to combine their investment shares for purposes of representation and whose combined investment shares are not less than 1.5% of the investment shares of all the Signatories.
- (iii) and (iv) are the same as in Alternatives 1, 2, and 3.

The results for the years 1972 and 1973 would be as follows:

(i) Pursuant to (i), the following countries would be represented:

<u>1972</u>	<u>1973</u>
1. United States	1. United States
2. United Kingdom /Ireland	2. United Kingdom /Ireland
3. Japan	3. Japan
4. Australia	4. Pakistan
5. Pakistan	5. Australia
6. Philippines	6. Italy/Vatican
7. Spain/Portugal	7. Philippines
8. Italy/Vatican	8. Spain/Portugal
9. France/Monaco	9. France/Monaco
10. Canada	10. Canada
11. Brazil	11. Germany
12. Germany	12. Brazil

(ii) Pursuant to (ii), it is possible that the following groups would be created:

13. India/Ceylon	13. India/Ceylon
14. Argentina/Chile	14. Argentina/Chile
15. Viet Nam/Korea/China	15. Viet Nam/Korea/China
16. Colombia/Venezuela	16. Colombia/Venezuela
17. Thailand/Indonesia/ New Zealand/Malaysia/ Singapore	17. Thailand/Indonesia/ New Zealand/Malaysia/ Singapore

(iii) Pursuant to (iii), it is possible that the following groups would be created:

18. Netherlands/Belgium/ Luxembourg/Switzerland/ Austria/Liechtenstein	18. Netherlands/Belgium/ Luxembourg/Switzerland/ Austria/Liechtenstein
19. Arab Group	19. Arab Group
20. Arab Group	20. Arab Group
21. Central American Group plus Mexico	21. Central American Group plus Mexico
22. African Group	22. African Group
23. Greece/Turkey/Iran/ Yugoslavia/Israel	23. Greece/Turkey/Iran/ Yugoslavia/Israel

Alternative 4 (cont'd.)

(iv) Because the total number of representatives arrived at pursuant to (i), (ii), and (iii) would exceed 20 representatives, no representatives would be selected by the Assembly.

FCC-- 10
Manager



State 6/6/69

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USDEL INTELSAT Conference
Draft Position Paper (10A)
Management Question

The U.S. took the position at the first session of the Conference that ComSat should continue as Manager, under a fixed term contract, which could be renewed, but subject to the right of INTELSAT to choose another entity to perform the functions of the Manager at the end of any fixed term contract. Others wanted an orderly transition to an international manager, headed by a Secretary General or Director General. Some wanted a fixed transition period, others laid more stress on efficiency and wanted no fixed schedule provided it was established that the transition would take place.

Toward the end of the session we let it be known that we would consider providing for an international secretariat to perform specified administrative functions, with the remainder of the Manager's functions to be handled by ComSat under contract. We also said we would be willing to leave the question of internationalizing the remaining managerial functions after the initial contract period open and subject

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to study, but we would not agree to any preconception of ultimate internationalization. This revised position was not known early enough or clearly enough for us to evaluate reactions very well, though the reactions we have heard suggest it does not go far enough to meet the views of some of our partners. One problem is that our concept was not much elaborated either internally or to our partners and, hence, may not be well understood.

In recent conversations in Bonn and London both the Germans and the British talked about and stressed the role of a Director General, who apparently would be a strong executive, at the head of an international staff, reporting to the Governing Body and supervising the Manager.

There are at least three significant differences between the U.S. concept of managerial arrangements and this European concept:

1. Structure. Under the U.S. concept both the head of the Secretariat and the Manager would report to the Governing Body. The Manager's contract would be with the Governing Body. Under the European concept the Manager would report to or through the Director General. The Manager's contract would be with the Director General.

2. Functions. Under the U.S. concept the secretariat would have more limited functions and accordingly more limited staff capabilities.

3. Duration. There is no assumption of transition in the U.S. concept, whereas in the European concept there is an assumption, overt or covert, that the Director General would ultimately take over the Manager's functions other than some particular jobs for which contracts could be let to any outside firm, i.e. would be responsible for all of INTELSAT's in house technical as well as administrative capability.

