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N° 77

**Convention Establishing the European Telecommunications
Satellite Organization**

Done at Paris on 5 July 1982

Entered into force with respect to Ireland on 1 September 1985

Presented to Dáil Éireann by the Minister for Foreign Affairs

CONVENTION ESTABLISHING THE EUROPEAN TELECOMMUNICATIONS SATELLITE ORGANIZATION “EUTELSAT”

Preamble

The States Parties to this Convention,

Underlining the importance of telecommunications by satellite for the development of relations between their peoples and their economies, and their desire to strengthen their co-operation in this field,

Noting that the Provisional European Telecommunications Satellite Organization “INTERIM EUTELSAT” was established for the purpose of operating space segments of European telecommunications satellite systems,

Considering the relevant provisions of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, done at London, Moscow and Washington on 27 January 1967,

Wishing to continue the establishment of these telecommunications satellite systems as part of an improved European telecommunications network for providing expanded telecommunications services to all participating States and this without prejudice to any rights and obligations of the States which are parties to the Agreement relating to the International Telecommunications Satellite Organization “INTELSAT”, done at Washington on 20 August 1971,¹ or by the Convention on the International Maritime Telecommunications Satellite Organization “INMARSAT” done at London on 3 September 1976,²

Determined, to this end, to provide, through the most appropriate space telecommunications technology available, the most efficient and economic facilities possible consistent with the most efficient and equitable use of the radio frequency spectrum and of orbital space,

AGREE as follows:

Article 1 *Definitions*

For the purposes of this Convention:

- a) “Convention” means the Convention establishing the European Telecommunications Satellite Organization “EUTELSAT”, including its Preamble and its Annexes, opened for signature by Governments at Paris, on 15 July 1982.
- b) “Operating Agreement” means the Operating Agreement relating to the European Telecommunications Satellite Organization “EUTELSAT”, including its Preamble and its Annexes, opened for signature, at Paris, on 15 July 1982.

c) “Provisional Agreement” means the Agreement on the Constitution of a Provisional European Telecommunications Satellite Organization “INTERIM EUTELSAT”, done at Paris, on 13 May 1977 between Administrations or Recognized Private Operating Agencies and deposited with the French Administration.

d) “ECS Agreement” means the Supplementary Agreement to the Provisional Agreement relating to the space segment of the Satellite Telecommunications System for the Fixed Service (ECS), done at Paris, on 10 March 1978.

e) “Party” means a State for which the Convention has entered into force or has been provisionally applied.

f) “Signatory” means the telecommunications entity or the Party which has signed the Operating Agreement and for which it has entered into force or has been provisionally applied.

g) “Space segment” means a set of telecommunications satellites, and the tracking, telemetering, command, control, monitoring and related facilities and equipment for the operational support of those satellites.

h) “EUTELSAT Space Segment” means the space segment owned or leased by EUTELSAT for the purpose of the objectives listed under paragraphs a), b), c) and e) of Article III of the Convention.

i) “Satellite telecommunications system” means the unit formed by a space segment and the earth stations having access to that space segment.

j) “Telecommunications” means any transmission, emission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, optical or other electromagnetic systems.

k) “Public telecommunications services” means fixed or mobile telecommunications services which can be provided by satellite and which are available to the public, such as telephony; telegraphy; telex; facsimile; data transmission; videotex; transmission of radio and television programmes between approved earth stations having access to the EUTELSAT space segment for further transmission to the public; multiservices transmissions; and leased circuits to be used in any of these services.

l) “Specialized telecommunications services” means telecommunications services which can be provided by satellite, other than those defined in paragraph k) of this Article, including, but not limited to, radio navigation services, broadcasting satellite services, space research services, meteorological services, and remote sensing of earth resources.

Article 2

Establishment of EUTELSAT

a) The Parties hereby establish the European Telecommunications Satellite Organization “EUTELSAT”, hereinafter referred to as “EUTELSAT”.

b) Each Party shall designate a public or private telecommunications entity subject to its jurisdiction to sign the Operating Agreement unless such Party itself signs the Operating Agreement.

c) Telecommunications administrations and entities may, subject to applicable domestic law, negotiate and enter directly into traffic agreements for their use of telecommunications facilities provided under the Convention and the Operating Agreement, as well as for services to the public, installations, division of revenues and related business arrangements.

d) The relevant provisions of Annex A to the Convention shall apply for the purpose of ensuring continuity between the activities of INTERIM EUTELSAT and those of EUTEL SAT.

Article 3

Scope of EUTELSAT Activities

a) The main purpose of EUTELSAT shall be the design, development, construction, establishment, operation and maintenance of the space segment of the European telecommunications satellite system or systems. In this context, EUTELSAT shall have as its prime objective the provision of the space segment required for international public telecommunications services in Europe.

b) The EUTELSAT Space Segment shall also be made available on the same basis as international public telecommunications services for domestic public telecommunications services in Europe, either between areas separated by areas which do not fall under the jurisdiction of the same Party or between areas falling under the jurisdiction of the same Party but separated by the high seas.

c) As long as the ability of EUTELSAT to achieve its prime objective is not impaired, the EUTELSAT Space Segment may also be made available for other domestic or international public telecommunications services.

d) In the implementation of its activities EUTELSAT shall apply the principle of non-discrimination as between Signatories.

e) On request and under appropriate terms and conditions, the EUTELSAT Space Segment, existing or being implemented at the time of such a request, may also be utilized in Europe for specialized telecommunications services either international or domestic as defined in paragraph 1) of Article 1 of the Convention, but not for military purposes, provided that:

i) The provision of public telecommunications services is not unfavourably affected;

ii) The arrangements are otherwise acceptable from a technical and economic point of view.

f) EUTELSAT may, on request and under appropriate terms and conditions, provide satellites and associated equipment separate from those for the EUTELSAT Space Segment for:

- i) Domestic public telecommunications services;
- ii) International public telecommunications services;
- iii) Specialized telecommunications services, other than for military purposes; provided that the efficient and economic operation of the EUTELSAT Space Segment is not unfavourably affected in any way.

g) EUTELSAT may undertake any research and experimentation in fields directly connected with its purposes.

Article 4 *Legal Personality*

- a) EUTELSAT shall have legal personality.
- b) EUTELSAT shall enjoy the full capacity necessary for the exercise of its functions and the achievement of its purposes, and may in particular:
 - i) Enter into contracts;
 - ii) Acquire, lease, hold and dispose of movable and immovable property;
 - iii) Be a party to legal proceedings;
 - iv) Conclude agreements with States or international organizations.

Article 5 *Financial Principles*

- a) EUTELSAT shall own or lease the EUTELSAT Space Segment and shall own all other property acquired by EUTELSAT. The Signatories shall be responsible for financing EUTELSAT.
- b) EUTELSAT shall operate on a sound economic and financial basis having regard to accepted commercial principles.
- c) Each Signatory shall have a financial interest in EUTELSAT in proportion to its investment share and this shall correspond to its percentage of all utilization of the EUTEL SAT Space Segment by all Signatories as determined under the Operating Agreement. However, no Signatory, even if its utilization of the EUTELSAT Space Segment is nil, shall have an investment share less than the minimum investment share specified in the Operating Agreement.

d) Each Signatory shall contribute to the capital requirements of EUTELSAT and shall receive capital repayment and compensation for use of capital in accordance with the Operating Agreement.

e) All users of the EUTELSAT Space Segment shall pay utilization charges determined in accordance with the provisions of the Convention and the Operating Agreement.

i) The rates of utilization charge for each type of utilization shall be the same for all public or private telecommunications entities in territories under the jurisdiction of Parties, which apply for space segment capacity for that type of utilization.

ii) For public or private telecommunications entities authorized to utilize the EUTELSAT Space Segment under Article 16 of the Operating Agreement for territories which are not under the jurisdiction of a Party, the Board of Signatories may determine rates of utilization charge different from those referred to in subparagraph i) above; but the same rate shall be applied to these entities for the same type of utilization.

f) The satellites and separate associated equipment referred to in paragraph f) of Article 3 of the Convention may, by the unanimous decision of the Board of Signatories, be financed by EUTELSAT. Otherwise they shall be financed by those requesting them on terms and conditions set by the Board of Signatories with a view to covering at least all relevant costs borne by EUTELSAT which costs shall not be considered as part of the capital requirements of EUTELSAT as defined in paragraph b) of Article 4 of the Operating Agreement. Such satellites and associated equipment do not form part of the EUTELSAT Space Segment within the meaning of paragraph h) of Article I of the Convention.

Article 6 Structure of EUTELSAT

a) EUTELSAT shall have the following organs:

i) The Assembly of Parties;

ii) The Board of Signatories;

iii) An executive organ, headed by a Director General.

b) Each organ shall act within the limits of the powers that are conferred upon it by the Convention or by the Operating Agreement. No organ shall act in such a way as to harm the exercise by another organ of the powers vested in it by the Convention or by the Operating Agreement.

Article 7 Assembly of Parties; Composition and Meetings

a) The Assembly of Parties shall be composed of all the Parties.

b) A Party may be represented by another Party in a meeting of the Assembly of Parties, but no Party may represent more than two other Parties.

c) The first ordinary meeting of the Assembly of Parties shall be convened by the Director General within one year after the date on which the Convention enters into force. Ordinary meetings shall thereafter be held every two years unless the Assembly of Parties decides at an ordinary meeting that the following meeting shall be held at a different interval.

d) The Assembly of Parties may also hold extraordinary meetings at the request of one or more Parties supported by at least one-third of the Parties or at the request of the Board of Signatories. Such a request shall state the purpose of the meeting.

e) Each Party shall meet its own costs of representation at meetings of the Assembly of Parties. Expenses of meetings of the Assembly of Parties shall be regarded as an administrative cost of EUTELSAT for the purpose of Article 9 of the Operating Agreement.

Article 8

Assembly of Parties; Procedure

a) Each Party shall have one vote in the Assembly of Parties. Parties abstaining from voting shall be considered as not voting.

b) Decisions on matters of substance shall be taken by an affirmative vote cast by at least two-thirds of the Parties present or represented and voting. A Party which represents one or two other Parties under paragraph b) of Article VII of the Convention may vote separately for each Party it represents.

c) Decisions on procedural matters shall be taken by an affirmative vote cast by a simple majority of the Parties present and voting, each having one vote.

d) A quorum for any meeting of the Assembly of Parties shall consist of representatives of a simple majority of all the Parties, provided that not less than one-third of all the Parties are present.

e) The Assembly of Parties shall adopt its rules of procedure, which shall be consistent with the provisions of the Convention and which, in particular, shall include provisions for:

i) Election of its Chairman and other officers;

ii) Convening of meetings;

iii) Representation and accreditation;

iv) Voting procedures.

