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Treaty Series No. 49 (2001)

Amendments  
to the  
Convention and Operating  
Agreement  
on the  
International Mobile Satellite  
Organization

London, 24 April 1998

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by the Secretary of State for Foreign and Commonwealth Affairs  
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**AMENDMENTS TO THE CONVENTION ON THE INTERNATIONAL MOBILE  
SATELLITE ORGANIZATION<sup>1</sup>**

**The acronym “(Inmarsat)” is deleted in the Title to the convention**

**The third and fourth paragraphs of the Preamble are deleted**

**The fifth paragraph of the Preamble is replaced by the following text, as the third paragraph:**

DETERMINED, to this end, to continue to make provision for the benefit of telecommunications users of all nations through the most advanced suitable space technology available, for the most efficient and economic facilities possible consistent with the most efficient and equitable use of the radio frequency spectrum and of satellite orbits,

**The sixth and seventh paragraphs of the Preamble are deleted**

**The following new text is added as the fourth, fifth, sixth, seventh, eighth and ninth paragraphs of the Preamble:**

RECOGNIZING that the International Mobile Satellite Organization has, in accordance with its original purpose, established a global mobile satellite communications system for maritime communications, including distress and safety communications capabilities which are specified in the International Convention for the Safety of Life at Sea, 1974,<sup>2</sup> as amended from time to time, and the Radio Regulations specified in the Constitution and the Convention of the International Telecommunication Union, as amended from time to time, as meeting certain radiocommunications requirements of the Global Maritime Distress and Safety System (GMDSS),

RECALLING that the Organization has extended its original purpose by providing aeronautical and land mobile satellite communications, including aeronautical satellite communications for air traffic management and aircraft operational control (aeronautical safety services), and is also providing radiodetermination services,

ACKNOWLEDGING that increased competition in the provision of mobile satellite services has made it necessary for the Inmarsat satellite system to be operated through the Company as defined in Article 1 in order that it can remain commercially viable and thereby ensure, as a basic principle, the continuity of maritime satellite distress and safety communications services for the Global Maritime Distress and Safety System (GMDSS),

INTENDING that the Company will observe certain other basic principles, namely, non-discrimination on the basis of nationality, acting exclusively for peaceful purposes, seeking to serve all areas where there is a need for mobile satellite communications, and fair competition,

NOTING that the Company would operate on a sound economic and financial basis, having regard to accepted commercial principles,

AFFIRMING that there is a need for intergovernmental oversight to ensure that the Company fulfils obligations for provision of services for the Global Maritime Distress and Safety System (GMDSS) and complies with the other basic principles;

**Article 1—Definitions, is replaced by the following text:**

**ARTICLE 1**

**Definitions**

For the purposes of this Convention:

- (a) “The Organization” means the intergovernmental organization established pursuant to Article 2.

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<sup>1</sup>Treaty Series No. 94 (1979) Cmnd 7722

<sup>2</sup>Treaty Series No. 46 (1980) Cmnd 7874

- (b) “The Company” means the corporate entity or entities established under national law and through which the Inmarsat satellite system is operated.
- (c) “Party” means a State for which this Convention has entered into force.
- (d) “Public Services Agreement” means the Agreement executed by the Organization and the Company, as referred to in Article 4(1).
- (e) “GMDSS” means the Global Maritime Distress and Safety System as established by the International Maritime Organization.

**Article 2—Establishment of Inmarsat, is replaced by the following new title and text:**

## ARTICLE 2

### Establishment of the Organization

The International Mobile Satellite Organization, herein referred to as “the Organization”, is hereby established.

**Article 3—Purpose, is replaced by the following text:**

## ARTICLE 3

### Purpose

The purpose of the Organization is to ensure that the basic principles set forth in this Article are observed by the Company, namely:

- (a) ensuring the continued provision of global maritime distress and safety satellite communications services, in particular those which are specified in the International Convention for the Safety of Life at Sea, 1974, as amended from time to time, and the Radio Regulations specified in the Constitution and the Convention of the International Telecommunication Union, as amended from time to time, relative to the GMDSS;
- (b) providing services without discrimination on the basis of nationality;
- (c) acting exclusively for peaceful purposes;
- (d) seeking to serve all areas where there is a need for mobile satellite communications, giving due consideration to the rural and the remote areas of developing countries;
- (e) operating in a manner consistent with fair competition, subject to applicable laws and regulations.