Under both concepts the Governing Body would be the boss. There is no difference in this respect and to mix the Manager-Director General issue with who is in control tends only to confuse the issue. The Governing Body would be the boss, and the questions are who would develop plans, advise it, and implement its decisions, and under what arrangements?

We need now to address ourselves to the details of our proposals and how they could be adopted or adjusted to accommodate the concerns of others.

As regards organizational structure, we propose that both the secretariat and the manager should report to the

Governing Body. The two would work closely together, but neither would be subordinate to the other.

The secretariat would be international. It would be headed by a national of a member state elected by the Governing Body and confirmed by the Assembly, under contract to and reporting to the Governing Body. The staff would be selected by the head of the secretariat from nationals of the member states on the basis of competence. The head of the secretariat would be required to seek the advice of the Governing Body, or, preferably, its members, concerning the appointment of senior subordinates. It would not be desirable for the Assembly to have any role in the selection of subordinate officials or for the Governing Body to have too strong a role since this almost certainly would encourage selection on the basis of geographic or political distribution at the expense of competence. However, Governing Body confirmation for senior subordinates would not be unacceptable.

What this administrative staff would be called is not important. The important questions are its functions and its relationship to the Governing Body and the Manager in the organizational structure. If these questions are settled we should be ready to give it almost any title that

makes our partners happy. In the absence of any better suggestion, we suggest "Secretariat", but we should be open-minded on the designation. The same is true of the title of the head of the secretariat. We suggest "Secretary General", but there would be no objection to "Director General" if the questions of substance are satisfactorily settled. We should not propose titles that would tend to belittle the secretariat or its head, among other reasons, because this tends to belittle the concession we have made.

The size of the secretariat depends on its functions. However, we have in mind a fairly small staff, possibly on the order of 50 or 60 people, assuming our functional concepts are accepted.

The proposed functions of the secretariat are set forth in Attachment A. (To be prepared. See Appendix A to FCC draft position paper on the Manager. ComSat is preparing a new draft.) The list should be considered primarily as illustrative rather than definitive and negotiable as to detail and within limits.

The Manager would have all of the functions of the present Manager not given to the secretariat. These would include, notably, planning, designing, procuring, operating and maintaining the space segment.

On the question of duration, we propose a secretariat of indefinite duration and a Manager under contract for a fixed initial period (such as seven, not less than five years). The Manager could be rehired or replaced by the Governing Body at the end of the contract period. There would be no concept of slowly transferring some of the Manager's functions to an international body either during the contract period or by any date. However, we would be willing to have the question of how best to discharge these functions at the end of the contract period made the subject of an objective study. This study could be conducted by the secretariat, by an independent outside organization, or otherwise as the Governing Body might decide.

What we can say to our partners on this point is that the management question is a question which must be studied. We think there is no present basis for transition to a fully international manager, but we can agree to study the issue, and, in the meantime, to creating a secretariat with many significant functions. Our approach does not foreclose transition, it merely proceeds from our belief that there is not now a clear and demonstrable need to internationalize the entire managerial function.

Possible Adjustments

We should be prepared to consider adjustments in our position which would not basically affect ComSat's competence

to carry out system development and direct responsibility to the Governing Body. These could be both cosmetic and substantive.

Cosmetic adjustments could include the designation of the manager, e.g. technical and operations manager, as well as the secretariat, and whether or not the manager is named in the agreements.

A principal area in which adjustments, substantive as well as cosmetic, could be considered is the lists of specific functions assigned to the secretariat and the manager. The FCC and ComSat draft lists should be studied with this in mind.

One of the arguments that our partners make in connection with proposals for internationalization of the Manager is that they have no means of checking on ComSat's advice and recommendations. This concern is legitimate to the extent that they (the Governing Body) should have some independent review capability.

One way in which this concern could be met is through contracts under which outside firms, on behalf of the Governing Body, would review ComSat's work on particular projects as it progresses. Another is to give the secretariat an additional function and limited staff so that the Governing Body would have an "in house" monitoring capability.

