~~Col. Olsson~~
Mr J.D. O'Connell

April 4, 1969

7252
4PM
Tues

BRIEF OUTLINE OF THE TOPICS COMSAT WOULD DISCUSS WITH GOVERNOR SCRANTON

1. Communication Satellite Technology and Economics

   - Technology

      (i) History of the development of communications satellites

      (ii) Present state of the art

      (iii) The possibilities in the future

      (iv) Description of the earth station segment of the system

   - Economics

      (i) Costs associated with satellite construction and launch

      (ii) Charging philosophy for cost of services

      (iii) Prognosis of future cost reductions

2. INTELSAT History 1964-1969, and Functions of the ICSC

   - History

      (i) Brief description of the 1964 negotiations

      (ii) Uniqueness of INTELSAT in the world of international organizations

      (iii) The accomplishments of INTELSAT

      (iv) Prognosis of INTELSAT's future

- ICSC

  (i) The composition of the ICSC

  (ii) Description of ICSC's functions

  (iii) Cooperation with which it has exercised those functions

  (iv) The necessity of such an organization in the overall structure of INTELSAT

3. Highlights of the First Session of the Conference

   - Analysis of what the Conference accomplished

4. Relationship of Comsat to the Various Government Agencies and the Functions of Each vis-a-vis INTELSAT

   - Description of the successful Government procedures that have been worked out between Comsat and the U. S. Government agencies

   - Relation between Government and Comsat as a partner in INTELSAT and Comsat as the Manager for INTELSAT

31 December 1968

REPORT

OF THE INTERIM COMMUNICATIONS SATELLITE COMMITTEE ON DEFINITIVE ARRANGEMENTS FOR AN INTERNATIONAL GLOBAL COMMUNICATIONS SATELLITE SYSTEM



INTELSAT

REPORT
OF THE INTERIM COMMUNICATIONS SATELLITE COMMITTEE
ON DEFINITIVE ARRANGEMENTS FOR
AN INTERNATIONAL GLOBAL COMMUNICATIONS SATELLITE SYSTEM

Table of Contents

Paragraphs	SUBJECT OUTLINE	Page
(i) - (vii)	Preface	1
100-137	PART I: HISTORY OF INTELSAT	3
100-103	1. The Interim Arrangements Establishing INTELSAT	3
104-105	2. Principles of INTELSAT	3
106	3. Membership of INTELSAT	4
107-121	4. Organization of INTELSAT	5
107-110	A. The Interim Communications Satellite Committee	5
111-117	B. Advisory Subcommittees and Other Groups	6
111-114	(i) Advisory Subcommittees	6
115	(ii) Working Groups	9
116	(iii) Operational Coordination with Earth Stations	9
117	(iv) Arbitration Panel	9
118-121	C. The Manager	10
118-119	(i) COMSAT as Manager	10
120-121	(ii) Nominees of the Signatories on the Manager's Staff	10
122-127	5. The Space Segment	11
122-126	A. Satellites	11
127	B. Tracking, Telemetry and Command (TT&C) Facilities for INTELSAT III Satellites	14

Paragraphs	SUBJECT OUTLINE	Page
128	6. Utilization of Space Segment	14
129-134	7. Implementation of Article X of the Interim Agreement	15
135-136	8. INTELSAT's Research and Development Program	17
137	9. Parties to the Interim Agreement and Signatories of the Special Agreement	18
138-140	PART II: FINANCIAL ASPECTS OF INTELSAT	23
138	1. Financial Status	23
139	2. Operating Results	25
140	3. Capital Expenditure Projection	27
141-636	PART III: COMMITTEE'S RECOMMENDATIONS CONCERNING THE DEFINITIVE ARRANGEMENTS FOR AN INTERNATIONAL GLOBAL COMMUNICATIONS SATELLITE SYSTEM	29
141-145	Introduction	29
146-162	Glossary of Terms	31
163-187	A. Objectives and Purposes of the Definitive Arrangements	34
188-227	B. Scope of Activities of the Organization	38
193-202	1. International Telecommunication Services	38

Paragraphs	SUBJECT OUTLINE	Page
194-195	a) Public Telecommunication Services	38
196-202	b) Specialized Telecommunication Services	39
203-225	2. Domestic Telecommunication Services	40
204-207	a) General	40
208-209	b) Provision by Means of Global Satellites	40
210-214	c) Provision by Means of Separate Satellites	41
215-225	d) Prior Conditions	42
226-227	3. Provision for Meeting Needs of a National Security Nature	43
228-230	C. Eligibility for Membership in the Organization	44
231-236	D. Legal Form, Personality, and Capacity of the Organization	45
232-234	1. Legal Form	45
235-236	2. Legal Personality and Capacity	45
237-488	E. Structure of the Organization	46
243-252	1. Organs of the Organization	47
253-261	2. Inter-relationship of the Organs of the Organization	48

Paragraphs	SUBJECT OUTLINE	Page
262-343	3. The Assembly	49
264-291	a) An Assembly Consisting of all Parties	49
265-281	(i) Functions	49
282-287	(ii) Voting	51
288-291	(iii) Frequency of Meetings	51
292-317	b) An Assembly Consisting Either of Parties or of Signatories, as may be Determined by the Parties Prior to Each Meeting of the Assembly.	52
293-309	(i) Functions	52
310-314	(ii) Voting	53
315-317	(iii) Frequency of Meetings	53
318-343	c) An Assembly Consisting of All Signatories	54
319-333	(i) Functions	54
334-339	(ii) Voting	55
340-343	(iii) Frequency of Meetings	56
344-430	4. The Governing Body	56
345-348	a) Eligibility for Membership	56
349-355	b) Size	56
356-366	c) Composition	57
367-390	d) Functions	58

Paragraphs	SUBJECT OUTLINE	Page
391-423	e) Voting Arrangements	62
392-401	(i) Determination of Voting Shares	62
402-410	(ii) Voting Power	63
411-417	(iii) Majority Requirements	64
418-421	(iv) Majority Requirements on Substantive Questions	65
422-423	(v) Majority Requirements on Procedural Questions	65
424-430	f) The Chairman of the Governing Body	66
431-477	5. The Management Body	66
432-445	a) Identity and Staffing	66
446-458	b) Designation of the Management Body	68
459-462	c) Change of the Management Body	69
463-477	d) Functions of the Management Body	69
478-488	6. Variation of a Three-organ Structure	71
489-531	F. Financial Matters	74
492-496	1. Principles Underlying the Financial Arrangements of the Organization	75
497-506	2. Principles for Determining Investment Shares of Signatories	76

Paragraphs	SUBJECT OUTLINE	Page
507-515	3. Methods for Determining Investment Shares	77
508-509	a) Allocation of Investment Shares	77
510-515	b) Frequency of Allocation	77
516-531	4. Rights and Obligations of Investors	78
517-519	a) Property Rights and Interests	78
520-523	b) Compensation for Use of Capital	78
524-525	c) Contribution to Maintenance and Operating Expenses	79
526-531	d) Conditions of Use	79
532-543	G. Procurement Policies	81
535-537	1. Obtaining the Best Product at the Best Price	81
538-543	2. Participation in Procurements	82
544-549	H. Policies in Relation to Inventions, Data, and Technical Information	83
550-567	I. Access to the System; Coordination Arrangements	85
553-556	1. Access to the System	85
557-567	2. Coordination Arrangements	86
558-563	a) Technical Coordination	86
564-565	b) Commercial Coordination	87
566-567	c) Coordination between Earth and Space Segments	87

Paragraphs	SUBJECT OUTLINE	Page
568-597	J. The Agreements Constituting the Definitive Arrangements; Amendment; Settlement of Disputes; Privileges, Immunities and Exemptions	88
568-571	1. Number of Agreements	88
572-576	2. Signatories of the Agreements	88
577-580	3. Duration of the Agreements	89
581-590	4. Amendment of the Agreements	89
591-593	5. Settlement of Disputes	91
594-597	6. Privileges, Immunities and Exemptions	91
598-621	K. Rights and Obligations of Parties	92
599-605	1. General Obligations	92
606-608	2. Regional Satellites	93
609-611	3. Domestic Services	93
612-617	4. Specialized Services	94
618-621	5. Needs of a National Security Nature	95
622-625	L. Withdrawal from the Organization	96
626-636	M. Transition from the Interim Arrangements to Definitive Arrangements	97

Paragraphs	SUBJECT OUTLINE	Page
	APPENDIX TO PART III: Functions of the Manager under the Interim Arrangements	100
	I. Introduction	100
	II. Technical	100
	III. Operations	101
	IV. Procurement	102
	V. Financial	102
	VI. Legal Services	102
	VII. Information Services	103
	STATEMENTS OF REPRESENTATIVES TO THE COMMITTEE	104
	ILLUSTRATIONS, MAPS, TABLES	
123	Characteristics of Satellites Already Launched or Planned for Launch	11A
124	Operational Communications Satellite Earth Stations and Satellite Communications Coverage Areas as of 15 December 1968.	12A
125	Communications Satellite Earth Stations Approved by Interim Communications Satellite Committee as of 15 December 1968 and Coverage Area of INTELSAT III Satellites (to be operational in 1969)	13A
128	Utilization of Space Segment	14
137	Parties to the Interim Agreement and Signatories of the Special Agreement (As of 15 December 1968)	18

Paragraphs	SUBJECT OUTLINE	Page
138	Net Book Value of the assets of INTELSAT as of 31 October 1968	23
138	Net Book Value as Reconciled with Signatories Payments and Receipts	23
139	Operating Results (Period from 1 January 1967 - 1 October 1968)	25
140	Estimated INTELSAT Capital Expenditures	28

PREFACE

(i) The Governments which signed the Agreement Establishing Interim Arrangements for a Global Commercial Communications Satellite System did so in the expectation that definitive arrangements to supersede the interim arrangements would be developed at the earliest practicable date. In formulating interim arrangements in 1964, the Governments contemplated that it would be timely to work out definitive arrangements after the establishment of an operational global system. Article IX of the Agreement states:

(ii) "(a) Having regard to the program outlined in Article I of this Agreement, within one year after the initial global system becomes operational and in any case not later than 1st January 1969, the Committee shall render a report to each Party to this Agreement containing the Committee's recommendations concerning the definitive arrangements for an international global system which shall supersede the interim arrangements established by this Agreement. This report, which shall be fully representative of all shades of opinion, shall consider, among other things, whether the interim arrangements should be continued on a permanent basis or whether a permanent international organization with a General Conference and an international administrative and technical staff should be established.

"(b) Regardless of the form of the definitive arrangements

(i) their aims shall be consonant with the principles set forth in the Preamble to this Agreement;

(ii) they shall, like this Agreement, be open to all States members of the International Telecommunication Union or their designated entities;

(iii) they shall safeguard the investment made by signatories to the Special Agreement; and

(iv) they shall be such that all parties to the definitive arrangements may have an opportunity of contributing to the determination of general policy.

"(c) The report of the Committee shall be considered at an international conference, at which duly designated communications entities may also participate, to be convened by the Government of the United States of America for that purpose within three months following submission of the report. The Parties to this Agreement shall seek to ensure that the definitive arrangements will be established at the earliest practicable date, with a view to their entry into force by 1st January 1970."

(iii) The Interim Communications Satellite Committee has prepared this Report in compliance with the mandate placed upon the Committee by Article IX. In the preparation of this Report, the Committee has had the definitive arrangements under consideration since September of 1967. During this period approximately 80 documents offering detailed proposals and statements of principle have been submitted to the Committee. All of these papers have received careful consideration.

(iv) This Report is organized in three parts: I, History of the International Telecommunications Satellite Consortium (INTELSAT); II, Financial Aspects of INTELSAT; and III, Committee's Recommendations concerning the Definitive Arrangements for an International Global Sommunications Satellite System.

(v) Part I, History of INTELSAT, contains a factual account of the origins and structure of INTELSAT and an outline of progress since August 1964.

(vi) Part II, Financial Aspects of INTELSAT, contains the financial status of INTELSAT as of the end of 1968, operating results and capital expenditure projections.

(vii) Part III, Committee's Recommendations concerning the Definitive Arrangements for an International Global Communications Satellite System, contains the recommendations of the Committee and proposals which have been introduced by Committee members. The Committee submits these recommendations and proposals in the belief that they respond, to the extent practical, to the requirements of Article IX(a) of the Interim Agreement. Individual statements of Committeemembers containing reservations to or comments on proposals are appended to Part III. An explanation of the principles and procedures which have guided the Committee in its deliberations over Part III of its Report is to be found in the introductory paragraph to that Section. A Glossary of Terms used extensively in Part III immediately follows the introduction of Part III.

PART I. HISTORY OF INTELSAT

1. THE INTERIM ARRANGEMENTS ESTABLISHING INTELSAT

100 The International Telecommunications Satellite Consortium (INTELSAT) was established on 20 August 1964 when the representatives of eleven countries gathered in Washington and signed the Agreement Establishing Interim Arrangements for a Global Commercial Communications Satellite System (the Interim Agreement), which had been drafted in a cooperative effort of representatives from 19 countries. Pursuant to Article II of the Interim Agreement, representatives of the eleven countries or their designated communications entities signed the Special Agreement which also was opened for signature and entered into force on 20 August 1964

101 The Interim Agreement sets forth the purposes and provides for the financial and organizational structure of INTELSAT. The Special Agreement describes the obligations and rights of its Signatories, and also sets forth the functions of the Manager designated in the Interim Agreement.

102 Pursuant to Article 14 of the Special Agreement, the Supplementary Agreement on Arbitration was drafted. It was opened for signature in Washington on 4 June 1965 and entered into force on 21 November 1966.

103 The three Agreements remain in effect until the entry into force of the definitive arrangements.

2. PRINCIPLES OF INTELSAT

104 The principles which underlie the formation of INTELSAT are stated in the Preamble to the Interim Agreement:

105 "The Governments signatory to this Agreement,

> "Recalling the principle set forth in Resolution No. 1721 (XVI) of the General Assembly of the United Nations that communications by means of satellites should be available to the nations of the world as soon as practicable on a global and non-discriminatory basis;

"Desiring to establish a single global commercial communications satellite system as part of an improved global communications network which will provide expanded telecommunications services to all areas of the world and which will contribute to world peace and understanding;

"Determined, to this end, to provide, through the most advanced technology available, for the benefit of all nations of the world, the most efficient and economical service possible consistent with the best and most equitable use of the radio spectrum;

"Believing that satellite communications should be organized in such a way as to permit all States to have access to the global system and those States so wishing to invest in the system with consequent participation in the design, development, construction (including the provision of equipment), establishment, maintenance, operation and ownership of the system;

"Believing that it is desirable to conclude interim arrangements providing for the establishment of a single global commercial communications satellite system at the earliest practicable date, pending the working out of definitive arrangements for the organization of such a system."

3. MEMBERSHIP OF INTELSAT

106 Membership in INTELSAT is open, under Article XII of the Interim Agreement, to all members of the International Telecommunication Union. By the end of 1964, INTELSAT had nineteen members; by December 1968, its membership had grown to sixty-three. The Parties to the Interim Agreement and the Signatories of the Special Agreement are shown, along with the respective investment quotas of the Signatories, as of 15 December 1968, in paragraph 9 of this Section. These quotas are subject to reduction pro rata as necessary to accommodate additional signatories to the Special Agreement in accordance with Article XII of the Interim Agreement. Article XII allocated 17% of the total investment quota for subsequent accession to the Special Agreement. As of 15 December 1968, approximately 3% was still available for investment quotas for new Signatories.

4. ORGANIZATION OF INTELSAT

A. The Interim Communications Satellite Committee

107 The Interim Communications Satellite Committee (hereinafter referred to as the Committee) was established by Article IV of the Interim Agreement to give effect to the purposes set forth in Article I of that Agreement. The Committee is given responsibility by Article IV for the "design, development, establishment, maintenance and operation of the space segment" of the global communications satellite system.

108 In accordance with Article IV of the Interim Agreement, the Committee is composed of one representative from each of the Signatories to the Special Agreement whose initial investment quota is not less than 1.5 percent and one representative from any two or more Signatories to the Special Agreement whose combined quotas total not less than 1.5 percent and which have agreed to be so represented. Further, pursuant to Article V of the Interim Agreement, each Signatory or group of Signatories to the Special Agreement which is represented on the Committee has a number of votes equal to its investment quota or combined investment quotas, as the case may be.

109 The total membership of the Committee increased from nine representatives at the end of 1964 to eighteen, representing forty-eight Signatories, by 15 December 1968. The current membership of the Committee is as follows:

The Arab Group
(Representing: Algeria, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, Syria, Tunisia, United Arab Republic, Yemen)

Argentina

Asia/Pacific Group
(Representing: Ceylon, India, Indonesia, Malaysia, New Zealand, Philippines, Singapore, Thailand)

Australia
Belgium/The Netherlands
Brazil
Canada
France/Monaco
Germany
Italy/The Vatican
Japan
Mexico
Denmark/Norway/Sweden
Spain/Portugal
Switzerland/Austria/Liechtenstein
Venezuela/Colombia/Chile
United Kingdom/Ireland
United States of America

110 The Committee meets approximately every eight weeks in sessions averaging eight to ten days. To date, the Committee has held thirty-six meetings. All but three of the meetings have been held in the INTELSAT headquarters in Washington, D. C., the others in Paris, Tokyo and Naples.

B. Advisory Subcommittees and Other Groups

111 (i) Advisory Subcommittees

Pursuant to Article IV of the Interim Agreement, the Committee has established Advisory Subcommittees on Finance, Technical Matters, and Contracting Procedures. Each representative on the Committee is entitled to designate an individual to serve on each of the Advisory Subcommittees. The Advisory Subcommittees advise and assist the Committee, at its request, in the performance of its functions under the Interim and Special Agreements and report periodically to the Committee. In addition, each of the Subcommittees has been assigned certain continuing tasks by the Committee in the following terms:

112 Advisory Subcommittee on Finance

(a) To perform a continuing analysis of the form and content of budgets and prepare and present statements of financial conditions.

(b) To keep under review depreciation and other accounting policies followed in INTELSAT accounts.

113 Advisory Subcommittee on Technical Matters

(a) To study and advise on the technical aspects of the satellite system with a view towards an improved global telecommunications network, taking into account available and relevant recommendations, studies and current work of the consultative committees of the International Telecommunication Union (ITU).

(b) To study and advise on general operational aspects of the satellite system which impact on the space segment, taking into account available and relevant recommendations, studies and current work of the consultative committees of the ITU.

(c) To recommend for each kind of satellite system on:

- the transmission system characteristics,
- the transmission parameters of the satellites,
- the mandatory transmission parameters of earth stations,
- the principles of test plans for the introduction of satellites, earth stations and carriers into the system.

(d) To make recommendations with respect to the performance characteristics of earth stations.

(e) To review the effectiveness of frequency utilization.

(f) To report, on a regular basis, on technical and operational matters under consideration by consultative committees of the ITU which are of importance to INTELSAT members. To recommend urgently-required technical and operational characteristics of satellite systems, insofar

as the space segment is affected, where relevant recommendations by the ITU consultative committees are not yet available. Such recommendations will take into account relevant current studies of the ITU consultative committees.

(g) To advise on the nature and amount of research and development which INTELSAT should undertake and, in particular:

- the technical scope of each project and the reason for INTELSAT undertaking such a project;

- the apportionment of the work into "in-house" projects (those performed by the Manager itself) and projects which will be contracted on the outside;

- the split of "in-house" work into its component parts;

- the manner in which the technical effort is to be undertaken, with particular reference to the estimated manpower and material to be expended "in-house" and their relationship to the amount of technical effort needed of the Manager to perform its functions efficiently.

114 Advisory Subcommittee on Contracting Procedures

(a) To review semi-annually contracting procedures and principles in the light of actual contracting experience.

(b) To review and make quantitative assessment of the division of work performed by the Manager itself and that performed outside the Manager and internationally in research and development and other contracts.

(c) To review INTELSAT patent policy.

(ii) Working Groups

115 Various Ad Hoc Groups have been established from time to time to assist the Committee in specific tasks.

(iii) Operational Coordination with Earth Stations

116 Regional Operational Coordination Groups for the Atlantic, Pacific and Indian Ocean Satellite Regions, establish cooperation between the space segment and the earth stations and help to assure efficient development and use of INTELSAT satellites. These groups were established by the Committee in 1966 as Regional Ad Hoc Working Groups, and using data provided by them the Committee has developed a traffic data base to assist it in future programme planning. Regional Groups as now constituted consider operational matters of all kinds, and all interested Signatories participate in them."

(iv) Arbitration Panel

117 In accordance with Article 3(b) of the Supplementary Agreement on Arbitration, the Committee has appointed a legal expert from each of the following seven countries to a panel from which Presidents of Arbitration Tribunals shall be selected:

Australia
Brazil
Japan
Malaysia
Norway
Spain
United States of America

C. The Manager

(i) COMSAT as Manager

118 The Interim Agreement provides in Article VIII that the Communications Satellite Corporation (COMSAT) "shall, pursuant to general policies of the Committee and in accordance with specific determinations which may be made by the Committee, act as the Manager in the design, development, construction, establishment, operation, and maintenance of the space segment."

119 In accordance with Article VIII and other relevant provisions of the Interim Agreement and Special Agreement, COMSAT, as Manager for INTELSAT, procures the satellites and other equipment for the space segment, arranges for the launching of the satellites, operates the space segment, handles all financial matters, and makes studies and recommendations on a wide variety of subjects.

(ii) Nominees of the Signatories on the Manager's Staff

120 Article 12(f) of the Special Agreement states that the Manager shall "arrange for technicians, selected by the Committee, with the concurrence of the Corporation from among persons nominated by Signatories, to participate in the assessment of designs and of specifications for equipment for the space segment."

121 Pursuant to this Article, various Signatories have contributed significantly to the Manager's capability to perform its varied tasks by nominating twenty highly qualified personnel to work on the Manager's staff, usually for one or two years.

5. THE SPACE SEGMENT

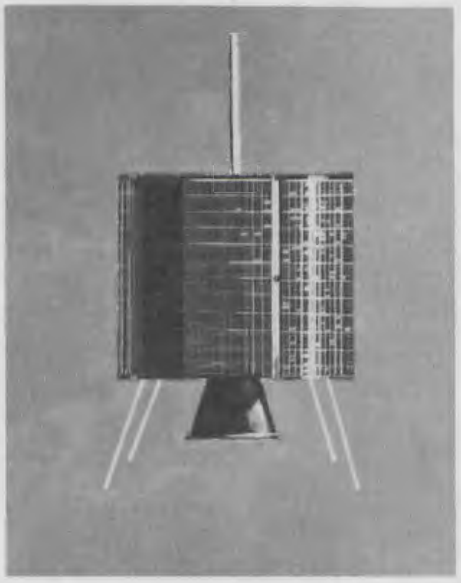
A. Satellites

122 The four INTELSAT satellites in commercial operation as of 15 December 1968 were launched into synchronous orbit from Cape Kennedy. They provide the circuits for telephone, television (color and monochrome), facsimile, teletype, and high-speed data services.

123 The characteristics of the satellites already launched or planned for launch are as follows:

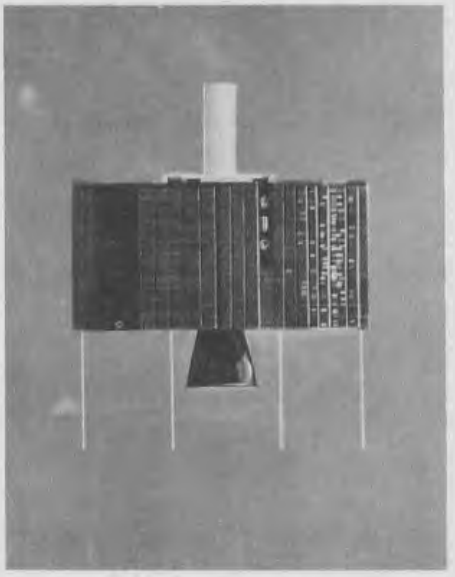
INTELSAT I

Capacity: 240 telephone circuits
Position: Atlantic Ocean
Weight: 38.5 kg.
Size: 61 cm. in diameter
58.7 cm. high
Launched: 6 April 1965
Design Lifetime: 18 months (but still functioning normally)



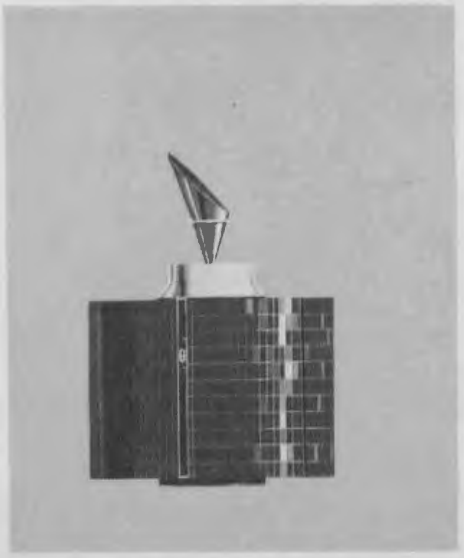
INTELSAT II

Capacity: 240 telephone circuits, with multiple access and greater coverage than that of INTELSAT I
Positions: Atlantic and Pacific
Weight: 87 kg. in orbit
Size: 130 cm. in diameter
66.2 cm. high
Launched: 26 October 1966 (failure)
11 January 1967 (Pacific)
27 March 1967 (Atlantic)
27 November 1967 (Pacific)
Design Lifetime: 3 years



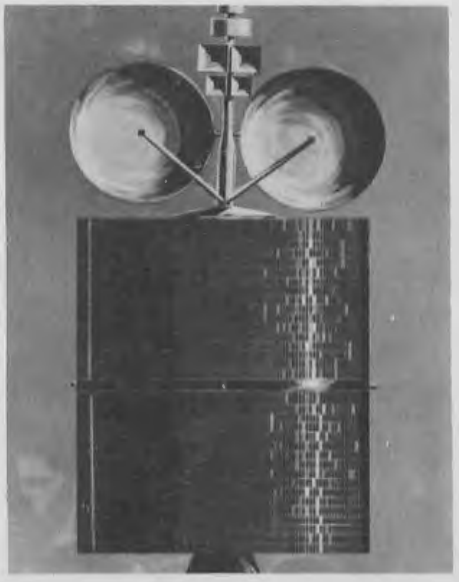
INTELSAT III

Capacity: 1200 telephone circuits with multiple access
Positions: Planned for Atlantic, Pacific and Indian Oceans
Weight: 126.8 kg. in orbit
Size: 130 cm. in diameter
102.5 cm. high
Launched: 18 Sept. 1968 (failure)
18 December 1968 (Atlantic)
Design Lifetime: 5 years



INTELSAT IV

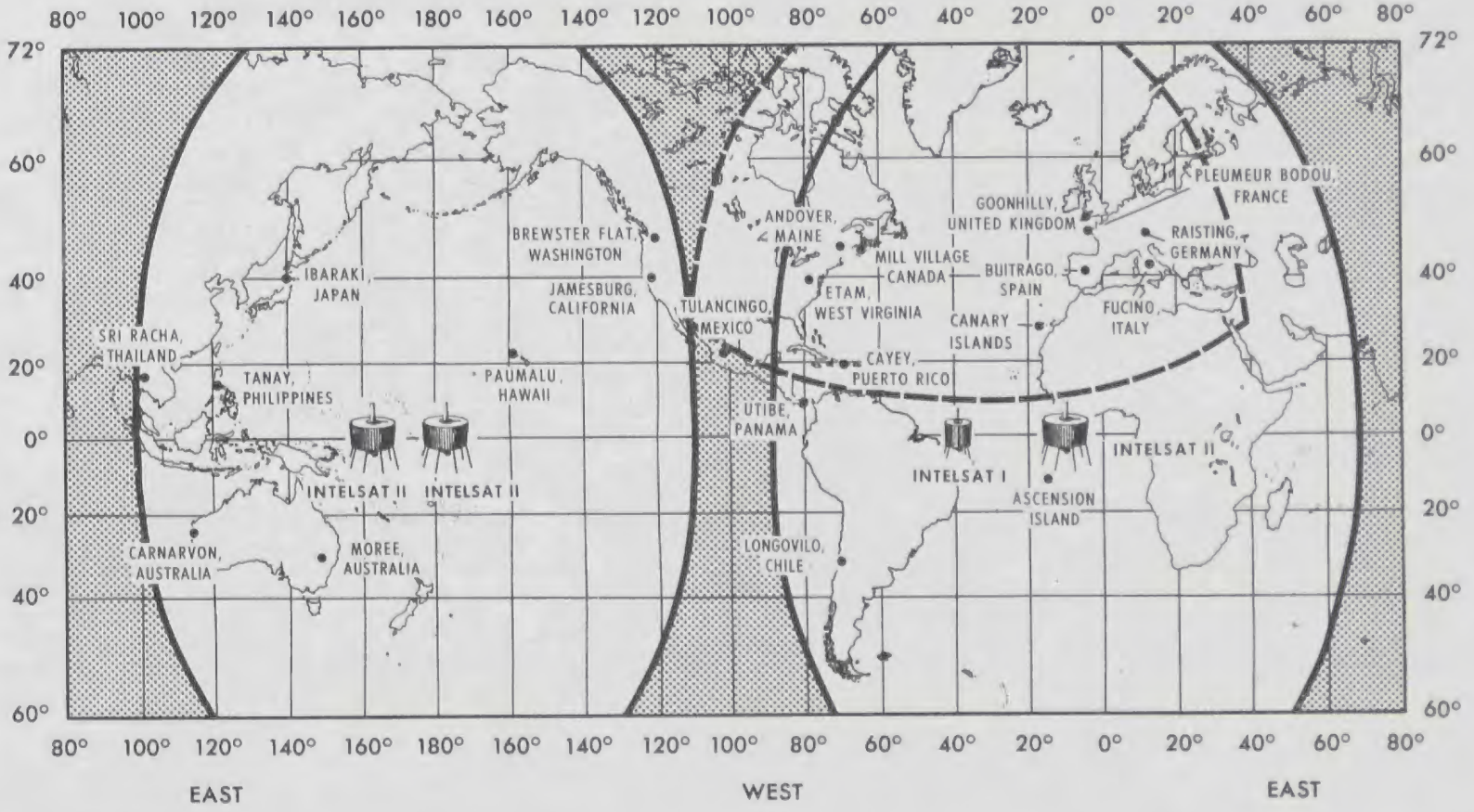
Capacity: 5000 telephone circuits with multiple access
Positions: Planned for Atlantic, Pacific and Indian Oceans
Weight: 557 kg. in orbit
Size: 237 cm. in diameter
495 cm. high
Design Lifetime: 7 years



124 The positions of the satellites in service as of 15 December 1968, their zones of coverage and the earth stations in operation on the same date are as follows:

OPERATIONAL COMMUNICATIONS SATELLITE EARTH STATIONS AND SATELLITE COMMUNICATIONS COVERAGE AREAS

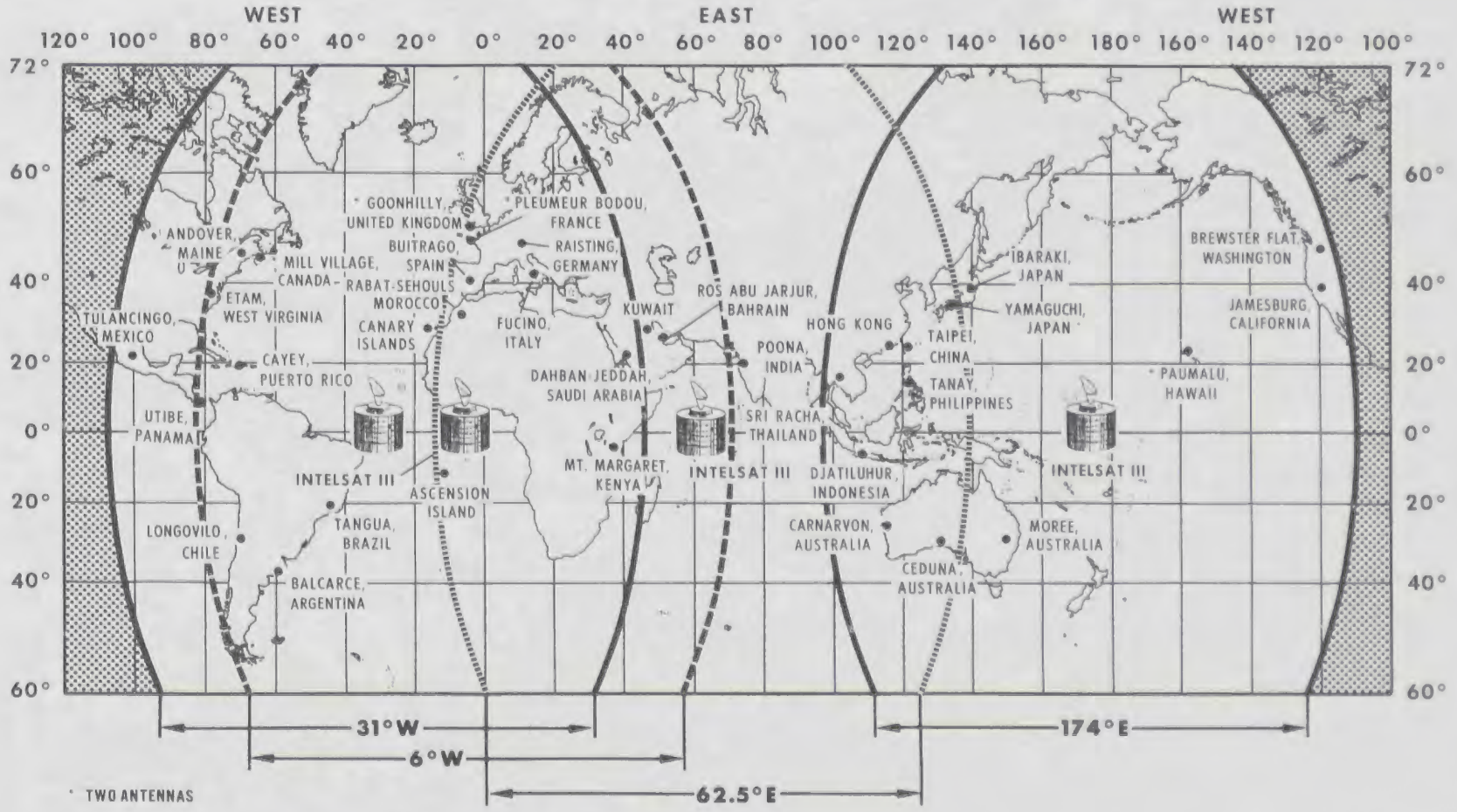
AS OF 15 DECEMBER 1968



* TWO ANTENNAS

125 The position of the INTELSAT III (F-2) satellite and the expected positions of the INTELSAT III satellites planned to be launched in 1969, their zones of coverage, and the earth stations expected to work with them and approved by the Committee are as follows:

COMMUNICATIONS SATELLITE EARTH STATIONS APPROVED BY INTERIM COMMUNICATIONS SATELLITE COMMITTEE AS OF 15 DECEMBER 1968 AND COVERAGE AREA OF INTELSAT III SATELLITES (to be operational in 1969)



126 Satellites in the INTELSAT IV series are expected to be launched over the Atlantic Ocean by early 1971, to be followed by launches over the Pacific and Indian Oceans.

B. Tracking, Telemetry and Command (TT&C) Facilities for INTELSAT III Satellites

127 As locations for the tracking, telemetry and command facilities for the INTELSAT III satellites, the Committee has chosen the following: Fucino (Italy), Carnarvon (Australia), and Andover (Maine) and Paumalu (Hawaii) in the United States. Small aperture earth stations located at these sites will provide TT&C functions for INTELSAT.

6. UTILIZATION OF SPACE SEGMENT

128 The utilization of the space segment is indicated in the table below:

	31/12/65	31/12/66	31/12/67	30/11/68
Full-time telephone circuits in service as at	75	86	344	518
TV program time (hours) during year ended	41ø	74	226	349*
Temporary service (circuit/hours) during year ended	3,248ø	10,080	59,820	132,550*
Operating earth stations as of	5	8	17	23

ø 6 months
*11 months

7. IMPLEMENTATION OF ARTICLE X OF THE INTERIM AGREEMENT

129 Article X of the Interim Agreement states:

> "In considering contracts and in exercising their other responsibilities, the Committee and the Corporation as manager shall be guided by the need to design, develop and procure the best equipment and services at the best price for the most efficient conduct and operation of the space segment. When proposals or tenders are determined to be comparable in terms of quality, c.i.f. price and timely performance, the Committee and the Corporation as manager shall also seek to ensure that contracts are so distributed that equipment is designed, developed and procured in the States whose Governments are Parties to this Agreement in approximate proportion to the respective quotas of their corresponding signatories to the Special Agreement; provided that such design, development and procurements are not contrary to the joint interests of the Parties to this Agreement and the signatories to the Special Agreement. The Committee and the Corporation as manager shall also seek to ensure that the foregoing principles are applied with respect to major sub-contracts to the extent that this can be accomplished without impairing the responsibility of the prime contractor for the performance of work under the contract."

130 Through the efforts of the Committee and the Manager, there has been an increasing degree of international participation, i.e., procurement outside the United States, in each of the successive INTELSAT satellite programs. INTELSAT requests for proposals contain the following language to stimulate and encourage the widest practicable participation:

> "The work covered by this bid is required for an internationally financed project, and it is desirable that work to be contracted be spread as widely as possible. Therefore, other things being comparable in terms of quality, c.i.f. price and timely performance, preference will be given to those tenderers offering to sub-contract work in countries other than their own for the satellite and associated equipment."

131 In the INTELSAT II program, subcontracts totalling $289,029, approximately 2% of the total contract price, were awarded outside the United States, in the United Kingdom and France.[1]

132 In the INTELSAT III program, subcontracts totalling $2,151,711, approximately 6% of the total contract price, were awarded outside the United States, in France, Germany, the United Kingdom, Belgium, Switzerland, and Japan[1].

133 In the INTELSAT IV program, subcontracts totalling $19.4 million, approximately 27% of the total contract price, were awarded outside the United States, in the United Kingdom, France, Germany, Canada, Japan, Belgium, Italy, Switzerland, Sweden, and Spain[1].

134 INTELSAT Research and Development contracts have increasingly been placed with non-U.S. contractors. To date, Research and Development contracts and subcontracts totalling $900,850, approximately 13% of the total Research and Development program, have been awarded outside the United States, in the United Kingdom, Japan, France, Italy, and Germany[1].

---

[1] Countries are listed in decreasing order of their share of the subcontracts.

8. INTELSAT'S RESEARCH AND DEVELOPMENT PROGRAM

135 INTELSAT has undertaken a research and development program to advance satellite communications technology, to explore new possibilities for the use of satellite communications, and to support the implementation and operation of the global communications satellite system. Research and development projects which have been or are being undertaken to date include:

Multi-Purpose Communications Satellite Study
Aeronautical Satellite Study
Multiple Carrier Performance Monitor
Multiple Access PCM/TDMA System Prototype
Single Channel PCM/FDMA Experimental System
Microwave State-of-Art Development
Space Environment Studies, Radiation Effects
Echo Suppression Studies
Electric Power Systems
Spacecraft Thermal Investigations
Positioning and Orientation Systems
Mechanical Devices
Spacecraft Structures
Systems Integration
Systems Simulation
Demand Assignment
Rotary Joint Study

136 In the budget for 1968, a total of $2,867,275 was committed to research and development: $1,684,000 to be performed by the Manager, and $1,183,275 on contract to other organizations.

137 9. PARTIES TO THE INTERIM AGREEMENT AND SIGNATORIES OF THE SPECIAL AGREEMENT

(As of 15 December 1968)

ALGERIA	Ministry of Posts and Telecommunications	00.543256%
ARGENTINA	Secretaría de Estado de Comunicaciones	01.413399
AUSTRALIA	Overseas Telecommunications Commission	02.390993
AUSTRIA	Bundesministerium für Verkehr und Elektrizitätswirtschaft, Generaldirektion für die Post- und Telegraphenverwaltung	00.173890
BELGIUM	Régie des Télégraphes et des Téléphones	00.956397
BRAZIL	National Telecommunications Council	01.413399
CANADA	Canadian Overseas Telecommunication Corporation	03.260445
CEYLON	Permanent Secretary in charge of Ministry of Posts and Telecommunications of Ceylon	00.045271
CHILE	Empresa Nacional de Telecomunicaciones S.A.	00.282680

CHINA	Directorate General of Telecommunications of the Republic of China	00.090543
COLOMBIA	Government of Colombia	00.543236
DENMARK	Generaldirektoratet for Post og Telegrafvesenet	00.347781
ETHIOPIA	Government of Ethiopia	00.072434
FRANCE	Government of the French Republic	05.303657
GERMANY	Deutsche Bundespost	05.303657
GREECE	Greek Ministry of Communications Directorate General of Telecommunications	00.094227
INDIA	Government of India	00.471133
INDONESIA	Dewan Telekomunikasi	00.271628
IRAN	Ministry of Post, Telegraph and Telephone	00.250000
IRAQ	Ministry of Communications of Iraq	00.009054
IRELAND	An Roinn Poist Agus Telegrafa	00.304308
ISRAEL	Ministry of Posts State of Israel	00.568841

ITALY	Società Telespazio	01.912794
JAPAN	Kokusai Denshin Denwa Company, Ltd.	01.738904
JORDAN	Ministry of Communications of the Hashemite Kingdom of Jordan	00.045271
KENYA	East African External Telecommunications Company, Ltd.	00.049601
KOREA	Ministry of Communications of the Republic of Korea	00.049284
KUWAIT	Ministry of Posts, Telegraphs, and Telephones of Kuwait	00.045271
LEBANON	Government of Lebanon	00.072434
LIBYA	Government of the Kingdom of Libya	00.027163
LIECHTENSTEIN	Government of the Principality of Liechtenstein	00.048277
MALAYSIA	Director General of the Telecommunications Department, Government of Malaysia	00.240302
MEXICO	Department of Communications and Transportation of the Government of Mexico	01.470380
MONACO	Government of the Principality of Monaco	00.004527
MOROCCO	Government of Morocco	00.289520

THE NETHERLANDS	Government of the Kingdom of the Netherlands	00.869452
NEW ZEALAND	Postmaster General of New Zealand	00.407442
NIGERIA	Federal Republic of Nigeria	00.335245
NORWAY	Telegrafstyret	00.347781
PAKISTAN	Government of Pakistan	00.236228
PANAMA	Intercontinental de Comunicaciones Por Satélites, S.A.	00.039681
PERU	Junta Permanente Nacional de Telecomunicaciones	00.495562
PHILIPPINES	Philippine Communications Satellite Corporation	00.492590
PORTUGAL	Administração Geral dos Correios, Telégrafos e Teléfones	00.347781
SAUDI ARABIA	Ministry of Communications	00.045271
SINGAPORE	Government of Singapore	00.096507
SOUTH AFRICA	Department of Posts and Telegraphs of the Republic of South Africa	00.271628
SPAIN	Government of the State of Spain	00.956397
SUDAN	Department of Posts and Telegraphs of the Government of the Republic of the Sudan	00.009055
SWEDEN	Kungl. Telestyrelsen	00.608616

SWITZERLAND	Direction Générale des PTT	01.738904
SYRIA	Ministry of Communications of the Syrian Arab Republic	00.036217
TANZANIA	East African External Telecommunications Company Ltd.	00.049556
THAILAND	Kingdom of Thailand	00.096121
TUNISIA	Secretariat of State for Post, Telegraph and Telephone of Tunisia	00.181085
TURKEY	Government of the Republic of Turkey	00.498750
UGANDA	East African External Telecommunications Company, Ltd.	00.049626
UNITED ARAB REPUBLIC	Government of the United Arab Republic	00.316899
UNITED KINGDOM	Her Britannic Majesty's Postmaster General	07.303396
UNITED STATES	Communications Satellite Corporation	53.036570
VATICAN CITY	Government of the Vatican City State	00.043473
VENEZUELA	Ministry of Communications of Venezuela	00.957842
YEMEN	Yemen Arab Republic Ministry of Communications	00.028347
	TOTAL	99.999999

PART II . FINANCIAL ASPECTS OF INTELSAT

138 1. FINANCIAL STATUS

The net book value of the assets of INTELSAT as of 31 October 1968 is as follows:

Property:	
Satellites, telemetry & command equipment control center	$92,389,594
Interest during development	4,000,027
Total	96,389,621
Accumulated Depreciation	(39,898,235)
Net property	56,491,386
Satellite System Development Costs:	
Capitalized expenses 1963 thru 1966	12,746,683
Revenue during development	(5,587,507)
Depreciation during development	10,588,643
Interest during development	1,914,321
Total	19,662,140
Accumulated Amortization of Satellite System Development Costs	(736,215)
Net satellite system development costs	18,925,925
Net book value	$75,417,311

The period through 31 December 1966 was considered to be a development period and the net expense (after deducting revenues) for that period is recorded above as Satellite System Development Costs.

The net book value stated above is reconciled with Signatories' payments and receipts as follows:

Contributions to Capital Costs		$92,389,594
Payments of operating, maintenance and Administration expenses		23,789,104
Total Payments by Signatories		116,178,698
Less: Revenue distributed to Signatories		45,645,636
Net payments by Signatories		70,533,062
Adjustments:		
Interest during development	$5,914,348	
Net operating loss for period 1 January 1967 through 31 October 1967	(1,030,099)	4,884,249
Total (agreeing with net book value above)		$75,417,311

139 2. OPERATING RESULTS

The results of operation during the period 1 January 1967 through 31 October 1968 are indicated below:

OPERATING REVENUES*		
1965 (From 28 June)	$2,332,208	
1966	3,255,299	
1967	16,735,662	
1968 (To 31 Oct.)	23,322,467	
TOTAL	45,645,636	
Revenue for 1965 and 1966 Transferred to Satellite System Development Costs	(5,587,507)	
Balance of Revenues		$40,058,129
OPERATING EXPENSES		
1963	$ 496,351	
1964	3,374,541	
1965	4,851,411	
1966	4,024,380	
1967	5,230,152	
1968 (To 31 Oct.)	5,812,269	
TOTAL	23,789,104	
Operating Expenses for 1963 - 1966 transferred to Satellite System Development Costs	(12,746,683)	
Balance of Operating Expenses		11,042,421
Net Operating Revenues before Provision for Depreciation and Amortization		29,015,708

* At its Eighth Meeting, in June 1965, the Committee set the rate of charge for each unit of satellite utilization in INTELSAT I at $32,000 per annum. At its Fourteenth Meeting, in December 1965, the Committee agreed that, effective 1 January 1966, the rate of charge per unit of satellite utilization for use of the INTELSAT I and II satellites would be reduced to $20,000 per annum.

PROVISION FOR DEPRECIATION		
1965	3,019,258	
1966	7,569,385	
1967	18,868,182	
1968 (To 31 Oct. 1968)	10,441,410	
TOTAL	39,898,235	
Depreciation for 1965 and 1966 transferred to Satellite System Development Costs	(10,588,643)	
Balance of Depreciation		29,309,592
PROVISION FOR AMORTIZATION		
1967	304,045	
1968 (To 31 Oct.)	432,170	
Total		736,215
Total Depreciation and Amortization		$30,045,807
Net Operating Loss for the period 1 January 1967 thru 31 Oct. 1968		$(1,030,099)

140 3. CAPITAL EXPENDITURE PROJECTION

The following statement shows a projection of capital expenditures, including a planned INTELSAT IV program, up to and including 1974. This projection is based on current program and cost estimates and will vary as further decisions are made by the Interim Committee.

ESTIMATED INTELSAT CAPITAL EXPENDITURES
(Thousands Of Dollars)

	Through 12/31/67	1968	1969	1970	1971	1972	1973	1974	TOTAL
INTELSAT I	$ 16,942	$ (15)	$	$	$	$	$	$	$ 16,927
INTELSAT II	29,556	4,441	867	600					35,464
INTELSAT III									
Spacecraft	27,564	2,593	936						31,093
Launches		10,759	19,880						30,639
Technical Support		1,770	1,112						2,882
Performance Incentives[a]		1,250	3,737	1,025	1,150	1,200	1,188	300	9,850
INTELSAT IV									
Progress Payments on Spacecraft[b]	-	2,890	26,562	21,007	6,497	2,636			59,592
Launch Costs									
Non-Recurring				12,530					12,530
Recurring					37,926			12,642	50,568
Technical Support	649	390	1,317	1,677	325	132			4,490
Performance Incentives[a]					12,848	3,354	531	549	17,282
TELEMETRY COMMAND and Control Equipment	4,650	1,300	807		635			211	7,603
Less Amounts Not Billed: Interest During Development[c]	(4,000)								(4,000)
Gross Capital Expenditures	$ 75,361	$25,378	$55,218	$36,839	$59,381	$ 7,322	$ 1,719	$13,702	$ -
Cumulative (at end year)	75,361	100,739	155,957	192,796	252,177	259,499	261,218	274,920	274,920
Depreciation Income									
Annual	$ -	$12,506	$23,582	$16,069	$21,873	$30,755	$31,771	$22,699	
Cumulative (at end year)	29,457	41,963	65,545	81,614	103,487	134,242	166,013	188,712	
Net Capital Expenditures (at end year)	$ 45,904	$58,776	$90,412	$111,182	$148,690	$125,257	$95,205	$86,208	

Notes:

a - Payment of Performance Incentives is contingent upon continued satisfactory operation of satellites in orbit.

b - Includes Four (4) INTELSAT IV spacecraft currently on Contract, plus contingency provision for future procurement of a fifth spacecraft.

c - This amount is a non-cash item capitalized in the expenditures through 12/31/67 shown above.

PART III. COMMITTEE'S RECOMMENDATIONS CONCERNING THE DEFINITIVE ARRANGEMENTS FOR AN INTERNATIONAL GLOBAL COMMUNICATIONS SATELLITE SYSTEM

INTRODUCTION

141 The recommendations and proposals contained in this Part of the Report are based upon, and reflective of, the experience and work of the Committee acting under the interim arrangements established on 20 August 1964. The Committee recognizes that other factors may have to be taken into account in developing definitive arrangements.

142 This Part includes thirteen subject headings; where appropriate, subheadings are used as well. Each of the subject headings is followed by:

- a statement of the scope and context of the subject;
- the Committee's recommendation, if any, relative to that subject;
- other proposals, if any, pertaining to that subject.

143 Whenever a majority of the eighteen members of the Committee support a particular proposal, that proposal is called a Committee recommendation. Those proposals which are supported unanimously by the Committee are described as "unanimous recommendations". Where a proposal receives support by fourteen or more members of the Committee but fails to achieve unanimous support, it is described as a recommendation supported by a "substantial majority." Proposals which are supported by a majority, but less than fourteen, of the Committee members are designated as recommendations receiving "majority" support.

144 Proposals which do not receive the support of a majority of the members of the Committee are included in this Section of the Report in compliance with the injunction in Article IX of the Interim Agreement that the Report "shall be fully representative of all shades of opinion." Where a proposal is supported by six or more, but less than a majority, of the Committee members, it is described as a proposal which has "substantial support." Proposals supported by three or more but less than six members of the Committee are termed proposals which receive "support". All other proposals are described by the phrase "the proposal was made that."

145 In preparing this Part of its Report, the Committee is well aware that the Governments participating in the international conference to be convened in 1969 to consider this Report will in no way be bound by the recommendations or proposals contained in this Report or by the views expressed or supported by any member of the Committee during the preparation of this Report.

GLOSSARY OF TERMS

In this Part of the Report:

146 "Interim Agreement" means the Agreement Establishing Interim Arrangements for a Global Commercial Communications Satellite System which was concluded by Governments and which entered into force on 20 August 1964.

147 "Special Agreement" means the agreement among Governments and communications entities designated by Governments which was concluded and signed pursuant to provisions of the Interim Agreement and which entered into force on 20 August 1964.

148 "Supplementary Agreement on Arbitration" means the agreement containing arrangements whereby legal disputes not otherwise settled may be submitted to the decision of an impartial tribunal, and which agreement was concluded pursuant to Article 14 of the Special Agreement and entered into force among the Signatories to the Special Agreement on 21 November 1966.

149 "Interim Arrangements" means the arrangements established by the Interim Agreement and Special Agreement.

150 "Definitive Arrangements" means the arrangements referred to in the Interim Agreement and in the Special Agreement which shall supersede the interim arrangements.

151 "Intergovernmental Agreement" means the agreement among Governments relating to the definitive arrangements.

152 "Second Agreement" means an agreement among Governments and communications entities designated by Governments pursuant to the Intergovernmental Agreement and which would, like the Intergovernmental Agreement, be part of the definitive arrangements.

153 "Party" means a Government which signs the Intergovernmental Agreement and in respect of which this Agreement is in force.

154 "Signatory" means a Government or designated telecommunication entity which signs the Second Agreement and in respect of which this Agreement is in force.

155 "Participating State" means a State whose Government has signed the Intergovernmental Agreement and whose Signatory has signed any Second Agreement forming part of the definitive arrangements.

156 "The Organization" means the organization to be established under the definitive arrangements and, unless otherwise defined, includes the various organs of the organization, e.g., the Assembly, the Governing Body, and the Management Body.

157 "Space segment" means the satellites and the tracking, telemetry and command and related facilities and equipment required to support the operation of these satellites and, except where otherwise stated, relates to the space segment financed by the organization.

158 "Global satellite" means an organization-financed satellite intended mainly to serve the international telecommunication needs of participating States (though it may also serve the domestic telecommunication needs of the participating States in accordance with the relevant provisions of the definitive arrangements).

159 "Public telecommunication services" includes various public services, fixed and mobile, which may be provided by satellite, such as telephony, telegraphy, telex, facsimile and data transmission, relay of radio and television programs, and leased circuits for any of these purposes. These services could be international, regional, or domestic.

160 "Specialized telecommunication services" includes services other than public telecommunication services which can be provided by satellite, such as radionavigation, space research, broadcasting services (e.g., direct broadcasting of radio and television programs to community and home antennas), etc. These services could be international, regional, or domestic.

161 "Domestic", in respect of telecommunication services, refers to communications among and between places within the territory of a single State.*

162 "Regional", in respect of telecommunication services, refers to communications among and between a geographically compact group of States linked together by cultural or economic ties.**

*This definition is recommended by a substantial majority of the Committee.

(a) There is support in the Committee for the proposal that "Domestic" in respect of telecommunication services, refers to communications between any two places under the jurisdiction of a single State.

(b) The proposal was made that "Domestic" in respect of telecommunication services, refers to communications within the metropolitan territory of a single state.

** This definition is recommended by a substantial majority of the Committee. The two following alternative proposals received support:

(a) "Regional" as referring to "communications between and among a geographically compact group of countries."

(b) "Regional" as referring to "communications among and between a group of States linked together by cultural or economic ties."

A. Objectives and Purposes of the Definitive Arrangements

163 The objectives and purposes of the definitive arrangements are stated under this subject heading. In essence, these are statements of the philosophy and guidelines for the Organization to be established under the definitive arrangements.

164 Synthesized, these elements could possibly form the Preamble to the Intergovernmental Agreement.

165 The Committee unanimously recommends that the definitive arrangements should serve the following objectives and purposes:

166 -- The principal aim of the definitive arrangements is to create a world organization entrusted with the design, development, construction. establishment, maintenance and operation of a network of satellites with global coverage for international public telecommunication services.

167 -- Render possible, in order to assure full and harmonious cooperation:

168 1. The provision of economical, high quality and reliable telecommunication services.

169 2. The availability of facilities to meet domestic and international requirements for satellite telecommunications.

170 A substantial majority of the Committee recommends that the definitive arrangements should serve the following objectives and purposes:

171 -- Study and discuss the possibility of optimizing the global network as well as all space and earth problems relating to satellite telecommunications, giving due consideration to the competence of the International Telecommunication Union.

172 -- Render possible, in order to assure full and harmonious cooperation:

173 1. The development of the technique of satellite telecommunications and the participation of Participating States in the benefits of technological advances in this field.

174 2. The participation, to the extent of their capability, of Participating States or groups of Participating States in research, development and manufacture in the field of satellite telecommunications.

175 3. The efficient use of international resources, such as of the radio frequency spectrum and orbital space.

176 -- Safeguard the interests of all Participating States and, by so doing, avoid monopoly situations and at the same time keep intact the possibility to create domestic or regional systems.

177 -- Maintain and further develop a single global commercial telecommunication satellite system on the basis of undivided ownership of the system by means of an organization founded on a unitary basis.

178 -- Promote the highest and most equitable participation by each Party to this Agreement.

179 -- Take into account the facilities in existence and planned and, in general, the existing nature of the undertaking and the fact that significant capital funds have been invested by a large number of countries into what is now an existing enterprise.

180 -- The Organization should be subject to the laws and rules defined by the United Nations and its authorized specialized agencies, particularly the International Telecommunication Union.

181 A substantial majority of the Committee recommends that the principles stated in the first four paragraphs of the Preamble of the Interim Agreement be reiterated in the Preamble of the Intergovernmental Agreement.

182 A majority of the Committee recommends that the definitive arrangements should serve the following objectives and purposes:

183 -- Provide services in a manner which will facilitate direct telecommunications between all nations and avoid duplication of facilities.

184 -- Effectively permit the participation by all States, while at the same time being mindful of the necessity to safeguard, to the extent possible, both their legitimate interests and the international character of the Organization.

185 -- Effectively permit the participation by all member States of the International Telecommunication Union while at the same time being mindful of the necessity to safeguard, to the extent possible, both their legitimate interests and the international character of the Organization.

186 There is support in the Committee for the proposal that the definitive arrangements should serve the following objective and purpose:

187 -- Optimize the coordination and harmonization of space telecommunications through the establishment of a single organization on a global basis which would provide the framework for the design, implementation, management and operation of satellites, either jointly or severally and which would permit undertaking joint research and development activities.

B. Scope of Activities of the Organization

188 The materials under this subject heading deal with the activities in which the Organization should be engaged or which it will be authorized to undertake in order to achieve the aims and objectives described under subject heading A, "Objectives and Purposes of the Definitive Arrangements."

189 The scope of activities of the Organization is therefore viewed from three distinct standpoints:

190 -- First, from the standpoint of the types of facilities for telecommunication purposes which the Organization should be responsible for providing. In this respect, the Committee unanimously recommends that the Organization should be limited, as under the interim arrangements, to the provision of the space segment only.

191 -- Second, by types of telecommunication services that telecommunication administrations or entities, whether or not Signatories to the Second Agreement, could offer their customers by means of the space segment placed at their disposal by the Organization, i.e., the utilization by these telecommunication administrations or entities of the space segment placed at their disposal by the Organization (for example, telephony, telegraphy, etc.).

192 -- Third, by taking into account the fact that telecommunications established by means of facilities offered by the Organization could be either domestic or international.

193 1. International Telecommunication Services

194 a) Public Telecommunication Services

195 The Committee unanimously recommends that the Organization, as a primary objective, should provide on a commercial basis the space segment for international public telecommunication services.

196 b) Specialized Telecommunication Services

197 A majority of the Committee recommends that the Organization be authorized to provide the space segment for international specialized telecommunication services, subject to decision by the Organization that the provision of such services was acceptable from both the technical and the economic points of view and that the Organization's ability to provide the space segment for international public telecommunication services could not be adversely affected by the provision of such specialized services.

198 There is substantial support in the Committee for the proposal that the Organization be authorized to provide the space segment for international telecommunication services other than those stated in paragraph 195 above only by amendment of the definitive agreements.

199 There is support in the Committee for the proposals that:

200 -- The Organization be authorized to provide the space segment for international specialized telecommunication services.

201 -- The Organization be authorized to provide the space segment for international specialized telecommunication services, provided that the Organization determined that the furnishing of such services was acceptable from both the technical and the economic points of view.

202 The proposal was made that the Organization be authorized to provide the space segment for international specialized telecommunication services under contract with the international organizations responsible for such services, subject to determination by the Organization that the furnishing of such facilities by it was consistent technically and operationally with its obligations in the field of public telecommunication services and was acceptable from the economic point of view.

203 2. Domestic Telecommunication Services

204 a) General

205 A majority of the Committee recommends that the Organization be authorized to provide, at the request of a Signatory or a group of Signatories, the space segment for domestic services of any kind.

206 There is substantial support in the Committee for the proposal that the Organization be authorized to provide the space segment for domestic specialized telecommunication services only by amendment of the definitive agreements.

207 There is support in the Committee for the proposal that the Organization be authorized to provide, at the request of a Signatory or a group of Signatories, the space segment only for domestic public telecommunication services.

208 b) Provision by Means of Global Satellites

209 A substantial majority of the Committee recommends that the Organization be authorized to provide, at the request of a Signatory or a group of Signatories and in accordance with terms and conditions established for such requests, the space segment for domestic services by means of global satellites.

210 c) Provision by Means of Separate Satellites

211 A substantial majority of the Committee recommends that:

212 -- The Organization be authorized to provide, at the request of a Signatory or group of Signatories and in accordance with terms and conditions to be established in each particular case, separate satellites intended specifically to serve the domestic needs of a Signatory or group of Signatories of neighboring countries, subject to certain conditions. (See paragraphs 215-225, below).

213 -- The Organization be authorized to provide domestic satellites at the request of a Signatory or group of Signatories not wishing to have domestic satellites financed by the Organization, or after failure of the Governing Body to act affirmatively upon the request of such Signatory or Signatories. These domestic satellites would be established by the Organization but financed entirely by the Signatory or group of Signatories concerned, and would be designed, developed and constructed in accordance with the specifications provided by that Signatory or group of Signatories, subject to certain conditions. (See paragraphs 215-225, below).

214 There is substantial support in the Committee for the proposal that the Organization be authorized to provide, at the request of a Signatory or group of Signatories, domestic satellites financed by the Organization in the same manner as global satellites, subject to certain conditions. (See paragraphs 215-225, below).

215 d) Prior Conditions

216 A majority of the Committee recommends that, prior to the establishment of domestic satellites, either by the Organization or separately by a Signatory, the Governing Body of the Organization should be consulted and may pass recommendations regarding:

217 -- The consistency of the proposed use of the radio frequency spectrum and orbital space with the Organization's proposed use (prior to International Telecommunication Union coordination).

218 -- The proposed mechanism and techniques for the control of the domestic satellites and possible interferences.

219 -- The economic compatibility of the domestic satellites with the global system.

220 There is substantial support in the Committee for the proposal that, prior to the establishment of a domestic satellite, either by the Organization or separately by a Signatory, the Governing Body shall have to determine that:

221 -- The establishment of such a satellite will be consistent with the Organization's proposed use of the radio frequency spectrum and orbital space.

222 -- The proposed mechanism and technique for control of such a satellite will be adequate, and that radiation emitted from the satellite will not cause harmful interference.

223 There is support in the Committee for the proposal that, prior to the establishment of a domestic satellite either by the Organization or separately by a Signatory, the Governing Body shall express the opinion that:

224 -- The establishment of such a satellite will be consistent with the Organization's proposed use of the radio frequency spectrum and orbital space.

225 -- The proposed mechanism and technique for control of such a satellite will be adequate, and that radiation emitted from the satellite will not cause harmful interference.

226 3. Provision for Meeting Needs of a National Security Nature

227 A majority of the Committee recommends that the Organization be authorized, at the request of a Signatory or group of Signatories, to provide separate satellites (financed by the Organization or by the Signatory or Signatories concerned, as the case may be) intended solely for the purpose of meeting needs of a national security nature.

C. Eligibility for Membership in the Organization

228 The Government of any State which is a member of the International Telecommunication Union may accede to the Interim Agreement. An important question is whether this standard should continue to apply under the definitive arrangements.

229 A majority of the Committee recommends that only those States which are members of the International Telecommunication Union be eligible to become Participating States.

230 There is substantial support in the Committee for the proposal that all States be eligible to become Participating States.

D. Legal Form, Personality, and Capacity of the Organization

231 A basic question requiring resolution is the form of the Organization. Equally important and closely associated are such questions as whether the Organization will have the capacity to possess rights and assume obligations (see paragraphs 235 and 236, below) and whether it will be subject to the laws and jurisdiction of a Participating State, particularly the State in which the Organization establishes its headquarters. (See paragraphs 594-597, below).

232 ### 1. Legal Form

233 A substantial majority of the Committee recommends that the Organization be a partnership in corporate form.

234 There is support in the Committee for the proposal that the Organization be, as under the interim arrangements, a partnership in the form of a joint venture. Such a joint venture would not be in corporate form.

235 ### 2. Legal Personality and Capacity

236 A substantial majority of the Committee recommends that the Organization, which should be either an international or intergovernmental organization, should possess legal personality and, on the territory of each Participating State, the juridical capacity necessary to exercise its functions and reach its objectives, including the capacity to conclude agreements, to own property and to exercise rights against third parties in its own name.

E. Structure of the Organization

237 Under the interim arrangements INTELSAT has two organs: the Interim Communications Satellite Committee, as the decision-making body, and a manager, the Communications Satellite Corporation, as provided in Article VIII of the Interim Agreement.

238 The structure of the Organization can be considered in two ways: first, the identity, form and functions of the organs, and second, the inter-relationships of the organs.

239 As regards the identity of the organs, the Committee received proposals covering various combinations of:

-- a Conference of Parties,

-- an Assembly of Parties or Signatories or designated telecommunication entities,

-- a Governing Body,

-- various Regional or Specialized Groups,

-- a Secretariat (or Secretary-General, or Director General),

-- a Management Body (or General Manager).

240 The Committee considered in greatest detail an organization which would consist of three of these organs, namely: an Assembly, a Governing Body, and a Management Body.

241 As regards the inter-relationships of the various organs, the main alternatives are that the various organs should each have separate legal personality, as is the case under the interim arrangements; or that the Organization as a whole should have corporate legal personality, in which case the constituent organs would each exercise appropriate aspects of the Organization's powers, rights and obligations in accordance with the provisions of the definitive arrangements.

242 For purposes of clarity, this subject heading is divided into the following sub-headings:

-- Organs of the Organization

-- Inter-relationship of the Organs of the Organization

-- The Assembly

-- The Governing Body

-- The Management Body

-- Variation of a Three-organ Structure

243 1. Organs of the Organization

244 The Committee unanimously recommends that the Organization consist of:

-- an Assembly,

-- a Governing Body,

-- a Management Body.

245 In connection with this recommendation:

246 A majority of the Committee recommends that the Assembly should be composed of all Parties.

247 A majority of the Committee recommends that the Assembly should be composed either of Parties or of designated telecommunication entities as may be decided by the Parties prior to each meeting of the Assembly.

248 There is substantial support in the Committee for the proposal that the Assembly should be composed of all Signatories.

249 It is observed that neither of the compositions of the Assembly proposed in paragraphs 247 and 248 above would preclude the convening, either at fixed periodic intervals or ad hoc as required, of Conferences of Parties, e.g., for the purposes of reviewing the working of the definitive arrangements and of amending the Intergovernmental Agreement.

250 There is support in the Committee for the proposal that the Organization consist of:

-- an Assembly, composed of all Signatories,

-- a Governing Body,

-- a Management Body, composed of an International Secretariat and a single entity appointed as Manager to engage in the daily work of the space segment under the directives of the Secretariat.

251 There is support in the Committee for the proposal that the Organization consist of:

-- a Conference, composed of Parties;

-- an Assembly, composed of Signatories;

-- a Governing Body;

-- a Management Body.

252 Under this proposal, the Conference would consider the broad policy of the Organization and would approve amendments to the Intergovernmental Agreement. Voting in the Conference would be in accordance with established international voting practice. The Conference would meet either at given intervals, possibly every three years, or at the request of a given number of Parties. The functions of the Assembly would be broadly similar to those of a general meeting of shareholders or stockholders.

253 2. Inter-relationship of the Organs of the Organization

254 A substantial majority of the Committee recommends that the definitive arrangements should govern the internal arrangements of the Organization.

255 A substantial majority of the Committee recommends that the Management Body be subordinate to the Governing Body, this relationship to be made clear by subjecting the functioning of the Management Body to the general policies and specific determinations and directives of the Governing Body.

256 A majority of the Committee recommends that the Management Body be subordinate to the Governing Body, this relationship to be made clear by establishing a documented relationship between the Governing Body and the Management Body which clearly delineates the roles of each organ and conveys the appearance, as well as the reality, that the Management Body is the servant of the Governing Body.

257 There is substantial support in the Committee for the proposals that:

258 -- An Assembly consisting either of Parties or of Signatories, as may be determined by the Parties prior to each meeting of the Assembly, be the supreme organ of the Organization.

259 -- Legal personality reside in the Organization as a whole with the several organs--Assembly, Governing Body and Management Body--each exercising appropriate aspects of the Organization's powers, rights and obligations in accordance with the provisions of the definitive arrangements.

260 -- The chief executive of the International Secretariat of the Management Body have appropriate legal capacity to act on behalf of the Organization.

261 The proposal was made that an Assembly consisting of all Signatories be the supreme organ of the Organization.

262 3. The Assembly

263 The Committee examined the functions, voting system and frequency of meetings of the Assembly under three assumptions regarding its composition, namely, an Assembly consisting of Parties, an Assembly consisting either of Parties or Signatories, and an Assembly consisting of Signatories.

264 a) An Assembly Consisting of Parties

265 i) Functions

266 A majority of the Committee recommends that the following be among the functions of the Assembly:

267 -- To receive, consider and, in some instances, approve reports from the Governing Body.

268 -- To act upon all matters referred to it by the Governing Body, including:

269 . proposals for increasing the capital investments of Signatories;

270 . recommendations for changes in designation of or arrangements with the Management Body, and for the appointment of the chief executive of the Management Body for a prescribed term of office.

271 -- To appoint Signatories to the Governing Body for a prescribed period, either because their past use of the system qualified them for such representation or because they were selected on some other basis, such as regional representation.

272 -- To determine that a Signatory shall be deemed to have withdrawn from the Organization for failure to comply with obligations of membership.

273 -- To establish the general policy and scope of programs of the Organization, and to review the activities of the other organs.

274 -- To lay down the Organization's broad policy and to take decisions of a political nature.

275 <u>There is substantial support in the Committee for the proposal</u> that the following be among the functions of the Assembly:

276 -- To consider and approve amendments to the Agreements constituting the definitive arrangements.

277 <u>There is support in the Committee for the proposals</u> that the following be among the functions of the Assembly:

278 -- To consider and approve amendments to the Second Agreement.

279 -- To consider grievances put to it by Signatories or by users of the system.

280 -- To determine, in the event of disputes, the competence of the Governing Body.

281 -- To approve new accessions.

282 ii) Voting

283 A majority of the Committee recommends that procedural decisions be adopted by a simple majority, and important decisions of substance by a two-thirds majority in each case, with each member possessing one vote.

284 There was support in the Committee for the proposal that a simple majority, with each member possessing one vote, be required for all decisions.

285 The proposals were made that:

286 -- A two-thirds majority, with each member possessing one vote, be required for all decisions.

287 -- Both a simple majority, with each member possessing one vote, and a two-thirds majority of the investment shares* be required for decisions on substantive matters.

288 iii) Frequency of Meetings

289 There is substantial support in the Committee for the proposal that the Assembly meet annually, but be empowered to call extraordinary meetings.

290 There is support in the Committee for the proposal that the Assembly meet annually.

291 The proposal was made that the Assembly meet every two years, but be empowered to call extraordinary meetings at the request of a majority of its members.

---

* Regarding the determination of investment shares, see Section F below.

292 b) An Assembly Consisting either of Parties or of Signatories, as may be Determined by the Parties Prior to Each Meeting of the Assembly

293 i) Functions

294 A majority of the Committee recommends that the following be among the functions of the Assembly:

295 -- To receive, consider and, in some instances, approve reports from the Governing Body.

296 -- To determine that a Signatory shall be deemed to have withdrawn from the Organization for failure to comply with the obligations of membership.

297 -- To establish the general policy and scope of programs of the Organization, and to review the activities of the other organs.

298 -- To lay down the Organization's broad policy and to take decisions of a political nature.

299 There is substantial support in the Committee for the proposals that the following be among the functions of the Assembly:

300 -- To appoint Signatories to the Governing Body for a prescribed period, either because their past use of the system qualified them for such representation or because they were selected on some other basis, such as regional representation.

301 -- To consider and approve amendments to the Second Agreement.

302 There is support in the Committee for the proposals that the following be among the functions of the Assembly:

303 -- To act upon all matters referred to it by the Governing Body, including:

304 proposals for increasing the capital investments of Signatories;

305 recommendations for changes in designation of or arrangements with the Management Body, and for the appointment of the chief executive of the Management Body for a prescribed term of office.

306 -- To consider grievances put to it by Signatories or by users of the system.

307 -- To consider and approve amendments to the Agreements constituting the definitive arrangements.

308 The proposal was made that the following be among the functions of the Assembly:

309 -- To approve new accessions.

310 ii) Voting

311 There is substantial support in the Committee for the proposal that procedural decisions be adopted by a simple majority, and important decisions of substance by a two-thirds majority in each case, with each member possessing one vote.

312 The proposals were made that:

313 -- A two-thirds majority, with each member possessing one vote, be required for all decisions.

314 -- Both a simple majority, with each member possessing one vote, and a two-thirds majority of the investment shares be required for decisions on substantive matters.

315 iii) Frequency of Meetings

316 There is substantial support in the Committee for the proposal that the Assembly meet annually, but be empowered to call extraordinary meetings.

317 The proposal was made that the Assembly meet annually.

318 c) An Assembly Consisting of All Signatories

319 i) Functions

320 There is substantial support in the Committee for the proposals that the following be among the functions of the Assembly:

321 -- To receive, consider, and in some instances, approve reports from the Governing Body.

322 -- To consider and approve amendments to the Second Agreement.

323 There is support in the Committee for the proposals that the following be among the functions of the Assembly:

324 -- To establish the general policy and scope of programs of the Organization, and to review the activities of the other organs of the Organization.