Article 9

Assembly of Parties; Functions

a) The Assembly of Parties, which may concern itself with any aspect of EUTELSAT which affects the interests of the Parties, shall have the following functions:

i) To give consideration to the general policy and long-term objectives of EUTELSAT — consistent with the principles, objectives and scope of activities of EUTELSAT, as provided for in the Convention — and to express views or make recommendations thereon to the Board of Signatories.

ii) To recommend to the Board of Signatories appropriate measures to prevent the activities of EUTELSAT from conflicting with any general multilateral convention which is consistent with the Convention and which is acceded to by at least a simple majority of the Parties.

iii) To authorize, through general rules or by specific decisions on the recommendation of the Board of Signatories:

A) The utilization of the EUTELSAT Space Segment for specialized telecommunications services in accordance with paragraph e) of Article 3 of the Convention;

B) The provision of satellites and associated equipment separate from the EUTELSAT Space Segment for specialized telecommunications services in accordance with subparagraph iii) of paragraph f) of Article 3 of the Convention;

C) The provision of satellites and associated equipment separate from the EUTELSAT Space Segment for public telecommunications services in accordance with subparagraphs i) and ii) of paragraph f) of Article 3 of the Convention to States which are not Parties and to any entity under the jurisdiction of such States.

iv) To decide on other recommendations of the Board of Signatories and express views on reports submitted to it by the Board of Signatories.

v) To express, under paragraph a) of Article 16 of the Convention, its views on the intended establishment, acquisition or utilization of space segment equipment separate from that of the EUTELSAT Space Segment.

vi) To take decisions on formal relations between EUTELSAT and States, whether Parties or not, or international organizations, and in particular to approve the Headquarters Agreement mentioned in paragraph c) of Article 17 of the Convention.

vii) To consider complaints submitted to it by Parties.

viii) To take decisions, under paragraph b) of Article 18 of the Convention about the withdrawal of a Party from EUTELSAT.

ix) To decide upon any proposal for amendment to the Convention under Article 19 of the Convention, taking into account any views or recommendations

received from the Board of Signatories and in accordance with Article 22 of the Operating Agreement to propose amendments to the Operating Agreement and express its views and make recommendations on amendments to the Operating Agreement proposed otherwise.

x) To decide upon any request for accession made in accordance with paragraph e) of Article 23 of the Convention.

b) The Assembly of Parties shall exercise any function necessary for the performance of EUTELSAT's purpose that is not expressly attributed to another organ under the Convention.

c) In performing its functions the Assembly of Parties shall take into account any relevant recommendations of the Board of Signatories.

Article 10

Board of Signatories; Composition

a) The Board of Signatories shall be composed of Board Members, each Board Member representing one Signatory.

b) A Signatory may be represented by another Signatory in a meeting of the Board of Signatories but no Board Member may represent more than two other Signatories.

Article 11

Board of Signatories; Procedure

a) Each Signatory shall have a voting participation equal to its investment share subject to the application of paragraphs b), c) and d) of this Article. Signatories abstaining from voting shall be considered as not voting.

b) Until the first determination of investment shares based on utilization under paragraph d) of Article 6 of the Operating Agreement, the investment share on which a Signatory's voting participation is based shall be determined in accordance with Annex B to the Operating Agreement. After the first determination of investment shares based on utilization the investment share on which a Signatory's voting participation is based, shall be derived from the utilization of the EUTELSAT Space Segment by that Signatory for international and domestic public telecommunications services, subject to the exceptions stated in paragraphs c) and d) of this Article.

c) No Signatory shall have more than 20 per cent of the total voting participation in EUTELSAT. However, the increase of investment shares voluntarily acquired by a Signatory until the operational use of the extension under paragraph d) of Article 4 of the Operating Agreement shall, for this period, augment the voting participation of that Signatory by a maximum of 5 per cent regardless of the 20 per cent limit mentioned in this paragraph. To the extent that the voting participation of any Signatory would otherwise have exceeded the permissible voting participation, the excess shall be distributed equally among other Signatories.

d) For the purpose of paragraph b) of this Article, whenever a Signatory is granted a smaller or greater investment share under paragraph h) of Article 6 of the Operating Agreement, the reduction or increase shall be applied proportionately to all types of utilization.

e) The voting participation of each Signatory, defined in paragraph a) of this Article, shall be calculated in accordance with the determination of its investment share under Article 6 of the Operating Agreement.

Any recalculation of its voting participation shall take effect from the effective date of redetermination of its investment share under paragraph e) of Article 6 of the Operating Agreement.

f) A quorum for any meeting of the Board of Signatories shall consist either of Board Members representing a simple majority of Signatories having the right to vote, provided that that majority have at least two-thirds of the total voting participation of all the Signatories having the right to vote, or by Board Members representing the total number of Signatories having the right to vote minus three, regardless of the voting participation the latter represent.

g) The Board of Signatories shall try to take decisions unanimously. Otherwise decisions shall be taken as follows:

i) Subject to the special provisions in subparagraphs ii) and iii) of this paragraph, decisions on matters of substance shall be taken:

— Either by an affirmative vote of Board Members representing at least four Signatories having at least two-thirds of the total voting participation of all the Signatories having the right to vote;

— Or by an affirmative vote cast by at least the total number of Signatories present or represented minus three, regardless of the voting participation the latter represent.

ii) Decisions on any adjustment of the capital ceiling which might be required to meet the objectives specified in paragraphs a) and b) of Article 3 of the Convention shall be taken by an affirmative vote cast by at least a simple majority of the Signatories present or represented and having at least two-thirds of the total voting participation;

iii) Decisions on any adjustment of the capital ceiling which might be required to undertake new programmes involving capital investments which are required to meet objectives other than those specified in paragraphs a) and b) of Article 3 of the Convention shall be taken by an affirmative vote cast by at least two-thirds of the Signatories present or represented and having at least two-thirds of the total voting participation.

iv) Decisions on procedural matters shall be taken by an affirmative vote cast by a simple majority of the Board Members present and voting, each having one vote.

- v) Except in the case of decisions to be taken under subparagraph iv) of this paragraph, a Board Member to whom representation has been delegated under paragraph b) of Article X of the Convention may vote separately for each Signatory he represents.
- h) The Board of Signatories shall adopt its rules of procedure, which shall be consistent with the provisions of the Convention and which, in particular, shall include provisions for:
- i) Election of its Chairman and other officers;
 - ii) Convening of meetings;
 - iii) Representation and accreditation;
 - iv) Voting procedures.
- i) The Board of Signatories may create Advisory Committees to assist it in performing its functions.
- j) The first meeting of the Board of Signatories shall be convened in accordance with paragraph 1 of Annex A to the Operating Agreement. The Board of Signatories shall thereafter meet as necessary but at least three times a year.

Article 12

Board of Signatories; Functions

- a) The Board of Signatories shall have the responsibility for the design, development, construction, establishment, acquisition by purchase or lease, operation and maintenance of the EUTELSAT Space Segment and for any other activities which EUTELSAT is authorized to undertake.
- b) The Board of Signatories shall carry out those functions necessary to discharge its responsibilities under paragraph a) of this Article, including but not limited to:
- i) Adoption of policies, plans, programmes and procedures for the design, development, construction, establishment, acquisition, operation and maintenance of the EUTELSAT Space Segment and any other activities which EUTELSAT is authorized to undertake.
 - ii) Adoption of procurement procedures, regulations and contract terms and conditions, as well as approval of procurement contracts.
 - iii) Adoption and implementation of management arrangements requiring the Director General to contract for technical and operational or other functions whenever this is advantageous to EUTELSAT.

iv) Adoption of policies and procedures for the acquisition, protection and licensing of intellectual property rights consistent with Article 18 of the Operating Agreement.

v) Adoption of financial policies and regulations, approval of budgets and annual financial statements, as well as general rules and adoption of specific decisions on the periodic determination of charges for utilization of the EUTELSAT Space Segment in accordance with Article 5 of the Convention and Article 8 of the Operating Agreement and decision with respect to all other financial matters consistent with the Convention and the Operating Agreement.

vi) Adoption of criteria and procedures for approval of standard earth stations for access to the EUTELSAT Space Segment, for verification and monitoring of performance characteristics of these earth stations and for coordination of earth station access to and utilization of the EUTELSAT Space Segment.

vii) Approval of non-standard earth stations for access to the EUTELSAT Space Segment.

viii) Adoption of terms and conditions governing the allotment of EUTELSAT Space Segment capacity.

ix) Establishment of terms and conditions for access to the EUTELSAT Space Segment by telecommunications entities which are not under the jurisdiction of a Party, consistent with Article 3 of the Convention.

x) Decisions on arrangements for overdrafts and loans under Article 11 of the Operating Agreement.

xi) Establishment of general internal rules and adoption of decisions which, in accordance with the Radio Regulations of the International Telecommunication Union concerning radio frequency spectrum management and orbital space efficiency and economy, may be appropriate in order to ensure that the operation of the EUTEL SAT Space Segment or of other satellite and associated equipment provided by EUTELSAT under paragraph f) of Article 3 of the Convention, is in compliance with those Radio Regulations.

xii) Submission of recommendations to the Assembly of Parties concerning authorizations in accordance with subparagraph iii) of paragraph a) of Article 9 of the Convention.

xiii) Tendering of advice to the Assembly of Parties under paragraph a) of Article 16 of the Convention, about the intended establishment, acquisition or utilization of space segment equipment separate from the EUTELSAT Space Segment.

xiv) Establishment of general internal rules and adoption of decisions about coordination of the EUTELSAT Space Segment with the space segments of INTELSAT and INMARSAT, in accordance with the provisions in the respective agreements of those organizations.