Under such arrangements, major recommendations and reports from ComSat as the operational manager to the Governing

Board might be transmitted through the head of the secretariat, who would be able to comment to the Governing Body upon them prior to the Governing Body's consideration, although he would not be permitted to delay or alter them.

We do not suggest that giving this function to the secretariat should be suggested in the first instance. In any case, we should not freeze our position on any one way of satisfying this concern, but should be open to other possibilities. When the point is raised we should acknowledge willingness to do something to meet the concern for a review capability and to consider ways of doing this.

Attachment A - Functions of Secretariat

(To be prepared)

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USDEL INTELSAT Conference

Position Paper (FCC)

Manager

A. Summary of U.S. position at February conference and its reception

1. The preferred position, and the one which we advanced at the February conference, is the continuation of Comsat as Manager over a fixed term contract which could be renewed, but would be subject to the right of Intelsat to choose a specifically identified other entity to perform the functions of the Manager at the end of any particular fixed term contract. The first session indicated, however, that it was difficult for most members to accept Definitive Arrangements which named Comsat as Manager and did not at the same time incorporate provisions for an orderly transition to an international manager subject to a Secretary General serving under the Governing Body. Most members were in agreement on the concept of transition, and differed mainly on its implementation -- namely, some would stress that the transition period should be fairly long so as not to affect efficiency and economy of operation while others favored prompt transition with less concern about the effect on efficient operation. We note that representatives of several PTT's informally advised members of the U.S. Delegation of their concern about the effect of an international manager on efficiency and economical operation and informally urged the U.S. to fight for a continuation of the type of management which would free of the political implications of an internationalized secretariat. However, we were unable to generate official

support for our position. Since the question of the manager is clearly the key issue at the Conference, it is essential that we review carefully what our minimum requirements are with respect to the managership and develop a fall back position acceptable to us and saleable to other members of Intelsat.

B. Discussion

2. We believe that the minimum requirement is the retention by Comsat of the responsibilities for planning, designing, procuring, operating and maintaining the space segment with direct access to the Governing Body in the discharge of these duties. These are the real heart of the managerial function -- the aspects that most affect efficiency of operation and future growth and prosperity. If we agree upon this, the next issue is how best to present the matter to our partners. We believe the following presentation to be most appropriate:

(i) We recognize that there are certain managerial functions, largely of an administrative nature, which can be performed adequately and efficiently by an entity other than Comsat. We, therefore, would propose the creation of an Administrative Secretariat to perform these specified administrative accounting, statistical and budgetary functions now performed by Comsat. A suggested list of the specific functions to be transferred is set forth in Appendix A.

(ii) On the other hand, the managerial functions relating to research, technology, procurement, operations and maintenance would

remain with Comsat. ___/ There has been no showing that these critical functions can be performed by anyone other than Comsat at the present time. It follows that not only should there be no present transfer (as to which all would agree) but there should be no present decision to transfer. And here we demonstrate our reasonableness by reiterating our offer for an independent study to be conducted during the term of Comsat's contract on this matter of how to maintain an efficient and effective managerial operation. In short, we would be saying to our partners, "This is a question which must be studied -- there is no present basis for agreeing on transition -- but we are being reasonable by agreeing to the necessary study, to the creation of an Administrative Secretariat (which can take over many significant administrative functions and which fits in with the "legal entity" position of so many members)." We would be arguing that there is no disadvantage to them from this course (since the great majority would agree that in any event there must be a five-year or so transition period), and there is the advantage, at the end, of an informed decision. As to the mechanics at the end of the five-year period (with the study completed presumably sufficiently before that period for timely re-evaluation of the matter), the proposed definitive arrangements would permit the selection of a different entity

___/ In particular, the draft agreement should enumerate, among the retained functions, those relating to research, development, design, procurement, launch, maintenance and operation of the space segment. In some instances there may be an overlap; thus, it may be necessary to divide the legal services performed by the Administrative Secretariat from legal services in connection with procurement to be performed by Comsat as Manager.

as manager or, if necessary to get agreement, we could go along with the possible convening of another plenipotentiary conference at the end of the term to consider further the question of the managership.