325 -- To act upon all matters referred to it by the Governing Body, including:

326 proposals for increasing the capital investments of Signatories;

327 recommendations for changes in designation of or arrangements with the Management Body, and for the appointment of the chief executive officer of the Management Body for a prescribed term of office.

328 -- To appoint Signatories to the Governing Body for a prescribed period, either because their past use of the system qualified them for such representation or because they were selected on some other basis such as regional representation.

329 -- To determine that a Signatory shall be deemed to have withdrawn from the Organization for failure to comply with the obligations of membership.

330 The proposals were made that the following be among the functions of the Assembly:

331 -- To lay down the Organization's broad policy and to take decisions of a political nature.

332 -- To determine, in the event of disputes, the competence of the Governing Body.

333 -- To consider grievances put to it by Signatories or by users of the system.

334 ii) Voting

335 There is substantial support in the Committee for the proposal that a two-thirds majority be necessary for substantive matters and a simple majority for other matters, with each Signatory possessing one vote.

336 There is support in the Committee for the proposal that both a simple majority, with each Signatory possessing one vote, and a two-thirds majority of the investment shares, be required for decisions on substantive matters.

337 The proposals were made that:

338 -- All decisions require both a simple majority, with each Signatory possessing one vote, and a two-thirds majority of the investment shares.

339 -- All decisions require a simple majority, with each Signatory possessing one vote.

340 iii) Frequency of Meetings

341 There is substantial support in the Committee for the proposal that the Assembly meet annually.

342 There is support in the Committee for the proposal that the Assembly meet annually, but be empowered to call extraordinary meetings.

343 The proposal was made that the Assembly meet every two years, but be empowered to call extraordinary meetings at the request of a majority of Signatories.

344 4. Governing Body

345 a) Eligibility for Membership

346 A majority of the Committee recommends that the Governing Body be composed of representatives of the Signatories.

347 There is support in the Committee for the proposal that representatives in the Governing Body meet without advisors so as to encourage the Governing Body to work in the spirit of a Board of Directors.

348 The proposal was made that the Governing Body be composed of representatives of designated telecommunication entities, with advisors as required.

349 b) Size

350 A substantial majority of the Committee recommends that, in order to ensure that the Governing Body will function in an effective and efficient manner, it be of limited size.

351 There is substantial support in the Committee for the proposal that the foregoing objective be achieved by establishing the size of the Governing Body at a maximum of twenty individuals.

352 There is support in the Committee for the proposal that the size of the Governing Body not exceed twenty-five individuals.

353 The proposals were made that:

354 -- The size of the Governing Body not exceed fifteen individuals.

355 -- The size of the Governing Body not exceed eighteen individuals.

356 c) Composition

357 The Committee unanimously recommends that Signatories be entitled to seats in the Governing Body by virtue of possession individually, or as a group, of investment shares equalling or exceeding a requisite level, and a majority of the Committee recommends that this level be set at 1.5% of the total investment shares in the Organization.

358 A majority of the Committee recommends that, in addition, the Assembly could elect a certain number of Signatories who would not be represented on the basis of their investment shares. The voting power of these members of the Governing Body would be at least equal to that of the member of the Governing Body with the lowest weighted vote.

359 There is substantial support in the Committee for the proposal that the minimum qualifying number of investment shares needed to obtain membership in the Governing Body be fixed on the basis of the desirable strength of the Governing Body and the distribution of investment shares among the Signatories.

360 There is support in the Committee for the proposals that:

361 -- Five or more Signatories be entitled to one seat in the Governing Body, regardless of their combined investment shares.

362 -- Signatories be entitled to one seat in the Governing Body if the volume of their international public telecommunication traffic provided by the satellites of the Organization (and not their investment shares), individually or as a group, equals or exceeds a requisite level.

363 -- For the purpose of determining qualifications for membership in the Governing Body, investment shares be deemed to be proportional to Signatories' use of the Organization's system for international public telecommunication only.

364 The proposals were made that:

365 -- Signatories be entitled to seats in the Governing Body by virtue of their traffic individually, or as a group, equalling or exceeding a requisite level.

366 -- The twelve Signatories with the greatest use of the system during each preceding period of four years be selected automatically for two-year seats in the Governing Body at meetings every two years of the Assembly, and six additional Signatories be elected to two-year seats in the Governing Body at meetings every two years of the Assembly either on a regional basis or on a voluntary group basis, based on use plus regional groupings.

367 d) Functions

368 The committee unanimously recommends that:

369 -- Functions assigned to the Governing Body be all those functions required to direct the business and carry out the purposes of the Organization.

370 -- The Governing Body be responsible for the design, development, construction, establishment, maintenance, and operation of the space segment.

371 In the exercise of these broad functions, powers, and responsibilities, the Governing Body would also exercise specific functions, with due regard to such powers and functions as might be vested in the Assembly or other organs. Many of the specific functions would be of the type normally residing in a governing body. Some are stated under other subject headings of this Part of the Report. Some of special significance are listed below. This list is not exhaustive, but merely illustrative. In presenting it, the Committee is neither recommending nor implying that a detailed list of functions of the Governing Body should be included in the definitive arrangements.

372 With respect to global satellites (see subject heading B), the Governing Body might be concerned with:

373 -- Contracts for the Organization's procurements.

374 -- Policies for the conduct of Organization-funded research and development projects and approval of research and development programs.

375 -- Procedures for determination and periodic adjustment of Signatories' investment and ownership shares.

376 -- Procedures and criteria for approval of earth stations for access to global satellites.

377 -- Procedures for initial and continuing verification of performance characteristics of earth stations approved for access to global satellites.

378 -- Plans and procedures for coordination between earth stations in the utilization of global satellites and other Organization-financed satellites, e.g., operation plans, including frequency plans, tests and lineups, and service circuits.

379 -- Procedures for filing of the required information pertaining to global satellites and other Organization-financed satellites with the International Telecommunication Union.

380 -- Terms and conditions for allotment of units of satellite utilization in global satellites, including charges for such allotments.

381 With respect to satellites intended specifically to serve the domestic needs of a Participating State (see subject heading B) the Governing Body might be concerned with:

382 -- Programs for the development and establishment of Organization-financed domestic satellites.

383 -- Programs for the development and establishment by the Organization of domestic satellites financed by a Participating State requesting such satellites.

384 -- Operation and system management plans for the utilization, maintenance and control of Organization-financed domestic satellites.

385 -- Programs for operational control for Organization-financed domestic satellites and arrangements, terms and conditions under which the Organization may provide operational control for non-Organization-financed domestic satellites.

386 -- Procedures and criteria for approval of earth stations for access to Organization-financed domestic satellites.

387 -- Procedures for initial and continuing verification of performance characteristics of earth stations approved for access to Organization-financed domestic satellites.

388 -- Plans and procedures for coordination between earth stations in the utilization of Organization-financed domestic satellites.

389 -- Procedures for filing of the required information pertaining to Organization-financed domestic satellites with the International Telecommunication Union.

390 There is substantial support in the Committee for the proposal that the Governing Body have the function of establishing, each time such establishment is deemed useful, regional groups or groups for specialized services, composed of a limited number of Signatories. The groups would be empowered to submit to the Governing Body, either at the request of the Governing Body, or on their own initiative, recommendations concerning their field of interest.

391 e) Voting Arrangements

392 i) Determination of Voting Shares

393 A substantial majority of the Committee recommends that voting shares be determined by directly relating voting shares to the investment shares held respectively by a Signatory or a group of Signatories with seats in the Governing Body, and in addition by assigning to each such Signatory or group of Signatories a basic bloc of votes.

394 There is substantial support in the Committee for the proposals that:

395 -- Voting shares be based on the investment shares of the Signatories except that the difference in voting shares between the Signatory with the largest investment share and the Signatory with the lowest investment share would not be so large as the difference between their respective investment shares.

396 -- Voting shares be in proportion to the volume of international public telecommunication traffic of the Signatories, individually or as a group, provided by the satellites of the Organization.

397 -- Each Signatory or each group of Signatories with a seat in the Governing Body have one vote.

398 There is support in the Committee for the proposals that:

399 -- Voting shares be determined by directly relating voting shares to the investment shares held respectively by the Signatory or group of Signatories with seats in the Governing Body.

400 -- Voting shares may or may not be related directly to traffic shares. Voting shares in the Governing Body may be determined by directly relating voting shares to the shares of routed traffic held by the Signatory or group of Signatories with seats in the Governing Body and by assigning to each such Signatory or group of Signatories a basic bloc of votes. Alternatively, voting shares may be determined by directly relating voting shares to the traffic shares (that portion of the traffic shares which is based upon usage of the system to provide public international telecommunication services) held respectively by the Signatory or group of Signatories with seats in the Governing Body.

401 -- Voting shares shall not differ from investment shares, provided that the total investment is divided into two parts as proposed in paragraph 501, below.

402 ii) Voting Power

403 The Committee unanimously recommends that the Governing Body shall endeavor to take its decisions unanimously.

404 A substantial majority of the Committee recommends that:

405 -- In no case should any one representative or a combination of three representatives having the largest voting shares on the Governing Body be able to prevent or impose a decision of the Governing Body solely because of the casting of its votes or their votes.

406 -- The voting power of any representative be limited by providing that the Governing Body shall not fail to take a decision solely because of the casting of a negative vote by any three representatives.

407 A majority of the Committee recommends that:

408 -- The voting power of any three representatives shall not exceed 50%.

409 -- All decisions in the Governing Body be governed by the principle that no single entity should be able to block a decision. Voting rights should be suitably defined to meet this aim.

410 There is substantial support in the Committee for the proposal that an upper limit of 50% be placed on the voting power of any representative.

411 iii) Majority Requirements

412 The Committee unanimously recommends that, if voting arrangements and majority requirements in the Governing Body vary according to the issue before the Governing Body, those items considered to be the more important substantive ones should be listed in the definitive arrangements.

413 The proposals were made that:

414 -- The Governing Body shall delegate its decision-making power to the regional or specialized groups it will have established, each time it appears that the decision to be taken concerns only Signatories belonging to one of these groups. Voting procedures within these groups will take into account voting procedures adopted within the Governing Body, but will also take into account the independence of the terrestrial and earth segments in relation to the space segment.

415 -- In the absence of unanimity, either of the following two results should constitute a decision:

416 . a simple majority of the membership, with each member possessing one vote, together with 66-2/3% of voting shares; or

417 . an adequately high numerical majority (such as 80%) of the membership, with each member possessing one vote.

418 iv) Majority Requirements on Substantive Questions

419 A majority of the Committee recommends that decisions on substantive questions be taken by a two-thirds majority of the total of the voting shares represented in the Governing Body.

420 There is substantial support in the Committee for the proposal that weighted voting be used only on substantive matters. Certain important questions, such as the determination of investment shares and the award of major contracts, should require, in addition to a majority (which could be either a two-thirds majority or a simple majority) of the voting shares in the Governing Body, a majority of the members of the Governing Body, with each member possessing one vote. There must be detailed enumeration of the questions on which such a double majority voting procedure shall apply.

421 There is support in the Committee for the proposal that decisions on substantive questions be taken by a simple majority or two-thirds of the membership of the Governing Body, each member possessing one vote, except that decisions directly dealing with the approval of contracts, or with authorizations for expenditures and revenue, shall require two-thirds of the total of the voting shares.

422 v) Majority Requirements on Procedural Questions

423 A substantial majority of the Committee recommends that decisions on procedural questions be taken by a simple majority of the representatives present and voting.

424 f) The Chairman of the Governing Body

425 The Committee unanimously recommends that the Governing Body appoint its Chairman from among its representatives.

426 There is substantial support in the Committee for the proposals that:

427 -- To the extent possible, the Chairman shall serve full-time during his period of office.

428 -- The Chairman shall not succeed himself.

429 -- The Chairman shall not belong to the Management Body.

430 There is support in the Committee for the proposal that the Chairman serve for a period of two years.

431 5. The Management Body

432 a) Identity and Staffing

433 A majority of the Committee recommends that:

434 -- The Organization have a permanent international Management Body under the authority of a Director-General who would be directly subordinate to the Governing Body. All posts in the Management Body shall be open to qualified personnel of the Participating States, with the aim of securing the highest degree of efficiency. Due regard shall be given to the principle of equitable geographical distribution as far as possible. The Director-General and his staff shall not receive any instructions from outside, nor shall any member of the Organization influence them in the performance of their duties. Certain management functions of the Management Body could be transferred on a project-by-project basis to national or international institutions.

435 -- The personnel serving in the Management Body be highly qualified individuals selected from the Participating States, such individuals to be independent of any national entity.

436 -- The key personnel of the Management Body, including the chief executive officer and other executives, be appointed by the Governing Body.

437 -- The chief executive officer be appointed by the Assembly for a fixed term of office on the recommendation of the Governing Body, and be subject to removal for cause in the same manner.

438 -- The Organization's Director-General, under the guidance of the Governing Body, be in charge of technical, commercial, and operational management.

439 There is substantial support in the Committee for the proposals that:

440 -- The chief executive of the international secretariat* comprising part of the Management Body, be assisted by a number of qualified staff members selected from among the Participating States.

441 -- The Management Body be an international organization separate and distinct from the entities participating in the Organization.

442 There is support in the Committee for the proposal that the international Management Body include a permanent Secretariat, working closely with the Governing Body and its subcommittees (planning, standardization, traffic statistics, financial data, general technical studies, legal assistance, industrial property, information, technical assistance, etc.) and a technical and operations body, which could be partially decentralized to bring closer, as much as it is possible, the monitoring of contracts, as well as the control and operation of the space segment, to contractors, maintenance stations and users which will be scattered throughout all continents.

---

* For the concept of an international secretariat, see paragraph 250, above.

443 The proposals were made that:

444 -- The current Manager designated by the Interim Agreement be the Management Body under the definitive arrangements.

445 -- The Manager be an individual assisted by a permanent staff (consisting of technical and administrative personnel) of the Organization.

446 b) Designation of the Management Body

447 A majority of the Committee recommends that, should the Management Body be an international body, it be designated in the definitive arrangements.

448 There is substantial support in the Committee for the proposal that, should the Management Body be an international body, it be appointed by the Assembly after receiving the recommendation of the Governing Body.

449 There is support in the Committee for the proposal that, should the Management Body be an international body, it be appointed by the Governing Body.

450 There is support in the Committee for the proposals that, should the Management Body be a national entity, it be:

451 -- Designated in the definitive arrangements.

452 -- Appointed by the Governing Body.

453 There is support in the Committee for the proposals that:

454 -- If the management functions are exercised by a national entity responsible to an international body, the national entity be appointed by the Assembly on the recommendation of the Governing Body.

455 -- Should the Manager be an individual assisted by an international staff, he be:

456 -- Appointed by the Governing Body.

457 -- Appointed by the Assembly on the recommendation of the Governing Body.

458 The proposal was made that, if the management functions are exercised by a national entity responsible to an international body, the national entity be appointed by the Governing Body.

459 c) Change of the Management Body

460 A majority of the Committee recommends that, under the definitive arrangements, the Management Body may be changed by amending the Intergovernmental Agreement.

461 There is substantial support in the Committee for the proposal that, under the definitive arrangements, the Management Body may be changed by the Assembly on the recommendation of the Governing Body.

462 There is support in the Committee for the proposal that, under the definitive arrangements, the Management Body may be changed by the Governing Body.

463 d) Functions of the Management Body

464 The extent to which the functions of the Management Body will need to be expressed in the definitive arrangements will depend upon the form and legal personality of the Organization to be established and the selection and identity of the Management Body. Should the Organization be a self-contained entity, the Management Body would be an organ within this unitary Organization. Under such circumstances it might not be necessary to detail the functions of the Management Body, since it would be a subordinate body of the Organization, receiving its instructions, authority and functions from the Governing Body. However, should all or some of the managerial functions be performed by an organization(s) not included within a unitary organization, it would be necessary to enumerate in considerable detail the functions of a Management Body. Such enumeration could appear in the Agreements, thus following the precedent established by the Interim and Special Agreements.

Alternatively, these functions could be established in a documented relationship between the Governing Body and such an outside Management Body(ies). In this connection, a description (prepared by the Manager) of the functions that the present Manager currently performs for INTELSAT is attached to this Part of the Report.

465 Regardless of the identity of the Management Body, the Committee views it as being the executing and implementing agent for the policy organs of the Organization.

466 With regard to both global and domestic satellites the Management Body might be concerned with:

467 -- Studies to ascertain satellite service requirements, including establishment of a satellite communications traffic data base.

468 -- Recommendations on the economic desirability for the Organization to finance the development and establishment of a domestic satellite in response to the request of a Participating State.

469 -- Earth station approvals for access to satellites according to the procedures and criteria adopted by the Governing Body.

470 -- The allotment of units of satellite utilization in satellites in accordance with the terms and conditions established by the Governing Body.

471 -- The provision of the information about satellites required by the International Telecommunication Union, in accordance with procedures adopted by the Governing Body.

472 -- Preparation and issuance of requests for proposals for Organization procurements; evaluation of proposals received in response to such requests for proposals; recommendations to the Governing Body concerning the selection of contractors; negotiation, (execution) and administration of the Organization's contracts, unless specifically directed otherwise by the Governing Body.

473 -- The direction or performance of all management functions, such as procurement, maintenance, and operation of the space segment.

474 -- Required coordination between the space segment and earth stations.

475 There is substantial support in the Committee for the proposals that:

476 -- The functions of the Management Body be enumerated in a contract to be concluded between the Governing Body and the Management Body.

477 -- The Management Body not be authorized to sign contracts, and that this function be vested in the Director-General acting expressly on behalf of the Governing Body.

478 6. Variation of a Three-organ Structure

479 There is support in the Committee for the proposal that the Organization consist of a three-organ structure different from that described above. Under this proposal, the Organization would be composed of:

480 -- An Assembly, similar in its general features to those of the Assembly described above.

481 -- A Governing Body. In some respects, the Governing Body would be similar to that described above. It could take decisions by a simple (or two-thirds) majority of its members on matters concerning the international aspects of the Organization, and on problems of general interest (planning, standardization, policies relating to tariffs, relations between the space segment and earth segment, etc.). However, its power in matters involving direct financial commitments or commitments of a primarily commercial nature would be largely a power of recommendation and coordination only. Such matters would fall essentially within the competence of regional or specialized groups. These groups would

be established by agreements among the administrations or entities which would finance the satellites of concern to them and which would commit themselves to contribute to overhead expenses according to their shares in the group.

482 -- The Governing Body would, however, assume specific responsibilities of initiative and supervision in the establishment and harmonization of the global network. For example:

483 The Governing Body, assisted by its specialized committees and by the international Management Body (or its permanent Secretariat), would continuously examine and monitor the status of the global network and traffic forecasts, in order to propose, when it appears necessary, the design, development and establishment of new satellites. These proposals would be highly refined, for they would be based upon consultations conducted on an international basis and upon pre-negotiations with industry, but the Governing Body would not possess the right to let definitive contracts.

484 The establishment of satellites could also be initiated independently of the Governing Body by countries or groups of countries. Independent initiation would often characterize plans for domestic or regional satellites. Countries planning such satellites would agree, if they were members of the Organization, to submit their plans to the Governing Body for its opinion, the Governing Body would then make all suggestions it deemed advisable, particularly with a view toward optimizing the global network from the technical and economic standpoints.

485 The Governing Body would also be able to submit recommendations on its own initiative.

486 All these recommendations or suggestions would require a simple majority of the members of the Governing Body.

487 -- A Management Body. Each of the regional or specialized groups may, if it wishes, transfer to a Manager a part of the management tasks which fall upon it, and may freely select this Manager.

488 -- But the Organization as a whole might prefer to select a single international Management Body similar to that provided for in the Organization described above, but preferably including a permanent Secretariat and preferably decentralized, to a considerable extent, at the level of each of these groups, for the performance of its technical and operational functions.

F. Financial Matters

489 In considering financial arrangements to be established by the definitive arrangements it may be useful to review the circumstances presently pertaining. Under the interim arrangements, contributions to meet INTELSAT capital requirements are made by the Signatories to the Special Agreement in proportion to their respective quotas which were fixed by negotiation, having regard to the volume of long-distance traffic forecasts of the various Signatories. The amount of capital contributed by the Signatories to the Special Agreement is not necessarily related to their actual use of the INTELSAT satellites. Payment for the utilization of INTELSAT satellites is governed by Article 9 of the Special Agreement, which provides that "The Committee shall specify the unit of satellite utilization and from time to time shall establish the rate of charge per unit at a level which, as a general rule, shall be sufficient, on the basis of the estimated total use of the space segment, to cover amortization of the capital cost of the space segment, and adequate compensation, for use of capital, and the estimated operating, maintenance, and administration costs of the space segment." Thus, the space segment charge is paid by the users of the INTELSAT satellites, and capital requirements are met by the owners.

490 During Committee consideration of the definitive arrangements, different concepts have been advanced with respect to investment in the property of the Organization and the financing of its activities. Under one concept the Signatories would participate in the financing of all of the property and activities of the Organization. Under another concept, the Signatories would participate, only in accordance with their own decisions, in the financing of specific satellites and financing of certain common activities.*

---

* It has been suggested by one member that although these two concepts may seem contradictory they may lead in practice to similar and perhaps even identical results.

491 Under the financial system established by the interim arrangements, the relationship between ownership and use is merely coincidental, and it would be virtually impossible under such a system for an owner's capital contribution to equal the amount of the charges it paid for using the satellites. On the other hand, it would be possible, under the definitive arrangements, to establish a basis for financing the activities of the Organization so that the Organization's capital requirements and expenses would be met by Signatories contributing monies in proportion to their actual use of the Organization-financed satellites.

492 1. Principles Underlying the Financial Arrangements of the Organization

493 A majority of the Committee recommends that the financial arrangements of the Organization make a clear distinction between the role of Signatories as co-owners of the space segment (in which role they would make capital contributions to the Organization on the basis of a system of investment shares to be defined in the definitive arrangements) and the role of Signatories as users of the space segment (in which role they would make utilization charge payments to the Organization, such charges to be fixed by the Organization according to commercial principles).

494 There is support in the Committee for the proposals that the financial arrangements of the Organization:

495 -- Be based on a cooperative structure under which Signatories, being both co-owners and the only direct users of the space segment, would contribute capital and make payments to cover maintenance and operating expenses in proportion to their respective investment shares (based upon use of the Organization-financed space segment). This cooperative financial structure, combining the roles of Signatories as owners and as users, might make possible the elimination of space segment utilization charges as such.

496 -- Be based on a cooperative structure in which the Signatories, both co-owners and direct users of the space segment, would contribute to the capital expenses in proportion to investment shares (determined according to space segment utilization which they anticipate over the next five years) and would contribute to operation and maintenance expenses in proportion to their actual space segment utilization. This cooperative financial structure of Signatories as co-owners and users, would render possible the elimination for these Signatories of inherent charges of utilization of the space segment and would further enable the use of the space segment as leased by non-Signatory telecommunication entities, in accordance with the Preamble of the Interim Agreement.

497 2. Principles for Determining Investment Shares of Signatories

498 A substantial majority of the Committee recommends that investment shares of the Signatories be determined by relating them directly, through periodic adjustment, to actual use of all Organization-financed facilities, subject to allotment of a minimum investment share of approximately 0.05% to each Signatory irrespective of use.

499 There is substantial support in the Committee for the proposals that:

500 -- Investment shares be determined by adding together the investment related to actual use and a fixed and equal "basic" investment for all Signatories.

501 -- The total investment shares be divided into two parts. Forty percent of the shares would be allotted to Part 1 and be divided equally among the Signatories. The remaining 60% of the shares would be in Part 2 and would be divided among the Signatories according to their space segment utilization. In case some of the Signatories do not have the means or the intention to purchase the shares due to them, they would be given a minimum base share, and the remaining shares in each part would be divided among the other Signatories according to the principles stated above. It should be possible for such Signatories to opt for any fraction or whole of the full share to which they are entitled during any annual review.

502 -- Two classes of stock be issued by the Organization: common and preferred stock. Signatories would subscribe to common stock to finance the space segment for public international telecommunication services. Preferred stock would be sold by the Organization to Signatories and to non-Signatories on the international market to finance all of the other projects of the Organization.

503 There is support in the Committee for the proposals that investment shares of Signatories be based upon:

504 -- An estimated percentage of the total future use of Organization-financed facilities, derived from each Signatory's request for reserved capacity.

505 -- The estimated total use by each Signatory, for a five-year period, starting with the year for which the investment share has been determined.

506 There is support in the Committee for the proposal that the concept of investment quotas plus a separate space segment utilization charge, as established by the interim arrangements, continue to form the basis of the financial arrangements of the Organization.

507 3. Methods for Determining Investment Shares

508 a) Allocation of Investment Shares

509 A substantial majority of the Committee recommends that the investment shares of the Signatories shall result from a proportional allocation of contributions of capital required for Organization-financed facilities in accordance with one of the principles described in paragraphs 497-506, above.

510 b) Frequency of Allocation

511 A majority of the Committee recommends that allocation of investment shares be adjusted annually, with the adjustments based upon the relative use of each Signatory during the preceding year.

512 There is substantial support in the Committee for the proposal that Signatories not wishing to vary their present investment quota should not be obliged to do so.

513 There is support in the Committee for the proposals that allocation of investment shares be:

514 -- Adjusted annually, with the adjustments based upon the total quantity of capacity reserved for their use that Signatories committed themselves to for the next five years.

515 -- Adjusted every three years.

516 4. Rights and Obligations of the Investors

517 a) Property Rights and Interests

518 A substantial majority of the Committee recommends that the entire Organization-financed space segment be owned in undivided shares by the Signatories in proportion to their investment shares.

519 There is support in the Committee for the proposal that individual satellites or groups of satellites, as well as related equipment, be owned in proportion to their investment shares, in undivided shares, by the telecommunications administrations and operating entities financing them. Common facilities would also be the undivided property of all the administrations and entities which would have contributed to their financing.

520 b) Compensation for Use of Capital

521 A substantial majority of the Committee recommends that use of the capital invested by the Signatories be compensated on the basis of the cost of money during the period between adjustments of investment shares.

522 There is substantial support in the Committee for the proposal that use of the capital invested by the Signatories be compensated on the basis of a rate of return substantially lower than the 14% rate employed under the interim arrangements.

523 There is support in the Committee for the proposal that, in the event of the financial arrangements involving separate accounting for capital contributions and for utilization charge payments, use of the capital invested by Signatories be compensated on the basis of an equitable rate of return, i.e., not substantially lower than the 14% rate employed under the interim arrangements.

524 c) Contribution to Maintenance and Operating Expenses

525 A majority of the Committee recommends that maintenance and operating expenses be shared proportionately to the investment shares of the Signatories as determined in accordance with one of the principles described in paragraphs 497-506 above.

526 d) Conditions of Use

527 A substantial majority of the Committee recommends that Signatories be able to use all Organization-financed facilities by payment of utilization charges. One possibility is that these charges be fixed at a level which meets all the Organization's costs including depreciation and amortization of capital and all maintenance and operating expenses.

528 There is support in the Committee for the proposals that:

529 -- Signatories be able to use all Organization-financed facilities without payment of utilization charges, since both capital contributions and maintenance and operating expenses would be met in proportion to investment shares.

530 -- Signatories be able to use all Organization-financed facilities without payment of utilization charges for the capacity they have reserved for their needs and with separate payment of utilization charges for any use of capacity in excess of that so reserved.

531 The proposal was made that telecommunications administrations and operating entities be able to use the capacity of satellites which they have financed, in proportion to their investment and without payment of charges, and on an indefeasible right of use basis.

Note: For users not investing in the Organization, see subject heading I of this Part.

G. Procurement Policies

532 It is necessary to consider carefully the criteria which should govern the placing of contracts for programs of the Organization.

533 During the interim period, the Committee has found the implementation of the provisions of Article X, in their present form, to give rise to inequalities and, without fundamental revision, to be difficult to fulfill without prejudice to the common interests of the members, because of the great disparity in the capability of its members to participate in work requiring the most advanced level of technological development. It has been represented that potential contractors outside the limited States found it difficult to perform such work within the short delivery time periods required for the INTELSAT I - IV satellites. The amount of international participation which has been achieved in the INTELSAT programs has required not negligible additional expenditures of INTELSAT funds, and this fact has given rise to controversy within the ICSC, as over 40 of the 63 INTELSAT members are countries which, because of their present stage of industrial development, see no immediate prospect of any significant portion of INTELSAT work being done in their countries.

534 Two considerations presented under this subject heading are, perhaps, contradictory. On the one hand, there is the need to obtain the best product at the best price. On the other hand, there is the legitimate desire of member States to share in procurements and to further their technological development. The Committee submits the following:

535 1. Obtaining the Best Product at the Best Price

536 A substantial majority of the Committee recommends that procurements for the space segment be carried out on the basis of the best product at the best price by means of international requests for proposals which are available to all Participating States.

537 A majority of the Committee recommends that an effort be made to ensure that procurements for the space segment be carried out on the basis of the best product at the best price by means of international requests for proposals which are available to all Participating States. In cases where it would be impossible to fulfill the preceding conditions, the Governing Body should have freedom to adopt a solution taking into account the interests of all Participating States.

538 2. Participation in Procurements

539 A substantial majority of the Committee recommends that:

540 -- The definitive arrangements should protect the interests of all Participating States and, in particular, should make possible the development of the technology of those States.

541 -- Each Participating State have the opportunity to participate, to the extent of its capacity, in the research, development and procurements for the system.

542 A majority of the Committee recommends that participation in research and development and in procurement for the system be, in principle, proportionate to the investment share of each Participating State.

543 There is support in the Committee for the proposal that the expenses contributed by each Signatory lead, to the maximum extent possible, to the derivation of benefits for its Participating State in terms of intellectual endeavor, industrial capability and technological development.

H. Policies in Relation to Inventions, Data, and Technical Information

544 Within the framework of the interim arrangements, the Special Agreement provides the means for disclosing to the Committee or to the Signatories inventions, technical data and information, arising directly from contracts placed by the Organization or used by the contractor in the performance of such contracts. Undoubtedly, this complex subject requires considerable attention in the development of the definitive arrangements.

545 The Committee unanimously recommends that the patent policy of the Organization be based on equitable arrangements, taking into account the interests of the Participating States and of the contractors.

546 There is substantial support in the Committee for the proposals that:

547 -- The patent policy of the Organization be based upon the difference between foreground data (data obtained in executing contracts awarded by the Organization) and background data (data not obtained in executing contracts of the Organization but which are necessary to the work performed under the contract). Holders of the rights relating to foreground data should be the contractors. They should, however, be bound to grant to the Organization, upon request, irrevocable, gratuitous, non-exclusive and transferable rights of use for purposes of the Organization. As regards background data, the holders should be the contractors, but they should be bound only to grant rights of use under equitable conditions.

543 -- It is inappropriate to attempt to delineate in the definitive arrangements the detailed rights of Signatories and others in the complex area of inventions and technical data. Rather, the definitive arrangements should contain broad standards as to the rights of Signatories and others, leaving to the Governing Body the implementation of the guidelines within the broad standards and the development of special inventions and data policies under those standards.

549 There is support in the Committee for the proposal that, in respect of inventions, technical data and information arising directly from contracts placed by the Organization, the title policy and the principles governing grant of license that have been established under the interim arrangements be maintained also under the definitive arrangements.

I. Access to the System; Coordination Arrangements

550 The Preamble of the Interim Agreement recalls the principle enunciated by the General Assembly of the United Nations that telecommunication by means of satellites should be available to the nations of the world on a non-discriminatory basis. It also affirms that all States should have access to the global system, those States so wishing being able to invest in it.

551 Since the purpose of the definitive arrangements must conform to the principles stated in the Preamble of the Interim Agreement, and must take into account the resolutions of the United Nations, the Agreements establishing the definitive arrangements should contain clauses, in addition to the statements contained under subject heading A of this Part, providing non-discriminatory access for all countries, whether or not members of the Organization.

552 Furthermore, the goal of improving the global telecommunication network, expressed in the Interim Agreement and mentioned under subject heading A of this part, requires various forms of coordination, including technical and commercial coordination between the earth and space segments.

1. Access to the System

554 The Committee unanimously recommends that access to the space segment of the system be possible directly for all Signatories and indirectly, according to non-discriminatory arrangements concluded with a Signatory, for a State not participating in the Organization, whether or not a member of the International Telecommunication Union.

555 There is substantial support in the Committee for the proposal that all participants have direct access to the space segment. States not participating in the Organization would have direct access to the space segment only by agreement with the Organization.

556 The proposal was made that access to the space segment established by the Organization be possible directly for all the Signatories and for all States not participating in the Organization.

557 2. Coordination Arrangements

558 a) Technical Coordination

559 A substantial majority of the Committee recommends that due consideration be given to the fact that, since orbital slots and the radio frequency spectrum are limited resources, and since possibilities exist for harmful interference, international cooperation is required in the establishment of satellite telecommunication facilities.

560 A majority of the Committee recommends that:

561 -- Coordination involved in the regulation and harmonization of various space activities be entrusted to the competent organizations of the United Nations, in particular the International Telecommunication Union.

562 -- The Director General*, under the guidance of the Governing Body, should enter into a working relationship which would permit continuous consultation with the owner or owners of the domestic or regional system outside the Organization to ensure coordination with such systems.

563 There is substantial support in the Committee for the proposal that problems relating to technical and operational coordination between global satellites and domestic, regional, and/or specialized satellites be dealt with by the Governing Body or the Organization. In use of radio frequency spectrum and application of technical and operational standards in the field of telecommunications, due attention shall be paid to the recommendations of the International Telecommunication Union.

---

* The concept of a Director General of the Management Body is developed further in paragraph 434.

564 b) Commercial Coordination

565 There is support in the Committee for the proposal that, if sub-systems are to exist side by side with the global satellite system, commercial coordination be effected under the aegis of the International Telecommunication Union, by means of consultations and procedures for reconciliation.

566 c) Coordination between Earth and Space Segments

567 The proposal was made that the problems of overall coordination of earth and space elements be dealt with in regional groups consisting of earth station owners and non-owner users operating one or several common satellites covering a limited area of the globe. The regional groups would be a part of the Organization.

J. The Agreements Constituting the Definitive Arrangements; Amendment; Settlement of Disputes; Privileges, Immunities and Exemptions

568 1. Number of Agreements

569 The interim arrangements are contained in two related agreements, the Interim Agreement and the Special Agreement (the Supplementary Agreement on Arbitration may be viewed as an annex to the Special Agreement). A question which must be considered is the number of agreements to be used to establish the definitive arrangements.

570 A substantial majority of the Committee recommends that the definitive arrangements shall be contained in two related agreements.

571 The proposal was made that a single Intergovernmental Agreement shall be concluded to establish the definitive arrangements. This Agreement would provide the basis for the subsequent conclusion of agreements among and between telecommunication administrations and operating entities.

572 2. Signatories of the Agreements

573 Closely related to the question of the number of agreements to be concluded is the question of the Parties or Signatories to the Agreements.

574 The Committee unanimously recommends that if the definitive arrangements are contained in two related agreements, the first between Governments, the second should be signed either by Governments or by telecommunications entities, public or private, designated by Governments.

575 A substantial majority of the Committee recommends that, as under the interim arrangements, if the definitive arrangements are contained in two agreements, one shall be intergovernmental.

576 The proposal was made that the Second Agreement be signed only by telecommunication entities.

577 3. Duration of the Agreements

578 The Agreements establishing the interim arrangements remain in force until the entry into force of the definitive arrangements. The duration of the Agreements establishing the definitive arrangements must be considered.

579 A majority of the Committee recommends that the Agreements establishing the definitive arrangements have no fixed duration.

580 There is substantial support in the Committee for the proposal that the Agreements establishing the definitive arrangements have a limited duration.

581 4. Amendment of the Agreements

582 The Interim Agreement does not contain a provision for its amendment, whereas the Special Agreement may be amended when two-thirds of the Signatories to the Special Agreement have approved an amendment recommended for adoption by the Committee. It is necessary to consider provisions for amending the Agreements constituting the definitive arrangements. This question may be tied closely to other considerations as, for example, the duration of the definitive arrangements.

583 A substantial majority of the Committee recommends that the definitive arrangements should be subject to review and amendment by Governments. The Assembly should be able to make proposals. In addition, a review Conference of the Parties to the Intergovernmental Agreement should be convened if necessary.

584 There is substantial support in the Committee for the proposals that:

585 -- The Intergovernmental Agreement contain a clause enabling a Conference of the Parties to consider and approve amendments to the Intergovernmental Agreement.

586 -- If the Assembly is composed either of Governments or of designated telecommunication entities as may be decided by the Governments prior to each meeting of the Assembly, the Intergovernmental Agreement contain a clause enabling the Assembly to propose to Parties to the Intergovernmental Agreement amendments to that Agreement.

587 -- If the Assembly is composed of representatives of all Parties, the Intergovernmental Agreement contain a clause enabling the Assembly to propose to Parties to the Intergovernmental Agreement amendments to that Agreement.

588 -- If the Assembly is composed of all the Signatories, the Intergovernmental Agreement contain a clause enabling the Assembly to amend the Second Agreement.

589 There is support in the Committee for the proposal that, if the Assembly is composed of all the Signatories, the Intergovernmental Agreement contain a clause enabling the Assembly to propose to Parties to the Intergovernmental Agreement any amendments to that Agreement.

590 The proposal was made that the Intergovernmental Agreement be subject to revision and to amendment, upon proposal by Parties to the Intergovernmental Agreement. For this purpose a Conference of the Parties shall be convened every four years to review the Intergovernmental Agreement.

591 5. Settlement of Disputes

592 Arrangements for the settlement of disputes arising out of the interpretation or application of the Interim and Special Agreements are contained in the Supplementary Agreement on Arbitration. The Supplementary Agreement on Arbitration was concluded in accordance with the provisions of Article 14 of the Special Agreement, and it is in force for the Signatories to the Special Agreement. No arrangements were concluded for the settlement of disputes between the Parties to the Interim Agreement.

593 In order to settle the disputes arising with respect to the rights and obligations of members of the Organization in relation to one another and in relation to the Organization, the Committee unanimously recommends that the Second Agreement incorporate an agreement on arbitration procedures. This agreement could be based on the procedure existing under the interim arrangements.

594 6. Priviliges, Immunities and Exemptions

595 The Interim Agreement does not contain provisions relating to privileges, immunities and exemptions.

596 The subject of the privileges, immunities and exemptions to be accorded the Organization merits careful consideration. It is closely related to the questions considered under subject heading D of this Part, "The Legal Form, Personality and Capacity of the Organization."

597 A substantial majority of the Committee recommends that, in order to better exercise its functions and reach its aims, the Organization should enjoy privileges and immunities determined by the Parties to the Intergovernmental Agreement and should be exempt, to the extent possible, from the law of the headquarters of the Organization.

K. Rights and Obligations of the Parties

598 The following recommendations and proposals are linked to those under subject heading B of this section, "Scope of Activities of the Organization."

599 1. General Obligation

A majority of the Committee recommends that each
600 Participating State obligate itself not to establish, or join in the establishment of, a space segment in competition with the space segment of the Organization.

601 There is support in the Committee for the proposals that:

602 -- Each Participating State obligate itself not to establish, or join in the establishment of, a space segment in competition with the space segment of the Organization, provided:

603 -- that the Organization be effectively in a position to satisfy the needs of that State;

604 -- that the Organization can do so under technical, economic and time conditions at least comparable to those which could be obtained with satellites of this competing space segment.

605 -- Each Participating State be entitled to participate in satellite systems to meet needs of all kinds, when these satellites are intended to establish telecommunications with States which, at the time of this participation, had not requested and had no plan to request, within the near future, access to the space segment established by the Organization.

606 2. Regional Satellites

607 A majority of the Committee recommends that each Participating State have the right to establish satellites independently, either by itself or in conjunction with other Participating States, to meet regional needs of any kind, subject to compliance with international regulations, particularly those of the International Telecommunication Union, and subject to consultation* with the Governing Body.

608 There is support in the Committee for the proposal that each Participating State have the right to establish satellites to meet regional needs of any kind.

609 3. Domestic Services

610 A substantial majority of the Committee recommends that each Participating State have the right to establish, independently of the Organization, by itself or in conjunction with other Participating States, communications satellites for domestic purposes, subject to compliance with pertinent international regulations, particularly those of the International Telecommunication Union, and subject to consultation* with the Governing Body.

611 There is substantial support in the Committee for the proposal that each Participating State have the right to establish, itself or in conjunction with other Participating States, communications satellites for domestic purposes independently of the Organization.

* The concept of consultation with the Governing Body is developed further under subject heading B, paragraphs 216-219, above.

612 4. Specialized Services

613 A majority of the Committee recommends that:

614 -- Each Participating State have the right to establish satellites solely for the purpose of providing specialized services. This right would be subject to compliance with international regulations, particularly those of the International Telecommunication Union, and subject to consultation* with the Governing Body.

615 -- Each Participating State have the right to establish, in conjunction with other Participating States, satellites intended primarily for specialized purposes, subject to compliance with pertinent international regulations, particularly those of the International Telecommunication Union, and subject to consultation* with the Governing Body.

616 There is substantial support in the Committee for the proposal that each Participating State have the right to establish satellites to meet its domestic needs of any kind and to establish, in conjunction with other Participating States, satellites intended primarily for specialized purposes.

617 There is support in the Committee for the proposal that each Participating State have the right to establish satellites solely for the purpose of providing specialized services.

* The concept of consultation with the Governing Body is developed further under subject heading B, paragraphs 216-219, above.

618 5. Needs of a National Security Nature

619 A majority of the Committee recommends that each Participating State have the right to establish satellites intended solely for the purpose of meeting needs of a national security nature, subject to consultation* with the Governing Body.

620 There is substantial support in the Committee for the proposal that notwithstanding the scope of authority of the Organization, each Participating State be free to establish satellites intended solely for the purpose of meeting needs of a national security nature.

621 The proposal was made that notwithstanding the scope of authority of the Organization, each Participating State be free to establish satellites intended solely for the purpose of meeting needs of a national security nature without the necessity of observing the rules and regulations of the Organization.

* The concept of consultation with the Governing Body is developed further under subject heading B, paragraphs 216-219, above.

L. Withdrawal from the Organization

622 Provisions governing withdrawal from an organization are usually found in clauses in the agreements establishing the organization.

623 Regarding the definitive arrangements, a substantial majority of the Committee recommends that:

624 -- Provisions be included in the Agreements defining in the most precise manner the conditions governing the withdrawal of Parties to the Intergovernmental Agreement and of Signatories to the Second Agreement.

625 -- The Assembly be empowered to require withdrawal from the Organization for failure to comply with the obligations of participation.

M. Transition from the Interim Arrangements to Definitive Arrangements

626 The interim arrangements remain in effect until the entry into force of definitive arrangements. It is necessary, therefore, to consider the means for effecting the transition from one set of arrangements to the other. Means for achieving this objective must await determination of the form and contents of the definitive arrangements. However, once this is accomplished it is possible to agree upon provisions for transfer of the rights and obligations created under the interim arrangements to the new Organization and its members. In so doing it would be appropriate to take cognizance of the existing enterprise, in which a significant amount of capital has been invested by a large number of countries and for which important facilities will be in existence and planned at the time the changeover occurs.

627 Also it would be necessary, upon determination of the definitive arrangements, to agree upon provisions to govern the orderly transition from one organization or organ to another. Perhaps it would be appropriate to request the Committee to study these problems, once the definitive arrangements assume a near-final form, and to present proposals to Governments on the means of achieving an organizational and administrative changeover.

628 This would apply, in particular, in case a new Management Body were to be established. Under the definitive arrangements, the Governing Body could be charged with the responsibility of drawing up a program for progressive establishment of the Management Body. The members of the Committee agree that great care must be taken in effecting any transition to ensure continuation of efficient operation and development of the space segment established under the interim arrangements.

629 Although the Committee considers it premature at this time to provide Governments with detailed recommendations, it believes recommendations on certain principles may be of assistance.

630 A substantial majority of the Committee recommends that, in view of the necessity to carry out effective and smooth transition from the interim to the definitive arrangements, the definitive arrangements provide that arrangements for the transition be completed within a fixed period after the entry into force of the definitive arrangements.

631 A majority of the Committee recommends that:

632 -- The transitional arrangements, particularly those which would become necessary if a change in the Manager would result from the definitive arrangements, should, consistent with usual practice, be worked out with the expert assistance of a competent management consulting firm, particularly since such arrangements involve highly technical organizational and personnel problems, questions of manpower availability -- both within the United States and elsewhere -- as well as legal aspects, all of which will have to be dealt with in detail.

633 -- The functions exercised by the departments of the present Manager be transferred to the new Management Body, pursuant to a planned program, and in the shortest possible time. It might also be possible for certain functions of the Management Body to be transferred on a project-by-project basis to various national or international institutions.

634 There was substantial support in the Committee for the proposal that a new Management Body not take over responsibility for any function before it had acquired the necessary staff and installations for the performance of that function and that steps be taken to prevent a climate of uncertainty within the present Manager's organization, leading to loss of staff essential to any function, before that function is taken over by a new Management Body.

635 There was support in the Committee for the proposal that during the transition period a contract be concluded with the present Manager of INTELSAT to obtain its services for a limited duration. At the conclusion of this contract, the critical elements of the present Manager would be transferred to the definitive Management Body, which will have been progressively established with elements recruited on an international basis.

636 The proposal was made that arrangements for the transition include, inter alia, the transfer of administrative functions from the Manager designated by the Interim Agreement to the International Secretariat of the Management Body and the change-over to financial procedures based on the concept of "investment share equal to use."

(Reference: Subject Heading E, The Management Body Paragraph 464)

FUNCTIONS OF THE MANAGER UNDER THE INTERIM ARRANGEMENTS

I. INTRODUCTION

Pursuant to Article VIII of the Interim Agreement, the Communications Satellite Corporation acts as "the manager in the design, development, construction, establishment, operation and maintenance of the space segment." For purposes of clarity in this presentation, the Manager's functions are divided among six of the Corporation's staffs: Technical, Operations, Procurement, Financial, Legal and Information.

II. TECHNICAL

Technical's main tasks for INTELSAT are performed during the planning, development and establishment of the space segment.

Technical participates with Operations in the planning and development of operational requirements. It conducts, or arranges for the conduct of, general system engineering studies; network configuration studies; engineering, economic and cost effectiveness studies; and interface studies. Technical prepares the specification for Requests for Proposals and then evaluates the technical submissions of contractors, as it has done for the INTELSAT I, II, III and IV programs, providing the Committee with the information needed to award a contract. Finally, Technical, together with other elements, arranges for and coordinates the provision of launching services by NASA.

The Technical staff also manages the operation by the INTELSAT Spacecraft Technical Control Center of the Tracking, Telemetry and Command (TT&C) stations. Control is exercised through these facilities during the launch and subsequent in-orbit operations. All commands to spacecraft are initiated and authenticated by the Control Center and implemented through an appropriate TT&C station. This technical control involves in-orbit position keeping and attitude adjustments as well as analysis of spacecraft performance. In addition, Technical participates with and provides engineering services and support to Operations in the operation and maintenance of systems, components, equipment and facilities.

At the end of November, 1968, there were 361 employees on Comsat's Technical staff; the allocation of tasks to INTELSAT is

estimated as 56% of the total costs* incurred by Technical.**

III. OPERATIONS

Operations' principal task for INTELSAT is the operation and maintenance of the global system with the inherent functions of planning and management. Corollary to this principal task is participation in the design and development of the space segment.

Based on expressed and agreed requirements of the entities for telecommunications services, Operations prepares plans reflecting allocation of satellite resources in the form of a proposed communications network; processes the individual applications of earth station entities for access to and use of the space segment; and provides the users with operation plans, guides and instructions for the operational employment of the satellite system. Effective planning necessitates the maintenance of a data base on all phases of system operations including complete and updated technical and operational records of satellite system performance, as well as the participating earth stations' characteristics and performance. Analysis of this data is furnished to the Committee at regular intervals.

The staff operates the TT&C and monitoring stations used for space keeping and satellite utilization purposes and the communications system in support of the TT&C, monitoring and general system management functions.

Operations serves as the Manager's representative in effecting regional coordination on operational matters. The regional coordinating structure established by the Committee addresses itself to such matters as future needs for satellite facilities and operational frequency plans. Operations provides the support for these meetings. In addition, Operations serves as the focal point for ensuring that Committee decisions on operational matters are properly implemented. A repository of information appropriate to the utilization of the space segment is also maintained.

At the end of November, 1968, there were 369 employees in Operations; the allocation of tasks to INTELSAT is estimated as 16% of the total costs incurred by Operations.

---

* As used throughout this Attachment, total costs exclude contracts and shareholders costs.

** Final 1968 figures were not available during the preparation of the Committee's Report; estimates through November 1968 are used throughout this section. At the end of 1967, the allocation of tasks to INTELSAT amounted to 73% of the total costs incurred by Technical.

IV. PROCUREMENT

The Procurement function extends from the maintenance and administration, in accordance with the INTELSAT Procurement Regulations, of a worldwide bidders list, based on the submission by Signatories of the names of companies qualified to perform INTELSAT tasks, to the point where the Manager, acting for INTELSAT, executes an agreement with a selected contractor.

Procurement prepares the Requests for Proposals which are issued to industry. It enters into negotiations with contractors in order to arrive at a proposed contract most advantageous to INTELSAT. Where required by the Special Agreement, the completed contract is then presented to the Committee, together with a substantiating evaluation, for approval prior to the execution of the contract.

After the contract has been awarded, the Procurement staff has the responsibility for its administration in order to ensure that the contractor is meeting its obligations fully. Coming into play also during this period are technical and operational considerations which affect the performance of the contract and which must be negotiated in the form of amendments.

Procurement had a staff of 39 at the end of November, 1968; the allocation of tasks to INTELSAT is estimated as 33% of the total costs incurred by Procurement.

V. FINANCIAL

The responsibilities of Financial are broad and inputs are made at all stages in the "design, development, construction, establishment, operation and maintenance of the space segment." For each program and proposal under consideration, Finance prepares and presents revenue requirements and other cost and economic analyses. The Finance staff prepares the information necessary for the Committee to establish a rate of charge per unit of satellite utilization which will meet the requirements of Article 9 of the Special Agreement.

At the end of November, 1968, there were 97 employees in Finance; the allocation of tasks to INTELSAT is estimated as 32% of the total costs incurred by Finance.

VI. LEGAL SERVICES

The Legal staff provides services as they are needed in connection with the performance of the Manager's functions for

INTELSAT. These services include legal advice to the Interim Communications Satellite Committee and its subcommittees and legal support to Procurement, Technical, Operations, and Financial. The staff is also concerned with patent and data matters, tax questions involving INTELSAT, insurance, property, and other legal matters affecting INTELSAT. At the end of November, 1968, there were 41 employees in Legal; the allocation of tasks to INTELSAT is estimated as 23% of the total costs incurred by Legal.

VII. INFORMATION SERVICES

The information program includes a number of interrelated activities in the following areas: press releases, international exhibits, general educational exhibits, films and film strips, booklets and periodicals, magazine and newspaper articles, inaugurals and demonstrations. At the end of November, 1968, there were 17 employees in Information; the allocation of tasks to INTELSAT is estimated as 10% of the total costs incurred by Information.

STATEMENTS OF REPRESENTATIVES TO THE COMMITTEE

I. COMMENTS OF THE FRENCH DELEGATION ON THE COMMITTEE'S REPORT TO THE GOVERNMENTS. Page 105

II. STATEMENT OF THE REPRESENTATIVE OF THE ARAB GROUP TO BE ATTACHED TO THE REPORT OF THE COMMITTEE ON THE DEFINITIVE ARRANGEMENTS Page 112

COMMENTS OF THE FRENCH DELEGATION ON THE COMMITTEE'S REPORT TO THE GOVERNMENTS

A. COMMENTS ON RECOMMENDATIONS AND PROPOSALS

The French Delegation, along with other delegations, has noted that the Committee's Report on the Definitive Arrangements revealed a wide range of opinions among its Members, whose recommendations, even when they represent the majority opinion, are often contradictory. This is certainly partly due to the fact that the various proposals included in the Report, being deprived of their original context, are sometimes difficult to understand or can even be interpreted in an entirely different manner from that which their authors had wished. Several interpretations are often possible.

The French Delegation, in order to avoid any misunderstanding regarding the proposals it has been brought to present or support, wishes to clarify them with additional details which take into account the points of view expressed by other delegations.

I. Separate ownership

Considering the inevitable coexistence of separately owned telecommunication satellites, the only type of organization which can one day hope to group, following the desire expressed in the Preamble of the Interim Agreement, all these satellites within a single commercial system, with all the unanimously recognized advantages which this singleness would bring, is the type proposed by the French Administration (Document ICSC-34-12). Such an organization would not only provide a close coordination on a global basis, but could make certain rules or guidelines, and, in any event, express certain recommendations which would almost always be followed by the entities concerned.*

---

*The French Delegation thinks in particular of the IATA, which provides an illustration of success in the field of commercial aviation.

II. Undivided ownership

The French Delegation has also very closely examined a system based on co-ownership. The global system which would operate under such arrangements will necessarily be limited geographically (it is a fact that the member-countries of the ITU will not all participate) and also limited regarding the services it will be able to provide (since there will be independent domestic, regional, and specialized systems, and at least another global-minded system).

1. Rights and obligations of the Parties

1.1 Freedom to participate in other systems

Under these conditions, and independently of the rights of the Parties regarding domestic, regional or specialized satellites, these Parties could not without establishing an unacceptable situation of monopoly, be under the obligation to meet their needs through the organization to be established, when the latter will show itself incapable of meeting these needs, or even when it will not be in a position to do so in technical, economical and schedule conditions at least comparable to those which could be obtained through independent satellites.

A necessary result of the preceding principle is the freedom of all Parties to participate in systems intended to provide services of all types, when these systems will permit communications with states which, for some reason, will not have requested or would not plan to request access in the near future to the space segment established by the Organization.

1.2 Domestic or regional satellites

The same principle enables us to challenge restrictive definitions of domestic or regional satellites. It is clear that in the present state of technology,* each time particular relationships (economic, cultural or others) will create, between certain countries or areas of a same country having a

---

*See for example a speech by Dr. Charyk, President of Comsat, to the United Nations' Conference on the Exploration and Peaceful Uses of Outer Space (Vienna, August 1968).

relatively limited total surface on a global scale, exclusive telecommunication needs of a sufficient volume, particularly for the transmission of television programs, satellites with coverage limited to these countries or areas will often result in considerable savings compared to the conditions of use of the Organization's network. This is the case whether the coverage area is geographically compact, or whether it is divided into several areas more or less apart.

1.3 Coordination

It is quite out of the question to make the Organization into both a judge and a party in the solution of problems raised by the technical or economic coordination of the Organization's network and of other satellite networks. It will be necessary to search for this solution in the direction of the United Nations and of its specialized agencies, particuarly the International Telecommunication Union.

2. The Governing Body

2.1 Voting procedures

Voting procedures within the Governing Body of the Organization must consider its triple international, public service and commercial character. The French Delegation has therefore proposed to give, to the greatest possible extent, an equal voting power to all the members of the Governing Body (which seems to be essential when it is a matter, for example, of standardizing earth stations, of interpreting an article of the Agreements, or of approving a report to be submitted to the Assembly); weighted votes would only be maintained in the event of decisions formally establishing financial commitments (the approval of a budget or of a contract) or directly conditioning the Organization's revenues (determination of utilization charges, licensing agreements, etc.). Some decisions would also require a double vote in practice: first an unweighted vote, for the approval of the principle, followed by a weighted vote, at the time of the final commitment establishing a financial obligation.

2.2 Determination of weighted votes

The weighting of votes, which will also occur to determine the composition of the Governing Body, should be defined without considering traffic not connected with international public telecommunications, in order to avoid the

risk that this traffic, considered as secondary, should soon afterwards take on the leading role in the Organization. On the other hand, this weighting should be computed from traffic volume rather than from investment shares, so as not to favor, for example, countries using "non-standard" earth stations which, with less traffic, could benefit from a higher voting power* than countries carrying a much higher volume of traffic with "standard" earth stations. Moreover, the risk that one country could obtain a majority share in the Organization would thus be avoided.

2.3 Regional or specialized groups

Another proposal deserving some comment is that concerning the freedom which should be left to the Governing Body, if it so desires, to structure the Organization by establishing regional or specialized groups for certain types of services other than public telecommunications, which groups would only bring together parties directly interested in the use of certain satellites. The Governing Body could then, in their field of interest, consult them and take their views into consideration; but it should also be able to delegate to them some of its powers of decision, when a decision to be taken would only concern the Parties belonging to one of these groups.** This is a normal decentralizing process which appears to be very beneficial in many industrial or commercial consortia, and which has already begun to be effected within the Interim Organization for the Atlantic, Pacific and Indian Ocean regions.

3. The Management Body

Along with the great majority of the Members of the Committee, the French Delegation is in favor of an International Management Body. This technical and operational Management Body should be decentralized following the principles of modern management which today are widely recommended and applied, to bring

---

*Indeed, according to the rules adopted under the Interim Arrangements, the number of satellite units of utilization which corresponds to a given number of telephone circuits, and consequently the investment in the space segment, is 27 times larger for a non-standard earth station with a 40 foot antenna than for a standard earth station.

**For example, when it would be necessary to decide on the utilization and operation of particular satellites or to ensure a coordination between the space segment and the earth and terrestrial segments in a given area.

closer contracts supervision along with the control and operation of the space segment, of contractors, maintenance stations, and users which will be scattered over all the continents; the recommendation of the Committee according to which some management functions could be transferred, project by project, to international or domestic organizations goes in the same direction.

Finally, it is important to define how the functions of the Secretariat of the Governing Body and of the Assembly would be provided, in order that the Secretariat services be directly subordinate to the Governing Body or to its Chairman.

4. Financial Matters

4.1 Possibility of buying or leasing satellite capacity

The only way to reconcile the apparently contradictory recommendations of the Committee in this field is to provide that the use of the space segment will be possible by buying (investment shares), or by leasing (utilization charges), satellite capacity. This double possibility is furthermore in accordance with the Preamble of the Interim Agreement which is of the opinion that all States should have access to the space segment, those States so wishing being able to invest capital in it.

4.2 Concern with ensuring fairness and mutual aid in financial participation

This being the case, it is essential that the financial rules of the Organization be equitable for all the Parties concerned and safeguard their interests: each Party must in principle support the charges which devolve upon it according to its actual use, whether it is a matter of the cost of the satellites it operates, or of the development costs from which it directly benefits; all external use of patents or data financed by the Organization should give rise to royalties equitably distributed; finally, the advantages which industrialized countries can find in their participation in the research and achievements must be compensated, for non-industrialized countries, by a technical assistance program.* But on the other hand, a mutual financial

---

*This would be beneficial and even highly profitable for the Organization, by accelerating the growth of needs and of traffic.

aid should automatically operate among the members of the Organization, not only in order to ensure a distribution of the overhead, but also to avoid that the first users of a satellite have to support the initial very high costs of its establishment. These two imperatives can be fulfilled, in the determination or the adjustment of investment shares, by adopting a realistic definition of the unit of utilization which would take into account the cost of the satellites (cf. Document ICSC-34-30), by computing the depreciation of the equipment and the amortization of development costs (which determine net assets) in fractions proportional to the traffic which is carried rather than by equal annuities, and finally by evaluating the utilization of satellites not only over one year, but, as proposed by another delegation, over a longer period (for example, 5 years). It is also necessary to determine with a regard to justice, the rules concerning the international participation in procurement, and those concerning the use of inventions, and technical data and information. These rights of use must be very clearly defined in order to avoid, in the Definitive Arrangements, the difficulties in interpretation which have been encountered under the Interim Arrangements.

4.3 Allotment of determined shares to users

These principles could, after a few years of operation, progressively lead to a system of co-ownership where the members' shares, instead of remaining indistinguishable, could be allocated or associated to determined satellites - those of which they would directly be the users. This would be a system similar to that which enables one to distinguish between the different apartments of a co-owned building, or between the various firms in an industrial or commercial consortium, without affecting the unity and the joint ownership of the whole. The allocation to members of shares which are thus materialized rather than undistinguished, would present numerous advantages (Document ICSC-34-31). Their financial participation, while being automatically ensured as far as overhead is concerned, would essentially refer only to those satellites they would use. The operators or a same satellite could then, in all fairness, benefit from a certain right of usage on the spare capacity which would have not yet been allocated.

In the opinion of the French Delegation, such a formula would be the most suitable for the promotion of the use of a global system of satellite telecommunications.

B. COMMENTS ON THE GLOSSARY

The Glossary gives in Paragraph 160 a definition of specialized telecommunications services according to which they would include, for instance, satellite radionavigation, space research, and broadcasting satellite services.

The French Delegation must observe that these various services are specifically defined by the International Telecommunications Union (EARC, Final Acts, Geneva 1963, Annex I, Section II A, Paragraphs 84 AQ, 84 AM, 84 AP) but that they are not part of the communication satellite service which is covered by Paragraph 84 AG. That service, as well as the others mentioned, are space services, a general category defined in Paragraph 84 AC.

In order to avoid any misunderstanding, services other than communication satellite services should be referred to as "specialized space services" and not as "specialized telecommunication services".

STATEMENT OF THE REPRESENTATIVE OF THE ARAB GROUP TO BE ATTACHED TO THE REPORT OF THE COMMITTEE ON THE DEFINITIVE ARRANGEMENTS

The purpose of this statement is to comment upon certain aspects of the Report of the Interim Committee on the Definitive Agreements, aspects which the Representative of the Arab Group believes to be, from his particular point of view, inadequately set forth. In fact, the Representative of the Arab Group believes that the Interim Committee, in making its recommendations and proposals to the Signatory countries, has not made full use of the experience acquired during the interim period, and, especially has not taken into account all the factors or all the interests involved. He believes furthermore that the Committee's failure to emphasize in its Report the nature and the importance of the difficulties encountered under the Interim Arrangements deprives certain countries, particularly those not represented at the Interim Committee, of a clarification which he judges to be essential to the understanding of the different alternatives proposed within the framework of the Definitive Arrangements.

The Representative of the Arab Group is convinced for this matter that a definitive Organization, viable, and corresponding to the interests of its members, could very well be designed by proceeding from the present interim structure, if, on the one hand, essential revisions are made in fields where the experience gained has shown either inadequacies, or difficulties (management, representation at the Interim Committee, voting procedures, industrial participation of the members, patent and data policy, etc...), and if on the other hand, the new factors arisen since the establishment of INTELSAT are taken into account, factors which the authors of the 1964 Agreements could neither foresee nor take into consideration. Among these factors, we must especially emphasize a basic element which the Interim Committee, in our opinion, has not stressed adequately in its Report. It is the issue of the accession, since 1965, of a very large number of countries, most of them developing countries. Because of this phenomenon, which has undeniably changed the aspect of INTELSAT, the present Interim Agreements have become in many fields inadequate and often inequitable and they must be revised as soon as possible.

A FEW GUIDING PRINCIPLES FOR THE FUTURE

Establishing the necessary conditions to avoid a proliferation of systems

In the Section of the Report devoted to the objectives and purposes of the Organization, it is particularly recommended that the Definitive Arrangements sanction the establishment of a single global commercial telecommunication satellite system. However, taking into account the existence or the possibility of existence of other global systems, either competitive or not, it appears essential to us to emphasize the need for using every possible means to avoid a proliferation of systems, and for establishing a single global Organization which, by reconciling the interests involved, would be in a position to be adhered to by all countries. The achievement of such an objective is particularly important for the smaller countries, because they would be inconvenienced the most by a proliferation of systems. (Risk of a multiplication, for each country, of its needs in the number of earth stations required to ensure its diversified international links).

Promoting access to the space segment by a simplification of the earth segment

Another principle on which the Committee's Report is very vague, and which in our opinion concerns the interests of a large number of countries, is the need to promote and to facilitate access to telecommunication satellites by ensuring that each country have a just balance between its space and earth investments. In fact, access to the space segment is presently conditioned by the ownership of very costly standard earth stations, which are also very complicated to operate for many countries. Such a balance could be achieved, for instance, by relaxing the presently very rigid characteristics of earth stations (the rate of charge remaining unchanged) and by using narrow beam satellites, more powerful than present satellites.

FIELD OF COMPETENCE OF THE DEFINITIVE ORGANIZATION

The Representative of the Arab Group believes that, inasmuch as INTELSAT appears to be a commercial Organization with international participation, whose role is solely to place at the disposal of its customers material support for the routing of their telecommunications traffic, it is both logical and necessary that this Organization be in a position to investigate and to consider all the commercial applications of telecommunication satellites which could benefit its members, provided however that these applications be or remain compatible with the spirit and the principles of the definitive Organization.

On this subject, the Representative of the Arab Group wishes to express here strong reservations against the stated intentions of certain member countries to include in the Definitive Agreements provisions enabling them to have INTELSAT sponsor individual satellites intended to meet their military telecommunication needs. He believes that such provisions are contrary to the principles stated in the Preamble to the Interim Agreement, and these principles must, according to Article IX (i) of the same Agreement, remain valid, regardless of the form of the Definitive Arrangements.

STRUCTURE OF THE ORGANIZATION

1) Effective participation of all members in a multiple aspect Organization

The basic problem is not in the number of tiers which the Organization would have, but in the need to insure that the various bodies work democratically and guarantee to all members an effective and equitable participation. For this purpose, the supreme control of the Organization must not be left to private or domestic telecommunication entities, but must be the responsibility of the member Governments, in order that the commercial and financial criteria, although important, be not the sole criteria of judgment in an Organization which, both by its international nature and its objectives, as well as its membership (the present members of INTELSAT differ not only by their degree of development, but also by the benefits they plan to derive from their participation in the joint enterprise) can be neither considered nor managed as a mere commercial corporation.

2) A Governing Body representing all interests

Particular attention must be given to the composition of the Governing Body in order to ensure an effective representation of all shades of economic and geographical interests. Provision must be made particularly to guarantee a consistent representation of the smaller countries. If, for reasons of efficiency, the number of members in the Governing Body must be limited, in our opinion it would be more equitable to apply this limit, not to the total number, but to regional representation (for example, each of the areas of the Americans, of Europe, of Asia, of Africa and of Oceania would be allocated a minimum number of seats). Indeed, and because of the very technical capabilities of stationary satellites, the global system is in itself a complex of regional sub-systems, and the above provisions will ensure a representation of the different geographical interests for a better coordination of the system as a whole.

3) Need for voting procedures which stimulate the optimum contribution of all members in the operation of the Organization

The problem of voting within the various bodies must also be resolved by bearing in mind the protection of all interests, and the need to establish a mechanism by which each member, whatever his investment share, will have the feeling he is effectively contributing to the operation of the Organization.

FINANCIAL PARTICIPATION

Financial participation is tied to the use of the system, but it cannot be disassociated from the question of voting within the Organization. Any method for determining investment shares without the simultaneous consideration of associated voting procedures which would be acceptable to all Parties, in our opinion, might be dangerous.

In this respect, the Representative of the Arab Group ventures to underscore the proposal appearing under number 501 of the Committee's Report and the associated proposal appearing under number 401 which, in his opinion, permit a harmonious distribution of powers among all members, without resorting to clever provisions concerning the determination of weighted votes within the Governing Body.

RELATIONSHIP WITH THE ITU AND WITH INTERNATIONAL ORGANIZATIONS

The Report of the Committee has not specifically dealt with this matter, although the need for a coordination with the ITU is mentioned on several occasions in the Report.

As a telecommunication organization, INTELSAT must abide by the recommendations of the ITU, and work closely with this Union in the direction and in the spirit of the statements made at Geneva by the Secretary-General of the ITU in his press conference of November 21, 1967. Within the framework of this coordination, INTELSAT should have the benefit of a particular status enabling it to participate in the work of specialized commissions of the CCITT and the CCIR which deal with satellite telecommunications.

INTELSAT should also establish within its programs a close cooperation with international organizations, especially the U.N. and its specialized agencies, in order to promote the use of telecommunication satellites, within the framework of projects of general interest, intended to foster the establishment of world peace and international understanding.

PATENT AND INVENTION POLICIES

Since the Committee's Report does not adequately emphasize the difficulties encountered in the implementation of Article 10 (f & g) of the Special Agreement during the present interim period, two comments must be made on the consequences of the provisions contained in this Article.

1). The provisions contained in Article 10 (f & g) of the Special Agreement, and imposed on any contractor, generally result in a considerable increase in contract costs, in relation to the price to be paid if the contractor had not been under the obligation to surrender to INTELSAT all the inventions and patent rights resulting from the performance of the work.

2). This substantial increase is borne by all the members of INTELSAT, while in fact the very large majority of these members do not benefit either directly or indirectly from the provisions of this Article 10, and especially do not foresee any possibility, in the near or distant future, of using for their benefit, the information, data and inventions resulting from contracts executed with the Organization.

The Representative of the Arab Group, while he does not oppose the ideas which are the basis of Article 10, is of the opinion that, in order to safeguard the legitimate interests of all the Parties, INTELSAT must adopt in the future one of the following alternatives in this matter:

1. the Organization will simply surrender to the contractors, the ownership of the inventions and patents resulting from contracts; or,

2. the Organization will reserve itself, on each occasion, the exclusive rights on inventions and patents resulting from contracts, but will administer them so as to sell them to all countries wishing to utilize them, the resulting royalties being equitably distributed among all members; or,

3. finally, it will be established that only the countries participating in the performance of the contracts will bear Research and Development costs, and be compensated by having the rights of use of the resulting inventions and patents surrendered to them. The other member countries of the Organization would share in all the costs, except the Research and Development costs.

INTERNATIONAL PARTICIPATION IN CONTRACTS

Although the Committee's Report devotes a paragraph to emphasize the nature and the importance of the difficulties encountered in the application of the provisions of Article X of the Interim Agreement, no solution is proposed to try to reduce if not eliminate the imbalance which exists between the distribution of interests between the highly industrialized member countries, and the countries which, at the point of their present development, cannot claim any industrial sharing in the performance of procurement contracts executed by the Organization.

While he recognizes the long term advantages which INTELSAT might draw from diversifying its procurement sources, the Representative of the Arab Group believes that it is the responsibility of the countries wishing to receive a part of the work, and not INTELSAT's, to give financial support to their industries, in order to bring them up to the level of U.S. industry.

The provisions of Article X were written at a time when only industrialized countries were members of INTELSAT. Today, this is no longer the case, quite on the contrary, and logic and good sense require that a fundamental revision of Article X be undertaken in the nearest future, in order to take this change into account, and to put an end to a paradoxical situation in which developing countries, however small their contributions, are in the position of financing the industrialization of industrialized countries.

The following choice constitutes, in our opinion, a reasonable and equitable approach to the problem:

1) International participation in a contract must benefit all members, either directly for industrialized countries, or indirectly in the shape of a yet-to-be-defined compensation for the countries whose degree of industrialization does not enable them yet to participate in the contracts.

2) If this international participation proved to be substantially costly for the whole membership of the Organization, and if a form of compensation could not be found to indemnify the countries which, while not benefiting from a decentralization of the contract, would bear the resulting cost increase, the additional costs should be borne solely by the member countries whose industries had received a share of the contracts.

INTERNATIONAL COOPERATION WITHIN THE JOINT ORGANIZATION

This matter is not explicitly dealt with in the Committee's Report. However, the Representative of the Arab Group is convinced that the development and the safety of the satellite telecommunications system are dependent in large measure upon the means of information and of assistance that the Organization will put at the disposal of all its members.

It is especially suggested:

1) To create specialized services within the Organization to advise and assist member countries in the carrying out of their earth telecommunication programs which are tied to their use of the space segment.

2) To establish extensive training programs for earth station personnel, with a view to a rational and reliable use of the space segment.

Telecommunications Management

Date: 8 JAN 1969

From: John J. O'Malley, Jr.

To:

		Initials	Date
✓	O'Connell, J. D.	JJOC	
	Clark, R. L.		
	Cole, J. E.		
	Cooke, A. R.		
	Culpepper, C. H.		
	Dinkle, E. K.		
	Evans, V. F.		
	Filipski, B. W.		
	Fishkin, L. J.		
	Anderson, E.		
	Hailey, L. G.		
	Hall, D. B.		
	Dean, W. Jr.		
	Jansky, D. M.		
	Jones, H.		
	Kirkevold, C. R.		
	Lathey, C. E.		
	Buss, L.		
	Miles, P. D.		
	Mullen, J. T.		
	O'Connell, J. R.		
	Plummer, W. E.		
	Rogers, N. L.		
	Siling, P. F.		
	Stelzenmuller, G. V.		
	Olsson, W. T.		
	Urbany, F. S.		
	Ward, D. C.		
	Raish, L. R.		
	Gambie, W.		
	Hoxie, L.		

( ) As requested
( ) Approval
( ) Appropriate Action
( ) Concurrence
( ) Per Conversation

( ) For Comment
( ) For your info
( ) Signature
( ) Please Return by COB _____

Remarks:

It looks as if you were right once again!

DEPARTMENT OF STATE

AIRGRAM

TEL 6

FOR RM USE ONLY

WH 1	EUR	AF
ARA	EUR 5	FE
NEA	CU	INR 5
E	P	IO 5
L	FBO	AID
AGR	COM 10	FRB
INT	LAB	TAR
TR	SMB	AIR
ARMY 3	CIA 20	NAVY 5
OSD 29	USIA 10	NSA 3
		FCC 2

A-999
NO.

~~CONFIDENTIAL~~

ISCOM
HANDLING INDICATOR

TO : DEPARTMENT OF STATE

RECEIVED
DEC 27 8 29 AM '68

DECLASSIFIED
E.O. 13526, Sec. 5.3(6)(3)
ISCAP 2014-045
By ISCAP, NARA, Date 11/13/14

FROM : U. S. Mission GENEVA

DATE: December 22, 1968

SUBJECT : Possible Soviet Interest in Intelsat

REF :

Mr. Jack Herbstreit, a U. S. citizen who is presently Chairman of the International Radio Consultative Committee (CCIR) of the International Telecommunication Union (ITU), called on the DCM to report on his visit to Moscow during the week of December 9, 1968.