**The following Articles are deleted:**

Article 4 Relationship between a Party and its Designated Entity

Article 5 Operational and Financial Principles of the Organization

Article 6 Provision of Space Segment

Article 7 Access to Space Segment

Article 8 Other Space Segments

**The following new Article 4 is added:**

**ARTICLE 4**

**Implementation of Basic Principles**

(1) The Organization, with the approval of the Assembly, shall execute a Public Services Agreement with the Company and shall conclude such other arrangements as may be necessary to enable the Organization to oversee and ensure the observance by the Company of the basic principles set forth in Article 3, and to implement any other provision of this Convention.

(2) Any Party in whose territory the Company's headquarters are located shall take appropriate measures, in accordance with its national laws, as may be necessary to enable the Company to continue to provide GMDSS services and observe the other basic principles, as referred to in Article 3.

**Article 9—Structure, is renumbered as new Article 5**

**Paragraphs (b) and (c) of new Article 5 are deleted and the following new Article 5, paragraph (b) is added:**

(b) A Secretariat, headed by a Director.

**Article 10—Assembly—Composition and Meetings is renumbered as new Article 6**

**New Article 6 (2) is replaced by the following text and the following new paragraph (3) is added:**

(2) Regular sessions of the Assembly shall be held once every two years. Extraordinary sessions shall be convened upon the request of one-third of the Parties or upon the request of the Director, or as may be provided for in the Rules of Procedure for the Assembly.

(3) All Parties are entitled to attend and participate at meetings of the Assembly, regardless of where the meeting may take place. The arrangements made with any host country shall be consistent with these obligations.

**Article 11—Assembly-Procedure, is renumbered as new Article 7**

**Article 12—Assembly-Functions, is renumbered as new Article 8, and replaced with the following text:**

**ARTICLE 8**

**Assembly-Functions**

The functions of the Assembly shall be:

- (a) to consider and review the purposes, general policy and long term objectives of the Organization and the activities of the Company which relate to the basic principles, set forth in Article 3, taking into account any recommendations made by the Company thereon;
- (b) to take any steps or procedures necessary to ensure observance by the Company of the basic principles, as provided for in Article 4, including approval of the conclusion, modification and termination of the Public Services Agreement under Article 4(1);
- (c) to decide upon questions concerning formal relationships between the Organization and States, whether Parties or not, and international organizations;
- (d) to decide upon any amendment to this Convention pursuant to Article 18 thereof;

- (e) to appoint a Director under Article 9 and to remove the Director; and
- (f) to exercise any other function conferred upon it under any other Article of this Convention.

**The following Articles are deleted:**

Article 13 Council—Composition

Article 14 Council—Procedure

Article 15 Council—Functions

Article 16 Directorate

Article 17 Representation at Meetings

**The following new Article 9 is added:**

**ARTICLE 9**

**Secretariat**

- (1) The term of appointment of the Director shall be for four years or such other term as the Assembly decides.
- (2) The Director shall be the legal representative of the Organization and Chief Executive Officer of the Secretariat, and shall be responsible to and under the direction of the Assembly.
- (3) The Director shall, subject to the guidance and instructions of the Assembly, determine the structure, staff levels and standard terms of employment of officials and employees, and consultants and other advisers to the Secretariat, and shall appoint the personnel of the Secretariat.
- (4) The paramount consideration in the appointment of the Director and other personnel of the Secretariat shall be the necessity of ensuring the highest standards of integrity, competency and efficiency.
- (5) The Organization shall conclude, with any Party in whose territory the Organization establishes the Secretariat, an agreement, to be approved by the Assembly, relating to any facilities, privileges and immunities of the Organization, its Director, other officers, and representatives of Parties whilst in the territory of the host Government, for the purpose of exercising their functions. The agreement shall terminate if the Secretariat is moved from the territory of the host Government.
- (6) All Parties, other than a Party which has concluded an agreement referred to in paragraph (5), shall conclude a Protocol on the privileges and immunities of the Organization, its Director, its staff, of experts performing missions for the Organization and of representatives of Parties whilst in the territory of Parties for the purposes of exercising their functions. The Protocol shall be independent of this Convention and shall prescribe the conditions for its termination.

**Article 18—Costs of Meetings, is renumbered as Article 10 and replaced with the following text:**

**ARTICLE 10**

**Costs**

- (1) The Organization shall, in the Public Services Agreement, arrange for the costs associated with the following to be paid by the Company:
- (a) establishment and operation of the Secretariat;
  - (b) the holding of Assembly sessions; and
  - (c) the implementation of any measures taken by the Organization in accordance with Article 4 to ensure that the Company observes the basic principles.
- (2) Each Party shall meet its own costs of representation at Assembly meetings.