We could then assert that we can go no further -- that we must draw the line with the above reasonable position. Indeed, we could then point out, as a further significant factor (but not a separate or basic point), that it is politically impossible for us, when we have put so much into the enterprise, to agree at this time -- before any study of the effects on efficiency -- to the concept of transition either in accordance with a fixed schedule or as an agreed upon goal to be reached by some future specified date. However, as further evidence of our flexibility and readiness to meet legitimate concerns of our partners, we should make it clear that specific functions to be transferred to an Administrative Secretariat (see attached list) are, of course, subject to negotiation within the limits specified above.

It is true that at the end of the fixed period, we will in all likelihood face the issue all over again, and this time with an Administrative Secretariat in being and the results of the independent study. But that is the best we can hope for in these circumstances. Clearly, we cannot assert that Comsat is the only entity which can ever serve efficiently as manager in the above named critical respects, or that the matter is foreclosed from examination or independent study. If the independent study warrants action, there are further compromises

which can be considered at that time (e.g., the creation of a new corporate entity to be owned by the members in the same proportions as they have invested interest in Intelsat, with this new corporation to perform the managerial functions for Intelsat on a commercial private enterprise basis). It may be that once having passed this watershed point, we shall have ¹⁰won the issue for a much longer period than just the first contract period. It goes with saying, however, that we should press for at least an initial ^{7 year} 5-year contract period. ___/

___/ There is of course the danger that opposing members will argue that while the matter of transition should be determined only after independent study, that study need not take five years and so the contract period should be only two or three years. However, we believe that there will be little appetite for a majority to return to a plenipotentiary or to the issue in any form in the relatively near future, and that rather there will be a tendency to settle on a fairly substantial period in order to facilitate stability and planning by the manager and to allow a "cooling off" period on the bitterly fought matter. In any event, this is another risk whose dimensions will become apparent only with negotiation.

APPENDIX A

List of functions proposed for Administrative Secretariat:

- see notes*
- (1) Administer approved budgets within the limits established for major categories of expenditure.
budgets
 - (2) Maintain books of account and make them available for annual audit by an independent auditor and for review by the Governing Body.
 - (3) ~~Prepare monthly financial statements and billings to signatories and other entities,~~ calculate and bill signatories for periodic adjustments in investment shares in order to relate investment in jointly financed facilities to use of such facilities.
 - (4) Develop and maintain a system of accounts which shall record, measure, and report all operations, and transactions, in connection with the system.
 - (5) Provide all administrative, secretarial, clerical, document reproduction, language and other necessary services required by the Governing Body and the Assembly of Members for the conduct of their business.
 - (6) Maintain on behalf of the Governing Body and all Members, data furnished by the Operations Manager relating to the usage, availability, outages, quality of service, performance characteristics,

operations
see notes

Items 1 and 6: We consider these functions provide too large an invasion of the responsibilities necessary to be performed by the Manager.

system effectiveness, operating costs and traffic trends.

- (7) Maintain data with respect to inventions, patents, management programs and procedures:
- (8) After appropriate consultation with the Operating Manager, make recommendations relating to the acquisition, evaluation, disclosure, distribution and protection of rights and inventions, and data required by INTELSAT. Pursuant to authorization by the Governing Body and subject to all applicable limitations, arrange for licensing of INTELSAT inventions and data to others and enter into licensing agreements on behalf of INTELSAT.
- X (9) Advise the Governing Body, after appropriate consultation with the Operating Manager, on the economic aspects of members' requests to the Governing Body for INTELSAT financing and development of an appropriate satellite for such member.
- X (10) Advise the Governing Body, after appropriate consultation with the Operating Manager, on the economic aspects of any proposed independent regional satellite with the global system.

Economics

*all notes.
Big Staff*

Items 9 and 10: Such functions could necessitate the Secretariat building up a substantial technical staff which could become a barrier between the Manager and the Governing Body.