Mr. Herbstreit was invited, as an official of the ITU, to attend the Popov Society meeting in Moscow. It is understood that the Society has a membership of some 150,000 Soviet scientists and engineers, and the meeting was well attended by its members as well as representatives of many Eastern European countries.

What Mr. Herbstreit reported upon was not the meeting, however, but the private luncheon session he had at the invitation of Mr. Ivan Y. Petrov, who, the Department will recall, was a member of the ITU's International Frequency Registration Board (IFRB) from January 1965 until he was declared "personna non grata" by the Swiss Government on February 23, 1967.

Mr. Herbstreit had the distinct impression that the real reason he was invited to Moscow was for the purpose of having the conversation with Petrov who presently is an Adviser to the Minister of Communications. Mr. Herbstreit added that he was reasonably certain that Petrov assumed that a report on their meeting would be made available to the U. S. Government.

1968 DEC 27 PM 12 34

CCPYFLO-FBR

~~CONFIDENTIAL~~

FORM DS-323
4-62

FOR DEPT. USE ONLY
☒ In ☐ Out

Drafted by: DCM:CHMacomber 12/17/68

Contents and Classification Approved by:

Clearances:

Petrov made a strong "personal" pitch for USSR participation, as observer, in the forthcoming Intelsat meeting in February, concerning which meeting Herbstreit found Petrov fully informed. There was a free exchange of thoughts about possible USSR interest and participation in Intelsat, during which the following emerged:

A. Petrov advocates the establishment of one international organization and one system, --Intelsat.

B. Soviets are genuinely interested in joining Intelsat provided certain prior conditions are met, especially that the "one-man one-vote" concept is maintained. On this point Herbstreit pointed out the infeasibility of U. S. acceptance with Petrov responding that "certain areas" might be excepted from the concept and that the Soviet position was "negotiable." Petrov indicated that he understood that financial matters were excludable but that possibly in the policy decision field as well as in such matters as the election of the Board Chairman, the "one-man one-vote" concept could be agreed upon.

Mr. Herbstreit concluded from this discussion that the Soviets are truly interested in participating in Intelsat otherwise this matter would not have been raised. He feels that Petrov accurately reflects the attitude of the Ministry of Communications. Mr. Herbstreit believes that, in these circumstances, the time is now opportune to explore the matter further, assuming our policy interests are to do so, which Herbstreit feels strongly should be the case. He went on to state his conviction that the Soviets would not participate in official discussions on the matter unless a specific agenda outlining the area of discussion was agreed upon in advance.

Since the Mission has not received all the traffic regarding Intelsat, the foregoing may be of little value. Nevertheless, the report is submitted for whatever interest it may merit and the Mission stands ready to pursue the matter further should the Department so desire.

TUBBY

["Some Problems of International Cooperation in the Field of Space Communications," by I. Ya. Petrov, Deputy Director of the Main Administration of Space Communications of the Ministry of Communications USSR; Moscow, Vestnik Svyazi, No. 10, October 1968, pages 2-3.]

Some Problems of International Cooperation in the Field of Space Communications

From the moment communications satellites appeared mankind obtained additional opportunities for direct intercourse and the establishment of direct contacts between states and peoples of our planet.

The use of communications satellites can ensure high-quality and reliable communications and also provide a means for the exchange of television and radio programs between any points on earth. Communications satellites can be used for the transmission of data, for determining the positions of aircraft and ships, and for purposes of education, public health, economic and cultural development.

The use of satellites for communication over great distances from the viewpoint of economics is more advantageous than the use of ground communication links. The charges for communication service via artificial earth satellites, in contrast to ground links, do not depend on the distance between points.

From the experience gained in the use of communications satellites it is clear that they will find greatest application, chiefly, for communication between points separated by great distances and also between points separated by large bodies of water. Comparative data on construction costs show that the expenses involved in laying transoceanic cables exceeds those for space communications methods providing an equal number of communication channels between continents.

It follows from the above that communications satellites can be used successfully not only for satisfying the national requirements of states

in the field of communications, but also for ensuring communications and the exchange of television and radio programs between states located on the same continent or on different continents of the earth.

The use of communications satellites in an international plan assumes international cooperation both in the legal (juridical) and technical aspects.

A particular feature of the use of communications satellites is that, in radiating electromagnetic energy, they cover specific regions of the earth's surface, ignoring national boundaries within these regions. The territory encompassed in these regions will depend on the communications satellite's apogee -- the higher the apogee, the greater the territory covered. One communications satellite in a stationary equatorial orbit at an altitude of about 36,000 kilometers can cover an area of about one third of the earth's surface with its radiation.

International cooperation is necessary even in the case where communications satellites will be used by only two countries. The techniques and methods used in establishing communication, the standardization of equipment parameters, etc., must be agreed upon by these countries.

In addition, an extremely important factor must be taken into account. Communications satellites receive and radiate electromagnetic energy using the same frequency bands in the one to ten GHz range as are used by ground-based (fixed and mobile) services. As a result, mutual interferences can arise between the ground and space services. The Extraordinary Administrative Radio Conference on Space (Geneva, 1963) considered the possibility of

combining the frequency bands of ground and space services and, on the basis of recommendations by the International Consultative Committee on Radio, concluded that under certain conditions such a combination was possible. As a result of the conference's work the Regulations on Radio Communications were supplemented by new conditions, which can be summarized as follows:

-- the power flow density at the earth's surface radiated by a satellite space station is limited so as to prevent interference with ground service stations;

-- the power radiated by ground stations in a horizontal plane is limited and a minimum elevation angle for the antennas of these stations is established so as not to create interference with ground service stations (fixed and mobile);

-- the power isotropically radiated by fixed and mobile [ground] service stations is limited so as to prevent interference in reception by space stations on board communications satellites;

-- a coordinate distance is established which is permissible in the location of ground stations within the national borders of states so as to avoid mutual interference between similar stations and also between ground stations and the ground service stations of adjoining states.

The above conditions of the Regulation are in effect at present. However, the technology of space communication is developing so rapidly that the conditions of the Regulation on Radio Communication adopted five years ago are already insufficient.

The point is that until 1963 experimental communications systems and satellites were launched only in low circular orbits. Because of the constant movement of the satellite, disturbances could arise only for a short period when the radio relay stations radiated in directions coinciding with the position of the satellite at a given time interval. The problem of interference to space stations from radio relay stations acquired a new significance with the insertion of satellites into stationary equatorial orbits (at altitudes on the order of 36,000 kilometers). In this case radio relay stations can create continuous interference with communications satellites if they radiate in those same meridians in which the satellites are positioned.

In 1963, when the Extraordinary Administrative Radio Conference adopted the resolution on setting aside frequencies for space communication services, it acted on the assumption that these frequencies would be used mainly by international communications systems. At the time it was not sufficiently clear how many of these stations there would be, what the organizational and technical structure of such stations would be, how many satellites would be in each system and in what orbits they would fly, what would be the bandwidth of the communications satellites relays, etc.

Since then the position has changed. At the present time a trend can be seen toward the creation of several global, regional and national communications systems based on artificial earth satellites. In addition, a majority of the communications systems intend to use satellites in a stationary equatorial orbit.

Under these conditions, new international agreements are necessary which would regulate the position of communications satellites in a stationary orbit, since the frequency selection may not permit several communications systems to operate in a narrow frequency band without mutual interference.

There has also arisen the necessity for coordination of the operation of these communications systems both in the technical sense (the use of the frequency spectrum, the use of standard technical specifications for communications channels and the use of equipment standards) as well as with regard to questions of international regulation. Obviously, it would be advantageous if the International Telecommunications Union continued to concern itself with problems of coordination in the area of space communications in the interests of all nations of the world.

The amount of work required for the coordination of satellite communications systems will depend on the number of such systems. If nations wish to cooperate in the area of space communications it would be possible to work out basic principles on which a single global international communications system could be created. If the capacity of such a system is sufficiently great and if the system itself is economically profitable, it might also be used to satisfy the regional and, in some cases national requirements of states in the area of communications. In this case the number of communications systems will be small and their coordination will not require great efforts.

The creation of a single global international communications system definitely has its advantages in an economic sense and ensures a more

effective utilization of the frequency spectrum in the range of frequencies set aside for space communications. The following principles might be set down as the basis for the development of such a system:

-- agreement to the fundamental conditions of the Treaty on the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, signed on 27 January 1967, as well as to resolution Nos. 1721 and 1802 of the United Nations General Assembly which note that communications satellites must be used on a world-wide basis without discrimination;

-- cooperation in strengthening and developing multilateral economic, cultural and other relations through the establishment of communications as well as television and radio broadcasting by artificial earth satellites;

-- provision for cooperation in theoretical and experimental research as well as in the design, exploitation and development of an international satellite communications system based on respect for the sovereign rights of nations, equality, non-intervention in the internal affairs of other nations, as well as mutual assistance and mutual gain.

On this basis it might be possible to formulate the fundamental organizational principles of an international communications system which, in general, could be reduced to the following:

-- Any sovereign nation signing the international agreement would be a member of that international communications system. This thesis follows from the very designation of the communications system as a single, global, and international one. Each nation, regardless of the size of its territory,

population or other features, must have the opportunity in its external relations with other nations and peoples, of using those facilities which are the most advantageous and economically profitable for it.

-- The supervising authority [rukovodyashchiy organ] must give each nation which is a member of the communications system the same rights as all other member nations of this system. Each nation must have equal rights to participate both in the development of the communications system as well as in its exploitation.

-- All representatives of nations in the supervising authority must have equal rights and duties. Each representative must have one vote in the decision of voting questions. Decisions must be adopted by a qualified (kvalifitsirovanniy) voting majority. These firm conditions of international cooperation will afford the possibility of taking into consideration the interests of all nations participating in the communications system, both in its developmental stage as well as in its exploitation.

-- A monetary fund will be established from the resources of the member nations of the agreement for the design, development and operation of the communications system as well as to pay the cost of launching communications satellites. The size of this fund is determined by the member nations themselves, depending upon their decision as to the nature of the system being developed and its requirements. Each nation's share of financial participation in the system will also depend on the number of nations taking part in the system. At the same time, the size of the share of financial participation of each nation is inversely proportional to the number of participants.

-- The total payment of each nation depends on that nation's requirements and desire to use the communications channels in the system. The total payment is in direct relationship to the number of communications channels used.

-- Profits derived from the operation of the communications system are distributed among the nations in proportion to their total payments.

-- The distribution of communications channels among the nations and their allocation for use is made on the basis of the requirements of the nations for these communications channels and according to tariffs established by the supervising authority.

The organizational principles presented above may be supplemented or modified to some degree. However, the purpose of these principles is the creation of that international system which would be most effective, founded on just and democratic origins with consideration of the desires and satisfying the needs of all nations of the world in the area of communications, without any discrimination and with no benefits derived by some nations at the expense of others.

DEPARTMENT OF STATE

THE LEGAL ADVISER

MEMORANDUM December 20, 1968

TO: E/TT - Mr. Frank E. Loy

FROM: L/E - Richard A. Frank

SUBJECT: Legal Status of INTELSAT Under the Definitive Arrangements

You have asked for a memorandum which analyses the ramifications of the different types of legal status or personality that INTELSAT could have under the Definitive Arrangements.

Under the Interim Arrangements, the INTELSAT consortium is an international organization. The international agreement establishing the consortium provides it with decision making responsibilities but does not explicitly grant the consortium any specific or general legal capacities related to the design, development, construction, establishment, operation, and maintenance of the space segment. For example, the agreement does not explicitly empower the consortium to contract, to acquire or dispose of property, or to institute legal proceedings. Rather, the agreement provides that Comsat is to act as manager and to implement decisions regarding the space segment. Comsat, because of its independent status as a D.C. Corporation, possesses the above-mentioned legal capacities and exercises these capacities when acting on behalf of the consortium.

The only significant issue with respect to the legal status of the consortium is whether the Definitive Arrangements should provide the consortium with the capacity necessary for the exercise of all the functions enumerated in the arrangements and in particular the capacity to generate its own management function, or whether these capacities should not be given to the consortium and should be possessed only by the manager, e.g. Comsat, at least for an interim period.

Most international organizations are entrusted by their members with legal capacity. For example, the United Nations Charter (Article 104) provides that the United Nations "shall enjoy in the territory of each of its members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes."

The ramifications of providing or not providing the consortium with this capacity are as follows:

1. The Right to Contract, Acquire and Dispose of Real and Personal Property, and to Institute Legal Proceedings

Unless the Definitive Arrangements contain a provision stating that the consortium has the capacity to exercise its functions and to fulfill its purposes, members of the organization could argue that the consortium, without an amendment to the arrangements, does not have the right as an entity to contract, to acquire and dispose property, to institute legal proceedings, etc. There are court decisions which imply support for that position. Furthermore, the Privileges and Immunities of International Organizations Act (22 USC 288 et. seq.) provides that international organizations shall have these capacities in the United States only "to the extent consistent with the instrument creating them". My impression is that the Europeans and other members of the consortium might also contend that their domestic laws follow the same scheme, i.e. the consortium can have these capacities within their jurisdictions only if the Definitive Arrangements grant it the capacities.

2. The Effect of Legal Capacity on the Manager

If the Definitive Arrangements do not grant the consortium legal capacity, then the manager of the consortium cannot derive its legal capacity from the consortium and would have to have an independent legal status in order to exercise these capacities. This creates no difficulties while Comsat is the manager since it has an independent existence, being incorporated in the District of Columbia. However, if the consortium should decide at some future date that Comsat should be replaced by a Secretariat of the consortium, that Secretariat would have only the legal capacity of the consortium as its agent. Consequently, if the consortium is denied legal capacities at the present time and Comsat were to be removed at a later time, the manager would need to be someone with independent legal status or the Definitive Arrangements would have to be amended to grant the consortium and its agent, e.g. its Secretariat, legal capacity.

3. Privileges and Immunities

Whether or not the consortium is granted legal capacity in the Definitive Arrangements, the member states and their representatives will be able to obtain the normal international organization privileges and immunities in the United States. Under the privileges and immunities of the International Organizations Act any international organization is entitled to a long list of privileges and immunities if it is a public international organization in which the United States participates pursuant to any treaty or under the authority of any act

of Congress authorizing such participation, and which is designated by the President as being entitled to these privileges and immunities. Entitlement to the privileges and immunities is not related to the legal capacity of the organization.

I do not yet have sufficient information on the domestic laws of foreign countries to know whether the existence of legal capacity in the consortium has a bearing on those countries' ability to grant privileges and immunities. I doubt that the two are related.

In any case, we should probably include a provision in the Definitive Arrangements which provides that the consortium will enjoy in the territory of each of the members the privileges and immunities that are necessary for the fulfillment of its purposes, and these privileges and immunities should be enumerated as they are in our domestic legislation.

4. The Incorporation of the Consortium

One possible means of providing the consortium with legal capacity would be to provide in the Definitive Arrangements for its incorporation under the laws of one of its member countries. I doubt this is an acceptable alternative since it would be difficult to reach agreement on the country of incorporation, since incorporation would subject the consortium (or its Secretariat if that is to be the corporate entity) to legal requirements to which it would not want to comply, and since the consortium, if incorporated, might lose some of the special benefits it has by virtue of being an international organization.

In my judgment, there is little serious disadvantage to providing the consortium with legal capacity, and there are likely to be long term advantages. Other members of INTELSAT will look upon any effort on our part to keep the organization without legal capacity and to have the implementation of the agreement dependent on Comsat's independent status as merely an attempt to maintain Comsat as manager.

If you concur we will review with Comsat a draft article on status prepared by it with a view to having a draft ready for your approval shortly.

cc: L - Mr. Meeker
E/TD Mr. Miller/Mr. Nelson/Mr. Doyle

L/E:RAFrank:ma 12/20/68

Tel[illegible]ommunications Management

Date: 8 JAN 1969

From: John J. O'Malley, Jr.

To:

		Initials	Date
✓	O'Connell, J. D.		
	Clark, R. L.		
	Cole, J. E.		
	Cooke, A. R.		
	Culpepper, C. H.		
	Dinkle, E. K.		
	Evans, V. F.		
	Filipski, B. W.		
	Fishkin, L. J.		
	Anderson, E.		
	Hailey, L. G.		
	Hall, D. B.		
	Dean, W. Jr.		
	Jansky, D. M.		
	Jones, H.		
	Kirkevold, C. R.		
	Lathey, C. E.		
	Buss, L.		
	Miles, P. D.		
	Mullen, J. T.		
	O'Connell, J. R.		
	Plummer, W. E.		
	Rogers, N. L.		
	Siling, P. F.		
	Stelzenmuller, G. V.		
	Olsson, W. T.		
	Urbany, F. S.		
	Ward, D. C.		
	Raish, L. R.		
	Gambie, W.		
	Hoxie, L.		

( ) As requested
( ) Approval
( ) Appropriate Action
( ) Concurrence
( ) Per Conversation

( ) For Comment
(✓) For your info
( ) Signature
( ) Please Return by COB_____

Remarks:

See, particularly, the marked paragraph..

JJOM

SCI-5

DEPARTMENT OF STATE

AIRGRAM

TEL 6 SYMPHONY

Original to be Filed in _____ Decentralized Files.

FILE DESIGNATION

WR	REP	AF	ARA
1	1		
EUR	FE	NEA	CU
INR	E	P	IO
5	4		5
L	FBO	AID	
	S/P	G/PM	ACDA
	1	1	17
AGR	COM	FRB	INT
LAB	TAR	TR	XMB
AIR	ARMY	NAVY	OSD
5	3	5	34
USIA	NSA	CIA	
10	3	20	
NASA	DTM	OEP	FCC
4	2	1	3

SUGGESTED DISTRIBUTION

A-3910
HANDLING INDICATOR

~~CONFIDENTIAL~~

NO.

TO : Department of State

INFO : BONN, LONDON, BRUSSELS

DECLASSIFIED
E.O. 13526, Sec. 53(b)(3)
ISCAP 2014-043
By ISCAP, NARA, Date 11/13/14

FROM : Amembassy PARIS

DATE: December 16, 1968

SUBJECT : Communications Satellite SYMPHONIE: What is it?

(E) TEL 6 FR

REF : A) A-1824, 3/18/66; B) STATE 150329, 4/26/68; SP 12-1 SWITZ NASA-Norris SCI-Arad
C) PARIS 22433, 10/15/68; D) STATE 264426, 10/31/68

CSM 6 VIERS (EA) TEL 6 SYMPHONY SCI-Packard

Introduction:

The Franco-German SYMPHONIE satellite consortium CIFAS[1], met on November 13, 1968 to review industrial arrangements for the construction of the satellite and to approve certain changes in the satellite's antenna patterns and hence the earth areas they will cover. In reporting the meeting Air et Cosmos of November 23 noted that "other modifications are also envisaged leading in fact to a certain redefinition of the satellite." These developments indicate that even the SYMPHONIE managers were still undecided as to what its functions will be and how these will be accomplished. A brief review of some of the claims made for the satellite during recent years may therefore be useful at this time.

Background:

This satellite project was first disclosed to the French public in 1965 under the name SAFRON. Subsequently, it was renamed "SAFRON II", then "SAROS I" and "SAROS II". Finally the French

[1] Consortium Industriel Franco-Allemand pour le Satellite

GROUP 3 - Downgraded at 12-year intervals.

POST ROUTING

TO:	Action	Info.	Initials
AMB/PO	CU		
DCM			
PON			
ECON	REC'D DEC 20		
CONS			
AIRM			
ACDA			
USTS			
FILE			

Action Taken:

Date:

Initials:

FORM 10-64 DS-323

~~CONFIDENTIAL~~

For Department Use Only
☒ In ☐ Out

Drafted by: SCI:JHBuehler:sab

Drafting Date: 12/12/68

Phone No.:

Contents and Classification Approved by: SCI:ELPiret

Clearances:

TRC:AEFrank

POL:MGlitman

NASA:CWood 12/13/68

U. S. GOVERNMENT PRINTING OFFICE: 1966 — 202-219 (258)

project was merged with the German "OLYMPIA" satellite study. For a few days after the Franco-German agreement it was called "ATHOS", and finally emerged under its present name, "SYMPHONIE".

From its inception as a French project the intended function of this satellite was to relay communications. At first only telephony and radio broadcasting were mentioned. Later television relay was added. The geographic areas of coverage announced for the satellite also changed with these successive redefinitions so that at various times the emphasis was on communications relay with the Near East, then Africa, the French Guiana space launch base, the French Antilles and recently Quebec.

These redefinitions probably resulted from efforts of French space and telecommunications satellite officials to make the project attractive, and thereby gain approval and funds, by relating it to the French political objectives then in vogue. The initial project studies probably included enough options to allow new functions, services, and areas of coverage to be announced as convenient or opportune without requiring a complete project redefinition.

From the inception of this communications satellite project it was described as an operational system. Of course it was implicit that SYMPHONIE would be "experimental" in the sense of being the first French, or Franco-German, satellite of its type, but the present emphasis on the word "experimental" seems to date from the ennunciation of the conditions under which the U.S. would be prepared to launch a foreign communications satellite (the Vallotton reply, ref. B). The Aubiniere-Mayer letter (ref. C) inquiring of NASA the application of this U.S. policy to SYMPHONIE describes the satellite as "experimental". The NASA reply (ref. D) takes proper account of the need for a mutual understanding on what SYMPHONIE is, and will be used for, should a U.S. launch be provided.

The successive redefinitions of the SYMPHONIE project, and the various French ends which the satellite could serve (space, telecommunications, technology, cultural and information exchange, military, broadcasting, propaganda) reflect a spectrum of French interests in the possibility of using such a satellite for other than purely "experimental" purposes. No attempt will be made herein to divine what the current French interpretation of the term "experimental" might be. However, the following excerpts from various sources are of interest.

Excerpts:

On April 19, 1968, in PARIS 12883, i.e. prior to conclusion of the SYMPHONIE Accord with Germany, the Embassy reported a conversation with the member of (then) Science Minister Schumann's office responsible for space affairs. The official said France would wish to retain the right to use SYMPHONIE operationally if it were still active after its experimental period was completed.

Page 45 of the CNES annual report for mid-1967 to mid-1968, states:

> "The SYMPHONIE program is a cooperative program between the Federal Republic of Germany and France which envisages placing in orbit an experimental telecommunications satellite intended to distribute radio and television programs (in particular the distribution of the Olympic Games of 1972 in Munich), to provide telephone and telegraph communications, and for data transmission."

British weekly Flight International, a magazine similar to Aviation Week, in its September 19, 1968 issue carried an article by J. L. Blonstein, reporting on a paper presented to the United Nations Space Conference of August 1968, stated:

> "The paper proposed blandly that the satellite (SYMPHONIE) would be launched by ELDO. The authors could hardly say anything else, for it is understood that the Americans have already refused to launch SYMPHONIE, which the French openly and frankly admit will be an operational system with intercontinental capability."

Mr. Blonstein of course was in error in reporting the U.S. had refused to launch SYMPHONIE (he could have picked this up from several French writers).

The Paris daily Le Monde of September 13, 1968, in describing the (then) recently signed Franco-German convention for the construction of SYMPHONIE stated:

> "Concerning the use of the satellites and (ground) stations, the convention provides that the program will include periods of joint testing and periods left to the exclusive use of one of the two countries. It also provides that if both flight models function well, one of the parties will be able to obtain exclusive use of one of the two (satellites)."

More recently, the Paris daily Le Figaro of November 1, 1968, in an unsigned article, describing a projected Franco-Quebec satellite, stated:

> "M. Gautier (Jacques Gautier, Vice President of Radio Quebec) recalled that during a visit to Paris, M. Johnson (Daniel Johnson, former Prime Minister of Quebec) requested of France the inclusion of Quebec in the coverage of the SYMPHONIE. This would be the method for involving technicians from Quebec in this new, advanced technology. SYMPHONIE will bring us (Quebec) two principal advantages: 1) It will permit us (Quebec) to receive experimental transmissions, and to transmit toward Europe and Africa, and thereby to have an outlet. 2) It will give us the possibility of involving technicians from Quebec in the construction of SYMPHONIE. Six or seven technicians will go to France beginning this autumn, as soon as the Centre National d'Etudes Spatiales (CNES) will have made its proposals."

Comment:

Some of the above statements will require clarification in the event the SYMPHONIE management seek a U.S. launch for SYMPHONIE.

SHRIVER EAJ

Copy to John O'Malley

JAMES McCORMACK
Chairman

11 December 1968

MEMORANDUM FOR Ambassador Marks
Mr. O'Connell
Mr. Loy
Mr. Miller
Mr. Johnson

Attached is a copy of my Notes on European Trip dated 12 July 1967, which I mentioned during our meeting of 9 December.

J. McCormack

950 L'ENFANT PLAZA SOUTH, SW • WASHINGTON D C 20024 • TELEPHONE 202 554 6020

12 July 1967

NOTES ON EUROPEAN TRIP

The following is from my notes on visits with the telecommunications authorities of England, France, Germany, Italy, and Spain at the end of May and early in June. A principal purpose of the visits was to outline in a preliminary fashion the sort of program I believe the INTELSAT partners should now be thinking about beyond the attainment of initial "global coverage".

The objective of such a program should be uninterrupted progress toward a fully respectable global system, with the quality and dependability that are the universal hallmark of really good telecommunications. Such a system can be brought into being at the time of our choice from 1969 onward.

Because the program runs beyond the date of re-negotiation of the present interim agreements, I emphasized that on this occasion I spoke primarily as a representative of the INTELSAT manager concerning timely action for the development of the INTELSAT system. The definitive arrangements covering the future INTELSAT organization are quite a different matter; I did not on this occasion purport to represent the United States in that respect.

Reliability of the System

A second U.S. earth station is now approved for each the east and west coasts, separated geographically from the existing Andover

and Brewster stations for protection against catastrophic events as well as to afford technical redundancy and more efficient traffic routing. Western Europe already has the safety of multiple earth stations. Similar redundancy may follow later in other areas of the world, depending on the particulars of cost vs. need, but the ground system of the crucially important Atlantic traffic will meanwhile be insured.

Reliability of the space segment serving many earth stations is even more important than any one or a few earth stations, and requires the redundancy of reserve satellites in orbit.

The latter is essential also for a generally business-like operation. At present we operate hand-to-mouth, lacking alternatives and reserves, and are presented with nervous and expensive crises whenever a satellite fails or threatens to fail to perform properly. Only with a thoroughly reliable, full time, high capacity, high quality system can we expect to move expeditiously into the new markets which I feel confident are much larger than indicated by the present "official" traffic forecasts.

Satellite Development

Preliminary returns from the INTELSAT IV studies sponsored by the ICSC indicate that the desirable satellite is basically very similar to the satellites which Comsat and others have studied for application to U.S. domestic communications requirements. Both

sets of studies indicate development times of about two years.

INTELSAT IV will be capable of supplying an abundance of communications capacity for all foreseen requirements of international traffic for many years into the future, even over the dense Atlantic routes. Much the same can be said of INTELSAT III for the Pacific and Indian ocean areas, which satellite could probably also be improved at modest cost to handle the full additional circuit requirements in the Atlantic for a few years into the 1970's.

In short, INTELSAT has within easy technical reach a fully qualified global system with satellites having any desired amount of capacity for a comfortable period into the future.

The Cost of Reliability

It is not difficult to sketch a program of satellite development, manufacture, positioning, and operation for the reasonably foreseeable period to 1975. Beyond that, one must depend more on assumptions as to future satellite cost/effectiveness, but the incremental capital cost for the remainder of this century to provide adequate space segment redundancy on a global basis should not in any case exceed the order of $100 million. The peak of the investment would of course be substantially less than the total.

The Comsat staff will make a thorough study of the entire question for presentation to the ICSC.

System Economics

Our transition into the era of satellite communications is incomplete in the development of a discerning conception of system economics. It may be said that INTELSAT's commitment to global coverage was made initially as much on faith as on calculation. As we now approach the attainment of that first goal and must initiate programs beyond it, calculation becomes of prime significance.

The key to satellite system economics is of course the amount of use of the system. No other factor even approaches the importance of this one. It is the essence of the "revolution" we expect from satellites.

We all know that within five years we can flood the globe with available satellite capacity at a cost not appreciably greater than that of meeting minimum requirements. Our problem is how to close the loop of prospective availability and prospective use in ways which lead us most accurately to the system design and marketing policy to promote lower prices and greater use.

As INTELSAT manager, charged and preoccupied with bringing initial global coverage into being, Comsat has not yet tackled this broad system problem as comprehensively as must now be done.

Non-U.S. Participation in Comsat and INTELSAT Activities

Discussions during some of my visits touched upon the possibilities of increased international involvement in the work of our joint venture. My comments in this respect, covering two principal areas of activity, were intended to reflect the basic philosophy that to be viable over the long term, INTELSAT organization and procedures, as in any cooperative international endeavor, must reasonably satisfy the valid desires and interests of all parties.

1. Engineering Development and Manufacturing

I found in some quarters a fixation on the fact that thus far only a small fraction of INTELSAT research, development, and production funds have gone to non-U.S. entities. I found less appreciation of the fact that, starting from scratch in 1965, the program by the end of 1968 will have reached the point where non-U.S. participation in the production of the fifth and sixth satellites under the INTELSAT III contract will have reached 44%. I urge all interested parties to consider what this rather remarkable fact portends for the future.

2. The Manager's Organization

Comsat's long standing offer to accept qualified non-U.S. nationals in its organization has produced

substantial results in the area of research. The program has benefited from the participation of these individuals and -- it is certainly to be hoped -- the individuals feel that they have also benefited themselves and their countries. Comsat's new research laboratories are scheduled for occupancy at the end of 1968. With the prospect for more productive working conditions, I encourage all interested parties to explore the possibilities of increasing this participation.

Elsewhere than in research (and under contracts), non-U.S. involvement in developing the system has been pretty well limited to the activities of ICSC and its subcommittees and the regional traffic conferences. One recognizes that arrangements for meaningful participation in general management tasks are not so easy as they are in research. Among the constraints are the need to avoid diluting Comsat's over-all responsibility to INTELSAT or reducing the managerial efficiency of the organization. Nevertheless, and within all constraints, I believe that additional satisfying opportunities for non-U.S. individuals can be found in the present organizational framework, and commend the possibility for renewed exploration.

Copy to John O'Malley.

December 10, 1968

MEMORANDUM FOR: General James McCormack
General James O'Connell
Chairman Rosel Hyde
Mr. Frank Loy

At our meeting yesterday it was agreed that a legal committee would be formed to consider various legal problems related to the forthcoming conference. Specifically, it is my view that the committee should prepare a complete analysis of:

1. Juridical status and legal personality of INTELSAT or the managing entity. Under this heading, consideration should be given to the desirability of continuing the present form and also to a formal business corporation.

2. A study of the privileges and immunities questions that can be raised in countries where INTELSAT functions. Your attention should be given to taxes or other assessments that could be made.

3. "What constitutes doing business" so that the entities might be required to register and comply with laws of various jurisdictions.

This report should be submitted no later than January 15, 1969.

Leonard H. Marks
Chairman, U.S. Delegation
INTELSAT

December 16, 1968

NOTE FOR MR. J. D. O'CONNELL

The attached draft airgram was received last Friday. You will note that the reference slip transmits it to you "for your information." You will also note that the airgram is not dated and the reference slip indicates that comments are desired by the close of business today. Since I was not clear as to what comments Mr. Miller expected from you, I called him on Friday afternoon. He said that the airgram had not been sent out and that it was really being sent to you for clearance.

I have reviewed the airgram and it appears to be an innocuous statement of the status of the International Conference at this time. There are two areas which may be of special interest to you: the first is enclosure 1, section 1 "Participation in the Conference." The airgram states that interested non-members will be invited to attend if they indicate that they wish to be invited. This is a change from the previous position which was that they would be invited if they expressed a serious interest in joining INTELSAT. Since the previous test was probably not too practical, since the Chairman will be able to control the conduct of the non-members, and since they will not be permitted to vote, there is probably no harm in allowing them to attend the conference under these circumstances.

The other point is the statement on page 3 (paragraph 6) of the airgram indicating that no firm plans have been made for visits to INTELSAT member countries.

I told Mr. Miller Friday afternoon that he would be hearing from either you or me today. Kindly indicate whether you wish me to call him to express your views; otherwise I will expect that you may wish to talk with him yourself.

John

J. J. O'Malley, Jr.

Attachment

FORM DS-14
4-1-55

DEPARTMENT OF STATE
WASHINGTON

INTERDEPARTMENTAL REFERENCE

DATE

12/13/68

REFERRED TO

Mr. O'Connell

RE:

WRITER ☐ HAS ☐ HAS NOT BEEN INFORMED OF THIS REFERENCE

COMMENTS:

For your information.

Please let me have any comments by c.o.b. Monday, December 16.

SIGNATURE

William K. Miller, Director

OFFICE OR DIVISION

Office of Telecommunications (182-5461)

DEPT. DISTRIBUTION

ORIGIN/ACTION

RM/R	REP	AF	ARA
EUR	FE	NEA	CU
INR	E	P	IO
L	FBO	AID	
AGR	COM	FRB	INT
LAB	TAR	TR	XMB
AIR	ARMY	NAVY	OSD
USIA	NSA	CIA	

SUGGESTED DISTRIBUTION

E/TD-10 extra copies

POST ROUTING			
TO:	Action	Info.	Initials
AMB/PO			
DCM			
POL			
ECON			
CONS			
ADM			
AID			
USIS			
FILE			

Action Taken:

Date:

Initials:

DEPARTMENT OF STATE

AIRGRAM

Original to be Filed in _____ Decentralized Files.

FILE DESIGNATION

LIMITED OFFICIAL USE

HANDLING INDICATOR

NO.

TO :ALL AMERICAN DIPLOMATIC POSTS
USUN NEW YORK
US Mission GENEVA

FROM :Department of State DATE:

SUBJECT :INTELSAT Conference.

REF :CA-12352, November 25, 1968

Summary: The United States has invited the members of the International Telecommunications Satellite Consortium (INTELSAT) to a conference in Washington February 24 - March 21, 1969 to negotiate definitive arrangements for the organization. This message reports the status of preparatory work for the Conference and sets forth anticipated issues and U.S. positions on these issues. It is intended as background material for the addressee missions in connection with any discussion of the Conference with host governments and, in some cases, possible visits by representatives sent from Washington.

1. This airgram is being sent to diplomatic posts in countries which are not INTELSAT members, as well as in member countries, since non-member countries are eligible to be invited to the Conference, upon request, as observers. Seven non-member countries, Ecuador, Guatemala, the Ivory Coast, Jamaica, Nicaragua, Paraguay, and Viet Nam, have applied for quotas in INTELSAT, had quotas approved by the INTELSAT Interim Committee, and could join INTELSAT prior to the Conference by depositing instruments of accession. Any country which should do so would, of course, be invited to the Conference as a full (voting) participant.

For Department Use Only

☐ In ☐ Out

Drafted by:	Drafting Date:	Phone No.:	Contents and Classification Approved by:
E/TD:WKMiller:sp	12/11/68	5461	E/TT:Frank E. Loy

Clearances:
Ambassador Marks ARA/ECP-Miss Goldstein NEA-Mr. Precht
AF/AFI-Mr. Drew EA-Mr. Welch EUR/RPE-Mr. Blaney
IO/OIC-Mr. Barrett

2. INTELSAT currently operates under interim arrangements consisting of an intergovernmental agreement of August 20, 1964 and a "Special Agreement" of the same date signed by certain governments and telecommunications entities designated by governments. There is also a Supplementary Agreement on Arbitration among the signatories to the Special Agreement (TIAS 5646).

3. Article IX of the intergovernmental agreement calls on the governing body of INTELSAT, the Interim Communications Satellite Committee, to make a report to the governments parties to the agreement not later than January 1, 1969 containing its recommendations concerning definitive arrangements for a global system to supersede the interim arrangements. The Interim Committee (ICSC) has been considering and preparing its report over a period of time and is expected to complete the report at its meeting in early December. The report, pursuant to Article IX, will be "fully representative of all shades of opinion", recording the degree of support given by members of the Committee for alternative proposals on various aspects of the definitive arrangements.

4. The U.S. position on the definitive arrangements was given to the Committee in October 1967 in a document numbered ICSC-28-40, copies of which were sent to addressee posts in countries which were then members of INTELSAT with CA-2813 of October 11, 1967. Copies are being sent now (under separate cover) to posts in member countries which did not receive CA-2813. It has since been supplemented or revised on four points:

(a) A paper was sent to the ICSC elaborating our concept of investment proportionate to use (Section III C of ICSC-28-40).

(b) A paper was sent to the ICSC proposing that any five members of the organization, regardless of the size of their shares, should be entitled as a group to representation on the governing body. (This modifies Section IV B of ICSC-28-40).

(c) At the November meeting of the ICSC we supported membership in ITU as a condition of membership in the organization. We had previously advocated an organization open to "all nations" (Section II C of ICSC-28-40) but decided to accept the evident majority view.

(d) Based upon ICSC practice since 1966 with regard to new members who have no appreciable near term traffic potential, we have suggested that the minimum investment share for members not using the system be .05% rather than the .025% suggested in ICSC-28-40.

Otherwise the U.S. position remains substantially as set forth in ICSC-28-40, although it has been elaborated and clarified in some respects in the course of ICSC consideration.

5. A number of areas of the prospective content of the definitive arrangements and other questions which we see as potentially significant issues at the Conference are set forth in Enclosure 1 to this airgram. Posts are not asked to take any action on the basis of this airgram, but may draw on this material for use in any discussions of the Conference with host governments. Posts are requested to report any views made known by officials of host governments, particularly regarding issues or problems which may concern them.

6. Leonard H. Marks, recently Director of USIA, has been named as head of the U.S. Delegation to the INTELSAT Conference, with the personal rank of Ambassador. Ambassador Marks is heading the U.S. preparatory work for the Conference, assisted by representatives of the Department of State, the Director of Telecommunications Management (Executive Office of the President), the Federal Communications Commission, and the Communications Satellite Corporation (ComSat). The preparatory group is currently considering plans for visits by U.S. representatives to INTELSAT member countries in several areas. These visits probably would take place in January and would be for the purpose of exchanging views with member countries on issues involved in the Conference. Posts concerned will be informed and asked to arrange appropriate appointments as soon as itineraries are developed.

7. Enclosure 2 sets forth for the information of the addressees the current membership of the ICSC and the persons attending the December 1968 meeting. Member countries not mentioned in the list are not represented on the Committee.

8. U.S. proposals on the working structure and officers of the Conference will be sent forward to posts in INTELSAT member countries by separate airgram.

Enclosures:

1. INTELSAT Conference Issues.
2. ICSC List of Representatives, December 1968.

INTELSAT Conference Issues

1. Participation in the Conference

The U.S., as the Conference host, proposed tentatively to invite only members as full participants, but to inform non-members which are members of the UN or its Specialized Agencies so that those which might be interested in attending because of a serious interest in the possibility of joining INTELSAT could be invited as observers (CA-11051, September 23). The overwhelming majority of member countries which responded concurred in this proposal and the U.S., accordingly, has issued invitations and informed non-members on this basis (CA-12352, November 25).

We believe there may be some criticism of the decision with respect to non-members from both sides, particularly from a few countries which would have preferred to invite non-members as observers without waiting for them to indicate that they want to attend. In answer to any such comment it may be indicated that (a) the consensus of member countries favored a middle position such as we have taken and (b) interested non-members will be invited to attend as observers if they indicate they wish to be invited. In connection with the latter point, we do not contemplate any test of "serious interest", such as asking for an affirmation of the non-member's interest in the possibility of joining INTELSAT, before an invitation will be issued.

2. Rules of Procedure

Provisional rules of procedure are being circulated to member governments and are being sent to the addressee posts with a separate airgram. These rules, which of course are subject to approval by the Conference, would include usual voting procedures, a simple majority of those voting for or against on procedural matters and two-thirds on substantive matters, and two-thirds of the members eligible to vote for final approval of texts. They would permit observers to speak and submit papers at the invitation of the chairman, but not to vote. We do not know what, if any, issues concerning these rules may arise. Possibly the most significant question relates to the bearing of the rules of procedure on the question of bringing the new arrangements into effect (see below).

3. Bringing the New Agreements into Effect

While the Interim Agreements provide for a conference to consider definitive arrangements, they make no provision as to how the new arrangements should be brought into effect, replacing the old. Unanimous agreement of course would answer the problem, but a requirement for unanimity would empower any single dissident to block agreement or to exercise undue influence on the content of the arrangements. We hope to meet this problem through voting rules which call for a large majority, efforts to meet dissenting views as much as this can be done, decisions by consensus where possible and by large majorities where consensus is not possible, and, finally, the assurance of liquidation on reasonable conditions of the interest of any present member electing not to participate in the new arrangements. (Liquidation provisions could be agreed in principle by the Conference, with details left to the organization's governing board or between the governing board and the member opting out. Equitable conditions should not be a difficult accounting problem.)

4. Nature and Structure of the Organization

There is now general agreement that the organization should continue to operate on the basis of a single global system as opposed to a federation of relatively independent regional systems. As far as we know, only France has encouraged considering alternatives to the global concept, and the other European member countries have now taken a position in favor of it. There is also general agreement on an organization with three major constituent bodies, an assembly of member governments or telecommunication entities, a governing body with a decision-making role similar to that of the Interim Committee, and a management body. There are, however, significant differences in views as to the make-up and functions of these bodies.

The U.S. proposed an Assembly of Members, with limited responsibilities, which would have an annual meeting, somewhat on the order of an annual stockholders' meeting. Under the U.S. concept, the Governing Body would be the executive body of the organization, with the power to make all or almost all important decisions. As under the Interim Arrangements, a single entity would be designated as Manager, specifically ComSat, but with international participation.

Organizational differences which other countries have proposed are (i) a four tier structure with a conference of governments and an assembly of members signatory to the operating agreement (Australia) and (ii) an international secretariat separate from the manager or from an outside entity or entities which would perform technical functions under contract.

We have not made clear whether the Assembly would be made up of governments or signatories of the operating agreement or both. Its composition must be appropriate to its functions and we believe many of its functions will be the responsibility of signatories to the operating agreement, whether these are governments or telecommunications entities. It follows, therefore, that the Assembly should be open to such entities. Whether it needs also to be open to governments which are not signatories of the operating agreement is less clear. If it has a role in amending the intergovernmental agreement, then governments should be represented, but if this is the only governmental function it might be handled by another procedure. We would welcome the views of other members on the composition of the proposed Assembly.

There appears to be general agreement that the proposed Governing Body would take over the ICSC's decision-making powers. It would supervise development, establishment and operation of the space segment of the global system.

An unresolved issue is voting arrangements in the Governing Body. There is general agreement that voting should be related to investment, as the U.S. has proposed, and that important decisions should require a weighted two-thirds vote, as they do under the Interim Agreements. We have also proposed as a modification of the investment-voting power principle that no member should have more than 50% of the vote. However, there is widespread feeling among other members of the organization that no member alone should have the veto power that this formula would give the U.S. The European countries have said no two or three members should have a veto power.

We do not rule out the possibility of some concession to meet this viewpoint, but we are not inclined to make concessions in advance of the Conference. What concession might resolve the issue is not clear. It is clear, however,

that it would be more in our interest to retain the investment-voting power relationship with a specific qualification against veto than to revise the voting power of large investors downward, since the latter approach would reduce our affirmative as well as our negative voting strength.

The U.S. proposed an Assembly of Members largely in order to give members which are not represented on the Interim Committee more of a sense of participation in the organization. Our proposal to permit any five members to have a representative on the Governing Body regardless of the cumulative size of their investment was intended for the same purpose.

An organizational question that has not yet emerged as a clear issue is whether the organization needs to have a legal personality and, if so, how this should be acquired. The Europeans say that it should have a legal personality in order to contract in its own right and to obtain appropriate privileges and immunities. We are not satisfied that a legal personality for the organization is needed for these purposes, but are studying the matter and maintain an open mind on the issues that may be involved.

5. The Manager

As noted above, we have proposed that ComSat continue as Manager, but with international participation. Rightly or wrongly, most of our partners probably will oppose continuation indefinitely of the U.S. participant as Manager. They argue conflict of interest, real or potential, and some of them clearly have strong political objections. At the same time there is general recognition that ComSat is the only body competent to manage the affairs of the organization in the period immediately ahead. Consequently, if there is to be a change, there will still have to be a transition period.

We believe the best approach to this question may be procedural, specifically, to leave it to the Governing Body of the new organization rather than answer it in the definitive arrangements.

6. Functional Competence of the Organization

The U.S. has proposed that INTELSAT should be authorized to provide not only "traditional" telecommunication services, including telegraph, telephone, telex, and TV relay, but also

other types of "specialized" services that can be provided by satellite. Aeronautical communications would be an example of specialized services. Our position is that INTELSAT should be a developer and supplier of facilities and it should have the authority to provide any kind of satellite communication service that anyone wants. We feel that barring INTELSAT from being able to offer relay facilities to meet various requirements could be detrimental to the interests of both INTELSAT and the end users, since it cannot be predetermined what future services will be needed and how they can best be provided.

The Europeans say INTELSAT should not be allowed to provide services other than traditional point-to-point telecommunications without amendment of the definitive arrangements. Their view derives from the P&T orientation of their participants in the organization, abetted, perhaps, by some elements of opposition to a strong INTELSAT.

7. Regional Systems

The question here is whether satellites owned by members for regional international telecommunications outside INTELSAT should be permitted and under what circumstances. If it is assumed that there may be such separate regional systems involving members, then what tests of acceptability should there be and what should be INTELSAT's role in determining acceptability?

The U.S. has not favored any regional system. We consider that the reasons for any such system are political, and that there is no telecommunications justification, nor any other economic justification, other than the advantages to the aerospace industry of the area concerned which a regional system implies. There has been a good deal of support in Europe, however, for a European regional system, both for broad political reasons and as a means of encouraging the European aerospace industry. The Europeans have proposed a definition of regional systems to relate to "a geographically compact group of countries linked together by cultural or economic ties". (France reserved on this definition, evidently objecting to the "geographically compact" concept.)

Our position in opposing separate regional systems is made somewhat more difficult by the fact that we advocate the possibility of separate domestic systems. How would a European system differ from an American system, the Europeans ask? It would in fact differ because it would be international,

and most countries have traditionally wanted control of their own domestic communications. There might also be economic differences, but the big question here is whether INTELSAT would otherwise get the traffic which a separate system is intended to carry. INTELSAT could be injured by international systems which would take traffic from the global system, and the LDCs, which are unlikely to have regional systems of their own, would be among those bearing the burden.

Our conclusion has been that if there is to be any separate regional system, in addition to being limited to a compact area, it should have to pass the test of not being economically damaging to INTELSAT. We would favor giving the INTELSAT Governing Body a role in determining whether a planned system would be acceptable in this light. We hope for support from the LDCs and others outside Europe on this issue.

8. Criteria for Investment

The U.S. has proposed investment related to use of the system, subject to periodical adjustments, except a minimum share of 0.05% in cases where a member has no immediate or foreseeable near-term use planned. There appears to be general agreement on these concepts, though details have not yet been fully discussed and it is not clear whether serious differences will arise.

9. Procurement Policy

The INTELSAT Interim Agreements set forth two principles for procurement, first, the normal business criteria of price, quality and timely performance; second, when tenders are "comparable" in these terms, distribution of contracts so that work will be distributed in approximate proportion to quotas. These criteria are contradictory, unless the second is clearly subordinated (as we think it should be); contracts cannot be cheapest and best and also distributed on a predetermined basis. In any case, price aside, it would not be possible to distribute work proportionately among 63 countries, some of which have nothing like an aerospace industry.

INTELSAT's major contracts to date have all gone to U.S. firms. This follows price, quality and delivery criteria and results from the fact that the U.S. aerospace industry

is way ahead of Europe's. However, the INTELSAT III and IV satellite series contracts include very substantial subcontracting abroad (Europe and Japan), the foreign share of the recent INTELSAT IV contract amounting to $19.4 million or some 30-35%. This subcontracting abroad has substantially increased procurement costs.

The Europeans, on behalf of their industry, want to put more stress on the distribution of work. Others of our INTELSAT partners, however, are opposed to paying the extra costs this involves, and have pointed out that it amounts to the LDCs, among others, subsidizing European industry.

10. Data and Inventions

There has been an argument in the Interim Committee as to the conditions INTELSAT should require in its satellite construction contracts with respect to patents and data developed by the contractors, i.e. for what uses they should be available and on what terms. However, the only real steam behind the various positions has derived from implications of the French and other European positions on satellite systems outside INTELSAT. The U.S. takes the position that the provisions on this subject in the definitive arrangements should be limited to a statement of policy, with details of implementation left to the Governing Body. Our proposed policy would include royalty free use for other INTELSAT space segment purposes and the possibility of payments to INTELSAT under licensing arrangements for other uses as may be determined by the Governing Body.

11. The Fear of Cultural Subversion

Concern has been expressed in several European countries that the INTELSAT system, heavily influenced by the U.S., may become an instrument for flooding receiving countries with unwanted television programs, broadcast direct by satellite. We do not think this issue need complicate the February Conference. The UN Outer Space Committee has appointed a working group to study the technical, legal and other aspects of the question, and we believe the matter should be left to this group.

12. Membership and Access

We have conceived of INTELSAT as a universal organization. The Interim Agreement, however, provides for membership in

the ITU as a condition of membership. In discussion of the definitive arrangements we advocated eligibility of "all nations", and informed the Interim Committee that we meant by this unrestricted membership, dropping the ITU condition. When it became apparent, however, that a majority of our partners favored retaining a provision for ITU membership as a condition of INTELSAT membership, we agreed to accept this position. While there may be some argument about this during the Conference, the U.S. probably will not have to become actively involved.

There also could be an issue as to whether non-members should have direct access to the system. This probably is a purely political question and not a practical issue, but it nevertheless could generate some heat in view of the desire of many members to avoid making INTELSAT appear closed to non-members. While the U.S. has not taken any firm position, we probably would accept the concept of direct access for non-members provided the financial conditions would be such as not to give non-members a financial advantage over members.

Enclosure 2
ICSC-36-1E W/12/68
4 December 1968

Interim Communications Satellite Committee

THIRTY-SIXTH MEETING - LIST OF REPRESENTATIVES

Beginning 2 December 1968

COUNTRY	MAILING ADDRESS	WASHINGTON ADDRESS
ARAB GROUP (Algeria/Iraq/Jordan/Kuwait/Lebanon/Libya/Morocco/ Saudi Arabia/Sudan/Syria/Tunisia/UAR/Yemen)		
A. Bairi *	Ministère des Postes et Télécommunications 4, boulevard Salah Bouakouir Algiers, Algeria	Melbourne House
ARGENTINA		
Mr. C. Killian **	Secretaría de Comunicaciones Sarmiento 151 Buenos Aires, Argentina	Harrington

* Duly Accredited Representative
** Duly Accredited Alternate
*** Assistant

COUNTRY	MAILING ADDRESS	WASHINGTON ADDRESS
ASIA/PACIFIC GROUP	(Philippines/India/Thailand/Malaysia/Singapore/ Indonesia/New Zealand/Ceylon)	
K.M. Balchandani *	Overseas Communications Service I.A. Building Churchgate, Bombay - 1, India	Windsor Park
M. Leeviraphan ***	Embassy of Thailand 2300 Kalorama Road, N.W. Washington, D.C. 20008	
K. Sahdev ***	Embassy of India 2107 Massachusetts Ave., N.W. Washington, D.C. 20008	
AUSTRALIA		
C. Vahtrick **	Overseas Telecommunications Commission (Australia) Box 7000, GPO Sydney, N.S.W., Australia	Anthony House
E.C. Harcourt **	Overseas Telecommunications Commission (Australia) Box 7000, GPO Sydney, N.S.W., Australia	Anthony House

* Duly Accredited Representative
** Duly Accredited Alternate
*** Assistant

COUNTRY	MAILING ADDRESS	WASHINGTON ADDRESS
AUSTRALIA (Cont'd)		
P.F. Moore ***	Australian Post Office Communications House 199 William Street Melbourne, Vic. 3000 Australia	Anthony House
BELGIUM/NETHERLANDS		
A. Vancoillie *	Régie Belge des T.T. 42, rue des Palais Brussels 3, Belgium	Washington
F. Maarleveld **	Netherlands PTT Headquarters Beatrixlaan 16 The Hague, The Netherlands	Presidential
BRAZIL		
C.A.B. Coelho *	EMBRATEL Av. Presidente Vargas 290-10º Rio de Janeiro, Brazil	Harrington

* Duly Accredited Representative
** Duly Accredited Alternate
*** Assistant

COUNTRY	MAILING ADDRESS	WASHINGTON ADDRESS
CANADA		
E. Eliasen **	Canadian Overseas Telecommunication Corporation 625 Belmont Street Montreal, Canada	Statler Hilton
COLOMBIA/VENEZUELA/CHILE		
J.L. Alegrett *	Venezuelan Office 950 L'Enfant Plaza South, S.W. Washington, D.C. 20024	
DENMARK/NORWAY/SWEDEN		
H. Laursen *	General Directorate of Posts and Telegraphs Copenhagen V, Denmark	Anthony House
FRANCE/MONACO		
J. Voge *	Direction des Services d'Enseignement 46, rue Barrault Paris 13e, France	Washington
J.P. Duplan **	Direction Générale des Télécommunications 20, avenue de Ségur Paris 7e, France	Washington

* Duly Accredited Representative
** Duly Accredited Alternate
*** Assistant

COUNTRY	MAILING ADDRESS	WASHINGTON ADDRESS
FRANCE (Cont'd)		
F. Latapie ***	French Scientific Mission 2011 I Street, N.W. Washington, D.C. 20006	
GERMANY		
B.A. Seidel *	Bundesministerium für das Post und Fernmeldewesen Adenauerallee 81 53 Bonn, Germany	Anthony House
G. Brunner **	German Foreign Office Adenauerallee 101 Bonn, Germany	Anthony House
ITALY/VATICAN CITY		
F. Nicotera *	Società Telespazio Via del Babuino 51 Rome, Italy 00187	Mayflower
A. Caruso ***	Società Telespazio Via del Babuino 51 Rome, Italy 00187	Roger Smith

* Duly Accredited Representative
** Duly Accredited Alternate
*** Assistant

COUNTRY	MAILING ADDRESS	WASHINGTON ADDRESS
JAPAN		
M. Masuda *	KDD Kasumigaseki Building No. 2-5, Kasumigaseki, 3-Chome Chiyoda-Ku Tokyo, Japan	Statler Hilton
J. Kimura **	KDD Liaison Office 950 L'Enfant Plaza South, S.W. Washington, D.C. 20024	
N. Ohyama ***	KDD Liaison Office 950 L'Enfant Plaza South, N.W. Washington, D.C. 20024	
MEXICO		
C. Núñez A. *	Secretaría de Comunicaciones y Transportes Avenida Universidad y Xola Mexico 12, D.F., Mexico	Anthony House

* Duly Accredited Representative
** Duly Accredited Alternate
*** Assistant

COUNTRY	MAILING ADDRESS	WASHINGTON ADDRESS
SPAIN/PORTUGAL		
P. Ortiz-Armengol *	Embassy of Spain 2700 15th Street, N.W. Washington, D.C. 20009	
F. Perez-Martin **	Compañía Telefónica de España Avenida José Antonio 28 Planta 12 Madrid, Spain	Washington
SWITZERLAND/AUSTRIA/LIECHTENSTEIN		
R.O. Steiner *	Embassy of Switzerland 2900 Cathedral Ave., N.W. Washington, D.C. 20008	
E. Andres ***	Embassy of Switzerland 2900 Cathedral Ave., N.W. Washington, D.C. 20008	
UNITED KINGDOM/IRELAND		
J. Hodgson **	General Post Office Alder House 1, Aldersgate Street London, E.C.1, England	Washington
W. G. Geddes ***	General Post Office Alder House 1, Aldersgate Street London, E.C.1, England	Washington

* Duly Accredited Representative
** Duly Accredited Alternate
*** Assistant

COUNTRY	MAILING ADDRESS	WASHINGTON ADDRESS
UNITED STATES		
J.A. Johnson *	Communications Satellite Corporation 950 L'Enfant Plaza South, S.W. Washington, D.C. 20024	
R.R. Colino **	Communications Satellite Corporation European Office 32, rue de Malatrex Geneva, Switzerland	
R.W. Kinzie ***	Communications Satellite Corporation 950 L'Enfant Plaza South, S.W. Washington, D.C. 20024	
INTERIM COMMUNICATIONS SATELLITE COMMITTEE		
R. Renfield	950 L'Enfant Plaza South, S.W. Washington, D.C. 20024	

* Duly Accredited Representative
** Duly Accredited Alternate
*** Assistant

DEPARTMENT OF STATE

Washington, D.C. 20520

MEMORANDUM

November 29, 1968

TO: Ambassador Marks
Mr. Allen
Chairman Hyde
Mr. Johnson
Mr. Loy
Mr. McCormack
Mr. O'Connell

Attached for consideration at the next Executive Committee meeting is a suggested committee structure for the INTELSAT Conference. This results from a State-ComSat meeting of November 27.

Travel itineraries also were discussed at the same meeting and suggested itineraries, now being prepared by ComSat, will be circulated in time for consideration before the meeting.

William K. Miller

Attachment.

INTELSAT Conference

Suggested Committee Structure

Steering Committee

Credentials Committee

Editorial Committee

Committee I (Structure and Functions) scope ~~Purposes~~ of Services

Subcommittee A (Membership, ~~Functional Competence~~ and Organizational Structure (including major organs, their functions, and voting))

Subcommittee B (Legal and Procedural Questions (including definitions, legal status, entry into force, duration, amendment, withdrawal, settlement of disputes))

Committee II (Operational Arrangements)

Subcommittee A (Financial Arrangements)

Subcommittee B (Management Arrangements)

Subcommittee C (Procurement Policy and Procedures (including inventions and data))

Subcommittee D (Technical and Operational Matters)

Juridical Status
Legal
Privileges & immunities
all tax aspects
Sen Meeker

11/29/68 Issues paper on arbitration - Comsat
2:30 Today -

COMMUNICATIONS SATELLITE CORPORATION

THOMAS E. DONAHUE, JR.
Manager, Agreements Department
International Arrangements

November 19, 1968

Mr. John J. O'Malley
Legal Assistant
Office of the Director of Telecommunication Management
Executive Offices of the President
Room 748
1800 G Street, N. W.
Washington, D. C. 20504

Dear John:

The attached paper summarizes the important decisions taken by the Committee at its thirty-fifth meeting and includes the exact number of votes for each of these items. We do not have readily available a document which sets forth every item considered with the number of votes taken.

Sincerely,

T. E. Donahue, Jr.

Attachment

Agenda Item (a)

Report on the Thirty-Fifth Meeting of the ICSC

The thirty-fifth meeting of the Interim Communications Satellite Committee opened on Monday, November 4, 1968, in Washington, D.C., and closed on Friday, November 8, 1968. Eighteen Committee members representing a total of forty-eight of the sixty-three INTELSAT signatories were present at the meeting.

The sole purpose of the thirty-fifth meeting was to determine, in accordance with the procedure adopted at the previous meeting, the degree of support within the Committee for the various proposals on definitive arrangements which have been advanced during the past year. As the basis for its work, the Committee had before it the document prepared by the Drafting Group, copies of which have been furnished to the Board, and various amendments thereto submitted by the members of the Committee.

The remainder of this report to the Board follows the terminology employed by the Committee in describing the degree of support expressed for the various proposals. Proposals that received unanimous support are described as "unanimous recommendations" of the Committee. Proposals that received less than unanimous support are described as follows: if supported by 14 to 17 representatives, a proposal is described as a recommendation with support of a "substantial majority"; if supported by 10 to 13 representatives, it is regarded as a recommendation with "majority support"; if supported by 6 to 9 representatives, it is described as a proposal with "substantial support"; if supported by 3 to 5 representatives, it is described as a proposal with "support"; and if favored by 1 or 2 representatives, it is prefaced by the phrase, "The proposal was made that."

The principal results of the Committee's deliberations during the thirty-fifth meeting were as follows:

1. NUMBER, TYPE AND DURATION OF AGREEMENTS

The Committee discussed the number and type of agreements constituting the definitive arrangements and their duration. A substantial majority (15, including Comsat) recommended that the present structure of two inter-

related agreements be continued: the first, an agreement between governments; the second, an agreement between governments or designated telecommunications entities, public or private. As to duration, there was substantial support (9, including Comsat) for the proposal that the definitive arrangements have no fixed term; there was support, however (5), for a term of fixed duration.

2. ELIGIBILITY FOR MEMBERSHIP IN THE ORGANIZATION

A majority of the Committee (13, including Comsat), supported the proposal that membership in INTELSAT should be open only to countries which are members of the International Telecommunication Union. There was support (4) for the proposal that membership be open to all states, regardless of ITU membership.

3. LEGAL STATUS OF THE ORGANIZATION

A substantial majority of the Committee (14) recommended that INTELSAT be given "legal personality" and the capacity to contract, own property, and exercise rights against third parties in its own name, and that it be granted certain privileges and immunities in the territories of member states. A majority of the Committee (12) supported the proposal that INTELSAT be "an incorporated joint venture with legal personality." There was support (3, including Comsat) for the proposal that the organization be an unincorporated joint venture.

4. INVESTMENT AND OWNERSHIP

A substantial majority (15, including Comsat) supported the United States proposal that the space segment be owned in undivided shares by the members in proportion to their respective investment in the organization.

A majority (12, including Comsat) supported the United States proposal that a member's investment in the organization be determined in accordance with its actual use of all INTELSAT financed facilities during the previous year, and that those members without facilities enabling them to use the space segment be assigned a base share of 0.05%.

5. SCOPE OF SERVICES TO BE PROVIDED BY INTELSAT

The Committee differentiated among the types of services for which facilities could be provided. A unanimous recommendation was made that the organization should provide, as its primary objective, the space segment for public international telecommunications services on a commercial basis (i.e., telephony, telegraphy, telex, facsimile and data transmission, relays of television and radio programs, and leased circuits for these services). There was substantial support (9) for the proposal that the provision of other services of a specialized nature (e.g., aeronautical and maritime communications) would require a specific amendment to the definitive arrangements. However, there was also substantial support (6, including Comsat) for authorizing INTELSAT to provide such specialized services if the Governing Body decides that such services are technically and economically acceptable and that INTELSAT's ability to provide public international telecommunications services would not be adversely affected by the provision of such specialized services.

6. STRUCTURE OF THE ORGANIZATION

The Committee considered in detail only a three-tier structure of the organization consisting of an Assembly, a Governing Body and a Management Body.

A. The Assembly

(i) Composition

There was "substantial support" (9, including Comsat) for the proposal that the Assembly should be composed of all the signatories to the second agreement; however, there was also substantial support (8) for the proposal that each government should have the right to determine, prior to each meeting of the Assembly, whether its participation should be by the government itself or by a telecommunications entity designated by it.

(ii) Functions

The Committee indicated support for various functions which might be given the Assembly, depending on its composition. However, irrespective of its composition, a majority (11, including Comsat) recommended that the Assembly: (1) receive, consider, and in some instances, approve reports from the Governing Body; (2) consider and approve

amendments to the second agreement. There was substantial support (7), regardless of composition, for the proposal that the Assembly be the "supreme organ," establish general policies and scope of programs, review the activities of the other organs, consider and approve amendments to the agreements, and determine, in the event of disputes, the competence of the Governing Body.

(iii) Voting

There was substantial support (6) for the proposal that a two-thirds majority should be required for substantive matters and a simple majority for procedural ones, each participant possessing one vote. The United States proposal that all decisions require the concurrence of a majority of the members holding at least two-thirds of the investment shares received support (4).

B. The Governing Body

(i) Composition and size

A substantial majority (17, including Comsat) recommended that the Governing Body be an executive body of limited size (a majority (12, including Comsat)) recommended that the size should not exceed 20 members) composed of signatories to the second agreement who would be entitled to a seat by virtue of their individual or group investment equalling or exceeding a requisite level. The United States proposal that any five or more signatories be entitled to a seat, regardless of the size of their combined investment shares, received substantial support (7). A majority of the Committee (10) also recommended that the Assembly could elect a certain number of member countries to seats on the Governing Body; their voting power would be at least the same as those on the Governing Body with the lowest vote.

(ii) Functions

There was substantial support (17, including Comsat) for giving the Governing Body all power necessary to direct the business and carry out the

purposes of INTELSAT; it would be responsible for the design, development, construction, establishment, maintenance and operation of the space segment. Detailed functions were not considered by the Committee at this meeting.

(iii) Voting

There was a substantial majority (16, including Comsat) for the proposal that the Governing Body should endeavor to take decisions unanimously. The United States proposal that a member's vote in the Governing Body be related directly to its investment share received support (5). There was, however, substantial support (7) for two other proposals: first, assigning each member or group of members in the Governing Body a basic bloc of votes in addition to the vote based upon their investment shares; and, second, relating the weighted vote to the member's investment shares in such a way that the difference in voting weight between the member with the largest investment share and the one with the smallest investment share would not be as great as the difference between their respective shares.

The United States proposal for a limitation of 50% on the voting power of any member received substantial support (7). There was majority support (11) for the proposal that the Governing Body should not be unable to take a decision solely because of the casting of a negative vote by any one member. There was substantial support (8) for a proposal that the Governing Body should not be unable to take a decision solely because of the casting of a negative vote by three members. A majority of the Committee (10, including Comsat) recommended that decisions in the Governing Body not be taken solely by the exercise of the voting power of any one member. A majority of the Committee (11) favored a provision that no two or three members could either prevent or impose a decision by the combination of their weighted votes.

In regard to the majority requirements for decisions in the Governing Body, a majority of the Committee (13, including Comsat) recommended

that important substantive items be specified in the agreements, and there was substantial support (9, including Comsat) that such items should require a two-thirds majority of the weighted vote. There was also substantial support (6) for a formula of a combination of the weighted vote plus a numerical vote on certain issues such as the awarding of major contracts. There was no support for the "one member - one vote" concept for substantive matters, although there was a recommendation by a majority of the Committee (10) that procedural decisions be taken by a simple (non-weighted) majority of the members present and voting. The United States proposal that procedural matters require a simple majority of the weighted vote received support (5).

C. The Management Body

A majority of the Committee (12) supported the proposal that the Management Body be an international organization separate and distinct from any of the entities participating in INTELSAT. There was substantial support (6) for a proposal that there be an international secretariat (with a Chief Executive Officer and qualified staff) plus a single entity to do the daily work of management. The Committee took no decisions regarding transitional arrangements from the present management to any new form which might be adopted for the definitive arrangements.

7. DOMESTIC SERVICES

The Committee unanimously recommended that INTELSAT be authorized to provide, at the request of a member or group of members, facilities for domestic purposes by means of separate satellites which could be furnished in accordance with agreements reached on a case by case basis.

A substantial majority of the Committee (15, including Comsat) recommended that if the Governing Body determines

first, that the establishment of a domestic satellite will be consistent with the organization's proposed use of the radio frequency spectrum and orbital space - and

second, that the proposed mechanism and technique for control of such a satellite will be adequate and the radiation emitted from such a satellite will not cause harmful interference,

a member or group of members should be entitled to have domestic satellites established by the organization but financed entirely by the member or group of members concerned.

A substantial majority (15) recommended that, prior to the establishment of a domestic system independent of the organization, the Governing Body of the organization should be consulted and may make recommendations regarding:

- the consistency of the proposed use of the frequency spectrum and orbital space with INTELSAT's proposed use (prior to ITU coordination);

- the proposed mechanism and techniques for the control of domestic satellites and possible interferences;

- the economic compatibility of domestic systems with the global system.

There was support (5, including Comsat) for the proposal that prior to the establishment of any domestic satellite, either by the organization or separately by a member, the Governing Body shall determine that:

- the establishment of such a satellite will be consistent with the organization's proposed use of the radio frequency spectrum and orbital space;

- the proposed mechanism and technique for control of such a satellite will be adequate, and the radiation emitted from such a satellite will not cause harmful interference.

8. REGIONAL SERVICES

A majority of the Committee (10, including Comsat) recommended that "regional" be defined as referring to communications among a geographically compact group of countries linked together by cultural or economic ties.

A majority of the Committee (10, including Comsat) recommended that the members obligate themselves not to establish or join in the establishment of a space segment in competition with the space segment to be provided by INTELSAT.

A majority of the Committee (10) recommended that a member or group of members have the right to establish satellites to meet regional needs after consultation with the Governing Body, provided that members observe international regulations, particularly those of the ITU.

There was substantial support (6, including Comsat) for the proposal that members have the right to establish satellites to meet regional needs, provided the provisions of the agreements constituting the definitive arrangements are observed.

FUTURE COMMITTEE ACTION

The indications of support for the various proposals which were expressed at the thirty-fifth meeting will serve as guidance for the Drafting Group in the preparation of a draft of the Committee's report on the definitive arrangements.

The Committee was unable, for lack of time, to consider the following subjects contained in the document prepared by the Drafting Group:

1. Functions of the Governing Body
2. Functions of the Management Body
3. Procurement policies
4. Policies with respect to inventions, data and technical information
5. Access to the system
6. Coordination arrangements
7. Disputes
8. Amendments
9. Withdrawal from membership

These subjects will be taken up by the Committee at the outset of its next meeting commencing on December 2nd with a view to giving the Drafting Group further guidance for completion of its task.

It is expected that the Committee will dispose of all of its ordinary business by the end of the first week of the December meeting. The Committee will then devote itself exclusively to the subject of definitive arrangements and will remain in session until it has completed work on its report. It will arrange for submission of the report to all governments which are parties to the Interim Agreement not later than January 1, 1969.

- - -

November 19, 1968

MEMORANDUM TO: See Distribution

From: John J. O'Malley, Jr. JJOjm

The attached paper, "A Single Global System for Commercial Satellite Communications," is the work product of Mr. J. D. O'Connell, the late Cole Armstrong and myself.

It was prepared over 18 months ago in anticipation of the INTELSAT Conference, and is distributed for the information of those concerned.

DISTRIBUTION:

Mr. J. D. O'Connell
Mr. Plummer
Mr. Clark
Mr. Cooke
Mr. Dean
Mr. Miles
Col. Olsson
Mr. Urbany

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF TELECOMMUNICATIONS MANAGEMENT
WASHINGTON, D.C. 20504

March 10, 1967

A Single Global System for Commercial Satellite Communications

I. Introduction:

The term "single global system" has been applied to commercial satellite communications with a variety of meaning and interpretations since it was first used in the INTELSAT Agreements of 1964. To some, this phrase implies any system of satellites under single management used exclusively for international communications; to others, a specific system design for exclusively international communications; and to still others, a specific system design for both domestic and international communications.

None of these concepts or definitions of a "single global system" seems to reflect the apparent intent of the Congress and Executive Branch to make satellite communications available to all nations, both large and small, to serve their vital communications requirements as expeditiously and economically as possible and to promote world peace and understanding through better communications. This paper will attempt to identify and define a "single global system" which does reflect this intent, and to contrast such a "single global system" with alternative "global systems" and with various possible "regional" or "domestic" satellite communication systems.

II. Congressional Statement of Policy and Purpose:

In Section 102 of the Communications Satellite Act of 1962, "Declaration of Policy and Purpose," the Congress established a number of objectives for "a commercial communications satellite system, as part of an improved global communications network," which:

". . . will be responsive to public needs and national objectives..."

". . . will serve the communication needs of the United States and other countries. . ."

". . . will contribute to world peace and understanding."

Furthermore, these 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."

The Congress further declared that "care and attention would be directed toward:"

> ". . . providing services to economically less developed countries and areas as well as those more highly developed. . ."
>
> ". . . efficient and economical use of the electromagnetic frequency spectrum."
>
> ". . . the reflection of the benefits of this new technology in both quality of services and charges for such services."

III. International (INTELSAT) Agreements of 1964

To further reinforce these objectives, the U. S. was an active promoter of the International Agreements of August 20, 1964, to which 56 nations have now adhered. The preamble to this agreement states, in part:

> -
>
> "Desiring to establish a single global commercial communications satellite system as part of an improved global communications network which will provide expanded telecommunications services to all areas of the world and which will contribute to world peace and understanding;"
>
> "Determined, to this end, to provide, through the most advanced technology available, for the benefit of all nations of the world, the most efficient and economical service possible consistent with the best and most equitable use of the radio spectrum;"
>
> -

IV. Priority of U. S. Effort:

- As outlined above, the U. S. policy clearly implies a focusing of effort in the international field, and in the early provision of satellite communications to serve less-developed areas of the world as well as those more highly developed.

- While domestic and regional satellite communications services are certainly not excluded under this policy, it seems clear that such services are not to compete with nor in any way hinder the development of the global communications system.

V. Potential Evolution of Satellite Communications:

A. International Communications

The present system of satellite communications is but a first, faltering, but essential step toward achieving the full potential to be derived from this new communications technology. It is specifically designed to link together, for the first time and via the most direct interconnections possible, all the major international communication centers of the world. This system began as a time-shared, two-party service, wherein only two stations could use the space segment at any given time to communicate with one another, other two-party connections being permitted at different times. This very simple approach was dictated initially by the novelty and uncertainty of application of this new technology. Both the technology and "applications awareness" of satellite communications is literally mushrooming, however, thus the second phase of system implementation is already under way. In this phase, several earth stations may simultaneously use the space segment for two-way communications with one another, using preassigned subchannels within the space segment. This will permit greater continuity of communications between those pairs of international stations which have sufficient mutual traffic to justify such service. However, some international stations, particularly in less developed areas of the world, may

not have enough communications traffic to specific other stations to justify full-time use of preassigned circuits to every other international station, even though its total international traffic requirement is adequate to justify the station cost. Thus, in the third phase of system implementation now being planned, demand-assigned satellite channels will be made available, for use by any pair of earth stations on-demand to establish a short-term link between them.

