

# PLENIPOTENTIARY CONFERENCE ON DEFINITIVE ARRANGEMENTS FOR THE INTERNATIONAL TELECOMMUNICATIONS SATELLITE CONSORTIUM

Washington, D.C., February - March 1969

Com. IV/2  
March 1, 1969

STATEMENT BY THE REPRESENTATIVE OF THE UNITED KINGDOM IN COMMITTEE IV  
FRIDAY, FEBRUARY 28, 1969

## Procurement Policies

The United Kingdom Delegation has listened with great interest to the debate on the subject and understands the views expressed by the Delegate of Venezuela and by other delegations which have advanced similar views; but considers that the Committee should address itself to the central question of what is the right procurement policy, and examine the consequences of such a policy before considering whether "compensation" to certain countries is necessary or desirable.

Article X of the Interim Agreement contains two central principles: i.e., that the Organisation should procure the best equipment at the best price, and that subject to this, endeavour should be made to distribute contracts in approximate proportion to Signatories' shares.

A substantial majority of opinion in favour of these two principles emerges in paras. 536 and 542 of the I.C.S.C. Report. The United Kingdom shares the view that Article X has provided a satisfactory basis for procurement so far and would continue to do so if its provisions were included in the Definitive Agreements.

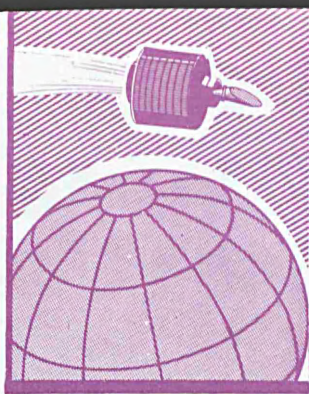
The views expressed by the Delegate of Italy contain a most important analysis of the effects, for all partners, of the present procurement policy, leading to the conclusion that all share in the benefits of it. His remarks are worthy of the most serious consideration. The United Kingdom shares those views and wishes to bring to the attention of the Committee further points which reinforce them. First, any prudent business organisation must ensure that it develops its sources of its supply so as to avoid being entirely in the hands of one source: the benefits of this course of action are reaped by all participants in the Organisation; secondly, it is by no means certain as to what has been the true cost of this activity to date--the information on which estimates are based might well be regarded as emanating from a biased source--but it is highly probable that the eventual out-turn from encouraging the development of fresh sources of supply, in countries in which eventual procurement costs are likely to be lower, must work to the economic advantage of the consortium in the long run; and thirdly, it

may not be insignificant that the so-called developed countries, and especially those in which contracts have so far been placed, contribute other very substantial benefits to the Organisation as a whole through their very large contribution to the development of the system and their very large use of it. For example, this large and rapidly growing use makes possible, and will continue to make possible, space segment utilization charge levels much lower than they could otherwise be, and the under-developed countries benefit very substantially in this way in their use of the system.

In any large cooperative organisation, there are balances of advantage and disadvantage which should be weighed as a whole; it is unreasonable for any partner in such an organisation to attempt to obtain compensation for a single disadvantage and ignore the many compensating advantages from which he benefits.

Mr. Chairman, I am grateful for the opportunity to present these views at this point in time, but I am sure you will permit me to make further contributions to the debate as it develops.

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PLENIPOTENTIARY CONFERENCE ON DEFINITIVE ARRANGEMENTS FOR  
THE INTERNATIONAL TELECOMMUNICATIONS SATELLITE CONSORTIUM

Washington, D.C., February - March 1969

Com. IV/3  
March 3, 1969

STATEMENT BY THE OBSERVER OF THE POLISH PEOPLE'S REPUBLIC IN COMMITTEE IV  
MONDAY, MARCH 3, 1969

Mr. Chairman, Distinguished Delegates, Ladies and Gentlemen:

Being invited on the preceding session of this Committee, as representative of one of the observer countries, to have a word on the problem of the procurement policies, I wish to use this occasion to present the opinion of the Polish delegation to this question.

With great attention we have listened here to the remarks of several delegations and especially of the delegation of India, proposing to create a technical assistance programme as some form of compensation for those countries which are not able to participate actually in the deliveries for INTELSAT.

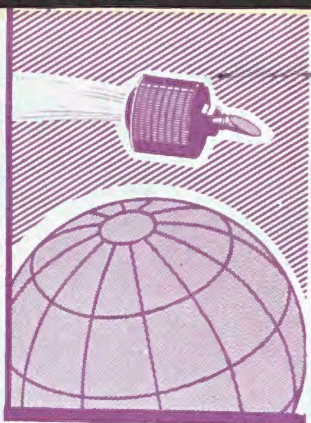
Such countries pay twice for the retarded development of their industries. At first they have actually no chances in the international delivery competition in comparison with several countries of the world having most developed industries, and in the most cases they are obliged to buy equipment for earth stations in the same well developed countries.