- xv) Action required on withdrawals and suspensions under Article 18 of the Convention and Article 21 of the Operating Agreement.
- xvi) Appointment and removal from office of the Director General, and, upon the recommendation of the Director General, determination of the number, status, and terms and conditions of employment of all staff of the executive organ under paragraph e) of Article 13 f the Convention, and approval of the appointment by the Director General of senior officers reporting directly to him.
- xvii) Designation of a senior officer of the executive organ to serve as Acting Director General whenever the Director General is absent or is unable to discharge his duties, or if the office of Director General becomes vacant.
- xviii) Direction of the negotiations with the Party in whose territory the Headquarters of EUTELSAT is situated, of the Headquarters Agreement on privileges, exemptions and immunities mentioned in paragraph c) of Article 17 of the Convention, and its submission to the Assembly of Parties for approval.
- xix) Submission of periodic reports on the activities of EUTELSAT to the Assembly of Parties.
- xx) Provision of such information as may be required by any Party or Signatory to enable it to discharge its obligations under the Convention or the Operating Agreement.
- xxi) Designation of an arbitrator where EUTELSAT is party to an arbitration.
- xxii) Expression of its views and recommendations to the Assembly of Parties on proposed amendments to the Convention under paragraph a) of Article 19 of the Convention.
- xxiii) Decisions under Article 22 of the Operating Agreement on amendments to the Operating Agreement which are consistent with the Convention.
- xxiv) Examination of applications for accession and recommendations thereon to the Assembly of Parties under paragraph d) of Article 23 of the Convention.
- c) In performing its functions the Board of Signatories shall take due account of recommendations and views addressed to it by the Assembly of Parties under Article 9 of the Convention.

Article 13 *Executive Organ*

- a) The executive organ shall be headed by a Director General appointed by the Board of Signatories, subject to confirmation by the Parties. The Depositary shall immediately notify the Parties of the appointment. The appointment is confirmed unless within sixty days of the notification more than one-third of the Parties have informed the Depositary in writing of their objection. The Director General may

assume his functions after appointment on a date determined by the Board of Signatories and pending confirmation of his appointment.

b) The term of office of the Director General shall be six years, unless otherwise decided by the Board of Signatories.

c) The Board of Signatories may remove the Director General for cause before the end of his term of office, and shall report to the Assembly of Parties the reasons for removal.

d) The Director General shall be the chief executive and legal representative of EUTELSAT. He shall act under the direction of the Board of Signatories and shall be directly responsible to it for the performance of all functions of the executive organ.

e) The structure and staff levels of the executive organ, the terms and conditions of employment of all staff, and the conditions of employment of any consultants or other advisers engaged by the Director General shall be submitted to the Board of Signatories for approval.

f) The Director General shall have the power to appoint all staff of the executive organ. The appointment of senior officers reporting directly to the Director General shall, however, be approved by the Board of Signatories as provided in subparagraph xvi) of paragraph b) of Article 12 of the Convention.

g) During any vacancy in the office of the Director General or when he is absent or unable to discharge his duties the Acting Director General, duly designated under subparagraph xvii) of paragraph b) of Article XII of the Convention shall have the capacity to exercise the powers of the Director General under the Convention and the Operating Agreement.

h) The paramount consideration in the appointment of the Director General and other staff of the executive organ shall be the need to ensure the highest standards of integrity, competence and efficiency.

i) The Director General and the staff of the executive organ shall refrain from any action incompatible with their responsibilities to EUTELSAT.

Article 14 Procurement

a) The procurement policy of EUTELSAT shall be such as to encourage, in its interests and those of the Parties and Signatories, the widest possible competition in the supply of goods and services, and shall be applied taking into account the provisions of [Articles] 17 and 18 of the Operating Agreement.

b) Except as provided in Article 17 of the Operating Agreement, procurement of goods and services for EUTELSAT shall be effected by the award of contracts, based on responses to open international invitations to tender.

c) Contracts shall be awarded in the best interest of EUTELSAT, to bidders offering the best combination of quality, price, delivery time and other important criteria of

relevance to EUTELSAT, it being understood that, if there are bids offering a comparable combination of the above-mentioned criteria, contracts shall be awarded with due consideration to the general and industrial interests of the Parties.

Article 15 *Rights and Obligations*

a) The Parties and Signatories shall exercise their rights and meet their obligations under the Convention in a manner fully consistent with and in furtherance of the principles and the provisions of the Convention.

b) All Parties and all Signatories may attend and participate in all conferences and meetings in which they are entitled to be represented under any of the provisions of the Convention or the Operating Agreement, and in any other meetings called by or held under the auspices of EUTELSAT in accordance with the arrangements made by it for such meetings, regardless of where they may take place.

c) Before any such conference or meeting is held outside the country in which the Headquarters of EUTELSAT is established, the executive organ shall ensure that arrangements with the host Party or Signatory for each such conference or meeting include a provision for the admission to and residence in the host country during such conference or meeting of representatives of all Parties and Signatories entitled to attend.

d) All Parties shall, if necessary, take measures within their jurisdiction to prevent the use of earth stations in connection with the EUTELSAT Space Segment which do not comply with Article 15 of the Operating Agreement.

Article 16 *Other Space Segments*

a) Any Party or Signatory which intends, or becomes aware that any person within the jurisdiction of that Party intends, individually or jointly, to establish, acquire or utilize space segment equipment separate from the EUTELSAT Space Segment in order to meet the requirements of international public telecommunications services within the EUTELSAT Space Segment service area to provide services in accordance with paragraphs a) and b) of Article 3 of the Convention shall, before such establishment, acquisition or utilization, furnish all relevant information to the Assembly of Parties through the Board of Signatories which shall establish whether there is likely to be any significant economic harm to EUTELSAT. The Board of Signatories shall submit its report and conclusions to the Assembly of Parties.

The Assembly of Parties shall give its views within six months from the start of the foregoing procedure. An extraordinary meeting of the Assembly of Parties may be convened for this purpose.

b) The Board of Signatories shall draft and submit to the Assembly of Parties, as a matter of priority, the guidelines to be considered by any Party or Signatory which intends, or becomes aware that any person within the jurisdiction of the Party intends, individually or jointly, to establish space segment equipment separate from the

EUTELSAT Space Segment in order to meet its requirements for domestic or international public or specialized telecommunications services, to ensure technical compatibility of such separate equipment and its operation with the use of the radio frequency spectrum and orbital space by an existing or planned EUTELSAT Space Segment.

c) This Article shall not apply to the establishment, acquisition or utilization of space segment equipment separate from that of the EUTELSAT Space Segment,

i) Which forms part or is intended to form part of the INTEL SAT Space Segment or the INMARSAT Space Segment as defined in the INTELSAT Agreement and in the INMARSAT Convention respectively;

ii) Which is established solely for national security purposes.

Article 17

EUTELSAT Headquarters; Privileges, Exemptions, Immunities

a) The Headquarters of EUTELSAT shall be in Paris.

b) Within the scope of activities authorized by the Convention, EUTELSAT and its property shall be exempt in the territory of all Parties from income and direct property taxation and from customs duties on communications satellites and their components parts and on all equipment for use in the EUTELSAT Space Segment.

c) Each Party shall grant in accordance with the Protocol referred to in this paragraph the appropriate privileges, exemptions and immunities to EUTELSAT, to its officers, and to those categories of its employees specified in such Protocol, to Parties and representatives of Parties, to Signatories and representatives of Signatories, and to persons participating in arbitration proceedings. In particular, each Party shall grant to these individuals immunity from legal process in respect of acts done or words written or spoken in the exercise of their functions and within the limits of their duties to the extent and in the cases to be provided for in the Protocol referred to in this paragraph. The Party in whose territory the Headquarters of EUTELSAT is located shall, as soon as possible, conclude with EUTELSAT a Headquarters Agreement covering privileges, exemptions and immunities.

The Headquarters Agreement shall include a provision that all Signatories acting in their capacity as such, except the Signatory designated by the Party in whose territory the Headquarters of EUTELSAT is located, shall be exempt from taxation on income earned from EUTELSAT in the territory of such Party. The other Parties shall also, as soon as possible, conclude a Protocol covering privileges, exemptions and immunities. The Headquarters Agreement and the Protocol shall each prescribe the conditions of its termination and shall be independent of the Convention.

Article 18
Withdrawal and Suspension

- a)
- i) Any Party or Signatory may withdraw voluntarily from EUTELSAT at any time.
 - ii) A Party shall give written notice to the Depositary of its decision to withdraw. When a Party withdraws from EUTELSAT, any Signatory which was designated by it under paragraph b) of Article 2 of the Convention shall be deemed to have withdrawn from the Operating Agreement with effect from the date on which the withdrawal of the Party takes effect.
 - iii) The decision of a Signatory to withdraw shall be notified in writing to the Director General by the Party which has designated that Signatory and the notification shall signify the acceptance by the Party of the decision of the Signatory to withdraw. When a Signatory withdraws from EUTELSAT, the Party which designated that Signatory shall, at the date of withdrawal, itself assume the capacity of a Signatory unless and until it designates a new Signatory or withdraws from EUTELSAT.
 - iv) A voluntary withdrawal from EUTELSAT under subparagraphs i), ii) and iii) of this paragraph shall take effect three months after the date of receipt of the notification by the Depositary or the Director General, as the case may be.
- b)
- i) If a Party appears to have failed to comply with any obligation under the Convention, the Assembly of Parties, having received notice to that effect or acting on its own initiative, and having considered any representations made by the Party, may decide, if it finds that the failure to comply has occurred, that the Party be deemed to have withdrawn from EUTELSAT and, from the date of the decision, the Convention shall cease to be in force for that Party. An extraordinary meeting of the Assembly of Parties may be convened for this purpose. When a Party is deemed to have withdrawn from EUTELSAT under this subparagraph, any Signatory which was designated by it under paragraph b) of Article 2 of the Convention shall be deemed to have withdrawn from the Operating Agreement with effect from the date on which the withdrawal of the Party takes effect.
 - ii)
 - A) If a Signatory, in its capacity as such, appears to have failed to comply with any obligation under the Convention or the Operating Agreement, other than an obligation under paragraph a) of Article 4 of the Operating Agreement, and the failure to comply is not remedied within three months after the Signatory has been notified in writing by the executive organ of a resolution of the Board of Signatories taking note of the failure to comply, the rights of the Signatory under the Convention and the Operating Agreement shall be automatically suspended at the end of such period of three months.

During the period of suspension of the rights of a Signatory under this paragraph, the Signatory shall continue to have all the obligations and liabilities of a Signatory under the Convention and the Operating Agreement.

B) The Board of Signatories may decide, after considering any representations made by the Signatory or by the Party which designated it, that the Signatory be deemed to have withdrawn from EUTELSAT and that, from the date of the decision, the Operating Agreement shall cease to be in force for that Signatory. When a Signatory is deemed to have withdrawn from EUTELSAT, the Party which designated that Signatory shall, at the date of withdrawal, itself assume the capacity of a Signatory unless and until it designates a new Signatory or withdraws from EUTELSAT.

iii)

A) If a Signatory fails to pay any sum for which it is liable in accordance with paragraph a) of Article 4 of the Operating Agreement within three months after the payment has become due, the rights of the Signatory under the Convention and the Operating Agreement shall be automatically suspended. During the period of suspension of the rights of a Signatory under this paragraph, the Signatory shall continue to have all the obligations and liabilities of a Signatory under the Convention and the Operating Agreement.

