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**PRIVILEGES
AND
IMMUNITIES**



Treaty Series No. 2 (1981)

Protocol on INTELSAT Privileges, Exemptions and Immunities

Washington, 19 May-20 November 1978

[The United Kingdom instrument of ratification was deposited on 24 October 1979 and the Protocol entered into force on 9 October 1980]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
January 1981*

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**PROTOCOL
ON INTELSAT PRIVILEGES, EXEMPTIONS AND IMMUNITIES**

PREAMBLE

The States Parties to this Protocol,

Considering that paragraph (c) of Article XV of the Agreement relating to the International Telecommunications Satellite Organization (INTELSAT)⁽¹⁾ provides that each Party, including the Party in whose territory the headquarters of INTELSAT is located, shall grant appropriate privileges, exemptions and immunities;

Considering that INTELSAT has concluded a Headquarters Agreement with the Government of the United States of America, which entered into force on 24 November 1976;

Considering that paragraph (c) of Article XV of the Agreement relating to INTELSAT provides for the conclusion by the Parties, other than the one in whose territory the INTELSAT Headquarters is located, of a Protocol covering privileges, exemptions and immunities;

Affirming that the purpose of the privileges, exemptions and immunities covered by this Protocol is to ensure the efficient performance of the functions of INTELSAT;

Have Agreed as follows:

ARTICLE 1

Use of Terms

For the purposes of this Protocol:

- (a) "Agreement" means the Agreement Relating to the International Telecommunications Satellite Organization (INTELSAT), including its Annexes, opened for signature by Governments at Washington on August 20, 1971;
- (b) "Operating Agreement" means the agreement, including its Annex, opened for signature at Washington on August 20, 1971⁽¹⁾ by Governments or telecommunications entities designated by Governments;
- (c) "INTELSAT Agreements" means the Agreement and the Operating Agreement referred to in (a) and (b) above;
- (d) "INTELSAT Party" means a State for which the Agreement is in force;
- (e) "INTELSAT Signatory" means an INTELSAT Party, or the telecommunications entity designated by an INTELSAT Party, for which the Operating Agreement is in force;
- (f) "Contracting Party" means an INTELSAT Party for which this Protocol has entered into force;
- (g) "Staff members of INTELSAT" means the Director General and those staff members of the Executive Organ holding regular or

⁽¹⁾ Treaty Series No. 80 (1973), Cmnd. 5416.

fixed-term appointments for a minimum of one year and who are employed on a full-time basis within the Organization, other than persons in the domestic service of INTELSAT;

- (h) "Representatives of Parties" means representatives of INTELSAT Parties and in each case means heads of delegations, their alternates and advisers;
- (i) "Representatives of Signatories" means representatives of INTELSAT Signatories and in each case means heads of delegations, their alternates and advisers;
- (j) "Property" includes every subject of whatever nature to which a right of ownership can attach, as well as contractual rights;
- (k) "Archives" includes all records, correspondence, documents, manuscripts, photographs, films, optical and magnetic recordings belonging to or held by INTELSAT.

CHAPTER I: INTELSAT'S PROPERTY AND OPERATIONS

ARTICLE 2

Inviolability of Archives

The archives of INTELSAT shall be inviolable wherever located.

ARTICLE 3

Immunity from Jurisdiction and Execution

1. Within the scope of its activities authorized by the INTELSAT Agreements, INTELSAT shall have immunity from jurisdiction and immunity from execution except:

- (a) to the extent that the Director General shall have expressly waived such immunity from jurisdiction or immunity from execution in a particular case;
- (b) in respect of its commercial activities;
- (c) in respect of a civil action by a third party for damage arising from an accident caused by a motor vehicle or other means of transport belonging to, or operated on behalf of, INTELSAT, or in respect of a traffic offence involving such a vehicle;
- (d) in the event of the attachment, pursuant to a decision by the judicial authorities, of the salaries and emoluments owed by INTELSAT to a staff member;
- (e) in respect of a counter-claim directly connected with proceedings initiated by INTELSAT; or
- (f) in respect of the enforcement of an arbitration award made under XVIII of the Agreement or Article 20 of the Operating Agreement.

