

**AMENDING AGREEMENT TO THE PROTOCOL
ON THE PRIVILEGES AND IMMUNITIES
OF THE EUROPEAN TELECOMMUNICATIONS
SATELLITE ORGANIZATION
(EUTELSAT)**

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IMMUNITIES OF THE EUROPEAN TELECOMMUNICATIONS SATELLITE
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THE PARTIES TO THE PRESENT AMENDING AGREEMENT:

BEING PARTIES to the Convention establishing the European Telecommunications Satellite Organization (EUTELSAT) opened for signature at Paris on 15 July 1982("the Convention");

ALSO BEING PARTIES to the Protocol on the Privileges and Immunities of the European Telecommunications Satellite Organization (EUTELSAT), done at Paris on 13 February 1987, ("the Protocol");

TAKING NOTE that the EUTELSAT Assembly of Parties, at its Twenty-Sixth Meeting, adopted amendments to the Convention for the restructuring of EUTELSAT, including amendments to Article XVII c) thereof pursuant to which The Protocol was concluded;

CONSIDERING that it is desirable to amend the Protocol for consistency with the amended Convention;

HAVE AGREED TO AMEND THE PROTOCOL AS FOLLOWS:

Article I

The preambular paragraphs of the Protocol are replaced by the following text:

HAVING REGARD to the Convention establishing the European Telecommunications Satellite Organization, opened for signature at Paris on 15 July 1982, as amended, and, in particular, to Article XII c) of the amended Convention;

TAKING NOTE that the Organization has concluded a Headquarters Agreement with the Government of France;

CONSIDERING that the aim of this Protocol is to facilitate the achievement of The purpose of the Organization and to ensure the efficient performance of its functions;

Article II

Article 1 - Definitions - is replaced by the following text:

Definitions

For The purposes of This Protocol:

- (a) "Convention" means the Convention establishing The European Telecommunications Satellite Organization, including its Annexes, opened for signature at Paris on 15 July 1982;
- (b) "Party to the Convention" means a State for which the Convention is in force;
- (c) "Headquarters Party" means The Party to the Convention in whose territory the Organization has established its headquarters;
- (d) "Party to the Protocol" means a State for which this Protocol, or this Protocol as amended, as the case may be, is in force;

- (e) "Staff member" means the Executive Secretary and any person employed full time by EUTELSAT and subject to its staff regulations;
- (f) "Representatives" in the case of Parties to the Protocol, and the Headquarters Party, means representatives to EUTELSAT including heads of delegations and Their alternates and advisers;
- (g) "Archives" means all records belonging to or held by EUTELSAT such as manuscripts, correspondence, documents, photographs, films, optical and magnetic recordings, data recordings, graphic representations and computer programmes;
- (h) "Official activities" of EUTELSAT means activities carried out by the Organization within the framework of its objectives as defined in the Convention and includes its administrative activities;
- (i) "Expert" means a person other than a staff member appointed to carry out a specific task for or on behalf of EUTELSAT and at its expense;
- (j) "Property" means anything that can be the subject of a right of ownership, including contractual rights;
- (k) "Executive Secretary" means the Executive Secretary of EUTELSAT.

Article III

Article 3 - Immunity of EUTELSAT from Jurisdiction and Execution, is replaced by the following text:

Immunity of the Organisation from Jurisdiction and Execution

(1) Unless it has expressly waived immunity in a particular case, EUTELSAT shall, in the exercise of its official activities, have immunity from Jurisdiction except in the following cases:

- (a) Any commercial activities;
- (b) Where a civil action is brought by a third party for damage arising from an accident caused by a motor vehicle or any other means of transport belonging to, or operated on behalf of EUTELSAT or in respect of a traffic offence involving such a vehicle or means of transport;
- (c) for the attachment, pursuant to the final order of a court of law, of the salaries and emoluments, including pensions rights, owed by EUTELSAT to a staff member, or a former staff member;
- (d) in respect of a counter-claim directly connected with judicial proceedings initiated by EUTELSAT;
- (e) for the enforcement of an arbitration award made under Article XV of the Convention.

(2) Notwithstanding paragraph (1), no action shall be brought in the courts of Parties to the Protocol against EUTELSAT by Parties to the Convention or persons acting for or deriving claims from any of them, relating to rights and obligations under the Convention.

(3) The property and assets of EUTELSAT, wherever located and by whomsoever held, shall be immune from any search, restraint, requisition, seizure, confiscation, expropriation, sequestration or execution, whether by executive, administrative or judicial action, except in respect of:

- (a) An attachment or execution in order to satisfy a final judgement or order of a court of law that relates to any proceedings that may be brought against EUTELSAT pursuant to paragraph (1);
- (b) Any action taken in accordance with the law of the State concerned which is temporarily necessary in connection with the prevention of and investigation into accidents involving motor vehicles or other means of transport belonging to, or operated on behalf of, EUTELSAT;
- (c) Expropriation in respect of real property for public purposes and subject to prompt payment of fair compensation, provided that such expropriation does not prejudice the functions and operations of EUTELSAT.