It seems then, that for ensuring the equitable sharing of the costs of the establishment of the International Satellite Telecommunications System it would be appropriate to create a special fund of technical assistance on the basis of the obligatory payments of some percentage of the value of deliveries by the manufacturers furnishing the equipment for INTELSAT.

The amount of the technical assistance for individual countries could be determined, taking into account their technical and economical development, by a special committee acting as an organ of the Board of Governors.

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# PLENIPOTENTIARY CONFERENCE ON DEFINITIVE ARRANGEMENTS FOR THE INTERNATIONAL TELECOMMUNICATIONS SATELLITE CONSORTIUM

Washington, D.C., February - March 1969

Com. IV/4  
March 6, 1969

## THE PROBLEM OF SUPPLY (Submitted by the French Delegation)

### 1. Field Covered by the Word "Supply"

In this paper, the word "supply" should be understood to cover:

- (1) Contracts for the development and construction of satellites;
- (2) Contracts for study and research;
- (3) Contracts for the purchase of launchers and launchings; and
- (4) Contracts for services by satellite control and command stations;

whether the contracts are placed by the Organization itself, or on its behalf.

### 2. Advantage Derived by Certain Members

Two different factors are present. It would be well to distinguish between them:

- 2-1. Certain members of the Organization, through their industries or their State enterprises, receive important contracts, which bring in a substantial return, both economic and technical. Most members do not receive any contracts; thus, the situation between members is in serious imbalance.
- 2-2. An effort is being made to increase the number of supplier countries by encouraging the formation of broad-based international consortia and by recommending the awarding of sub-contracts to countries which cannot apply for prime contracts.

This policy results in a slight increase in cost, over what it would be in the absence of such a policy, by apply the rule of "the best product at the best price" without any distinction. The non-industrialized countries have stated that they do not intend to bear sacrifices as a result of this policy.



### 3. Estimate of the Advantages thus Derived

It is easy to estimate the advantages derived, in absolute terms, by member countries under paragraph 2-1. It is necessary only to calculate the value of contracts placed in each member State.

It is more difficult to estimate the additional cost resulting from the adoption of the policy described in paragraph 2-2; that would require a comparison of the price actually paid with what that price would have been if only one firm, or the lowest-bidding firm, had been employed. Thus, a twofold answer must be required, and the basic reference runs the risk of being artificial.

Moreover, increased cost may result from two factors: the higher cost of unit elements in the satellite; and the cost of coordination within an international consortium (missions, formation of mixed teams, etc. . . .).

In the case of INTELSAT IV, the increase in cost has been calculated at approximately 5 percent.

### 4. Advantages of Wide Distribution of Supply Contracts

Despite the apparent drawback of increased cost, resulting from this policy, there can be no question of abandoning it, and of abruptly applying the policy of "the best product at the best price." For, one of the goals of the Organization should be to foster the industrial and technical progress of all its members, and not merely of one of them; and, over the medium and long terms, it is in the Organization's interest to increase the number of potential suppliers. Otherwise, it runs the risk of finding itself with only one supplier, or a small number of suppliers likely to form combines. Prices would then rise, and the Organization would have no defense.

The clearly understood interest of the Organization, and hence of all its members, is to increase the number of suppliers in every field. Let us recall that hard bargaining with the consortium that had received the INTELSAT IV contract succeeded, through competition, in reducing costs by \$9 million. Similarly, it would be unjust to penalize countries making an effort to make their industry competitive by instituting a system of compensation which would place a burden only on them.

### 5. Various possible Types of Compensation

- 5-1. It might, first of all, be argued that the Organization's most lucrative traffic is high-density traffic, that profits made in high-density zones will be used to pay for excellent service to zones of low return (light traffic), and that the system thus is self-compensating, since the less industrialized countries, which cannot now bid for supply contracts, receive compensation in the form of high-quality, low-cost services, principally provided by the industrialized countries.

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- 5-2. If it was decided to adopt the principle of additional compensation, it might be agreed that a contribution would be paid by the countries awarded contracts either to those not receiving any (and that would be difficult to distribute), or, preferably, to the community [of member States] (which would amount to the same thing, but would be more practical).
- 5-3. Lastly, consideration could be given to having additional contributions paid by contractors in order to provide technical assistance to the less industrialized countries, so as to enable them to profit more fully from the Organization's services. In such a case, the benefit would be twofold:
- (a) Access to the system would be facilitated for countries less well equipped to profit from it, and the system would become increasingly profitable.
  - (b) The less industrialized countries would receive, free of charge, additional technical assistance which would promote their technical development.