B. Domestic/Regional Communications

At one time, it might have been considered that phase 3 above represented the end of satellite system design, the only remaining effort being the addition of more satellites and more international earth stations to handle additional international traffic. It has become increasingly apparent, however, that satellite communications has great potential for other applications, such as domestic common carrier services, TV distribution, "regional" (as opposed to intercontinental) services, etc. To realize this potential, additional design, development, and implementation phases are called for; these may certainly be carried out in parallel with one another and with phases 2 and 3 indicated above. Some typical examples might be:

Phase 4: Develop a satellite system (or systems) for U. S. domestic common carrier services, including TV distribution.

Phase 5: Develop a satellite system for European regional common carrier services, including TV distribution.

Phase 6: Develop a satellite system for Canadian domestic applications.

Phase 7: Develop a satellite system for Japanese regional services.

Phase 8: Develop a satellite system for South American regional services.

Phase 9: Develop a satellite system for Southeast Asia regional services.

and so on, ad infinitum.

All these phases, and many more, are not only possible but indeed very probable in the evolution of satellite communications to serve the great variety of world communication needs which now exist or which will develop in the ensuing years. The important question is, how will these phases be planned, designed, financed, implemented, and coordinated so as to achieve the greatest benefits for each individual nation as well as for the community of nations from satellite communications? Let us examine some of the coordination required to achieve this objective.

VI. Coordination Required for Full Utilization of Satellite Communications Potential:

The planning and implementation of a satellite communication system must take into account a number of technical/operational/economic factors. For example, due to the long round-trip time delay involved between earth stations via a satellite relay, two-way voice telephony is highly unsatisfactory over more than a single satellite relay. Thus, a domestic or regional satellite system must either provide international service as well through the same satellite or through some form of satellite-satellite relay to an international satellite, or all international traffic must be routed via separate surface communication facilities to reach a separate international earth station. The first alternative requires not only international coordination, but a willingness on the part of all international correspondents to build a special earth station which looks at the particular domestic/regional system proposed. The second alternative requires international coordination prior to launch of either international or domestic/regional satellites, plus added cost in the international satellite which must be shared by all its users, and added cost in the domestic/regional satellite as well. The third alternative requires no coordination, but results in heavy economic penalties via indirect routing, particularly in less developed areas of the world. These economic penalties are borne not only by the regional/domestic system users, but are reflected in the costs to all international users who communicate with that region!

Other aspects of system planning which require extensive international coordination include:

Orbital Parking Space and Electromagnetic Spectrum:

Orbital parking space for satellites, as well as the electromagnetic spectrum, are finite international resources which can be utilized with varying degrees of effectiveness by different system designs, or "wasted" and "polluted" by poor designs. To some extent, the electromagnetic spectrum is already subject to international regulation and coordination. It is clear that the international interest will in the future dictate even greater regulation of this vital resource, as well as the equally vital resource of orbital parking space. Coordination of the use of these for domestic/regional purposes will definitely be required. If each nation in the world should demand an equal share of these resources, as seems their right, it would be technically impossible for any nation to place a satellite in orbit without interfering with another's orbit and spectrum space! On the other hand, if major nations (such as the U.S., etc.) begin independent large-scale exploration of these resources, the U.N. may clearly decide to intervene and take complete control of these resources, and perhaps of satellite communications entirely.

Spare or Emergency Space Segments:

Any communication system obviously requires spare facilities to maintain continuity of service in the event of catastrophic failure of any element of the system. In satellite communications, due to the long delay in scheduling launch service and achieving orbit and position, this implies the existence of spare space segments in orbit. These spares, unless and until required, represent virtually a total loss to the system although there is, of course, the possibility of some use for overflow or infrequent service requirements. Clearly, if many satellites are in orbit, serving many diverse needs, a spare for each system represents a rather significant waste in investment. Through prior coordination and planning, a single (in the early system stages) spare properly spaced in a profuse system should be capable of providing backup for any failure, at major reduction in waste investment plus the added reliability of service thus provided.

Progressive Implementation of New Service and Design Changes:

Satellite communication technology needs to be and could be in an almost explosive state of development. In nine years we have progressed from the first demonstration of satellite communications

to a relatively simple straight three relay providing only 240 voice channels between only two stations at a time. Much more could have been done much sooner. The coming generation of stationary satellites with broader band relays, capable of 1,200 equivalent voice channels, will provide continuous service at costs which should within a few years be below the cost of equivalent surface or subsea communications over long distances. New development technology now exists, although not yet incorporated in systems, which can provide multiple antenna beams, higher power capacity, etc., to provide even greater channel capacity, lower cost stations, which will provide further cost reductions. Clearly, such technological possibilities create serious problems in system implementation and make important the utmost possible expediting of research and development. In order to begin providing service as expeditiously as possible, it is necessary to begin to implement systems which may well be technologically obsolescent before they are even in operation, and almost certainly before they can be fully amortized! This requires a most careful balancing of investment and system implementation, based on the best possible projections of technology, and further requires a built-in flexibility, particularly in the ground environment, which will allow the newer technology to be readily assimilated without either undue cost or delay. This is a serious enough problem when there is one agency (INTELSAT) coordinating the phasing plan; if multiplied severalfold, by the political and financial vagaries and national interests of a number of nations the problem gets out of hand and incompatibilities between independent regional or domestic systems seem inevitable.

These are only a few of the coordination problems associated with the development and implementation of regional and domestic satellite communications systems on a large scale. The following questions outline additional problems:

What should be the size of a regional communications system? Who should be included or excluded in a given area? Based on whose judgment? Should there be a continuation of colonially-oriented systems which exclude next-door neighbors? How shall rates and routing be established? By whom? What is a domestic system? Does it include only a single nation, or would adjoining nations with common interests and existing telecommunications interconnects be included (e.g., U.S./Canada, Intra-Europe, etc.)? Again, decided by whom? etc. etc.

Perhaps the most fundamental question of all is this:

Considering that communication satellites are so completely and irrevocably international in nature (e.g., use of international resources, virtually unavoidable coverage beyond national borders, requiring extensive international coordination of all aspects of design and operation, etc.) is there any justification for so-called "domestic" or "regional" systems, particularly with regard to the space segment? The answer, it would seem, must clearly be NO.

VII. Description and Justification of a Single Global System

As used in this paper, a "single global system" of satellite communications may be described as follows:

1. A single management and ownership of all space segments for all commercial satellite communications (including both domestic and international services), by a joint international consortium such as INTELSAT.

2. Admission to the Consortium open to all nations without discrimination.

3. All space segments operated on a cost sharing basis to all participating members of the Consortium in accordance with their usage of the space segments.

4. All earth station facilities owned and operated by the individual user nations (both domestic and international facilities).

5. Design and positioning of each space segment optimized for specific intended application, as determined jointly by the Consortium and prospective users, Consortium having final authority.

The key factor in this concept of a single global system is the completely international, joint operation of the space segment of all commercial satellite communications as a cost-shared service available to all nations. The actual use of these space segments for domestic and international communications is left to the discretion of each individual nation or group of nations. This is in keeping with the U.S. position of providing the benefits of space and of space technology to all nations on a non-discriminatory basis. It is also in keeping with its position of non-involvement with other nations' internal affairs. Of equal importance, however, it assures that no nation may exploit or control another nation through control of its communications links, either internal or international. At the same time, it can provide for the development and implementation of the most economic services of all types for all users, through the provision of a common management, design, and financing organization for all members. And finally, it can assure the most efficient utilization of frequency spectrum and orbital space, which are inherently international resources of great value for present and future generations.

VIII. Discussion of Alternatives to the Single Global System

These are some of the characteristics of the single global system, as envisioned here. To fully appreciate these, it is necessary to consider the alternatives to such a single global system. Basically, these are:

1. Independent domestic satellite systems, tied together via a patchwork arrangement of "international" satellites or necessarily by cables if two satellite hops would be involved.

2. Independent domestic satellite systems, tied together by a combination of international satellites and cables.

3. A series of regional/domestic systems on an area basis, interconnected for intercontinental purposes by a series of individual patching interconnections or a separate intercontinental system. Again such patching would have to be done by cable (for telephone use) if more than one satellite hop were required by the design of the over-all system.

4. A series of hegemonies, each comprised of one or more "dominant" nations to which a number of smaller, widely dispersed "satellite" nations are linked; inter-hegemony interconnections again by cables or by another satellite system if systems design permits one-hop operation.

Each of these alternatives unfortunately contains a number of serious flaws. For example:

Alternative 1

a. With the exception of the United States no nation individually can viably afford even a single satellite at the present time for purely domestic purposes.

b. Since orbital space and frequency spectrum are finite international resources, any sub-optimum use or pollution of these by one nation is a detriment to all nations.

c. Two-hop circuits (e.g. via separate domestic and international satellites) provide very poor two-way voice communications quality due to excessive time delay, and should be avoided whenever possible.

Additionally, the cost of such circuits must obviously be much greater than for one-hop circuits, probably at least double because twice the capital investment and operating costs are involved.

d. Any via-point routing is inherently more costly than direct routing and should be avoided if possible. This applies equally to long terrestrial links to satellite earth stations or to multi-hop satellite circuits.

e. This alternative provides no assurance that a given nation may have access to any other nation without multiplying costs (or even regardless of cost) since no provision is made for full, worldwide interconnection nor for compatibility among various systems.

Alternative 2

Essentially all the above comments apply with the possible exception of "e."

Alternative 3

All comments of 1 and 2 apply for intercontinental traffic, though regional international traffic could presumably be adequately provided via a common satellite. Politically, the difficulties involved in organizing small contiguous groups of nations for joint programs such as this could be far more difficult than through a single global organization. Economically, even regional groupings in many areas of the world could probably not afford both a regional satellite system and access to a separate global system, particularly considering the added design and development costs of such a special purpose regional system.

Alternative 4

This is very probably the only alternative which would actually be considered in lieu of the single global system due to economic factors. It is typified by the present international communication systems based on cable and HF radio technology. A review of these systems should thus provide an insight into the performance and the unsatisfactory nature of such a satellite communication system.

There are currently four major hegemonies which handle the bulk of international communications (as well as much of the domestic communications). These are headed by Britain, France, Japan, and the United States. Besides the obvious fragmentation of areas with common interests and goals by these hegemonies, there is the added separation within a given hegemony whereby a nation may be forced to communicate with even its next door neighbor via a remote point located in the dominant member of the hegemony. Typical inequities in this via-point traffic routing, which result in greatly increased cost (even tribute in some cases) and low-quality communications include:

-- U.S. to 27 nations via London

-- U.S. to 23 nations via Paris

-- Tunisia to Libya -- via both London and Paris in series

-- Colombia to Venezuela via New York

-- Guatemala to Colombia via both Miami and New York

-- Bangkok to U.S. via Tokyo

-- Saigon to U.S. via Paris

Of all foreign nations or areas considered as being reachable by U.S. telephone service, calls to 61 percent are routed via some other nation. For smaller nations, this number is generally close to 100 percent. Such routing, with all its inequities and higher costs, could be expected to continue if satellite system hegemonies replace present hegemonies. Additionally, the quality of service can be expected to remain at a low level due to the necessity of using multiple-hop and/or excessively indirect routing.

IX. Summary and Definitions

It seems clear that a "single global system" as described in Section V. is absolutely essential if we are to accomplish the objectives set forth by the Congress and the Executive Branch for a worldwide system of satellite communications to serve the needs of all nations. Any alternative system or systems poses serious economic, routing, operational, and technical penalties on the use of this great fallout of man's efforts to conquer space as a means to conquer himself.

Accordingly, the following definition of a Single Global System is proposed for U.S. adoption:

The Single Global System:

a. Consists of a number of jointly owned space segments and nationally owned earth stations to serve the commercial satellite communications needs (both domestic and international) of all nations of the world.

b. Comprises a variety of space segment/earth station designs, as required to serve the various needs for domestic, regional, and intercontinental satellite communications.

c. Is managed by a single international consortium of nations, to which admission is accessible to all on a non-discriminatory basis and in which all have representation.

d. Provides cost sharing space segment services as required to meet the individual or common needs of nations.

e. Assures compatibility among both components and major segments of the system, to assure most economic, direct routing of international traffic.

f. Involves no preferential or discriminatory allocation of traffic among nations.

Regional Subsystem of the Single Global System:

Is part of the ownership, plan, or policy of INTELSAT;

FOR OFFICIAL USE ONLY

Is under the central space segment managership of INTELSAT;

Involves no preferential or discriminatory allocation of traffic;

Provides domestic, regional, and international interconnections as directly and economically as possible;

Utilizes basic specifications and standards prescribed for the INTELSAT System; with special alterations as to capacity, antenna patterns, geographic coverage, etc., as required.

As to traffic requirements and growth to regional needs (but not for indirect routing) the vote of the regional members is controlling unless there are major conflicting factors with other INTELSAT programs or requirements.

Decisions as to the place of manufacture of domestic and regional satellites should be the prerogative of the nations for which the service is intended. Additional or excessive costs involved (over and above comparable satellite costs) should be incorporated in the per channel cost of service borne by the domestic or regional users, or levied upon them.

As a contrast, one might consider the characteristics of a separate regional system, as proposed by some highly nationalistic interests:

Separate Regional System:

A system which serves a particular group of nations normally, but not necessarily, closely associated geographically. The characteristics of such a system are separate ownership (as compared to INTELSAT), separate management, separate policy consideration as to:

a. Membership - Determined by dominant nation, probably on political basis (a la European Common Market.)

b. Admission - Ditto.

c. Ownership and Financing - By dominant member.

d. Technical characteristics.

e. Compatibility with other systems.

FOR OFFICIAL USE ONLY

f. Conservation of spectrum and orbital space.

g. Rates, charges, and divisions of tolls or profits.

h. Requirements for transit fees.

i. Preferential traffic segregation into this system vis-a-vis the INTELSAT system. (Exclusivity of use)

IS THIS THE TYPE OF SYSTEM WHICH BEST FULFILLS THE U.S. DECLARATIONS OF POLICY AND INTENT REGARDING SATELLITE COMMUNICATIONS?

Nov. 8, 1968

NOTE FOR: Mr. O'Connell
Mr. Clark
Mr. Plummer
Mr. Dean
Col. Olsson
Mr. Jansky

Subject: INTELSAT Conference -- Issues

This to advise that there will be a briefing in Mr. Clark's Office, 9:30 a.m. Wednesday, November 13, on the matters covered in the attached papers.

J. J. O'Malley, Jr.

DRAFT of 11/4/68

INTELSAT CONFERENCE: SCHEDULE OF PREPARATIONS

TARGET DATES	ACTION
November 6	Initial meeting of principals to discuss (a) draft invitations to members and draft notice to non-members (circular notes to be sent in Washington), and (b) organization of the delegation and steps to be taken prior to February 24. State to supply requisite papers.
November 4 to November 8	35th ICSC Meeting. Purpose is to vote on alternative positions in 13 areas so that drafting group (Colino, Duplan and Valera) can prepare draft final ICSC report before 36th ICSC meeting in December.
November 12	Invitations and notices to be sent. Circular airgram to member country posts to inform them of notices to non-member countries, repeated for information to non-member country posts.
November 15	By this date State will distribute the initial version loose leaf book containing position papers on all or most of the issues in the attached list.
November 15 to Dec. 6	Discussions of various substantive issues involved in the negotiations accompanied by preparation of some language for draft agreement.
November 22	Send Circular Note to member country embassies enclosing draft agenda and rules of procedure.
December 2 to 13	36th meeting of ICSC (It is expected this meeting will prepare a final report which might be ready about December 16.
December 13	Completion of first tentative draft agreement (with omissions as necessary).
December 20	Letter to US industry inviting comment and giving notice of briefing meeting.
December 20 (?)	ICSC report transmitted to governments.

10 AM Nov 21 Meeting Rm 1113 New State DU 3-5872 6215 6216 6512

Rules of Procedures

9,10,11, Miami

December 24	Department sends circular action and information airgram to INTELSAT member posts and other posts of countries evidencing a desire to attend the Conference. Airgram includes: (a) Description of the ICSC report and recommendations. (b) Statement of the US position on various substantive issues in the report. (c) Descriptions of plans for action (trips, briefings, meetings in Washington, etc.) by the US delegation during January and February.
January 2 to 15	Resolution in USG of remaining substantive issues. This will take the form of review of position papers and concurrent review of draft agreement.
January 10	Briefing meeting with US industry.
January 13 & 14	Briefing meetings with Congressional Committees.
January 15	Second tentative US proposed draft completed.
January 20 - Feb. 7	Three briefing and pre-negotiating missions visit capitals. (a) One mission to Europe (possibly will try to meet with Scandinavians as a group). Also will try to meet with Arab group. (b) One group to visit Latin America. (c) One group to Asia, including South Asia, and Australia. Missions might be headed by Marks, Loy and Miller, and would include one COMSAT official each. The basis of these discussions would be the ICSC report and either a US draft agreement or a US position paper.
February 10 - 14	(If necessary, meeting in Washington with the European group to try to negotiate out unresolved differences).
February 24	Conference opens.

Conference area for 4 weeks -

List of Position Papers

1. Participation in the Conference

2. Rules of Procedure -- Voting (This will have attached to it the proposed rules of procedure which we would expect to circulate to others prior to the Conference and introduce at the initial session of the Conference. The issues paper deals mainly with the voiting question since that appears to be the most difficult to handle).

3. How to Bring New Agreements into Effect

4. Buying Out Non-Participants

5. Nature and Structure of the Organization

    a. Legal Personality
    b. Single Global System or Federation of Independent Systems
    c. Major Organs of the Organization: The Governing Body and the Assembly
    d. Major Organs of the Organization: the Manager

6. Functional Competence of the Organization

7. Regional Systems

8. Criteria for Investment

9. Procurement and the Problem of International Participation

10. Inventions and Technical Data

11. The Fear of Cultural Subversion

Principal Issues will be
and Position Papers by Nov 15 -
Edit + issue by 19th

Concurrently discussing
Nov 19 -

1 Majority Stock -

2 Manager

3. One nation 1 Vote - Assembly
9-8 Comsat could be a member
of assembly -

4 Regional Satellites -

5 Economic assistance to LDCs by Intelsat
all kinds of Help -

Patents

Argentina →

INTELSAT/CONFERENCE

DEPARTMENT OF STATE

Washington, D.C. 20520

LIMITED OFFICIAL USE

Memorandum No. 43

October 17, 1968

TO: Members, Panel No. 4 (INTELSAT-1969 Planning) of the Ad Hoc Intra-Governmental Communications Satellite Policy Coordination Committee

SUBJECT Papers on INTELSAT Conference Issues. 1969

Attached are draft papers as listed below on INTELSAT Conference issues. We would appreciate receiving any comments, either orally or in writing, not later than October 25. Additional draft papers on other issues will be sent as soon as they are ready.

Stephen E. Doyle
Coordinator

Attachments:

1. Introduction.
2. Participation in the Conference.
3. Rules of Procedure - Voting.
4. How to Bring New Agreements into Effect.

LIMITED OFFICIAL USE

INTELSAT Conference Issues

Introduction

These papers have been prepared for the purpose of assisting in developing and sharpening positions in preparation for the 1969 Conference on definitive arrangements for INTELSAT. They set forth issues that must be dealt with, various recorded views on these issues, and possible ways of resolving them. The materials contained herein are drawn from several sources, primarily (1) contributions by INTELSAT members, orally and in writing, to the discussion of definitive arrangements in the Interim Communications Satellite Committee (ICSC) of INTELSAT, (2) discussions with foreign government officials in Washington and abroad, and (3) reports by ComSat's European representatives on their talks in Europe.

Approaches to the definitive arrangements vary in different areas and countries of the world. Some countries, notably France, may have political motivations which are not in the best interest of the early and effective development of a universal organization for global commercial communication by satellite. Many other countries appear to be operating on the primary thesis that INTELSAT should be made to work to help maximize quality, efficiency, redundancy and versatility in international telecommunication. Some among these, principally in western Europe, also have an interest in using INTELSAT to support and sustain technological and industrial development in the astronautical field. Some of the European countries, while not in sympathy with French views, are reluctant to oppose them.

With this variety of motivations at work, it is clear that negotiation of definitive arrangements will involve a mix of political and economic factors which will generate confusion of issues and complicate the process of agreement.

Many suggestions for changes of the status quo have been made. However, many of these appear to be based upon intuitive attitudes (frequently deeply felt) rather than analysis of the implications that would follow. A notable exception is the UK. The British have clearly done some thinking about the renegotiation.

It is clear that the Europeans have failed to come up with a full response to the U.S. position (as expressed in the paper ComSat introduced into the ICSC in October 1967) not only because they have been unable to arrive at a common position, but also because they, individually, are not quite clear what should go into such a counter position.

The question whether there should be a "global system" is a threshhold question in the sense that the kind of international agreement we end up with is fundamentally affected by the decision made on this question. An important and possibly continuing difficulty in working out the many problems involved in the negotiation is the inability of the Europeans to arrive at a common answer on this question. The French alone have been actively opposed to the single global system concept although they have had some support from the Belgians. The other Europeans are quite convinced of the desirability of a global system, and are (with the

possible exception of the Germans) quite hostile to the French opposition to it. However, they have been reluctant to overtly oppose France and have not yet found a way of resolving the issue.

It is now clear that the Interim Committee report will not resolve many of the difficult questions. This reflects in part simply the human desire to postpone decisions or showdowns, and in part the feeling that the Interim Committee is simply the wrong forum with the wrong level and kind of representation. There have also been suggestions that the 1969 Conference should be considered as only the first of a series. However, most of our partners probably would agree on the desirability of trying very hard to reach agreement in one conference. To do so it would be desirable to lay before it a draft agreement having fairly wide acceptance or at least with only a few well-defined issues. The prospect would be helped by considerable work internationally between the publication of the Interim Committee report and the beginning of the Conference.

E/TT:FELoy
E/TD:SEDoyle/WKMiller:sp
10/17/68

INTELSAT Conference Issues

Participation in the Conference

Issue

Should participation in the Conference be confined to INTELSAT members, or should non-members be invited? If so, under what circumstances and in what capacity, i.e. as full participants or as observers? What non-members?

Position U.S. Has Taken

We have told our INTELSAT partners that our tentative view, which would be reviewed in the light of their reactions is that

a) only members should be invited as full participants, but

b) we would notify non-members who are members of the UN and its Specialized Agencies of the meeting in such a way that if they express an interest in attending because they have a serious interest in the possibility of becoming INTELSAT members they would be invited to attend in non-member (non-voting) status.

At the same time we reiterated widely invitations to non-members to join INTELSAT in time for the Conference.

Our instructions to our embassies to convey these views are set forth in CA-11051 of September 23.

Views of Others

Prior to setting forth the views briefed above we had heard from only one of our INTELSAT partners, the UK, which thought the Conference should be confined to INTELSAT members.

The responses to our tentative views are far from complete and they mostly represent tentative reactions to the extent that they are substantive at all. However, it probably is not too soon to draw some fairly solid conclusions:

a) Nearly all of our partners who express views agree that only members should vote and that

non-members, if they are invited, should participate only in an observer capacity. A very few, mostly "neutrals", may advocate full (voting) participation by non-members.

b) Nearly all of our partners are agreeable to attendance by non-members as observers. Many are strongly affirmative, others apparently have no strong views.

c) One (Portugal) is against non-member attendance. (The U.K. seems to have changed its position.)

It appears, therefore, that our tentative views have been generally accepted, and, further, that there would be substantial opposition to either full participation (voting) or complete exclusion of non-members.

Few of our partners have commented on the question of circumstances under which non-members would be invited (as observers), i.e. whether we should,

a) invite them outright, or

b) inform them in the sense we have suggested and then invite only those that express an interest,

and there have not been enough clear reactions on this point to draw any conclusions as to our partners' views.

As to what non-members, there probably would not be much quarrel with our formula (UN and Specialized Agencies). Some would argue for ITU members only, but this probably would not be a strong and prevalent view with respect to conference attendance as it would be with respect to INTELSAT membership. None has suggested "all states".

Objectives

a) An effective conference with a maximum chance for conclusion of definitive arrangements satisfactory to the U.S. and to as many as possible of our partners.

b) The maximum impression of global availability of INTELSAT, i.e. that it is not an exclusive club, dominated by the U.S. This objective is also prerequisite to the full accomplishment of the first objective.

c) The widest possible acceptability of the results of the Conference.

Alternatives

After a decent interval to be sure we have read out partners' views correctly, we could -

1. invite only members; or

W & State favor

2. proceed as we have tentatively proposed; or

3. inform non-members of the Conference, indicating that they will be invited as observers if they are interested in attending, without any requirement that they express "a serious interest" in joining INTELSAT; or

FCC favors

4. invite non-members as observers in the first instance, without a previous notice and without an indication of interest in attending; or

5. invite non-members without indication of their status, leaving it to the Conference to decide whether they are full participants.

Discussion (Numbers are keyed to above five alternatives)

1. If we follow this course we presumably would give the explanation that some members object to the attendance of non-members. However, there probably would be strenuous objection by some members, who would, correctly, assert that this is not the majority view. While the exclusion of non-members might make the work of the Conference easier if nearly all members agreed that they should be excluded, in the actual circumstances the repercussions of this course probably would be seriously adverse to the success of the Conference.

It would dismay some "neutralists" who are basically favorably inclined to our INTELSAT views but very anxious to avoid making this look like an anti-eastern European organization.

It would worry several others who have said that inviting non-members will help spread the global reach of the organization by making it easier for non-members afterwards to join.

It would provide ammunition for those who argue that a "single" global system does not make it possible to have a truly global system at all, but that the latter is only achievable by a French-type federation, parts of which are acceptable to all major powers.

2. We can reasonably say that there is a consensus in favor of this course of action. Hence it would have the best basis in the views of our partners (though they have been led by our views).

There appear to be differences of opinion on the likelihood of non-member observers disrupting the Conference. However, it is unlikely that dissident observers could do as much harm to the Conference as members upset by the exclusion of outsiders. Certainly non-members can make their views known without attending, and to attend and take an active disruptive role would tend to discredit the non-member who is doing this.

At the same time the notice formula we have suggested does not encourage attendance by non-members.

3. Leaving out the "serious interest in joining" qualification would be at least a minor step toward encouraging broader attendance and is subject to all the pros and cons that go with this. It would be slightly better for the global objective than our formula, but less defensible as the formula accepted by our partners.

4. Inviting non-members in the first instance without even an expression of interest in attending would be a small step further in the same direction, with slightly stronger pros and cons. It would be more gracious, but could result in wider acceptance.

5. Alternative 5 would be a further step in the same direction, with the pros and cons accordingly stronger, also involving uncertainty as to the role of the non-members. We could be criticized by our partners if we took any of these last three courses without further consultation, and the likelihood of adverse reaction presumably would be stronger the further we moved from our original proposal.

Recommendation

Follow the line we have proposed (alternative 2). Specifically -

(i) notify non-members which are members of the UN or the Specialized Agencies in the terms we have proposed, and

(ii) invite as observers those which respond that they are interested in attending.

If any non-members are invited to attend we should also invite as observers the ITU and any other UN Specialized Agencies with direct interests in INTELSAT.

E/TD:WKMiller:sp 10/16/68

INTELSAT Conference Issues

How to Bring New Agreements into Effect, Replacing the Interim Agreements

Issue

How should the new agreements be brought into effect, replacing the interim agreements?

Position U.S. Has Taken

None.

Views of Others

Unknown - not discussed.

Discussion

The Interim Agreements remain in effect until entry into force of the definitive arrangements (Article XV of the governmental Agreement). However, they make no provision as to how the definitive arrangements become effective; Article IX of the governmental Agreement requires the U.S. to convene a conference and calls on all the parties to the Agreement to "seek to ensure that the definitive arrangements will be established at the earliest practicable date, with a view to their entry into force by 1st January 1970", but the Agreement does not say how.

Unanimous agreement at the Conference to bring the new agreements into effect would answer the problem, but this hardly seems possible since delegations are unlikely to be authorized to do this. Unanimous agreement at the Conference on provisions (less than unanimity) to bring the new agreements into effect, followed by the necessary acceptances or ratifications, also would solve the problem. This might possibly be attainable, though it seems unlikely since only one dissident could block action.

The best sequence of steps that appears likely to be obtainable might be something along these lines:

1. The U.S. circulates in advance of the Conference proposed rules of procedure providing for

   a) acceptance of the rules of procedure by a two-thirds majority, and

   b) other voting rules, including acceptance of final texts by a two-thirds or three-fourths majority.

2. The Conference accepts the proposed rules of procedure, by consensus or by a two-thirds vote, or, preferably, unanimously.

3. The agreement approved by the Conference by the agreed required vote, or by consensus, or, preferably, unanimously, provides that it comes into effect upon acceptance by a stated number of parties to the interim Agreement (e.g. two-thirds or three-fourths).

4. . The necessary number of parties accept the new agreement.

Since the interim Agreement provides for its own demise, no further step would be needed to accomplish this, although there would have to be some provision for settlement with any member which does not accept.

The flaw in this procedure is that a dissident objecting to the rules of procedure and at each subsequent stage could argue that he is not bound. Counterarguments could be developed, but probably reliance will have to be placed more on avoiding a situation where there is a dissenter with strong enough views to take this line. This suggests efforts to meet dissenting views, large majorities, and the assurance of liquidation on reasonable conditions of the interest of any ultimate non-participant.

LIMITED OFFICIAL USE

INTELSAT Conference Issues

The Manager

Issues

What should be the arrangements for management functions under the definitive arrangements? Should ComSat remain as Manager, or should the management function be filled by an entity separate from the U.S. signatory? Should the Manager be internationalized? Should an international Manager have the same functions as the present Manager, particularly should it perform extensive technical functions or obtain these by contract?

Position U.S. Has Taken

Our October 1967 submission to the ICSC said " . . . in order to provide continuity and to make use of the experience accumulated, ComSat should be designated as Manager". We have, however, advocated international participation in the management function, i.e. hiring by ComSat or personnel from other member countries, and proposed that the Manager could be changed by proposal of the Governing Body approved by the Assembly.

Views of Others

Several of our partners (Belgium, Netherlands, Canada, UK, Japan) have taken the position that the Manager should not be identified with any participating entity and that the Manager should be internationalized.

Australia has said ComSat should not be excluded, but all possible measures should be taken to separate the managerial functions from the role of a signatory.

Japan has proposed a Secretariat which would exercise certain managerial functions.

Various parties have advocated designation of the Manager by the Agreement (UK), the Governing Body (Australia), and the Governing Body with the approval of the Assembly (Canada, Japan).

However, our partners realize that there is no immediate alternative to ComSat and that any change will take time. Several countries have suggested the necessity of transitional steps from ComSat to an international Manager.

Objectives

(1) an efficient management body, and

(2) the maximum degree of U.S. control of and through the Manager compatible with the views of our partners and the reputation of INTELSAT as a genuinely international organization, not dominated (or not excessively dominated) by the U.S.

Discussion

Rightly or wrongly, most of our partners probably are opposed to the present arrangement with the U.S. signatory as Manager, and, though this is less clear, probably most of them would also be opposed to a separate U.S. corporation as Manager. They argue conflict of interest, real or potential. Possibly more seriously, they clearly have strong political objections.

It is unlikely that our partners would accept the status quo without provision for change. If they did, they would do so only under great pressure and grudgingly. Acceptance of the new agreement and the long run success of the organization probably would be seriously imperiled.

At the same time there is general recognition that ComSat is the only body competent to manage the affairs of the organization for the period immediately ahead. Consequently provision for change rather than an immediate change is called for.

Two papers prepared for Panel IV have discussed managerial needs, attitudes and options in some detail, one prepared by ODTM, dated May 27, 1968, and one by FCC, dated May 29, 1968. The present paper should be read along with both of these.

Both of the earlier papers describe options in terms of the arrangement that would finally emerge rather than how the matter can be handled by the Conference and in the emerging agreements. They are useful for this purpose. The FCC paper particularly has a useful list of options and a realistic evaluation.

The present paper considers the problem more from the standpoint of what we can do at the Conference, how it can arrange for an answer as much as the substance of the answer. From this standpoint, broadly speaking, the options include the following:

1. Insist on our proposal, ComSat to be named in the agreement as Manager, but with provision for change by proposal of the Governing Body with the approval of the Assembly.

The real substance of this proposal is that ComSat continues as Manager until the Governing Body wishes other arrangements. Since it is generally recognized that ComSat is needed for a transition period, this might be obtainable, provided there is a definite understanding that a change is anticipated. There might also have to be an understanding on the nature of the anticipated change. In any case, the substance of this arrangement probably would be more readily obtained and with better feeling on the part of many of our partners if the question of the identify of the Manager is left to the Governing Body and not named in the agreement (see below).

2. Provide in the agreement for designation and possible change of the Manager by the Governing Body with the approval of the Assembly.

This provision could and probably would produce exactly the same result as above, but possibly with less offense to the political sensitivities of some of our partners. There would have to be an understanding that a change is anticipated, probably to some form of internationalized Manager. Acceptance also would depend on voting arrangements, or at least a clear understanding, that would not enable the U.S. to decide the issue alone in the Governing Body.

This would protect our interests and probably is the best arrangement that might be obtainable. Hence, we should be prepared to accept it, with the timing and circumstances subject to tactical considerations, i.e. making our view known at or before the Conference when we can best use whatever concession is involved.

3. We could go beyond this and accept in the agreement provisions for internationalization of the management function.

This would be acceptable if it should be really necessary and if transition provisions and timing are sufficiently flexible. However, there probably would be some disadvantage from the domestic political standpoint. No matter how flexible the agreed provisions, there probably would be some tendency to phase out ComSat and move to an international Manager more rapidly than under a less explicit provision.

There are of course all sorts of different possibilities for such an arrangement, and varying sorts of understandings under 2 and 3 above and falling between the two concepts, that might be considered. Generally speaking, probably the more we can leave to the Governing Body and the less change specifically provided for in the agreement the better.

Any of these options leaves further questions regarding the nature of an internationalized Manager and how it can be created, and whether or not a separate Secretariat would be useful. Would it be a partnership like INTELSAT, owned and controlled in proportion to investment, a new type of international corporation, or some other type of legal personality?

Particularly important is the question of the responsibilities of an internationalized Manager. One concept would give the Manager the same responsibilities that ComSat now has as Manager, and require the same capabilities. It would be responsible for system planning, design recommendations, procurement, and operation as well as finance, accounting and administrative support for the Governing Body. This type of organization would take a long time to develop on an international basis.

Another concept would be a Manager with the usual attributes of a secretariat, such as administrative support for the Governing Body and accounting. Finance and contracting responsibilities might also be included, but the functions of the present Manager requiring technical expertise would be handled by one or more private firms under contract. This concept would be easier to implement in a fairly short period. Presumably it would use ComSat as the sole or principal contract firm, at least in the initial period.

It is suggested that these questions could best be left to the Governing Body, though there might have to be some degree of understanding on the broad outlines of an intended

arrangement. If it were useful to meet the wishes of our partners, there could be a resolution of the Conference calling on the Governing Body to consider these questions and develop plans, or, if necessary, outlining the concepts to be considered. Such a resolution would be regarded as a guideline, but should not bind the Governing Body beyond broad guidelines.

E/TD:WKMiller:sp 10/18/68

INTELSAT Conference Issues (Revised 11/2/68)

Rules of Procedure - Voting

Issue

Draft provisional rules of procedure are attached. The most important issue is voting. How will the Conference conduct its business and approve and adopt its conclusions? (These questions need to be considered in the context of the question how the new agreements will be brought into effect, superseding the old, which is the subject of a separate paper.) There is also a question just what role observers will have.

Position U.S. Has Taken

The draft rules have not yet been circulated outside the U.S. and the U.S. has not taken any position on the voting issue or on the role of observers, except to say that we do not anticipate that non-members will vote at the Conference.

Views of Others

Several of our partners have concurred that non-members should not be allowed to vote and a few have taken the opposite position. Many have agreed that non-members should be allowed to be present as observers. We do not know our partners' views on voting requirements or the specific role of observers. Probably very few have considered the question.

Objectives

To conduct the business of the Conference effectively and reach conclusions supported by an acceptable majority of the members.

Discussion

The 1964 Conference operated on the basis of few and simple rules. There was no voting and decisions, including decisions on the texts of the agreements, were reached by consensus.

If this plan were workable it would be best. There would then be no basis for complaint by any member about the

new agreement and there might be less chance of serious difficulties with any member which eventually chooses not to participate in the new agreements.

The great difficulty with this plan is that it requires unanimity, or at least willingness of those thought to be in the minority to be silent. This worked well enough among a small number of countries, but is hardly likely to work among 63 countries with well established differences.

The questions then are what is an acceptable level of support for the agreements produced by the Conference and what voting procedure would give the best chance of obtaining this?

The size of and reasons for an "acceptable" majority are, of course, key questions. They relate mainly to the question of bringing the new agreements into effect, replacing the old. An acceptable majority must be, at minimum, large enough to avoid any reasonable impression that dissenting members have been required to accept something they oppose arbitrarily or by narrow margins.

With both efficient conduct of business and an acceptable level of support in mind, the following rules are suggested:

1. Member Governments only vote - no vote for non-members. This is logical in view of the nature of the Conference, a meeting of partners to organize and update their organization.

2. Each Government has one vote - no weighted voting. The Conference cannot succeed without a very substantial numerical majority and any proposal by the U.S. for weighted voting would be resented by our partners as well as advertised as proof of intent by the U.S. to dominate INTELSAT.

3. As many decisions of all kinds as possible would be reached by consensus. Voting would be used only in the absence of consensus or on the request of a delegation.

4. Voting by show of hands, or by roll call if the show of hands is inconclusive or if a delegation so requests.

5. Procedural decisions by majority vote of those present and voting for or against. The intent is simply to have a means of decision in order to be able to proceed.

6. Substantive decisions (decisions on the content of the agreements), except for final approval of agreement texts or parts of texts after they have been reported to the plenary by the Editorial Committee, by a two-thirds majority of those present and voting for or against.

7. Plenary decisions on the final texts or parts thereof by a two-thirds majority of the delegations participating in the Conference.

The majority requirement for procedural matters and two-thirds for substantive votes are common to many conferences and organizations. (It is also noteworthy that the INTELSAT Special Agreement provides for amendment with the approval of two-thirds of the signatories.) Relating these requirements to those present and voting for or against, i.e. excluding absentees and abstainers, is intended to avoid giving absence and abstention a negative effect and to make it easier for the conference to do business. However, the requirement of two-thirds of the participating delegations for final votes would avoid the possibility of decision by a small group.

An alternative way of meeting this point would be to require a vote of two-thirds of those present and voting, provided the affirmative vote constitutes a simple majority of the participating delegations. The two-thirds requirement as applied to the total is the more usual arrangement, however, and does not seem to be an excessive requirement.

It has also been proposed that a three-fourths margin should be required for the final votes. This would have the advantage over two-thirds of being clearly a requirement for a greater degree of consensus than is normally required. However, it also would afford greater possibilities for relatively small groups to block approval of the agreements or parts of them and thereby carry inordinate weight in decisions on content.

It is important in connection with any proposed voting arrangements requiring less than unanimity to make clear that we contemplate providing for buying out on an equitable basis any INTELSAT member that does not choose to accept the new agreements. No member should be in the position of being overruled on the content of the new arrangements without the option of selling his investment share on a fair basis.

As to the role of observers, one view, reflected in the attached draft rules of procedure, is that they should not be allowed to vote, but should be allowed, at the invitation of the Chairman, to submit written comments and speak on relevant matters. This is traditional practice in most international organizations and conferences. There is a presumption that observers will be present because of an interest in the possibility of joining the organization, and it would make their role more meaningful if they can be given an opportunity, within reason, for expression.

The other view is that observers should be present to observe only and should not be afforded an opportunity to speak or submit papers. The objective would be to avoid potentially disruptive intrusions. However, there appears little reason to think the usual observer's role would be abused and there probably would be considerable difficulty with some of our partners if we try to minimize the observer role. This also would be in some conflict with the avowed aim of universality.

Attachment:

Draft rules of procedure.

E/TD:WKMiller:sp 11/2/68

PLENIPOTENTIARY CONFERENCE ON DEFINITIVE ARRANGEMENTS FOR THE INTERNATIONAL TELECOMMUNICATIONS SATELLITE CONSORTIUM
(INTELSAT Conference)

PROVISIONAL RULES OF PROCEDURE

I - PURPOSE

1. This Plenipotentiary Conference, called to consider the report and recommendations of the Interim Communications Satellite Committee concerning the definitive arrangements for the international global commercial communications satellite system, shall be known as the Plenipotentiary Conference on Definitive Arrangements for the International Telecommunications Satellite Consortium. It may be referred to in brief as the INTELSAT Conference.

II - REPRESENTATION

2. Participation in the Conference shall be open to Governments signatory to the Agreement Establishing Interim Arrangements for a Global Commercial Communications Satellite System and to duly designated communications entities signatory to the Special Agreement. Each participating Government and its duly designated communications entity, if any, shall be represented by a delegation (a single delegation for each country) composed of a Representative and such Alternate Representatives and Advisers as may be deemed necessary. Their names shall be communicated to the Secretary General of the Conference by or on behalf of the Minister of Foreign Affairs of such Governments at least 24 hours prior to the opening of the Conference. An Alternate Representative or an Adviser may act as a Representative.

III - OBSERVERS

3. Invited Governments which are not signatories to the Agreement Establishing Interim Arrangements for a Global Commercial Communications Satellite System and invited international organizations may be represented at the Conference

by observers. The names of such observers shall be communicated to the Secretary General of the Conference by or on behalf of the Minister of Foreign Affairs of such Governments, or in the case of international organizations, by the Secretary General of the organization, at least 24 hours prior to the opening of the Conference. Observers shall not have the right to vote, but, at the invitation of the Chairman, may submit written comments and may speak on matters relevant to the work of the Conference.

IV - OFFICERS

4. A representative of the host Government shall be the Temporary Chairman and shall preside until the Conference elects a Chairman.

5. The Conference shall elect from among the Representatives a Chairman and four Vice Chairmen. The Chairman shall designate a Vice Chairman to preside in the event of his absence, who in such a case shall have the same powers as the Chairman.

V - SECRETARIAT

6. The Secretary General of the Conference, appointed by the Government of the United States of America, shall provide and direct such technical and administrative staff as may be required by the Conference. He shall be responsible for making all arrangements for the sessions of the Conference, its committees or working groups and generally shall perform all other work which the Conference may direct or require.

VI - COMMITTEES

7. The Conference, to facilitate its work, shall establish a Steering Committee, a Credentials Committee, and an Editorial Committee, and may establish any other committees or working groups it deems necessary for the performance of its functions, and may define their terms of reference. The Steering Committee shall be chaired by the Conference Chairman or his duly designated Vice Chairman, and shall be composed of the Conference Chairman, the four Conference Vice Chairmen and the Chairman of each Conference committee.

8. The committees shall operate under the rules of procedure of the Conference, to the extent that they are applicable.

VII - SESSIONS

9. The inaugural and closing sessions of the Conference shall be held in public unless the Conference shall determine otherwise. Other plenary sessions and meetings of committees and working groups shall be closed unless the meeting shall determine otherwise. Such sessions and meetings shall, however, be open to attendance by observers unless the meeting shall determine otherwise.

VIII - CONDUCT OF BUSINESS

10. The Chairman shall exercise the powers of his office in accordance with customary practice. In the exercise of his functions, he shall remain under the authority of the Conference.

11. Except as otherwise provided, the Chairman shall call upon speakers in the order in which they signify their desire to speak. The Chairman may call a speaker to order if his remarks are not relevant to the subject under discussion. The Chairman may limit the time to be allowed to each speaker on a question and the number of times each speaker may speak on the question. When the debate is limited and a speaker has used his allotted time, the Chairman shall call him to order without delay.

12. A Representative may at any time move the closure of the debate on the question under discussion, whether or not any other Representative has signified his wish to speak. Permission to speak on the closure of the debate shall be accorded only to two speakers opposing the motion, after which it shall be immediately put to the vote.

13. A motion may be withdrawn by its proposer at any time before voting on it has commenced, provided that the motion has not been amended. A motion which has thus been withdrawn may be reintroduced by any Representative.

14. When a proposal has been adopted or rejected it may not be reconsidered unless the Conference, by a two-thirds majority of the Representatives present and voting, so decides. Permission to speak on the motion to reconsider

shall be accorded only to two speakers opposing the motion, after which it shall be immediately put to the vote.

15. Any delegation may designate another delegation to speak on its behalf, but no delegation may cast a vote on behalf of another delegation.

16. During the discussion of any matter, a Representative may rise to a point of order, and the point of order shall be immediately decided by the Chairman in accordance with the rules of procedure. A Representative may appeal against the ruling of the Chairman. A Representative rising to a point of order may not speak on the substance of the matter under discussion.

17. The following motions shall have precedence in the following order over all other proposals or motions before the meeting:

a) To suspend the meeting;

b) To adjourn the meeting;

c) For the closure of the debate on the question under discussion.

18. The order of precedence, when applicable, shall be by Government in accordance with the alphabet in the English language.

19. Proposals and amendments shall normally be introduced in writing in a working language of the Conference and submitted to the office of the Secretary General, which shall circulate copies to the delegations.

20. Voting

a. Definitions

For the purpose of these rules, the phrase "Representatives present and voting" means Representatives present and casting an affirmative or negative vote. Representatives who abstain from voting shall be considered as not voting.

b. Quorum

A quorum shall be two-thirds of the Representatives to the Conference.

c. Decisions shall be taken as follows:

1. Each delegation represented at the Conference shall have one vote.

2. The rules of procedure and any amendments thereto shall be adopted by a two-thirds majority of the Representatives present and voting.

3. Decisions on matters of substance, except as otherwise provided in section d of this Paragraph, shall be taken by a two-thirds majority of the Representatives present and voting.

4. Decisions on matters of procedure, except as otherwise provided in this Paragraph, shall be taken by a simple majority of the Representatives present and voting.

5. If a question arises whether a matter is procedural or substantive, it shall be decided by the Chairman. Challenges to the Chairman's rulings shall be considered substantive.

d. Adoption of texts of the Definitive Arrangements

In voting upon the proposed texts of the definitive arrangements presented to the Conference by the Editorial Committee, the Conference shall endeavor to act unanimously. In the event that the Conference is unable to act unanimously, the proposed texts and amendments thereto shall be considered adopted when they have been approved in plenary session by two-thirds of the Representatives participating in the Conference.

e. Method of Voting

1. The Conference shall normally vote by a show of hands, but may vote by roll call if the show of hands does not indicate a clear result or if any Representative requests a roll call. The roll call shall be taken in the English language alphabetical order of the names of the Governments participating in the Conference.

2. The Chairman shall announce the beginning of voting. No Representative shall interrupt the voting except on a point of order in connection

with the actual conduct of the voting. The Chairman may permit Representatives to explain their votes after the voting. The Chairman may limit the time to be allowed for such explanations.

3. A Representative may move that parts of a proposal or of an amendment shall be voted on separately. If objection is made to the request for division, the motion for division shall be voted upon. Permission to speak on the motion for division shall be given only to two speakers in favor and two speakers against. If the motion for division is carried, those parts of the proposal or of the amendment which are subsequently approved shall be put to a vote as a whole. If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

4. When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Conference shall first vote on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom, and so on until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of that proposal.

5. If two or more proposals relate to the same question, the Conference shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted.

IX - LANGUAGE

21. English, French and Spanish shall be the official and working languages of the Conference.

22. Any Representative or spokesman may speak in a language other than an official language. However, in such cases, he shall provide for interpretation into one of the official languages.

X - RECORDS

23. The Secretary General shall have prepared summary records of the plenary sessions, and of such committee meetings as the Conference Chairman may determine.

24. Conference documents and summary records shall be made available in the official languages of the Conference.

25. Any Representative shall have the right to have circulated as a Conference document any statement relative to an item under discussion. Such statements shall be submitted to the Secretary General in writing in an official language of the Conference.

XI - FINAL ACT

26. After the final texts of the definitive arrangements have been adopted by the Conference, they shall be opened for signature.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF TELECOMMUNICATIONS MANAGEMENT
WASHINGTON, D.C. 20504

OFFICE OF THE DIRECTOR

November 8, 1968

MEMORANDUM FOR AMBASSADOR MARKS

In response to your request for the names of people to serve on the delegation to the INTELSAT Conference and on the delegation's advisory staff, I would like to submit the following names for the advisory staff: Mr. John J. O'Malley, Jr., Mr. Wilfred Dean, Jr., and Colonel Ward T. Olsson, USAF.

Mr. O'Malley has been involved in legal and policy matters concerning INTELSAT for quite some time, and Mr. Dean has lengthy technical experience regarding the use of the radio spectrum by communications satellites and in the problems of positioning satellites. Colonel Olsson, who is on detail to my office from the Defense Communications Agency, is thoroughly familiar with the manufacture of communications satellite hardware and launch vehicles. In addition, he is knowledgeable in matters of systems compatibility and in the aeronautical satellite area.

I also recommend that Mr. Joseph A. Waldschmitt of Page Communications Engineers, Mr. Harold M. Botkin of the American Telephone and Telegraph Company, and Mr. Douglas Guild of General Telephone and Electronics Corporation be considered as additional members of the delegation.

J. D. O'Connell

CONFIDENTIAL

November 8, 1968

NOTE FOR MR. J. D. O'CONNELL

This morning I talked with John Johnson of Comsat by telephone and advised him that you had been talking with General McCormack about the CETS (European) proposal for regional satellite services. I also told him that it was our understanding that he was in favor of the CETS proposal. Mr. Johnson informed me that he was in favor of the proposal only to the extent that the definition of a regional system was limited to a contiguous group of countries bound together by economic and cultural ties. He said that this was an excellent definition, in his opinion, and one which precluded regional systems from providing intercontinental service. He said, in addition, that he would not support the proposal that the Governing Body of INTELSAT merely be consulted and make recommendations to INTELSAT members proposing a regional system; he would continue to favor a prior determination by the Governing Body. Summing up then, John Johnson agrees only to the definition of regional systems. Nothing more.

J. J. O'Malley, Jr.

DECLASSIFIED
EO 13526 Sec. 3.3(h)
By MW Date 11/20/12

CONFIDENTIAL

~~SECRET~~

DECLASSIFIED
E.O. 13526, Sec. 53(b)(3)
ISCAP 2014-043
By ISCAP, NARA, Date 11/13/14

November 5, 1968

MEMORANDUM FOR MR. J. D. O'CONNELL

Subject: INTELSAT Conference; Your Meeting with Leonard Marks on November 6, 1968

Mr. William Miller (DOS) called me yesterday afternoon and stated that Frank Loy would be attending the subject meeting, and would introduce a memorandum which contemplated decisions on two procedural items, and one substantive matter. The procedural items involve the question of invitations to the Conference and the voting rights of invitees; the substantive item involves a European regional communications satellite proposal.

With regard to the question of invitations to the Conference, the Department of State contemplates sending out two separate diplomatic notes -- one to the members of INTELSAT, and another to the countries which are not members of INTELSAT. The first note would constitute an invitation to the member countries to attend the Conference; the second, would be a notice that the Conference would be held and worded in such a way that countries interested in attending, because of an interest in joining INTELSAT, would be invited to attend. There is no problem with the invitation to the member countries; but the FCC (Ende) has taken the position that an invitation ought to go to members and non-members alike. We have opposed it because of its potentially disruptive affect; and the State Department, at the present moment, seems to agree. Mr. Miller is of the view that non-member countries should be invited as observers, if they express an interest. This seems clearly preferable to the FCC position.

The Department of State also proposes to write into the Rules of Procedure for the Conference that observers will have no vote, but at the discretion of the Chairman, may speak on pertinent issues and introduce papers. ~~Mr. Miller states that Comsat recommends that attendance at the Conference be limited to members~~. My recommendation is that we go along with the Department of State; that is, invite members only, and allow interested non-member countries to participate as observers only. The Rules of Procedure should make the role of non-members clear.

~~SECRET~~

The substantive issue involves voting instructions to Comsat on the European regional communication satellite proposal. Mr. Miller said that the Europeans have defined it as a separate communication satellite system serving a single country, or compact group of countries, linked together by economic or cultural ties. He also said that John Johnson of Comsat has recommended that Comsat be instructed to vote in favor of it, but that he (Miller) is inclined not to go along with Comsat. When I asked Mr. Miller what the relationship, if any, would be between a European regional satellite system and INTELSAT, he stated that prior to the establishment of a European regional system, INTELSAT would be consulted as to the technical and economic compatibility of the European system with the INTELSAT global system. Approval by the INTELSAT Governing Body would not be a requirement. It is my recommendation that Comsat be instructed to vote against this proposal. The United States should be afforded a full opportunity to examine the impact that such a proposal would have on its INTELSAT commitments -- particularly as it affects those members of INTELSAT which are not on the Interim Committee. I recommended to Mr. Miller that, prior to the Conference, the State Department sound out the smaller countries (particularly the Latin American and the African countries) for their view on such a proposal.

As you know, we grappled with this question of regional systems for some time before we submitted the United States position paper on the Definitive Arrangements in October 1967, and we were not able to define a regional system in such a way as to remove the fundamental danger it poses to the entire INTELSAT structure. There is no compelling need for a decision on this important question now. It is my recommendation that the matter be put off until the International Conference in February when the United States will be in a much better position to evaluate fully the implications of this action.

Of course, the French position on the future of INTELSAT is that INTELSAT should be a coordinating mechanism for three basic regional systems: one serving North and South America; a second serving Europe and Africa; and a third serving Asia. The countries using the individual regional satellites would own shares in them, based upon their use. It would appear from the information available that the French would concede dominance of the American regional satellite to the United States as the major user; France would hope to dominate the Euro-African system itself; and it would probably concede to the Soviet Union the responsibility for developing, launching, and operating Asian regional systems. Apart from the fact

that such a scheme would leave a large number of the developing countries in South America and Africa with no real choice other than to go into a specific regional system, it would also make it relatively easy for the Soviet Union to launch its INTERSPUTNIK system, the first stage of which would be a communications satellite of approximately INTELSAT III capacity in equatorial orbit over the Indian Ocean. Such a satellite would not only reach about 90% of the Soviet population, but would also cover Southeast Asia, East Africa, and Eastern Europe. The political effect of the Soviet Union developing this sort of capability in Asia would seem profound, and should not be overlooked. If the Soviet Union does orbit a communications satellite in the Indian Ocean area which it may share with the United Arab Republic (Egypt), India, Cambodia, and Madagascar, for example, it will strengthen the Soviet presence in that area entirely at American expense.

The question of the assistance which the United States might offer the Canadians for their domestic communications satellite system cannot be considered in isolation. I consider the Aide Memoire proposed by the Canadian Government completely unacceptable. (I understand that the State Department is revising it and that this office will have an opportunity to review it before it is finalized.) If the impression is generally gained by the Europeans -- particularly the French -- that the United States has agreed to launch a domestic Canadian satellite which will be part of a system wholly independent of INTELSAT there will be no way to deny them launch assistance for a European regional system. To say that we have drawn the line at the national boundary will only invite the reply that such a line discriminates against Europeans in favor of the Canadians and Americans.

The Canadian Aide Memoire must reflect the conditions laid down by the United States that the Canadians coordinate their domestic plans fully with INTELSAT in such a way as to avoid the consequences mentioned above.

You ought to be receiving a memorandum from Loy covering these points in greater detail. I thought you should have this much in writing now so that you would have the maximum amount of time to review the entire matter.

J. J. O'Malley, Jr.

Note - More over

NOTE: After preparing this memorandum, I received the State Department memorandum dated November 5, 1968 which added the issue of participation by Government in the General Assembly. I am covering this point in your memorandum to Leonard Marks.

CONFIDENTIAL

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF TELECOMMUNICATIONS MANAGEMENT
WASHINGTON, D.C. 20504

OFFICE OF THE DIRECTOR

November 6, 1968

MEMORANDUM FOR MR. LEONARD MARKS

Subject: INTELSAT Conference

Here, stated briefly, are my views on the matters of (1) invitations to the Conference; (2) voting; (3) the European regional communications satellite proposal; and (4) possible government participation in the proposed INTELSAT Assembly.

The Invitations: This has been a matter of considerable discussion between my office and the State Department. We have no objection to the proposal to send an invitation to the Conference to all INTELSAT members, and a diplomatic note to those countries which are not members of INTELSAT notifying them that the Conference will take place and advising that if they are interested in joining INTELSAT invitations would be sent. If a country responds that it would like to be invited, an invitation would be sent. State agrees with us, that the participation of non-members should be limited to that of observers; that is, that a non-member would not be permitted to vote; but at the discretion of the Chairman, he would be permitted to speak or introduce papers. We understand that the Department of State is revising the draft Rules of Procedure to make these points clear. We recommend that these restrictions on non-members should be made as clear as possible in the rules so as to permit the members to come to the substantive issues in the Conference without undue delay.

The European regional satellite proposal: You are aware, I am sure, of the danger that any regional system outside of INTELSAT poses to the entire INTELSAT structure. The danger is created by the fact that most nations which are heavy users of long distance communication services are most apt to want to design communication satellite systems which are tailored to meet their own needs, with the needs of the smaller countries being accommodated only when the larger country feels that its best interests would be served. After having given the matter a great deal of thought there seems to be no way in which a regional system can now be defined so as to preclude this possibility. (The attached DOS

CONFIDENTIAL

telegram from Paris 23372 (C) dated 4 November 1968 points up in paragraph 7 the basic problem in relaxing our policy in regional systems.) Of course, no nation can establish a regional system without launch services, and this is the one area where the United States can protect its commitments to INTELSAT. We have taken the position, therefore, that the United States should not agree to launch any communications satellite for any nation unless the use of that satellite would be consistent with the INTELSAT objectives. We feel that at this most critical juncture -- prior to the Conference -- no launch commitment ought to be made, even to the Canadians, for a domestic system without adequate protection of our interests in INTELSAT. If a launch is agreed to for a Canadian satellite system outside of INTELSAT the French, particularly, will immediately request such assistance for Symphonie. If they are told that launch assistance can be given only if Symphonie is a domestic system, the reply will be that the Canadians and Americans rigged the rules to meet their own exclusive needs.

Perhaps one of the most serious consequences of a relaxation of our launch policy would be to provide the Soviet Union with a distinct advantage in its development of INTERSPUTNIK. The French view of the future of INTELSAT, as you know, is that of a loose confederation of regional systems -- basically three: one serving North and South America; a second serving Europe and Africa; and a third serving Asia and the Far East. The French see the United States as the dominant power in the American regional system; itself as dominating the one in Europe and Africa; and France seems quite content to see the Soviet Union dominate the basic Asian system. While Japan and Australia would certainly have a special concern over Soviet domination of any Asian-Far East regional systems, nevertheless it seems quite probable that the Soviet Union will move forward with a synchronous satellite system centered in the Indian Ocean. Such a system could serve 90% of the population of the Soviet Union, as well as India, Madagascar, the United Arab Republic, and Cambodia, to cite only a few countries. While the United States could not prevent the Soviet Union from launching INTERSPUTNIK and offering to share it with any country that wishes to join with it, it is our view that the United States ought not to make it easier for the Soviet Union to achieve this goal. It will make it easier if it changes its policy on regional systems at this time.

CONFIDENTIAL

To sum up, then, in our discussions with the Canadians and the Europeans we should make it plain that we are committed to INTELSAT in our national policy, and that there does not appear to be any way that we can satisfy their requests for domestic or regional systems outside of INTELSAT without endangering the entire INTELSAT structure. However, if they can show that this can be done we would be glad to reconsider their requests, but in the absence of such a showing such requests for launch assistance would have to be denied.

Government participation in the INTELSAT General Assembly: This suggestion, would allow governments the option, prior to each meeting of the General Assembly, of sending either a Government representative, or a representative of the INTELSAT member. My recommendation is that while we should not presume to dictate to the other INTELSAT members, we should not encourage such a practice. The General Assembly idea was conceived by the United States to provide a forum where the smaller INTELSAT members which do not have a voice on the Governing Body could develop some sense of participation. The meetings of the General Assembly would be very similar to the shareholders' meeting of a large corporation. The idea seems to be an excellent one, if the scope of the General Assembly is properly circumscribed; but the danger in allowing the option of Government participation is that the Assembly may become too powerful. Since voting in the Assembly might not be based upon use of the space segment, decisions might be made in the Assembly to the detriment of the largest users -- particularly the United States. In addition, it might seriously undercut the concept of INTELSAT as a commercial, non-political entity.

It is my recommendation, therefore, that Comsat be instructed to vote in favor of limiting participation in the General Assembly to INTELSAT members.

J. D. O'Connell

Attachment

CONFIDENTIAL

INTELSAT/FRANCE

Department of State TELEGRAM

47

~~CONFIDENTIAL~~ 756

PAGE 01 PARIS 23372 042007Z

54
ACTION EUR 20

INFO NSA 02,CIA 04,ACDA 16,DODE 00,GPM 04,INR 07,L 03,NASA 04,NSC 10,
OST 01,RSC 01,SCI 05,CCO 00,DTM 02,E 15,FCC 02,OC 06,SS 25,SP 02,
MC 01,RSR 01,/131 W

101109

R 041652Z NOV 68
FM AMEMBASSY PARIS
TO SECSTATE WASHDC 7764
INFO AMEMBASSY BERN
AMEMBASSY BONN
AMEMBASSY BRUSSELS
AMEMBASSY COPENHAGEN
AMEMBASSY THE HAGUE
AMEMBASSY LONDON
AMEMBASSY MADRID
AMEMBASSY OTTAWA
AMEMBASSY ROME
AMEMBASSY STOCKHOLM
STATE GRNC

C O N F I D E N T I A L PARIS 23372

SUBJECT: US LAUNCHER FOR SYMPHONIE, EUROPEAN SPACE PROGRAM, AND INTELSAT MATTERS

REF: A) STATE 264426; B) STATE 264425

1. EMB OFFS MET WITH BOISGELIN (FONOFF, COMMUNICATIONS SATELLITE AFFARIS) EVENING OCT 31 TO CONVEY US POSITION RE EUROPEAN SPACE PROGRAM, (REF B),
AND TO SEEK REACTION TO NASA RESPONSE RE SYMPHONIE LAUNCH WHICH DELIVERED THAT MORNING BY NASA EUROPEAN REPRESENTATIVE TO AUBINIERE (DIRECTOR GENERAL, FRENCH SPACE AGENCY). ALSO DICUSSED FRENCH ASSESSMENT RECENT CETS MEETING LONDON.

2. INCIDENTALLY, AUBINIERE HAD COMMENTED EARLIER IN DAY TO NASA EUROPEAN REPRESENTATIVE THAT HE PERSONALLY THOUGHT REPLY OF REF A WAS

~~CONFIDENTIAL~~

GOOD AND SAID HE WOULD INFORM OF OTHER GOF REACTIONS AS THEY DEVELOP.

3. BOISEGELIN EXPRESSED APPROVAL THAT NASA REPLY OF REFTEL WAS FAVORABLE BUT REGRETTED THAT US DEFINITION OF AN EXPERIMENTAL SATELLITE SO RESTRICTIVE AND APPRAENTLY EXCLUDED QUOTE REGULAR GOVERNMENTAL TRAFFIC UNQUOTE. HOWEVER, HE NOTED THAT FURTHER DICUSSION WOULD BE REQUIRED IN REACHING AN UNDERSTANDING OF THE ROLE OF THE SATELLITE AND THE US LAUNCH CONDITIONS.

4. BOISGELIN, WHEN INFORMED OF US POSITION RE EUROPEAN SPACE PROGRAM AND INTELSAT, HAD NO COMMENT EXCEPT, IN CONNECTION WITH OUR EMPHASIS ON DESIRABILITY EUROPEANS DEVELOPING A BROADLY BASED GROUPING WHICH TRULY REGIONAL IN CHARACTER, HE ASKED HOW MANY REQUIRE REQUIRED TO MEET BROADLY BASED CRITERIA HE SUPPOSED MORE THAN THREE.

5. COMMENTIN ON RECENT CETS MEETING BOISGELIN SAID FRENCH WAS UNABLE TO AGREE TO WHAT IT CONSIDERED THE TOO RESTRICTIVE DEFINITION OF A REGIONAL SATELLITE PROPOSED BY OTHER CETS MEMBERS. HE SAID A COMMUNICATIONS SATELLITE IN STATIONARY ORBIT IS INHERENTLY REGIONAL IN THAT IT SEES ONLY A PORTION OF THE EARTH'S SURFACE, AND INDICATED THIS DEFINITION WAS MORE IN ACCORD WITH FRENCH VIEWS ON THE DEFINITION OF REGIONAL. HE SAID FRENCH ACCEPTED THE REST OF THE CETS POSITION AND HOPED TO BRING THE DOCUMENT BEFORE THE SPACE MINITERS MEETING NOV 12 IN BONN. THE OBJECTIVE OF THIS MANEUVER WOULD BE TO GIVE

THE POSITION ADDITIONAL WEIGTH BY ADDING THE APPROVAL OF THE EUROPEAN SPACE MINISTERS TO THAT OF THE NATIONAL DELEGATES TO THE CETS.

6. WITHOUT MENTIONING GLOBAL OWNERSHIP CONCEPT HE SAID GOF WORKING ON IDEA WHICH THEY HAVE LEFT WITH OTHERS FOR CONSIDERATION OF SOME SORT OF LOCAL OPTION WHEREBY A COUNTRY COULD DECIDE WHETHER IT HAD AN INTEREST IN A PARTICULAR SATELLITE. WHAT MEANT BY THIS NOT PURSUED BUT IMPLICATION WAS COUNTRY OPTING OUT WOULD IN SOME WAY BE LESS INVOLVED IN THAT PARTICULAR SATELLITE.

7. COMMENT: AS THE SYMPHONIE SATELLITE PROJECT HAS DEVELPED FRANCE HAS SPOKEN OF SO MANY DIFFERENT ROLS WHICH THE SATELLITE COULD,

~~CONFIDENTIAL~~

WOULD OR MIGHT SERVE THAT IT SEEMS DOUBTFUL AT THIS TIME THAT EVEN FRANCE HAS MADE A DECISION ON WHAT IT WILL DO OR ATTEMPT WITH SYMPHONIE. IF SYMPHONIE IS USED EXPERIMENTALLY IN ALL THE ROLES WHICH HAVE BEEN PROPOSED FOR IT, SYMPHONIE WILL PASS TELEPHONE, TELEVISION, AND DATE TRANSMISSIONS WITHIN EUROPE AND BETWEEN EUROPE AND THE NEAR EAST, AFRICA, SOUTH AMERICAN AND THE FRENCH ANTILLES, AND QUEBEC. THE THEMES MOST FREQUENTLY PLAYED UPON HAVE BEEN SYMPHONI SYMPHONIES ROLE AS S SUPPLEMENTARY EUROVISION LINK, ITS VALUE IN LINKING THE FRANCOPHONE COUNTRIES, ITS USE FOR EDUCATIONAL PROGRAMMING TO QUEBEC, AND FOR LAUNCH DATE TRANSMISSION BETWEEN FRANCE AND THE FRENCH GUIANA SPACE LAUNCHE BASE.
GP-3
SHRIVER

CONFIDENTIAL

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF TELECOMMUNICATIONS MANAGEMENT
WASHINGTON, D.C. 20504

Frank Foy
Peterson

OFFICE OF THE DIRECTOR

November 6, 1968

DECLASSIFIED
E.O. 13526, Sec. 5.3(b)(3)
ISCAP 2014-045
By ISCAP, NARA, Date 11/13/14

MEMORANDUM FOR MR. LEONARD MARKS

Subject: INTELSAT Conference

Here, stated briefly, are my views on the matters of (1) invitations to the Conference; (2) voting; (3) the European regional communications satellite proposal; and (4) possible government participation in the proposed INTELSAT Assembly.

The Invitations: This has been a matter of considerable discussion between my office and the State Department. We have no objection to the proposal to send an invitation to the Conference to all INTELSAT members, and a diplomatic note to those countries which are not members of INTELSAT notifying them that the Conference will take place and advising that if they are interested in joining INTELSAT invitations would be sent. If a country responds that it would like to be invited, an invitation would be sent. State agrees with us, that the participation of non-members should be limited to that of observers; that is, that a non-member would not be permitted to vote; but at the discretion of the Chairman, he would be permitted to speak or introduce papers. We understand that the Department of State is revising the draft Rules of Procedure to make these points clear. We recommend that these restrictions on non-members should be made as clear as possible in the rules so as to permit the members to come to the substantive issues in the Conference without undue delay.

We talked this Yesterday

The European regional satellite proposal: You are aware, I am sure, of the danger that any regional system outside of INTELSAT poses to the entire INTELSAT structure. The danger is created by the fact that most nations which are heavy users of long distance communication services are most apt to want to design communication satellite systems which are tailored to meet their own needs, with the needs of the smaller countries being accommodated only when the larger country feels that its best interests would be served. After having given the matter a great deal of thought there seems to be no way in which a regional system can now be defined so as to preclude this possibility. (The attached DOS

These are Some additional thoughts

CONFIDENTIAL

telegram from Paris 23372 (C) dated 4 November 1968 points up in paragraph 7 the basic problem in relaxing our policy in regional systems.) Of course, no nation can establish a regional system without launch services, and this is the one area where the United States can protect its commitments to INTELSAT. We have taken the position, therefore, that the United States should not agree to launch any communications satellite for any nation unless the use of that satellite would be consistent with the INTELSAT objectives. We feel that at this most critical juncture -- prior to the Conference -- no launch commitment ought to be made, even to the Canadians, for a domestic system without adequate protection of our interests in INTELSAT. If a launch is agreed to for a Canadian satellite system outside of INTELSAT the French, particularly, will immediately request such assistance for Symphonie. If they are told that launch assistance can be given only if Symphonie is a domestic system, the reply will be that the Canadians and Americans rigged the rules to meet their own exclusive needs.

Perhaps one of the most serious consequences of a relaxation of our launch policy would be to provide the Soviet Union with a distinct advantage in its development of INTERSPUTNIK. The French view of the future of INTELSAT, as you know, is that of a loose confederation of regional systems -- basically three: one serving North and South America; a second serving Europe and Africa; and a third serving Asia and the Far East. The French see the United States as the dominant power in the American regional system; itself as dominating the one in Europe and Africa; and France seems quite content to see the Soviet Union dominate the basic Asian system. While Japan and Australia would certainly have a special concern over Soviet domination of any Asian-Far East regional systems, nevertheless it seems quite probable that the Soviet Union will move forward with a synchronous satellite system centered in the Indian Ocean. Such a system could serve 90% of the population of the Soviet Union, as well as India, Madagascar, the United Arab Republic, and Cambodia, to cite only a few countries. While the United States could not prevent the Soviet Union from launching INTERSPUTNIK and offering to share it with any country that wishes to join with it, it is our view that the United States ought not to make it easier for the Soviet Union to achieve this goal. It will make it easier if it changes its policy on regional systems at this time.

To sum up, then, in our discussions with the Canadians and the Europeans we should make it plain that we are committed to INTELSAT in our national policy, and that there does not appear to be any way that we can satisfy their requests for domestic or regional systems outside of INTELSAT without endangering the entire INTELSAT structure. However, if they can show that this can be done we would be glad to reconsider their requests, but in the absence of such a showing such requests for launch assistance would have to be denied.

Government participation in the INTELSAT General Assembly: This suggestion, would allow governments the option, prior to each meeting of the General Assembly, of sending either a Government representative, or a representative of the INTELSAT member. My recommendation is that while we should not presume to dictate to the other INTELSAT members, we should not encourage such a practice. The General Assembly idea was conceived by the United States to provide a forum where the smaller INTELSAT members which do not have a voice on the Governing Body could develop some sense of participation. The meetings of the General Assembly would be very similar to the shareholders' meeting of a large corporation. The idea seems to be an excellent one, if the scope of the General Assembly is properly circumscribed; but the danger in allowing the option of Government participation is that the Assembly may become too powerful. Since voting in the Assembly might not be based upon use of the space segment, decisions might be made in the Assembly to the detriment of the largest users -- particularly the United States. In addition, it might seriously undercut the concept of INTELSAT as a commercial, non-political entity.

It is my recommendation, therefore, that Comsat be instructed to vote in favor of limiting participation in the General Assembly to INTELSAT members.

J. D. O'Connell

Attachment

Department of State TELEGRAM

4/7

~~CONFIDENTIAL~~ 756

PAGE 01 PARIS 23372 042007Z

54
ACTION EUR 20

INFO NSA 02,CIA 04,ACDA 16,DODE 00,GPM 04,INR 07,L 03,NASA 04,NSC 10,
OST 01,RSC 01,SCI 05,CCO 00,DTM 02,E 15,FCC 02,OC 06,SS 25,SP 02
MC 01,RSR 01,/131 W

101109

R 041652Z NOV 68
FM AMEMBASSY PARIS
TO SECSTATE WASHDC 7764
INFO AMEMBASSY BERN
AMEMBASSY BONN
AMEMBASSY BRUSSELS
AMEMBASSY COPENHAGEN
AMEMBASSY THE HAGUE
AMEMBASSY LONDON
AMEMBASSY MADRID
AMEMBASSY OTTAWA
AMEMBASSY ROME
AMEMBASSY STOCKHOLM
STATE GRNC

C O N F I D E N T I A L PARIS 23372

SUBJECT: US LAUNCHER FOR SYMPHONIE, EUROPEAN SPACE PROGRAM, AND INTELSAT MATTERS

REF: A) STATE 264426; B) STATE 264425

1. EMB OFFS MET WITH BOISGELIN (FONOFF, COMMUNICATIONS SATELLITE AFFARIS) EVENING OCT 31 TO CONVEY US POSITION RE EUROPEAN SPACE PROGRAM, (REF B),
AND TO SEEK REACTION TO NASA RESPONSE RE SYMPHONIE LAUNCH WHICH DELIVERED THAT MORNING BY NASA EUROPEAN REPRESENTATIVE TO AUBINIERE (DIRECTOR GENERAL, FRENCH SPACE AGENCY). ALSO DICUSSED FRENCH ASSESSMENT RECENT CETS MEETING LONDON.