B) If within three months after the suspension any sums due remain unpaid, the Board of Signatories, after considering any representations made by the Signatory or the Party which has designated it, may decide that that Signatory be deemed to have withdrawn from EUTELSAT and that, from the date of the decision, the Operating Agreement shall cease to be in force for that Signatory. When a Signatory is deemed to have withdrawn from EUTELSAT, the Party which designated that Signatory shall, at the date of withdrawal, itself assume the capacity of a Signatory unless and until it designates a new Signatory or withdraws from EUTELSAT.

c) If for any reason a party wishes to substitute itself for its designated Signatory or to designate a new Signatory, it shall give written notice to the Depositary. The Convention and the Operating Agreement shall enter into force for the new Signatory and cease to be in force for the former Signatory from the time that the new Signatory assumes all outstanding obligations of the former Signatory and signs the Operating Agreement.

d) A Party which has withdrawn or is deemed to have withdrawn from EUTEL SAT shall cease to have any right of representation in the Assembly of Parties and shall incur no obligation or responsibility after the effective date of withdrawal, except for liabilities arising from acts or omissions before that date.

e)

i) A Signatory which has withdrawn or is deemed to have withdrawn from the Operating Agreement shall cease, as from the effective date of withdrawal, to have any right of representation in the Board of Signatories and shall incur no

obligation or responsibility from that date, except its obligation, unless the Board of Signatories decides otherwise, to discharge its due proportion of the capital contributions needed to meet contractual commitments expressly authorized before that date and any liabilities arising from acts or omissions before that date.

ii) The financial settlement on the withdrawal of a Signatory from EUTELSAT shall be in accordance with Article 21 of the Operating Agreement.

f) Every notification of a withdrawal and every decision effecting a deemed withdrawal shall be communicated at once to all Parties and Signatories by the Depository or the Director General, as the case may be.

g) Nothing in this Article shall deprive a Party or Signatory of any right acquired by it in its capacity as such which is preserved after the effective date of withdrawal and for which compensation has not been received under this Article.

Article 19 Amendments

a) Amendments to the Convention may be proposed by any Party and shall be communicated to the Director General, who shall promptly circulate the proposals to all the Parties and Signatories. Three months is required before consideration of a proposed amendment by the Board of Signatories, which shall submit its views and recommendations to the Assembly of Parties within a period of six months from the date of circulation of the proposed amendment. The Assembly of Parties shall consider the proposed amendment not earlier than six months from receipt by it, taking into account any views and recommendations expressed by the Board of Signatories. This period may, in any particular case, be reduced by the Assembly of Parties by a decision taken in accordance with the procedure for a matter of substance.

b) If adopted by the Assembly of Parties, the amendment shall enter into force one hundred and twenty days after the Depository has received notices of acceptance from two-thirds of those States which at the time of adoption by the Assembly of Parties were Parties and whose Signatories then held at least two-thirds of the total investment shares. Upon its entry into force, the amendment shall become binding upon all Parties and all Signatories.

c) An amendment shall not enter into force less than eight months after the date on which it was adopted by the Assembly of Parties. An amendment which has not entered into force under paragraph b) of this Article eighteen months after the date on which it was adopted by the Assembly of Parties shall be deemed null and void.

Article 20 Settlement of Disputes

a) All disputes arising between Parties or between EUTELSAT and a Party or Parties in connection with the interpretation or application of the Convention or of paragraph c) of Article 15 or paragraph c) of Article 16, of the Operating Agreement shall be submitted to arbitration in accordance with Annex B to the Convention if not

otherwise settled within one year of the time a party to the dispute has notified the other party of its intention to settle such a dispute amicably. Any similar dispute relating to the interpretation or application of this Convention, or the Operating Agreement between one or more Parties on the one hand and one or more Signatories on the other hand may be submitted to arbitration under Annex B to the Convention, provided that the Party or Parties and the Signatory or Signatories in dispute agree.

b) All disputes arising in connection with the interpretation and application of the Convention or of paragraph c) of Article 15 or of paragraph c) of Article 16 of the Operating Agreement, between a Party and a State which has ceased to be a Party, or between EUTELSAT and a State which has ceased to be a Party, and which arise after the State has ceased to be a Party, shall be submitted to arbitration in accordance with the provisions of Annex B to the Convention if not otherwise settled within one year of the time a party to the dispute has notified the other party of its intention to settle such a dispute amicably, provided that the State which has ceased to be a Party so agrees. If a State ceases to be a Party or if a State or a telecommunications entity ceases to be a Signatory after a dispute to which it is a disputant has been submitted to arbitration under paragraph a) of this Article, the arbitration shall be continued and concluded.

c) The settlement of all disputes arising in connection with the interpretation or application of agreements between EUTELSAT and any Party, other than the Convention or the Operating Agreement, shall be as provided for in the relevant agreement. In the absence of any provisions, such disputes, if not otherwise settled, may be submitted to arbitration under Annex B to the Convention if the disputants agree.

Article 21

Signature; Reservation

a) Any State whose telecommunications Administration or Recognized Private Operating Agency is, or has the right to become, a Signatory Party to the Provisional Agreement may become Party to the Convention by:

i) Signature not subject to ratification, acceptance or approval, or

ii) Signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval, or

iii) Accession.

b) The Convention shall be open for signature at Paris from 15 July 1982 until it enters into force and shall thereafter remain open for accession.

c) No State shall become a Party to the Convention until the Operating Agreement has been signed by the telecommunications entity which it has designated or until it has itself signed the Operating Agreement.

d) No reservation may be made to the Convention or the Operating Agreement.

Article 22
Entry into Force

a) The Convention shall enter into force sixty days after the date on which it has been signed, in accordance with subparagraph i) of paragraph a) of Article XXI of the Convention, or has been ratified, accepted or approved, by two-thirds of the States which, at the date on which it is opened for signature have jurisdiction over Signatory Parties to the Provisional Agreement provided that:

i) Those Signatory Parties, or their designated Signatories to the ECS Agreement, hold at least two-thirds of the financial shares under the ECS Agreement and

ii) The Operating Agreement has been signed in accordance with paragraph b) of Article II of the Convention.

b) The Convention shall not enter into force less than eight months after the date on which it is opened for signature. The Convention shall not enter into force if it has not been signed, ratified, accepted or approved under paragraph a) of this Article, within eighteen months of the date on which it is opened for signature.

c) For a State whose instrument of ratification, acceptance, approval or accession is deposited after the date on which the Convention enters into force, the Convention shall enter into force on the date of such deposit.

d) Upon entry into force, the Convention will be applied provisionally for any State which has signed it subject to ratification, acceptance or approval and which has so requested at the time of signature or at any later time before entry into force. Provisional application shall end:

i) Upon deposit of an instrument of ratification, acceptance or approval by that State;

ii) At the end of two years from the date on which the Convention enters into force without having been ratified, accepted or approved by that State;

iii) Upon notification by that State, before the end of the period mentioned in subparagraph ii) of this paragraph, of its decision not to ratify, accept or approve the Convention.

When provisional application ends under [subparagraphs] ii) or iii) of this paragraph, paragraphs d), e) and g) of Article XVIII of the Convention shall govern the rights and obligations of the Party and of its designated Signatory.

e) Despite the provisions of this Article, The Convention shall neither enter into force, nor be applied provisionally for any State, unless the conditions in paragraph c) of Article XXI of the Convention have been satisfied.

f) Upon entry into force, the Convention shall replace and terminate the Provisional Agreement. However, nothing in the Convention or the Operating Agreement shall affect any right or obligation of a Party or a Signatory acquired in its former capacity

as a Signatory Party to the Provisional Agreement or as a Signatory to the ECS Agreement.

Article 23
Accession

a) Any State whose Telecommunications Administration or Recognized Private Operating Agency was, or had the right to become, a Signatory Party to the Provisional Agreement at the date on which the Convention is opened for signature, may accede to the Convention from the date on which it ceases to be open for signature, until two years after its entry into force.

b) The provisions of paragraphs c) to e) of this Article shall apply to requests for accession by the following States:

i) A State whose Telecommunications Administration or Recognized Private Operating Agency was, or had the right to become, a Signatory Party to the Provisional Agreement at the date on which the Convention was opened for signature, which has not become a Party to the Convention in accordance with subparagraphs i) or ii) of paragraph a) of Article 21 of the Convention, or paragraph a) of this Article;

ii) Any other European State which is a Member of the International Telecommunication Union wishing to accede to the Convention after its entry into force.

c) Any State which wishes to accede to the Convention in the circumstances mentioned in paragraph b) of this Article (“the Applicant State”) shall so notify the Director General in writing and shall supply the latter with all information which the Board of Signatories may require, concerning the Applicant State’s proposed utilization of the EUTELSAT Space Segment.

d) The Board of Signatories shall examine from the technical, operational and financial view points the compatibility of the application of the Applicant State with the interests of EUTELSAT and the Signatories within the scope of activities of EUTELSAT and shall submit a recommendation thereon to the Assembly of Parties.

e) Taking into account such recommendation, the Assembly of Parties shall take a decision on the Applicant State’s request within six months following the date on which the Board of Signatories decides that it is in the possession of all the information required under paragraph c) of this Article. The decision of the Board of Signatories shall be promptly notified to the Assembly of Parties. The decision of the Assembly of Parties shall be taken by secret vote and in accordance with the procedure for decisions on matters of substance. An extraordinary meeting of the Assembly of Parties may be convened for this purpose.

f) The Director General shall notify the Applicant State of the conditions for accession established by the Assembly of Parties which will be the subject of a protocol annexed to the instrument of accession to be deposited by the said State with the Depositary.

Article 24
Liability

No Party shall be individually liable for the acts and obligations of EUTELSAT except where such liability results from a treaty to which that Party and a State claiming compensation are parties. In that case, EUTELSAT shall indemnify the Party concerned in respect of any such liability, unless the latter has expressly undertaken to assume exclusively such liability.

Article 25
Miscellaneous Provisions

- a) The official and working languages of EUTELSAT shall be English and French.
- b) EUTELSAT shall, having regard to the general views of the Assembly of Parties, co-operate on matters of common interest with the United Nations and its Specialized Agencies, in particular the International Telecommunication Union, and other international organizations.
- c) To comply with Resolution 1721 (XVI)' of the General Assembly of the United Nations, EUTELSAT shall send to the Secretary General of the United Nations, and to the Specialized Agencies concerned, for their information, an annual report on its activities.