**The following Articles are deleted:**

Article 19 Establishment of Utilization Charges

Article 20 Procurement

Article 21 Inventions and Technical Information

**Article 22—Liability, is renumbered as Article 11 and replaced with the following text:**

**ARTICLE 11**

**Liability**

Parties are not, in their capacity as such, liable for the acts and obligations of the Organization or the Company, except in relation to non-Parties or natural or juridical persons they might represent in so far as such liability may follow from treaties in force between the Party and the non-Party concerned. However, the foregoing does not preclude a Party which has been required to pay compensation under such a treaty to a non-Party or to a natural or juridical person it might represent from invoking any rights it may have under that treaty against any other Party.

**The following Articles are deleted:**

Article 23 Excluded Costs

Article 24 Audit

**Article 25—Legal Personality, is renumbered as new Article 12, and replaced with the following text;**

**ARTICLE 12**

**Legal Personality**

The Organization shall have legal personality. For the purpose of its proper functioning, it shall, in particular, have the capacity to contract, to acquire, lease, hold and dispose of movable and immovable property, to be a party to legal proceedings and to conclude agreements with States or international organizations.

**The following Article is deleted:**

Article 26 Privileges and Immunities

**Article 27—Relationship with other International Organizations, is renumbered as new Article 13 and replaced with the following text:**

**ARTICLE 13**

**Relationship with other International Organizations**

The Organization shall co-operate with the United Nations and its bodies dealing with the Peaceful Uses of Outer Space and Ocean Area, its Specialized Agencies, as well as other international organizations, on matters of common interest.

**Article 28—Notification to the International Telecommunication Union, is deleted**

**Article 29—Withdrawal, is renumbered as new Article 14 and replaced with following new text:**

**ARTICLE 14**

**Withdrawal**

Any Party may, by written notification to the Depositary, withdraw voluntarily from the Organization at any time, such withdrawal to be effective upon receipt by the Depositary of such notification.

**The following Article is deleted:**

Article 30 Suspension and Termination

**Article 31—Settlement of Disputes, is renumbered as new Article 15 and replaced with the following new text:**

**ARTICLE 15**

**Settlement of Disputes**

Disputes between Parties, or between Parties and the Organization, relating to any matter arising under this Convention, should be settled by negotiation between the parties concerned. If within one year of the time any party has requested settlement, a settlement has not been reached and if the parties to the dispute have not agreed either (a) in the case of disputes between Parties, to submit it to the International Court of Justice; or (b) in the case of other disputes, to some other procedure for settling disputes, the dispute may, if the parties to the dispute consent, be submitted to arbitration in accordance with the Annex to this Convention.

**Article 32—Signature and Ratification, is renumbered as new Article 16 and the following amendments made:**

The title of the Article is changed to Consent to be Bound

Paragraphs (3) and (4) are deleted

Paragraph (5) is deleted and replaced with the following new text:

(5) Reservations cannot be made to this Convention.

**Article 33—Entry Into Force, is renumbered as new Article 17**



**Article 34—Amendments, is renumbered as new Article 18 and replaced with the following new text:**

**ARTICLE 18**

**Amendments**

(1) Amendments to this Convention may be proposed by any Party, and shall be circulated by the Director to all other Parties and to the Company. The Assembly shall consider the amendment not earlier than six months thereafter, taking into account any recommendation of the Company. This period may in any particular case be reduced by the Assembly by a substantive decision by up to three months.

(2) If adopted by the Assembly, the amendment shall enter into force one hundred and twenty days after the Depositary has received notices of acceptance from two-thirds of those States which, at the time of adoption by the Assembly, were Parties. Upon entry into force, the amendment shall become binding upon those Parties that have accepted it. For any other State which was a Party at the time of adoption of the amendment by the Assembly, the amendment shall become binding on the day the Depositary receives its notice of acceptance.

**Article 35—Depositary, is renumbered as new Article 19**

**New Article 19, paragraphs (2) and (3) are replaced with the following text:**

- (2) The Depositary shall promptly inform all Parties of:
- (a) Any signature of the Convention.
  - (b) The deposit of any instrument of ratification, acceptance, approval or accession.
  - (c) The entry into force of the Convention.
  - (d) The adoption of any amendment to the Convention and its entry into force.
  - (e) Any notification of withdrawal.
  - (f) Other notifications and communications relating to the Convention.
- (3) Upon entry into force of an amendment to the Convention, the Depositary shall transmit a certified copy to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

**The title of the Annex to the Convention is replaced by the following new title**

**PROCEDURES FOR THE SETTLEMENT OF DISPUTES REFERRED TO IN  
ARTICLE 15 OF THE CONVENTION**

**Article 1 to the Annex is replaced with the following new text:**

**ARTICLE 1**

Disputes cognizable pursuant to Article 15 of the Convention shall be dealt with by an arbitral tribunal of three members.