- such*
- (11) Provide information, upon the basis of data furnished by the Operating Manager, about Intelsat-financed satellites as may be required by the International Telecommunication Union.
- (12) Receive cash payments from signatories and other entities; make cash disbursements on behalf of INTELSAT; and advise the Governing Body of signatories in default on payments.
- (13) Invest any funded reserves or excess cash in such securities as are prescribed by the Governing Body for temporary investments; sell such securities as required to meet INTELSAT obligations.
- (14) Provide legal services in connection with the performance of its functions for INTELSAT other in connection with procurement.
- ? (15) Sign contracts, where appropriate, on behalf of INTELSAT.
- (16) Recommend to the Governing Body, pursuant to the principles contained in the Definitive Arrangements after appropriate consultation with the Operating Manager, procurement procedures and regulations.

*Expertise on
Procurement
Increase
staff*

*Procurement
Principles*

*Duplication
and*

- (17) Compile and maintain, upon the basis of data furnished by the Operating Manager, a world-wide bidders list for use in INTELSAT procurement.
- (18) Provide information services for INTELSAT (e.g., press releases, exhibits, films, periodicals, newspaper and magazine articles and demonstrations).

Comsat-- //
Financial
Arrangements

May 8, 1969

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USDEL INTELSAT Conference

Position Paper (11)

Financial Arrangements

Ownership

Members of INTELSAT should own the INTELSAT-financed space segment in undivided shares.

Determination of Investment Shares

A member's investment shares should be determined on the basis of its recent past use of all INTELSAT-financed facilities, in relation to the use of such facilities by all INTELSAT members during the same period.

Adjustment of Investment Shares

Members' investment shares would be adjusted annually to keep investment related closely to use. Each member would be required to increase or decrease its investment on the basis of such adjustments.

Minimum Investment Share

There would be a minimum investment share of 0.05 for each member. While this mechanism is primarily intended to accommodate members who do not use the INTELSAT-financed satellites, all members would be required to maintain at least this size investment. In fact, any member that currently uses three or more circuits would be contributing more than 0.05 of the total investment in INTELSAT.

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Space Segment Utilization Charge

The components of the space segment utilization charge would include capital amortization, operation and maintenance and compensation for use of capital. The rate of compensation for capital would be determined by the Board of Governors on the basis of the cost of capital on the world market plus 1% or 2% to represent a small return for risk.

Capital Limitation

It would be preferable to avoid any capital limitation in the definitive arrangements. If, however, there is to be a capital limitation, it should be clearly stated that the limit applies to net rather than gross contributions.

Article IX of Conference Document 10 would be a suitable example. The organization's capital requirements should be met by the members.

Transitional Arrangements

A number of INTELSAT members expressed concern that they would lose their representation on the Board of Governors if recent past use would be the determinant of investment shares. Their earth stations, which are under construction, would either not be in use, or in use for only a short period if the definitive arrangements enter into force on 1 January 1970. Since it is now unlikely that the definitive arrangements

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could enter into force before the latter part of next year, this problem may be resolved without making special provision in the definitive arrangements.

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State--12
Procurement



May 8, 1969

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USDEL INTELSAT Conference

Position Paper (12)

Procurement

Summary

The basic criteria should be best quality, best price, and timely performance. Consistent with this, we can accept the idea of the widest practical international participation.

Discussion

Three positions have been advocated in the Conference (Committee IV's report, Doc. 12): (1) the best combination of price, quality and timely performance (2) retention of the existing interim arrangement provisions, which provide for distribution of contracts in approximate proportion to investment quotas when price, quality and timely performance are comparable; and (3) the addition to (1) above of language encouraging international spreading of contracts, with distribution roughly proportionate to investment of members.

The provisions of the present agreement have allowed international spreading of contracts and, particularly,

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subcontracts, though this is due, in our view, to a deliberate "bending" of the agreement rather than required by the agreement. In our view the wording of the agreement (Article X) makes the distribution principle definitely secondary, i.e. applicable only when price, quality and performance are comparable, but the Europeans have tended to treat it as a principle of equal or near equal priority. With the present agreement implemented as it has been, there probably would be little practical difference between its provisions and alternative (3) above.

The U.S. and apparently a majority of those countries expressing views on the procurement issue favor alternative (1). The UK and Japan supported (2) and France supported (3).