Article 26
Depositary

- a) The Government of the French Republic shall be the Depositary for the Convention, with which shall be deposited instruments of ratification, acceptance, approval or accession, requests for provisional application and notifications of ratification, acceptance or approval of amendments, of decisions to withdraw from EUTELSAT or of termination of the provisional application of the Convention.
- b) The Convention shall be deposited in the archives of the Depositary. The Depositary shall send certified copies of the text of the Convention to all States that have signed it or deposited instruments of accession to it, and to the International Telecommunication Union.
- c) The Depositary shall promptly inform all States which have signed or acceded to the Convention, all Signatories and, if necessary, the International Telecommunication Union of:
 - i) All signatures of the Convention;
 - ii) The deposit of all instruments of ratification, acceptance, approval or accession;
 - iii) The start of the sixty day period referred to in paragraph a) of Article XXII of the Convention;

- iv) The entry into force of the Convention;
 - v) All requests for provisional application under paragraph d) of Article XXII of the Convention;
 - vi) The appointment of the Director General, any objections to and the confirmation of that appointment under paragraph a) of Article XIII of the Convention;
 - vii) The adoption and entry into force of all amendments to the Convention;
 - viii) All notifications of withdrawal;
 - ix) All decisions by the Assembly of Parties under paragraph b) of Article XVIII of the Convention that a Party is deemed to have withdrawn from EUTELSAT;
 - x) All decisions by the Board of Signatories under paragraph b) of Article XVIII of the Convention that a Signatory is deemed to have withdrawn from EUTELSAT;
 - xi) All substitutions of Signatories made under paragraphs b) and c) of Article XVIII of the Convention;
 - xii) All suspensions and restorations of rights;
 - xiii) All other notifications and communications about the Convention.
- d) Upon entry into force of the Convention, the Depositary shall send to the Secretariat of the United Nations, for registration and publication in accordance with Article 102 of the Charter of the United Nations, confirmed certified copies of the Convention and the Operating Agreement.

In Witness Whereof the undersigned, duly authorized by their respective Governments, have signed this Convention.

Opened for signature at Paris this fifteenth day of July one thousand nine hundred and eighty-two in the English and French languages, both texts being equally authentic, in a single original.

ANNEX A

(TRANSITIONAL PROVISIONS)

1) Continuity of activities

a) Any agreement entered into by INTERIM EUTELSAT under the Provisional Agreement or the ECS Agreement and which is in effect at the time the two mentioned Agreements terminate shall remain in effect, unless and until modified or repealed in accordance with the provisions of that agreement. Any decision taken by INTERIM EUTELSAT under the Provisional Agreement or the ECS Agreement and which is in effect at the time the two last mentioned Agreements terminate shall remain in effect unless and until that decision is modified or repealed by, or in implementation of, the Convention or the Operating Agreement.

b) If, at the time the Provisional Agreement and the ECS Agreement terminate, any organ of INTERIM EUTELSAT has embarked on, but not completed, any action which it is authorized or required to take under the Provisional Agreement or the ECS Agreement, the Board of Signatories shall stand in the place of that organ for the purpose of completing such action.

2) Management

a) From the date of the entry into force of the Convention all personnel of the permanent General Secretariat established under Article 9 of the Provisional Agreement, shall have the right to be transferred to the executive organ of EUTELSAT, without prejudice to the provisions of paragraph f) of Article 13 of the Convention.

b) In accordance with paragraph 1) of this Annex the conditions for employment of personnel which were in force under the Provisional Agreement shall continue to apply until new conditions of employment are drawn up by the Board of Signatories.

c) Until the first Director General assumes office his functions shall be performed by the Secretary General of INTERIM EUTELSAT.

3) Transfer to EUTELSAT of the functions of the Mandated Administration

a) On the date of the start of the sixty-day period referred to in paragraph a) of Article 22 of the Convention, the Secretary General of INTERIM EUTELSAT shall inform the Mandated Administration of the date of entry into force of the Convention and the termination of the Provisional Agreement.

b) The Secretary General of INTERIM EUTEL SAT shall take all measures for a timely transfer to EUTELSAT of all rights and obligations acquired by the Mandated Administration in its capacity as legal representative of INTERIM EUTELSAT.

ANNEX B

(ARBITRATION PROCEDURE)

1. For the purposes of adjudicating upon any dispute referred to in Article 20 of the Convention or Article 20 of the Operating Agreement, an Arbitration Tribunal shall be established in accordance with the following paragraphs.
2. Any Party to the Convention may join either party to the dispute in the arbitration.
3. The Arbitration Tribunal shall consist of three members. Each party to the dispute shall nominate one arbitrator within a period of two months reckoned from the date of receipt of the request by one party to refer the dispute to arbitration. Where Article 20 of the Convention and Article 20 of the Operating Agreement require the agreement of the disputants to refer the dispute to arbitration, the period of two months shall be reckoned from the date of that agreement. The first two arbitrators shall, within a period of two months reckoned from the nomination of the second arbitrator, nominate the third arbitrator, who shall be the Chairman of the Arbitration Tribunal. If one of the two arbitrators has not been nominated within the required period he shall, at the request of either party, be nominated by the President of the International Court of Justice or, if there is no agreement between the parties, the Secretary General of the Permanent Arbitration Court. The same procedure shall apply if the Chairman of the Arbitration Tribunal had not been nominated within the required period.
4. The Arbitration Tribunal shall determine its seat and establish its own rules of procedure.
5. Each party shall bear the cost relating to the arbitrator for whose nomination it is responsible, as well as the costs of being represented before the Tribunal. The expenditure relating to the Chairman of the Arbitration Tribunal shall be shared equally by the parties to the dispute.
6. The award of the Arbitration Tribunal shall be made by a majority of its members, who may not abstain from voting. This award shall be final and binding on all parties to the dispute and no appeal shall lie against it. The parties shall comply with the award without delay. In the event of a dispute as to its meaning or scope, the Arbitration Tribunal shall interpret it at the request of any party to the dispute.

OPERATING AGREEMENT RELATING TO THE EUROPEAN TELECOMMUNICATIONS SATELLITE ORGANIZATION "EUTELSAT"

Preamble

The Signatories to this Operating Agreement,

Considering that the States Parties to the Convention establishing the European Telecommunications Satellite Organization "EUTELSAT", have undertaken therein to designate a telecommunications entity to sign the Operating Agreement or themselves to sign it,

AGREE as [follows]:

Article 1 *Definitions*

a) For the purpose of the Operating Agreement:

- i) "Convention" means the Convention establishing the European Telecommunications Satellite Organization "EUTELSAT".
- ii) "ECU" means the European Currency Unit, instituted by Regulation No. 3180/78 of the Council of the European Communities on 18 December 1978, subject to such change or re-definition as that Council may adopt.

b) The definitions in Article I of the Convention shall apply to the Operating Agreement.

Article 2 *Rights and Obligations of Signatories*

a) Each Signatory acquires the rights provided for Signatories in the Convention and the Operating Agreement and undertakes to fulfil the obligations placed upon it therein.

b) In the traffic agreements negotiated by them, the Signatories shall endeavour to route a reasonable portion of their traffic via the EUTELSAT Space Segment.

Article 3 *Transfer of Rights and Obligations*

On the date the Convention and the Operating Agreement enter into force and subject to the requirements of Annex A to the Operating Agreement:

- i) All the assets, including property rights, contractual rights, rights in and to the space segment and all other rights acquired under the Provisional Agreement or the ECS Agreement, shall vest in and be owned by EUTELSAT.

ii) All the obligations and liabilities undertaken or incurred by or on behalf of INTERIM EUTELSAT in carrying out the provisions of the Provisional Agreement and the ECS Agreement which are outstanding on, or arise from acts or omissions before such date, shall become obligations and liabilities of EUTELSAT.

iii) The financial interest in EUTELSAT of each Signatory shall be equal to the amount arrived at by the application of its investment share expressed as a percentage to the valuation of the EUTELSAT assets effected under subparagraph b) of paragraph 3 of Annex A to the Operating Agreement.

Article 4 *Capital Contributions*

a) In proportion to its investment share expressed as a percentage, each Signatory shall make contributions to the capital requirements of EUTELSAT and shall receive capital repayment and compensation for use of capital, as determined by the Board of Signatories in accordance with the Convention and the Operating Agreement.

b) Capital requirements shall include:

i) All direct and indirect costs of the design, development, acquisition, construction and establishment of the EUTELSAT Space Segment, of the acquisition of contractual rights by leasing, and of other property of EUTELSAT;

ii) Expenditure necessary to cover EUTELSAT's operating, maintenance and administrative costs that the Organization is unable to finance out of its revenue under Article 9 of the Operating Agreement;

iii) Funds required by EUTELSAT for discharging indemnities under Article 24 of the Convention and under paragraph b) of Article 19 of the Operating Agreement.

c) The Board of Signatories shall determine the schedule of payments required under this Article. Interest at a rate to be determined by the Board of Signatories shall be added to any amount unpaid after the date designated for payment.

d) If an extension of the EUTELSAT Space Segment offering capacity for services other than those covered by paragraphs a) and b) of Article III of the Convention is to be provided, the Board of Signatories shall take every reasonable measure to ensure that those Signatories which are not directly interested in the implementation of the extension will not have to finance it before the operational use of the services. Interested Signatories shall make their best efforts to accept a corresponding increase in their investment shares.

Article 5

Capital Ceiling

The sum of the cumulative capital contributions of the Signatories under Article 4 of the Operating Agreement and of the outstanding contractual capital commitments of EUTELSAT, less the cumulative capital repaid to them, shall be subject to an upper limit (called “the capital ceiling”). The initial capital ceiling shall be 400 million ECUs. The Board of Signatories shall have authority to adjust the capital ceiling and shall take decisions on any such adjustments in accordance with paragraph g) of Article 11 of the Convention.

Article 6

Investment Shares

a) Investment shares of Signatories shall be determined on the basis of utilization of the EUTELSAT Space Segment. Except as otherwise provided in this Article, each Signatory shall have an investment share equal to its percentage of all utilization of the EUTELSAT Space Segment by all Signatories.

b) For the purpose of paragraph a) of this Article, utilization of the EUTELSAT Space Segment by a Signatory shall be measured by dividing the space segment utilization charges payable by the Signatory to EUTELSAT by the number of days for which charges were payable during the six-month period before the effective date of a determination of investment shares under paragraph d) or subparagraph i) of paragraph e) of this Article. However, if the number of days for which charges were payable by a Signatory for utilization during such six-month period was less than ninety days, such charges shall not be taken into account in determining investment shares.

c) Before determination of investment shares on the basis of utilization under paragraph a), b) and d) of this Article, the investment share of each Signatory shall be determined in accordance with Annex B to the Operating Agreement.

d) The first determination of investment shares based on utilization shall take place:

i) Not earlier than four years from the date on which the first satellite of the EUTEL SAT Space Segment is positioned in orbit in working order.

ii) After the end of the four year period referred to in subparagraph i) of this paragraph, if and when:

A) Ten Signatories have for a period of six months been accessing the EUTELSAT Space Segment, either through their own earth stations or through other Signatories' earth stations; and

B) The EUTELSAT revenues deriving from utilization by the Signatories during a six-month period have been greater than the revenues that would have derived from the utilization by Signatories for the same period of the Space Segment capacity required to establish 5,000 telephone circuits using digital speech interpolation.