2. The property of INTELSAT, wherever located and by whomsoever held, shall be immune:

- (a) from any form of search, requisition, confiscation and sequestration;

- (b) from expropriation, except that real property may be expropriated for public purposes and subject to prompt payment of fair compensation;
- (c) from any form of administrative or provisional judicial constraint, except insofar as may be temporarily necessary in connection with the prevention and investigation of accidents involving motor vehicles or other means of transport belonging to, or operated on behalf of, INTELSAT.

ARTICLE 4

Fiscal and Customs Provisions

1. Within the scope of its activities authorized by the INTELSAT Agreements, INTELSAT and its property shall be exempt from all national income and direct national property taxation.

2. When the price of communications satellites purchased by INTELSAT and of components and parts for such satellites to be launched for use in the global system includes taxes or duties of such a nature that they are normally incorporated in such price, the Contracting Party that has levied the taxes or duties shall take appropriate measures to remit or reimburse to INTELSAT the amount of the identifiable taxes or duties.

3. INTELSAT shall be exempt from customs duties and other taxes, prohibitions or restrictions imposed by reason of the import or export of communications satellites and components and parts for such satellites to be launched for use in the global system. The Contracting Parties should take all appropriate steps to facilitate customs clearance.

4. The provisions of paragraphs 1, 2 and 3 shall not apply to taxes or duties which are in fact no more than charges for specific services rendered.

5. Goods belonging to INTELSAT which have been exempted under paragraphs 2 or 3 shall not be transferred, hired out or lent, permanently or temporarily, except in accordance with the domestic laws of the Contracting Party which granted the exemption.

ARTICLE 5

Communications

With regard to its official communications and the transfer of all its documents, INTELSAT shall enjoy in the territory of each Contracting Party treatment not less favourable than that accorded to other intergovernmental non-regional organizations in the matter of priorities, rates and taxes on mails and all forms of telecommunications, as far as may be compatible with any international conventions, regulations and arrangements to which that Contracting Party is a party. No censorship shall be applied to official communications of INTELSAT by whatever means of communication.

ARTICLE 6

Restrictions

Within the scope of its activities authorized by the INTELSAT Agreements, the funds held by INTELSAT shall not be restricted by

controls, restrictions, regulations or moratoria of any kind, provided that operations involving those funds comply with the laws of the Contracting Party.

CHAPTER II: STAFF MEMBERS OF INTELSAT

ARTICLE 7

1. The staff members of INTELSAT shall enjoy the following privileges, exemptions and immunities:

- (a) immunity from jurisdiction, even after they have left the service of INTELSAT, in respect of acts, including words written and spoken, done by them in the exercise of their official functions and within the limits of their duties. However, there shall be no immunity in respect of a civil action by a third party for damage arising from an accident caused by a motor vehicle or other means of transport belonging to or driven by them, or in respect of a traffic offence involving such a vehicle and committed by them;
- (b) inviolability for official documents and papers related to the performance of their functions within the scope of the activities of INTELSAT;
- (c) exemption from national service obligations;
- (d) together with members of their families forming part of their households, the same immunity from restrictions on admission, alien registration and departure formalities, as well as the same repatriation facilities in time of international crisis, as are normally accorded to staff members of intergovernmental organizations;
- (e) exemption from all national income tax on their salaries and emoluments paid to them by INTELSAT, excluding pensions and other similar benefits paid by INTELSAT. The Contracting Parties reserve the right to take those salaries and emoluments into account when assessing the amount of tax to be applied to income from other sources;
- (f) the same treatment in the matter of currency and exchange control as is normally accorded to staff members of intergovernmental organizations;
- (g) the right to import free of customs duties and other customs charges (except payment for services rendered), their furniture and personal effects, including a motor vehicle, at the time of taking up their post in the territory of a Contracting Party, and the right to export them free of duty upon termination of their functions, subject to the conditions laid down by the laws of the Contracting Party concerned.

2. Goods belonging to staff members which have been exempted under paragraph 1(g) shall not be transferred, hired out or lent, permanently or temporarily, except in accordance with the domestic laws of the Contracting Party which granted the exemption.

3. Provided that staff members are covered by the social security scheme of INTELSAT, INTELSAT and its staff members shall be exempt from all compulsory contributions to national social security schemes, subject to

agreements to be concluded with Contracting Parties concerned in accordance with Article 12. This exemption does not preclude any voluntary participation in a national social security scheme in accordance with the law of the Contracting Party concerned; neither does it require a Contracting Party to make payments of benefits under social security schemes to staff members who are exempt under the provisions of this paragraph.