Article IV

Article 4 - Fiscal and customs provisions - is amended as follows:

- (1) Paragraphs (3) and (8) are deleted;
- (2) The remaining paragraphs are re-numbered (1) to (6), respectively.

Article V

Article 8 - Representatives of Signatories - is deleted.

Article VI

Article 10 - Director General - is amended as follows:

The words "Director General", wherever appearing, are deleted and replaced by the words "Executive Secretary".

Article VII

Article 13 - Notification of Staff Members and Experts - is amended as follows;

The words "Director General", are deleted and replaced by the words "Executive Secretary".

Article VIII

Article 14 - Waiver - is replaced by the following text:

Waiver

- (1) The privileges, exemptions and immunities provided for in this Protocol are not granted for the Personal benefit of individuals but for the efficient performance of their official functions.
- (2) If, in the view of the authorities listed below, privileges and immunities are likely to impede the course of justice, and in all cases where they may be waived without prejudice to the purposes for which they have been accorded, these authorities have the right and duty to waive such privileges and immunities:
 - (a) The Parties to the Protocol in respect of their representatives;
 - (b) The Assembly, convened if necessary in extraordinary session, in respect of EUTELSAT or of the Executive Secretary;

(c) The Executive Secretary in respect of staff members and experts.

Article IX

Article 18 - Settlement of Disputes - as renumbered, is amended as follows:

The words "Article XX" are replaced by the words "Article XV".

Article X

Anicle 19 - Arbitration Clause in written contracts - is amended as follows:

The words "Director General", are replaced by the words "Executive Secretary",

Article XI

Article 20 - Settlement of disputes concerning damage, non-contractual liability, or concerning staff members or Experts - is amended as follows:

The words "Article XX" are replaced by the words "Article XV".

Article XII

Article 22 - Signature, ratifications, accession and reservations - is amended as follows:

In paragraph 3), the reference to "Article 25" is replaced by a reference to "Article 24".

Article XIII

Article 23 - Entry into force and Duration of Protocol - is amended as follows:

The reference to "Article 22" is replaced by a reference to "Article 24".

Article XIV

Article 24 - Entry into force and Duration for a State - is amended as follows:

The reference to "Article 22" is replaced by a reference to "Anicle 24".

Article XV

Article 25 - Depositary - is amended as follows:

The reference to "The Director General", is replaced by a reference to "The Executive Secretary".

Article XVI

All articles from Article 9 are renumbered as a result of the deletion of Article 8.

FINAL CLAUSES

Article XVII

Signature, Ratification and Accession

- (1) This Amending Agreement shall be open for signature at the Headquarters of EUTELSAT from *1st May 2000 to 31st December 2001*
- (2) All Parties to the Convention, other than the Headquarters Party, may become Parties to this Amending Agreement by:
- (a) Signature not subject to ratification, acceptance or approval; or
 - (b) Signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
 - (c) Accession.
- (3) Ratification, acceptance, approval or accession shall be effected by the deposit of the appropriate instrument with the Depositary.
- (4) A State which is a Party to this Amending Agreement but is not a Party to the Protocol shall be bound by the provisions of the Protocol as amended by this Amending Agreement in relation to other Parties herein, but shall not be bound by the provisions of the Protocol in relation to States Parties only to the Protocol.
- (5) Reservations to this Amending Agreement may be made in accordance with international law.

Article XVIII

Entry into Force of Amending Agreement

This Amending Agreement shall enter into force on the thirtieth day after the date on which two Parties to the Convention have fulfilled the requirements of paragraph (2) of Article XVII.

Article XIX

Entry into Force for a State

- (1) For a State which has fulfilled the requirements of paragraph (2) of Article XVII after the date of entry into force of this Amending Agreement, This Amending Agreement shall enter into force on the thirtieth day after the date of signature or of the deposit of such instrument with the Depositary, respectively.
- (2) Any State which becomes a Party to the Protocol after the entry into force of this Amending Agreement pursuant to Article XVIII shall, failing an expression of a different intention by that State:
- (a) Be considered as a Party to the Protocol as amended; and
 - (b) Be considered as a Party to the unamended Protocol in relation to any Party to the Protocol not bound by this Amending Agreement.

Article XX

Depositary

- (1) The Executive Secretary shall be the Depositary of this Amending Agreement.
- (2) The Depositary shall, in particular, promptly notify all Parties to the Convention of:
 - (a) Any signature of the Amending Agreement;
 - (b) The deposit of any instrument of ratification, acceptance, approval or accession;
 - (c) The date of entry into force of this Amending Agreement;
 - (d) Any other communications relating to this Amending Agreement.
- (3) Upon entry into force of this Amending Agreement, the Depositary shall transmit a certified copy of the original to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article XXI

Authentic Texts

This Amending Agreement is established in a single original in the English and French languages, both texts being equally authentic, and shall be deposited with the Depositary who shall send a certified copy to each Party to the Convention.

IN WITNESS WHEREOF the undersigned, duly authorized for that purpose by their respective Governments, have signed this Amending Agreement.