- iii) Seven years from the date on which the first satellite of the EUTELSAT Space Segment is positioned in orbit in working order, if the conditions envisaged under subparagraph ii) of this paragraph have not been met.
- e) After the first determination on the basis of utilization, investment shares shall be redetermined to be effective:
- i) On the first day of March in each year. However, redetermination on the basis of utilization on the first day of March shall not take place if the total utilization charges payable to EUTELSAT by Signatories for their utilization during the six month period preceding that date are lower by more than twenty per cent than the total utilization charges payable to EUTELSAT by Signatories for their utilization during the six-month period starting eighteen months before that date.
 - ii) On the entry into force of the Operating Agreement for a new Signatory.
 - iii) On the effective date of withdrawal of a Signatory.
- f) Whenever an investment share is determined under subparagraphs ii) or iii) of paragraph e) or under paragraph g) of this Article, the investment shares of all other Signatories shall be adjusted in the proportion that the respective investment shares which they held before this adjustment bear to each other. On the withdrawal of a Signatory, investment shares of 0.05 per cent determined in accordance with paragraph g) of this Article shall not be increased.
- g) Notwithstanding any provision of this Article, no Signatory shall have an investment share of less than 0.05 per cent of the total investment shares.
- h) Upon application from a Signatory, the Board of Signatories shall allocate to it an investment share reduced from its share determined under [paragraphs] a) to f) of this Article to the extent that the reduction is taken up by the voluntary acceptance by other Signatories of increased investment shares. The Board of Signatories shall adopt procedures enabling the application of the provisions of this paragraph and for the equitable distribution of the amount corresponding to the reduction in investment shares among Signatories ready to increase their investment shares.
- i) Notification of the results of each determination of investment shares, and of the effective date of such determination, shall be promptly furnished to all Signatories by the Director General.

Article 7

Financial Adjustment between Signatories

- a) On entry into force of the Operating Agreement, financial adjustments shall be made between Signatories, through EUTELSAT, in accordance with Annex A to the Operating Agreement.
- b) At each determination of investment shares after the first determination, financial adjustments between Signatories shall be made through EUTELSAT on the basis of a

valuation made under paragraph c) of this Article. The amounts of these financial adjustments shall be determined for each Signatory by applying to the valuation the difference, if any, between the new investment share of each Signatory and its investment share before the determination.

c) The valuation mentioned in paragraph b) of this Article shall be made as follows:

i) Deduct from the original cost of all assets as recorded in EUTELSAT accounts at the date of adjustment, including all capitalized return and capitalized expenses, the sum of:

A) The accumulated amortization as recorded in EUTELSAT accounts at the date of adjustment, and

B) Loans and other accounts payable by EUTELSAT at the date of adjustment;

ii) Adjust the result thereby obtained by adding or deducting a further amount representing any deficiency or excess, respectively, in the payment by EUTELSAT of compensation for use of capital from the entry into force of the Operating Agreement to the effective date of valuation relative to the cumulative amount due at the rate or rates of compensation for use of capital in effect during the periods in which the relevant rates were applicable, as established by the Board of Signatories. For the purpose of assessing the amount representing any deficiency or excess in payment, compensation due shall be calculated on a monthly basis and shall relate to the net amount of the items described in subparagraph i) of this paragraph.

d) Payments due from or to Signatories under this Article shall be made by a date prescribed by the Board of Signatories. Interest at a rate equal to the rate determined by the Board of Signatories under paragraph c) of Article 4 of the Operating Agreement shall be added to any overdue amount.

Article 8 *Utilization Charges*

a) The Board of Signatories shall specify the units of measurement for the various types of utilization of the EUTELSAT Space Segment and shall establish charges for such utilization.

These charges shall have the objective of earning sufficient revenues to cover operating, maintenance and administrative costs of EUTELSAT, the provision of such working funds as the Board of Signatories may determine to be necessary, the amortization of investments made by Signatories and compensation for use of capital of Signatories. The charges which apply to a given category of utilization of the EUTELSAT Space Segment shall have the objective of covering all types of expenditure relating to that category of utilization.

b) Utilization charges shall be payable in accordance with arrangements adopted by the Board of Signatories.

c) The Board of Signatories shall apply any appropriate measures where payments of utilization charges have been in default for more than three months, taking into account the provisions of paragraph b) of Article 18 of the Convention.

d) Interest at a rate to be determined by the Board of Signatories shall be added to any amount of utilization charges unpaid after the date for payment set by the Board of Signatories.

Article 9 Revenues

a) The revenues earned by EUTELSAT shall be applied, as far as they allow, in the following order of priority:

i) To meet operating, maintenance and administrative costs;

ii) To provide such working funds as the Board of Signatories may determine to be necessary;

iii) To pay to Signatories, in proportion to their respective investment shares, sums representing a repayment of capital in the amount of the provisions for amortization established by the Board of Signatories and recorded in the accounts of EUTELSAT;

iv) To pay to a Signatory which has withdrawn from EUTELSAT such sums as may be due to it under Article 21 of the Operating Agreement;

v) To pay to Signatories, in proportion to their respective investment shares, the available balance towards compensation for use of capital including unpaid compensation from the previous years plus interest on such unpaid compensation.

b) In the determination of the rate of compensation for the use of capital of Signatories, the Board of Signatories shall allow for the risks associated with investment in EUTELSAT and shall fix the rate as close as possible to the cost of money in the money markets.

c) If revenues earned by EUTELSAT are insufficient to meet the operating, maintenance and administrative costs of EUTELSAT, the Board of Signatories may decide to meet the deficiency by using working funds of EUTELSAT, by overdraft arrangements, by loans, by requiring Signatories to make capital contributions in proportion to their respective investment shares or by any combination of such measures.

Article 10 Settlement of Accounts

a) Settlement of accounts between Signatories and EUTELSAT arising from financial transactions under Articles 4, 7, 8 and 9 of the Operating Agreement shall be arranged

so that funds transferred between Signatories and EUTELSAT, as well as funds at EUTELSAT's disposal in excess of the working funds determined by the Board of Signatories to be necessary, shall be kept at the lowest practicable level.

b) All payments between the Signatories and EUTELSAT under the Operating Agreement shall be made in any freely convertible currency.

Article 11 *Overdrafts and Loans*

a) EUTELSAT may, by decision of the Board of Signatories, enter into overdraft arrangements for meeting deficiencies until adequate revenues or capital contributions are received.

b) Notwithstanding the provisions of Article 4 of the Operating Agreement, EUTELSAT may, by decision of the Board of Signatories, raise loans for the purpose of financing any activity undertaken by EUTELSAT in accordance with Article 3 of the Convention or for meeting any liability incurred by EUTELSAT. The outstanding amounts of such loans shall be considered as contractual capital commitments for the purpose of Article 5 of the Operating Agreement.

Article 12 *Excluded Costs*

The following shall not form part of the costs of EUTELSAT:

i) The taxes that would be due from a Signatory in respect of sums paid to that Signatory by EUTELSAT under the Convention and the Operating Agreement;

ii) The costs of representatives of Parties and Signatories incurred in attending meetings of the Assembly of Parties and the Board of Signatories or any other meetings of EUTELSAT.

Article 13 *Audit*

The accounts of EUTELSAT shall be audited annually by independent auditors appointed by the Board of Signatories. Each Signatory shall have the right of inspection of EUTELSAT accounts.

Article 14 *Other International Organizations*

In addition to observing the relevant regulations of the International Telecommunication Union, EUTELSAT shall, in the design, development, construction and establishment of the EUTELSAT Space Segment and in the procedures established for regulating the operation of the EUTELSAT Space Segment and of the earth stations, give due consideration to the relevant recommendations and procedures of the organs of the International Telecommunication Union.

EUTELSAT shall also take account of the relevant recommendations of the Conference Européenne des Administrations des Postes et des Télécommunications (CEPT).

Article 15 *Earth Station Approval*

a) Applications for approval of earth stations, being transmitting stations, receiving stations or combined transmitting-receiving stations, to access the EUTELSAT Space Segment may be submitted to EUTELSAT only by the Signatory designated by the Party in whose territory the earth station is or will be located or, for earth stations in a territory not under the jurisdiction of a Party, by a duly authorized telecommunications entity.

b) Failure by the Board of Signatories to establish criteria and procedures, under subparagraph vi) of paragraph b) of Article 12 of the Convention, for approval of earth stations shall not preclude the Board of Signatories from considering or acting upon any application for approval of an earth station.

c) Each Signatory or telecommunications entity referred to in paragraph a) of this Article shall, for earth stations for which it has submitted an application, be responsible to EUTELSAT for compliance of such stations with the rules and standards specified in the document of approval issued to it by EUTELSAT unless, where a Signatory has submitted the application, its designating Party assumes such responsibility.

Article 16 *Allotment of Allotment of Space Segment Capacity*

a) Applications for allotment of EUTELSAT Space Segment capacity may be submitted to EUTELSAT only by Signatories or, for a territory not under the jurisdiction of a Party, by a duly authorized telecommunications entity.

b) Allotment of EUTELSAT Space Segment capacity shall be authorized by the Board of Signatories in accordance with the terms and conditions established by it under subparagraph viii) and ix) of paragraph b) of Article 12 of the Convention.

c) Each entity to which an allotment has been made under this Article shall be responsible for compliance with all the terms and conditions set by EUTELSAT for such allotment unless, where a Signatory has submitted the application, its designating Party assumes such responsibility.

Article 17 *Procurement*

a) All contracts for the procurement of goods and services by EUTELSAT shall be awarded in accordance with Article 14 of the Convention, this Article and Article 18 of the Operating Agreement and the procedures, regulations, terms and conditions established by the Board of Signatories under subparagraph ii) of paragraph b) of Article 12 of the Convention.