4. Contracting Parties shall take all appropriate measures to facilitate entry into, stay in, or departure from their territories of staff members of INTELSAT.

5. The Contracting Parties shall not be obliged to accord to their nationals or permanent residents the privileges, exemptions and immunities referred to in paragraphs 1 (c), (d), (e), (f) and (g) and in paragraph 3.

6. The Director General of INTELSAT shall notify the Contracting Parties concerned of the names of the staff members to whom the provisions of this Article shall apply. The Director General shall also notify without delay the Contracting Party which grants the exemption provided for under paragraph 1 (d) of this Article of the completion of the official functions of any staff members in the territory of that Contracting Party.

CHAPTER III: REPRESENTATIVES OF INTELSAT PARTIES AND SIGNATORIES AND PERSONS PARTICIPATING IN ARBITRATION PROCEEDINGS

ARTICLE 8

1. Representatives of INTELSAT Parties at meetings called by or held under the auspices of INTELSAT shall, in the exercise of their functions, and during their journeys to and from the place of meeting, enjoy the following privileges and immunities:

- (a) immunity from jurisdiction, even after termination of their mission, in respect of acts, including words written and spoken, done by them in the exercise of their official functions and within the limits of their duties. However, there shall be no immunity in respect of a civil action by a third party for damage arising from an accident caused by a motor vehicle or other means of transport belonging to or driven by them, or in respect of a traffic offence involving such a vehicle and committed by them;
- (b) inviolability for all their official documents and papers;
- (c) together with members of their families forming part of their households, the same immunity from restrictions on admission, alien registration and departure formalities as is normally accorded to staff members of intergovernmental organizations; provided that no Contracting Party shall be obliged to apply this provision to its permanent residents.

2. Representatives of Signatories at meetings called by or held under the auspices of INTELSAT shall, in the exercise of their functions, and during their journeys to and from the place of meeting, enjoy the following privileges and immunities:

- (a) inviolability for official documents and papers related to the performance of their functions within the scope of the activities of INTELSAT;
- (b) together with members of their families forming part of their households, the same immunity from restrictions on admission, alien registration and departure formalities as is normally accorded to staff members of intergovernmental organizations; provided that no Contracting Party shall be obliged to apply this provision to its permanent residents.

3. The members of an arbitral tribunal and witnesses before that tribunal participating in arbitration proceedings in accordance with Annex C of the Agreement shall, in the exercise of their functions, and during their journeys to and from the place of meeting, enjoy the privileges and immunities referred to in paragraphs 1 (a), (b) and (c).

4. No Contracting Party shall be obliged to accord to its own nationals or to its own representatives the privileges and immunities referred to in paragraphs 1 and 2.

CHAPTER IV: WAIVER

ARTICLE 9

The privileges, exemptions and immunities provided for in this Protocol are not granted for the personal benefit of individuals. If such privileges, exemptions and immunities are likely to impede the course of justice, and in all cases where they may be waived without prejudice to the efficient performance of the functions of INTELSAT, the authorities set forth below shall agree to waive such privileges, exemptions and immunities:

- (a) the Contracting Parties, with respect to their representatives and the representatives of their Signatories;
- (b) the Board of Governors, with respect to the Director General of INTELSAT;
- (c) the Director General of INTELSAT, with respect to INTELSAT and the other staff members;
- (d) the Board of Governors, with respect to the persons participating in arbitration proceedings referred to in paragraph 3 of Article 8.

CHAPTER V: GENERAL PROVISIONS

ARTICLE 10

Precautionary Measures

Each Contracting Party reserves the right to take all necessary measures in the interests of its security.

ARTICLE 11

Co-operation with the Contracting Parties

INTELSAT and its staff members shall co-operate at all times with the competent authorities of the Contracting Parties concerned, in order to

facilitate the proper administration of justice, to ensure the observance of the laws and regulations of the Contracting Parties concerned and to prevent any abuse of the privileges, exemptions and immunities provided for in this Protocol.

ARTICLE 12

Complementary Arrangements

INTELSAT may conclude with one or more Contracting Parties complementary arrangements to give effect to the provisions of this Protocol as regards such Contracting Party or Contracting Parties, and other arrangements to ensure the efficient functioning of INTELSAT.