It is the third solution that the French delegation prefers, as it stated in the documents submitted to the ICSC.

#### 6. Composition of the Technical Assistance Reserve

If it is considered that the fact of calling on a broad-based international consortium caused an increase in costs of approximately 5 percent, and that contracts for the purchase of satellite launchings are of the same order of magnitude as contracts for the purchase of satellites, the payment to be made by contractors into the technical assistance reserve could be estimated at an agreed rate of 2 or 3 percent of the total value of contracts or sub-contracts obtained by them.

#### 7. Purpose and Management of the Technical Assistance Reserve

The purpose of the reserve would be to enable developing countries to benefit from the advice of Organization officials or of qualified experts, in order to install, under optimum conditions, the earth stations and communications links necessary for the best possible use of the INTELSAT system.

Management of the reserve could be covered by special instructions of the Governing Body of the Organization.

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Conclusions

The Working Group has noted that the various aspects of a procurement policy for INTELSAT, which have emerged during its deliberations, are contained, in various degrees, in three different formulations, as follows:

-A majority of the Working Group recommends this formulation be substituted for Article X of the Interim Agreement:

"The Governing Body will award contracts, through open international tender, to bidders who offer the best combination of quality, price and most favorable delivery time."

-There is substantial support in the Working Group for the proposal to maintain, in the definitive Agreement, Article X of the Interim Agreement, as it is.

-There is support in the Working Group for a proposal to adopt the following formulation, in substitution of Article X of the Interim Agreement:

"The Governing Body will award contracts, through open international tender, to bidders who offer the best combination of best quality, best price and most favorable delivery time.

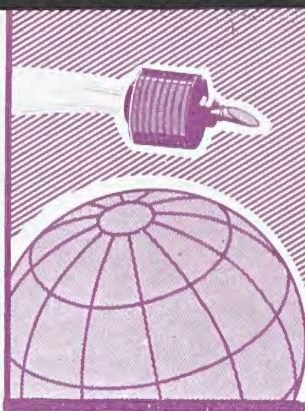
The Organization will keep in consideration the interests of all participating States and, in particular, will encourage the development of the technology of those States.

While allowing for wide international participation in procurement, which participation would be, in principle, proportionate to the investment share of each State, the Organization will, nevertheless, take great care that such policy does not impose a supplementary financial contribution on non-supplying countries".

There is support from some members of the Working Group that an unanimously adopted formulation for INTELSAT's procurement policy cannot and should not be reached in isolation from conclusions on other aspects of the new Organization with which such a policy is inextricably linked, in particular the question of composition, functions and powers of the Governing Body.

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# PLENIPOTENTIARY CONFERENCE ON DEFINITIVE ARRANGEMENTS FOR THE INTERNATIONAL TELECOMMUNICATIONS SATELLITE CONSORTIUM

Washington, D.C., February - March 1969

Com. IV/7  
March 11, 1969

STATEMENT BY THE REPRESENTATIVE OF THE UNITED KINGDOM IN COMMITTEE IV  
MONDAY, MARCH 10, 1969

## INVENTIONS AND TECHNICAL DATA

The United Kingdom is firmly of the view that the Definitive Arrangement agreements should contain no more than the essential basic principles which are to be observed by the Governing Body in the area of inventions and technical data and that it should be the function of the Governing Body to apply these principles in practice in the best interests of the Organization. The U. K. notes that certain important aspects of the new Organization are still under discussion in Committee I and that the outcome may well have a substantial effect on the application of the broad principles in practice.

2. As a general principle the United Kingdom believes that INTELSAT should not seek to acquire rights in excess of those for which it can reasonably foresee a need and that it should acquire such rights in the most commercially satisfactory and acceptable way compatible with the needs of particular situations as they arise.

3. The principles which should be delineated in the Agreements will stem from appropriate answers to a number of fundamental questions which are set out in the succeeding paragraphs.

4. The first question is the nature of the rights which INTELSAT requires. The U. K. view is that INTELSAT must, in the first place, have access to and the right to use and to authorize others to use inventions and technical information arising directly from work performed on its behalf (generally known as "Foreground"). Secondly, INTELSAT should seek access to inventions and technical information not arising directly from work performed on its behalf but used in its execution (generally called "Background") to the extent that these are necessary to the effective use of Foreground.