- b) The approval of the Board of Signatories shall be required before:
- i) The issue of requests for proposals or invitations to tender for contracts which are expected to exceed 150,000 ECUs in value;
 - ii) The award of any contract to a value exceeding 150,000 ECUs. If justified by changes in world price indices, the Board of Signatories may revise these financial limits.
- c) The procedures, regulations, terms and conditions referred to in paragraph a) of this Article shall provide for the supply of full and timely information to the Board of Signatories. Upon request from any Signatory, the Board of Signatories shall supply to the Signatory such information with respect to any contract as will enable that Signatory to discharge its responsibilities as a Signatory.
- d) In the following cases open international tendering may be dispensed with under procedures adopted by the Board of Signatories under subparagraph ii) of paragraph b) of Article 12 of the Convention:
- i) The estimated value of the contract does not exceed 75,000 ECUs and the award of the contract would not, because of the application of the dispensation, place a contractor in such a position as to prejudice at some later date the effective exercise by the Board of Signatories of the procurement policy in Article XIV of the Convention. If justified by changes in world price indices, the Board of Signatories may revise this financial limit.
 - ii) Procurement is required urgently in an emergency affecting the operational viability of any activities of EUTELSAT.
 - iii) There is only one source of supply to a specification which is necessary to meet the requirements of EUTELSAT or the sources of supply are so severely restricted in number that it would be neither feasible nor in the best interest of EUTELSAT to incur the expenditure and time entailed in open international tender, provided that, where there is more than one source, all are given an opportunity to bid on an equal basis.
 - iv) The requirement is of an administrative nature best suited to local procurement.
 - v) The procurement is for personal services.

Article 18 *Intellectual Property*

- a) For the purpose of the Operating Agreement “Intellectual Property” means the rights relating to inventions in all fields of human endeavour, scientific discoveries, industrial designs, trade marks, service marks and commercial names and designations, know-how, protection against unfair competition, copyright, and all other rights resulting from intellectual activity in the industrial and scientific fields.

- b)
- i) EUTELSAT's policy on intellectual property shall be based on the principle of acquiring only these rights which are necessary to enable work to be performed by or for it.
 - ii) In particular, ownership of intellectual property generated by a contractor in the performance of a EUTELSAT-funded contract shall be retained by the contractor.
- c) In order to give effect to those principles, while at the same time observing generally accepted industrial practices, EUTELSAT shall, where work funded by it under contract contains a significant element of study, research or development, ensure for itself:
- i) The right to have disclosed to it without payment all intellectual property generated by such work.
 - ii) Licence to disclose and have disclosed without payment the intellectual property so generated to Parties and Signatories and other persons within the jurisdiction of a Party.
 - iii) Licence to use, and to authorize and have authorized to be used by Parties, Signatories and other persons within the jurisdiction of a Party, the intellectual property so generated. Where such use is connected with the EUTELSAT Space Segment or accessing earth stations, the licence shall be without payment; and where the use is for another purpose, the licence shall be on fair and reasonable terms and conditions to be settled between the owner of the intellectual property and the user.
 - iv) If possible, licences, on fair and reasonable terms and conditions, to use and have used as necessary for the reconstruction or modification of any product of a EUTELSAT-funded contract pre-existing intellectual property rights, that is to say rights other than those generated in the performance of such contract but which are required to contribute to the proper performance of such contract.
- d) The Board of Signatories may approve a deviation from the policies described in subparagraphs ii), iii) and iv) of paragraph c) of this Article if during negotiations the Board of Signatories is satisfied that failure to deviate would prejudice EUTELSAT.
- e) The Board of Signatories may also, if exceptional circumstances warrant, approve a deviation from the policy described in subparagraph ii) of paragraph b) of this Article provided all the following conditions are met:
- i) The Board of Signatories is convinced that failure to deviate would prejudice EUTELSAT;
 - ii) The Board of Signatories decides that EUTELSAT should be in a position to ensure patent or similar protection in any country;

- iii) The contractor concerned is not able or willing to ensure such patent or other similar protection within the appropriate time limit.
- f) Where EUTELSAT has acquired rights in intellectual property by transfer from INTERIM EUTELSAT under Article 3 of the Operating Agreement or otherwise than under paragraph c) of this Article, it shall, on request, and provided it has the right to do so:
- i) Disclose or have disclosed such intellectual property to any Party or Signatory without payment except that such Party or Signatory shall reimburse EUTELSAT for any payment by EUTELSAT to third parties for the exercise of this right of disclosure.
 - ii) Grant licence to any Party or Signatory to disclose or have disclosed to other persons within the jurisdiction of a Party and to use, authorize and have authorized those other persons to use such intellectual property. Where such use is connected with the EUTELSAT Space Segment or accessing earth stations, the licence shall be without payment; and where the use is for another purpose, the licence shall be on fair and reasonable terms and conditions to be settled between the user and EUTELSAT or other owner of the intellectual property or any other authorized entity or person having a proprietary interest therein, except that such Party or Signatory shall reimburse EUTELSAT for any payment by EUTELSAT to third parties for the right to grant such licence.
- g) EUTELSAT shall keep each Party and Signatory which so requests informed of the availability and general nature of all intellectual property which is disclosed to it under subparagraph i) of paragraph c) or subparagraph i) of paragraph f) of this Article.
- h) The disclosure and use, and the terms and conditions of disclosure and use, of all intellectual property in which EUTELSAT has acquired rights shall be on a non-discriminatory basis as between Parties and Signatories, and other persons to whom rights may be granted or disclosures made pursuant to this Article.

Article 19

Liability

- a) Neither EUTELSAT, nor any Signatory nor, when performing his functions within the limits of his authority, any employee of any of them, nor any representative in meetings of EUTEL SAT, shall be liable to any Party or to any Signatory or to EUTEL SAT, because of any interruption, delay or malfunctioning of telecommunications services provided or to be provided under the Convention or the Operating Agreement, nor shall any actions for damages be brought against them because of such interruption, delay or malfunctioning.
- b) A Signatory, or an employee of EUTELSAT or of a Signatory who has acted within the framework and limits of his authority, who, by the final judgement of a competent tribunal or under a settlement approved by the Board of Signatories, has been found liable for any activity undertaken by or on behalf of EUTELSAT under

the Convention or the Operating Agreement, shall be reimbursed by EUTELSAT in respect of any claim, including costs and expenses, that the Signatory or the person concerned has to discharge.

If payment has not already been made, EUTELSAT shall make settlement direct, in place of the Signatory or person concerned.

c) If a claim is brought against a Signatory or any such employee, it or he shall, as a condition of reimbursement under paragraph b) of this Article, immediately notify EUTELSAT in order to give it the opportunity to advise and recommend on the means of defence, or to propose a settlement of the dispute and, if permitted by the law of the jurisdiction in which the claim is brought, to join in the proceeding or to stand in the place of the Signatory or of the employee concerned.

Article 20 *Settlement of Disputes*

a) All disputes arising between Signatories or between EUTELSAT and a Signatory or Signatories in connection with the interpretation or application of the Operating Agreement, shall be submitted to arbitration in accordance with Annex B to the Convention if not otherwise settled within one year from the time a Signatory or EUTELSAT has notified to the other party to the dispute its intention to settle such a dispute amicably.

b) All such disputes arising between a Signatory and a State or telecommunications entity which has ceased to be a Signatory, or between EUTELSAT and a State or telecommunications entity which has ceased to be a Signatory, and which arise after such State or telecommunications entity ceased to be a Signatory, if not otherwise settled within one year of the time a Signatory or EUTELSAT has notified to the other party of its intention to settle such a dispute amicably, may be submitted to arbitration in accordance with Annex B to the Convention provided all the disputants concerned agree. If a State or telecommunications entity ceases to be a Signatory after the start of an arbitration in which it is a disputant, such arbitration shall be continued and concluded.

c) All disputes arising in connection with the interpretation or application of agreements or contracts that EUTELSAT has concluded with any Signatory shall be subject to the provisions on the settlement of disputes contained in such agreements and contracts. In the absence of such provisions, such disputes shall be submitted to arbitration in accordance with Annex B to the Convention if not otherwise settled within one year from the time the Signatory or EUTELSAT has notified to the other party to the dispute its intention to settle such a dispute amicably.

d) If, upon entry into force of the Operating Agreement, any arbitration is in progress under Article 17 of the Provisional Agreement, the procedures prescribed by that Article shall continue to be followed for such arbitration until its conclusion, unless all the disputants otherwise agree. If INTERIM EUTELSAT is a party to any such arbitration, EUTELSAT shall replace it as a party.

Article 21
Financial Settlement on Withdrawal

a) Within three months after the effective date of withdrawal of a Signatory from EUTELSAT under Article 18 of the Convention, the Board of Signatories shall notify the Signatory of the valuation by the Board of Signatories of its financial status in relation to EUTELSAT at the effective date of its withdrawal and of the proposed terms of settlement under paragraph c) of this Article.

b) The notification under paragraph a) of this Article shall include a statement of:

i) The amount payable by EUTELSAT to the Signatory, calculated by multiplying the amount determined from a valuation made under paragraph c) of Article 7 of the Operating Agreement on the effective date of its withdrawal by the investment share held by the Signatory on that date.

ii) Any amounts to be paid by the Signatory to EUTELSAT under subparagraph i) of paragraph e) of Article XVIII of the Convention representing its share of capital contributions for contractual commitments specifically authorized before the receipt by the Director General of the notice of its decision to withdraw or, as the case may be, before the effective date of withdrawal, together with the proposed schedule of payments to meet such contractual commitments and liabilities arising from acts or omissions before such date.

iii) Any other amounts due from the said Signatory to EUTELSAT at the effective date of its withdrawal.

c) Subject to payment by the Signatory of any amounts due from it under subparagraphs ii) and iii) of paragraph b) of this Article and taking into account Article 9 of the Operating Agreement, the amounts referred to in subparagraph i) and ii) of paragraph b) of this Article shall be repaid by EUTELSAT to the Signatory over a period consistent with the period over which other Signatories will be repaid their capital contributions, or over such shorter period as the Board of Signatories may consider appropriate. The Board of Signatories shall determine the rate of interest to be paid to or by the Signatory on any amounts which may, from time to time, be owing.

d) In its valuation under paragraphs a) and b) of this Article, the Board of Signatories may decide to relieve the Signatory in whole or in part of its responsibility for contributing its share of the capital contributions for contractual commitments specifically authorized and liabilities arising from acts or omissions before the receipt of notice of decision to withdraw.

e) Except as may be decided by the Board of Signatories under paragraph d) of this Article, no provision of this Article shall:

i) Relieve a Signatory referred to in paragraph a) of this Article of its share of any non-contractual obligations of EUTELSAT arising from acts or omissions in the implementation of the Convention and the Operating Agreement where such obligations have arisen, following a withdrawal under paragraph a) of Article 18

of the Convention, before the receipt by the Director General of the notice of the decision to withdraw or, following a withdrawal under subparagraph ii) or iii) of paragraph b) of Article 18 of the Convention, before the effective date of withdrawal.

ii) Deprive such a Signatory of any rights acquired by it, in its capacity as such, which would otherwise continue after the effective date of its withdrawal, and for which the Signatory has not already been compensated under this Article.