The majority of members probably would support (1), but most of the Europeans are rather strongly committed to some provision for spreading the work in order to further the development of their aerospace industries.

Our favored position remains (1), but we could accept a provision for international participation not going beyond the provisions of the interim arrangements.



May 23, 1969
Paper No. 13
State: E/TD

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USDEL INTELSAT Conference

Notes on INTELSAT Conference Doc. 10

(An annotation of Document 10 identifying changes required to reflect work of the first session of the Conference and modifications in U.S. positions)

Intergovernmental Agreement

AGREEMENT ESTABLISHING DEFINITIVE ARRANGEMENTS
FOR A GLOBAL COMMERCIAL COMMUNICATIONS SATELLITE SYSTEM

Preamble

Working Group A of Committee I has produced a draft Preamble (Doc. Com. I/84 Rev. 1) which moves the final two paragraphs in our draft to the beginning of the Preamble. In the balance of the paragraphs some language changes have been made, but it appears that with minor editorial changes (e.g. "signatory" should read "party") the new, jointly produced Preamble is acceptable to the U.S.

ARTICLE I

(Definitions)*

No work has been done on definitions in the Conference, but we will need revisions in this article to reflect changes already known. There will need to be a definition of "regional systems" and some other paragraphs, notably

* It is suggested that article headings be considered to facilitate reference and readily identify article content.

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paragraphs (l) and (n), may need revision to reflect this addition.

ARTICLE II

(Purpose of the Organization and Transfer of Ownership)

Document 10 combines in this article two separable items. In the Working Group A report (Doc. Com. I/84 Rev. 1) there is a draft article entitled "OBJECTIVES AND PURPOSES" (p. 4) which might replace our Article II. The present paragraph II (a) is superseded by the Working Group draft article, but our paragraph II (b), which concerns transfer of ownership, should be retained in another article, perhaps in Article XI of Doc. 10. The Working Group A draft article on "OBJECTIVES AND PURPOSES" could become Article II of Doc. 10 as long as present II (b) is not lost.

ARTICLE II BIS*

(Scope of Activities)

The Working Group A report contains an article setting forth the "SCOPE OF ACTIVITIES" of the organization. This article should appear early in the agreement. It could logically follow our revised Article II as a new Article III.

This Working Group draft is generally acceptable as it appears in Doc. Com. I/84 Rev. 1, p. 5, but requires the filling in of blanks and a careful editorial review in light of other decisions to be made, e.g. with regard to regional systems. Further drafting on the article ought not to be attempted until the regional systems issue is more crystallized and the open question of procedures for specialized systems authorization becomes more settled.

This article covers part of the content of Article VIII of Doc. 10.

*

New article.

ARTICLE III

(Relationships between Parties, Signatories and Other Entities)

In substance, this article is Article II of the Interim Arrangements. It provides that the definitive arrangements will be in two agreements; obligates a party to sign or designate an entity to sign the "Operating Agreement"; and acknowledges that relations between parties, their signatories and other entities are subject to applicable domestic law.

Given the apparent nearly unanimous support for the substance of this article, it should be acceptable to most members without major change. No immediate redrafting appears to be required.

ARTICLE IV

(The Assembly)

There was discussion of the Assembly at the first session and there has been adjustment in the U.S. position. Consequently some changes in this article are indicated.

Paragraph (a): No change required.

Paragraph (b): No change required.

Paragraph (c): In this paragraph we want to eliminate weighted voting and provide for a numerical two-thirds majority. We should also look again at quorum determination.

Paragraph (d): Functions, to be negotiated. Subparagraph (d) (1) will have to reflect the final decision on the Assembly's role in selecting members of the Board of Governors. A provision relating to the Assembly's role with respect to a secretariat will be needed if the Assembly has any such role, e.g. confirmation of the head of the secretariat.

In considering Paragraph (d) we may want to look again at the Assembly functions proposed by Canada, Germany and India in Doc. Com. I/26 and reflected in the UK proposal in Doc. Com. I/45.