ARTICLE 13

Settlement of Disputes

Any dispute between INTELSAT and a Contracting Party or between Contracting Parties concerning the interpretation or application of this Protocol which is not settled by negotiation or by some other agreed method shall be referred for final decision to a tribunal of three arbitrators. One of these arbitrators shall be chosen by each of the parties to the dispute within sixty (60) days of the notification by one party to the other of its intention to refer the dispute to arbitration. The third arbitrator, who shall be the chairman of the tribunal, shall be chosen by the first two arbitrators. Should the first two arbitrators fail to agree upon the third within sixty (60) days of the date of the appointment of the second arbitrator, the third arbitrator shall be chosen by the Secretary General of the United Nations.

CHAPTER VI: FINAL PROVISIONS

ARTICLE 14

1. This Protocol shall be open for signature until 20 November 1978 by INTELSAT Parties other than the Party in whose territory the headquarters is located.

2. This Protocol shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Director General of INTELSAT.

3. This Protocol shall be open for accession by the INTELSAT Parties referred to in paragraph 1 of this Article. Instruments of accession shall be deposited with the Director General of INTELSAT.

ARTICLE 15

Any INTELSAT Party may, at the time of depositing its instrument of ratification, acceptance, approval or accession, make reservations to any provision of this Protocol. Reservations may be withdrawn at any time by a statement to that effect addressed to the Director General of INTELSAT. Unless the statement indicates otherwise, a withdrawal shall take effect upon its receipt by the Director General.

ARTICLE 16

1. This Protocol shall enter into force on the thirtieth day after the date of deposit of the twelfth instrument of ratification, acceptance, approval or accession⁽²⁾.

2. For each State ratifying, accepting, approving or acceding to this Protocol after the deposit of the twelfth instrument of ratification, acceptance, approval or accession, this Protocol shall enter into force on the thirtieth day after that State shall have deposited its instrument of ratification, acceptance, approval or accession.

ARTICLE 17

1. This Protocol shall remain in force until the expiry of the Agreement.

2. Any Contracting Party may denounce this Protocol by giving written notice to the Director General of INTELSAT. Such denunciation shall become effective six months after the date of receipt of the notice by the Director General of INTELSAT.

3. Withdrawal from the Agreement by any INTELSAT Party, in accordance with the provisions of Article XVI of the Agreement, shall imply denunciation by that State of this Protocol.

ARTICLE 18

1. The Director General of INTELSAT shall notify all States which have signed, or acceded to, this Protocol of the deposit of each instrument of ratification, acceptance, approval or accession, of the entry into force of this Protocol and of any other communications relating to this Protocol.

2. Upon entry into force of this Protocol, the Director General of INTELSAT shall register it with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations.

3. The original copy of this Protocol, of which the English, French and Spanish texts are equally authentic, shall be deposited with the Director General of INTELSAT, who shall transmit certified copies of the texts to INTELSAT Parties.

In witness whereof the undersigned Plenipotentiaries, duly authorized by their respective Governments, have signed this Protocol.

Done at Washington, on the 19th day of May 1978.

⁽²⁾ The Protocol entered into force on 9 October 1980.

SIGNATURES AND RATIFICATIONS

<i>State</i>	<i>Date of signature</i>	<i>Date of deposit of instrument of ratification, approval (AP) or acceptance (AC)</i>
Argentine Republic	13 Oct. 1978	
Belgium	17 Nov. 1978	
Brazil	7 June 1978	10 Dec. 1979
Chad	13 July 1978	
Chile		8 Jan. 1980
Colombia	25 May 1978	
Denmark	20 Nov. 1978	
El Salvador*	24 Oct. 1978	9 Sept. 1980
Ethiopia	1 Aug. 1978	
Germany, Federal Republic of*	20 Nov. 1978	5 Sept. 1980
Iran	14 Nov. 1978	
Iraq	19 May 1978	
Italy	20 Nov. 1978	
Luxembourg	20 Nov. 1978	
Mexico*	31 July 1978	7 Mar. 1980
Nicaragua	13 Oct. 1978	
Pakistan		31 July 1979
Paraguay	5 Sept. 1978	
Senegal	19 Mar. 1978	25 Feb. 1980 (AP)
Spain	31 Oct. 1978	
Switzerland	17 Nov. 1978	
Turkey	17 Nov. 1978	
United Kingdom	23 Aug. 1978	24 Oct. 1979
Venezuela	1 Nov. 1978	
Zambia	19 May 1978	

* For declarations and reservations see pages.