Article 22 *Amendments*

a) Any Signatory or the Assembly of Parties may propose amendments to the Operating Agreement These shall be communicated to the Director General, who shall circulate them promptly to all Parties and Signatories.

b) The Board of Signatories shall consider each proposed amendment at its first ordinary meeting following distribution by the Director General, or at an earlier extraordinary meeting, provided that the proposed amendment has been circulated by the Director General at least ninety days before the opening date of the meeting. The Board of Signatories shall consider any views and recommendations which it receives from any Party or from the Assembly of Parties on a proposed amendment.

c) The Board of Signatories shall take decisions on each proposed amendment in accordance with the provisions for quorum and voting contained in Article XI of the Convention. It may modify any proposed amendment circulated in accordance with paragraph a) of this Article, and may also take decisions on any proposed amendment not so circulated but arising directly from a proposed amendment.

d) After approval by the Board of Signatories, the amendment shall enter into force ninety days after the Depositary has received notice of approval by two-thirds of those Signatories which, at the date of approval, were Signatories and then held at least two-thirds of the total investment shares. Upon its entry into force, the amendment shall become binding upon all Signatories. Notification of the approval of an amendment by a Signatory shall be given to the Depositary by the Party which designated the Signatory concerned. Such notification shall signify the acceptance of the amendment by that Party.

e) An amendment which has not entered into force under paragraph d) of this Article eighteen months after the date on which it was approved by the Board of Signatories shall be deemed null and void.

Article 23 *Entry into Force*

a) The Operating Agreement shall enter into force for a Signatory on the date on which the Convention enters into force under Article 22 of the Convention for the Party concerned that has designated that Signatory.

b) The Operating Agreement shall be applied provisionally for a Signatory during any period in which the Convention is applied provisionally under paragraph d) of Article 22 of the Convention for the Party that has designated that Signatory.

c) The Operating Agreement shall continue [to be in] force for as long as the Convention is in force.

Article 24
Depositary

a) The Depositary of the Convention shall be the Depositary of the Operating Agreement.

b) The Depositary shall send certified copies of the Operating Agreement to the Government of each of the States which were invited to attend the Plenipotentiary Conference on the definitive arrangements governing the European Telecommunications Satellite Organization "EUTELSAT", to the Government of any other State which signs or accedes to the Convention, to each Signatory and to the International Telecommunication Union.

c) The Depositary shall promptly inform all States which have signed or acceded to the Convention, all Signatories and the International Telecommunication Union of:

i) Any signature of the Operating Agreement;

ii) The entry into force of the Operating Agreement;

iii) The start and the end of any provisional application of the Operating Agreement under paragraph b) of Article 23 of the Operating Agreement;

iv) The adoption and entry into force of any amendment to the Operating Agreement;

v) Any notification of withdrawal;

vi) Other notifications and communications relating to the Operating Agreement.

In Witness Whereof, the undersigned, duly authorized, have signed the Operating Agreement.

Opened for signature at Paris this fifteenth day of July one thousand nine hundred and eighty-two in the English and French languages, both texts being equally authentic, in a single original which shall be deposited with the Depositary.

ANNEX A

(TRANSITIONAL PROVISIONS)

1) Preparations for the first meeting of the Board of Signatories

a) During the sixty-day period referred to in paragraph a) of Article 22 of the Convention, the Secretary General of INTERIM EUTELSAT shall prepare and convene the first meeting of the Board of Signatories.

b) Within three days after the date of entry into force of the Operating Agreement, the Secretary General of INTERIM EUTELSAT shall inform all Signatories of the arrangements made for the first meeting of the Board of Signatories, which shall be convened not more than thirty days after the date of entry into force of the Operating Agreement.

2) Transfer of Signatories 'Accounts

Each Signatory to the Operating Agreement which was a signatory to the ECS Agreement shall be debited or credited in its account with EUTELSAT with the net amount of any sums due to or from that Signatory, from or to INTERIM EUTELSAT under the Provisional Agreement at the date of entry into force of the Operating Agreement.

3) Financial adjustments between Signatories

a) In accordance with Article 3 of the Operating Agreement, all assets of INTERIM EUTELST shall become assets of EUTELSAT on the date of entry into force of the Operating Agreement. They shall be deemed to have been entered in the EUTELSAT accounts at the same date at which they were entered in the INTERIM EUTELSAT accounts and to have been amortized as recorded in the INTERIM EUTELSAT accounts,

b) On the entry into force of the Operating Agreement, a valuation of the assets of EUTELSAT shall be made, as follows:

i) Take the original cost of all assets as recorded in INTERIM EUTELSAT accounts at the date of entry into force of the Operating Agreement, including any capitalized return or capitalized expenses;

ii) First deduct from that amount the accumulated amortization as recorded in INTERIM EUTELSAT accounts at the date of entry into force of the Operating Agreement;

iii) Then deduct the amount of any loans and other accounts payable by INTERIM EUTELSAT at the date of entry into force of the Operating Agreement.

c) On the entry into force of the Operating Agreement, financial adjustments shall be made between Signatories, through EUTELSAT, on the basis of the valuation made

under subparagraph b) of this paragraph. The amounts of such financial adjustments shall be determined for each Signatory by applying to such valuation:

- i) For each Signatory which was a signatory to the ECS Agreement, the difference, if any, between its initial investment share determined under Article 6 and Annex B of the Operating Agreement and the final financial share that Signatory held in its capacity as a signatory to the ECS Agreement;
- ii) For each Signatory which was not a signatory to the ECS Agreement, its initial investment share determined under Article 6 and Annex B of the Operating Agreement.

4 Buy-out

a) As soon as practicable after the entry into force of the Operating Agreement, the Board of Signatories shall decide how to compensate those signatories to the ECS Agreement for which the Operating Agreement has neither entered into force nor been applied provisionally.

b) The compensation for such signatory to the ECS Agreement shall be decided by the Board of Signatories and shall not exceed the amount determined as follows:

- i) Multiply the amount established from the valuation made under subparagraph b) of paragraph 3 of this Annex by the financial share that signatory to the ECS Agreement held on the entry force of the Operating Agreement;
- ii) From the resulting product deduct any amounts due from that signatory at the date of entry into force of the Operating Agreement.

c) No provision of this paragraph shall:

- i) Relieve a signatory to the ECS Agreement described in subparagraph a) of this paragraph of its share of any obligations incurred by or on behalf of the signatories to the ECS Agreement collectively as the result of acts or omissions in the implementation of the Provisional Agreement or the ECS Agreement before the date of entry into force of the Operating Agreement;
- ii) Deprive such signatory to the ECS Agreement of any rights acquired by it, in its capacity as such, which would otherwise continue after the termination of the ECS Agreement and for which the signatory has not already been compensated under this paragraph.

5) Compensation due to Signatories of countries not suitably covered by the Satellite Multiservices Systems

As soon as possible after the entry into force of the Operating Agreement, the Board of Signatories shall decide how to continue to apply the principles adopted by INTERIM EUTELSAT for compensation related to the first generation of Satellite Multiservices Systems.

ANNEX B

(INITIAL INVESTMENT SHARES)

1) The initial investment share of a Signatory of one of the States listed below shall be equivalent to the financial share that the signatory to the ECS Agreement which was under the jurisdiction of that State held at the date of entry into force of the Convention. Provided there is no change in the financial shares of signatories to the ECS Agreement before the entry into force of the Operating Agreement, the initial investment shares of the Signatories of the States listed below shall be as follows:

Austria	1.97%	Luxembourg	0.22%
Belgium	4.92%	Netherlands	5.47%
Cyprus	0.97%	Norway	2.51%
Denmark	3.28%	Portugal	3.06%
Finland	2.73%	Spain	4.64%
France	16.40%	Sweden	5.47%
Germany (Fed. Rep. of)	10.82%	Switzerland	4.36%
Greece	3.19%	Turkey	0.93%
Ireland	0.22%	United Kingdom	16.40%
Italy	11.48%	Yugoslavia	0.96%

2) The initial investment share of a Signatory which is not listed in paragraph 1) of this Annex and which signs the Operating Agreement before entry into force shall be 0.05 per cent.

3) Upon the entry into force of the Operating Agreement and subsequently upon its entry into force for a new Signatory or upon the effective date of withdrawal of a Signatory, the investment shares of Signatories shall be determined by adjusting the initial investment shares of Signatories proportionately so that the sum of all investment shares amounts to 100 per cent, but investment shares of 0.05 per cent determined in accordance with paragraph g) of Article 6 of the Operating Agreement or paragraph 2) of this Annex shall not be modified.

4) The initial investment share of any Signatory which is not listed in paragraph 1) of this Annex and which signs the Operating Agreement after its entry into force, and the initial investment share of any Signatory which is listed in paragraph 1) of this Annex and which signs the Operating Agreement more than two years after its entry into force, shall be determined by the Board of Signatories. In its determination, the Board of Signatories shall take into account all relevant economic, technical and operational considerations affecting the potential Signatory together with its documented request.

**PROTOCOL AMENDING THE CONVENTION ESTABLISHING THE
EUROPEAN TELECOMMUNICATIONS SATELLITE ORGANIZATION
(EUTELSAT)**

The States signatory to the Convention establishing the European Telecommunications Satellite Organization (EUTELSAT),

Having regard to the Convention establishing the European Telecommunications Satellite Organization (EUTELSAT) opened for signature in Paris on 15 July 1982, and Article 22 thereof in particular,

Noting that there is a possibility that the signatures and acts of ratification, acceptance and approval required for the entry into force of the Convention may not be forthcoming by the eighteen-month deadline, beyond which date, according to the provisions of Article 22 b), the Convention shall not enter into force,

Desiring that the entry into force of the said Convention be made attainable in as short a time as possible,

HAVE AGREED as follows:

Article 1

In the second sentence of paragraph b) of Article 22 of the Convention, the words “eighteen-months” shall be replaced by the words “thirty-six months”.

Article 2

The present amendment to the Convention shall enter into force on the date of the date of the entry into force of the Convention.

DONE in Paris, on 15 December 1983, in the French and English [languages], both texts being equally authentic, in a single original.