ARTICLE V

(Board of Governors - Functions)

The Board of Governors was discussed extensively in the first session and some changes are required to reflect our own position change. One point to be covered is the Board's powers with respect to the secretariat.

Functions of the Board were addressed in the following documents: Com. I/26; Com. I/76; Com. I/111.

ARTICLE VI

(Board of Governors - Composition and Voting)

Criteria for membership on the Board and voting should be the only questions requiring changes in this article. Wording to reflect a decision on the veto issue will have to be added.

ARTICLE VI BIS*

(Secretariat)

An article on the proposed secretariat will be needed. This could follow the articles on the Board of Governors.

ARTICLE VII

(Manager)

Subparagraph (iii) has to be eliminated or revised in light of the proposed secretariat. Language on a specific duration could but need not be added. Some clarification of the specific chain of command might appropriately be added to clarify relative positions and roles of the manager and the secretariat.

*New article.

ARTICLE VII BIS*

(Juridical Personality)

An article, or a paragraph in another article, will be needed to establish juridical personality. This might come after Article VII or might be included as a paragraph in Article XIII.

ARTICLE VIII

(Rights and Responsibilities of Members)

This article needs rewriting to reflect changes in the U.S. positions on (1) prohibition of use of other systems and (2) establishment of regional systems, and the content of the Working Group A article on Scope of Activities (Article II Bis above). The entire article needs an overhaul and covers matters which are sure to be the subject of continuing negotiation.

It might prove useful to divide this article into three separate articles dealing with (1) regional systems, (2) specialized systems, and (3) domestic systems. Such a division might help limit the scope of discussion to specific issues.

ARTICLE IX

(Contributions)

There appears to be no reason to revise this article at this time.

ARTICLES X through XV

No change required.

Suggested headings for these articles are:

- X - Procurement Policy
- XI - Signature, Accession and Entry into Force

* New article.

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- XII - Withdrawal
- XIII - Privileges, Immunities and Other Arrangements
- XIV - Amendments
- XV - Depositary

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Operating Agreement

Preamble

No immediate need to revise.

ARTICLE 1

(Definitions)

Adjustments or revisions would be required to the extent Article 1 of the intergovernmental agreement may be changed.

ARTICLE 2

(Rights and Obligations of Signatories)

No immediate need to revise.

ARTICLE 3

(Contributions)

No immediate need to revise.

ARTICLE 4

(Investment Shares)

Unless or until a method of computation or determination of investment shares different from the one we have proposed is agreed upon, the substance of this article should remain unchanged. It should be reviewed, however, to determine what role the secretariat will play in lieu of the Manager since the article is now written without reference to the secretariat. One possible approach would be to write this article as two articles dealing respectively with (1) initial investment shares under definitive arrangements, and (2) subsequent accessions and adjustments. The initial computation or

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determination could be undertaken by ComSat as Manager and the subsequent arrangements could be handled by the secretariat. The feasibility of this or other approaches requires more study and consultation with ComSat financial experts.

ARTICLE 5

(Satellite Utilization and Charges)

Paragraph (a) should be revised to take account of the risk factor in establishing charges (Report of Working Group 3 of Committee III, Appendix C to Com. III/49).

Paragraph (b) - No change.

Paragraph (c) will have to be rephrased to reflect functions of the secretariat.

Paragraph (d) needs rephrasing to meet the points relating to (a) and (c).

Paragraph (e) - Presumably secretariat instead of Manager.

Paragraph (f) - No change.

ARTICLE 6

(Payment of Obligations by Signatories)

Editorial revision is required to reflect the functions of the secretariat. The substance of the article should survive.

ARTICLE 7

(Contracting Procedures)

Some substantive adjustment of the final sentence may be required to indicate the role, if any, of the secretariat in this procedure.

ARTICLE 8

(Inventions and Data)

This article represents our proposal, which is one of several under consideration. Reworking of this article will be necessary, but should await clarification of the solution to this question.

ARTICLE 9

(Maintenance of Books by Signatories)

No change needed.

ARTICLE 10

(Components of Space Segment Costs)

No immediate revision required other than editorial recognition of the secretariat's role.

ARTICLES 11 through 17

No immediate need for revision.