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October 17, 2000

Spectrum Management and Telecommunications Policy

International Agreements

Agreement between the Government of Canada and the Government of the Argentine Republic Concerning the Provision of Satellite Facilities and the Transmission and Reception of Signals to and from Satellites for the Provision of Satellite Services to Users in Canada and the Argentine Republic

Canada

Aussi disponible en français

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Note

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This Agreement and associated Protocols have been negotiated under the authority of the Government of Canada by Industry Canada.

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AGREEMENT
BETWEEN
THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF THE ARGENTINE REPUBLIC
CONCERNING
THE PROVISION OF SATELLITE FACILITIES
AND THE TRANSMISSION AND RECEPTION OF SIGNALS
TO AND FROM SATELLITES
FOR THE PROVISION OF SATELLITE SERVICES
TO USERS IN CANADA AND THE ARGENTINE REPUBLIC

THE GOVERNMENT OF CANADA and **THE GOVERNMENT OF THE ARGENTINE REPUBLIC**, hereinafter referred to as the "Parties";

RECOGNIZING the sovereign right of both Parties to manage and regulate their satellite communications;

CONSCIOUS of the mutual benefit to be derived from the establishment of an agreement concerning access to the satellite facilities and services markets in each country in accordance with their respective domestic laws and regulations, and international commitments;

TAKING INTO ACCOUNT the provisions of Article 42 of the Constitution of the International Telecommunication Union (ITU), Geneva, 1992 as amended, concerning "Special Arrangements";

IN ACCORDANCE WITH the provisions of Article S9 of the Radio Regulations of the International Telecommunications Union ("ITU Radio Regulations")

IN ORDER TO ESTABLISH the conditions for the provision of commercial satellite services and for the transmission and reception of signals to and from satellites for the provision of commercial satellite facilities and services to users in Canada and Argentina;

HAVE AGREED as follows:

ARTICLE I

Purpose and Scope

The purposes of this Agreement are:

1. To facilitate the provision of services to, from and within Canada and Argentina via commercial satellites licensed by either Party and coordinated pursuant to ITU Radio Regulations, and
2. To establish the conditions relating to the use in both countries of satellites licensed by Canada and by Argentina.

The Parties agree that:

3. The provisions of this Agreement are without prejudice to the rights and obligations of Canada and of Argentina under the Constitution and Convention of the ITU (Geneva, 1992) and its Radio Regulations, and the General Agreement on Trade in Services (GATS) of the World Trade Organization, in particular the Fourth Protocol on Basic Telecommunication Services,
4. This Agreement applies, on a reciprocal basis, to the use within the territory of both countries of Satellites licensed by Canada and Satellites licensed by Argentina.
5. This Agreement and annexed Protocols do not apply to the Satellite Services, provided through Satellites discussed in Article I(4), that are regulated pursuant to the Broadcasting Act of Canada, where such services are intended for direct reception by the public, and pursuant to the Ley Federal de Radiodifusion No. 22.285 of Argentina.
6. Protocols, consistent with this Agreement, shall be established to address various Satellite Services. Such Protocols will be annexed to this Agreement and shall form an integral part of it.

ARTICLE II

Definitions

As used in this Agreement and annexed Protocols, it is understood that:

1. “Bilateral Reciprocity Agreement” means the Agreement entered into herein.
2. “Blanket Licence” means an authorization from a Party or its Administration, as appropriate, for an indeterminate number of technically identical Earth Stations for a specific Satellite Service.
3. “Earth Station” means a station located either on the Earth's surface or within the major portion of the Earth's atmosphere and intended for communications with one or more Satellites, or with one or more Earth Stations of the same kind by means of one or more reflecting Satellites or other objects in space.
4. “Licence” means the concession, authorization, or permit granted to a Person by a Party or its Administration, as appropriate, which confers the authority to operate a Satellite, Earth Station or Satellite Network, to provide Satellite Services.
5. “Person” means a natural or legal person.
6. “Protocol” shall have the meaning set forth in Article IV(2).
7. “Satellite” means a Space Station providing the facilities for commercial communication services, which is licensed by a Party or one of its Administrations, as appropriate, and whose technical characteristics and operation are coordinated and implemented pursuant to the ITU Radio Regulations by the same Party or its Administration, as appropriate.
8. “Satellite Network” means a Satellite System or part of a Satellite System, consisting of only one Satellite and the cooperating Earth Stations.
9. “Satellite Operator” or “Satellite Facilities Provider” means the Person licensed by a Party to operate a Space Station to provide Satellite Transmission Capacity or Satellite Facilities, as appropriate.
10. “Satellite Service” means any radiocommunication service involving the use of one or more Satellites.
11. “Satellite Service Provider” means a Person licensed by a Party, to provide Satellite Services within its territory, territorial waters or national airspace.
12. “Satellite System” means a space system using one or more Satellites.