2. INCIDENTALLY, AUBINIERE HAD COMMENTED EARLIER IN DAY TO NASA EUROPEAN REPRESENTATIVE THAT HE PERSONALLY THOUGHT REPLY OF REF A WAS

~~CONFIDENTIAL~~

GOOD AND SAID HE WOULD INFORM OF OTHER GOF REACTIONS AS THEY DEVELOP.

3. BOISEGELIN EXPRESSED APPROVAL THAT NASA REPLY OF REFTEL WAS FAVORABLE BUT REGRETTED THAT US DEFINITION OF AN EXPERIMENTAL SATELLITE SO RESTRICTIVE AND APPRAENTLY EXCLUDED QUOTE REGULAR GOVERNMENTAL TRAFFIC UNQUOTE. HOWEVER, HE NOTED THAT FURTHER DICUSSION WOULD BE REQUIRED IN REACHING AN UNDERSTANDING OF THE ROLE OF THE SATELLITE AND THE US LAUNCH CONDITIONS.

4. BOISGELIN, WHEN INFORMED OF US POSITION RE EUROPEAN SPACE PROGRAM AND INTELSAT, HAD NO COMMENT EXCEPT, IN CONNECTION WITH OUR EMPHASIS ON DESIRABILITY EUROPEANS DEVELOPING A BROADLY BASED GROUPING WHICH TRULY REGIONAL IN CHARACTER, HE ASKED HOW MANY REQUIRE REQUIRED TO MEET BROADLY BASED CRITERIA HE SUPPOSED MORE THAN THREE.

5. COMMENTIN ON RECENT CETS MEETING BOISGELIN SAID FRENCH WAS UNABLE TO AGREE TO WHAT IT CONSIDERED THE TOO RESTRICTIVE DEFINITION OF A REGIONAL SATELLITE PROPOSED BY OTHER CETS MEMBERS. HE SAID A COMMUNICATIONS SATELLITE IN STATIONARY ORBIT IS INHERENTLY REGIONAL IN THAT IT SEES ONLY A PORTION OF THE EARTH'S SURFACE, AND INDICATED THIS DEFINITION WAS MORE IN ACCORD WITH FRENCH VIEWS ON THE DEFINITION OF REGIONAL. HE SAID FRENCH ACCEPTED THE REST OF THE CETS POSITION AND HOPED TO BRING THE DOCUMENT BEFORE THE SPACE MINITERS MEETING NOV 12 IN BONN. THE OBJECTIVE OF THIS MANEUVER WOULD BE TO GIVE

THE POSITION ADDITIONAL WEIGTH BY ADDING THE APPROVAL OF THE EUROPEAN SPACE MINISTERS TO THAT OF THE NATIONAL DELEGATES TO THE CETS.

6. WITHOUT MENTIONING GLOBAL OWNERSHIP CONCEPT HE SAID GOF WORKING ON IDEA WHICH THEY HAVE LEFT WITH OTHERS FOR CONSIDERATION OF SOME SORT OF LOCAL OPTION WHEREBY A COUNTRY COULD DECIDE WHETHER IT HAD AN INTEREST IN A PARTICULAR SATELLITE. WHAT MEANT BY THIS NOT PURSUED BUT IMPLICATION WAS COUNTRY OPTING OUT WOULD IN SOME WAY BE LESS INVOLVED IN THAT PARTICULAR SATELLITE.

7. COMMENT: AS THE SYMPHONIE SATELLITE PROJECT HAS DEVELPED FRANCE HAS SPOKEN OF SO MANY DIFFERENT ROLS WHICH THE SATELLITE COULD,

Department of State TELEGRAM

~~CONFIDENTIAL~~

PAGE 03 PARIS 23372 042007Z

WOULD OR MIGHT SERVE THAT IT SEEMS DOUBTFUL AT THIS TIME THAT EVEN FRANCE HAS MADE A DECISION ON WHAT IT WILL DO OR ATTEMPT WITH SYMPHONIE. IF SYMPHONIE IS USED EXPERIMENTALLY IN ALL THE ROLES WHICH HAVE BEEN PROPOSED FOR IT, SYMPHONIE WILL PASS TELEPHONE, TELEVISION, AND DATE TRANSMISSIONS WITHIN EUROPE AND BETWEEN EUROPE AND THE NEAR EAST, AFRICA, SOUTH AMERICAN AND THE FRENCH ANTILLES, AND QUEBEC. THE THEMES MOST FREQUENTLY PLAYED UPON HAVE BEEN SYMPHONI SYMPHONIES ROLE AS S SUPPLEMENTARY EUROVISION LINK, ITS VALUE IN LINKING THE FRANCOPHONE COUNTRIES, ITS USE FOR EDUCATIONAL PROGRAMMING TO QUEBEC, AND FOR LAUNCH DATE TRANSMISSION BETWEEN FRANCE AND THE FRENCH GUIANA SPACE LAUNCHE BASE.
GP-3
SHRIVER

~~CONFIDENTIAL~~

CONFIDENTIAL

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF TELECOMMUNICATIONS MANAGEMENT
WASHINGTON, D.C. 20504

OFFICE OF THE DIRECTOR

April 4, 1969

DECLASSIFIED
E.O. 13526, Sec. 3.3h
By MW NARA, Date 11/29/12

Memorandum for Mr. Clay T. Whitehead:

Subject: Initiation of the Pilot Program for a Domestic Communications Satellite System in the United States

This memorandum is for the purpose of acquainting you with the policy issues involved in the problem of beginning the Pilot Program for a Domestic Communications Satellite System. The memorandum also recommends an approach that the President could take in carrying out his responsibilities under the Communications Satellite Act of 1962. The objective of such action would hopefully bring this matter to a decision prior to the start of the Preparatory Committee sessions scheduled to begin about May 20, 1969.

The recent INTELSAT Conference on Definitive Arrangements highlighted the interest of some of our partners in the establishment of domestic and regional satellite systems that would be established outside the INTELSAT framework. Although almost unanimous agreement was reached on including the term "single global system" in the Preamble and the Article on Objectives and Purposes in the proposed Intergovernmental Agreement, the Article on Scope of Activities contains very ambiguous and, in my view, potentially damaging provisions concerning the establishment of domestic and regional satellite systems. This difficulty can be attributed, in part, to the ambiguous position taken by the United States with regard to how it intends to implement its own domestic system, i.e., whether the U. S. domestic system will be established within or outside the INTELSAT framework. In resolving this important matter, what are the policy issues?

Key Policy Issue

Would the foreign policy interests of the United States be promoted if the U. S. decides to implement a Domestic Communication Satellite System outside the institutional framework of the International Telecommunications Satellite Consortium (INTELSAT)?

CONFIDENTIAL

Subsidiary Policy Issue

Should the United States furnish launch services in placing operational communications satellites (or experimental satellites which can be converted readily to operational use) for other nations outside the framework of the INTELSAT Consortium?

The current status of the U. S. Domestic Communications Satellite System can be characterized as being "in limbo." Proposals for different kinds of domestic systems have been generated by various organizations beginning in September 1965 and have been under consideration by the Federal Communications Commission (Docket 16495).

Formal proposals have been submitted by the following organizations:

September 21, 1965 -	American Broadcasting Company (TV Distribution only)
August 1, 1966 -	The Ford Foundation (Non-profit TV and Radio Distribution only)
August 1, 1966 -	COMSAT Corporation (Wideband Transmission - plus TV Distribution)
August 1, 1966 -	Western Union Telegraph Company (Wideband Transmission - plus TV Distribution)
December 16, 1966 -	American Telephone & Telegraph Company (Wideband Transmission - plus TV Distribution)
February 19, 1969 -	General Electric Company (Record and Video Network)

The Communications Satellite Corporation, recognizing the inherent difficulties in implementing a full operational Domestic System, submitted a revised proposal during April 1967 for a Pilot Program. Subsequently, the Director of Telecommunications Management

evaluated the proposed COMSAT Pilot Program and found it to be a reasonable initial approach for introducing this new technology in the domestic telecommunications envisionment. The DTM evaluation was provided the Federal Communications Commission in private discusions. My views in this matter were provided also to the staff of the President's Task Force.

I understand that the Federal Communications Commission has been ready to proceed with the Pilot Program for several months but has avoided making a decision awaiting completion of the work of the President's Task Force on Communications Policy and,more recently, establishment of the Definitive Arrangements.

What are the practical alternative approaches available to the United States in implementing the Pilot Program? There are three basic options (1) INTELSAT can furnish the space segment, with all financing by the U. S.; (2) INTELSAT can finance and furnish the space segment or; (3) the U. S. can itself unilaterally finance and furnish the space segment outside the INTELSAT framework. The foregoing alternatives were identified in the United States position paper submitted to the Interim Communications Satellite Committee in October 1967. Unfortunately, the United States at that time did not identify the option it intended to follow and, accordingly, this helped to create the uncertainty prevailing among members of the Consortium.

United States Policy

Communications Satellite Act of 1962

> "Sec. 102. (a) 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, as part of an improved global communications network, which will be responsive to public needs and national objectives, which will serve the communications needs of the United States and other countries, and which will contribute to world peace and understanding."

"Sec. 102 (d) It is not the intent of Congress by this Act to preclude the use of the communications satellite system for domestic communication services where consistent with the provisions of this Act nor to preclude the creation of additional communications satellite systems, if required to meet unique governmental needs or if otherwise required in the national interest."

President's Message to the Congress of August 14, 1967

"In view of the international nature of satellite communications and our commitments under the INTELSAT agreement of 1964, we should take no action in the establishment of a domestic system which is incompatible with our support for a global system."

"INTELSAT members should adhere to INTELSAT supervision in any use of domestic or regional satellites."

There seems to be no general disagreement that it is our national policy, as expressed in the Act and by the President, to support and promote the growth and success of COMSAT and the INTELSAT Consortium.

Section 201 of the Act states that the President shall:

"(1) aid in the planning and development and foster the execution of a national program for the establishment and operation, as expeditiously as possible, of a commercial communications satellite system;"

"(4) exercise such supervision over relationships of the corporation with foreign governments or entities or with international bodies as may be appropriate to assure that such relationships shall be consistent with the national interest and foreign policy of the United States;"

"(7) so exercise his authority as to help attain coordinated and efficient use of the electromagnetic spectrum and the technical compatibility of the system with existing communications facilities both in the United States and abroad."

The national policy at issue seems to be the line of conflict between the President's responsibilities in this Act and the interpretation and views of the Federal Communications Commission as to their freedom of action with regard to a possible domestic satellite system. This issue was joined at the time that the October 1967 paper on Definitive Arrangements was under discussion. In that paper II(B), 2 (b) on page 7, we recognize as a matter of course that any nation wishing to establish a satellite system could do so through its own finance, design, development, construction, procurement and operation control, but we were deliberately careful to exclude any obligation, or implications of obligation that the U. S. would provide for the launching of such a satellite.

An evaluation of the alternative approaches which highlight the advantages and disadvantages of each option with respect to the United States foreign policy interests has been made by this office and is summarized as follows:

	OPTION	ADVANTAGES	DISADVANTAGES
(1)	INTELSAT provided Space Segment U. S. financed	- Consistent with national policy	- Sovereignty surrender? (Not too applicable in U. S. case)
		- Consistent with Interim Arrangement Preamble (Single Global System)	- Developed nation opposition. Particularly Europe and Canada.
		- Shows good intentions of U. S. to promote INTELSAT	
		- Economic benefit (scale factor)	
		- Supported by most developing nations.	

(2)	INTELSAT provided and financed space segment	Same as (1)	- Sovereignty surrender? (Not too applicable in U. S. case) - Could distort investment/use concept. - Developed nation opposition.
(3)	Space segment financed and provided by U. S. outside INTELSAT	- Retain full sovereignty. - Retain flexibility to take unilateral actions.	- Establish undesirable precedent. Very important to continued viability of the Consortium. - Developing nations would say U. S. sellout. - Economic penalty. - Limit arbitrarily and unnecessarily the scope of INTELSAT system.

This office has taken the position that the space segment of satellite systems are fundamentally international in character, and this is recognized in Section 1 (b) of the 3 October 1967, U. S. Contribution of Definitive Arrangements for INTELSAT.

We also believe that the INTELSAT structure has provided, and still provides, an excellent institutional framework to achieve the objective of cooperative administration of commercial communications satellite facilities so as to insure compatibility and avoid interference between systems.

Accordingly, I feel Alternative 1 (INTELSAT provided space segment, U. S. financed) is the option this nation should adopt at this time, reserving its position on the ultimate operational Domestic Communications Satellite System until such time as the essential technical and economic factors are resolved. This alternative provides the optimum basis for supporting our foreign policy and promoting the United States interests which include:

-- Promotion of the United States policy contained in the Communications Satellite Act of 1962.

-- Implements the United States commitment made by the President in his message of August 14, 1967.

-- Promotes the growth of the INTELSAT Consortium.

-- Protects the interests of the COMSAT Corporation.

-- Avoids establishing a precedent which could cause undesirable proliferation of separate systems outside INTELSAT.

-- Provides a graceful way to meet the needs of INTELSAT members without forcing U. S. to provide launch services to other nations.

-- Maintains a policy consistent with NSAM 338.

A conclusion is drawn that in this early time frame of satellite development there are significant advantages in the use of INTELSAT space segment capacity for the early initiation of domestic communications by satellite. Additionally, it is concluded that this will tend to develop more rapidly the full utilization of satellite communication in the most highly useful and economical way.

Based on these premises, I conclude that (1) the Executive Branch of the United States Government has a responsibility under the Act for optimizing progress in satellite communication and with respect to INTELSAT and COMSAT specifically. (2) The U. S. Government has no expressed or implied obligations to furnish launch services to other nations other than through COMSAT and INTELSAT insofar as commercial satellite systems are concerned.

The question of regional and domestic satellites and U. S. launch thereof, will almost certainly be a significant topic for negotiation at the reconvened INTELSAT Conference in November 1969.

Accordingly, I recommend the President invite the Federal Communications Commissioners to a private discussion for the purpose of providing appropriate foreign policy guidance as it relates to the pending actions by the FCC (Docket 16495) on the Domestic Satellite Communications System for the United States. Such a meeting should be held as soon as practical.

As an aid in preparing for an informal discussion with the Commissioners, I have prepared a draft of a talking paper and supporting data for the President's use (Tab A). I have also provided further background material for your information as supporting data to the views I have expressed in this memorandum. (Tab B).

J. D. O'Connell

Encls. (2)
Tab A
Tab B

TALKING PAPER

SUBJECT: Initiation of the Pilot Program for a Domestic Communications Satellite System in the United States

POLICY ISSUE

Would the Foreign Policy interests of the United States be promoted if the U. S. decides to implement a Domestic Communication Satellite System outside the institutional framework of the International Telecommunications Satellite Consortium (INTELSAT)?

BACKGROUND -- See attached FACT SHEET

CURRENT STATUS

Various proposals for Domestic Communications Satellite System are under consideration by the Federal Communications Commission (Docket 16495) and decisions have been pending for many months. Meanwhile, the United States leadership in expanded applications of Communications Satellites is being eroded by the Soviets and proposals by various countries to start their own domestic or regional systems. Furthermore, uncertainty among our partners in INTESLAT with regard to our intentions on the approach to be used in a U. S. domestic system is complicating affairs in the Consortium as well as creating pressures for U. S. launch service assistance to various countries on a bilateral basis.

Verbal Remarks to the Chairman, Federal Communications Commission

-- The recent INTELSAT Conference on Definitive Arrangements highlights the growing interest of some other nations in the establishment of separate Domestic and Regional systems outside the Global System created by the Consortium.

-- There has been mounting pressure from a few nations for the United States to provide launch services for communications satellites which could be competitive to the Global System. (Canada, France and Japan)

-- In order to aid in getting agreement on the Definitive Arrangements for INTELSAT, there are some important decisions which must be taken by the United States, particularly with regard to implementing the Pilot Program for a Domestic Communications Satellite System.

-- We also must decide on how such a program should be established, that is inside or outside the INTELSAT arrangements.

-- In light of the international implications of our actions in satellite communications, I have asked you here today in order that you can be aware of my concern in this matter. As you know, I am required to furnish foreign policy guidance under section 201 of the Communications Satellite Act of 1962.

-- As I see the present situation, the United States has an excellent opportunity to provide new leadership to the Consortium, provided we take the right steps.

-- I would earnestly solicit you and the other Commissioners to make a prompt decision which would enable:

(a) An early start in the Pilot Program Domestic Communications Satellite System to be realized, and

(b) Provision of the space segment for the Pilot Program would be through INTELSAT, without prejudice to the United States Government reviewing the matter at the termination of the Pilot Program to determine whether service for any regular domestic system would be through INTELSAT provided satellites or through United States provided satellites.

FACT SHEET

COMMERCIAL SATELLITE COMMUNICATIONS

NATIONAL POLICY

Communications Satellite Act of 1962

"Sec. 102. (a) 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, as part of an improved global communications network, which will be responsive to public needs and national objectives, which will serve the communication needs of the United States and other countries, and which will contribute to world peace and understanding."

"Sec. 102. (d) It is not the intent of Congress by this Act to preclude the use of the communications satellite system for domestic communication services where consistent with the provisions of this Act nor to preclude the creation of additional communications satellite systems, if required to meet unique governmental needs or if otherwise required in the national interest."

President's Message to the Congress of August 14, 1967

"In view of the international nature of satellite communications and our commitments under the INTELSAT agreement of 1964, we should take no action in the establishment of a domestic system which is compatible with our support for a global system."

"INTELSAT members should adhere to INTELSAT supervision in any use of domestic or regional satellites."

INTERNATIONAL AGREEMENTS

The United States on August 20, 1964 entered into multilateral executive "Agreement Establishing Interim Arrangements for a Global Commercial Communications Satellite System." This Intergovernmental Agreement and a Special Agreement among designated communications entities are the basis for the International Tele-

communications Satellite Consortium (INTELSAT) which has grown to a membership of 68 nations. The Communications Satellite Corporation, a public entity incorporated in Washington, D. C. on February 1, 1963, serves as the designated entity for the United States. COMSAT Corporation also performs the role of Systems Manager for INTELSAT per the Agreement. The Interim Arrangements called for the members to meet in the United States during 1969 to seek to reach agreement on Definitive Arrangements.

DEFINITIVE ARRANGEMENTS

The INTELSAT Conference was held between February 24 and March 21, 1969 at which time it was recessed until November 18, 1969 due to the lack of agreement on several key policy issues.

DOMESTIC COMMUNICATIONS SATELLITE SYSTEM

Proposals Filed with the Federal Communications Commission

September 21, 1965 -	American Broadcasting Company (TV Distribution only)
August 1, 1966 -	The Ford Foundation (Non-profit TV and Radio Distribution)
August 1, 1966 -	COMSAT Corporation (Wideband Transmission - plus TV Distribution)
August 1, 1966 -	Western Union Telegraph Company (Wideband Transmission - plus TV Distribution)
December 16, 1966 -	American Telephone & Telegraph Company (Wideband Transmission - plus TV Distribution)
February 19, 1969 -	General Electric Company (Record and Video Network)

Despite the general consensus as to the feasibility and potentials of domestic satellite services, uncertainty exists on the eventual form of a domestic satellite communications system. This uncertainty arises because of the various alternatives which are possible in the areas of technical design, operating modes, economics and the aegis

under which one or more systems might be constructed. It is evident that, if a highly efficient domestic satellite communications system is to be derived, factual data and operating experience must be obtained. This information should be obtained at an early date so that the maximum benefits can accrue to the public.

Brief Description of the Pilot Program (COMSAT Proposal)

COMSAT believes that the required factual data and operating experience, from which intelligent decisions could be made on creating an eventual domestic satellite communications system, are best gained by immediate authorization of a "Pilot Program." This view is also shared by others in the Executive Branch. The Pilot Program, proposed to the Federal Communications Commission in March 1967, encompasses three inter-related objectives:

- Operational - to provide assessment of actual commercial uses;
- Demonstrational - to provide evaluation of technical and operational alternatives;
- Experimental - to provide accurate data for improving future system designs.

The Pilot Program is a flexible working model capable of handling all forms of communications. Examples of these are television, voice, facsimile, radio broadcast and data transmissions of various types. The satellite and the earth station facilities involved would provide a means for the inter-city transmission of these communicatinns, which is presently accomplished by terrestrial long-haul facilities of the common carriers.

In brief, the major facilities would be two high-capacity satellites and approximately 34 earth stations. Commercial television program services would be provided to broadcaster locations in the Mountain and Pacific states; and voice, broadband data and teletype services would be provided between several locations in the United States.

DOMESTIC PILOT SYSTEM[1]

(Thousands of Dollars)

	Investment	
	Quantity	Cost
SPACE		
Research and development		$ 15,000
Satellites	2	6,400
Launch Services	2	14,000
Telemetry and control equipment	2	300
Total Space		$ 35,700
GROUND AND PROGRAM MANAGEMENT		
85-foot stations	2	
Land		$ 1,000
Site improvements		1,500
Buildings		600
Antennae and electronics	4	8,600
		$ 11,700
42-foot stations	2	
Land		$ 100
Site improvements		200
Buildings		100
Antennae and electronics		1,230
		$ 1,630
25/32-foot stations	30	
Land		$ 120
Site improvements		330
Buildings		120
Antennae and electronics		4,560
		$ 5,130
Transportable transmitters	2	$ 240
Initial spares investory (all stations)		1,300
Program Management		2,000
Total Ground and Program Management		$ 22,000
TOTAL		$ 57,700

[1]See COMSAT Responses to Inquiries from the FCC Regarding COMSAT's Pilot Program for Domestic Satellite Communications Services (FCC Docket No. 16495) dated July 26, 1967

TAB B

DOMESTIC COMMUNICATION SATELLITE SYSTEMS

I. Introduction

One of the primary policy issues which must be resolved in the Definitive Arrangements for INTELSAT is "how should domestic satellite communications systems be established in regard to the institutional framework of the International Telecommunications Satellite Consortium?" This issue is of special importance to the United States since this Government may have a need for a domestic satellite system with potential traffic requirements greater than any single nation. Since the pending decision concerning the establishment of a pilot program for a domestic communications satellite system in the United States will set a precedent, it is important that the U. S. Government policy regarding the above issue be fully explored prior to the authorization of the pilot program.

A number of documents have been written on the subject of domestic satellite systems. The sections of pertinent documents which express both the United States and foreign viewpoints on this issue are included in this appendix. In addition, a discussion of the alternative approaches to the establishment of a domestic communication satellite system for the United States is also presented.

II. "Discussion of Studies of Domestic Satellite Communications for the United States", Director of Telecommunications Management, July, 1967

The report prepared by the Director of Telecommunications Management covers the whole area of domestic satellite communications-technical, economic, social, and political. The report was supported by associated studies by other federal departments and agencies, and by contract study efforts by private industry. In addition, information for the report was sought from a number of organizations including AT&T and COMSAT.

The pertinent sections of the report, which are of interest to the issue of the establishment of a domestic communication satellite system in the United States are treated by answering some fundamental questions. Excerpts of pertinate portions of the report are attached as enclosure 1.

III. "Definitive Arrangements for INTELSAT", United States Contribution to the Interim Communications Satellite Committee, ICSC-28-40E, October 3, 1967.

The United States position, as of October 1967, concerning the establishment of domestic communications satellite systems is embodied in Section II of the document submitted to the Interim Communications Satellite Committee which is quoted as follows:

" II. Purpose and Scope of the INTELSAT Organization

As under the Interim Arrangements, the purpose of INTELSAT would be to provide for the design, development, construction, establishment, maintenance and operation of the space segment of the global commercial communicatinns satellite system. The space segment of this sytem would comprise the communications satellites, and the tracking, control, command and related facilities required to support the operation of the satellites.

The scope of INTELSAT's authority and activity would remain similar to its present scope -- to meet the needs of its members for all satellite communications services through a basic, growing system of satellites. This broad statement of INTELSAT's scope requires some further analysis, in terms of both its functional and geographic scope.

A. Functional Scope

INTELSAT would have authority to furnish all kinds of services, not only traditional long distance communicatinns services, but indeed all services which can be fully anticipated that the capabilities of the global system will be enhanced with time, as technology advances and the traffic requirements of its participants increase it is contemplated that the needs which the space segement will be expected to meet will become increasingly diversified, and that INTELSAT will provide a variety of needed services.

B. Geographic Scope

It is important to recognize, however, that in quite another sense INTELSAT's facilities must serve a variety of different needs and that the Definitive Arrangements must take full account of this variety. To date INTELSAT has been engaged primarily in planning and

bringing about a system providing a basic global coverage, that is, a system largely intended to provide international communications services. Under the Definitive Arrangements INTELSAT would obviously continue to do this.

As a general rule the basic INTELSAT system will also be able to provide efficiently and well domestic communications services. Clearly communications satellites will play a significant role in domestic communications; each State will have to determine how it wishes to use satellite facilities for domestic communications purposes.

States might use communications satellites for domestic services in several ways

-- by obtaining circuits in an INTELSAT satellite
-- by operating a separate satellite solely for domestic service, or
-- by operating a separate satellite for joint use of a group of neighboring countries for their their respective domestic traffic demands.

The decision among such methods should logically be based on whether the requirements can be met more efficiently and economically by a satellite owned by INTELSAT or by a separate satellite.

Certainly two closely related concepts are fundamental. First, inasmuch as States have traditionally exercised jurisdiction over their domestic telecommunications, provision should be made for the establishment of separate satellites by a member of INTELSAT to meet its domestic needs. Second, clearly the space segment of even a domestic satellite system is a matter of legitimate international concern, and no action should be taken in the establishment of a domestic system which is incompatible with the global INTELSAT system.

1. Category A Satellites

Category A satellites would be those satellites established on the initiative of the Governing Body of INTELSAT. They would be designed to provide global coverage and intended mainly to serve the international communications needs of INTELSAT members. They would be available to serve domestic needs of members of INTELSAT to the extent desired.

Category A satellites would be financed by all members of INTELSAT in accordance with the arrangements described elsewhere in this paper which relate each member's investment directly to its use of these satellites.

The Governing Body of INTELSAT would be responsible for making all decisions with respect to the design, development, construction and establishment of Category A satellites and the conditions of their use.

Operational control of Category A satellites would be provided by INTELSAT through the Manager.

2. Category B Satellites

Category B satellites would be those satellites intended specifically to meet the domestic needs of an INTELSAT member. In order to assure that legitimate international concerns be fully protected, prior to the establishment of such a satellite the Governing Body would have to decide that:

(a) The establishment of such facilities would be consistent with INTELSAT's proposed use of the frequency spectrum and orbital space, and

(b) The proposed mechanism and techniques for control of these satellites were adequate, and the radiation emitted from the satellites would not cause harmful interference.

A member desiring to establish Category B satellites could achieve this by any one of three means:

-- It could request the Governing Body to establish a Category B satellite jointly financed in the same manner as Category A satellites.

-- If a member did not wish to have a jointly financed satellite or if the Governing Body failed to act affirmatively on a request of a member, the member would be entitled to have a satellite or satellites established by INTELSAT but financed entirely by the member concerned. In this case, the member would be obligated to pay all costs allocable to the satellite or satellites established in this manner. Accounting principles would be set forth in the Definitive Arrangements to ensure that all members receive the financial benefits resulting from the allocation of common costs among Category A satellites and the above two methods of establishing Category B satellites. The design, development and construction of the Category B satellites of the types mentioned above could be, if desired, in accordance with specifications provided by the member for which they would be established. Operational control of these Category B satellites could be exercised by INTELSAT through the Manager or, if desired, by the member for which the satellites were established.

-- If a member does not wish to establish or have established Category B satellites by either of the means outlined above, the member could establish a Category B satellite or satellites itself, In this case, financing, design, development, construction, procurement and operational control would be the responsibility of the member concerned rather than that of INTELSAT."

IV. "Report of the Interim Communications Satellite Committee on Definitive Arrangements for an International Global Communications Satellite System", ICSC-36-58E, December 1968

The Agreement establishing Interim Arrangements for a Global Commercial Communications Satellite System provides in Article IX that the Interim Communications Satellite Committee shall render a report not later than January 1, 1969, containing the Committee's recommendations concerning the Definitive Arrangements for an international global system which shall supersede the Interim Arrangements.

The following quoted sections of the ICSC report show the range of views expressed by various members of the ICSC on the subject of domestic communications satellite systems:

2. Domestic Telecommunication Services

a) General

A majority of the Committee recommends that the Organization be authorized to provide, at the request of a Signatory or a group of Signatories, the space segment for domestic services of any kind.

There is substantial support in the Committee for the proposal that the Organization be authorized to provide the space segment for domestic specialized telecommunication services only by amendment of the definitive agreements.

There is support in the Committee for the proposal that the Organization be authorized to provide, at the request of a Signatory or a group of Signatories, the space segment

only for domestic public telecommunication services.

b) Provision by Means of Global Satellites

A substantial majority of the Committee recommends that the Organization be authorized to provide, at the request of a Signatory or a group of Signatories and in accordance with terms and conditions established for such requests, the space segment for domestic services by means of global satellites.

c) Provision by Means of Separate Satellites

A substantial majority of the Committee recommends that:

-- The Organization be authorized to provide, at the request of a Signatory or group of Signatories and in accordance with terms and conditions to be established in each particular case, separate satellites intended specifically to serve the domestic needs of a Signatory or group of Signatories of neighboring countries, subject to certain conditions.

-- The Organization be authorized to provide domestic satellites at the request of a Signatory or group of Signatories not wishing to have domestic satellites financed by the Organization, or after failure of the Governing Body to act affirmatively upon the request of such Signatory or Signatories. These domestic satellites would be established by the Organization but financed entirely by the Signatory or group of Signatories concerned, and would be designed, developed and constructed in accordance with the specifications provided by that Signatory or group of Signatories, subjec to certain conditions.

There is substantial support in the Committee for the proposal that the Organization be authorized to provide, at the request of a Signatory or group of Signatories, domestic satellites financed by the Organization in the same manner as global satellites, subject to certain conditions.

d) Prior Conditions

A majority of the Committee recommends that, prior to the establishment of domestic satellites, either by the Organization or separately by a Signatory, the Governing Body of the Organization should be consulted and may pass recommendations regarding:

-- The consistency of the proposed use of the radio frequency spectrum and orbital space with the Organization's proposed use (prior to International Telecommunication Union coordination).

-- The proposed mechanism and techniques for the control of the domestic satellites and possible interferences.

-- The economic compatibility of the domestic satellites with the global system.

There is substantial support in the Committee for the proposal that, prior to the establishment of a domestic satellite, either by the Organization or separately by a Signatory, the Governing Body shall have to determine that:

-- The establishment of such a satellite will be consistent with the Organization's proposed use of the radio frequency spectrum and orbital space.

-- The proposed mechanism and technique for control of such a satellite will be adequate, and that radiation emitted from the satellite will not cause harmful interference.

V. "Report of Working Group A - Committee I", Plenipotentiary Conference of Definitive Arrangements for the International Telecommunications Satellite Consortium, Com. I/84(Rev. 1), March15, 1969.

The first session of the INTELSAT Conference on Definitive Arrangements (February 240 March 21, 1969) formed four committees and various working groups in order to facilitate considerationof the large number of agenda items. Each committee submitted its report to the Plenary near the close of the first session. The four committees were: Committee I - Structure and Functions; Committee II - Legal and Procedur al Questions; Committee III - Financial Arrangements; and Committee IV - The Operational Arrangements. Working Group A of Committee I was responsible for the Preamble to the Definitive Arrangements, Objectives and Purposes of INTELSAT, and Scope of Activities. Their report covering the latter subject is quoted below:

"(a) The Organization shall provide, on a commercial basis, the Space Segment for international public telecommunications services.

(b) The Space Segment of the Global System for international public telecommunications services shall also be made available at the request of a Signatory for domestic public telecommunications services 1/ on a non-discriminatory basis, to the degree that these services do not adversely affect the capacity of the Organization to achieve its primary purpose.

(c) The Organization may provide the facilities from the Space Segment of the Global System for specialized telecommunications services 2/ in accordance with the terms and conditions established to meet requests for such facilities, and pursuant to the authority granted

1/ Statements of the Delegations of Pakistan and India on this point.

2/ To be defined in the Agreements. In this draft Article, this term has been used as defined in paragraph 160 of the ICSC Report. The Delegation of France expressed reservations with respect to this terminology.

_____ 3/ in Article _____ 4/ of the Agreement, subject to the decision of the _____ that the provision of the Space Segment for said services is acceptable from the technical and economic points, and that the Organization's ability to provide the Space Segment for public telecommunications services will not be adversely affected as a result of the provision of the Space Segment for specialized services.

(d) The Organization may provide, when requested by a Signatory, or group of Signatories, separate satellites, and, in addition, the related space segment facilities and equipment, if requested, for the domestic public telecommunications services of a Signatory, or each country in the group of Signatories, in accordance with the terms and conditions to be established in each particular case pursuant to the authority granted _____ 3/ in Article _____ 4/ of this Agreement.

(e) The Organization may provide separate satellites, and, in addition, the related space segment facilities and equipment, if requested, for specialized telecommunications services, in accordance with the terms and conditions to be established in each particular case, pursuant to the authority granted in Article _____ 4/ of the Agreement and subject to the decision of the _____ 3/ that the provision of said separate satellites and related space segment facilities and equipment is acceptable from both the technical and economic points of view and that the Organization's ability to provide the Space Segment for public telecommunications services will not be adversely affected as a result of the provision of the satellites and related space segment facilities and equipment for specialized services.

(f) The satellites and related space segment facilities and equipment, if requested to be provided pursuant to paragraph (d) and (e) may be financed and owned by the entity or entities concerned and in this case may be designed, developed and constructed in accordance with specifications developed by such entity or entities, and which are acceptable to the _____ 3/.

3/ In this draft Article, blanks such as this should be filled in with name of organ, for such matters, when this has been decided.

4/ The relevant Article number should be inserted.

If such entity or entities desire to have them financed by or through the Organization .....5/ (Attention of Committee I is called to the desirability or bringing to the notice of Committee III the need to provide appropriate texts specifying whether the Organization shall finance them, and if so, through what financial arrangements.6/

VI. Discussion of Alternative Means of Establishing a Domestic Satellite Communications System in the United States

This section highlights the consequences resulting from the United States establishing a domestic communications satellite system according to each of three alternatives as follows:

A. Option 1 - INTELSAT provided space segment, U. S. financed (Category B-2 Satellites, ICSC-28-40E)

This approach to establishing a U. S. domestic communications satellite system would be consistent with national policy, and would help to support and promote INTELSAT. This option would provide cost sharing of research and development and volume production between the U. S. and INTELSAT, resulting in benefits to all members of the Consortium. Operation of this type of system would be financially

5/ The Delegation of France has several reservations concerning paragraphs c, d, e, and f.

6/ The Delegation of the United States suggests the following language to replace the last and incomplete sentence of paragraph (f): "If such entity or entities desire to have such satellites and space segment facilities financed by or through the Organization, they shall be financed and owned in the same manner as the space segment to be provided pursuant to paragraph (a) of this Article, subject to a decision by the _____ pursuant to Article _____."

attractive to the U. S. since investment would be equal to use. Thus there would be no outgoing gold flow. Coordination with INTELSAT on technical characteristics, frequencies, and orbital space would be inherent in this arrangement.

The only disadvantage in this approach to establishing a domestic communication satellite system in the United States is the loss of sovereignty rights occasioned by the requirement to obtain the space segment from an international organization (INTELSAT). This loss, however, is not too great since the United States has and should continue to have substantial investment and management control over the affairs of the INTELSAT enterprise.

To show support for INTELSAT, it will be necessary for the U. S. to retain the present and projected traffic between the U. S. mainland and Alaska, Hawaii, and Puerto Rico within the INTELSAT satellites. This approach would also help to discourage regional systems outside of the single global system.

B. Option 2 - INTELSAT provided and financed space segment (Category A or B-1 Satellites, ICSC-28-40E)

This method of establishing a U. S. domestic communication satellite system would also be consistent with national policy, and would greatly support INTELSAT. Again coordination with INTELSAT on technical characteristics, frequencies, and orbital space would be inherent with this option.

This alternative would result in a greater surrender of U. S. sovereignty rights than under Option 1 since INTELSAT would provide the space segment as well as furnish operational control.

It is doubtful that the United States's investment in INTELSAT would be equal to it's use of international and domestic traffic (The U. S. could potentially use more than 75 percent of the total INTELSAT traffic within a few years after the establishment of a U. S. domestic satellite communications system). This undesirable distortion of the investment/use concept, assuming a 50% voting limitations in the Governing Body, would cause the U. S. entity to have a reduced voice in the affairs of the Consortium with respect to its financial obligations based on use. Establishment of a U. S. domestic system using this option but limited to 50% investment quota would result in the United States heavily subsidizing all international users, and would result in a gold flow out of our country.

C. Option 3 - Space Segment Financed and Provided by U. S. outside of INTELSAT (Category B-3 Satellites, ICSC-28-40E)

The principal advantage for establishing a domestic satellite system according to this option is that the U. S. would retain full sovereignty rights. Thus all decisions regarding a domestic communications satellite system in the United States, aside from frequencies and orbital spare, would be under absolute U. S. control. (These latter items would still have to be coordinated with both INTELSAT and the ITU).

Unfortunately many adverse effects would result from this method of establishing a U. S. domestic system. This option would set an undesirable precedent, and may adversely effect the viability of INTELSAT. That is, it would probably encourage other systems to be established independently from INTELSAT. Since the R&D and volume production benefits would not be shared between the U. S. and INTELSAT, all members of the Consortium would probably pay an economic penalty. In addition, this alternative means of providing an U. S. domestic satellite system may cause pressure for the U. S. to provide launch services for other domestic and regional systems outside of INTELSAT.

VII. Conclusion

The United States has an opportunity to exert leadership in the Consortium by demonstrating its support of the single global system principle. Accordingly, the United States domestic and international interests will best be served by establishing an U. S. domestic satellite communications system according to Alternative I (INTELSAT provided space segment, U. S. financed). INTELSAT would be given the first right of refusal in providing the required domestic satellites for the United States.

EXCERPTS OF OTM REPORT

"DISCUSSION OF STUDIES OF DOMESTIC SATELLITE COMMUNICATIONS FOR THE UNITED STATES"

Enclosure 1

What kind of international policy climate have we sought to create? How does the climate affect the upcoming 1969 negotiations concerning INTELSAT?

The national policy established by the President and the Congress and international agreement is to give first priority to the successful achievement of a single international global system at the earliest possible time. It is a sound policy which makes paramount the objectives of world peace and understanding. It is a policy to which we are fully committed on the basis of a long series of national policy pronouncements by both the President and the Congress.

The history of our policy statements is consistent and clear.

President Kennedy:

President Kennedy, in a statement made on July 24, 1961, set the tone of United States policy on communications satellite systems by inviting "all nations to participate in a communication satellite system, in the interest of world peace and closer brotherhood among peoples throughout the world." He expressed a desire to "make the system global in coverage so as to provide efficient communication service throughout the whole world as soon as technically feasible, including service where individual portions of the coverage are not profitable."

President Kennedy 1962 - Letter to Congress:

"Among the policy objectives pursued in the preparation of this measure have been the assurance of global coverage; cooperation with other countries; expeditious development of an operational system; the provision of service to economically less-developed countries as well as industrialized countries; efficient and economical use of the frequency spectrum; non-discriminatory access to the system by authorized users; maximum competition in the acquisition of equipment and services utilized by the system; and the strengthening of competition in the communications industry."

President Johnson 1966 - Report to Congress:

"As this historic development takes place, it is appropriate and timely to reiterate the policy of the United States:

> "It is the policy of the United States to support development of a single global commercial communications satellite system."

"The intent of the United States is to advance space technology for the service of all mankind and to promote its use in support of peace and understanding."

Congressional Statement of Policy and Purpose:

In Section 102 of the Communications Satellite Act of 1962, "Declaration of Policy and Purpose," the Congress established a number of objectives for "a commercial communications satellite system, as part of an improved global communications network," which:

". . . will be responsive to public needs and national objectives. . ."

". . . will serve the communication needs of the United States and other countries . . ."

". . . will contribute to world peace and understanding."

Furthermore, these 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."

The Congress further declared that "care and attention would be directed toward:

". . . providing services to economically less developed countries and areas as well as those more highly developed . . ."

". . . efficient and economical use of the electromagnetic frequency spectrum."

". . . the reflection of the benefits of this new technology in both quality of services and charges for such services."

International (INTELSAT) Agreements of 1964:

To further reinforce these objectives, the U.S. was an active promoter of the International Agreements of August 20, 1964, to which 58 nations have now adhered. The preamble to this agreement states, in part:

"Desiring to establish a single global commercial communications satellite system as part of an improved global communications network which will provide expanded telecommunications services to all areas of the world and which will contribute to world peace and understanding;"

> "Determined, to this end, to provide, through the most advanced technology available, for the benefit of all nations of the world, the most efficient and economical service possible consistent with the best and most equitable use of the radio spectrum;"

Great care must be taken in establishing any plan for the use of communications satellites to provide domestic communications services to avoid appearing to turn our backs on these international commitments.

The policy climate that we are trying to create is vital to our international objectives.

Congress is becoming increasingly aware of the close inter-relationship between foreign policy goals and communication. The 4 May report of a House Foreign Affairs Subcommittee, previously mentioned, underlines the fact.

> "In addition, there is insufficient recognition in our Government of the fact that effective communication is indispensable to the success of the more traditional - military, economic and diplomatic - operations in foreign policy.
>
> "Neither do our policy-makers appreciate the extent to which specific objectives overseas can be attained through intelligent, informed, and effective use of modern communications."

In light of the foregoing, it is possible to summarize objectives with respect to the climate to be fostered for the 1969 negotiations.

- We are seeking to foster the concept of commercial enterprise and promote a joint venture for the benefit of all the world in the field of satellite communications.

- Through a spirit of cooperation and organizational unity, we are seeking to bridge the gap that exists as a result of inadequate space law and inadequate international law and complete lack of precedent. We are trying to make this pioneer space effort produce harmony and cooperation throughout the world, rather than conflict and controversy which would result from the unilateral and self interest efforts of any single nation state.

- Through the INTELSAT organization we are trying to foster the spirit of service and innovation which can bring common purpose in the field of satellite communications for the benefit of all the world and avoid the political divergence and pursuit of national interests and pressure politics which so often frustrate international cooperation.

- The United States must demonstrate its respect for the rights of other nations in the use of the radio spectrum and of orbital space for communications satellite systems.

What are the interactions between a domestic satellite decision and our international commitments to INTELSAT?

There are important interactions between any decisions and subsequent actions to exploit satellites for domestic communication purposes and the orderly progress of INTELSAT.

From the beginning, United States policy has been primarily oriented toward development of satellites to promote and improve international telecommunications. Statements of President Kennedy on July 24, 1961, the Communications Satellite Act of 1962 and the negotiations leading to the Multilateral Agreement Establishing Interim Arrangements for a Global Commercial Communications Satellite System in 1964 all were oriented toward satellites for international communications purposes.

The preparations for and participation in the ITU Extraordinary Administrative Radio Conference on Space Radiocommunications in 1963 were almost entirely based on the concept of providing international telecommunication services via satellites.

Certain countries of the world are restive under the alleged domination of the United States which comes about by reason of our technical progress and capabilities in space. In addition, there is an incentive to try and retain or re-establish the communication domination which the major colonial countries had over other countries in the colonial era.

The issue of U.S. domestic satellite communications poses a major threat to INTELSAT. Our decision on the domestic issue can either give further support to INTELSAT and strengthen the global system or it can weaken INTELSAT and start a rush towards competing

regional systems throughout the world. The evidence of such regional system activity is already clear.

- French activity.
  - There have been press reports of French plans to promote a European-African regional system in order to strengthen her traditional political and economic influence in her former African colonies.
  - There have been reports of possible French interests in placing the management of the International Satellite Consortium under the UN.
  - France alone among the INTELSAT members has indicated the desire to restrict INTELSAT service to international commercial communications, excluding aeronautical and other services which might be provided by satellite.
- German activity.
  - There have been reports of German-French discussions toward creating a European Regional Satellite System employing a portion of the German Olympia program.
- Japanese activity.
  - Japan, whose technological capability in telecommunications is great and growing, gives some evidence of a latent desire to establish a regional system which would include the Japanese islands, the Far East, and probably South East Asia.
- Canadian activity.
  - Canada is studying the desirability of setting up its own domestic satellite system.
- Russian activity.
  - USSR has established its own system using non-synchronous satellites. It has the technical capability to do much more and has expressed dissatisfaction with INTELSAT because of the alleged domination by the U.S.

If INTELSAT were to fail it would mean a reversion to reactionary concepts of rich nation domination of zones of communication influence, increased length and lower quality of transmission paths, and higher consumer costs. The impact would be most severe on the developing nations.

How can we provide the best possible framework to insure that commercial satellite communications will most effectively serve the national security interests of the United States?

In the years since 1951, the ODTM and its predecessors, the Federal Communications Commission, the Department of Defense, and many other elements of the Government, have worked hand-in-hand with our domestic common carriers to try to build facilities within the United States that would give the greatest possible assurance of adequate communications service for national security purposes even during periods of nuclear attack.

Both the Federal Government and the common carrier industry have thought it wise to invest substantial sums of money to improve the survivability of our national common carrier system.

There is no apparent justification for neglecting this feature of system survivability in planning for the domestic use of communications satellites.

The Department of Defense has conducted extensive research development, analysis, and study programs aimed at determining specifically and precisely the national security aspects of satellite communications systems. Beginning with Project ADVENT, and continuing into the present programs of IDCSP, ADCSP and TACSAT, the Department of Defense has spent over $500 million in this general area. This extensive research by the Department has reached certain very important conclusions that are significant and directly applicable to the current discussion of domestic satellite communications. The significant factors involved should be given careful consideration

Satellites are inherently vulnerable to jamming,to capture and to destruction and the cost of reducing these vulnerabilities is high.

The increased security of using for domestic service satellites which are part of an international system sponsored by 58 nations should be most carefully considered.

What are the international legal and moral aspects of this issue?

It is clear that there are important international considerations involved in the deployment of communication satellites and that space law, as it is now developing, presents new complexities and interesting problems.

The earth stations which form the real heart of a space communications system can be contained within national boundaries and operated under yesterday's ground rules.

The space segment, however, is in a different category. It occupies one of a limited number of "slots in space" which are in the international domain. This occupany excludes other satellites using the same frequency bands.

In the context of the international nature of satellite communications, attention is invited to:

- The international aspects of the electromagnetic frequency spectrum. This is a vital international resource jointly administered and controlled through the International Telecommunication Union.

- The competition for satellite "parking space" which, in our view, should be coordinated only by the INTELSAT organization.

- Corollary to the parking space question is the provision of adequate control systems to insure station keeping within the measures of precision that are comparable to the standards prescribed by radio frequency control. This question of satellite station keeping standards, while not presently an issue, will undoubtedly arise and require international cooperation and decision as the use of satellite communications become more prevalent.

In summary, the following points seem pertinent:

- The Space Treaty of 1967 guarantees the international nature of outer space and highlights its peaceful use.

- Synchronous satellite parking space is an international resource.

  - There is no U.S. claim or any other national claim to synchronous orbit parking space.

- There is a need for international agreement on use of equatorial orbit space.

- The INTELSAT joint venture provides the best arrangement for cooperative use of space in the interest of all nations and in the spirit and letter of the Space Treaty of 1967.

What are the political aspects -- pressures and national interest considerations of this question? What is their validity?

As a result of all of the studies and individual discussions, certain tentative conclusions have been reached:

- Maintenance of both national and international confidence in the United States Government's pronouncements, policies (the 1962 Act), and our national prestige make it important for the U.S. Government to fully support INTELSAT.

- The attitudes toward the United States of some of the European nations and some of the smaller nations who are our partners in INTELSAT reflect suspicion and apprehension that the United States, which has the power, the know-how, and the resources to do so, will act primarily in its own selfish interest rather than in the interests of the world community. (Canada is becoming increasingly vocal about the need to protect its own interests against the United States anticipated action to get the lion's share of space slots and frequency usage.)

- U.S. unilateral action to establish a separate domestic satellite system outside the scope of INTELSAT could seriously weaken INTELSAT the International Consortium and lead to proliferation of large nation sponsored satellite systems, and the loss of the opportunity for a truly efficient and low cost international service. It could certainly make difficult, if not impossible, the accomplishment by the United States of the purposes of the Congress in the Satellite Act to promote service to the developing nations.

- In relation to INTELSAT there is a strong and quite understandable desire in European countries and probably in Japan to get a substantial part of the space segment business. European pride, prestige and capabilities demand that much as a minimum.

- Early views of the U.S. domestic carriers as to the unacceptability of INTELSAT ownership of satellites for domestic services have undergone a reversal.

- Responsible stewardship of the frequency spectrum will not permit operational use of the 4 and 6 GHz bands until there has been adequate experimental work to enable reliable interference parameters to be established, and until extensive consultation with INTELSAT and the ITU has been conducted to assure the agreement of the international community with U.S. conclusions in this complex spectrum field.

- Based on most recent economic data available, there is doubt that domestic point-to-point service, as contrasted with TV program distribution by communication satellites in the frequency bands 4 and 6 GHz can be made cost competitive with other facilities now almost immediately available. TV program distribution by satellite facilities must be in a mixed satellite and terrestrial network and then is viable over only a part of the U.S. If communication satellites for domestic purposes are to become actively cost competitive with other means, they will need an exclusive frequency allocation without critical sharing constraints. Except in the frequency bands above 11 GHz, there is no place in the spectrum where such allocations could possibly be made.

- The generalized, but unproven, assumption that satellite communications will surely effect large cost reductions in domestic communication services has caused an unwarranted anticipation of potentially large commercial opportunities in the domestic use of communication satellites.

- A practical way must be found to provide low cost interconnections for public television without adopting the hazardous and possibly impractical adventure of a nonprofit satellite corporation.

Is there any way to steer a course providing for the domestic use of communication satellites which will satisfy our major requirements - minimize controversy, both on the national and international scene - and create the earliest, most effective application of satellite technology?

The objective has been to outline a basis for discussion and a chain of reason which would help point the way towards an acceptable course of action with respect to domestic communications satellite service.

The approach has been to first set forth the boundary conditions that should be met and then seek to lay out the action steps that should follow.

- Boundary Conditions.

  - We need to support and promote a strong cooperative international communications organization which can expeditiously bring about a new order of international communication capabilities for all nations with increased quality and lower cost. This continues to be the first priority policy of the United States.

  - It is important for the United States to inspire confidence and reduce suspicion among our foreign partners in INTELSAT. This can be done far better by deeds than by words on the part of the United States. It is not a question of intent but of performance. The point is that a communication satellite system cannot be established to provide domestic communication services without the closest possible coordination in system design and satellite operation with the global communication satellite system.

  - During the entire period of the negotiation of the 1969 permanent INTELSAT arrangements the United States should give maximum support to Comsat and to the INTELSAT organization. We should take immediate steps to make a general statement that says we intend to strongly support present arrangements and make them permanent during the negotiations.

- An important condition imposed upon us by the International Agreement of August 20, 1964, is adequate consultation with INTELSAT and the ITU on our domestic plans. This should be done prior to reaching final decisions and well in advance of any serious consideration of unilateral or independent use of the 4 and 6 GHz bands for extensive domestic application.

- If the United States were to decide to establish a separate U.S. owned system, discussions with INTELSAT of design and engineering standards would be necessary. Both we and INTELSAT would want to coordinate the technical details of the plan to ensure that it was consistent with the long-range plans for the global use of frequencies, allocation of orbital positions, etc. Since it seems clear that before final authorization is given to a U.S. entity on a specific system proposal, necessary agreements on such designs should be obtained with the INTELSAT organization.

- Further experimentation, studies, and consultation with the INTELSAT organization are needed prior to reaching any decision as to the use of the 4 and 6 GHz bands. This investigation should resolve the serious problem of potential interference between domestic terrestrial microwave and domestic satellite services and between proposed domestic satellites and earth stations and their international counterparts.

- It is important to develop an area of the spectrum which can be exclusively allocated to satellite communication so that development of the full capabilities of this new mode of communication can be thoroughly utilized and not rapidly saturated.

- Prior to authorization of any U. S. domestic system, a thorough-going investigation is needed of the economic viability of such an enterprise. The study should give full consideration to the economic viability of such a system; the possibility of technical obsolescence and the large cost reductions which are imminent in both current and new terrestrial communications technology.

- If the U. S. is to use and learn to depend upon satellite communications for domestic purposes, such systems should give us maximum assurance of use in civil emergencies or in time of war or armed conflict. This simply says we should give proper consideration to the national security aspects of any domestic system of communications by satellites.

- Full account must be taken of the special requirements of educational television to include immediate attention to the question of preferential rates for ETV transmissions via existing terrestrial systems which will be sufficient to stimulate early interconnection of ETV stations. Of equal importance are the requirements analysis and special satellite studies needed to clarify the role of satellite communications in distribution of educational television programming material.

- In view of the many serious uncertainties and the lack of information which is necessary for decisions on domestic satellite matters, responsible determinations cannot be made at this time. Our actions must be tentative; they must be recognized as interim and pursued in such a way as to ensure confidence that later adjustments and decisions can be made in accordance with the further information as it is developed.

- It is important that we move rapidly to resolve the uncertainties and obtain adequate information on which decisions can later be based.

o Action Steps.

Specific action steps necessary to meet the above boundary conditions are set forth below:

- Develop an agreed U. S. position on domestic communications satellites to be presented to INTELSAT which says the U. S. intends to use INTELSAT satellites for domestic service for an experimental period providing suitable agreements can be reached.

- Initiate studies, research, and experimentation in:

  Spectrum use.
  Interference.
  Higher spectrum areas for exclusive use.
  Development of more suitable space segments.
  Adequate economic and cost studies.

- Authorize the establishment of a limited pilot program to investigate the utility of the domestic use of communications satellites and to provide a convenient mechanism for accumulating data on interference phenomena.

- The domestic carriers should have full opportunity for active participation and use of the facilities during the pilot program.

- Provide for some preferential treatment for interconnection to provide educational television program distribution in order that requirements may be determined more expeditiously.

- Initiate the development of requirements and analyses of the technical-economic cost factors inherent in possible satellite distribution of ETV programs.

LIMITED OFFICIAL USE

MEMORANDUM

NOV 5 1968

TO : FCC - Chairman Hyde
DTM - Mr. O'Connell
ComSat - Mr. McCormack
ComSat - Dr. Charyk

FROM : E/TT - Frank E. Loy

SUBJECT: Meeting in Ambassador Marks' Office, 3:30 p.m. Wednesday, November 6 re INTELSAT Conference

This will confirm the above meeting, of which you have been previously notified. Since our telephonic advice to you of the meeting, the agenda has been somewhat enlarged. It now includes the following:

1) Discussion of makeup of U.S. Delegation to Conference and the methods by which it will operate.

2) Decision on participation in the Conference. Attached are two draft circular notes, one to embassies of the INTELSAT member countries inviting them to the Conference, the other to embassies of non-member countries informing them of the Conference on the basis we proposed to our INTELSAT partners. (A summary of our partners' responses is also attached). It should be decided whether this sort of notice is appropriate, or the recipients should simply be invited to attend in the first instance. Our position on the status of attending non-members as observers also should be discussed and settled.

3) Two substantive issues on which the USG may want to to instruct ComSat in connection with the meeting of the ICSC currently in progress. The two questions are:

a) Should ComSat be instructed to vote for a proposition that would contemplate regional satellites coexisting within the INTELSAT system along the lines contemplated by the paper developed at the CETS meeting of October 24-25? A copy of the CETS paper is attached.

b) Should ComSat be given any instruction on how to vote on the question of possible government participation in the proposed INTELSAT Assembly? ComSat feels that the Assembly should consist entirely of signatories of the Special Agreement, while there is some thought within the Government agencies that participation might be open, optionally, to governments, depending on the Assembly's functions.

Attachments:

A) Draft note to INTELSAT members.
B) Draft note to non-members
C) Summary of responses.
D) CETS position paper.

E/TT:FELoy:fbp 11/4/68
cc: Ambassador Marks (with attachments)

A

DRAFT CIRCULAR DIPLOMATIC NOTE TO INTELSAT MEMBER EMBASSIES

The Secretary of State presents his compliments to Their Excellencies and Messieurs the Chiefs of Mission whose Governments are indicated on the enclosed list and has the honor to inform them that, pursuant to Article IX of the Agreement Establishing Interim Arrangements for a Global Commercial Communications Satellite System, concluded at Washington, August 20, 1964, the Government of the United States extends an invitation to these Governments to be represented at a Plenipotentiary Conference to Establish Definitive Arrangements for the International Telecommunications Satellite Consortium to be convened at Washington on February 24, 1969.

Article IX of the Agreement provides that duly designated communications entities also may participate. An invitation therefore is extended also to such entities to be represented at the Conference. In such cases the Government and the entity should be represented by a single delegation.

The purpose of the Conference is to consider the report and recommendations of the Interim Communications Satellite Committee concerning the definitive arrangements for an international global commercial communications satellite system. The closing session of the Conference would be for the formal signing of the agreements to be prepared by the Conference. Those Governments expecting to sign the agreements are requested to provide full powers for a specific individual or individuals to sign.

If an agreement is to be signed in the name of a designated communications entity, public or private, the Government concerned should formally designate that entity by means of a diplomatic note addressed to the Secretary of State or, if it should wish to do so, by a certificate. The individual or individuals signing for a designated entity will be required to deposit evidence of authority to sign. Such evidence may be in the form of a certificate executed by the Government that designates the entity, or by the entity itself, stating that a specific individual or individuals have been duly authorized to sign for the entity.

The Provisional Agenda of the Conference, Provisional Rules of Procedure, and a document containing General Information will be provided later.

DRAFT CIRCULAR DIPLOMATIC NOTE TO NON-INTELSAT MEMBER EMBASSIES

The Secretary of State presents his compliments to Their Excellencies and Messieurs the Chiefs of Mission whose Governments are indicated on the enclosed list and has the honor to inform them that, pursuant to Article IX of the Agreement Establishing Interim Arrangements for a Global Commercial Communications Satellite System, concluded at Washington, August 20, 1964, the Government of the United States is convening a Plenipotentiary Conference to Establish Definitive Arrangements for the International Telecommunications Satellite Consortium (INTELSAT) at Washington on February 24, 1969.

The purpose of the conference is to consider the report and recommendations of the Interim Communications Satellite Committee concerning the definitive arrangements for an international global commercial communications satellite system. The participants in the conference will be the Governments and communications entities which are parties and signatories to the August 20, 1964 Agreement and the related Special Agreement of the same date.

This note is addressed to the missions of Governments which are not parties to the Agreement. If such a Government has an interest in attending the conference because it has

a serious interest in the possibility of becoming an INTELSAT member at a future time, the Government of the United States would be pleased to extend an invitation to that Government to attend the conference in an observer status.

IO/OIC:RDBelt
E/TD:WKMiller:hy:bmh
11/5/68

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

ATTACHMENT C

Memorandum

LIMITED OFFICIAL USE

TO :E/TT - Mr. Loy

DATE: November 4, 1968

FROM :E/TD - William K. Miller

SUBJECT: Summary of Responses through Noon 11/4/68 to CA-11051 on INTELSAT Conference Participation.

Responses to the airgram soliciting views of INTELSAT member governments on the question of participation in the 1969 INTELSAT Conference vary widely in substance. There are, however, several general groupings which may be made.

(1) Strongly or expressly favoring invitations to non-members

In this group France and Denmark are the most liberal, urging that all ITU member countries be invited and that all conference participants should have a vote. Others simply recommend the widest possible invitation, e.g. Netherlands, Norway and Sweden. Others expressly favor inviting non-members, but would limit them to observer status or are not clear on this point: Chile, Colombia, Germany, Israel, Jordan, Liechtenstein, Switzerland, the United Kingdom, and Venezuela.

(2) Have no objection or concur in non-member attendance

The countries in this group show somewhat less enthusiasm than those in (1) above and almost all suggest that non-members be observers without vote: Australia, Canada, Ceylon, China, Ethiopia, India, Iran, Italy, Japan, Lebanon, Panama, Peru, Philippines, Singapore, South Africa, Spain, Thailand, and Uganda. Some of the countries under (1) and (2) would limit invitations to ITU members; others have not commented on this question.

(3) Expressly oppose non-member participation

Portugal.

(4) Non-substantive replies have been received from embassies in several INTELSAT member countries indicating that the matter is under study or the government is not likely to respond: Algeria, Austria, Ireland, Korea, Kuwait, Mexico, New Zealand, Saudi Arabia, Tanzania, Tunisia, Turkey.

LIMITED OFFICIAL USE

3010-108

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

(5) A number of posts in INTELSAT non-member countries report their impressions or government statements that if non-members can participate as observers, their host governments will be represented: Ghana, Honduras (if not a member by then), Hungary (Embassy view), Nepal, Yugoslavia (Embassy view). One non-member said it wouldn't come if invited - Iceland.

It would be reasonable to summarize our partners' reactions as a consensus approving our proposal on non-member participation, with more support for a more liberal attitude than for a more restrictive attitude.

SED

E/TD:SEDoyle/WKMiller:sp

D

COMMUNICATIONS SATELLITE CORPORATION

ROBERT W. KINZIE
Deputy Director
International Arrangements Division

November 4, 1968

Mr. Frank E. Loy
Deputy Assistant Secretary
Bureau of Economic Affairs
Department of State
Washington, D. C.

Dear Mr. Loy:

Enclosed for your information is the complete text of a paper concerning definitive arrangements prepared by the CETS Committee of Alternates at a meeting in London on October 24-25, 1968. This paper will not be submitted as a document to the Thirty-fifth Meeting of the Interim Communications Satellite Committee, and should be treated on a confidential basis.

This is further to my letter of October 29, 1968 to Mr. Miller enclosing a copy of a telex message received from Mr. Colino regarding this paper.

Sincerely,

Robert W. Kinzie

Enclosure

cc: Mr. Miller
Mr. Nelson

D

CORPORATION CONFIDENTIAL

DEFINITIVE ARRANGEMENTS

(revised)
28 October 1968

I. Objectives of the parties to the definitive arrangements

The principal aim of the definitive arrangements should be to found a world Organisation whose function would be to establish a network of satellites with world coverage for conventional point-to-point telecommunications.

In order to assure full and harmonious international co-operation, the new Organisation should render possible :

1. The provision of economical, high quality and reliable communications services.

2. The making available of facilities to meet national and international requirements for satellite communications.

3. The development of the technique of satellite communications and the participation of Member States in the benefits of technological advances in this field.

4. The participation of Member States or of groups of Member States in the research, development and manufacturing opportunities in the field of satellite communications.

5. The efficient use of international resources, such as the radio frequencies spectrum and orbital space.

The Agreement to be concluded in replacement of the existing interim arrangements must safeguard the interests of all participants in avoiding monopoly situations and keeping open the possibility of domestic or regional systems.

/II.

II. Purpose of the Organisation to be established

The Organisation should promote the design, development, construction, establishment, maintenance and operation of the space segment of the communications satellite system. It should, furthermore, study and discuss the possibility of optimising the global network as well as all space and earth problems relating to satellite communications, with due consideration of the competence of the ITU.

III. Scope of services to be provided under the definitive arrangements

(a) Public international telecommunication services

The Organisation should provide conventional point-to-point telecommunications on a commercial basis. This includes various services which may be provided by satellite, i.e. telephony, telegraphy, telex, telegrams, facsimile, and data transmission, relay of radio and television programmes, and leased circuits for any of these purposes. However, the definitive arrangements should not preclude the provision of these services by regional or domestic entities.

(b) Other international telecommunication services

The inclusion of services other than those in (a) above shall only be possible in accordance with the procedure for the amendment of the definitive arrangements.

(c) Domestic and regional services

Provision should be made for the establishment of separate satellites by a party to the arrangement to meet its domestic needs or by a group of parties to the arrangement to meet their regional needs. The term "domestic" implies the creation of a national system ; the term "regional" refers to a geographically compact group of countries linked together by cultural or economic ties. [The French representative stated that he could not, at present, agree to any definition of the term "regional"].

In the cases where domestic or regional services would be provided by domestic or regional systems, the financing, design, development, construction, procurement and operaton would be the responsibility of the member or members participating in them, rather than that of the future organisation, if they so decide.

/Prior to the

Prior to the establishment of a domestic or regional system, the Governing Body of the Organisation should be consulted and may pass recommendations regarding

- the consistency of the proposed use of the frequency spectrum and orbital space with the future organisation's proposed use (prior to ITU co-ordination).

- the proposed mechanism and techniques for the control of domestic or regional satellites and possible interferences.

- the economic compatibility of domestic and regional systems with the global system.

IV. Eligibility for membership

Membership in the future Organisation should be open to all States members of ITU.

V. Legal status of the Organisation

The Organisation should have legal personality. It would have capacity to conclude agreements, own property, and to exercise rights against third parties in its own name. It should enjoy privileges and immunities determined by the member Governments. The definitive agreement should govern the internal arrangements of the Organisation. Disputes would be settled by an arbitral procedure.

VI. Structure of the Organisation

The Organisation should have three organs:

(a) An Assembly

(b) A Governing Body (Council)

(c) An Executive Body

A. The Assembly

The Assembly would be the supreme organ of the Organisation with adequate power to lay down its broad policy, and take decisions of a political nature.

It should be composed of the representatives of all signatory States of the definitive arrangements.

/It would meet

It would meet in principle once a year. Every Member State would have one vote in it. The Assembly would adopt procedural decisions with a simple majority, important decisions of substance with a two-thirds majority. The General Assembly would exercise general oversight over the activities of the Organisation. It would elect those members of the Governing Body (Council) who are not members by virtue of their investment share.

B. Governing Body (Council)

The Council would consist of a restricted number of Member States who would participate by virtue of their investment share, or who would be elected by the Assembly. It would have powers of decision to carry out the purposes of the Organisation. It should be responsible for the design, development, construction, establishment, maintenance, and operation of the space segment. The Council determines the investment shares of each member. It appoints the Director-General and the principal executive officers and approves major contracts entered into by the Director-General. It reports annually to the Assembly.

The Council should meet regularly. Special sessions can be convened.

Those members with investment quotas of 1.5%, should be automatically designated as members of the Council . Members not reaching this percentage can form a group whose total share reaches 1.5%. In addition, the Assembly could elect a certain number of member countries who would not be represented on the basis of their investment quota. The voting power of these members will be at least the same as that of the members of the Council with the lowest weighted vote.

The Council should try to take its decisions unanimously. Failing this, there should be a weighted vote. The weighted vote should be based on the investment shares of the countries and in such a way that the difference in voting weight between the member with the largest share and the member with the lowest share would not be as large as the difference between their respective shares. In no case should one country or a combination of two or three countries having the largest investment share be able to prevent or impose a decision on the basis of their weighted votes.

The weighted votes should be used only on substantive matters and not on matters of procedure which would be decided by simple majority of the members present and voting. Certain important questions, such as the determination of investment shares and the award of major contracts should require in addition to a weighted vote a majority of the members of the Council. It would have to be determined in detail when double majority voting should apply.

/C. The Executive Body

C. The Executive Body

The Organisation should have a permanent international Executive Body under the authority of a Director-General who would be directly subordinate to the Council. All posts in the Executive Body should be open to qualified personnel of the participating States, with the aim to secure the highest degree of efficiency. Due regard should be given to the principle of equitable geographical distribution as far as possible. The Director-General and his staff should not receive any instructions from outside and no member of the Organisation should influence them in the performance of their duties.

The Executive Body should direct or perform all management functions, such as procurement, maintenance, and operation of the space segment.

The Council would be charged with drawingup a programme in order to progressively set up an Executive Body. The functions exercised at present by the departments of Comsat would be transferred to the Exeutive Body, pursuant to this programme, and in the shortest possible time. The transition period should have a deadline established in the agreement.

Certain management functions of the Executive Body could be transferred on a project by project basis to national or international institutions.

VII. Financial matters

The investment shares of the members shall be related to the use of the space segment, and should be adjusted periodically. The precise financial arrangements need further study by experts; if a system on the lines of the present system is adopted, provision should be made for members to be compensated for their invested capital at a rate to be determined.

For those Member States who at present have no facilities enabling them to use the space segment, a minimum investment share of approximately 0.05% shall be reserved.

VIII. Procurement policy

The agreement should protect the interests of all participants and should in particular make possible the development of the technology of member countries.

/IX.

IX. Inventions, technical data and information policy

The patent policy of the organisation should take into account the interests of the Member States and of the contractors and should be based on equitable arrangements. This is a question which requires careful consideration taking into account the proposals in the German document (SCL/CD.12/8) which reads as follows:

"The patent policy of the Organisation should be based upon the difference between foreground data obtained in executing the contract awarded by the Organisation and background data which have not been obtained in executing contracts of the Organisation and which are necessary for the utilisation of the rights of use granted. Holders of the rights relating to foreground data are the contractors: they should, however, be bound to grant to the Organisation upon request irrevocable, gratuitous, non-exclusive and transferable rights of use for purposes of the Organisation. As regards background data, again the holders would be the contractors, but they should only be bound to grant rights of use under equitable conditions".

X. Access to the system

All members of the organisation would have direct access to the space segment. Non-members would have access to the space segment only by agreement with the organisation.

XI. Co-ordination arrangements

Within the scope of its activities, the Organisation, represented by its Director-General under the guidance of the Council, should be in charge of the technical, commercial and operation management. As regards co-ordination with domestic or regional systems outside the Organisation, he should enter into a working relationship of permanent consultation with the owner or owners of these systems.

XII. Type of Agreement constituting the definitive arrangements

The fundamental provisions of the definitive arrangements should be incorporated in an inter-governmental agreement,

/XIII. Duration and

XIII. Duration and amendment of the definitive arrangements

The definitive arrangements should have a limited duration. They should be subject to review and amendment by the signatory Governments. The Assembly can make proposals. In addition, a review conference of the parties to the agreement should be convened if necessary.

XIV. Obligations of parties to the definitive arrangements

The signatory States undertake to meet their satellite communications requirements in accordance with the provisions of the agreement. The question has been raised and is under study as to whether a member country should not be able to declare itself disinterested or more particularly interested by a programme or the various phases of a programme. The rights and obligations regarding the programme would be arranged accordingly. This would not affect the right of each member of the Organisation to establish a domestic system or of a group of members to establish an independent regional system, provided that they comply with international regulations, and particularly those of the International Telecommunication Union. The signatory States would agree, in accordance with Section III above, to submit their plans for such domestic or regional satellites to the Council of the Organisation for its opinion.

XV. Withdrawal

The withdrawal of members should be possible after giving due notice of one year. The Assembly should be entitled to require members to withdraw from the Organisation if they fail consequently to comply with the obligations of membership. (The circumstances under which a member could be excluded would, however, have to be defined in the most precise manner).

XVI. Settlement of disputes

Disputes arising with respect to the rights and obligations of members should be settled by arbitration in accordance with a procedure to be agreed upon.

10-17-68

ITEMS FOR DISCUSSION WITH LEONARD MARKS

1. The Task Force paper with our suggested changes.

2. Mr. O'Malley's memo on international conference:

   a. Need for a small group reporting to him to coordinate activities going forward, rather than utilization of Panel 4.

   b. Nations to be invited to the conference.

   c. Difficulties to be expected from the French.

   d. More extensive statement of the contributions made by the U.S.

   e. The domination argument -- Lack of clarity. The Bill before the President.

   f. Comsat as Manager.

   g. U.S. voting power.

   h. FCC domination of Comsat as U.S. carrier.

3. Regional Systems:

   a. French cable.

   b. Canadian issue. Johnny Johnson State Paper weak Philosophy Meeting Oct 24 Canada

4. Mr. Marks' future participation in Task Force.

State with bringing Comsat in much
US has launch capability
leverage
Using launch capab to undermine
Intelsat rather than strengthen
Reasonably tough bargaining
Earliest launch Post 1970
Use Intelsat frameworks.

CONFIDENTIAL

DECLASSIFIED
E.O. 13526, Sec. 3.3h

By mw, NARA, Date 11/29/12

October 17, 1968

MEMORANDUM FOR MR. J. D. O'CONNELL

Subject: International Conference on the Definitive Arrangements

This is to bring you up-to-date on developments regarding the subject conference which will commence here in Washington on February 24, 1969, for three weeks. The Department of State, for the last several weeks at least, has had two people working on this matter full time: William Miller and Stephen Doyle. They are devoting their time principally to the preliminary arrangements which must be made for the conference and they are also working on an issues paper for the conference itself. When I informed them that we are also working on an issues paper they stated that the FCC and possibly NASA and DOD were working on similar papers; and they were not certain as to how all those views would be brought together. My principal concern at this time is that events are moving so rapidly that unless a small working group is developed quickly it will be impossible to reach timely decisions in many of these problem areas. The conference will start approximately four months from now, but the Christmas holidays and the change of Administration will occur during that period. In view of the shortness of time and these complicating factors, it is my opinion that Panel 4 will be a very secondary factor in the development of a United States position. As I understand it, the United States delegation to the conference will probably consist of Leonard Marks as chairman, a State Department official as deputy, and Comsat, DTM, and FCC as members. The international carriers would not participate directly, but would be consulted as appropriate when issues directly affecting them should arise.