5. The next question is for whom and for what purposes these rights are required.

In the first place INTELSAT will require these rights for itself, so as to enable it effectively to perform the present and future functions which may be ascribed to it in the Definitive Arrangements. In the second place INTELSAT must have the right and the obligation to transmit the rights it acquires to Signatories for their independent use subject to the qualification that the use by such Signatories of inventions and technical information arising directly from INTELSAT work should be entirely restricted to purposes which are not



incompatible with the principles and objectives of INTELSAT nor with any obligations placed upon Signatories in the Definitive Arrangements. In both cases it appears to the U. K. that the appropriate field to be covered by these rights is that of the space segment of communications satellites generally.

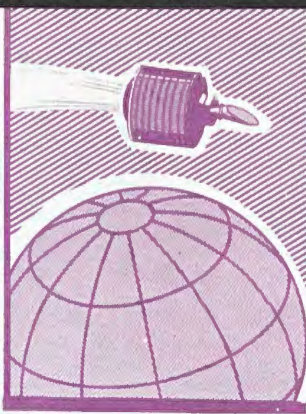
6. The final question is on what terms these rights should be exercised. The U. K. considers that the rights in Foreground which INTELSAT acquires should be exercised in accordance with the principles set out in the foregoing paragraphs by both INTELSAT and Signatories without payment to contractors; but that, in so far as Signatories are able to exercise these rights for independent purposes in accordance with the principles set out in the preceding paragraphs, their exercise should be subject to fair and reasonable payment to INTELSAT as determined by the Governing Body.

Access to Background would in the nature of things be subject to the negotiation of fair and reasonable terms with its owner.

7. The United Kingdom delegation proposes to table draft Articles which will embody the views set out in this paper.

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PLENIPOTENTIARY CONFERENCE ON DEFINITIVE ARRANGEMENTS FOR  
THE INTERNATIONAL TELECOMMUNICATIONS SATELLITE CONSORTIUM

Washington, D.C., February - March 1969

Com. IV/8  
March 12, 1969

WORKING PAPER  
(Submitted by the Delegation of Venezuela)

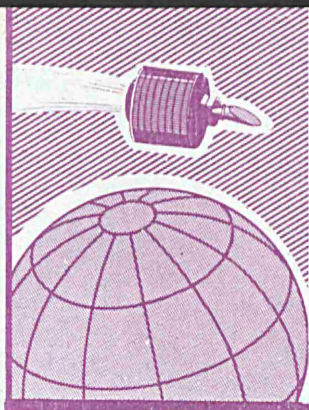
(a) The Governing Body, taking into account the principles and objectives of INTELSAT, as well as generally accepted industrial practices, shall acquire for INTELSAT appropriate rights in inventions and technical data arising directly from any work performed on behalf of INTELSAT.

(b) Inventions and technical data to which INTELSAT has acquired such rights may be used by any Signatory or any natural or juridical person domiciled in the country of any Signatory, subject to the approval of that Signatory. Such use shall be made on the following terms:

- (i) on a royalty basis, for use in connection with the design, development, construction, establishment, operation, and maintenance of equipment and components for the INTELSAT space segment;
- (ii) on a royalty basis and subject to the authorization of the Governing Body, for use in connection with other purposes, provided it is determined that the proposed use would not be incompatible with the principles and objectives of INTELSAT.

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# PLENIPOTENTIARY CONFERENCE ON DEFINITIVE ARRANGEMENTS FOR THE INTERNATIONAL TELECOMMUNICATIONS SATELLITE CONSORTIUM

Washington, D.C., February - March 1969

Com. IV/11  
March 13, 1969

## PROPOSED ARTICLE ON INVENTIONS AND TECHNICAL INFORMATION (Working Paper submitted by the Delegations of Canada, the Federal Republic of Germany and India)

1. The Organization, taking into account the principles and objectives of INTELSAT, the rights and obligations of the Parties and Signatories under these Agreements, and generally accepted industrial practices:

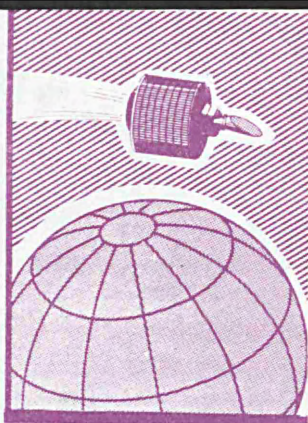
- (a) shall acquire for the use in any space segment access to and non-exclusive licences in technical information and inventions arising directly from any work performed on behalf of INTELSAT, including the right to disclose and use and authorize any Signatory or person in the jurisdiction of the Government which has designated that Signatory to disclose and use such inventions and information without payment to their originator.
- (b) shall endeavour to ensure for INTELSAT, on fair and reasonable terms, access to and the rights to disclose and use and authorize others to disclose and use technical information and inventions directly utilized in the execution of such work but not directly arising from it, including those inventions reduced to practice for the first time, provided that such disclosure and use is necessary, and to the extent that it is necessary, for the effective exercise of the rights obtained pursuant to paragraph (a) above.