ACCESSIONS

<i>State</i>	<i>Date</i>
Jordan*	9 Oct. 1979
Korea, Republic of	14 Dec. 1978
Kuwait*	26 July 1979
Liechtenstein	24 Sept. 1980
Sweden	22 Feb. 1979

DECLARATIONS AND RESERVATIONS

EL SALVADOR

The instrument of ratification of the Government of El Salvador contains the following reservations:

"1. With regard to the provisions of Article 3.2(b) of said Protocol, it should be understood that in matters of expropriation, the provisions of the Political Constitution shall apply.

In this connection, this Junta states that, with reference to expropriation, Art. 138 of the Political Constitution of El Salvador reads as follows:

'Expropriation shall be justified for public purposes or social interest, legally established, and subject to fair and prior compensation. When expropriation is due to requirements resulting from war or public calamity and its purpose is the provision of water or electric power, or the building of houses or roads, compensation need not precede it.'

'When justified by the amount of compensation to be acknowledged of property expropriated in accordance with the preceding paragraph, payment may be effected in installments over a period not to exceed twenty years.'

2. As regards the last part of Article 5 of that same Protocol, it should be understood that it is not applicable when constitutional guarantees are suspended.

In that connection, the Junta hereby transcribes the text of that last part which reads as follows: 'No censorship shall be applied to official communications of INTELSAT by whatever means of communication.'

Likewise, it states that the suspension of said guarantees, as regards censorship of communications, is regulated by the Political Constitution of El Salvador. The pertinent portions of the applicable provisions therefrom read as follows:

'Art. 175. In the event of war, territorial invasion, revolt, sedition, catastrophe, epidemic or some other general calamity, or of grave disturbances of public order, the guarantees set forth in Articles . . . 158, first paragraph, 159 . . . of this Constitution . . . may be suspended. Such suspension may affect a part or the entirety of the Republic's territory, and shall be effected by a decree from the Legislative or the Executive Branch, as the case may be.'

'Art. 158. All persons may freely express or disseminate their thoughts provided that neither the morals of individuals are offended nor their private life impaired. The exercise of this right shall not be subject to prior test, censorship or surety; however, those who in exercising it violate the law will be held accountable for any offense committed.'

'Art. 159. Correspondence, of whatever kind, is inviolable; if intercepted it shall not be regarded as authoritative evidence nor may it be used in any proceedings except in cases of civil or commercial bankruptcy.'

FEDERAL REPUBLIC OF GERMANY

The instrument of ratification of the Government of the Federal Republic of Germany contained the following declaration and reservation:

"(a) In connection with the deposit of the instrument of ratification to the Protocol of 19 May 1978 on INTELSAT Privileges, Exemptions and Immunities, I have the honor to declare on behalf of the Government of the Federal Republic of Germany that the said Protocol shall also apply to Berlin (West) with effect from the date on which it enters into force for the Federal Republic of Germany."

"(b) In connection with the deposit of the instrument of ratification to the Protocol of 19 May 1978 on INTELSAT Privileges, Exemptions and Immunities, I have the honor to make, on the basis of Article 15, a reservation to Article 7(e) of the Protocol of 19 May 1978."

JORDAN

The instrument of accession of the Government of Jordan contains the following reservations:

“1. That the staff who carry the Jordanian nationality shall not be exempted from the Privileges and Immunities provided for [in] the Protocol if their station is in Jordan itself.

2. Jordan will continue to abide by the rules and regulations provided for under the boycott of Israel.”

KUWAIT

The instrument of accession of the Government of Kuwait contains the following understanding:

“It is understood that the Accession of the State of Kuwait to the Protocol on Privileges, Exemptions and Immunities, of the International Telecommunications Satellite Organisation (INTELSAT) done in Washington on the 19th of May, 1978, does not in any way mean recognition of Israel by the State of Kuwait, furthermore no treaty relations will arise between the State of Kuwait and Israel.”

MEXICO

The instrument of ratification of the Government of Mexico contained the following reservation:

“Given the Provisions on ownership set forth in the Political Constitution of the United Mexican States, INTELSAT shall not be able to acquire real estate within Mexican territory.”