In the meantime, the Department of State has been moving ahead on many of the preliminary decisions, apparently consulting as appropriate with Leonard Marks. I have already advised you that the Secretary of State has directed that invitations to join INTELSAT will be limited to ITU members. As you know, the Presidential Message was not so limited and this decision by the Secretary seems to be consistent with your thinking. The invitations to the conference will go out to the INTELSAT members in early November. At the same time, a diplomatic note will go to all United Nations members informing them that the conference will be held in Washington in February and advising that if they are interested in joining INTELSAT an invitation would be sent to them to participate as observers. If there is no response from a country, no invitation would be sent; but if a country indicates an interest in attending, it would be invited. Even though Comsat and you have taken a position against

CONFIDENTIAL

inviting non-members of INTELSAT to the conference, the Department of State has tentatively decided that, on balance, the national interest would be better served by allowing non-members to participate as observers. The reasons are that the Indians, Swedes and other neutralists, in State's view, can create more severe problems for the United States if we exclude the non-members than the non-members can create if they are invited and should then become a disruptive influence. State feels that the potential disruptive effect of non-members is limited by two factors: First, by the rules of procedure and second, by the ill will which can be created against a particular country which engages in this. As far as the rules of procedure are concerned, an observer to an international conference has a well defined role. He has no voting rights, and while he has a right to listen to the debates and discussions on the issues, he may not speak on an issue, submit a paper, or participate in the discussion without permission of the Chairman. (We are assuming that the Chairman of the Conference will be Leonard Marks.) While the majority of the members attending the Conference can overrule the Chairman on the question of participation of a particular observer, State feels that the good sense of the INTELSAT members will control and can be relied upon to control any disruptive incidents which might arise.

Another serious question which the United States Government must resolve well in advance of the Conference relates to the proposed rules of procedure. It is contemplated that procedural rules will be approved by the Conference in the first session. For example, procedural rules must be adopted regarding voting. Present State thinking is that the issues will have to be ranked in order of importance with day-to-day issues probably being decided by a majority vote of the members, and the more important issues such as the text of the Definitive Arrangements paper being decided by a two-thirds vote.

My purpose in writing this memorandum, apprising you of these developments, is to advise you that if this office is to participate fully in this international conference, you should get in touch immediately with Leonard Marks and so advise him, indicating that you feel that the Panel 4 mechanism is too slow and cumbersome in view of the time restrictions and the large number of difficult issues which will be arising. State would not be unhappy to see Panel 4 relegated to a secondary role. It is my view that if you do not get in touch with Leonard Marks on this subject now, the participation of this office will be a minimal one.

~~CONFIDENTIAL~~

As far as the substantive issues are concerned, Ralph Clark, Tom Olsson and I have been reviewing the draft letter which I prepared on October 7 which set out these issues. I have re-arranged these in a form of a talking paper to be discussed with Leonard Marks and I am attaching it as an appendix to this memorandum. I will be glad to discuss this further at your convenience.

J. J. O'Malley, Jr.

Attachment
cc: Mr. Clark
Col. Olsson

~~CONFIDENTIAL~~

ATTACHMENT

DRAFT
JJO'Malley:hmy
10-17-68

Significant Issues in the INTELSAT Conference,
February, 1969

Since the Interim Committee of INTELSAT issued a report on September 6, 1968, which sets out at length the views of the various members of INTELSAT on the Definitive Arrangements, this document will not concern itself with an evaluation of the views expressed by the foreign INTELSAT partners, but will be limited to pointing out what we consider to be the most significant issues that the United States will face in the Conference.

The first issue is really a preliminary one. Consideration is now being given to whether invitations to the Conference ought to be extended to countries which are not members of INTELSAT. (For details, see Department of State Airgram CA-11051, "1969 Conference on Permanent Arrangements for INTELSAT"(LOU).) While we would wish that full consideration be given to this important matter (and we appreciate that there are serious factors both pro and con on this question), we have serious reservations about inviting non-members because of the potentially disruptive effect that this might have on the negotiations. It seems to us that it would be difficult to select out the potentially disruptive countries like the Soviet Union and at the same

time let in other well intended nations like Honduras. Our present feeling is that the Conference ought to be limited to INTELSAT members. Adequate opportunity has been afforded over the past four years to all countries to join INTELSAT and it appears to us that the potentially disruptive effect on the negotiations outweighs any benefit that might be derived by inviting non-members. We have expressed our views in some detail to the Department of State on this question, and we do not expand on them here except to state our reservations.

As far as the Conference itself is concerned, we would expect the principal difficulty not to be a substantive issue but rather the French negotiations. The history of French participation in INTELSAT seems generally oriented toward preserving French spheres of interest, particularly in Africa, and limiting as much as possible, the development of an international United States oriented communications satellite system. The French will undoubtedly like to have the international communications services utilized by their former colonies oriented toward Paris and they have continuously and vehemently promoted the idea that INTELSAT should be a rather loose confederation of regional satellite systems, rather than a strong, centrally managed global system. Their opposition to the present INTELSAT structure has taken the form of an attack upon the United States whenever the opportunity presents itself: attacks on United States domination; complaints addressed to the lack of European participation in satellite construction; opposition to

INTELSAT providing aeronautical satellite service; and opposition to decisions of the Interim Committee to go forward with advanced satellites.

Of all the complaints made by the French there is probably only one which is shared to some extent by the other members and this is with regard to United States domination. It is not clear to us what the basis of this domination argument is. We are not certain whether it is directed at the FCC because of its jurisdiction over Comsat as an American carrier; whether it is directed to Comsat because of aggressiveness on the part of Comsat staff in promoting satellite development throughout the world or whether it is promoted by the other American carriers which are to some extent in competition with Comsat. In any event, the United States Government has recognized this problem and over the past two years has taken steps to minimize it. In the first place, we think that part of the problem may be that the United States is being too defensive with respect to the domination issue. We think that by and large the Communications Satellite Corporation has done a commendable job in carrying out the mandate laid down by Congress in the Satellite Act. This broad national policy stated in the Act provided for the development of commercial communications satellites that would service the communication needs, not only of the United States, but of other countries as well; would contribute to world peace and understanding;

would be directed especially toward providing service to the less developed countries; and would make efficient use of the radio spectrum rather than attacking the United States on a domination issue. We think that most INTELSAT members are pleased that the United States was far sighted and generous enough to share the fruits of this technology with other nations, especially the less developed ones. If the response to the United States position paper on the Definitive Arrangements is any indication, we are convinced that the majority of INTELSAT members will continue to look to the United States for constructive world leadership in promoting this technology.

While there may be some areas in which the United States can be validly criticized, it ought to be made clear that our Government has taken a number of steps to meet the criticism of domination of INTELSAT. Even though the INTELSAT manager, Comsat, is a United States corporation, all policy decisions are made by the ICSC in which the United States must have 12.5% more votes than its own for approval of any important decision; the ICSC chairmanship is rotated every year between the United States and another member; the number of foreign participants in INTELSAT contracts is continuously increasing; and all ICSC procurements are subject to ICSC procurement regulations.

While the United States has provided the indispensable leadership without which there would be no commercial global communications satellite system, there undoubtedly is some serious residual concern

CONFIDENTIAL

about the U. S. role and this seems to revolve around the role of Comsat as manager and United States voting power.

We have given the matter of internationalization of the manager serious consideration. It is our view that, on balance, the benefits that the consortium derive from Comsat as manager appear to outweigh the disadvantages which would flow if an international body rather than an American corporation were providing this service, at least in the near-term future. Comsat has been developing substantial expertise in this area. If it were replaced by an international organization that organization would have to be appropriately structured, staffed, and capitalized. All sorts of difficult questions can develop over this, including that of the location of the headquarters of the manager. It seems desirable that in the long-term the United States Government should foster the establishment of a separate international subsidiary of Comsat, staffed with international personnel. Such a move should tend to modify some of the criticism based on Comsat's dual role as INTELSAT manager and United States common carrier. Since NASA will be the only agency capable of providing launch capabilities for the foreseeable future it would appear unwise to go further toward reducing U. S. leadership.

The question of United States voting power is considerably more difficult to deal with at this point. If United States voting strength were reduced to 40%, it would not seem to matter much. In any event, this is one important facet of the negotiations which might have to be left to detailed discussion at the Conference.

CONFIDENTIAL

CONFIDENTIAL

Apart from the foregoing matters, there seem to be several other issues which will have to be dealt with. The first of these is the question of "regional" systems. As you know, the United States position paper was silent on this issue. While the United States and many other INTELSAT members are favorably disposed toward a nation providing its own domestic communications satellite service outside of INTELSAT if it so chooses, France seems to be the only major country seriously promoting independent regional systems. The United States has a vital national interest in this question because independent regional systems inevitably limit to some degree the capability of the United States to communicate directly with the developing countries.

Apart from the national security interest, the difficulty with regional systems is that there seems to be no way to define them so as not to seriously undercut INTELSAT. Self-interest would dictate that without a prohibition against independent regional systems, the developed countries, particularly the Europeans, would tend to think in terms of maximizing their return from satellites by developing those which promote their own political interests rather than enhance the ability of the smaller nations to become more independent economically and politically. While INTELSAT IV will go a long way to remove the problem, it seems that the United States should not change its position on the vital independent regional system question, but rather should promote the idea that nations with community of interest forces should look to INTELSAT as the means of providing their regional telecommunications via satellite.

CONFIDENTIAL

CONFIDENTIAL

At this stage of development of the satellite art, there seems to be no other way in which satellite service can be provided as expeditiously and economically as through INTELSAT. It is our view that United States policy ought to have as a major objective maximum use of INTELSAT for all commercial communication satellite services.

There are a number of relatively minor issues which will undoubtedly require some consideration; among them, the matter of increased participation by the smaller countries in INTELSAT. This can be accomplished in two ways: first, the United States has proposed that any group of five nations can jointly be represented in the ICSC, regardless of voting strength; and second, and annual assembly of members can easily be provided for.

No consideration of issues would be complete without reference to the fact that the United States has still pending the matter of the domestic satellite pilot program. It has been our view that a policy decision ought to be made by the United States that it would go to INTELSAT with a proposal for that organization provide service for the U. S. domestic pilot program. I do not mean to suggest that the United States ought to announce now that it has firmly decided to procure service from INTELSAT for this project, but that it desires to discuss this matter with the ICSC to determine whether a satisfactory arrangement can be

CONFIDENTIAL

CONFIDENTIAL

worked out. No prior restrictions ought to be placed on the discussions. There seems to be no reason why these discussions cannot contemplate a joint U. S. -Canadian project, because it seems to us that it will be significantly less costly for the United States and Canada jointly to procure their services under the INTELSAT aegis. In addition, if INTELSAT should provide the space segment for these programs, a troublesome precedent regarding regional systems will not have been created by the United States.

CONFIDENTIAL

under existing legislative authority. However, full implementation of these conventions does require certain amendments to the tariff laws of the United States.

The bill as reported by the committee would provide for these changes necessary to permit full U.S. accession to these customs conventions.

First, the bill would permit the duty-free entry of the international customs forms—the carnets—when imported already printed for issuance by private organizations in this country to U.S. exporters seeking customs advantages accorded by these carnets in foreign countries.

Second, the bill would amend existing law which provides for the temporary entry of professional equipment and tools of trade by nonresidents temporarily sojourning in this country by permitting the temporary entry to be made either by the individual nonresident or by the foreign organization he represents. Presently, the import entry can only be made by the nonresident sojourning temporarily in the United States.

The bill, as reported, would also permit the duty-free entry of component parts for repair of such professional equipment temporarily admitted into the customs territory of the United States.

Finally, the bill would permit the duty-free entry of component parts for the repair of containers used in international traffic. These containers are already granted duty-free entry under existing law. The bill provides that the above changes would be made effective by Presidential proclamation in connection with the entering into force for the United States of the customs conventions.

The Committee on Ways and Means is informed that 30 business organizations, including the U.S. Chamber of Commerce and the U.S. Council of the International Chamber of Commerce, have supported U.S. accession to these conventions. Further, the committee is unaware of any objection to the proposed changes in U.S. tariff law contained in the bill as reported by your committee.

In recommending the changes in tariff law necessary to permit the United States to fully accede to these customs conventions, the Committee on Ways and Means is limited in its jurisdiction to a consideration of the changes in tariff law required for such accession. The committee is of the opinion that this bill is reasonable for that purpose. Accordingly the committee unanimously recommends enactment of H.R. 18373.

Mr. BYRNES of Wisconsin. Mr. Speaker, this bill (H.R. 18373) is intended to implement conventions entered into by the United States governing the admission of professional equipment and containers. The bill relates primarily to equipment that is admitted temporarily for some specific purpose, such as a container which will be returned after the goods have been removed. Since these conventions have been adopted by all of the major trading countries of Europe, as well as several other countries, implementation is necessary if the United States is to be a party where the conventions do not conform with our existing tariff schedules.

The bill has wide support from all types of business organizations, including the U.S. chamber. To my knowledge, there is no opposition. Accordingly, I am pleased to join the other members of the committee in supporting this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas [Mr. MILLS]?

There was no objection.

The Clerk read the bill, as follows:

H.R. 18373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part 5, schedule 2, Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting the following new item:

"	270.06	Printed matter, carnets, which are international customs forms, printed in English or French, whether or not also printed in an additional language, and parts thereof	Free ".

SEC. 2. The article description in item 864.50, Tariff Schedules of the United States (19 U.S.C. 1202), is amended to read as follows:

"	-------	"Camping equipment imported for their own use by nonresidents sojourning temporarily in the United States".	"

Schedule 8, part 5, subpart C, Tariff Schedules of the United States (19 U.S.C. 1202), is amended by inserting the following new item:

"	864.80	Professional equipment and tools of trade imported for their own use or under their personal supervision by nonresidents sojourning temporarily in the United States or imported by a partnership, association or corporation whose principal place of business is in a foreign country for temporary use by it or under the personal supervision of a representative of such partnership, association, or corporation; *Provided, however,* That no requirement of supervision by a nonresident shall apply in the case of cinematographic equipment imported for the production of a film under a coproduction contract	Free ".

SEC. 4. Section 322(b), Tariff Act of 1930 (19 U.S.C. 1322(b)), is amended as follows:

(a) by striking out "and" at the end of subparagraph (2);

(b) by striking out the period at the end of subparagraph (3) and by inserting in lieu thereof "; and"; and

(c) by inserting at the end thereof the following new subparagraph:

"(4) component parts for the repair of containers temporarily in the United States."

With the following committee amendment:

Strike out all after the enacting clause and insert:

"That part 5 of schedule 2 of the tariff schedules of the United States (19 U.S.C. 1202) is amended by inserting after item 270.10 the following new item:

"'	270.15	International customs forms (carnets), and parts thereof, in English or French (whether or not in additional languages).	Free..	Free.'

"SEC. 2. (a) The article description for item 864.50 of the tariff schedules of the United States (19 U.S.C. 1202) is amended to read as follows: 'Professional equipment, tools of trade, repair components for equipment or tools admitted under this item, and camping equipment; all the foregoing imported by or for nonresidents sojourning temporarily in the United States and for the use of such nonresidents'.

"(b) Headnote 1 for subpart C of part 5 of schedule 8 of such Schedules is amended—

"(1) by inserting '(a)' after '1.';

"(2) by inserting '(1)' after 'except that' in the first sentence, and by inserting before the period at the end of such sentence the following: ', and (2) in the case of professional equipment and tools of trade admitted into the United States under item 864.50 which have been seized (other than by seizure made at the suit of private persons), the requirement of reexportation shall be suspended for the duration of the seizure'; and

"(3) by adding at the end thereof the following:

"'(b) For articles admitted into the United States under item 864.50, entry shall be made by the nonresident importing the articles or by an organization represented by the nonresident which is established under the laws of a foreign country or has its principal place of business in a foreign country.'

"SEC. 3. (a) The article description for item 808.00 of the tariff schedules of the United States (19 U.S.C. 1202) is amended by inserting before the period at the end thereof the following: ', and repair components for a particular container of foreign production which is an instrument of international traffic'.

"(b) Headnote 1 of subpart C of part 1 of schedule 8 of such schedules is amended by inserting before the period at the end thereof the following: ', and also covers certain repair components'.

"SEC. 4. Each of the preceding sections of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on and after a date which shall be proclaimed by the President, which date shall be consonant with the entering into force for the United States of the customs convention or conventions which such section implements."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GLOBAL COMMUNICATIONS SATELLITE SYSTEM

Mr. MILLS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 18486) to amend the Internal Revenue Code of 1954 with respect to the treatment of income from the operation of a communications satellite system, which was unanimously reported to the House by the Committee on Ways and Means.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas [Mr. MILLS]?

Mr. BYRNES of Wisconsin. Mr. Speaker, reserving the right to object, and I shall not object, but do so in order that I might yield to the gentleman from Arkansas, the chairman of the Committee on Ways and Means, for a brief explanation.

Mr. MILLS. Mr. Speaker, I thank my colleague, the gentleman from Wisconsin.

Mr. Speaker, this bill (H.R. 18486) provides that foreign entities participating in the global communications satellite system, an international joint venture known as the International Telecommunications Satellite Consortium, are not to be subject to U.S. income taxation on their share of the earnings derived from the system. This removes the possibility under existing law that a small number of these foreign entities might be subject to U.S. taxation. This bill has been approved unanimously by your committee and the Treasury has urged its adoption.

The United States participates in this system through the Communications Satellite Corporation which we know as Comsat. I should note at this point that the bill does not affect in any way the U.S. taxation of Comsat. Most of the 61 foreign countries which participate in the joint venture do so through a government ministry or agency. A few foreign countries, however, participate through a quasi-governmental agency or a private corporation.

The joint venture basically derives its revenues from furnishing satellite capacity to the various participants. In other words, the joint venture's revenues generally are derived from renting satellite channels. The net revenues after deduction of expenses are then distributed pro rata to the various participants.

These net revenues, or earnings, clearly are exempt from U.S. income taxation in the case of the majority of the foreign participants, because these participants are foreign governments or governmental agencies which the Internal Revenue Code exempts from U.S. income taxation.

The U.S. tax status of the other foreign participants—those which are private corporations or quasi-governmental agencies—is not clear, however, under present law. The possibility exists that these participants might be subject to U.S. income taxation on their share of the joint venture's earnings. This possibility would materialize only if three conditions were met:

First. These participants would have to be considered engaged in business in the United States.

Second. The earnings, which are derived from furnishing satellite capacity, would have to be considered income from U.S. sources.

Third. In the case of the participants which are quasi-governmental entities, it would have to be determined that they were private corporations, rather than governmental agencies.

In view of this possible differential treatment under the U.S. tax law of the foreign entities participating in the joint venture, depending on the form of the entity the foreign government had selected, the administration requested the exemption embodied in this bill. Moreover, there is a real question whether it is appropriate for the United States to tax income derived by the foreign entities from renting satellite capacity.

It is appropriate in view of these considerations to provide an exemption from U.S. income taxation for foreign entities which participate pursuant to a designation by a foreign government in the joint venture, the global communications satellite system, or a successor organization. The exemption provided by the bill, however, only applies to the earnings which the foreign participant derives from the ownership or operation of the communications satellite system.

The amendment made by the bill applies with respect to taxable years beginning after December 31, 1966.

I urge that this bill be adopted.

Mr. FARBSTEIN. Mr. Speaker, will the gentleman yield?

Mr. MILLS. I yield to the gentleman from New York.

Mr. FARBSTEIN. I presume this deals with the Comsat Corp.; it that correct?

Mr. MILLS. No; Comsat is the American entity, but it is not at all affected by what we are doing here. It is the counterpart representing other countries that are also parties to the International Telecommunications Satellite Consortium which we are dealing with here.

Mr. FARBSTEIN. This all comes as the result of a satellite being thrown off into the heavens from the United States in—whatever you call it——

Mr. MILLS. The consortium which manages the use of the satellite is a joint venture. The question is whether the United States is to tax these foreign partners in the consortium on their share of the earnings from it. It is a joint venture, engaged in by representatives of, I believe, some 62 countries that own an interest in this international joint venture, known as the International Telecommunications Satellite Consortium. The majority of the foreign countries clearly get their share of the revenues from this international operation free of any Federal tax because they participate in it through a government ministry or agency. Some of the countries, however, operate through a quasi-governmental entity. In their case there is a question as to whether they, too, like the other countries where a government agency is involved directly, would be exempt from U.S. tax on their share of the earnings.

Mr. FARBSTEIN. I thank the gentleman.

Mr. BYRNES of Wisconsin. Mr. Speaker, this bill (H.R. 18486) exempts from taxation foreign participants in the global communications satellite system. A foreign nation—or the official entity representing that nation—which participates in the existing International Telecommunications Satellite Consortium might be subject to U.S. income taxation on a proportionate share of the Consortium's earnings. This is an international joint venture, and the participants should not by reason of participating in such a venture become subject to U.S. income taxes.

It is clear that where the foreign participation is by the government itself, such governments do not become subject to U.S. income taxation. It is not clear where the foreign participation is through a corporation or other quasi-governmental entity. The bill would eliminate any doubt in the latter case.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the bill as follows:

H.R. 18486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 883 of the Internal Revenue Code of 1954 (relating to exclusions from gross income) is amended by inserting "(a) INCOME OF FOREIGN CORPORATIONS FROM SHIPS AND AIRCRAFT.—" before "The", and by adding at the end thereof the following new subsection:

"(b) EARNINGS DERIVED FROM COMMUNICATIONS SATELLITE SYSTEM.—The earnings derived from the ownership or operation of a communications satellite system by an entity designated by a foreign government to participate in such ownership or operation shall be exempt from taxation under this subtitle, if the United States, through its designated entity, participates in such system pursuant to the Communications Satellite Act of 1962 (47 U.S.C. 701 and following)."

(b) The amendment made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1966.

With the following committee amendment:

On page 1, beginning in line 10, strike out "an entity" and insert "a foreign entity".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

STATUTORY MERGERS OF THE PARENT'S STOCK

Mr. MILLS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 18942) relating to the income tax treatment of certain statutory mergers of corporations, which was unanimously reported to the House by the Committee on Ways and Means.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. BYRNES of Wisconsin. Mr. Speaker, reserving the right to object, I do so in order to yield to the gentleman from Arkansas for a brief explanation of the bill.

Mr. MILLS. I thank my friend from Wisconsin; as he knows, the bill, H.R. 18942, is concerned with tax-free statutory mergers where the properties are acquired with the stock of the parent of the acquiring corporation. This bill has been approved unanimously by your commttee, and the Treasury has indicated that it has no objections to it.

Under present law in many circumstances one corporation may acquire the stock or the assets of another corporation in exchange for the stock of the acquiring corporation without any tax to the transferor corporation or to those shareholders of the transferor who receive only stock in the acquiring corporation. These transactions are referred to as "tax-free reorganizations" and are of three types.

First. A statutory merger or consolidation—usually referred to as an "A reorganization."

Department of State **TELEGRAM**

23

LIMITED OFFICIAL USE 369

PAGE 01 PARIS 22443 151755Z

44
ACTION SCI 05

INFO EUR 15, IO 13, SSO 00, NSCE 00, MM 01, CCO 00, USIE 00, CIAE 00, DODE 00,
GPM 04, H 02, INR 07, L 03, NSAE 00, NSC 10, P 04, RSC 01, SP 02, SS 25,
ACDA 16, E 15, DTM 02, FCC 02, OC 06, OST 01, RSR 01, /135 W
118001

O P 151705Z OCT 68
FM AMEMBASSY PARIS
TO SECSTATE WASHDC IMMEDIATE 7074
NASA/WASHC CODE I/FRUTKIN UNN
INFO AMEMBASSY BERN PRIORITY
AMEMBASSY BONN
AMEMBASSY BRUSSELS
AMEMBASSY COPENHAGEN
AMEMBASSY GENEVA
AMEMBASSY THE HAGUE
AMEMBASSY LONDON
AMEMBASSY MADRID
AMEMBASSY ROME
AMEMBASSY STOCKHOLM

LIMITED OFFICIAL USE PARIS 22443

SUBJ: PROJECT SYMPHONIE--FORMAL INQUIRY FROM FRANCO-GERMAN PROJECT DIRECTORS TO NASA ON POSSIBILITY OF USING US LAUNCH VEHICLE

1. NASA EUROPEAN REP SENDS.

2. GEN ROBERT AUBINIERE AND MINISTERIAL-DIRECTOR MAX MAYER, CO-DIRECTORS OF FRANCO-GERMAN PROJECT SYMPHONIE, HAVE ADDRESSED TO MR. ARNOLD FRUTKIN OF NASA ON 11OCT 1968 A LETTER INQUIRING ABOUT THE POSSIBILITIES OF NASA DELIVERING TWO LAUNCHES FOR THE PROJECT, REFFERRED TO IN LETTER AS AN EXPERIMENTAL TELECOMMUNICATION SATELLITE. AUBINIERE PROVIDED COPY OF LETTER TO NASA REP TODAY, FOR FORWARDING TO DEPT. (COPIES BEING POUCHED TO DEPT AND ADDRESSEE POSTS). AUBINIERE SEES INQUIRY AND REPLY AS HAVING FAR-REACHING IMPACT. AT SAME TIME, STRESSES THAT IF US REPLY

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 PARIS 22443 151755Z

SHOULD BE POSSIBLE BEFORE START OF MINISTERIAL SPACE CONFERENCE IN BONN ON 12 NOV. IT WOULD CONTRIBUTE GREATLY TO POSSIBILITIES THAT MINISTERS COULD MAKE ESSENTIAL DECISIONS ON FUTURE EUROPEAN SPACE PROGRAM. AUBINIERE ADDS THAT GOF CABINET WILL MEET ON 29 OCT TO ESTABLISH GOF POSITION CONCERNING FUTURE EUROPEAN SPACE PROGRAM, AND THAT IF US CONSIDERATION OF REQUEST HAS PROGRESSED BY THAT DATE TO POINT WHERE IT WOULD BE POSSIBLE TO SIGNAL TO HIM PROBABLE NATURE OF REPLY, IT COULD HAVE MAJOR IMPACT ON FRENCH POSITION AT BONN.

3. AUBINIERE (PROTECT SOURCE) ADDED THAT MIN STOLTENBERG HAD QUICKLY APPROVED XYYER-AUBINIERE PROPOSAL TO INQUIRE AT THE TECHNICAL LEVEL ABOUT US LAUNCH, BUT THAT GOF APPROVAL HAD BEEN MORE DIFFICULT. WHEN REMINDED THAT HE HIMSELF SAID SOME TIME AGO THAT SYMPHONIE WOULD BE USED OPERATIONALLY IF IT SURVIVED AFTER EXPERIMENTS WERE COMPLETED. AUBINIERE SAID ANY IDEA OF OPERATIONAL USE HAD NOW BEEN COMPLETELY ABANDONED FOR THE CURRENT PROJECT. HE EMPHASIZED THAT GOF DID NOT PRECLUDE A FOLLOW-ON OPERATIONAL PROJECT USING A EUROPEAN LAUNCH VEHICLE. IT WAS HIS OPINION THAT SUCH A FOLLOW-ON PROJECT WOULD HAVE TO BE COMPATIBLE WITH THE INTELSAT AGREEMENT AS IT THEN EXISTED.
SHRIVER

Department of State

TELEGRAM

~~CONFIDENTIAL~~ 482

DECLASSIFIED
E.O. 13526, Sec. 3.3(b)(6)
ISCAP 2014-043
By ISCAP, NARA, Date 11/13/14

PAGE 01 PARIS 22858 240934Z

19
ACTION SCI 05

INFO EUR 15, IO 13, ACDA 16, MC 01, CCO 00, CIAE 00, DTM 02, E 15, FCC 02,
INR 07, NSAE 00, OC 06, RSC 01, DODE 00, GPM 04, H 02, L 03, NSC 10, P 04,
SP 02, SS 25, USIA 12, COM 08, RSR 01, /154 W

040021

P 240900Z OCT 68
FM AMEMBASSY PARIS
TO SECSTATE WASHDC PRIORITY 7391
INFO NASA WASHDC PRIORITY
AMEMBASSY BONN
AMEMBASSY BRUSSELS
AMEMBASSY THE HAGUE
AMEMBASSY LONDON
USMISSION GENEVA

EXECUTIVE OFFICE OF THE PRESIDENT
1968 OCT 24 PM 1 22
OFFICE OF EMERGENCY PLANNING-MAIL ROOM WASHINGTON 25, D.C.

C O N F I D E N T I A L PARIS 22858

SUBJ: EMBASSY RECOMMENDATION RE SYMPHONIE LAUNCH REQUEST

REF: (A) PARIS 22443; (B) STATE 150329; (C) CA-10678
(D) HAGUE 7650; (E) STATE 246910

1. EMBASSY BELIEVES THAT US REPLY TO SYMPHONIE INQUIRY (REF A) SHOULD BE FAVORABLE IN PRINCIPLE, AND IF POSSIBLE MADE BEFORE NOV 12 MEETING OF SPACE MINISTERS. SYMPHONIE IS DESCRIBED AS EXPERIMENTAL AND THEREFORE, PENDING CLARIFICATION OF ITS EXACT ROLE, WOULD SEEM TO BE ELIGIBLE FOR A US LAUNCH WITHIN PUR-VIEW OF VALLONTON REPLY (REF B). HOWEVER, IN OUR VIEW THE SYMPHONIE INQUIRY IS NOT YET A SUFFICIENTLY PRECISE PROPOSAL WITHIN THE CONTEXT OF THE LINDNER CONVERSATIONS (LAST PARA PAGE 4 REF C).

2. FOR EXAMPLE, WE THINK IT IMPORTANT THAT THE SYMPHONIE CON-SORTIUM BE REQUIRED TO DEFINE MORE CLEARLY THE USES TO WHICH THE QUOTE EXPERIMENTAL SATELLITE UNQUOTE MIGHT BE PUT. IN A MORE GENERAL VEIN, FRANCE HAS NEVER BEEN PRECISE ON THE SCOPE OF COVERAGE FOR A QUOTE REGIONAL UNQUOTE COMMUNICATIONS SATELLITE OR SATELLITE SYSTEM. THUS, IT SEEMS TO US IT WOULD BE WISE,

~~CONFIDENTIAL~~

AS WELL AS OPPORTUNE, IN THE PRESENT SITUATION TO TRY TO MANEUVER EUROPEANS AND ESPECIALLY FRENCH INTO POSITIONS REQUIRING PROPOSED DEFINITIONS OF TERMS. THIS QUESTION ALSO ARISES IN CONNECTION REF D WHICH TENDS PLACE ON THE U.S. THE ONUS FOR DEFINITION.

3. EMB HAS RECEIVED VERY FAVORABLE COMMENTS FROM MANY QUARTERS ON U.S. LAUNCHER POLICY OF REF E. WHILE EXPRESSING APPRECIATION FOR PRESENT COOPERATIVE U.S. POSTURE, PROF. BONDI, SECRETARY GENERAL OF THE EUROPEAN SPACE CONFERENCE, SAID HE RECOGNIZES IT GOES AS FAR AS U.S. COULD BE EXPECTED TO GO PRIOR TO DEFINITIVE INTELSAT NEGOTIATIONS AND UNTIL EUROPEANS PUT THEIR HOUSE IN ORDER AND MAKE OWN DECISIONS ON FUTURE PROGRAMS. BONDI COMMENTED THAT HE WAS SOMEWHAT EMBARRASSED THAT LINDNER MISSION HAD TAKEN PLACE IN ABSENCE A SPECIFIC EUROPEAN COOPERATIVE PROPOSAL. SHRIVER

Department of State

TELEGRAM

23

~~CONFIDENTIAL~~ 198

DECLASSIFIED
E.O. 13526, Sec. 5.3(b)(3)
ISCAP 2014-045
By ISCAP, NARA, Date 11/13/14

PAGE 01 PARIS 22816 231517Z

53
ACTION E 15

INFO EUR 15, IO 13, L 03, SS 25, GPM 04, NSA 02, CIAE 00, DODE 00, INR 07,
P 04, RSC 01, USIA 12, SCI 05, OC 06, CCO 00, COM 08, DTM 02, FCC 02,
NASA 04, OST 01, DOT 12, OIC 05, AF 10, ARA 08, EA 10, NEA 13, NSC 10,
RSR 01, /198 W

034835

R 231415Z OCT 68
FM AMEMBASSY PARIS
TO SECSTATE WASHDC 7349
INFO AMEMBASSY BERN
AMEMBASSY BONN
AMEMBASSY BRUSSELS
AMEMBASSY COPENHAGEN
USMISSION GENEVA
AMEMBASSY LISBON
AMEMBASSY LONDON
AMEMBASSY MADRID
AMEMBASSY OSLO
AMEMBASSY ROME
AMEMBASSY STOCKHOLM
AMEMBASSY THE HAGUE

C O N F I D E N T I A L PARIS 22816

SUBJ: INTELSAT: FRENCH REPLY TO U.S. PROPOSAL FOR 1969 CONFERENCE

REF: A. CA-11051
B. PARIS A-2492

SUMMARY: BOISGELIN OF FONOFF GAVE EMB GOF'S RESPONSE TO U.S. TENTATIVE PROPOSALS FOR 1969 CONFERENCE ON PERMANENT ARRANGEMENTS FOR INTELSAT, AS FOLLOWS: (1) FRENCH AGREEABLE TO PROPOSED DATE FOR CONFERENCE. (2) WOULD LIKE TO SEE AS BROAD REPRESENTATION AT CONFERENCE AS POSSIBLE, PARTICULARLY TO HAVE USSR THERE, IRRESPECTIVE OF MEMBERSHIP IN INTELSAT, WITH EQUAL PARTICIPATING RIGHTS FOR ALL ATTENDING. (3) GOF OVERALL POSITION RE INTELSAT UNCHANGED WITH SPECIFIC REFERENCES MADE TO REGIONAL SYSTEMS,

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

DIRECT OWNERSHIP, INTELSAT IV, AND COORDINATING ROLE FOR GLOBAL SYSTEM. (4) BOISGELIN CITED ALLEGED PROPOSAL TO PUNISH FRENCH FIRMS BECAUSE GOF VOTED AGAINST INTELSAT IV.

1. BOISGELIN OF FONOFF CALLED IN EMBOFF TO GIVE FRENCH REPLY TO OUR PRESENTATION (REF A). REPLY IN ESSENCE WAS RESTATEMENT FAMILIAR FRENCH POSITION ON INTELSAT AND A SATELLITE COMMUNICATIONS SYSTEM IN GENERAL WHICH DETAILED BELOW AND SIMILAR UN PRESENTATION (USUN 7221). ONLY POSSIBLY DIFFERENT NOTE WAS CASUAL, ALMOST RESIGNED REMARK, NEAR END OF THE CONVERSATION TO EFFECT THAT "WELL POSITIONS DO CHANGE." ALSO, BOISGELIN CONVEYED IMPRESSION HE GOING THROUGH EXERCISE RATHER THAN ESPOUSING STRONGLY HELD VIEWS.

2. FRENCH BELIEVE ORGANIZATION OF CONFERENCE WILL HAVE DIRECT EFFECT ON SUBSTANCE OF MEETING, THEREFORE, ATTACH GREAT IMPORTANCE TO IT. AT PRESENT TIME, THEY SEE RISK OF TWO COMPETING SYSTEMS: U.S. AND U.S.S.R. PROPOSALS. (WHEN REMINDED THAT FRENCH PARTICIPATED IN SETTING UP OF INTELSAT AND THAT SOME 60 PLUS OTHERS BESIDES U.S. NOW MEMBERS, BOISGELIN SAID, NO MATTER, SITUATION IN 1964 WAS SUCH THAT U.S. DICTATED TERMS OF INTELSAT AND HAS DOMINATED IT EVER SINCE.) FRENCH, HE SAID HAVE TALKED TO SOVIETS RECENTLY ABOUT SATELLITE COMMUNICATIONS, AND PARTICULARLY ABOUT INTERSPUTNIK, AT WHICH TIME THEY ASKED SOVIETS IF THEY PLANNED ATTEND FEB. CONFERENCE TO WHICH REPLY WAS "WE HAVE NOT BEEN INVITED." BOISGELIN SAID CANDIDLY THAT WHEN THEY FURTHER ASKED WHETHER THEY WOULD COME IF SPECIFICALLY INVITED, SOVIETS DID NOT REPLY AND SEEMED DISINTERESTED.

3. NEVERTHELESS, FRENCH BELIEVE GREAT EFFORT SHOULD BE MADE GET SOVIETS AS WELL AS OTHERS TO ATTEND. MOREOVER, ALL WHO ATTEND SHOULD HAVE SAME RIGHTS: I.E., TO VOTE, TO SPEAK, ETC. TO RESTRICT VOTE TO INTELSAT MEMBERS IS, IN EFFECT, HE SAID, ASKING THAT SOMEONE JOIN A GROUP BEFORE THEY ARE ALLOWED TO HAVE A SAY-SO IN WHAT ITS RULES AND PURPOSES WERE TO BE. FRENCH DO NOT HOLD WITH US THAT CONFERENCE IS FOR MEMBERS TO REVISE THEIR OWN RULES. RATHER, THEY VIEW PRESENT STAGE AS AN INTERIM ONE WHICH NOW ENDING; NEXT STEP IS TO CONSTRUCT A TRULY INTERNATIONAL SYSTEM WHICH "WILL BE A PUBLIC SERVICE FOR ALL MANKIND." THIS CAN ONLY BE DONE IF NEW SYSTEM NOT TIED TO OLD. BOISGELIN ADMITTED THERE DANGER THAT LARGE CONFERENCE WITH SOME PARTICIPANTS WHO HAVE GIVEN NO INDICATION THEY PREPARED

~~CONFIDENTIAL~~

TO JOIN UNDER ANY CONDITIONS RAN RISK OF LEADING TO STALEMATED CONFERENCE, BUT THIS IS RISK THAT MUST BE TAKEN. IF IT DOES NOT WORK, THEN WE CAN GO ON FROM THERE, BUT WE WILL HAVE TRIED, HE SAID. FRENCH WOULD, HOWEVER, HAVE SOME QUALIFYING RESTRICTION SUCH AS MEMBERSHIP IN UN OR ITU, PREFERABLY LATTER.

4. TURNING TO REGIONAL SYSTEMS, BOISGELIN NOTED ITS FRENCH VIEW THAT EACH AREA HAD DIFFERENT REQUIREMENTS FOR SATELLITES AS TO TYPE, FUNCTION, ETC. IT SEEMED LOGICAL TO FRENCH, THEREFORE, THAT EACH AREA SHOULD DECIDE ON OWNERSHIP, TYPE, SIZE, ETC. WITH GLOBAL ORGANIZATION PLAYING ONLY COORDINATING ROLE, ALTHOUGH THEY COULD EVEN SEE PLACE FOR COMPETITIVE SYSTEMS. BOISGELIN STATED THAT FRENCH HAVE BEEN TALKING ABOUT REGIONAL SYSTEMS CONSIDERABLY WITH THEIR EUR. PARTNERS AND THEY WILL BE DISCUSSING THESE VWITH THEM AGAIN NEXT WEEK IN LONDON AT CETS MEETING AS WELL AS AT BONN LATER.

5. COMMENTING ON COMMON FINANCIAL INTEREST ARGUMENT (PARA 3-A, REF A.), BOISGELIN SAID FRENCH DID NOT FEEL STRONGLY ABOUT THIS. ADJUSTMENTS COULD BEUNORKED OUT TO SUIT PRESENT FINANCIAL PARTNERS. THEN WENT ON TO SAY FRENCH DID NOT FEEL THAT THEY WERE VERY MUCH OWNERS OF INTELSAT ANYWAY. THEY HAVE GOTTEN LITTLE OR NOTHING OUT OF IT AS OWNERS. WHEN ASKED WHETHER THIS MEANT THEY FELT INTELSAT HAD BEEN POOR INVESTMENT FOR THEM AND THAT SATELLITE COMMUNICATION EXCESSIVELY COSTLY, HE ADMITTED IT HAD PROVIDED EXCELLENT ERVICE, BUT THAT FRENCH DID NOT FEEL IT REALLY A JOINT VENTURE, A VIEW WHICH HE SAID WAS SHARED BY MANY OTHERS. ALSO, FELT THERE HAS BEEN SOME OVERINVESTMENT AND THAT NETWORK WAS TOO LARGE FOR PRESENT NEEDS WHICH LED DIRECTLY INTO DISCUSSION OF INTELSAT IV.

6. ON INTELSAT IV, HE NOTED THAT ORDERS FOR SUB-CONTRACTING BY FRENCH AND EUROPEAN FIRMS HAD IN VIEW OF GOF "COME JUST IN TIME". HE THEN SAID THAT GOF HAD HEARD THAT BECAUSE FRENCH HAD VOTED AGAINST INTELSAT IV PROJECT, COMSAT, "WITH BLESSING OF THE STATE DEPARTMENT", HAD INSTRUCTED HUGHES NOT TO GIVE ANY SUB-CONTRACTS TO FRENCH FIRMS. HOWEVER, HUGHES HAD, ON REFLECTION, DECIDED TO RETAIN THE PRIVATE FRENCH FIRMS BUT NOT TO LET SUB-CONTRACTS TO CNES. SUCH ACTION WOULD NOT HAVE OCCURRED, HE BELIEVED, IN AN ORGANIZATION WHERE ALL MEMBERS WERE IN A BETTER POSITION TO PARTICIPATE IN ITS CONTROL.

Department of State TELEGRAM

23

~~CONFIDENTIAL~~

PAGE 04 PARIS 22816 231517Z

7. OMITTED FROM THE FRENCH PRESENTATION WAS ANY MENTION OF THE ONE-MEMBER, ONE-VOTE CONCEPT, AND ANY SIGNIFICANT CRITICISM OF THE ROLE OF COMSAT, OTHER THAN THE REFERENCE TO ITS ROLE IN CONNECTION WITH INTELSAT IV CONTRACT. ON OTHER HAND, BOISGELIN ACKNOWLEDGED THAT THE GOF POSITION REMAINED ESSENTIALLY AS SET FORTH IN THEIR PAPER OF LAST AUGUST TO THE ICSC (REF B)

SHRIVER

~~CONFIDENTIAL~~

Copy to Messrs. O'Malley
Clark
Plummer
Olsson

DEPARTMENT OF STATE

Washington, D.C. 20520

LIMITED OFFICIAL USE

SEP 9 1968

The Honorable
James D. O'Connell
Director of Telecommunications
Management
Executive Office of the
President
Washington, D. C. 20504

Dear Jim:

Your letter of August 23, 1968 has been read here with considerable interest. You have raised a number of important points regarding the interrelationship of the recent INTERSPUTNIK proposal, INTELSAT, and the proposed United States domestic satellite system, which certainly deserve serious consideration when the domestic satellite question is discussed by the Task Force. In light of the extensive discussions in the past on this issue, both in the Foreign Policy Sub-Group and in the Task Force, I believe we must now thrash the various points of view out in the Task Force forum. I will, of course, be cognizant of your views at the next meeting on this subject.

Sincerely yours,

Anthony M. Solomon
Assistant Secretary

DECLASSIFIED
E.O. 13526, Sec. 3.3b
By MW, NARA, Date 11/30/10

~~CONFIDENTIAL~~

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF TELECOMMUNICATIONS MANAGEMENT
WASHINGTON, D.C. 20504

OFFICE OF THE DIRECTOR

August 23, 1968

The Honorable Anthony M. Solomon
Assistant Secretary of State
for Economic Affairs
Department of State
New State Building
Washington, D. C. 20520

DECLASSIFIED
E.O. 13526, Sec. 3.3b
By MW, NARA, Date 11/29/10

Dear Tony:

The recent proposal made by the Soviet Union for an international commercial communications satellite system seems to warrant special consideration as it relates to the proposed domestic United States pilot program.

As you know, it has been my view that the clearest example of our support for INTELSAT would be a decision by the United States to request INTELSAT to provide the space segment for our pilot program without however making any further or longer range commitments to such a policy. Not only would this provide a clear and unmistakable indication of support, but it would also remove, at least temporarily, the "regional system" problem. In my view, the regional problem at this stage continues to be a substantial threat to the future of INTELSAT.

Even though there are sixty-two nations in INTELSAT, more than forty are "developing countries" -- some of which might be persuaded by the Soviet Union or others to abandon INTELSAT, because their investment and commitment are not that great. Even if it were substantial and earth stations were in existence in those countries, there would be no insuperable problem in reorienting the earth station antenna toward a different space segment. I am sure that you will agree that the United States ought to make every reasonable effort to keep the faces of these nations turned toward the West, particularly in view of the international conferences which will be held during the next several years in which the matter of allocation of radio frequencies for space communications will be reopened.

Another, and perhaps even more persuasive, reason for obtaining service for the domestic pilot program through INTELSAT is that it

~~CONFIDENTIAL~~

would provide a means whereby the Soviet Union can come into INTELSAT on a more equal footing with the major Western nations. This is because the Soviet Union, with its rather thin domestic communications network, can utilize domestic satellites far more extensively and cost effectively than can the United States with its dense terrestrial system. If the Soviet Union should decide to utilize communication satellites as the principal means to cover the vast distances within the Soviet Union, and if it were agreed that no one INTELSAT member should have more than a 45 per cent ownership interest in INTELSAT it could well be that the ownership interest of the Soviet Union could approach a respectable percentage level rather than the rather insignificant per cent level which would be the case if it relied solely on its international service as a basis for its interest in INTELSAT.

Procurement of domestic service through INTELSAT would not be inconsistent with the draft Definitive Arrangements proposed to the INTERIM Committee of INTELSAT last October. While the Definitive Arrangements proposed by the United States make allowance for domestic systems outside of INTELSAT, provision is also made for procurement of domestic service through INTELSAT. Therefore, there would be no inconsistency with that proposal if the United States were now to announce that it will obtain domestic satellite service through INTELSAT on an experimental basis. Any concern that the United States would be basing its domestic policy merely on international speculation can be answered by a policy statement that the United States would re-examine its position after the Definitive Arrangements have been finalized and it has had some experience with the domestic pilot system with a view toward determining what its permanent arrangement for domestic service should be. It seems to me that this tactic would not only protect United States interests, but also would provide some counter-leverage to be used against any Franco-Swiss effort to fragment INTELSAT into a loose configuration of regional systems.

One final point. Procurement of domestic service through INTELSAT can be arranged so that it will not penalize the United States financially. The sharing of common satellites by the United States, Canada, Mexico, or any other group of countries within INTELSAT, will produce substantial cost savings which would not obtain if each country were to launch its own satellite. The principal reason for considering the procurement of domestic service outside of INTELSAT was political rather than economic, the thought being that Congress would probably not approve of such an arrangement because it might impinge on United States

jurisdiction over its domestic communications. It would appear that the Soviet proposal could be used to outweigh potential domestic political repercussion against an INTELSAT procurement by the United States.

I am convinced that it would be in the best interest of the United States to procure the satellite segment for its domestic pilot program through INTELSAT on an experimental basis. I would hope that before any contrary decision is made that full weight and consideration be given to the Soviet proposal as it impacts on this area.

Sincerely,

J. D. O'Connell

cc: The Honorable Eugene V. Rostow
Dr. Edward Welsh
The Honorable Leonard Marks
Mr. Douglass Cater
Mr. DeVier Pierson

FORM DS-14
4-1-55

DEPARTMENT OF STATE
WASHINGTON

INTERDEPARTMENTAL REFERENCE

DATE: 1/16/68

REFERRED TO: Mr. James D. O'Connell

RE:

WRITER ☐ HAS ☐ HAS NOT BEEN INFORMED OF THIS REFERENCE

COMMENTS:

Frank Loy asked that I distribute the attached legal opinion to the members of the Task Force's Subcommittee on Foreign Policy. This legal opinion is Tab C to our draft paper of December 14, 1967 entitled "A Preliminary View of Foreign Policy Implications of a Communications Satellite System for United States Domestic Purposes". He also asked me to distribute a copy to Mr. Pierson, Mr. Bowie and Mr. Novak which I have done.

Attachment.

DECLASSIFIED
E.O. 13526, Sec. 5.3(b)(3)
ISCAP 2014-043
By ISCAP NARA, Date 11/13/14

SIGNATURE: Thomas E. Nelson

OFFICE OR DIVISION: Office of Telecommunications

~~CONFIDENTIAL~~

DEPARTMENT OF STATE

THE LEGAL ADVISER

MEMORANDUM January 12, 1968

TO: E - Mr. Anthony M. Solomon

FROM: L - Leonard C. Meeker

SUBJECT: Domestic Communications Satellite System for the United States - MEMORANDUM OF LAW

Your memorandum dated November 29, 1967, asks our opinion whether "the authorization and establishment of a United States commercial satellite system, which would render communication services only for domestic needs and which would not be established by the consortium created by the Agreements dated August 20, 1964 ... would or would not be a breach of the obligations of the United States under the Agreements." We have considered this specific question and also the question -- which we believe to be unavoidably related -- whether such a system can be established consistent with the Communications Satellite Act of 1962.

Our conclusion is that the Interim Agreement of 1964 binds the United States not to establish any separate commercial satellite system (the United States has taken the position that the definitive agreement to be negotiated should explicitly allow such systems). It might be contended that the language of the Interim Agreement is ambiguous in this regard, but if so we feel that any ambiguity is eliminated by the negotiating history, which makes it clear that the United States intended the Agreement to preclude separate

commercial systems and convinces us that the United States and the Europeans had a mutual understanding that the language finally agreed upon did have this effect. As to the Comsat Act, we conclude on the basis of the language of the pertinent sections and the legislative history that the Act precludes any domestic satellite system established to carry conventional commercial traffic, but might be read to permit a specialized alternative system to be established if the President determined that it would serve some particular national interest of overriding importance. To the extent any such specialized system could be regarded as noncommercial, its establishment would not contravene the Interim Agreement.

A. The Interim Agreement

The operative provisions of the Agreement Establishing Interim Arrangements for a Global Commercial Communications Satellite System (TIAS 5646, the "Interim Agreement") do not speak directly to the question whether other satellite systems may be established to provide domestic or international commercial service. However, the Preamble to the Interim Agreement recites that the parties entered into the Agreement

> "Desiring to establish a single global commercial communications satellite system as part of an improved global communications network which will provide expanded telecommunication services to all areas of the world and which will contribute to world peace and understanding;" and

"Believing that it is desirable to conclude interim arrangements providing for the establishment of a single global commercial communications satellite system at the earliest practicable date, ..."

Article I of the Interim Agreement obligates the parties to cooperate to provide for the construction and operation of the space segment of the global system "in accordance with the principles set forth in the Preamble ...." Although the remainder of the Agreement contains no further language shedding light upon the question raised, it appears that the foregoing language does commit the parties to a "single global commercial communications satellite system." The question is therefore whether the commitment in this language is to be interpreted as precluding the parties to the Interim Agreement from establishing any commercial satellite system other than that established under the Agreement. (Although the Agreement is not explicit in this regard, it has been assumed and indeed never doubted that independent national governmental -- noncommercial -- satellite systems are permitted.)

It might be argued that the phrase "single global commercial communications satellite system" means that there shall be only the one global commercial communications satellite system but that other systems of more limited scope may also be put into operation. However, we feel that this phrase is, on its face, more reasonably read as committing the parties to a single commercial system,

worldwide in character, and thus precluding the establishment of other commercial satellite systems, whatever their scope. But the absence from the Interim Agreement of any explicit prohibition against other commercial satellite systems does leave the matter in sufficient doubt to require an examination of the negotiating history as the basis for our conclusion.

We find the negotiating history to be absolutely clear that it was the intent of the United States that the quoted preambulatory language should preclude all other commercial systems and to be reasonably clear that the major European parties had the same understanding.

Formal negotiation of the Interim Agreement began with meetings in London in April 1964 between representatives of the United States and the countries of Western Europe (joined together in the European Conference on Satellite Communications). On the basis of preliminary exchanges of views, the United States and the European Conference each presented a draft agreement for discussion at these meetings. Both drafts included in their Preambles the substance of the first preambulatory passage quoted above ("Desiring to establish a single global commercial communications satellite system ..."), but did not include the repetition of the same phrase, describing the interim arrangements, that appears in the last paragraph of the final Preamble as quoted above.

The original European draft included a proposed Article allowing separate commercial systems. The United States not only opposed its inclusion but subsequently also proposed alternative language to make the agreement clear that separate commercial systems would not be allowed. The absence of such explicit prohibitory language in the ultimate agreement was the result of an agreement at the final plenary conference held in Washington in July 1964, the circumstances of which we feel make clear that both the United States and the Europeans intended the final two preambulatory references to a "single global commercial satellite system" to be interpreted as precluding separate commercial systems.

The prohibition of such separate commercial systems was one of the major elements of the United States position at the plenary conference. The history of the prior negotiations relating to this matter was described in the United States position paper as follows:

> "An early European draft of the intergovernmental agreement contained a provision stating that nothing in the agreement precluded any party thereto from establishing additional satellite systems if required in the national interest or to meet unique governmental needs. The Communications Satellite Act of 1962 was the source of the language. The provision was put in the European draft at the insistence of the French. The clause was objectionable to the United States in that it was interpreted to permit any party to participate in or sponsor a separate commercial communications satellite system. This is an erroneous interpretation of the intent of the Communications Satellite Act and is in conflict with United States policy, reflected

in the Preamble of the Agreement, which favors a single global commercial system. At the drafting session held in London May 25-29 the United States delegation succeeded in rephrasing the clause to make it consistent with our policy. At the last London meeting the United States delegation was informed by the French delegate that unless the clause was dropped from the Agreement he was under instructions to state that his government could not sign. The United States delegation agreed to drop the clause, relying on the provision of the Preamble which referred to the desire of the parties to establish a single global system.

Subsequently the French press carried stories to the effect that France is now free to establish a separate system if it so desires. Accordingly, the United States has proposed two changes in the Agreement ...."

The first change proposed by the United States was an amendment of the last paragraph of the Preamble so as to add the language underlined below:

"Believing that it is desirable to conclude interim arrangements providing for the establishment of a single global commercial communications satellite system at the earliest practicable date. ..." (Emphasis added.)

Also, a new paragraph would be added to the Agreement:

"Each of the Parties to this Agreement agrees that it will not participate in any commercial communications satellite system other than the single global system which is the subject of this Agreement. Nothing in this Agreement shall preclude the creation of additional communications satellite systems if required to meet the unique governmental needs of any of the Parties to this Agreement."

These two changes were, as noted, a part of the United States position for the plenary conference. The United States Delegation had authority to agree to a revision of this language only if such

revisions did not change this position; the position paper referred to the possible necessity of a further "final decision" as to this matter depending upon the strength of the French position.

At the plenary conference, Leo D. Welch, Vice-Chairman of the United States Delegation, explained the United States desire to add the new paragraph quoted above as follows:

> "The United States has no intention of establishing a competing system, and it stands ready now to make a formal commitment to that effect in the form we have proposed for inclusion in the intergovernmental agreement. We cannot invest our resources in the joint development of a system designed to provide services to the entire world and then find that the system is not supported wholeheartedly and exclusively by our own partners. If any of us were to establish a separate commercial system, no matter how limited its scope, it could only be to the detriment of the system intended to be established under the agreements which we are now negotiating, since we are all committed to making that system one with comprehensive global coverage."

The result was that the proposed United States change in the Preamble was accepted by the Europeans and became part of the agreement, but the proposed paragraph explicitly precluding separate commercial systems was withdrawn. The summary record of the third plenary session of July 23, 1964 records the crucial colloquy as follows:

> "Mr. Ortona explained that the European Conference had given considerable thought to these proposed revisions. He stated that Item 1 of Doc. 5, the amendment to the Preamble of the Agreement, was acceptable to the European Conference. He wanted to emphasize that all should work with the full understanding that it is intended that there will be only a single global commercial satellite system. With this in mind he suggested that the revision proposed by Item 2 of Doc. 5 was not necessary. He would, however, reassure the conference that it was the complete conviction of the European Conference that they would not participate in any other system other than the one which everyone is now working toward.

He, therefore, asked whether the U.S. Delegation would withdraw its proposed addition of paragraph (c) of Article I of the Agreement.

M. de la Grandville (France) stated that his country fully supported the views expressed by Mr. Ortona.

Mr. Leo D. Welch (U.S.) stated that in view of the expressions of the Italian and French Delegates, the United States would withdraw its proposed addition (Item 2, Doc. 5) and only add the paragraph proposed by Item 1, Doc. 5 to the Preamble of the Agreement."

We think the foregoing discussion makes it entirely clear that it was the position of the United States that the agreement should preclude the parties from establishing any separate commercial satellite system and allow separate systems only "for unique Governmental uses." We believe that the statements of Ambassador Ortona and of the French delegate at the July 1964 conference indicate that the European Conference essentially accepted the United States position. Moreover, the United States Delegation evidently regarded the result of the conference as consistent with its instructions not to relinquish the prohibition on separate commercial systems without further authority.

Therefore, we believe that the phrase "single global commercial communications satellite system" as used twice in the Preamble to the Interim Agreement states an agreement by the parties not to establish separate commercial satellite systems.

B. The Communications Satellite Act of 1962

The Comsat Act provides for the establishment of the Comsat Corporation and specifically authorizes it, in section 305, to establish and operate, either itself or in conjunction with foreign governments or business entities, "a commercial communications satellite system." There is nothing in the Act itself that either specifically authorizes any other system than that which has been set up by INTELSAT or provides any specific procedure whereby the FCC or any other arm of the Government may authorize the establishment of any other system. There is no doubt under the Act that the Government itself may establish other systems consistent with the requirements of the Act pursuant to the procedures normally followed for the establishment of Government communications systems. The question remaining is whether the FCC can, consistent with the Act, authorize such additional commercial systems in the exercise of its authority under the Communications Act of 1934, or whether such a system may be otherwise authorized.

The Comsat Act contains only two provisions that are directly relevant to the question at hand. First, the statute's declaration of policy and purposes reads as follows in section 102(d):

> "It is not the intent of Congress by this Act to preclude the use of the communications satellite system for domestic communication services where consistent with the provisions of this Act nor to preclude the creation of additional communications satellite systems, if required to meet unique governmental needs or if otherwise required in the national interest."

Second, section 201(a)(6) provides that "In order to achieve the objectives and to carry out the purposes of this Act -- the President shall --

> "take all necessary steps to insure the availability and appropriate utilization of the communications satellite system for general governmental purposes except where a separate communications satellite system is required to meet unique governmental needs, or is otherwise required in the national interest;"

Two things are clear from this statutory language: First, the international satellite system contemplated by the Act can be used for domestic United States communications when and if that becomes feasible. Second, by a necessary negative implication from the final clause of each section, a system other than the international system can be established consistent with the Act only if that system is "required to meet unique governmental needs" or is "otherwise required in the national interest." Since the first of these phrases clearly would not authorize a commercial system in any ordinary sense, and since there is no other pertinent language in the statute, the statute allows the establishment of an independent satellite system to carry commercial traffic only if

such a system can be regarded as "required in the national interest." The question thus becomes one of interpretation of this crucial phrase in the light of the overall statutory scheme and, if need be, the legislative history of the Act.

It is our view that -- although the language of the Act is not absolutely clear -- the quoted sections should most reasonably be read as not contemplating the establishment of additional satellite systems to carry conventional commercial traffic. And the legislative history makes it quite clear that this is the proper reading.

Section 214 of the Communications Act of 1934 provides that before conventional common carrier facilities can be established the FCC must first determine that the "public convenience and necessity require or will require" the establishment of such facilities. This criterion is, of course, common to a great variety of statutes governing authorizations in regulated industries. It seems to us logical that, if Congress had intended to allow separate satellite systems to be established for the same purposes as conventional communications common carrier systems, it would have used this conventional language. But Congress did not. Rather, it used the phrase "required in the national interest", which carries a wholly different set of connotations relating to matters of important governmental activity. Moreover, the fact that the other sections of the Act referring specifically to the duties of the FCC with respect to the international system (sections 201(c)(7), (8), (9) and (10); 304(b) and (f); 401(c)(ii)) do direct

the FCC to apply its conventional standard of "the public interest, convenience and necessity" indicates that the phrase "required by the national interest" was deliberately intended to have a special meaning.

Thus, we feel that the carriage of ordinary commercial traffic is not a kind of activity that would be "required in the national interest" in the normal sense of those words as used in the statute. We recognize that during the 1964 negotiations the United States Delegation apparently felt that the similar language proposed in the European draft of the Interim Agreement would allow separate commercial systems. But the meaning that such language might be given in an international agreement is not necessarily the same as the meaning it would have in the context of a well developed framework of United States domestic law. In fact, the United States delegation took the position in the negotiation that the United States statute did not allow separate commercial systems and negotiated on that basis. If anything, this reinforces our interpretation of the Act. Though subsequent conduct by the Executive obviously is not controlling with regard to interpretation of Congressional intent, we think such conduct can serve to reinforce other evidence of intent particularly when, as here, a substantial part of the pertinent statutory language was originally drafted by the Executive.

At the very least, the statutory language puts a burden on anyone proposing the establishment of any kind of nongovernmental satellite system to show that Congress' language was intended to allow such a system. By clear negative implication the Act precludes any satellite system not within the scope of the two quoted phrases. We feel that the legislative history is quite clear that in making what amounts to exceptions to a general prohibition Congress had in mind only governmental systems, and that the purpose of the "national interest" phraseology was to permit governmental systems to carry traffic for which there is something less than a "unique governmental need" -- for example, USIA program material. There is no indication of any substance in the legislative history that Congress had any intention of allowing the establishment of separate commercial systems, and indeed there are substantial indications of a specific intent to reserve to itself any possible future authorizations of additional commercial systems. Because of its length, our analysis of the legislative history is appended hereto as a separate memorandum.

Our interpretation of sections 102(d) and 201(a)(6) of the Comsat Act is reinforced by a general view of the Act as a whole. We regard the Act as establishing a comprehensive legislative scheme to govern the entire field of United States commercial

satellite activities. The fact that this comprehensive statute has no affirmative provision specifically empowering the FCC to authorize any commercial satellite system indicates very strongly that the comprehensive scheme contemplated by Congress excluded any such system other than the INTELSAT system, which the Act itself authorized. Any authority of the FCC to permit the establishment of additional systems would have to be derived from its general powers under the Communications Act of 1934. But section 401 of the Comsat Act states explicitly that it shall prevail over the Communications Act of 1934 in case of any inconsistency. It appears to us that it would be inconsistent with the scheme of the Comsat Act were the FCC to assert any authority under the Communications Act of 1934 to allow additional commercial satellite systems.

* * *

We thus conclude that neither the Comsat Act nor the 1964 Agreements would permit the authorization of any separate United States commercial satellite system. However, we do feel that a possible alternative approach might be taken that might satisfy at least some of the goals that have been put forward in the pending FCC proceeding.

Although we conclude that ordinary commercial use would not justify a separate satellite system as "required in the national

interest" within the meaning of the Comsat Act, it might well be argued that certain types of nongovernmental traffic are of such special importance that their carriage on favorable terms is a matter "required by the national interest." Specifically, it might be said that free interconnection of educational television stations is a matter of such overriding national interest; one might go on to argue that a domestic satellite system that in effect finances such free carriage by the carriage of commercial traffic is similarly justified. (We do not, however, feel that it could reasonably be argued that the mere fact that the proceeds of carrying commercial traffic would be used for ecucational television make the system one required by the national interest, since money is obviously available for such purposes from other sources.) Alternatively, such a system might carry both educational and governmental traffic.

Such a possible approach would still run into the problem that the Act seems not to leave any procedure for authorizing nongovernmental satellite systems. However, the Act might well be interpreted as giving the President, under section 201(a)(6), the authority to determine not only the extent to which the Government should use the INTELSAT system or should establish independent systems for its own uses but also whether or not any nongovernmental purposes fall within the category that would qualify a satellite system as "required in the national interest."

To the extent that any such special satellite system did not carry ordinary commercial traffic, it would seem not to be inconsistent with the international Interim Agreement, since the system would then not be a commercial satellite system. A more serious, though perhaps not insurmountable, problem would be raised if any such system financed its basic educational purpose by the carriage of commercial traffic, but it might still be argued with some plausibility that the system remained a "noncommercial" one fundamentally.

UNCLASSIFIED

THE LEGISLATIVE HISTORY OF SECTIONS 102(d) AND 201(a)(6) OF THE COMMUNICATIONS SATELLITE ACT OF 1962

A. Introduction of the Legislation

In February 1962 President Kennedy submitted a proposal to the Congress calling for the establishment of a privately owned communications satellite corporation. The Administration proposal was introduced in the Senate as S. 2814 and in the House as H.R. 10115, the texts of the two bills being identical. The texts of the two relevant sections were as follows:

> Section 102(d). It is not the intent of Congress by this title to preclude the creation of additional communications satellite systems, if required to meet unique governmental needs or if otherwise required in the national interest.
>
> Section 201(a)(6). [The President shall] take all necessary steps to insure the availability and appropriate utilization of the communications satellite system for general governmental purposes which do not require a separate communications satellite system to meet unique governmental needs;

The Senate Aeronautical and Space Sciences Committee held hearings on S. 2814 and agreed, on March 28, 1962, to report the bill favorably with a number of amendments, none of which affected either of the two sections set forth above. S. 2814 was then referred to the Senate Commerce Committee for additional consideration. On April 2, 1962, Representative Oren Harris introduced H.R. 11040, identical in language to S. 2814, as favorably reported by the Senate Aeronautical and Space Sciences Committee.

B. Amended and Passed by the House

In early May, the Harris bill was taken up on the floor of the House of Representatives. During the debate Congressman Harris

offered an amendment to section 102(d) which read as follows:

> "(d) The Congress reserves to itself the right to provide for additional communications satellite systems as required to meet unique governmental needs or if otherwise required in the national interest."

In explaining this amendment to the House, Congressman Harris stated that the amendment had been suggested by the Speaker as a positive, rather than a negative, approach to the question of additional satellite systems. A copy of the complete text of Congressman Harris' remarks in presenting this amendment is attached hereto.

Although the language of the amendment evidently differed from that of the original version in requiring specific further Congressional approval for any additional governmental system, it appears from Congressman Harris' remarks and from the lack of any vocal opposition that the House did not regard this difference as significant.

C. Amended by the Senate Commerce Committee

H.R. 11040 as passed by the House on May 2, 1962, included the language of section 102(d) as amended by Congressman Harris. In this form, the bill was submitted to the Senate and referred to the Senate Commerce Committee. The Senate Commerce Committee amended section 102 (d) to read as it did in the final enactment. This language is as follows:

> "(d) It is not the intent of Congress by this Act to preclude the use of the communications satellite system for domestic communication services where consistent with the provisions of this Act nor to preclude the creation of additional communications satellite systems, if required to meet unique governmental needs or if otherwise required in the national interest." (emphasis supplied).

Thus, the Committee rejected the House amendment and returned to the original version, adding the underlined language.

In a letter to Senator Magnuson, Chairman of the Commerce Committee, the General Counsel of the Department of Defense discussed the differing language of H.R. 11040 and S. 2814 as follows:

> "Of special importance to the Department of Defense is the recognition [in the provision of S.2814 parallel to section 102(d) of the Comsat Act] that it "is not the intent of Congress by this title to preclude the creation of additional communications satellite systems, if required to meet unique governmental needs or if otherwise required in the national interest." A similar provision in H.R. 11040, as passed by the House, reads: "The Congress reserves to itself the right to provide for additional communications satellite systems if required to meet unique governmental needs or if otherwise required in the national interest." It was explained in the floor debate that this was intended to state the same thought as the language in S. 2814, but in a positive manner. The Department of Defense favors the language in S. 2814 and the intent of the language in H.R. 11040. This provision would make clear that the development and operation of a communications satellite system for national security needs, such as the ADVENT program, would in no way be affected by the establishment of the commercial system."

This comment suggests that the Department of Defense, like the House, did not consider the general intent of the provisions of the two bills to be different, and was concerned only to insure that it could proceed with establishment of a military comsat system without seeking further Congressional action.

With regard to the change in the language adopted by the House, the Senate Commerce Committee Report stated only the following:

> Subsection (d) originally read that it is not the intent of Congress to preclude the creation of additional communication satellite systems, if required to meet unique governmental needs or if otherwise required in the national interest. The committee amended this subsection to provide also that nothing in this act shall preclude the use of the system for domestic communication services where consistent with the provisions of the act. This clarification was made to avoid any possible inference that may be drawn from the other provisions of the bill that Congress had made a policy determination that use of the system be limited to international communications. While it is unlikely that the system will be usable initially for domestic services in the United States because of technical and economic limitations, it is conceivable that eventually use of the system for domestic services may become feasible and entirely consistent with the act.

Addition of the language regarding domestic services apparently resulted from the concern by members of the Commerce Committee that there be communication satellite facilities available for both non-unique Governmental and commercial domestic traffic. This view was reiterated by Senator Pastore during Senate debate when he stated that "public benefits ... may eventually become possible through the extension of the system from international to domestic services when technically and economically feasible." (108 Cong. Rec. 15819, August 17, 1962). The foregoing suggests rather strongly that the Commerce Committee did not anticipate establishment of a separate satellite system for domestic commercial traffic.

The Committee gave no explanation of its reason for rejecting the 102(d) language in the bill passed by the House. However, the change was probably made to accommodate the view of the Department of Defense that further Congressional authorization should not be required for a separate governmental satellite system. There is no

indication that the Committee had any disagreement with the House position that further Congressional authorization should be required for any separate commercial satellite system.

D. Considered by the Senate Foreign Relations Committee

Before the bill as reported by the Senate Commerce Committee was debated on the floor of the Senate, it was referred to the Senate Foreign Relations Committee. The deliberations of that Committee reflect considerable concern on the part of members of the Committee that to transmit USIA programs on the commercial system might be more expensive for the government than establishment of a government-owned system, and indicate that section 102(d) was regarded as designed to cover just this kind of problem. In this regard, the following colloquy between Senator Lausche, a supporter of the legislation, and Edward R. Murrow, Director of the USIA, is of interest:

THE ESTABLISHMENT OF ADDITIONAL COMMUNICATIONS SATELLITE SYSTEMS

Senator Lausche: ...

Now, in the same section in subparagraph (d) it is stated:

> It is not the intent of Congress by this Act to preclude the use of the communications satellite system for domestic communication services where consistent with the provisions of this Act nor to preclude--

Now pay attention especially --

> the creation of additional communications satellite systems if required to meet unique governmental needs or if otherwise required in the national interest.

That means that if the national interest and the governmental needs required, it is not intended to preclude the establishment of such services.

Now, with that as the premise, don't you now have governmental facilities that provide services operated by the Government to care for unique conditions?

Mr. Murrow. This would be my interpretation of the language in the bill.

Senator Lausche. And doesn't it seem that those who prepared this bill foresaw all of these dangers of which you speak, and, therefore, wrote in the bill that if the situation requires it, an additional satellite communications system may be established?

Mr. Murrow. That is my understanding, Senator Lausche. (Hearings, p. 144).

A number of other portions of Mr. Murrow's testimony (see e.g. Hearings, pages 145 to 148 and pages 164-165) support the view that the "additional systems" language was intended both by the Congress and by the Administration to refer only to additional systems established by the government for governmental traffic. And other portions of the hearings indicate that the focus was solely on the right of the government to establish systems for its own use. (E.g., Hearings pp. 204, 301-03). We have found no indication in the report or hearings of the Foreign Relations Committee -- or in those of the Commerce Committee -- of any intention that section 102(d) should be read to permit any commercial satellite system other than the one specifically provided for in the Act.

E. Debated and Passed by the Senate

The Senate enacted section 102(d) as it had been amended by the Commerce Committee. Our review of the floor debates has revealed

no, suggestion of any view that the language adopted was intended to permit additional commercial satellite systems to be established without further Congressional action and indicates, again, that the Senate's only concern was with governmental systems.

Senators Church and Lausche proposed on the floor an amendment to section 201(a)(6) to add to that section the reference to additional systems required in the "national interest" found in section 102(d). Senator Sparkman had suggested the amendment during the Hearings to Secretaries Rusk and McNamara as being intended simply to make the language of the two sections conform. (See pp. 180-1 and p. 302), and neither Secretary had expressed any objection. In presenting this conforming amendment to the Senate, Senator Church declared:

> " . . . we make certain that the door is left open for the Government to establish an alternative system, if experience should show that the national interest requires it . . . . The language of the bill . . . would require that the Government use that [single] instrumentality [which would own and operate the communication satellite system]. The Government would be deprived of the right to set up any kind of alternative system except for 'unique Governmental purposes.' (emphasis supplied)
>
> . . . I have tried to [point out] in my introductory statement that the testimony of the Secretary of State and Secretary of Defense . . . makes it perfectly clear that the term 'unique governmental need' is very narrowly confined to highly classified functions. Therefore, the bill in its present form fails to carry out the declared policy and purpose which appear in the preamble of the bill." (108 Cong. Rec. 15208, August 11, 1962)

In subsequently speaking for his proposed amendment to section 201(a)(6), Senator Church again referred to section 102(d) and stated:

"The wisdom of this last clause 'or if otherwise required in the national interest' is perfectly apparent. We cannot now foretell how well the corporate instrumentality established by this act will serve the needs of our people. If it should develop that the rates charged are too high, or the service too limited, so that the system is failing to extend to the American people the maximum benefits of the new technology, or if the Government's use of the system for Voice of America broadcasts to certain other parts of the world proves to be excessively expensive for our taxpayers, then certainly this enabling legislation should not preclude the establishment of alternative systems, whether under private or public management. And just as certainly is that gateway meant to be kept open, just in case we should ever have to use it, by the language to be found in the bill's declaration of policy and purpose to which I have referred." (108 Cong. Rec. 16362, August 13, 1962)

To be sure, the latter speech by Senator Church might in part be interpreted as contemplating an alternative "private" or commercial system. But we do not feel that this isolated reference, when compared with the clear statement, quoted above, which Senator Church made when introducing the amendment, casts significant doubt on the otherwise consistent pattern of the legislative history. Even the latter language is not necessarily inconsistent with the view that the Congress itself would make the judgment whether or when an alternative private system would be established. It certainly does not indicate that he contemplated such an alternative system could be established by simple act of the FCC.

Senator Lausche, the co-sponsor of the amendment, explained it as follows:

"The report of the Committee on Commerce described the language with reference to the unique governmental needs to mean that the Government, through the Department of Defense, might establish its own satellite system to supply the unique needs. The unique needs are the coded messages, the secret messages.