**Article 2 to the Annex is replaced with the following new text:**

**ARTICLE 2**

Any petitioner or group of petitioners wishing to submit a dispute to arbitration shall provide each respondent and the Secretariat with a document containing:

- (a) A full description of the dispute, the reasons why each respondent is required to participate in the arbitration, and the measures being requested;
- (b) The reasons why the subject matter of the dispute comes within the competence of a tribunal and why the measures requested can be granted if the tribunal finds in favour of the petitioner;
- (c) An explanation why the petitioner has been unable to achieve a settlement of the dispute by negotiation or other means short of arbitration;
- (d) Evidence of the agreement or consent of the disputants when this is a condition for arbitration;
- (e) The name of the person designated by the petitioner to serve as a member of the tribunal.

The Secretariat shall promptly distribute a copy of the document to each Party.

**Article 3, paragraph (1) to the Annex is replaced with the following new text:**

(1) Within sixty days from the date copies of the document described in Article 2 have been received by all the respondents they shall collectively designate an individual to serve as a member of the tribunal. Within that period, the respondents may jointly or individually provide each disputant and the Secretariat with a document stating their individual or collective responses to the document referred to in Article 2 and including any counter-claims arising out of the subject matter of the dispute.

**Article 5, paragraphs (2), (6), (8) and (11) to the Annex are replaced with the following new text:**

(2) The proceedings shall be held in private and all material presented to the tribunal shall be confidential. However, the Organization shall have the right to be present and shall have access to the material presented. When the Organization is a disputant in the proceedings, all Parties shall have the right to be present and shall have access to the material presented.

(6) The tribunal shall hear and determine counter-claims arising directly out of the subject matter of the dispute, if the counter-claims are within its competence as defined in Article 15 of the Convention.

(8) At any time during the proceedings, the tribunal may terminate the proceedings if it decides the dispute is beyond its competence as defined in Article 15 of the Convention.

(11) The tribunal shall forward its decision to the Secretariat, which shall distribute it to all Parties.

**Article 7 to the Annex is replaced with the following new text:**

**ARTICLE 7**

Any Party or the Organization may apply to the tribunal for permission to intervene and become an additional disputant. The tribunal shall grant permission if it determines that the applicant has a substantial interest in the case.

**Article 9 to the Annex is replaced with the following new text:**

**ARTICLE 9**

Each Party and the Organization shall provide all information which the tribunal, at the request of a disputant or on its own initiative, determines to be required for the handling and determination of the dispute.

**Article 11 to the Annex is replaced with the following new text:**

**ARTICLE 11**

- (1) The decision of the tribunal shall be in accordance with international law and be based on:
  - (a) The Convention
  - (b) Generally accepted principles of law.
- (2) The decision of the tribunal, including any reached by agreement of the disputant pursuant to Article 5(7), shall be binding on all the disputants and shall be carried out by them in good faith. If the Organization is a disputant, and the tribunal decides that a decision of any organ of the Organization is null and void as not being authorized by or in compliance with the Convention, the decision of the tribunal shall be binding on all Parties.
- (3) If a dispute arises as to the meaning or scope of its decision, the tribunal shall construe it at the request of any disputant.

**AMENDMENT TO THE OPERATING AGREEMENT<sup>1</sup>**

**Article XVII, paragraph (2)—Entry into Force, is replaced with the following new text:**

- (2) This Agreement shall terminate either when the Convention ceases to be in force or when amendments to the Convention deleting references to the Operating Agreement enter into force, whichever is earlier.

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<sup>1</sup>Treaty Series No. 94 (1979) Cmnd 7722

RATIFICATIONS, ACCEPTANCES, EFFECTIVE DATES AND DECLARATIONS

<i>State</i>	<i>Action</i>	<i>Date</i>	<i>Effective Date</i>
Australia	Acceptance	2 May 2000	31 Jul 2001
Bahamas	Acceptance	13 Jan 1999	31 Jul 2001
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Belgium	Acceptance	10 Aug 1998	31 Jul 2001
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