2. To the extent that it has inventions and technical information at its disposition and has the right to do so, the Organization shall make them available to any Signatory or person in the jurisdiction of the Government which has designated that Signatory, or to any Party:

- (a) in connection with the design, development, construction, establishment, operation and maintenance of any INTELSAT space segment, on a royalty-free basis;
- (b) for any other purpose, on fair and reasonable terms and conditions prescribed by the Governing Body, provided that the proposed use would not be incompatible with the obligations of the Parties and Signatories under the Agreements.

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PLENIPOTENTIARY CONFERENCE ON DEFINITIVE ARRANGEMENTS FOR  
THE INTERNATIONAL TELECOMMUNICATIONS SATELLITE CONSORTIUM

Washington, D.C., February - March 1969

Com. IV/10  
March 13, 1969

COMMITTEE IV - WORKING PAPER ON INVENTIONS, DATA  
AND TECHNICAL INFORMATION  
(WORKING DOCUMENT SUBMITTED BY THE UNITED KINGDOM DELEGATION\*)

Proposed Article on Inventions and Technical Information

1. Except as it may otherwise determine, the Governing Body, taking into account the principles and objectives of INTELSAT, the obligations of the Parties and Signatories under the Agreement and this Operating Agreement, and generally accepted industrial practices:

- (a) Shall acquire for INTELSAT access to and such rights in inventions and technical information arising directly from any work performed on behalf of INTELSAT, including the right to disclose and use and authorize others to disclose and use such inventions and information without payment to their originator, as may be determined by the Governing Body to be appropriate;
- (b) Shall endeavour to ensure for INTELSAT, on fair and reasonable terms, access to and the right to disclose and use and authorize others to disclose and use inventions and technical information directly utilized in the execution of such work but not directly arising from it, provided that such disclosure and use is necessary, and to the extent that it is necessary, for the effective exercise of the rights obtained pursuant to paragraph (a) above.

2. To the extent that it has inventions and technical information at its disposition and has the right to do so, INTELSAT:

- (a) Shall make them available to any Signatory or person in the jurisdiction of a Signatory, or of the Government which has designated that Signatory, or to any Party:
  - (i) in connection with the design, development, construction, establishment, operation and maintenance of any INTELSAT space segment, on a royalty-free basis;
  - (ii) for any other purpose, on fair and reasonable terms and conditions prescribed by the Governing Body, provided the Governing Body determines that the proposed use would not be incompatible with the principles and objectives of INTELSAT or with the

\* Document submitted in three languages.



obligations of the Parties and Signatories under the Agreement and this Operating Agreement; and

(b) May make them available to others at the discretion of the Governing Body and under such terms and conditions as the Governing Body determines, provided the Governing Body determines that the proposed use would not be incompatible with the principles and objectives of INTELSAT or with the obligations of the Parties and Signatories under the Agreement and this Operating Agreement.

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- (iii) "The Governing Body will award contracts, through open international tender, to bidders who offer the best combination of quality, price and timely performance. The Organization will keep in consideration the interests of all participating States and, in particular, will encourage the development of the technology of those States.

"While encouraging wide international participation in procurement, which participation would be, in principle, proportionate to the investment share of each State, the Organization will, nevertheless, take great care that such a policy does not impose a supplementary financial contribution on non-supplying countries."

Some members of the Committee have also suggested that technical assistance could serve as compensation to those countries which did not receive contracts.

There is support in the Committee, from some of its members, that a unanimously adopted formulation for INTELSAT's procurement policy cannot and should not be reached in isolation from conclusions on other aspects of the new Organization with which such a policy is inextricably linked, in particular the question of the composition, functions, and powers of the organs of the organization.

Similarly, some members suggested that existing Articles 10 (b) (c) (d) (e) of the Special Agreement would also be affected and would require further consideration.

#### Item II: Inventions, Data and Technical Information

Several proposals dealing with this item have been presented by various members of the Committee and have been discussed both by Working Group IV/B and by Committee IV but no agreed proposal has emerged.

While there was a consensus that all inventions, data and technical information, arising directly from any work performed in behalf of INTELSAT should be acquired by the latter at minimum cost and without exceeding its needs, there were differences of opinion as to the best approach in meeting these requirements.

At the end of the debate these differences were narrowed down to the two formulations contained in Annexes A and B to this Report, namely, documents Com. IV/10 and Com. IV/11.

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