The amendment which has been offered by the Senator from Idaho and myself provides that the Government may set up its own satellite communications system to supply unique needs, which means the transmission of coded and secret messages, and may set up a separate satellite communications system when the national interest requires it." (Emphasis supplied) (108 Cong. Rec. 15335, August 13, 1962)

We think the foregoing discussions indicate clearly that the Senate intended the phrases "unique governmental needs" and "national interest" in sections 102(d) and 201(a)(6) to refer only to security and non-security government requirements, respectively. Thus, the Senate does not appear to have contemplated establishment of an additional private system for ordinary commercial traffic under authority of the Comsat Act.

F. Final Action in the House

The legislation as passed by the Senate was then reconsidered and adopted by the House with a minimum of debate. In presenting the Senate bill to the House, Congressman Harris declared that the Senate had made "numerous small changes" in the bill as passed by the House, and presented a detailed analysis of these changes. The portions of the analysis referring to sections 102(d) and 201(a)(6) are set out below:

Section 102(d): As passed by the House, this subsection provides that the Congress reserves to itself the right to provide for additional communications satellite systems if required to meet unique governmental needs or if required in the national interest. The Senate added a provision that it is not the intent of Congress by this act to preclude the use of the communications satellite system for domestic communication services where consistent with the provisions of this act. Conforming changes were made by the Senate in several sections of the bill.

Section 201(a)(6): As passed by the House, this paragraph requires the President to take all necessary steps to insure the availability and utilization of the communications satellite system for general governmental purposes except where a separate system is required to meet unique governmental needs. As passed by the Senate, this paragraph requires the President to take all necessary steps to insure such availability and utilization except where a separate system is required to meet unique governmental needs or is otherwise required in the national interest. (108 Cong. Rec. 17672, August 27, 1962).

It should be noted that in discussing section 102(d), Congressman Harris referred to the Senate's having "added" the language referring to use of the system for domestic communications but made no mention of any substantive difference between Senate and House versions with regard to the rest of the language of the section. (108 Cong. Rec. 16606, August 27, 1962).

It thus appears that the House, in adopting the Senate version, thought that the effect would not be materially different from the position it had previously taken that additional satellite systems should not be allowed without further Congressional action. It is understandable that the House might have regarded the allowance of separate governmental systems as not materially inconsistent with its earlier position, but it is inconceivable that it could have regarded the allowance of separate commercial systems as consistent

Remarks of Congressman Harris in introducing version of Section 102(d) adopted by House (108 Cong. Rec. 7523-24, May 2, 1962).

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment to the committee amendment offered by Mr. HARRIS: Page 10, strike out lines 22 through 25 and insert the following:

"(d) The Congress reserves to itself the right to provide for additional communications satellite systems if required to meet unique governmental needs or if otherwise required in the national interest."

Mr. HARRIS. Mr. Chairman, this is an amendment suggested by our distinguished Speaker of the House with whom I conferred on this legislation concerning two or three matters that we thought would strengthen it. I have not had an opportunity to discuss it with the committee, but paragraph (d) in the committee bill is a provision that was included at the outset and had to do with reserving the right to the Government to provide an additional system should it be determined in the public interest. But as the Clerk read a moment ago, it is approached in a negative way. In other words, as originally proposed, I assume at the council level in the administration, or somewhere along the line, I am not sure just where, this was a provision in various proposals and the committee did not disturb it. But it was agreed that it was not the intent of the Congress by this act to preclude the creation of an additional communication satellite system or systems, and so forth. I thought the suggestion made by our distinguished Speaker was very good, that we should take a positive rather than a negative approach.

The amendment, therefore, is that that Congress reserve to itself the right to provide an additional communications satellite system if required to meet unique governmental needs or if otherwise required in the national interest.

It is a positive approach instead of a negative approach.

The CHAIRMAN. The question is on the amendment to the committee amendment.

The amendment to the committee amendment was agreed to.

31 December 1968

REPORT

OF THE INTERIM COMMUNICATIONS SATELLITE COMMITTEE ON DEFINITIVE ARRANGEMENTS FOR AN INTERNATIONAL GLOBAL COMMUNICATIONS SATELLITE SYSTEM



INTELSAT

REPORT
OF THE INTERIM COMMUNICATIONS SATELLITE COMMITTEE
ON DEFINITIVE ARRANGEMENTS FOR
AN INTERNATIONAL GLOBAL COMMUNICATIONS SATELLITE SYSTEM

Table of Contents

Paragraphs	SUBJECT OUTLINE	Page
(i) - (vii)	Preface	1
100-137	PART I: HISTORY OF INTELSAT	3
100-103	1. The Interim Arrangements Establishing INTELSAT	3
104-105	2. Principles of INTELSAT	3
106	3. Membership of INTELSAT	4
107-121	4. Organization of INTELSAT	5
107-110	A. The Interim Communications Satellite Committee	5
111-117	B. Advisory Subcommittees and Other Groups	6
111-114	(i) Advisory Subcommittees	6
115	(ii) Working Groups	9
116	(iii) Operational Coordination with Earth Stations	9
117	(iv) Arbitration Panel	9
118-121	C. The Manager	10
118-119	(i) COMSAT as Manager	10
120-121	(ii) Nominees of the Signatories on the Manager's Staff	10
122-127	5. The Space Segment	11
122-126	A. Satellites	11
127	B. Tracking, Telemetry and Command (TT&C) Facilities for INTELSAT III Satellites	14

Paragraphs	SUBJECT OUTLINE	Page
128	6. Utilization of Space Segment	14
129-134	7. Implementation of Article X of the Interim Agreement	15
135-136	8. INTELSAT's Research and Development Program	17
137	9. Parties to the Interim Agreement and Signatories of the Special Agreement	18
138-140	PART II: FINANCIAL ASPECTS OF INTELSAT	23
138	1. Financial Status	23
139	2. Operating Results	25
140	3. Capital Expenditure Projection	27
141-636	PART III: COMMITTEE'S RECOMMENDATIONS CONCERNING THE DEFINITIVE ARRANGEMENTS FOR AN INTERNATIONAL GLOBAL COMMUNICATIONS SATELLITE SYSTEM	29
141-145	Introduction	29
146-162	Glossary of Terms	31
163-187	A. Objectives and Purposes of the Definitive Arrangements	34
188-227	B. Scope of Activities of the Organization	38
193-202	1. International Telecommunication Services	38

Paragraphs	SUBJECT OUTLINE	Page
194-195	a) Public Telecommunication Services	38
196-202	b) Specialized Telecommunication Services	39
203-225	2. Domestic Telecommunication Services	40
204-207	a) General	40
208-209	b) Provision by Means of Global Satellites	40
210-214	c) Provision by Means of Separate Satellites	41
215-225	d) Prior Conditions	42
226-227	3. Provision for Meeting Needs of a National Security Nature	43
228-230	C. Eligibility for Membership in the Organization	44
231-236	D. Legal Form, Personality, and Capacity of the Organization	45
232-234	1. Legal Form	45
235-236	2. Legal Personality and Capacity	45
237-488	E. Structure of the Organization	46
243-252	1. Organs of the Organization	47
253-261	2. Inter-relationship of the Organs of the Organization	48

Paragraphs	SUBJECT OUTLINE	Page
262-343	3. The Assembly	49
264-291	a) An Assembly Consisting of all Parties	49
265-281	(i) Functions	49
282-287	(ii) Voting	51
288-291	(iii) Frequency of Meetings	51
292-317	b) An Assembly Consisting Either of Parties or of Signatories, as may be Determined by the Parties Prior to Each Meeting of the Assembly.	52
293-309	(i) Functions	52
310-314	(ii) Voting	53
315-317	(iii) Frequency of Meetings	53
318-343	c) An Assembly Consisting of All Signatories	54
319-333	(i) Functions	54
334-339	(ii) Voting	55
340-343	(iii) Frequency of Meetings	56
344-430	4. The Governing Body	56
345-348	a) Eligibility for Membership	56
349-355	b) Size	56
356-366	c) Composition	57
367-390	d) Functions	58

Paragraphs	SUBJECT OUTLINE	Page
391-423	e) Voting Arrangements	62
392-401	(i) Determination of Voting Shares	62
402-410	(ii) Voting Power	63
411-417	(iii) Majority Requirements	64
418-421	(iv) Majority Requirements on Substantive Questions	65
422-423	(v) Majority Requirements on Procedural Questions	65
424-430	f) The Chairman of the Governing Body	66
431-477	5. The Management Body	66
432-445	a) Identity and Staffing	66
446-458	b) Designation of the Management Body	68
459-462	c) Change of the Management Body	69
463-477	d) Functions of the Management Body	69
478-488	6. Variation of a Three-organ Structure	71
489-531	F. Financial Matters	74
492-496	1. Principles Underlying the Financial Arrangements of the Organization	75
497-506	2. Principles for Determining Investment Shares of Signatories	76

Paragraphs	SUBJECT OUTLINE	Page
507-515	3. Methods for Determining Investment Shares	77
508-509	a) Allocation of Investment Shares	77
510-515	b) Frequency of Allocation	77
516-531	4. Rights and Obligations of Investors	78
517-519	a) Property Rights and Interests	78
520-523	b) Compensation for Use of Capital	78
524-525	c) Contribution to Maintenance and Operating Expenses	79
526-531	d) Conditions of Use	79
532-543	G. Procurement Policies	81
535-537	1. Obtaining the Best Product at the Best Price	81
538-543	2. Participation in Procurements	82
544-549	H. Policies in Relation to Inventions, Data, and Technical Information	83
550-567	I. Access to the System; Coordination Arrangements	85
553-556	1. Access to the System	85
557-567	2. Coordination Arrangements	86
558-563	a) Technical Coordination	86
564-565	b) Commercial Coordination	87
566-567	c) Coordination between Earth and Space Segments	87

Paragraphs	SUBJECT OUTLINE	Page
568-597	J. The Agreements Constituting the Definitive Arrangements; Amendment; Settlement of Disputes; Privileges, Immunities and Exemptions	88
568-571	1. Number of Agreements	88
572-576	2. Signatories of the Agreements	88
577-580	3. Duration of the Agreements	89
581-590	4. Amendment of the Agreements	89
591-593	5. Settlement of Disputes	91
594-597	6. Privileges, Immunities and Exemptions	91
598-621	K. Rights and Obligations of Parties	92
599-605	1. General Obligations	92
606-608	2. Regional Satellites	93
609-611	3. Domestic Services	93
612-617	4. Specialized Services	94
618-621	5. Needs of a National Security Nature	95
622-625	L. Withdrawal from the Organization	96
626-636	M. Transition from the Interim Arrangements to Definitive Arrangements	97

Paragraphs	SUBJECT OUTLINE	Page
	APPENDIX TO PART III: Functions of the Manager under the Interim Arrangements	100
	I. Introduction	100
	II. Technical	100
	III. Operations	101
	IV. Procurement	102
	V. Financial	102
	VI. Legal Services	102
	VII. Information Services	103
	STATEMENTS OF REPRESENTATIVES TO THE COMMITTEE	104
	ILLUSTRATIONS, MAPS, TABLES	
123	Characteristics of Satellites Already Launched or Planned for Launch	11A
124	Operational Communications Satellite Earth Stations and Satellite Communications Coverage Areas as of 15 December 1968.	12A
125	Communications Satellite Earth Stations Approved by Interim Communications Satellite Committee as of 15 December 1968 and Coverage Area of INTELSAT III Satellites (to be operational in 1969)	13A
128	Utilization of Space Segment	14
137	Parties to the Interim Agreement and Signatories of the Special Agreement (As of 15 December 1968)	18

Paragraphs	SUBJECT OUTLINE	Page
138	Net Book Value of the assets of INTELSAT as of 31 October 1968	23
138	Net Book Value as Reconciled with Signatories Payments and Receipts	23
139	Operating Results (Period from 1 January 1967 - 1 October 1968)	25
140	Estimated INTELSAT Capital Expenditures	28

PREFACE

(i) The Governments which signed the Agreement Establishing Interim Arrangements for a Global Commercial Communications Satellite System did so in the expectation that definitive arrangements to supersede the interim arrangements would be developed at the earliest practicable date. In formulating interim arrangements in 1964, the Governments contemplated that it would be timely to work out definitive arrangements after the establishment of an operational global system. Article IX of the Agreement states:

(ii) "(a) Having regard to the program outlined in Article I of this Agreement, within one year after the initial global system becomes operational and in any case not later than 1st January 1969, the Committee shall render a report to each Party to this Agreement containing the Committee's recommendations concerning the definitive arrangements for an international global system which shall supersede the interim arrangements established by this Agreement. This report, which shall be fully representative of all shades of opinion, shall consider, among other things, whether the interim arrangements should be continued on a permanent basis or whether a permanent international organization with a General Conference and an international administrative and technical staff should be established.

"(b) Regardless of the form of the definitive arrangements

(i) their aims shall be consonant with the principles set forth in the Preamble to this Agreement;

(ii) they shall, like this Agreement, be open to all States members of the International Telecommunication Union or their designated entities;

(iii) they shall safeguard the investment made by signatories to the Special Agreement; and

(iv) they shall be such that all parties to the definitive arrangements may have an opportunity of contributing to the determination of genera policy.

"(c) The report of the Committee shall be considered at an international conference, at which duly designated communications entities may also participate, to be convened by the Government of the United States of America for that purpose within three months following submission of the report. The Parties to this Agreement shall seek to ensure that the definitive arrangements will be established at the earliest practicable date, with a view to their entry into force by 1st January 1970."

(iii) The Interim Communications Satellite Committee has prepared this Report in compliance with the mandate placed upon the Committee by Article IX. In the preparation of this Report, the Committee has had the definitive arrangements under consideration since September of 1967. During this period approximately 80 documents offering detailed proposals and statements of principle have been submitted to the Committee. All of these papers have received careful consideration.

(iv) This Report is organized in three parts: I, History of the International Telecommunications Satellite Consortium (INTELSAT); II, Financial Aspects of INTELSAT; and III, Committee's Recommendations concerning the Definitive Arrangements for an International Global Sommunications Satellite System.

(v) Part I, History of INTELSAT, contains a factual account of the origins and structure of INTELSAT and an outline of progress since August 1964.

(vi) Part II, Financial Aspects of INTELSAT, contains the financial status of INTELSAT as of the end of 1968, operating results and capital expenditure projections.

(vii) Part III, Committee's Recommendations concerning the Definitive Arrangements for an International Global Communications Satellite System, contains the recommendations of the Committee and proposals which have been introduced by Committee members. The Committee submits these recommendations and proposals in the belief that they respond, to the extent practical, to the requirements of Article IX(a) of the Interim Agreement. Individual statements of Committeemembers containing reservations to or comments on proposals are appended to Part III. An explanation of the principles and procedures which have guided the Committee in its deliberations over Part III of its Report is to be found in the introductory paragraph to that Section. A Glossary of Terms used extensively in Part III immediately follows the introduction of Part III.

PART I. HISTORY OF INTELSAT

1. THE INTERIM ARRANGEMENTS ESTABLISHING INTELSAT

100 The International Telecommunications Satellite Consortium (INTELSAT) was established on 20 August 1964 when the representatives of eleven countries gathered in Washington and signed the Agreement Establishing Interim Arrangements for a Global Commercial Communications Satellite System (the Interim Agreement), which had been drafted in a cooperative effort of representatives from 19 countries. Pursuant to Article II of the Interim Agreement, representatives of the eleven countries or their designated communications entities signed the Special Agreement which also was opened for signature and entered into force on 20 August 1964

101 The Interim Agreement sets forth the purposes and provides for the financial and organizational structure of INTELSAT. The Special Agreement describes the obligations and rights of its Signatories, and also sets forth the functions of the Manager designated in the Interim Agreement.

102 Pursuant to Article 14 of the Special Agreement, the Supplementary Agreement on Arbitration was drafted. It was opened for signature in Washington on 4 June 1965 and entered into force on 21 November 1966.

103 The three Agreements remain in effect until the entry into force of the definitive arrangements.

2. PRINCIPLES OF INTELSAT

104 The principles which underlie the formation of INTELSAT are stated in the Preamble to the Interim Agreement:

105 "The Governments signatory to this Agreement,

> "Recalling the principle set forth in Resolution No. 1721 (XVI) of the General Assembly of the United Nations that communications by means of satellites should be available to the nations of the world as soon as practicable on a global and non-discriminatory basis;

"Desiring to establish a single global commercial communications satellite system as part of an improved global communications network which will provide expanded telecommunications services to all areas of the world and which will contribute to world peace and understanding;

"Determined, to this end, to provide, through the most advanced technology available, for the benefit of all nations of the world, the most efficient and economical service possible consistent with the best and most equitable use of the radio spectrum;

"Believing that satellite communications should be organized in such a way as to permit all States to have access to the global system and those States so wishing to invest in the system with consequent participation in the design, development, construction (including the provision of equipment), establishment, maintenance, operation and ownership of the system;

"Believing that it is desirable to conclude interim arrangements providing for the establishment of a single global commercial communications satellite system at the earliest practicable date, pending the working out of definitive arrangements for the organization of such a system."

3. MEMBERSHIP OF INTELSAT

106 Membership in INTELSAT is open, under Article XII of the Interim Agreement, to all members of the International Telecommunication Union. By the end of 1964, INTELSAT had nineteen members; by December 1968, its membership had grown to sixty-three. The Parties to the Interim Agreement and the Signatories of the Special Agreement are shown, along with the respective investment quotas of the Signatories, as of 15 December 1968, in paragraph 9 of this Section. These quotas are subject to reduction pro rata as necessary to accommodate additional signatories to the Special Agreement in accordance with Article XII of the Interim Agreement. Article XII allocated 17% of the total investment quota for subsequent accession to the Special Agreement. As of 15 December 1968, approximately 3% was still available for investment quotas for new Signatories.

4. ORGANIZATION OF INTELSAT

A. The Interim Communications Satellite Committee

107 The Interim Communications Satellite Committee (hereinafter referred to as the Committee) was established by Article IV of the Interim Agreement to give effect to the purposes set forth in Article I of that Agreement. The Committee is given responsibility by Article IV for the "design, development, establishment, maintenance and operation of the space segment" of the global communications satellite system.

108 In accordance with Article IV of the Interim Agreement, the Committee is composed of one representative from each of the Signatories to the Special Agreement whose initial investment quota is not less than 1.5 percent and one representative from any two or more Signatories to the Special Agreement whose combined quotas total not less than 1.5 percent and which have agreed to be so represented. Further, pursuant to Article V of the Interim Agreement, each Signatory or group of Signatories to the Special Agreement which is represented on the Committee has a number of votes equal to its investment quota or combined investment quotas, as the case may be.

109 The total membership of the Committee increased from nine representatives at the end of 1964 to eighteen, representing forty-eight Signatories, by 15 December 1968. The current membership of the Committee is as follows:

The Arab Group
(Representing:

Algeria	Saudi Arabia
Iraq	Sudan
Jordan	Syria
Kuwait	Tunisia
Lebanon	United Arab Republic
Libya	Yemen)
Morocco	

Argentina

Asia/Pacific Group
(Representing:

Ceylon	New Zealand
India	Philippines
Indonesia	Singapore
Malaysia	Thailand)

Australia
Belgium/The Netherlands
Brazil
Canada
France/Monaco
Germany
Italy/The Vatican
Japan
Mexico
Denmark/Norway/Sweden
Spain/Portugal
Switzerland/Austria/Liechtenstein
Venezuela/Colombia/Chile
United Kingdom/Ireland
United States of America

110 The Committee meets approximately every eight weeks in sessions averaging eight to ten days. To date, the Committee has held thirty-six meetings. All but three of the meetings have been held in the INTELSAT headquarters in Washington, D. C., the others in Paris, Tokyo and Naples.

B. Advisory Subcommittees and Other Groups

111 (i) Advisory Subcommittees

Pursuant to Article IV of the Interim Agreement, the Committee has established Advisory Subcommittees on Finance, Technical Matters, and Contracting Procedures. Each representative on the Committee is entitled to designate an individual to serve on each of the Advisory Subcommittees. The Advisory Subcommittees advise and assist the Committee, at its request, in the performance of its functions under the Interim and Special Agreements and report periodically to the Committee. In addition, each of the Subcommittees has been assigned certain continuing tasks by the Committee in the following terms:

112 Advisory Subcommittee on Finance

(a) To perform a continuing analysis of the form and content of budgets and prepare and present statements of financial conditions.

(b) To keep under review depreciation and other accounting policies followed in INTELSAT accounts.

113 Advisory Subcommittee on Technical Matters

(a) To study and advise on the technical aspects of the satellite system with a view towards an improved global telecommunications network, taking into account available and relevant recommendations, studies and current work of the consultative committees of the International Telecommunication Union (ITU).

(b) To study and advise on general operational aspects of the satellite system which impact on the space segment, taking into account available and relevant recommendations, studies and current work of the consultative committees of the ITU.

(c) To recommend for each kind of satellite system on:

- the transmission system characteristics,
- the transmission parameters of the satellites,
- the mandatory transmission parameters of earth stations,
- the principles of test plans for the introduction of satellites, earth stations and carriers into the system.

(d) To make recommendations with respect to the performance characteristics of earth stations.

(e) To review the effectiveness of frequency utilization.

(f) To report, on a regular basis, on technical and operational matters under consideration by consultative committees of the ITU which are of importance to INTELSAT members. To recommend urgently-required technical and operational characteristics of satellite systems, insofar

as the space segment is affected, where relevant recommendations by the ITU consultative committees are not yet available. Such recommendations will take into account relevant current studies of the ITU consultative committees.

(g) To advise on the nature and amount of research and development which INTELSAT should undertake and, in particular:

- the technical scope of each project and the reason for INTELSAT undertaking such a project;

- the apportionment of the work into "in-house" projects (those performed by the Manager itself) and projects which will be contracted on the outside;

- the split of "in-house" work into its component parts;

- the manner in which the technical effort is to be undertaken, with particular reference to the estimated manpower and material to be expended "in-house" and their relationship to the amount of technical effort needed of the Manager to perform its functions efficiently.

114 Advisory Subcommittee on Contracting Procedures

(a) To review semi-annually contracting procedures and principles in the light of actual contracting experience.

(b) To review and make quantitative assessment of the division of work performed by the Manager itself and that performed outside the Manager and internationally in research and development and other contracts.

(c) To review INTELSAT patent policy.

(ii) Working Groups

115 Various Ad Hoc Groups have been established from time to time to assist the Committee in specific tasks.

(iii) Operational Coordination with Earth Stations

116 Regional Operational Coordination Groups for the Atlantic, Pacific and Indian Ocean Satellite Regions, establish cooperation between the space segment and the earth stations and help to assure efficient development and use of INTELSAT satellites. These groups were established by the Committee in 1966 as Regional Ad Hoc Working Groups, and using data provided by them the Committee has developed a traffic data base to assist it in future programme planning. Regional Groups as now constituted consider operational matters of all kinds, and all interested Signatories participate in them."

(iv) Arbitration Panel

117 In accordance with Article 3(b) of the Supplementary Agreement on Arbitration, the Committee has appointed a legal expert from each of the following seven countries to a panel from which Presidents of Arbitration Tribunals shall be selected:

Australia
Brazil
Japan
Malaysia
Norway
Spain
United States of America

C. The Manager

(i) COMSAT as Manager

118 The Interim Agreement provides in Article VIII that the Communications Satellite Corporation (COMSAT) "shall, pursuant to general policies of the Committee and in accordance with specific determinations which may be made by the Committee, act as the Manager in the design, development, construction, establishment, operation, and maintenance of the space segment."

119 In accordance with Article VIII and other relevant provisions of the Interim Agreement and Special Agreement, COMSAT, as Manager for INTELSAT, procures the satellites and other equipment for the space segment, arranges for the launching of the satellites, operates the space segment, handles all financial matters, and makes studies and recommendations on a wide variety of subjects.

(ii) Nominees of the Signatories on the Manager's Staff

120 Article 12(f) of the Special Agreement states that the Manager shall "arrange for technicians, selected by the Committee, with the concurrence of the Corporation from among persons nominated by Signatories, to participate in the assessment of designs and of specifications for equipment for the space segment."

121 Pursuant to this Article, various Signatories have contributed significantly to the Manager's capability to perform its varied tasks by nominating twenty highly qualified personnel to work on the Manager's staff, usually for one or two years.

5. THE SPACE SEGMENT

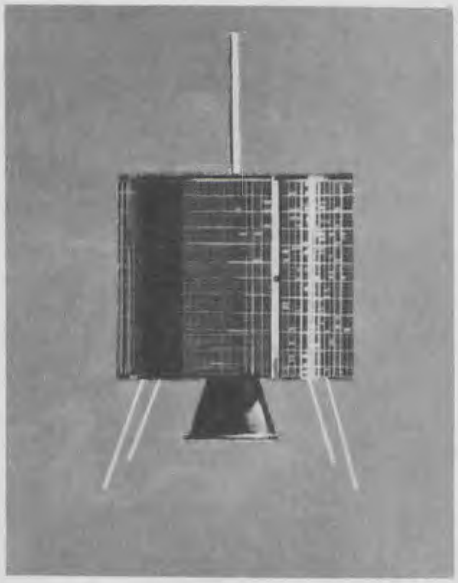
A. Satellites

122 The four INTELSAT satellites in commercial operation as of 15 December 1968 were launched into synchronous orbit from Cape Kennedy. They provide the circuits for telephone, television (color and monochrome), facsimile, teletype, and high-speed data services.

123 The characteristics of the satellites already launched or planned for launch are as follows:

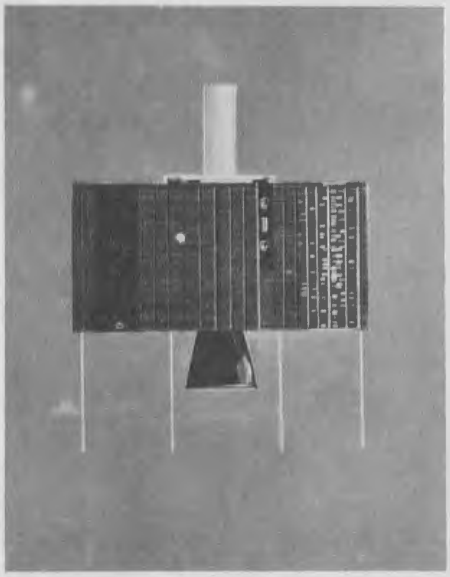
INTELSAT I

Capacity: 240 telephone circuits
Position: Atlantic Ocean
Weight: 38.5 kg.
Size: 61 cm. in diameter
58.7 cm. high
Launched: 6 April 1965
Design Lifetime: 18 months (but still functioning normally)



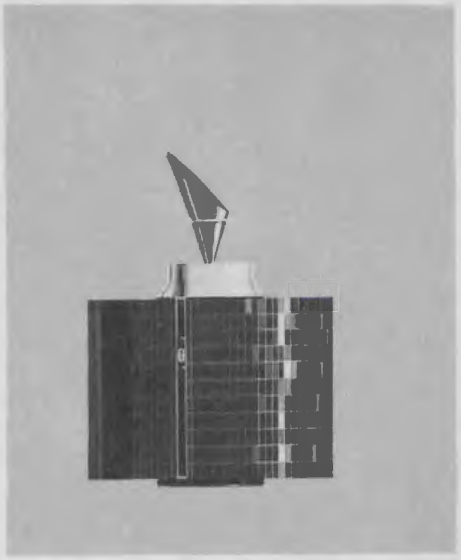
INTELSAT II

Capacity: 240 telephone circuits, with multiple access and greater coverage than that of INTELSAT I
Positions: Atlantic and Pacific
Weight: 87 kg. in orbit
Size: 130 cm. in diameter
66.2 cm. high
Launched: 26 October 1966 (failure)
11 January 1967 (Pacific)
27 March 1967 (Atlantic)
27 November 1967 (Pacific)
Design Lifetime: 3 years



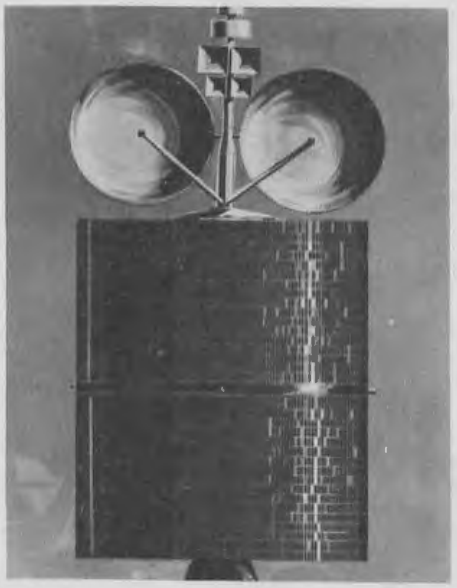
INTELSAT III

Capacity: 1200 telephone circuits with multiple access
Positions: Planned for Atlantic, Pacific and Indian Oceans
Weight: 126.8 kg. in orbit
Size: 130 cm. in diameter
102.5 cm. high
Launched: 18 Sept. 1968 (failure)
18 December 1968 (Atlantic)
Design Lifetime: 5 years



INTELSAT IV

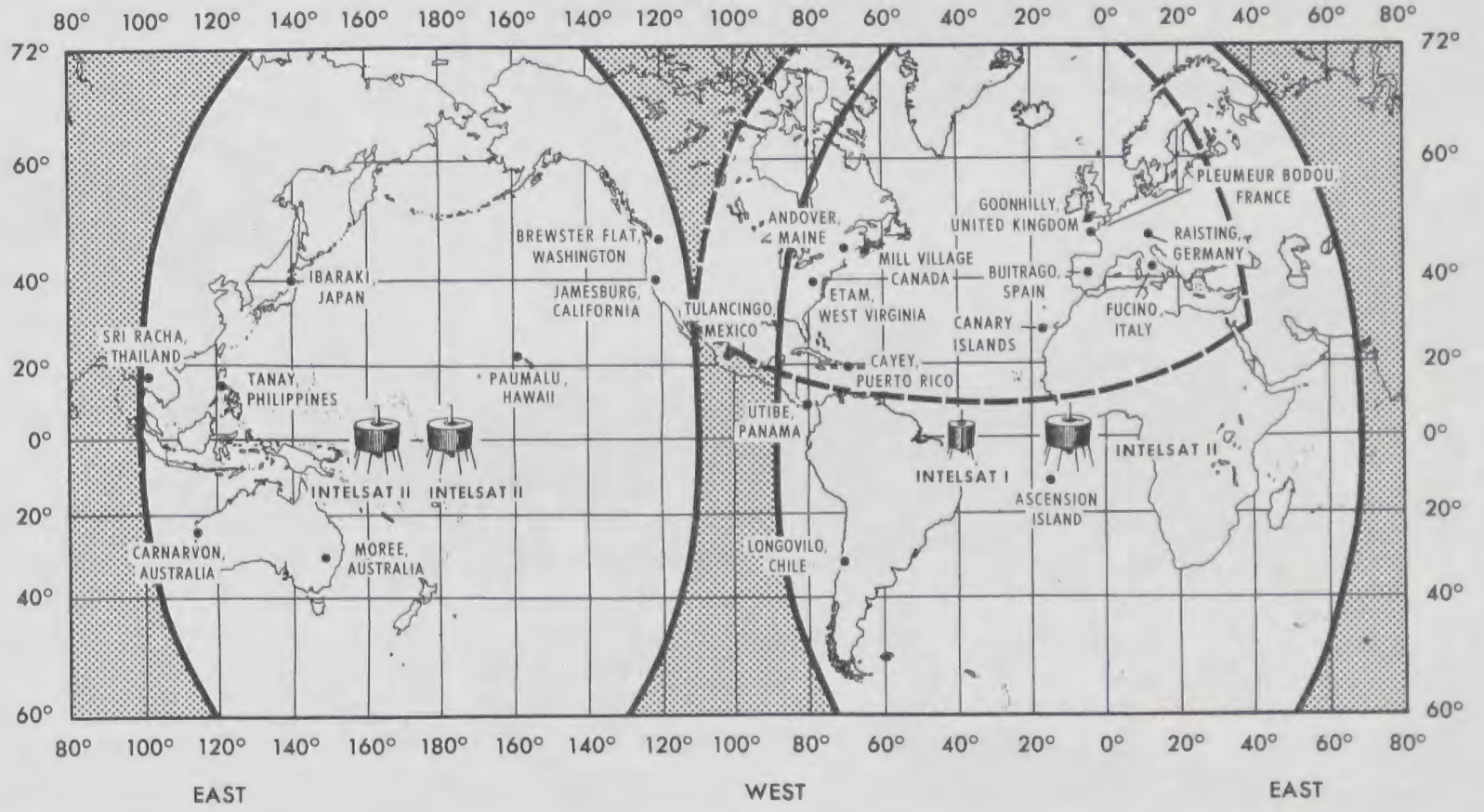
Capacity: 5000 telephone circuits with multiple access
Positions: Planned for Atlantic, Pacific and Indian Oceans
Weight: 557 kg. in orbit
Size: 237 cm. in diameter
495 cm. high
Design Lifetime: 7 years



124 The positions of the satellites in service as of 15 December 1968, their zones of coverage and the earth stations in operation on the same date are as follows:

OPERATIONAL COMMUNICATIONS SATELLITE EARTH STATIONS AND SATELLITE COMMUNICATIONS COVERAGE AREAS

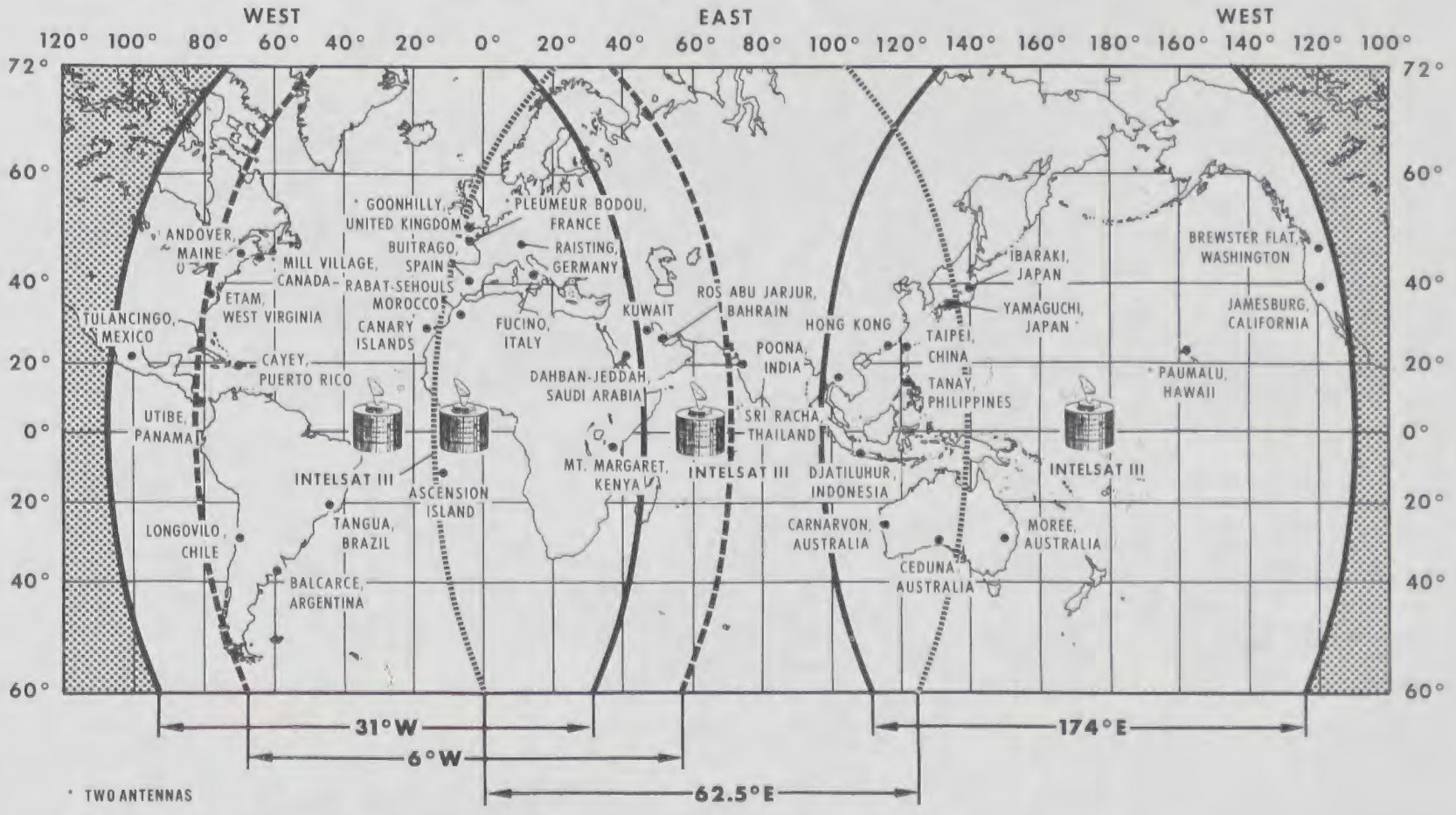
AS OF 15 DECEMBER 1968



* TWO ANTENNAS

125 The position of the INTELSAT III (F-2) satellite and the expected positions of the INTELSAT III satellites planned to be launched in 1969, their zones of coverage, and the earth stations expected to work with them and approved by the Committee are as follows:

COMMUNICATIONS SATELLITE EARTH STATIONS APPROVED BY INTERIM COMMUNICATIONS SATELLITE COMMITTEE AS OF 15 DECEMBER 1968 AND COVERAGE AREA OF INTELSAT III SATELLITES (to be operational in 1969)



126 Satellites in the INTELSAT IV series are expected to be launched over the Atlantic Ocean by early 1971, to be followed by launches over the Pacific and Indian Oceans.

B. Tracking, Telemetry and Command (TT&C) Facilities for INTELSAT III Satellites

127 As locations for the tracking, telemetry and command facilities for the INTELSAT III satellites, the Committee has chosen the following: Fucino (Italy), Carnarvon (Australia), and Andover (Maine) and Paumalu (Hawaii) in the United States. Small aperture earth stations located at these sites will provide TT&C functions for INTELSAT.

6. UTILIZATION OF SPACE SEGMENT

128 The utilization of the space segment is indicated in the table below:

	31/12/65	31/12/66	31/12/67	30/11/68
Full-time telephone circuits in service as at	75	86	344	518
TV program time (hours) during year ended	41ø	74	226	349*
Temporary service (circuit/hours) during year ended	3,248ø	10,080	59,820	132,550*
Operating earth stations as of	5	8	17	23

ø 6 months
*11 months

7. IMPLEMENTATION OF ARTICLE X OF THE INTERIM AGREEMENT

129 Article X of the Interim Agreement states:

> "In considering contracts and in exercising their other responsibilities, the Committee and the Corporation as manager shall be guided by the need to design, develop and procure the best equipment and services at the best price for the most efficient conduct and operation of the space segment. When proposals or tenders are determined to be comparable in terms of quality, c.i.f. price and timely performance, the Committee and the Corporation as manager shall also seek to ensure that contracts are so distributed that equipment is designed, developed and procured in the States whose Governments are Parties to this Agreement in approximate proportion to the respective quotas of their corresponding signatories to the Special Agreement; provided that such design, development and procurements are not contrary to the joint interests of the Parties to this Agreement and the signatories to the Special Agreement. The Committee and the Corporation as manager shall also seek to ensure that the foregoing principles are applied with respect to major sub-contracts to the extent that this can be accomplished without impairing the responsibility of the prime contractor for the performance of work under the contract."

130 Through the efforts of the Committee and the Manager, there has been an increasing degree of international participation, i.e., procurement outside the United States, in each of the successive INTELSAT satellite programs. INTELSAT requests for proposals contain the following language to stimulate and encourage the widest practicable participation:

> "The work covered by this bid is required for an internationally financed project, and it is desirable that work to be contracted be spread as widely as possible. Therefore, other things being comparable in terms of quality, c.i.f. price and timely performance, preference will be given to those tenderers offering to sub-contract work in countries other than their own for the satellite and associated equipment."

131 In the INTELSAT II program, subcontracts totalling $289,029, approximately 2% of the total contract price, were awarded outside the United States, in the United Kingdom and France.[1]

132 In the INTELSAT III program, subcontracts totalling $2,151,711, approximately 6% of the total contract price, were awarded outside the United States, in France, Germany, the United Kingdom, Belgium, Switzerland, and Japan[1].

133 In the INTELSAT IV program, subcontracts totalling $19.4 million, approximately 27% of the total contract price, were awarded outside the United States, in the United Kingdom, France, Germany, Canada, Japan, Belgium, Italy, Switzerland, Sweden, and Spain[1].

134 INTELSAT Research and Development contracts have increasingly been placed with non-U.S. contractors. To date, Research and Development contracts and subcontracts totalling $900,850, approximately 13% of the total Research and Development program, have been awarded outside the United States, in the United Kingdom, Japan, France, Italy, and Germany[1].

---

[1] Countries are listed in decreasing order of their share of the subcontracts.

8. INTELSAT'S RESEARCH AND DEVELOPMENT PROGRAM

135 INTELSAT has undertaken a research and development program to advance satellite communications technology, to explore new possibilities for the use of satellite communications, and to support the implementation and operation of the global communications satellite system. Research and development projects which have been or are being undertaken to date include:

Multi-Purpose Communications Satellite Study
Aeronautical Satellite Study
Multiple Carrier Performance Monitor
Multiple Access PCM/TDMA System Prototype
Single Channel PCM/FDMA Experimental System
Microwave State-of-Art Development
Space Environment Studies, Radiation Effects
Echo Suppression Studies
Electric Power Systems
Spacecraft Thermal Investigations
Positioning and Orientation Systems
Mechanical Devices
Spacecraft Structures
Systems Integration
Systems Simulation
Demand Assignment
Rotary Joint Study

136 In the budget for 1968, a total of $2,867,275 was committed to research and development: $1,684,000 to be performed by the Manager, and $1,183,275 on contract to other organizations.

137 9. PARTIES TO THE INTERIM AGREEMENT AND SIGNATORIES OF THE SPECIAL AGREEMENT

(As of 15 December 1968)

ALGERIA	Ministry of Posts and Telecommunications	00.543256%
ARGENTINA	Secretaría de Estado de Comunicaciones	01.413399
AUSTRALIA	Overseas Telecommunications Commission	02.390993
AUSTRIA	Bundesministerium für Verkehr und Elektrizitätswirtschaft, Generaldirektion für die Post- und Telegraphenverwaltung	00.173890
BELGIUM	Régie des Télégraphes et des Téléphones	00.956397
BRAZIL	National Telecommunications Council	01.413399
CANADA	Canadian Overseas Telecommunication Corporation	03.260445
CEYLON	Permanent Secretary in charge of Ministry of Posts and Telecommunications of Ceylon	00.045271
CHILE	Empresa Nacional de Telecomunicaciones S.A.	00.282680

CHINA	Directorate General of Telecommunications of the Republic of China	00.090543
COLOMBIA	Government of Colombia	00.543236
DENMARK	Generaldirektoratet for Post og Telegrafvesenet	00.347781
ETHIOPIA	Government of Ethiopia	00.072434
FRANCE	Government of the French Republic	05.303657
GERMANY	Deutsche Bundespost	05.303657
GREECE	Greek Ministry of Communications Directorate General of Telecommunications	00.094227
INDIA	Government of India	00.471133
INDONESIA	Dewan Telekomunikasi	00.271628
IRAN	Ministry of Post, Telegraph and Telephone	00.250000
IRAQ	Ministry of Communications of Iraq	00.009054
IRELAND	An Roinn Poist Agus Telegrafa	00.304308
ISRAEL	Ministry of Posts State of Israel	00.568841

ITALY	Società Telespazio	01.912794
JAPAN	Kokusai Denshin Denwa Company, Ltd.	01.738904
JORDAN	Ministry of Communications of the Hashemite Kingdom of Jordan	00.045271
KENYA	East African External Telecommunications Company, Ltd.	00.049601
KOREA	Ministry of Communications of the Republic of Korea	00.049284
KUWAIT	Ministry of Posts, Telegraphs, and Telephones of Kuwait	00.045271
LEBANON	Government of Lebanon	00.072434
LIBYA	Government of the Kingdom of Libya	00.027163
LIECHTENSTEIN	Government of the Principality of Liechtenstein	00.048277
MALAYSIA	Director General of the Telecommunications Department, Government of Malaysia	00.240302
MEXICO	Department of Communications and Transportation of the Government of Mexico	01.470380
MONACO	Government of the Principality of Monaco	00.004527
MOROCCO	Government of Morocco	00.289520

THE NETHERLANDS	Government of the Kingdom of the Netherlands	00.869452
NEW ZEALAND	Postmaster General of New Zealand	00.407442
NIGERIA	Federal Republic of Nigeria	00.335245
NORWAY	Telegrafstyret	00.347781
PAKISTAN	Government of Pakistan	00.236228
PANAMA	Intercontinental de Comunicaciones Por Satélites, S.A.	00.039681
PERU	Junta Permanente Nacional de Telecomunicaciones	00.495562
PHILIPPINES	Philippine Communications Satellite Corporation	00.492590
PORTUGAL	Administração Geral dos Correios, Telégrafos e Teléfones	00.347781
SAUDI ARABIA	Ministry of Communications	00.045271
SINGAPORE	Government of Singapore	00.096507
SOUTH AFRICA	Department of Posts and Telegraphs of the Republic of South Africa	00.271628
SPAIN	Government of the State of Spain	00.956397
SUDAN	Department of Posts and Telegraphs of the Government of the Republic of the Sudan	00.009055
SWEDEN	Kungl. Telestyrelsen	00.608616

SWITZERLAND	Direction Générale des PTT	01.738904
SYRIA	Ministry of Communications of the Syrian Arab Republic	00.036217
TANZANIA	East African External Telecommunications Company Ltd.	00.049556
THAILAND	Kingdom of Thailand	00.096121
TUNISIA	Secretariat of State for Post, Telegraph and Telephone of Tunisia	00.181085
TURKEY	Government of the Republic of Turkey	00.498750
UGANDA	East African External Telecommunications Company, Ltd.	00.049626
UNITED ARAB REPUBLIC	Government of the United Arab Republic	00.316899
UNITED KINGDOM	Her Britannic Majesty's Postmaster General	07.303396
UNITED STATES	Communications Satellite Corporation	53.036570
VATICAN CITY	Government of the Vatican City State	00.043473
VENEZUELA	Ministry of Communications of Venezuela	00.957842
YEMEN	Yemen Arab Republic Ministry of Communications	00.028347
	TOTAL	99.999999

PART II , FINANCIAL ASPECTS OF INTELSAT

138 1. FINANCIAL STATUS

The net book value of the assets of INTELSAT as of 31 October 1968 is as follows:

Property:	
Satellites, telemetry & command equipment control center	$92,389,594
Interest during development	4,000,027
Total	96,389,621
Accumulated Depreciation	(39,898,235)
Net property	56,491,386
Satellite System Development Costs:	
Capitalized expenses 1963 thru 1966	12,746,683
Revenue during development	(5,587,507)
Depreciation during development	10,588,643
Interest during development	1,914,321
Total	19,662,140
Accumulated Amortization of Satellite System Development Costs	(736,215)
Net satellite system development costs	18,925,925
Net book value	$75,417,311

The period through 31 December 1966 was considered to be a development period and the net expense (after deducting revenues) for that period is recorded above as Satellite System Development Costs.

The net book value stated above is reconciled with Signatories' payments and receipts as follows:

Contributions to Capital Costs		$92,389,594
Payments of operating, maintenance and Administration expenses		23,789,104
Total Payments by Signatories		116,178,698
Less: Revenue distributed to Signatories		45,645,636
Net payments by Signatories		70,533,062
Adjustments:		
Interest during development	$5,914,348	
Net operating loss for period 1 January 1967 through 31 October 1967	(1,030,099)	4,884,249
Total (agreeing with net book value above)		$75,417,311

139 2. OPERATING RESULTS

The results of operation during the period 1 January 1967 through 31 October 1968 are indicated below:

OPERATING REVENUES*		
1965 (From 28 June)	$2,332,208	
1966	3,255,299	
1967	16,735,662	
1968 (To 31 Oct.)	23,322,467	
TOTAL	45,645,636	
Revenue for 1965 and 1966 Transferred to Satellite System Development Costs	(5,587,507)	
Balance of Revenues		$40,058,129
OPERATING EXPENSES		
1963	$ 496,351	
1964	3,374,541	
1965	4,851,411	
1966	4,024,380	
1967	5,230,152	
1968 (To 31 Oct.)	5,812,269	
TOTAL	23,789,104	
Operating Expenses for 1963 - 1966 transferred to Satellite System Development Costs	(12,746,683)	
Balance of Operating Expenses		11,042,421
Net Operating Revenues before Provision for Depreciation and Amortization		29,015,708

* At its Eighth Meeting, in June 1965, the Committee set the rate of charge for each unit of satellite utilization in INTELSAT I at $32,000 per annum. At its Fourteenth Meeting, in December 1965, the Committee agreed that, effective 1 January 1966, the rate of charge per unit of satellite utilization for use of the INTELSAT I and II satellites would be reduced to $20,000 per annum.

PROVISION FOR DEPRECIATION		
1965	3,019,258	
1966	7,569,385	
1967	18,868,182	
1968 (To 31 Oct. 1968)	10,441,410	
TOTAL	39,898,235	
Depreciation for 1965 and 1966 transferred to Satellite System Development Costs	(10,588,643)	
Balance of Depreciation		29,309,592
PROVISION FOR AMORTIZATION		
1967	304,045	
1968 (To 31 Oct.)	432,170	
Total		736,215
Total Depreciation and Amortization		$30,045,807
Net Operating Loss for the period 1 January 1967 thru 31 Oct. 1968		$(1,030,099)

140 3. CAPITAL EXPENDITURE PROJECTION

The following statement shows a projection of capital expenditures, including a planned INTELSAT IV program, up to and including 1974. This projection is based on current program and cost estimates and will vary as further decisions are made by the Interim Committee.

ESTIMATED INTELSAT CAPITAL EXPENDITURES
(Thousands Of Dollars)

	Through 12/31/67	1968	1969	1970	1971	1972	1973	1974	TOTAL
INTELSAT I	$ 16,942	$ (15)	$	$	$	$	$	$	$ 16,927
INTELSAT II	29,556	4,441	867	600					35,464
INTELSAT III									
Spacecraft	27,564	2,593	936						31,093
Launches		10,759	19,880						30,639
Technical Support		1,770	1,112						2,882
Performance Incentives[a]		1,250	3,737	1,025	1,150	1,200	1,188	300	9,850
INTELSAT IV									
Progress Payments on Spacecraft[b]	-	2,890	26,562	21,007	6,497	2,636			59,592
Launch Costs									
Non-Recurring				12,530					12,530
Recurring					37,926			12,642	50,568
Technical Support	649	390	1,317	1,677	325	132			4,490
Performance Incentives[a]					12,848	3,354	531	549	17,282
TELEMETRY COMMAND and Control Equipment	4,650	1,300	807		635			211	7,603
Less Amounts Not Billed: Interest During Development[c]	(4,000)								(4,000)
Gross Capital Expenditures	$ 75,361	$25,378	$55,218	$36,839	$59,381	$ 7,322	$ 1,719	$13,702	$ -
Cumulative (at end year)	75,361	100,739	155,957	192,796	252,177	259,499	261,218	274,920	274,920
Depreciation Income									
Annual	$ -	$12,506	$23,582	$16,069	$21,873	$30,755	$31,771	$22,699	
Cumulative (at end year)	29,457	41,963	65,545	81,614	103,487	134,242	166,013	188,712	
Net Capital Expenditures (at end year)	$ 45,904	$58,776	$90,412	$111,182	$148,690	$125,257	$95,205	$86,208	

Notes:

a - Payment of Performance Incentives is contingent upon continued satisfactory operation of satellites in orbit.

b - Includes Four (4) INTELSAT IV spacecraft currently on Contract, plus contingency provision for future procurement of a fifth spacecraft.

c - This amount is a non-cash item capitalized in the expenditures through 12/31/67 shown above.

PART III. COMMITTEE'S RECOMMENDATIONS CONCERNING THE DEFINITIVE ARRANGEMENTS FOR AN INTERNATIONAL GLOBAL COMMUNICATIONS SATELLITE SYSTEM

INTRODUCTION

141 The recommendations and proposals contained in this Part of the Report are based upon, and reflective of, the experience and work of the Committee acting under the interim arrangements established on 20 August 1964. The Committee recognizes that other factors may have to be taken into account in developing definitive arrangements.

142 This Part includes thirteen subject headings; where appropriate, subheadings are used as well. Each of the subject headings is followed by:

- a statement of the scope and context of the subject;
- the Committee's recommendation, if any, relative to that subject;
- other proposals, if any, pertaining to that subject.

143 Whenever a majority of the eighteen members of the Committee support a particular proposal, that proposal is called a Committee recommendation. Those proposals which are supported unanimously by the Committee are described as "unanimous recommendations". Where a proposal receives support by fourteen or more members of the Committee but fails to achieve unanimous support, it is described as a recommendation supported by a "substantial majority." Proposals which are supported by a majority, but less than fourteen, of the Committee members are designated as recommendations receiving "majority" support.

144 Proposals which do not receive the support of a majority of the members of the Committee are included in this Section of the Report in compliance with the injunction in Article IX of the Interim Agreement that the Report "shall be fully representative of all shades of opinion." Where a proposal is supported by six or more, but less than a majority, of the Committee members, it is described as a proposal which has "substantial support." Proposals supported by three or more but less than six members of the Committee are termed proposals which receive "support". All other proposals are described by the phrase "the proposal was made that."

145 In preparing this Part of its Report, the Committee is well aware that the Governments participating in the international conference to be convened in 1969 to consider this Report will in no way be bound by the recommendations or proposals contained in this Report or by the views expressed or supported by any member of the Committee during the preparation of this Report.

GLOSSARY OF TERMS

In this Part of the Report:

146 "Interim Agreement" means the Agreement Establishing Interim Arrangements for a Global Commercial Communications Satellite System which was concluded by Governments and which entered into force on 20 August 1964.

147 "Special Agreement" means the agreement among Governments and communications entities designated by Governments which was concluded and signed pursuant to provisions of the Interim Agreement and which entered into force on 20 August 1964.

148 "Supplementary Agreement on Arbitration" means the agreement containing arrangements whereby legal disputes not otherwise settled may be submitted to the decision of an impartial tribunal, and which agreement was concluded pursuant to Article 14 of the Special Agreement and entered into force among the Signatories to the Special Agreement on 21 November 1966.

149 "Interim Arrangements" means the arrangements established by the Interim Agreement and Special Agreement.

150 "Definitive Arrangements" means the arrangements referred to in the Interim Agreement and in the Special Agreement which shall supersede the interim arrangements.

151 "Intergovernmental Agreement" means the agreement among Governments relating to the definitive arrangements.

152 "Second Agreement" means an agreement among Governments and communications entities designated by Governments pursuant to the Intergovernmental Agreement and which would, like the Intergovernmental Agreement, be part of the definitive arrangements.

153 "Party" means a Government which signs the Intergovernmental Agreement and in respect of which this Agreement is in force.

154 "Signatory" means a Government or designated telecommunication entity which signs the Second Agreement and in respect of which this Agreement is in force.

155 "Participating State" means a State whose Government has signed the Intergovernmental Agreement and whose Signatory has signed any Second Agreement forming part of the definitive arrangements.

156 "The Organization" means the organization to be established under the definitive arrangements and, unless otherwise defined, includes the various organs of the organization, e.g., the Assembly, the Governing Body, and the Management Body.

157 "Space segment" means the satellites and the tracking, telemetry and command and related facilities and equipment required to support the operation of these satellites and, except where otherwise stated, relates to the space segment financed by the organization.

158 "Global satellite" means an organization-financed satellite intended mainly to serve the international telecommunication needs of participating States (though it may also serve the domestic telecommunication needs of the participating States in accordance with the relevant provisions of the definitive arrangements).

159 "Public telecommunication services" includes various public services, fixed and mobile, which may be provided by satellite, such as telephony, telegraphy, telex, facsimile and data transmission, relay of radio and television programs, and leased circuits for any of these purposes. These services could be international, regional, or domestic.

160 "Specialized telecommunication services" includes services other than public telecommunication services which can be provided by satellite, such as radionavigation, space research, broadcasting services (e.g., direct broadcasting of radio and television programs to community and home antennas), etc. These services could be international, regional, or domestic.

161 "Domestic", in respect of telecommunication services, refers to communications among and between places within the territory of a single State.*

162 "Regional", in respect of telecommunication services, refers to communications among and between a geographically compact group of States linked together by cultural or economic ties.**

*This definition is recommended by a substantial majority of the Committee.

(a) There is support in the Committee for the proposal that "Domestic" in respect of telecommunication services, refers to communications between any two places under the jurisdiction of a single State.

(b) The proposal was made that "Domestic" in respect of telecommunication services, refers to communications within the metropolitan territory of a single state.

** This definition is recommended by a substantial majority of the Committee. The two following alternative proposals received support:

(a) "Regional" as referring to "communications between and among a geographically compact group of countries."

(b) "Regional" as referring to "communications among and between a group of States linked together by cultural or economic ties."

A. Objectives and Purposes of the Definitive Arrangements

163 The objectives and purposes of the definitive arrangements are stated under this subject heading. In essence, these are statements of the philosophy and guidelines for the Organization to be established under the definitive arrangements.

164 Synthesized, these elements could possibly form the Preamble to the Intergovernmental Agreement.

165 The Committee unanimously recommends that the definitive arrangements should serve the following objectives and purposes:

166 -- The principal aim of the definitive arrangements is to create a world organization entrusted with the design, development, construction. establishment, maintenance and operation of a network of satellites with global coverage for international public telecommunication services.

167 -- Render possible, in order to assure full and harmonious cooperation:

168 1. The provision of economical, high quality and reliable telecommunication services.

169 2. The availability of facilities to meet domestic and international requirements for satellite telecommunications.

170 A substantial majority of the Committee recommends that the definitive arrangements should serve the following objectives and purposes:

171 -- Study and discuss the possibility of optimizing the global network as well as all space and earth problems relating to satellite telecommunications, giving due consideration to the competence of the International Telecommunication Union.

172 -- Render possible, in order to assure full and harmonious cooperation:

173 1. The development of the technique of satellite telecommunications and the participation of Participating States in the benefits of technological advances in this field.

174 2. The participation, to the extent of their capability, of Participating States or groups of Participating States in research, development and manufacture in the field of satellite telecommunications.

175 3. The efficient use of international resources, such as of the radio frequency spectrum and orbital space.

176 -- Safeguard the interests of all Participating States and, by so doing, avoid monopoly situations and at the same time keep intact the possibility to create domestic or regional systems.

177 -- Maintain and further develop a single global commercial telecommunication satellite system on the basis of undivided ownership of the system by means of an organization founded on a unitary basis.

178 -- Promote the highest and most equitable participation by each Party to this Agreement.

179 -- Take into account the facilities in existence and planned and, in general, the existing nature of the undertaking and the fact that significant capital funds have been invested by a large number of countries into what is now an existing enterprise.

180 -- The Organization should be subject to the laws and rules defined by the United Nations and its authorized specialized agencies, particularly the International Telecommunication Union.

181 A substantial majority of the Committee recommends that the principles stated in the first four paragraphs of the Preamble of the Interim Agreement be reiterated in the Preamble of the Intergovernmental Agreement.

182 A majority of the Committee recommends that the definitive arrangements should serve the following objectives and purposes:

183 -- Provide services in a manner which will facilitate direct telecommunications between all nations and avoid duplication of facilities.

184 -- Effectively permit the participation by all States, while at the same time being mindful of the necessity to safeguard, to the extent possible, both their legitimate interests and the international character of the Organization.

185 -- Effectively permit the participation by all member States of the International Telecommunication Union while at the same time being mindful of the necessity to safeguard, to the extent possible, both their legitimate interests and the international character of the Organization.

186 There is support in the Committee for the proposal that the definitive arrangements should serve the following objective and purpose:

187 -- Optimize the coordination and harmonization of space telecommunications through the establishment of a single organization on a global basis which would provide the framework for the design, implementation, management and operation of satellites, either jointly or severally and which would permit undertaking joint research and development activities.

B. Scope of Activities of the Organization

188 The materials under this subject heading deal with the activities in which the Organization should be engaged or which it will be authorized to undertake in order to achieve the aims and objectives described under subject heading A, "Objectives and Purposes of the Definitive Arrangements."

189 The scope of activities of the Organization is therefore viewed from three distinct standpoints:

190 -- First, from the standpoint of the types of facilities for telecommunication purposes which the Organization should be responsible for providing. In this respect, the Committee unanimously recommends that the Organization should be limited, as under the interim arrangements, to the provision of the space segment only.

191 -- Second, by types of telecommunication services that telecommunication administrations or entities, whether or not Signatories to the Second Agreement, could offer their customers by means of the space segment placed at their disposal by the Organization, i.e., the utilization by these telecommunication administrations or entities of the space segment placed at their disposal by the Organization (for example, telephony, telegraphy, etc.).

192 -- Third, by taking into account the fact that telecommunications established by means of facilities offered by the Organization could be either domestic or international.

193 1. International Telecommunication Services

194 a) Public Telecommunication Services

195 The Committee unanimously recommends that the Organization, as a primary objective, should provide on a commercial basis the space segment for international public telecommunication services.

196 b) Specialized Telecommunication Services

197 A majority of the Committee recommends that the Organization be authorized to provide the space segment for international specialized telecommunication services, subject to decision by the Organization that the provision of such services was acceptable from both the technical and the economic points of view and that the Organization's ability to provide the space segment for international public telecommunication services could not be adversely affected by the provision of such specialized services.

198 There is substantial support in the Committee for the proposal that the Organization be authorized to provide the space segment for international telecommunication services other than those stated in paragraph 195 above only by amendment of the definitive agreements.

199 There is support in the Committee for the proposals that:

200 -- The Organization be authorized to provide the space segment for international specialized telecommunication services.

201 -- The Organization be authorized to provide the space segment for international specialized telecommunication services, provided that the Organization determined that the furnishing of such services was acceptable from both the technical and the economic points of view.

202 The proposal was made that the Organization be authorized to provide the space segment for international specialized telecommunication services under contract with the international organizations responsible for such services, subject to determination by the Organization that the furnishing of such facilities by it was consistent technically and operationally with its obligations in the field of public telecommunication services and was acceptable from the economic point of view.

203 2. Domestic Telecommunication Services

204 a) General

205 A majority of the Committee recommends that the Organization be authorized to provide, at the request of a Signatory or a group of Signatories, the space segment for domestic services of any kind.

206 There is substantial support in the Committee for the proposal that the Organization be authorized to provide the space segment for domestic specialized telecommunication services only by amendment of the definitive agreements.

207 There is support in the Committee for the proposal that the Organization be authorized to provide, at the request of a Signatory or a group of Signatories, the space segment only for domestic public telecommunication services.

208 b) Provision by Means of Global Satellites

209 A substantial majority of the Committee recommends that the Organization be authorized to provide, at the request of a Signatory or a group of Signatories and in accordance with terms and conditions established for such requests, the space segment for domestic services by means of global satellites.

210 c) Provision by Means of Separate Satellites

211 A substantial majority of the Committee recommends that:

212 -- The Organization be authorized to provide, at the request of a Signatory or group of Signatories and in accordance with terms and conditions to be established in each particular case, separate satellites intended specifically to serve the domestic needs of a Signatory or group of Signatories of neighboring countries, subject to certain conditions. (See paragraphs 215-225, below).

213 -- The Organization be authorized to provide domestic satellites at the request of a Signatory or group of Signatories not wishing to have domestic satellites financed by the Organization, or after failure of the Governing Body to act affirmatively upon the request of such Signatory or Signatories. These domestic satellites would be established by the Organization but financed entirely by the Signatory or group of Signatories concerned, and would be designed, developed and constructed in accordance with the specifications provided by that Signatory or group of Signatories, subject to certain conditions. (See paragraphs 215-225, below).

214 There is substantial support in the Committee for the proposal that the Organization be authorized to provide, at the request of a Signatory or group of Signatories, domestic satellites financed by the Organization in the same manner as global satellites, subject to certain conditions. (See paragraphs 215-225, below).

215 d) Prior Conditions

216 A majority of the Committee recommends that, prior to the establishment of domestic satellites, either by the Organization or separately by a Signatory, the Governing Body of the Organization should be consulted and may pass recommendations regarding:

217 -- The consistency of the proposed use of the radio frequency spectrum and orbital space with the Organization's proposed use (prior to International Telecommunication Union coordination).

218 -- The proposed mechanism and techniques for the control of the domestic satellites and possible interferences.

219 -- The economic compatibility of the domestic satellites with the global system.

220 There is substantial support in the Committee for the proposal that, prior to the establishment of a domestic satellite, either by the Organization or separately by a Signatory, the Governing Body shall have to determine that:

221 -- The establishment of such a satellite will be consistent with the Organization's proposed use of the radio frequency spectrum and orbital space.

222 -- The proposed mechanism and technique for control of such a satellite will be adequate, and that radiation emitted from the satellite will not cause harmful interference.

223 There is support in the Committee for the proposal that, prior to the establishment of a domestic satellite either by the Organization or separately by a Signatory, the Governing Body shall express the opinion that:

224 -- The establishment of such a satellite will be consistent with the Organization's proposed use of the radio frequency spectrum and orbital space.

225 -- The proposed mechanism and technique for control of such a satellite will be adequate, and that radiation emitted from the satellite will not cause harmful interference.

226 3. Provision for Meeting Needs of a National Security Nature

227 A majority of the Committee recommends that the Organization be authorized, at the request of a Signatory or group of Signatories, to provide separate satellites (financed by the Organization or by the Signatory or Signatories concerned, as the case may be) intended solely for the purpose of meeting needs of a national security nature.

C. Eligibility for Membership in the Organization

228 The Government of any State which is a member of the International Telecommunication Union may accede to the Interim Agreement. An important question is whether this standard should continue to apply under the definitive arrangements.

229 A majority of the Committee recommends that only those States which are members of the International Telecommunication Union be eligible to become Participating States.

230 There is substantial support in the Committee for the proposal that all States be eligible to become Participating States.

D. Legal Form, Personality, and Capacity of the Organization

231 A basic question requiring resolution is the form of the Organization. Equally important and closely associated are such questions as whether the Organization will have the capacity to possess rights and assume obligations (see paragraphs 235 and 236, below) and whether it will be subject to the laws and jurisdiction of a Participating State, particularly the State in which the Organization establishes its headquarters. (See paragraphs 594-597, below).

232 1. Legal Form

233 A substantial majority of the Committee recommends that the Organization be a partnership in corporate form.

234 There is support in the Committee for the proposal that the Organization be, as under the interim arrangements, a partnership in the form of a joint venture. Such a joint venture would not be in corporate form.

235 2. Legal Personality and Capacity

236 A substantial majority of the Committee recommends that the Organization, which should be either an international or intergovernmental organization, should possess legal personality and, on the territory of each Participating State, the juridical capacity necessary to exercise its functions and reach its objectives, including the capacity to conclude agreements, to own property and to exercise rights against third parties in its own name.

E. Structure of the Organization

237 Under the interim arrangements INTELSAT has two organs: the Interim Communications Satellite Committee, as the decision-making body, and a manager, the Communications Satellite Corporation, as provided in Article VIII of the Interim Agreement.

238 The structure of the Organization can be considered in two ways: first, the identity, form and functions of the organs, and second, the inter-relationships of the organs.

239 As regards the identity of the organs, the Committee received proposals covering various combinations of:

-- a Conference of Parties,

-- an Assembly of Parties or Signatories or designated telecommunication entities,

-- a Governing Body,

-- various Regional or Specialized Groups,

-- a Secretariat (or Secretary-General, or Director General),

-- a Management Body (or General Manager).

240 The Committee considered in greatest detail an organization which would consist of three of these organs, namely: an Assembly, a Governing Body, and a Management Body.

241 As regards the inter-relationships of the various organs, the main alternatives are that the various organs should each have separate legal personality, as is the case under the interim arrangements; or that the Organization as a whole should have corporate legal personality, in which case the constituent organs would each exercise appropriate aspects of the Organization's powers, rights and obligations in accordance with the provisions of the definitive arrangements.

242 For purposes of clarity, this subject heading is divided into the following sub-headings:

-- Organs of the Organization

-- Inter-relationship of the Organs of the Organization

-- The Assembly

-- The Governing Body

-- The Management Body

-- Variation of a Three-organ Structure

243 1. Organs of the Organization

244 The Committee unanimously recommends that the Organization consist of:

-- an Assembly,

-- a Governing Body,

-- a Management Body.

245 In connection with this recommendation:

246 A majority of the Committee recommends that the Assembly should be composed of all Parties.

247 A majority of the Committee recommends that the Assembly should be composed either of Parties or of designated telecommunication entities as may be decided by the Parties prior to each meeting of the Assembly.

248 There is substantial support in the Committee for the proposal that the Assembly should be composed of all Signatories.

249 It is observed that neither of the compositions of the Assembly proposed in paragraphs 247 and 248 above would preclude the convening, either at fixed periodic intervals or ad hoc as required, of Conferences of Parties, e.g., for the purposes of reviewing the working of the definitive arrangements and of amending the Intergovernmental Agreement.

250 There is support in the Committee for the proposal that the Organization consist of:

-- an Assembly, composed of all Signatories,

-- a Governing Body,

-- a Management Body, composed of an International Secretariat and a single entity appointed as Manager to engage in the daily work of the space segment under the directives of the Secretariat.

251 There is support in the Committee for the proposal that the Organization consist of:

-- a Conference, composed of Parties;

-- an Assembly, composed of Signatories;

-- a Governing Body;

-- a Management Body.

252 Under this proposal, the Conference would consider the broad policy of the Organization and would approve amendments to the Intergovernmental Agreement. Voting in the Conference would be in accordance with established international voting practice. The Conference would meet either at given intervals, possibly every three years, or at the request of a given number of Parties. The functions of the Assembly would be broadly similar to those of a general meeting of shareholders or stockholders.

253 2. Inter-relationship of the Organs of the Organization

254 A substantial majority of the Committee recommends that the definitive arrangements should govern the internal arrangements of the Organization.

255 A substantial majority of the Committee recommends that the Management Body be subordinate to the Governing Body, this relationship to be made clear by subjecting the functioning of the Management Body to the general policies and specific determinations and directives of the Governing Body.

256 A majority of the Committee recommends that the Management Body be subordinate to the Governing Body, this relationship to be made clear by establishing a documented relationship between the Governing Body and the Management Body which clearly delineates the roles of each organ and conveys the appearance, as well as the reality, that the Management Body is the servant of the Governing Body.

257 There is substantial support in the Committee for the proposals that:

258 -- An Assembly consisting either of Parties or of Signatories, as may be determined by the Parties prior to each meeting of the Assembly, be the supreme organ of the Organization.

259 -- Legal personality reside in the Organization as a whole with the several organs--Assembly, Governing Body and Management Body--each exercising appropriate aspects of the Organization's powers, rights and obligations in accordance with the provisions of the definitive arrangements.

260 -- The chief executive of the International Secretariat of the Management Body have appropriate legal capacity to act on behalf of the Organization.

261 The proposal was made that an Assembly consisting of all Signatories be the supreme organ of the Organization.

262 3. The Assembly

263 The Committee examined the functions, voting system and frequency of meetings of the Assembly under three assumptions regarding its composition, namely, an Assembly consisting of Parties, an Assembly consisting either of Parties or Signatories, and an Assembly consisting of Signatories.

264 a) An Assembly Consisting of Parties

265 i) Functions

266 A majority of the Committee recommends that the following be among the functions of the Assembly:

267 -- To receive, consider and, in some instances, approve reports from the Governing Body.

268 -- To act upon all matters referred to it by the Governing Body, including:

269 . proposals for increasing the capital investments of Signatories;

270 . recommendations for changes in designation of or arrangements with the Management Body, and for the appointment of the chief executive of the Management Body for a prescribed term of office.

271 -- To appoint Signatories to the Governing Body for a prescribed period, either because their past use of the system qualified them for such representation or because they were selected on some other basis, such as regional representation.

272 -- To determine that a Signatory shall be deemed to have withdrawn from the Organization for failure to comply with obligations of membership.

273 -- To establish the general policy and scope of programs of the Organization, and to review the activities of the other organs.

274 -- To lay down the Organization's broad policy and to take decisions of a political nature.

275 <u>There is substantial support in the Committee for the proposal</u> that the following be among the functions of the Assembly:

276 -- To consider and approve amendments to the Agreements constituting the definitive arrangements.

277 <u>There is support in the Committee for the proposals</u> that the following be among the functions of the Assembly:

278 -- To consider and approve amendments to the Second Agreement.

279 -- To consider grievances put to it by Signatories or by users of the system.

280 -- To determine, in the event of disputes, the competence of the Governing Body.

281 -- To approve new accessions.

282 ii) Voting

283 A majority of the Committee recommends that procedural decisions be adopted by a simple majority, and important decisions of substance by a two-thirds majority in each case, with each member possessing one vote.

284 There was support in the Committee for the proposal that a simple majority, with each member possessing one vote, be required for all decisions.

285 The proposals were made that:

286 -- A two-thirds majority, with each member possessing one vote, be required for all decisions.

287 -- Both a simple majority, with each member possessing one vote, and a two-thirds majority of the investment shares* be required for decisions on substantive matters.

288 iii) Frequency of Meetings

289 There is substantial support in the Committee for the proposal that the Assembly meet annually, but be empowered to call extraordinary meetings.

290 There is support in the Committee for the proposal that the Assembly meet annually.

291 The proposal was made that the Assembly meet every two years, but be empowered to call extraordinary meetings at the request of a majority of its members.

---

* Regarding the determination of investment shares, see Section F below.

292 b) An Assembly Consisting either of Parties or of Signatories, as may be Determined by the Parties Prior to Each Meeting of the Assembly

293 i) Functions

294 A majority of the Committee recommends that the following be among the functions of the Assembly:

295 -- To receive, consider and, in some instances, approve reports from the Governing Body.

296 -- To determine that a Signatory shall be deemed to have withdrawn from the Organization for failure to comply with the obligations of membership.

297 -- To establish the general policy and scope of programs of the Organization, and to review the activities of the other organs.

298 -- To lay down the Organization's broad policy and to take decisions of a political nature.

299 There is substantial support in the Committee for the proposals that the following be among the functions of the Assembly:

300 -- To appoint Signatories to the Governing Body for a prescribed period, either because their past use of the system qualified them for such representation or because they were selected on some other basis, such as regional representation.

301 -- To consider and approve amendments to the Second Agreement.

302 There is support in the Committee for the proposals that the following be among the functions of the Assembly:

303 -- To act upon all matters referred to it by the Governing Body, including:

304 proposals for increasing the capital investments of Signatories;

305 recommendations for changes in designation of or arrangements with the Management Body, and for the appointment of the chief executive of the Management Body for a prescribed term of office.

306 -- To consider grievances put to it by Signatories or by users of the system.

307 -- To consider and approve amendments to the Agreements constituting the definitive arrangements.

308 The proposal was made that the following be among the functions of the Assembly:

309 -- To approve new accessions.

310 ii) Voting

311 There is substantial support in the Committee for the proposal that procedural decisions be adopted by a simple majority, and important decisions of substance by a two-thirds majority in each case, with each member possessing one vote.

312 The proposals were made that:

313 -- A two-thirds majority, with each member possessing one vote, be required for all decisions.

314 -- Both a simple majority, with each member possessing one vote, and a two-thirds majority of the investment shares be required for decisions on substantive matters.

315 iii) Frequency of Meetings

316 There is substantial support in the Committee for the proposal that the Assembly meet annually, but be empowered to call extraordinary meetings.

317 The proposal was made that the Assembly meet annually.

318 c) An Assembly Consisting of All Signatories

319 i) Functions

320 There is substantial support in the Committee for the proposals that the following be among the functions of the Assembly:

321 -- To receive, consider, and in some instances, approve reports from the Governing Body.

322 -- To consider and approve amendments to the Second Agreement.

323 There is support in the Committee for the proposals that the following be among the functions of the Assembly:

324 -- To establish the general policy and scope of programs of the Organization, and to review the activities of the other organs of the Organization.

325 -- To act upon all matters referred to it by the Governing Body, including:

326 proposals for increasing the capital investments of Signatories;

327 recommendations for changes in designation of or arrangements with the Management Body, and for the appointment of the chief executive officer of the Management Body for a prescribed term of office.

328 -- To appoint Signatories to the Governing Body for a prescribed period, either because their past use of the system qualified them for such representation or because they were selected on some other basis such as regional representation.

329 -- To determine that a Signatory shall be deemed to have withdrawn from the Organization for failure to comply with the obligations of membership.

330 The proposals were made that the following be among the functions of the Assembly:

331 -- To lay down the Organization's broad policy and to take decisions of a political nature.

332 -- To determine, in the event of disputes, the competence of the Governing Body.

333 -- To consider grievances put to it by Signatories or by users of the system.

334 ii) Voting

335 There is substantial support in the Committee for the proposal that a two-thirds majority be necessary for substantive matters and a simple majority for other matters, with each Signatory possessing one vote.

336 There is support in the Committee for the proposal that both a simple majority, with each Signatory possessing one vote, and a two-thirds majority of the investment shares, be required for decisions on substantive matters.

337 The proposals were made that:

338 -- All decisions require both a simple majority, with each Signatory possessing one vote, and a two-thirds majority of the investment shares.

339 -- All decisions require a simple majority, with each Signatory possessing one vote.

340 iii) Frequency of Meetings

341 There is substantial support in the Committee for the proposal that the Assembly meet annually.

342 There is support in the Committee for the proposal that the Assembly meet annually, but be empowered to call extraordinary meetings.

343 The proposal was made that the Assembly meet every two years, but be empowered to call extraordinary meetings at the request of a majority of Signatories.

344 4. Governing Body

345 a) Eligibility for Membership

346 A majority of the Committee recommends that the Governing Body be composed of representatives of the Signatories.

347 There is support in the Committee for the proposal that representatives in the Governing Body meet without advisors so as to encourage the Governing Body to work in the spirit of a Board of Directors.

348 The proposal was made that the Governing Body be composed of representatives of designated telecommunication entities, with advisors as required.

349 b) Size

350 A substantial majority of the Committee recommends that, in order to ensure that the Governing Body will function in an effective and efficient manner, it be of limited size.

351 There is substantial support in the Committee for the proposal that the foregoing objective be achieved by establishing the size of the Governing Body at a maximum of twenty individuals.

352 There is support in the Committee for the proposal that the size of the Governing Body not exceed twenty-five individuals.

353 The proposals were made that:

354 -- The size of the Governing Body not exceed fifteen individuals.

355 -- The size of the Governing Body not exceed eighteen individuals.

356 c) Composition

357 The Committee unanimously recommends that Signatories be entitled to seats in the Governing Body by virtue of possession individually, or as a group, of investment shares equalling or exceeding a requisite level, and a majority of the Committee recommends that this level be set at 1.5% of the total investment shares in the Organization.

358 A majority of the Committee recommends that, in addition, the Assembly could elect a certain number of Signatories who would not be represented on the basis of their investment shares. The voting power of these members of the Governing Body would be at least equal to that of the member of the Governing Body with the lowest weighted vote.

359 There is substantial support in the Committee for the proposal that the minimum qualifying number of investment shares needed to obtain membership in the Governing Body be fixed on the basis of the desirable strength of the Governing Body and the distribution of investment shares among the Signatories.

360 There is support in the Committee for the proposals that:

361 -- Five or more Signatories be entitled to one seat in the Governing Body, regardless of their combined investment shares.

362 -- Signatories be entitled to one seat in the Governing Body if the volume of their international public telecommunication traffic provided by the satellites of the Organization (and not their investment shares), individually or as a group, equals or exceeds a requisite level.

363 -- For the purpose of determining qualifications for membership in the Governing Body, investment shares be deemed to be proportional to Signatories' use of the Organization's system for international public telecommunication only.

364 The proposals were made that:

365 -- Signatories be entitled to seats in the Governing Body by virtue of their traffic individually, or as a group, equalling or exceeding a requisite level.

366 -- The twelve Signatories with the greatest use of the system during each preceding period of four years be selected automatically for two-year seats in the Governing Body at meetings every two years of the Assembly, and six additional Signatories be elected to two-year seats in the Governing Body at meetings every two years of the Assembly either on a regional basis or on a voluntary group basis, based on use plus regional groupings.

367 d) Functions

368 The committee unanimously recommends that:

369 -- Functions assigned to the Governing Body be all those functions required to direct the business and carry out the purposes of the Organization.

370 -- The Governing Body be responsible for the design, development, construction, establishment, maintenance, and operation of the space segment.

371 In the exercise of these broad functions, powers, and responsibilities, the Governing Body would also exercise specific functions, with due regard to such powers and functions as might be vested in the Assembly or other organs. Many of the specific functions would be of the type normally residing in a governing body. Some are stated under other subject headings of this Part of the Report. Some of special significance are listed below. This list is not exhaustive, but merely illustrative. In presenting it, the Committee is neither recommending nor implying that a detailed list of functions of the Governing Body should be included in the definitive arrangements.

372 With respect to global satellites (see subject heading B), the Governing Body might be concerned with:

373 -- Contracts for the Organization's procurements.

374 -- Policies for the conduct of Organization-funded research and development projects and approval of research and development programs.

375 -- Procedures for determination and periodic adjustment of Signatories' investment and ownership shares.

376 -- Procedures and criteria for approval of earth stations for access to global satellites.

377 -- Procedures for initial and continuing verification of performance characteristics of earth stations approved for access to global satellites.

378 -- Plans and procedures for coordination between earth stations in the utilization of global satellites and other Organization-financed satellites, e.g., operation plans, including frequency plans, tests and lineups, and service circuits.

379 -- Procedures for filing of the required information pertaining to global satellites and other Organization-financed satellites with the International Telecommunication Union.

380 -- Terms and conditions for allotment of units of satellite utilization in global satellites, including charges for such allotments.

381 With respect to satellites intended specifically to serve the domestic needs of a Participating State (see subject heading B) the Governing Body might be concerned with:

382 -- Programs for the development and establishment of Organization-financed domestic satellites.

383 -- Programs for the development and establishment by the Organization of domestic satellites financed by a Participating State requesting such satellites.

384 -- Operation and system management plans for the utilization, maintenance and control of Organization-financed domestic satellites.

385 -- Programs for operational control for Organization-financed domestic satellites and arrangements, terms and conditions under which the Organization may provide operational control for non-Organization-financed domestic satellites.

386 -- Procedures and criteria for approval of earth stations for access to Organization-financed domestic satellites.

387 -- Procedures for initial and continuing verification of performance characteristics of earth stations approved for access to Organization-financed domestic satellites.

388 -- Plans and procedures for coordination between earth stations in the utilization of Organization-financed domestic satellites.

389 -- Procedures for filing of the required information pertaining to Organization-financed domestic satellites with the International Telecommunication Union.

390 There is substantial support in the Committee for the proposal that the Governing Body have the function of establishing, each time such establishment is deemed useful, regional groups or groups for specialized services, composed of a limited number of Signatories. The groups would be empowered to submit to the Governing Body, either at the request of the Governing Body, or on their own initiative, recommendations concerning their field of interest.

391 e) Voting Arrangements

392 i) Determination of Voting Shares

393 A substantial majority of the Committee recommends that voting shares be determined by directly relating voting shares to the investment shares held respectively by a Signatory or a group of Signatories with seats in the Governing Body, and in addition by assigning to each such Signatory or group of Signatories a basic bloc of votes.

394 There is substantial support in the Committee for the proposals that:

395 -- Voting shares be based on the investment shares of the Signatories except that the difference in voting shares between the Signatory with the largest investment share and the Signatory with the lowest investment share would not be so large as the difference between their respective investment shares.

396 -- Voting shares be in proportion to the volume of international public telecommunication traffic of the Signatories, individually or as a group, provided by the satellites of the Organization.

397 -- Each Signatory or each group of Signatories with a seat in the Governing Body have one vote.

398 There is support in the Committee for the proposals that:

399 -- Voting shares be determined by directly relating voting shares to the investment shares held respectively by the Signatory or group of Signatories with seats in the Governing Body.

400 -- Voting shares may or may not be related directly to traffic shares. Voting shares in the Governing Body may be determined by directly relating voting shares to the shares of routed traffic held by the Signatory or group of Signatories with seats in the Governing Body and by assigning to each such Signatory or group of Signatories a basic bloc of votes. Alternatively, voting shares may be determined by directly relating voting shares to the traffic shares (that portion of the traffic shares which is based upon usage of the system to provide public international telecommunication services) held respectively by the Signatory or group of Signatories with seats in the Governing Body.

401 -- Voting shares shall not differ from investment shares, provided that the total investment is divided into two parts as proposed in paragraph 501, below.

402 ii) Voting Power

403 The Committee unanimously recommends that the Governing Body shall endeavor to take its decisions unanimously.

404 A substantial majority of the Committee recommends that:

405 -- In no case should any one representative or a combination of three representatives having the largest voting shares on the Governing Body be able to prevent or impose a decision of the Governing Body solely because of the casting of its votes or their votes.

406 -- The voting power of any representative be limited by providing that the Governing Body shall not fail to take a decision solely because of the casting of a negative vote by any three representatives.

407 A majority of the Committee recommends that:

408 -- The voting power of any three representatives shall not exceed 50%.

409 -- All decisions in the Governing Body be governed by the principle that no single entity should be able to block a decision. Voting rights should be suitably defined to meet this aim.

410 There is substantial support in the Committee for the proposal that an upper limit of 50% be placed on the voting power of any representative.

411 iii) Majority Requirements

412 The Committee unanimously recommends that, if voting arrangements and majority requirements in the Governing Body vary according to the issue before the Governing Body, those items considered to be the more important substantive ones should be listed in the definitive arrangements.

413 The proposals were made that:

414 -- The Governing Body shall delegate its decision-making power to the regional or specialized groups it will have established, each time it appears that the decision to be taken concerns only Signatories belonging to one of these groups. Voting procedures within these groups will take into account voting procedures adopted within the Governing Body, but will also take into account the independence of the terrestrial and earth segments in relation to the space segment.

415 -- In the absence of unanimity, either of the following two results should constitute a decision:

416 . a simple majority of the membership, with each member possessing one vote, together with 66-2/3% of voting shares; or

417 . an adequately high numerical majority (such as 80%) of the membership, with each member possessing one vote.

418 iv) Majority Requirements on Substantive Questions

419 A majority of the Committee recommends that decisions on substantive questions be taken by a two-thirds majority of the total of the voting shares represented in the Governing Body.

420 There is substantial support in the Committee for the proposal that weighted voting be used only on substantive matters. Certain important questions, such as the determination of investment shares and the award of major contracts, should require, in addition to a majority (which could be either a two-thirds majority or a simple majority) of the voting shares in the Governing Body, a majority of the members of the Governing Body, with each member possessing one vote. There must be detailed enumeration of the questions on which such a double majority voting procedure shall apply.

421 There is support in the Committee for the proposal that decisions on substantive questions be taken by a simple majority or two-thirds of the membership of the Governing Body, each member possessing one vote, except that decisions directly dealing with the approval of contracts, or with authorizations for expenditures and revenue, shall require two-thirds of the total of the voting shares.

422 v) Majority Requirements on Procedural Questions

423 A substantial majority of the Committee recommends that decisions on procedural questions be taken by a simple majority of the representatives present and voting.

424 f) The Chairman of the Governing Body

425 The Committee unanimously recommends that the Governing Body appoint its Chairman from among its representatives.

426 There is substantial support in the Committee for the proposals that:

427 -- To the extent possible, the Chairman shall serve full-time during his period of office.

428 -- The Chairman shall not succeed himself.

429 -- The Chairman shall not belong to the Management Body.

430 There is support in the Committee for the proposal that the Chairman serve for a period of two years.

431 5. The Management Body

432 a) Identity and Staffing

433 A majority of the Committee recommends that:

434 -- The Organization have a permanent international Management Body under the authority of a Director-General who would be directly subordinate to the Governing Body. All posts in the Management Body shall be open to qualified personnel of the Participating States, with the aim of securing the highest degree of efficiency. Due regard shall be given to the principle of equitable geographical distribution as far as possible. The Director-General and his staff shall not receive any instructions from outside, nor shall any member of the Organization influence them in the performance of their duties. Certain management functions of the Management Body could be transferred on a project-by-project basis to national or international institutions.

435 -- The personnel serving in the Management Body be highly qualified individuals selected from the Participating States, such individuals to be independent of any national entity.

436 -- The key personnel of the Management Body, including the chief executive officer and other executives, be appointed by the Governing Body.

437 -- The chief executive officer be appointed by the Assembly for a fixed term of office on the recommendation of the Governing Body, and be subject to removal for cause in the same manner.

438 -- The Organization's Director-General, under the guidance of the Governing Body, be in charge of technical, commercial, and operational management.

439 There is substantial support in the Committee for the proposals that:

440 -- The chief executive of the international secretariat* comprising part of the Management Body, be assisted by a number of qualified staff members selected from among the Participating States.

441 -- The Management Body be an international organization separate and distinct from the entities participating in the Organization.

442 There is support in the Committee for the proposal that the international Management Body include a permanent Secretariat, working closely with the Governing Body and its subcommittees (planning, standardization, traffic statistics, financial data, general technical studies, legal assistance, industrial property, information, technical assistance, etc.) and a technical and operations body, which could be partially decentralized to bring closer, as much as it is possible, the monitoring of contracts, as well as the control and operation of the space segment, to contractors, maintenance stations and users which will be scattered throughout all continents.

* For the concept of an international secretariat, see paragraph 250, above.

443 The proposals were made that:

444 -- The current Manager designated by the Interim Agreement be the Management Body under the definitive arrangements.

445 -- The Manager be an individual assisted by a permanent staff (consisting of technical and administrative personnel) of the Organization.

446 b) Designation of the Management Body

447 A majority of the Committee recommends that, should the Management Body be an international body, it be designated in the definitive arrangements.

448 There is substantial support in the Committee for the proposal that, should the Management Body be an international body, it be appointed by the Assembly after receiving the recommendation of the Governing Body.

449 There is support in the Committee for the proposal that, should the Management Body be an international body, it be appointed by the Governing Body.

450 There is support in the Committee for the proposals that, should the Management Body be a national entity, it be:

451 -- Designated in the definitive arrangements.

452 -- Appointed by the Governing Body.

453 There is support in the Committee for the proposals that:

454 -- If the management functions are exercised by a national entity responsible to an international body, the national entity be appointed by the Assembly on the recommendation of the Governing Body.

455 -- Should the Manager be an individual assisted by an international staff, he be:

456 -- Appointed by the Governing Body.

457 -- Appointed by the Assembly on the recommendation of the Governing Body.

458 The proposal was made that, if the management functions are exercised by a national entity responsible to an international body, the national entity be appointed by the Governing Body.

459 c) Change of the Management Body

460 A majority of the Committee recommends that, under the definitive arrangements, the Management Body may be changed by amending the Intergovernmental Agreement.

461 There is substantial support in the Committee for the proposal that, under the definitive arrangements, the Management Body may be changed by the Assembly on the recommendation of the Governing Body.

462 There is support in the Committee for the proposal that, under the definitive arrangements, the Management Body may be changed by the Governing Body.

463 d) Functions of the Management Body

464 The extent to which the functions of the Management Body will need to be expressed in the definitive arrangements will depend upon the form and legal personality of the Organization to be established and the selection and identity of the Management Body. Should the Organization be a self-contained entity, the Management Body would be an organ within this unitary Organization. Under such circumstances it might not be necessary to detail the functions of the Management Body, since it would be a subordinate body of the Organization, receiving its instructions, authority and functions from the Governing Body. However, should all or some of the managerial functions be performed by an organization(s) not included within a unitary organization, it would be necessary to enumerate in considerable detail the functions of a Management Body. Such enumeration could appear in the Agreements, thus following the precedent established by the Interim and Special Agreements.

Alternatively, these functions could be established in a documented relationship between the Governing Body and such an outside Management Body(ies). In this connection, a description (prepared by the Manager) of the functions that the present Manager currently performs for INTELSAT is attached to this Part of the Report.

465 Regardless of the identity of the Management Body, the Committee views it as being the executing and implementing agent for the policy organs of the Organization.

466 With regard to both global and domestic satellites the Management Body might be concerned with:

467 -- Studies to ascertain satellite service requirements, including establishment of a satellite communications traffic data base.

468 -- Recommendations on the economic desirability for the Organization to finance the development and establishment of a domestic satellite in response to the request of a Participating State.

469 -- Earth station approvals for access to satellites according to the procedures and criteria adopted by the Governing Body.

470 -- The allotment of units of satellite utilization in satellites in accordance with the terms and conditions established by the Governing Body.

471 -- The provision of the information about satellites required by the International Telecommunication Union, in accordance with procedures adopted by the Governing Body.

472 -- Preparation and issuance of requests for proposals for Organization procurements; evaluation of proposals received in response to such requests for proposals; recommendations to the Governing Body concerning the selection of contractors; negotiation, (execution) and administration of the Organization's contracts, unless specifically directed otherwise by the Governing Body.

473 -- The direction or performance of all management functions, such as procurement, maintenance, and operation of the space segment.

474 -- Required coordination between the space segment and earth stations.

475 There is substantial support in the Committee for the proposals that:

476 -- The functions of the Management Body be enumerated in a contract to be concluded between the Governing Body and the Management Body.

477 -- The Management Body not be authorized to sign contracts, and that this function be vested in the Director-General acting expressly on behalf of the Governing Body.

478 6. Variation of a Three-organ Structure

479 There is support in the Committee for the proposal that the Organization consist of a three-organ structure different from that described above. Under this proposal, the Organization would be composed of:

480 -- An Assembly, similar in its general features to those of the Assembly described above.

481 -- A Governing Body. In some respects, the Governing Body would be similar to that described above. It could take decisions by a simple (or two-thirds) majority of its members on matters concerning the international aspects of the Organization, and on problems of general interest (planning, standardization, policies relating to tariffs, relations between the space segment and earth segment, etc.). However, its power in matters involving direct financial commitments or commitments of a primarily commercial nature would be largely a power of recommendation and coordination only. Such matters would fall essentially within the competence of regional or specialized groups. These groups would

be established by agreements among the administrations or entities which would finance the satellites of concern to them and which would commit themselves to contribute to overhead expenses according to their shares in the group.

482 -- The Governing Body would, however, assume specific responsibilities of initiative and supervision in the establishment and harmonization of the global network. For example:

483 The Governing Body, assisted by its specialized committees and by the international Management Body (or its permanent Secretariat), would continuously examine and monitor the status of the global network and traffic forecasts, in order to propose, when it appears necessary, the design, development and establishment of new satellites. These proposals would be highly refined, for they would be based upon consultations conducted on an international basis and upon pre-negotiations with industry, but the Governing Body would not possess the right to let definitive contracts.

484 The establishment of satellites could also be initiated independently of the Governing Body by countries or groups of countries. Independent initiation would often characterize plans for domestic or regional satellites. Countries planning such satellites would agree, if they were members of the Organization, to submit their plans to the Governing Body for its opinion, the Governing Body would then make all suggestions it deemed advisable, particularly with a view toward optimizing the global network from the technical and economic standpoints.

485 The Governing Body would also be able to submit recommendations on its own initiative.

486 All these recommendations or suggestions would require a simple majority of the members of the Governing Body.

487 -- A Management Body. Each of the regional or specialized groups may, if it wishes, transfer to a Manager a part of the management tasks which fall upon it, and may freely select this Manager.

488 -- But the Organization as a whole might prefer to select a single international Management Body similar to that provided for in the Organization described above, but preferably including a permanent Secretariat and preferably decentralized, to a considerable extent, at the level of each of these groups, for the performance of its technical and operational functions.

F. Financial Matters

489 In considering financial arrangements to be established by the definitive arrangements it may be useful to review the circumstances presently pertaining. Under the interim arrangements, contributions to meet INTELSAT capital requirements are made by the Signatories to the Special Agreement in proportion to their respective quotas which were fixed by negotiation, having regard to the volume of long-distance traffic forecasts of the various Signatories. The amount of capital contributed by the Signatories to the Special Agreement is not necessarily related to their actual use of the INTELSAT satellites. Payment for the utilization of INTELSAT satellites is governed by Article 9 of the Special Agreement, which provides that "The Committee shall specify the unit of satellite utilization and from time to time shall establish the rate of charge per unit at a level which, as a general rule, shall be sufficient, on the basis of the estimated total use of the space segment, to cover amortization of the capital cost of the space segment, and adequate compensation, for use of capital, and the estimated operating, maintenance, and administration costs of the space segment." Thus, the space segment charge is paid by the users of the INTELSAT satellites, and capital requirements are met by the owners.

490 During Committee consideration of the definitive arrangements, different concepts have been advanced with respect to investment in the property of the Organization and the financing of its activities. Under one concept the Signatories would participate in the financing of all of the property and activities of the Organization. Under another concept, the Signatories would participate, only in accordance with their own decisions, in the financing of specific satellites and financing of certain common activities.*

---

* It has been suggested by one member that although these two concepts may seem contradictory they may lead in practice to similar and perhaps even identical results.

491 Under the financial system established by the interim arrangements, the relationship between ownership and use is merely coincidental, and it would be virtually impossible under such a system for an owner's capital contribution to equal the amount of the charges it paid for using the satellites. On the other hand, it would be possible, under the definitive arrangements, to establish a basis for financing the activities of the Organization so that the Organization's capital requirements and expenses would be met by Signatories contributing monies in proportion to their actual use of the Organization-financed satellites.

492 1. Principles Underlying the Financial Arrangements of the Organization

493 A majority of the Committee recommends that the financial arrangements of the Organization make a clear distinction between the role of Signatories as co-owners of the space segment (in which role they would make capital contributions to the Organization on the basis of a system of investment shares to be defined in the definitive arrangements) and the role of Signatories as users of the space segment (in which role they would make utilization charge payments to the Organization, such charges to be fixed by the Organization according to commercial principles).

494 There is support in the Committee for the proposals that the financial arrangements of the Organization:

495 -- Be based on a cooperative structure under which Signatories, being both co-owners and the only direct users of the space segment, would contribute capital and make payments to cover maintenance and operating expenses in proportion to their respective investment shares (based upon use of the Organization-financed space segment). This cooperative financial structure, combining the roles of Signatories as owners and as users, might make possible the elimination of space segment utilization charges as such.

496 -- Be based on a cooperative structure in which the Signatories, both co-owners and direct users of the space segment, would contribute to the capital expenses in proportion to investment shares (determined according to space segment utilization which they anticipate over the next five years) and would contribute to operation and maintenance expenses in proportion to their actual space segment utilization. This cooperative financial structure of Signatories as co-owners and users, would render possible the elimination for these Signatories of inherent charges of utilization of the space segment and would further enable the use of the space segment as leased by non-Signatory telecommunication entities, in accordance with the Preamble of the Interim Agreement.

497 2. Principles for Determining Investment Shares of Signatories

498 A substantial majority of the Committee recommends that investment shares of the Signatories be determined by relating them directly, through periodic adjustment, to actual use of all Organization-financed facilities, subject to allotment of a minimum investment share of approximately 0.05% to each Signatory irrespective of use.

499 There is substantial support in the Committee for the proposals that:

500 -- Investment shares be determined by adding together the investment related to actual use and a fixed and equal "basic" investment for all Signatories.

501 -- The total investment shares be divided into two parts. Forty percent of the shares would be allotted to Part 1 and be divided equally among the Signatories. The remaining 60% of the shares would be in Part 2 and would be divided among the Signatories according to their space segment utilization. In case some of the Signatories do not have the means or the intention to purchase the shares due to them, they would be given a minimum base share, and the remaining shares in each part would be divided among the other Signatories according to the principles stated above. It should be possible for such Signatories to opt for any fraction or whole of the full share to which they are entitled during any annual review.

502 -- Two classes of stock be issued by the Organization: common and preferred stock. Signatories would subscribe to common stock to finance the space segment for public international telecommunication services. Preferred stock would be sold by the Organization to Signatories and to non-Signatories on the international market to finance all of the other projects of the Organization.

503 There is support in the Committee for the proposals that investment shares of Signatories be based upon:

504 -- An estimated percentage of the total future use of Organization-financed facilities, derived from each Signatory's request for reserved capacity.

505 -- The estimated total use by each Signatory, for a five-year period, starting with the year for which the investment share has been determined.

506 There is support in the Committee for the proposal that the concept of investment quotas plus a separate space segment utilization charge, as established by the interim arrangements, continue to form the basis of the financial arrangements of the Organization.

507 3. Methods for Determining Investment Shares

508 a) Allocation of Investment Shares

509 A substantial majority of the Committee recommends that the investment shares of the Signatories shall result from a proportional allocation of contributions of capital required for Organization-financed facilities in accordance with one of the principles described in paragraphs 497-506, above.

510 b) Frequency of Allocation

511 A majority of the Committee recommends that allocation of investment shares be adjusted annually, with the adjustments based upon the relative use of each Signatory during the preceding year.

512 There is substantial support in the Committee for the proposal that Signatories not wishing to vary their present investment quota should not be obliged to do so.

513 There is support in the Committee for the proposals that allocation of investment shares be:

514 -- Adjusted annually, with the adjustments based upon the total quantity of capacity reserved for their use that Signatories committed themselves to for the next five years.

515 -- Adjusted every three years.

516 4. Rights and Obligations of the Investors

517 a) Property Rights and Interests

518 A substantial majority of the Committee recommends that the entire Organization-financed space segment be owned in undivided shares by the Signatories in proportion to their investment shares.

519 There is support in the Committee for the proposal that individual satellites or groups of satellites, as well as related equipment, be owned in proportion to their investment shares, in undivided shares, by the telecommunications administrations and operating entities financing them. Common facilities would also be the undivided property of all the administrations and entities which would have contributed to their financing.

520 b) Compensation for Use of Capital

521 A substantial majority of the Committee recommends that use of the capital invested by the Signatories be compensated on the basis of the cost of money during the period between adjustments of investment shares.

522 There is substantial support in the Committee for the proposal that use of the capital invested by the Signatories be compensated on the basis of a rate of return substantially lower than the 14% rate employed under the interim arrangements.

523 There is support in the Committee for the proposal that, in the event of the financial arrangements involving separate accounting for capital contributions and for utilization charge payments, use of the capital invested by Signatories be compensated on the basis of an equitable rate of return, i.e., not substantially lower than the 14% rate employed under the interim arrangements.

524 c) Contribution to Maintenance and Operating Expenses

525 A majority of the Committee recommends that maintenance and operating expenses be shared proportionately to the investment shares of the Signatories as determined in accordance with one of the principles described in paragraphs 497-506 above.

526 d) Conditions of Use

527 A substantial majority of the Committee recommends that Signatories be able to use all Organization-financed facilities by payment of utilization charges. One possibility is that these charges be fixed at a level which meets all the Organization's costs including depreciation and amortization of capital and all maintenance and operating expenses.

528 There is support in the Committee for the proposals that:

529 -- Signatories be able to use all Organization-financed facilities without payment of utilization charges, since both capital contributions and maintenance and operating expenses would be met in proportion to investment shares.

530 -- Signatories be able to use all Organization-financed facilities without payment of utilization charges for the capacity they have reserved for their needs and with separate payment of utilization charges for any use of capacity in excess of that so reserved.

531 The proposal was made that telecommunications administrations and operating entities be able to use the capacity of satellites which they have financed, in proportion to their investment and without payment of charges, and on an indefeasible right of use basis.

Note: For users not investing in the Organization, see subject heading I of this Part.

G. Procurement Policies

532 It is necessary to consider carefully the criteria which should govern the placing of contracts for programs of the Organization.

533 During the interim period, the Committee has found the implementation of the provisions of Article X, in their present form, to give rise to inequalities and, without fundamental revision, to be difficult to fulfill without prejudice to the common interests of the members, because of the great disparity in the capability of its members to participate in work requiring the most advanced level of technological development. It has been represented that potential contractors outside the limited States found it difficult to perform such work within the short delivery time periods required for the INTELSAT I - IV satellites. The amount of international participation which has been achieved in the INTELSAT programs has required not negligible additional expenditures of INTELSAT funds, and this fact has given rise to controversy within the ICSC, as over 40 of the 63 INTELSAT members are countries which, because of their present stage of industrial development, see no immediate prospect of any significant portion of INTELSAT work being done in their countries.

534 Two considerations presented under this subject heading are, perhaps, contradictory. On the one hand, there is the need to obtain the best product at the best price. On the other hand, there is the legitimate desire of member States to share in procurements and to further their technological development. The Committee submits the following:

535 1. Obtaining the Best Product at the Best Price

536 A substantial majority of the Committee recommends that procurements for the space segment be carried out on the basis of the best product at the best price by means of international requests for proposals which are available to all Participating States.

537 A majority of the Committee recommends that an effort be made to ensure that procurements for the space segment be carried out on the basis of the best product at the best price by means of international requests for proposals which are available to all Participating States. In cases where it would be impossible to fulfill the preceding conditions, the Governing Body should have freedom to adopt a solution taking into account the interests of all Participating States.

538 2. Participation in Procurements

539 A substantial majority of the Committee recommends that:

540 -- The definitive arrangements should protect the interests of all Participating States and, in particular, should make possible the development of the technology of those States.

541 -- Each Participating State have the opportunity to participate, to the extent of its capacity, in the research, development and procurements for the system.

542 A majority of the Committee recommends that participation in research and development and in procurement for the system be, in principle, proportionate to the investment share of each Participating State.

543 There is support in the Committee for the proposal that the expenses contributed by each Signatory lead, to the maximum extent possible, to the derivation of benefits for its Participating State in terms of intellectual endeavor, industrial capability and technological development.

H. Policies in Relation to Inventions, Data, and Technical Information

544 Within the framework of the interim arrangements, the Special Agreement provides the means for disclosing to the Committee or to the Signatories inventions, technical data and information, arising directly from contracts placed by the Organization or used by the contractor in the performance of such contracts. Undoubtedly, this complex subject requires considerable attention in the development of the definitive arrangements.

545 The Committee unanimously recommends that the patent policy of the Organization be based on equitable arrangements, taking into account the interests of the Participating States and of the contractors.

546 There is substantial support in the Committee for the proposals that:

547 -- The patent policy of the Organization be based upon the difference between foreground data (data obtained in executing contracts awarded by the Organization) and background data (data not obtained in executing contracts of the Organization but which are necessary to the work performed under the contract). Holders of the rights relating to foreground data should be the contractors. They should, however, be bound to grant to the Organization, upon request, irrevocable, gratuitous, non-exclusive and transferable rights of use for purposes of the Organization. As regards background data, the holders should be the contractors, but they should be bound only to grant rights of use under equitable conditions.

543 -- It is inappropriate to attempt to delineate in the definitive arrangements the detailed rights of Signatories and others in the complex area of inventions and technical data. Rather, the definitive arrangements should contain broad standards as to the rights of Signatories and others, leaving to the Governing Body the implementation of the guidelines within the broad standards and the development of special inventions and data policies under those standards.

549 There is support in the Committee for the proposal that, in respect of inventions, technical data and information arising directly from contracts placed by the Organization, the title policy and the principles governing grant of license that have been established under the interim arrangements be maintained also under the definitive arrangements.

I. Access to the System; Coordination Arrangements

550 The Preamble of the Interim Agreement recalls the principle enunciated by the General Assembly of the United Nations that telecommunication by means of satellites should be available to the nations of the world on a non-discriminatory basis. It also affirms that all States should have access to the global system, those States so wishing being able to invest in it.

551 Since the purpose of the definitive arrangements must conform to the principles stated in the Preamble of the Interim Agreement, and must take into account the resolutions of the United Nations, the Agreements establishing the definitive arrangements should contain clauses, in addition to the statements contained under subject heading A of this Part, providing non-discriminatory access for all countries, whether or not members of the Organization.

552 Furthermore, the goal of improving the global telecommunication network, expressed in the Interim Agreement and mentioned under subject heading A of this part, requires various forms of coordination, including technical and commercial coordination between the earth and space segments.

553 ### 1. Access to the System

554 The Committee unanimously recommends that access to the space segment of the system be possible directly for all Signatories and indirectly, according to non-discriminatory arrangements concluded with a Signatory, for a State not participating in the Organization, whether or not a member of the International Telecommunication Union.

555 There is substantial support in the Committee for the proposal that all participants have direct access to the space segment. States not participating in the Organization would have direct access to the space segment only by agreement with the Organization.

556 The proposal was made that access to the space segment established by the Organization be possible directly for all the Signatories and for all States not participating in the Organization.

557 2. Coordination Arrangements

558 a) Technical Coordination

559 A substantial majority of the Committee recommends that due consideration be given to the fact that, since orbital slots and the radio frequency spectrum are limited resources, and since possibilities exist for harmful interference, international cooperation is required in the establishment of satellite telecommunication facilities.

560 A majority of the Committee recommends that:

561 -- Coordination involved in the regulation and harmonization of various space activities be entrusted to the competent organizations of the United Nations, in particular the International Telecommunication Union.

562 -- The Director General*, under the guidance of the Governing Body, should enter into a working relationship which would permit continuous consultation with the owner or owners of the domestic or regional system outside the Organization to ensure coordination with such systems.

563 There is substantial support in the Committee for the proposal that problems relating to technical and operational coordination between global satellites and domestic, regional, and/or specialized satellites be dealt with by the Governing Body or the Organization. In use of radio frequency spectrum and application of technical and operational standards in the field of telecommunications, due attention shall be paid to the recommendations of the International Telecommunication Union.

* The concept of a Director General of the Management Body is developed further in paragraph 434.

564 b) Commercial Coordination

565 There is support in the Committee for the proposal that, if sub-systems are to exist side by side with the global satellite system, commercial coordination be effected under the aegis of the International Telecommunication Union, by means of consultations and procedures for reconciliation.

566 c) Coordination between Earth and Space Segments

567 The proposal was made that the problems of overall coordination of earth and space elements be dealt with in regional groups consisting of earth station owners and non-owner users operating one or several common satellites covering a limited area of the globe. The regional groups would be a part of the Organization.

J. The Agreements Constituting the Definitive Arrangements; Amendment; Settlement of Disputes; Privileges, Immunities and Exemptions

568 1. Number of Agreements

569 The interim arrangements are contained in two related agreements, the Interim Agreement and the Special Agreement (the Supplementary Agreement on Arbitration may be viewed as an annex to the Special Agreement). A question which must be considered is the number of agreements to be used to establish the definitive arrangements.

570 A substantial majority of the Committee recommends that the definitive arrangements shall be contained in two related agreements.

571 The proposal was made that a single Intergovernmental Agreement shall be concluded to establish the definitive arrangements. This Agreement would provide the basis for the subsequent conclusion of agreements among and between telecommunication administrations and operating entities.

572 2. Signatories of the Agreements

573 Closely related to the question of the number of agreements to be concluded is the question of the Parties or Signatories to the Agreements.

574 The Committee unanimously recommends that if the definitive arrangements are contained in two related agreements, the first between Governments, the second should be signed either by Governments or by telecommunications entities, public or private, designated by Governments.

575 A substantial majority of the Committee recommends that, as under the interim arrangements, if the definitive arrangements are contained in two agreements, one shall be intergovernmental.

576 The proposal was made that the Second Agreement be signed only by telecommunication entities.

577 3. Duration of the Agreements

578 The Agreements establishing the interim arrangements remain in force until the entry into force of the definitive arrangements. The duration of the Agreements establishing the definitive arrangements must be considered.

579 A majority of the Committee recommends that the Agreements establishing the definitive arrangements have no fixed duration.

580 There is substantial support in the Committee for the proposal that the Agreements establishing the definitive arrangements have a limited duration.

581 4. Amendment of the Agreements

582 The Interim Agreement does not contain a provision for its amendment, whereas the Special Agreement may be amended when two-thirds of the Signatories to the Special Agreement have approved an amendment recommended for adoption by the Committee. It is necessary to consider provisions for amending the Agreements constituting the definitive arrangements. This question may be tied closely to other considerations as, for example, the duration of the definitive arrangements.

583 A substantial majority of the Committee recommends that the definitive arrangements should be subject to review and amendment by Governments. The Assembly should be able to make proposals. In addition, a review Conference of the Parties to the Intergovernmental Agreement should be convened if necessary.

584 There is substantial support in the Committee for the proposals that:

585 -- The Intergovernmental Agreement contain a clause enabling a Conference of the Parties to consider and approve amendments to the Intergovernmental Agreement.

586 -- If the Assembly is composed either of Governments or of designated telecommunication entities as may be decided by the Governments prior to each meeting of the Assembly, the Intergovernmental Agreement contain a clause enabling the Assembly to propose to Parties to the Intergovernmental Agreement amendments to that Agreement.

587 -- If the Assembly is composed of representatives of all Parties, the Intergovernmental Agreement contain a clause enabling the Assembly to propose to Parties to the Intergovernmental Agreement amendments to that Agreement.

588 -- If the Assembly is composed of all the Signatories, the Intergovernmental Agreement contain a clause enabling the Assembly to amend the Second Agreement.

589 There is support in the Committee for the proposal that, if the Assembly is composed of all the Signatories, the Intergovernmental Agreement contain a clause enabling the Assembly to propose to Parties to the Intergovernmental Agreement any amendments to that Agreement.

590 The proposal was made that the Intergovernmental Agreement be subject to revision and to amendment, upon proposal by Parties to the Intergovernmental Agreement. For this purpose a Conference of the Parties shall be convened every four years to review the Intergovernmental Agreement.

591 5. Settlement of Disputes

592 Arrangements for the settlement of disputes arising out of the interpretation or application of the Interim and Special Agreements are contained in the Supplementary Agreement on Arbitration. The Supplementary Agreement on Arbitration was concluded in accordance with the provisions of Article 14 of the Special Agreement, and it is in force for the Signatories to the Special Agreement. No arrangements were concluded for the settlement of disputes between the Parties to the Interim Agreement.

593 In order to settle the disputes arising with respect to the rights and obligations of members of the Organization in relation to one another and in relation to the Organization, the Committee unanimously recommends that the Second Agreement incorporate an agreement on arbitration procedures. This agreement could be based on the procedure existing under the interim arrangements.

594 6. Priviliges, Immunities and Exemptions

595 The Interim Agreement does not contain provisions relating to privileges, immunities and exemptions.

596 The subject of the privileges, immunities and exemptions to be accorded the Organization merits careful consideration. It is closely related to the questions considered under subject heading D of this Part, "The Legal Form, Personality and Capacity of the Organization."

597 A substantial majority of the Committee recommends that, in order to better exercise its functions and reach its aims, the Organization should enjoy privileges and immunities determined by the Parties to the Intergovernmental Agreement and should be exempt, to the extent possible, from the law of the headquarters of the Organization.

K. Rights and Obligations of the Parties

598 The following recommendations and proposals are linked to those under subject heading B of this section, "Scope of Activities of the Organization."

599 1. General Obligation

600 A majority of the Committee recommends that each Participating State obligate itself not to establish, or join in the establishment of, a space segment in competition with the space segment of the Organization.

601 There is support in the Committee for the proposals that:

602 -- Each Participating State obligate itself not to establish, or join in the establishment of, a space segment in competition with the space segment of the Organization, provided:

603 -- that the Organization be effectively in a position to satisfy the needs of that State;

604 -- that the Organization can do so under technical, economic and time conditions at least comparable to those which could be obtained with satellites of this competing space segment.

605 -- Each Participating State be entitled to participate in satellite systems to meet needs of all kinds, when these satellites are intended to establish telecommunications with States which, at the time of this participation, had not requested and had no plan to request, within the near future, access to the space segment established by the Organization.

606 2. Regional Satellites

607 A majority of the Committee recommends that each Participating State have the right to establish satellites independently, either by itself or in conjunction with other Participating States, to meet regional needs of any kind, subject to compliance with international regulations, particularly those of the International Telecommunication Union, and subject to consultation* with the Governing Body.

608 There is support in the Committee for the proposal that each Participating State have the right to establish satellites to meet regional needs of any kind.

609 3. Domestic Services

610 A substantial majority of the Committee recommends that each Participating State have the right to establish, independently of the Organization, by itself or in conjunction with other Participating States, communications satellites for domestic purposes, subject to compliance with pertinent international regulations, particularly those of the International Telecommunication Union, and subject to consultation* with the Governing Body.

611 There is substantial support in the Committee for the proposal that each Participating State have the right to establish, itself or in conjunction with other Participating States, communications satellites for domestic purposes independently of the Organization.

* The concept of consultation with the Governing Body is developed further under subject heading B, paragraphs 216-219, above.

612 4. Specialized Services

613 A majority of the Committee recommends that:

614 -- Each Participating State have the right to establish satellites solely for the purpose of providing specialized services. This right would be subject to compliance with international regulations, particularly those of the International Telecommunication Union, and subject to consultation* with the Governing Body.

615 -- Each Participating State have the right to establish, in conjunction with other Participating States, satellites intended primarily for specialized purposes, subject to compliance with pertinent international regulations, particularly those of the International Telecommunication Union, and subject to consultation* with the Governing Body.

616 There is substantial support in the Committee for the proposal that each Participating State have the right to establish satellites to meet its domestic needs of any kind and to establish, in conjunction with other Participating States, satellites intended primarily for specialized purposes.

617 There is support in the Committee for the proposal that each Participating State have the right to establish satellites solely for the purpose of providing specialized services.

* The concept of consultation with the Governing Body is developed further under subject heading B, paragraphs 216-219, above.

618 5. Needs of a National Security Nature

619 A majority of the Committee recommends that each Participating State have the right to establish satellites intended solely for the purpose of meeting needs of a national security nature, subject to consultation* with the Governing Body.

620 There is substantial support in the Committee for the proposal that notwithstanding the scope of authority of the Organization, each Participating State be free to establish satellites intended solely for the purpose of meeting needs of a national security nature.

621 The proposal was made that notwithstanding the scope of authority of the Organization, each Participating State be free to establish satellites intended solely for the purpose of meeting needs of a national security nature without the necessity of observing the rules and regulations of the Organization.

* The concept of consultation with the Governing Body is developed further under subject heading B, paragraphs 216-219, above.

L. Withdrawal from the Organization

622 Provisions governing withdrawal from an organization are usually found in clauses in the agreements establishing the organization.

623 Regarding the definitive arrangements, a substantial majority of the Committee recommends that:

624 -- Provisions be included in the Agreements defining in the most precise manner the conditions governing the withdrawal of Parties to the Intergovernmental Agreement and of Signatories to the Second Agreement.

625 -- The Assembly be empowered to require withdrawal from the Organization for failure to comply with the obligations of participation.

M. Transition from the Interim Arrangements to Definitive Arrangements

626 The interim arrangements remain in effect until the entry into force of definitive arrangements. It is necessary, therefore, to consider the means for effecting the transition from one set of arrangements to the other. Means for achieving this objective must await determination of the form and contents of the definitive arrangements. However, once this is accomplished it is possible to agree upon provisions for transfer of the rights and obligations created under the interim arrangements to the new Organization and its members. In so doing it would be appropriate to take cognizance of the existing enterprise, in which a significant amount of capital has been invested by a large number of countries and for which important facilities will be in existence and planned at the time the changeover occurs.

627 Also it would be necessary, upon determination of the definitive arrangements, to agree upon provisions to govern the orderly transition from one organization or organ to another. Perhaps it would be appropriate to request the Committee to study these problems, once the definitive arrangements assume a near-final form, and to present proposals to Governments on the means of achieving an organizational and administrative changeover.

628 This would apply, in particular, in case a new Management Body were to be established. Under the definitive arrangements, the Governing Body could be charged with the responsibility of drawing up a program for progressive establishment of the Management Body. The members of the Committee agree that great care must be taken in effecting any transition to ensure continuation of efficient operation and development of the space segment established under the interim arrangements.

629 Although the Committee considers it premature at this time to provide Governments with detailed recommendations, it believes recommendations on certain principles may be of assistance.

630 A substantial majority of the Committee recommends that, in view of the necessity to carry out effective and smooth transition from the interim to the definitive arrangements, the definitive arrangements provide that arrangements for the transition be completed within a fixed period after the entry into force of the definitive arrangements.

631 A majority of the Committee recommends that:

632 -- The transitional arrangements, particularly those which would become necessary if a change in the Manager would result from the definitive arrangements, should, consistent with usual practice, be worked out with the expert assistance of a competent management consulting firm, particularly since such arrangements involve highly technical organizational and personnel problems, questions of manpower availability -- both within the United States and elsewhere -- as well as legal aspects, all of which will have to be dealt with in detail.

633 -- The functions exercised by the departments of the present Manager be transferred to the new Management Body, pursuant to a planned program, and in the shortest possible time. It might also be possible for certain functions of the Management Body to be transferred on a project-by-project basis to various national or international institutions.

634 There was substantial support in the Committee for the proposal that a new Management Body not take over responsibility for any function before it had acquired the necessary staff and installations for the performance of that function and that steps be taken to prevent a climate of uncertainty within the present Manager's organization, leading to loss of staff essential to any function, before that function is taken over by a new Management Body.

635 There was support in the Committee for the proposal that during the transition period a contract be concluded with the present Manager of INTELSAT to obtain its services for a limited duration. At the conclusion of this contract, the critical elements of the present Manager would be transferred to the definitive Management Body, which will have been progressively established with elements recruited on an international basis.

636 The proposal was made that arrangements for the transition include, inter alia, the transfer of administrative functions from the Manager designated by the Interim Agreement to the International Secretariat of the Management Body and the change-over to financial procedures based on the concept of "investment share equal to use."

(Reference: Subject Heading E, The Management Body Paragraph 464)

FUNCTIONS OF THE MANAGER UNDER THE INTERIM ARRANGEMENTS

I. INTRODUCTION

Pursuant to Article VIII of the Interim Agreement, the Communications Satellite Corporation acts as "the manager in the design, development, construction, establishment, operation and maintenance of the space segment." For purposes of clarity in this presentation, the Manager's functions are divided among six of the Corporation's staffs: Technical, Operations, Procurement, Financial, Legal and Information.

II. TECHNICAL

Technical's main tasks for INTELSAT are performed during the planning, development and establishment of the space segment.

Technical participates with Operations in the planning and development of operational requirements. It conducts, or arranges for the conduct of, general system engineering studies; network configuration studies; engineering, economic and cost effectiveness studies; and interface studies. Technical prepares the specification for Requests for Proposals and then evaluates the technical submissions of contractors, as it has done for the INTELSAT I, II, III and IV programs, providing the Committee with the information needed to award a contract. Finally, Technical, together with other elements, arranges for and coordinates the provision of launching services by NASA.

The Technical staff also manages the operation by the INTELSAT Spacecraft Technical Control Center of the Tracking, Telemetry and Command (TT&C) stations. Control is exercised through these facilities during the launch and subsequent in-orbit operations. All commands to spacecraft are initiated and authenticated by the Control Center and implemented through an appropriate TT&C station. This technical control involves in-orbit position keeping and attitude adjustments as well as analysis of spacecraft performance. In addition, Technical participates with and provides engineering services and support to Operations in the operation and maintenance of systems, components, equipment and facilities.

At the end of November, 1968, there were 361 employees on Comsat's Technical staff; the allocation of tasks to INTELSAT is

estimated as 56% of the total costs* incurred by Technical.**

III. OPERATIONS

Operations' principal task for INTELSAT is the operation and maintenance of the global system with the inherent functions of planning and management. Corollary to this principal task is participation in the design and development of the space segment.

Based on expressed and agreed requirements of the entities for telecommunications services, Operations prepares plans reflecting allocation of satellite resources in the form of a proposed communications network; processes the individual applications of earth station entities for access to and use of the space segment; and provides the users with operation plans, guides and instructions for the operational employment of the satellite system. Effective planning necessitates the maintenance of a data base on all phases of system operations including complete and updated technical and operational records of satellite system performance, as well as the participating earth stations' characteristics and performance. Analysis of this data is furnished to the Committee at regular intervals.

The staff operates the TT&C and monitoring stations used for space keeping and satellite utilization purposes and the communications system in support of the TT&C, monitoring and general system management functions.

Operations serves as the Manager's representative in effecting regional coordination on operational matters. The regional coordinating structure established by the Committee addresses itself to such matters as future needs for satellite facilities and operational frequency plans. Operations provides the support for these meetings. In addition, Operations serves as the focal point for ensuring that Committee decisions on operational matters are properly implemented. A repository of information appropriate to the utilization of the space segment is also maintained.

At the end of November, 1968, there were 369 employees in Operations; the allocation of tasks to INTELSAT is estimated as 16% of the total costs incurred by Operations.

---

* As used throughout this Attachment, total costs exclude contracts and shareholders costs.

** Final 1968 figures were not available during the preparation of the Committee's Report; estimates through November 1968 are used throughout this section. At the end of 1967, the allocation of tasks to INTELSAT amounted to 73% of the total costs incurred by Technical.

IV. PROCUREMENT

The Procurement function extends from the maintenance and administration, in accordance with the INTELSAT Procurement Regulations, of a worldwide bidders list, based on the submission by Signatories of the names of companies qualified to perform INTELSAT tasks, to the point where the Manager, acting for INTELSAT, executes an agreement with a selected contractor.

Procurement prepares the Requests for Proposals which are issued to industry. It enters into negotiations with contractors in order to arrive at a proposed contract most advantageous to INTELSAT. Where required by the Special Agreement, the completed contract is then presented to the Committee, together with a substantiating evaluation, for approval prior to the execution of the contract.

After the contract has been awarded, the Procurement staff has the responsibility for its administration in order to ensure that the contractor is meeting its obligations fully. Coming into play also during this period are technical and operational considerations which affect the performance of the contract and which must be negotiated in the form of amendments.

Procurement had a staff of 39 at the end of November, 1968; the allocation of tasks to INTELSAT is estimated as 33% of the total costs incurred by Procurement.

V. FINANCIAL

The responsibilities of Financial are broad and inputs are made at all stages in the "design, development, construction, establishment, operation and maintenance of the space segment." For each program and proposal under consideration, Finance prepares and presents revenue requirements and other cost and economic analyses. The Finance staff prepares the information necessary for the Committee to establish a rate of charge per unit of satellite utilization which will meet the requirements of Article 9 of the Special Agreement.

At the end of November, 1968, there were 97 employees in Finance; the allocation of tasks to INTELSAT is estimated as 32% of the total costs incurred by Finance.

VI. LEGAL SERVICES

The Legal staff provides services as they are needed in connection with the performance of the Manager's functions for

INTELSAT. These services include legal advice to the Interim Communications Satellite Committee and its subcommittees and legal support to Procurement, Technical, Operations, and Financial. The staff is also concerned with patent and data matters, tax questions involving INTELSAT, insurance, property, and other legal matters affecting INTELSAT. At the end of November, 1968, there were 41 employees in Legal; the allocation of tasks to INTELSAT is estimated as 23% of the total costs incurred by Legal.

VII. INFORMATION SERVICES

The information program includes a number of interrelated activities in the following areas: press releases, international exhibits, general educational exhibits, films and film strips, booklets and periodicals, magazine and newspaper articles, inaugurals and demonstrations. At the end of November, 1968, there were 17 employees in Information; the allocation of tasks to INTELSAT is estimated as 10% of the total costs incurred by Information.

STATEMENTS OF REPRESENTATIVES TO THE COMMITTEE

I. COMMENTS OF THE FRENCH DELEGATION ON THE COMMITTEE'S REPORT TO THE GOVERNMENTS. Page 105

II. STATEMENT OF THE REPRESENTATIVE OF THE ARAB GROUP TO BE ATTACHED TO THE REPORT OF THE COMMITTEE ON THE DEFINITIVE ARRANGEMENTS Page 112

COMMENTS OF THE FRENCH DELEGATION ON THE COMMITTEE'S REPORT TO THE GOVERNMENTS

A. COMMENTS ON RECOMMENDATIONS AND PROPOSALS

The French Delegation, along with other delegations, has noted that the Committee's Report on the Definitive Arrangements revealed a wide range of opinions among its Members, whose recommendations, even when they represent the majority opinion, are often contradictory. This is certainly partly due to the fact that the various proposals included in the Report, being deprived of their original context, are sometimes difficult to understand or can even be interpreted in an entirely different manner from that which their authors had wished. Several interpretations are often possible.

The French Delegation, in order to avoid any misunderstanding regarding the proposals it has been brought to present or support, wishes to clarify them with additional details which take into account the points of view expressed by other delegations.

I. Separate ownership

Considering the inevitable coexistence of separately owned telecommunication satellites, the only type of organization which can one day hope to group, following the desire expressed in the Preamble of the Interim Agreement, all these satellites within a single commercial system, with all the unanimously recognized advantages which this singleness would bring, is the type proposed by the French Administration (Document ICSC-34-12). Such an organization would not only provide a close coordination on a global basis, but could make certain rules or guidelines, and, in any event, express certain recommendations which would almost always be followed by the entities concerned.*

---

*The French Delegation thinks in particular of the IATA, which provides an illustration of success in the field of commercial aviation.

II. Undivided ownership

The French Delegation has also very closely examined a system based on co-ownership. The global system which would operate under such arrangements will necessarily be limited geographically (it is a fact that the member-countries of the ITU will not all participate) and also limited regarding the services it will be able to provide (since there will be independent domestic, regional, and specialized systems, and at least another global-minded system).

1. Rights and obligations of the Parties

1.1 Freedom to participate in other systems

Under these conditions, and independently of the rights of the Parties regarding domestic, regional or specialized satellites, these Parties could not without establishing an unacceptable situation of monopoly, be under the obligation to meet their needs through the organization to be established, when the latter will show itself incapable of meeting these needs, or even when it will not be in a position to do so in technical, economical and schedule conditions at least comparable to those which could be obtained through independent satellites.

A necessary result of the preceding principle is the freedom of all Parties to participate in systems intended to provide services of all types, when these systems will permit communications with states which, for some reason, will not have requested or would not plan to request access in the near future to the space segment established by the Organization.

1.2 Domestic or regional satellites

The same principle enables us to challenge restrictive definitions of domestic or regional satellites. It is clear that in the present state of technology,* each time particular relationships (economic, cultural or others) will create, between certain countries or areas of a same country having a

---

*See for example a speech by Dr. Charyk, President of Comsat, to the United Nations' Conference on the Exploration and Peaceful Uses of Outer Space (Vienna, August 1968).

relatively limited total surface on a global scale, exclusive telecommunication needs of a sufficient volume, particularly for the transmission of television programs, satellites with coverage limited to these countries or areas will often result in considerable savings compared to the conditions of use of the Organization's network. This is the case whether the coverage area is geographically compact, or whether it is divided into several areas more or less apart.

1.3 Coordination

It is quite out of the question to make the Organization into both a judge and a party in the solution of problems raised by the technical or economic coordination of the Organization's network and of other satellite networks. It will be necessary to search for this solution in the direction of the United Nations and of its specialized agencies, particuarly the International Telecommunication Union.

2. The Governing Body

2.1 Voting procedures

Voting procedures within the Governing Body of the Organization must consider its triple international, public service and commercial character. The French Delegation has therefore proposed to give, to the greatest possible extent, an equal voting power to all the members of the Governing Body (which seems to be essential when it is a matter, for example, of standardizing earth stations, of interpreting an article of the Agreements, or of approving a report to be submitted to the Assembly); weighted votes would only be maintained in the event of decisions formally establishing financial commitments (the approval of a budget or of a contract) or directly conditioning the Organization's revenues (determination of utilization charges, licensing agreements, etc.). Some decisions would also require a double vote in practice: first an unweighted vote, for the approval of the principle, followed by a weighted vote, at the time of the final commitment establishing a financial obligation.

2.2 Determination of weighted votes

The weighting of votes, which will also occur to determine the composition of the Governing Body, should be defined without considering traffic not connected with international public telecommunications, in order to avoid the

risk that this traffic, considered as secondary, should soon afterwards take on the leading role in the Organization. On the other hand, this weighting should be computed from traffic volume rather than from investment shares, so as not to favor, for example, countries using "non-standard" earth stations which, with less traffic, could benefit from a higher voting power* than countries carrying a much higher volume of traffic with "standard" earth stations. Moreover, the risk that one country could obtain a majority share in the Organization would thus be avoided.

2.3 Regional or specialized groups

Another proposal deserving some comment is that concerning the freedom which should be left to the Governing Body, if it so desires, to structure the Organization by establishing regional or specialized groups for certain types of services other than public telecommunications, which groups would only bring together parties directly interested in the use of certain satellites. The Governing Body could then, in their field of interest, consult them and take their views into consideration; but it should also be able to delegate to them some of its powers of decision, when a decision to be taken would only concern the Parties belonging to one of these groups.** This is a normal decentralizing process which appears to be very beneficial in many industrial or commercial consortia, and which has already begun to be effected within the Interim Organization for the Atlantic, Pacific and Indian Ocean regions.

3. The Management Body

Along with the great majority of the Members of the Committee, the French Delegation is in favor of an International Management Body. This technical and operational Management Body should be decentralized following the principles of modern management which today are widely recommended and applied, to bring

---

*Indeed, according to the rules adopted under the Interim Arrangements, the number of satellite units of utilization which corresponds to a given number of telephone circuits, and consequently the investment in the space segment, is 27 times larger for a non-standard earth station with a 40 foot antenna than for a standard earth station.

**For example, when it would be necessary to decide on the utilization and operation of particular satellites or to ensure a coordination between the space segment and the earth and terrestrial segments in a given area.

closer contracts supervision along with the control and operation of the space segment, of contractors, maintenance stations, and users which will be scattered over all the continents; the recommendation of the Committee according to which some management functions could be transferred, project by project, to international or domestic organizations goes in the same direction.

Finally, it is important to define how the functions of the Secretariat of the Governing Body and of the Assembly would be provided, in order that the Secretariat services be directly subordinate to the Governing Body or to its Chairman.

4. Financial Matters

4.1 Possibility of buying or leasing satellite capacity

The only way to reconcile the apparently contradictory recommendations of the Committee in this field is to provide that the use of the space segment will be possible by buying (investment shares), or by leasing (utilization charges), satellite capacity. This double possibility is furthermore in accordance with the Preamble of the Interim Agreement which is of the opinion that all States should have access to the space segment, those States so wishing being able to invest capital in it.

4.2 Concern with ensuring fairness and mutual aid in financial participation

This being the case, it is essential that the financial rules of the Organization be equitable for all the Parties concerned and safeguard their interests: each Party must in principle support the charges which devolve upon it according to its actual use, whether it is a matter of the cost of the satellites it operates, or of the development costs from which it directly benefits; all external use of patents or data financed by the Organization should give rise to royalties equitably distributed; finally, the advantages which industrialized countries can find in their participation in the research and achievements must be compensated, for non-industrialized countries, by a technical assistance program.* But on the other hand, a mutual financial

---

*This would be beneficial and even highly profitable for the Organization, by accelerating the growth of needs and of traffic.

aid should automatically operate among the members of the Organization, not only in order to ensure a distribution of the overhead, but also to avoid that the first users of a satellite have to support the initial very high costs of its establishment. These two imperatives can be fulfilled, in the determination or the adjustment of investment shares, by adopting a realistic definition of the unit of utilization which would take into account the cost of the satellites (cf. Document ICSC-34-30), by computing the depreciation of the equipment and the amortization of development costs (which determine net assets) in fractions proportional to the traffic which is carried rather than by equal annuities, and finally by evaluating the utilization of satellites not only over one year, but, as proposed by another delegation, over a longer period (for example, 5 years). It is also necessary to determine with a regard to justice, the rules concerning the international participation in procurement, and those concerning the use of inventions, and technical data and information. These rights of use must be very clearly defined in order to avoid, in the Definitive Arrangements, the difficulties in interpretation which have been encountered under the Interim Arrangements.

4.3 Allotment of determined shares to users

These principles could, after a few years of operation, progressively lead to a system of co-ownership where the members' shares, instead of remaining indistinguishable, could be allocated or associated to determined satellites - those of which they would directly be the users. This would be a system similar to that which enables one to distinguish between the different apartments of a co-owned building, or between the various firms in an industrial or commercial consortium, without affecting the unity and the joint ownership of the whole. The allocation to members of shares which are thus materialized rather than undistinguished, would present numerous advantages (Document ICSC-34-31). Their financial participation, while being automatically ensured as far as overhead is concerned, would essentially refer only to those satellites they would use. The operators or a same satellite could then, in all fairness, benefit from a certain right of usage on the spare capacity which would have not yet been allocated.

In the opinion of the French Delegation, such a formula would be the most suitable for the promotion of the use of a global system of satellite telecommunications.

B. COMMENTS ON THE GLOSSARY

The Glossary gives in Paragraph 160 a definition of specialized telecommunications services according to which they would include, for instance, satellite radionavigation, space research, and broadcasting satellite services.

The French Delegation must observe that these various services are specifically defined by the International Telecommunications Union (EARC, Final Acts, Geneva 1963, Annex I, Section II A, Paragraphs 84 AQ, 84 AM, 84 AP) but that they are not part of the communication satellite service which is covered by Paragraph 84 AG. That service, as well as the others mentioned, are space services, a general category defined in Paragraph 84 AC.

In order to avoid any misunderstanding, services other than communication satellite services should be referred to as "specialized space services" and not as "specialized telecommunication services".

STATEMENT OF THE REPRESENTATIVE OF THE ARAB GROUP TO BE ATTACHED TO THE REPORT OF THE COMMITTEE ON THE DEFINITIVE ARRANGEMENTS

The purpose of this statement is to comment upon certain aspects of the Report of the Interim Committee on the Definitive Agreements, aspects which the Representative of the Arab Group believes to be, from his particular point of view, inadequately set forth. In fact, the Representative of the Arab Group believes that the Interim Committee, in making its recommendations and proposals to the Signatory countries, has not made full use of the experience acquired during the interim period, and, especially has not taken into account all the factors or all the interests involved. He believes furthermore that the Committee's failure to emphasize in its Report the nature and the importance of the difficulties encountered under the Interim Arrangements deprives certain countries, particularly those not represented at the Interim Committee, of a clarification which he judges to be essential to the understanding of the different alternatives proposed within the framework of the Definitive Arrangements.

The Representative of the Arab Group is convinced for this matter that a definitive Organization, viable, and corresponding to the interests of its members, could very well be designed by proceeding from the present interim structure, if, on the one hand, essential revisions are made in fields where the experience gained has shown either inadequacies, or difficulties (management, representation at the Interim Committee, voting procedures, industrial participation of the members, patent and data policy, etc...), and if on the other hand, the new factors arisen since the establishment of INTELSAT are taken into account, factors which the authors of the 1964 Agreements could neither foresee nor take into consideration. Among these factors, we must especially emphasize a basic element which the Interim Committee, in our opinion, has not stressed adequately in its Report. It is the issue of the accession, since 1965, of a very large number of countries, most of them developing countries. Because of this phenomenon, which has undeniably changed the aspect of INTELSAT, the present Interim Agreements have become in many fields inadequate and often inequitable and they must be revised as soon as possible.

A FEW GUIDING PRINCIPLES FOR THE FUTURE

Establishing the necessary conditions to avoid a proliferation of systems

In the Section of the Report devoted to the objectives and purposes of the Organization, it is particularly recommended that the Definitive Arrangements sanction the establishment of a single global commercial telecommunication satellite system. However, taking into account the existence or the possibility of existence of other global systems, either competitive or not, it appears essential to us to emphasize the need for using every possible means to avoid a proliferation of systems, and for establishing a single global Organization which, by reconciling the interests involved, would be in a position to be adhered to by all countries. The achievement of such an objective is particularly important for the smaller countries, because they would be inconvenienced the most by a proliferation of systems. (Risk of a multiplication, for each country, of its needs in the number of earth stations required to ensure its diversified international links).

Promoting access to the space segment by a simplification of the earth segment

Another principle on which the Committee's Report is very vague, and which in our opinion concerns the interests of a large number of countries, is the need to promote and to facilitate access to telecommunication satellites by ensuring that each country have a just balance between its space and earth investments. In fact, access to the space segment is presently conditioned by the ownership of very costly standard earth stations, which are also very complicated to operate for many countries. Such a balance could be achieved, for instance, by relaxing the presently very rigid characteristics of earth stations (the rate of charge remaining unchanged) and by using narrow beam satellites, more powerful than present satellites.

FIELD OF COMPETENCE OF THE DEFINITIVE ORGANIZATION

The Representative of the Arab Group believes that, inasmuch as INTELSAT appears to be a commercial Organization with international participation, whose role is solely to place at the disposal of its customers material support for the routing of their telecommunications traffic, it is both logical and necessary that this Organization be in a position to investigate and to consider all the commercial applications of telecommunication satellites which could benefit its members, provided however that these applications be or remain compatible with the spirit and the principles of the definitive Organization.

On this subject, the Representative of the Arab Group wishes to express here strong reservations against the stated intentions of certain member countries to include in the Definitive Agreements provisions enabling them to have INTELSAT sponsor individual satellites intended to meet their military telecommunication needs. He believes that such provisions are contrary to the principles stated in the Preamble to the Interim Agreement, and these principles must, according to Article IX (i) of the same Agreement, remain valid, regardless of the form of the Definitive Arrangements.

STRUCTURE OF THE ORGANIZATION

1) Effective participation of all members in a multiple aspect Organization

The basic problem is not in the number of tiers which the Organization would have, but in the need to insure that the various bodies work democratically and guarantee to all members an effective and equitable participation. For this purpose, the supreme control of the Organization must not be left to private or domestic telecommunication entities, but must be the responsibility of the member Governments, in order that the commercial and financial criteria, although important, be not the sole criteria of judgment in an Organization which, both by its international nature and its objectives, as well as its membership (the present members of INTELSAT differ not only by their degree of development, but also by the benefits they plan to derive from their participation in the joint enterprise) can be neither considered nor managed as a mere commercial corporation.

2) A Governing Body representing all interests

Particular attention must be given to the composition of the Governing Body in order to ensure an effective representation of all shades of economic and geographical interests. Provision must be made particularly to guarantee a consistent representation of the smaller countries. If, for reasons of efficiency, the number of members in the Governing Body must be limited, in our opinion it would be more equitable to apply this limit, not to the total number, but to regional representation (for example, each of the areas of the Americans, of Europe, of Asia, of Africa and of Oceania would be allocated a minimum number of seats). Indeed, and because of the very technical capabilities of stationary satellites, the global system is in itself a complex of regional sub-systems, and the above provisions will ensure a representation of the different geographical interests for a better coordination of the system as a whole.

3) Need for voting procedures which stimulate the optimum contribution of all members in the operation of the Organization

The problem of voting within the various bodies must also be resolved by bearing in mind the protection of all interests, and the need to establish a mechanism by which each member, whatever his investment share, will have the feeling he is effectively contributing to the operation of the Organization.

FINANCIAL PARTICIPATION

Financial participation is tied to the use of the system, but it cannot be disassociated from the question of voting within the Organization. Any method for determining investment shares without the simultaneous consideration of associated voting procedures which would be acceptable to all Parties, in our opinion, might be dangerous.

In this respect, the Representative of the Arab Group ventures to underscore the proposal appearing under number 501 of the Committee's Report and the associated proposal appearing under number 401 which, in his opinion, permit a harmonious distribution of powers among all members, without resorting to clever provisions concerning the determination of weighted votes within the Governing Body.

RELATIONSHIP WITH THE ITU AND WITH INTERNATIONAL ORGANIZATIONS

The Report of the Committee has not specifically dealt with this matter, although the need for a coordination with the ITU is mentioned on several occasions in the Report.

As a telecommunication organization, INTELSAT must abide by the recommendations of the ITU, and work closely with this Union in the direction and in the spirit of the statements made at Geneva by the Secretary-General of the ITU in his press conference of November 21, 1967. Within the framework of this coordination, INTELSAT should have the benefit of a particular status enabling it to participate in the work of specialized commissions of the CCITT and the CCIR which deal with satellite telecommunications.

INTELSAT should also establish within its programs a close cooperation with international organizations, especially the U.N. and its specialized agencies, in order to promote the use of telecommunication satellites, within the framework of projects of general interest, intended to foster the establishment of world peace and international understanding.

PATENT AND INVENTION POLICIES

Since the Committee's Report does not adequately emphasize the difficulties encountered in the implementation of Article 10 (f & g) of the Special Agreement during the present interim period, two comments must be made on the consequences of the provisions contained in this Article.

1). The provisions contained in Article 10 (f & g) of the Special Agreement, and imposed on any contractor, generally result in a considerable increase in contract costs, in relation to the price to be paid if the contractor had not been under the obligation to surrender to INTELSAT all the inventions and patent rights resulting from the performance of the work.

2). This substantial increase is borne by all the members of INTELSAT, while in fact the very large majority of these members do not benefit either directly or indirectly from the provisions of this Article 10, and especially do not foresee any possibility, in the near or distant future, of using for their benefit, the information, data and inventions resulting from contracts executed with the Organization.

The Representative of the Arab Group, while he does not oppose the ideas which are the basis of Article 10, is of the opinion that, in order to safeguard the legitimate interests of all the Parties, INTELSAT must adopt in the future one of the following alternatives in this matter:

1. the Organization will simply surrender to the contractors, the ownership of the inventions and patents resulting from contracts; or,

2. the Organization will reserve itself, on each occasion, the exclusive rights on inventions and patents resulting from contracts, but will administer them so as to sell them to all countries wishing to utilize them, the resulting royalties being equitably distributed among all members; or,

3. finally, it will be established that only the countries participating in the performance of the contracts will bear Research and Development costs, and be compensated by having the rights of use of the resulting inventions and patents surrendered to them. The other member countries of the Organization would share in all the costs, except the Research and Development costs.

INTERNATIONAL PARTICIPATION IN CONTRACTS

Although the Committee's Report devotes a paragraph to emphasize the nature and the importance of the difficulties encountered in the application of the provisions of Article X of the Interim Agreement, no solution is proposed to try to reduce if not eliminate the imbalance which exists between the distribution of interests between the highly industrialized member countries, and the countries which, at the point of their present development, cannot claim any industrial sharing in the performance of procurement contracts executed by the Organization.

While he recognizes the long term advantages which INTELSAT might draw from diversifying its procurement sources, the Representative of the Arab Group believes that it is the responsibility of the countries wishing to receive a part of the work, and not INTELSAT's, to give financial support to their industries, in order to bring them up to the level of U.S. industry.

The provisions of Article X were written at a time when only industrialized countries were members of INTELSAT. Today, this is no longer the case, quite on the contrary, and logic and good sense require that a fundamental revision of Article X be undertaken in the nearest future, in order to take this change into account, and to put an end to a paradoxical situation in which developing countries, however small their contributions, are in the position of financing the industrialization of industrialized countries.

The following choice constitutes, in our opinion, a reasonable and equitable approach to the problem:

1) International participation in a contract must benefit all members, either directly for industrialized countries, or indirectly in the shape of a yet-to-be-defined compensation for the countries whose degree of industrialization does not enable them yet to participate in the contracts.

2) If this international participation proved to be substantially costly for the whole membership of the Organization, and if a form of compensation could not be found to indemnify the countries which, while not benefiting from a decentralization of the contract, would bear the resulting cost increase, the additional costs should be borne solely by the member countries whose industries had received a share of the contracts.

INTERNATIONAL COOPERATION WITHIN THE JOINT ORGANIZATION

This matter is not explicitly dealt with in the Committee's Report. However, the Representative of the Arab Group is convinced that the development and the safety of the satellite telecommunications system are dependent in large measure upon the means of information and of assistance that the Organization will put at the disposal of all its members.

It is especially suggested:

1) To create specialized services within the Organization to advise and assist member countries in the carrying out of their earth telecommunication programs which are tied to their use of the space segment.

2) To establish extensive training programs for earth station personnel, with a view to a rational and reliable use of the space segment.