13. “Satellite Transmission Capacity” or “Satellite Facilities” means the resources of the Satellite which are able to be used in the provision of Satellite Services.

14. “Space Station” means a station located on an object which is beyond, is intended to go beyond, or has been beyond the major portion of the Earth’s atmosphere.

ARTICLE III

Implementing Entities

1. The entities responsible for implementing this Agreement, herein referred to as the Authorities, shall be, for Canada, Industry Canada and for Argentina, the Secretaria de Comunicaciones.

2. Authorities may designate one or more entities, herein referred to as Administrations, to be responsible for implementing the Protocols, which are or shall be included in the Annex to this Agreement. In those cases where an Authority designates more than one Administration, it shall establish only one Administration to be responsible for coordination with the Administration of the other Party.

ARTICLE IV

Conditions of Use

1. Canada and Argentina each have laws, regulations, policies and procedures that govern entities that provide Satellite Services to, from and within their respective territories. The Parties have analysed and compared their respective laws on these matters. On the basis of this comparison and analysis, the Parties have concluded that it is appropriate to enter into a Bilateral Reciprocity Agreement concerning the transmission and reception of signals from Satellites for the provision of Satellite Services in both countries, and to establish the respective Protocols to this Agreement in order to address particular kinds of Satellite Services.

Therefore, pursuant to this Agreement and subject to the limitations of Article I(3), Article I(4) and Article I(5):

1.1 Argentine Satellites shall be permitted to provide service to, from and within Canada, in conformance with applicable provisions of Canadian laws, regulations, policies and procedures.

1.2 Canadian Satellites shall be permitted to provide service to, from and within Argentina, in conformance with applicable provisions of Argentine laws, regulations, policies and procedures.

2. The conditions for the transmission and reception of signals from Satellites licensed by each Party or Administration shall comply with national laws, regulations, policies and procedures, as amended from time to time, and shall be as agreed in the annexed Protocols, which shall form an integral part of this Agreement. The annexed Protocols will render this Agreement operational for each particular service, as described in each Protocol.

3. For the objectives of this Agreement, the Parties agree that the Argentine or Canadian entities that are licenced by Argentina or Canada to operate commercial Satellites and Earth Stations may be established with either public or private participation in conformity with the legal and regulatory provisions of each country.

4. In order to provide the Satellite Services described in the annexed Protocols, a Party shall not require a Satellite Operator or Satellite Facilities Provider to obtain an additional Licence for either the construction or operation of a Satellite which has been licensed by the other Party, or for the provision of satellite facilities through that satellite. The authorization of Satellite Facilities Providers pursuant to Argentine regulations shall not be considered an additional Licence for the purposes of this provision. The submission of legal and technical data required in Argentina to obtain such authorization will have the purpose of establishing a registry of Satellite Facilities Providers.

4.1 Licensees of Earth Stations and Satellite Service Providers must comply with national laws, regulations, policies and procedures, as amended from time to time.

5. Each Party shall apply its laws, regulations, policies, and procedures in a transparent and non-discriminatory manner to the Satellites licensed by either Party, and to all entities who apply for a Licence to transmit and/or receive signals, including Licences to own and operate Earth Stations, via Satellites licensed by either Party.

ARTICLE V

ITU Frequency Coordination

1. The ITU Radio Regulations are the basis for the frequency coordination of Satellite Networks and Systems.

2. In any case, after a Party has initiated the required coordination procedures pursuant to the ITU Radio Regulations, the Parties shall, in good faith, undertake to effect the coordination of the concerned Satellites in a timely, cooperative and mutually acceptable manner.

3. The Parties agree that the technical coordination procedures shall be carried out for purposes of effectuating the most efficient use of the satellite orbits and the associated frequencies for satellite use, and agree to cooperate in the technical coordination of new satellites to accommodate the growing national and international communications needs of the satellite industry of each country.

ARTICLE VI

Foreign Ownership

Foreign ownership restrictions on Earth Stations and Satellite Service Providers operating within the territory of a Party are defined by the laws, regulations, policies and procedures of each Party. For Canada, foreign ownership restrictions and provisions are contained in the Telecommunications Act, the Radiocommunication Act, the Broadcasting Act, the Investment Canada Act and their subordinate Regulations, as amended from time to time. For Argentina, foreign ownership rules are, at present, contained in Law 21,382 (Texto Ordenado 1993) and Decreto 1,853/93, and other Argentine laws and regulations.

ARTICLE VII

Essential Security Exception

This Agreement and its Protocols shall not preclude the application by either Party of actions that it considers necessary for the protection of its essential security interests or to the fulfilment of its obligations under the Charter of the United Nations with respect to the maintenance or restoration of international peace or security.

ARTICLE VIII

Cooperation

The Parties shall cooperate in order to ensure the enforcement of their respective laws, regulations, policies and procedures related to the provisions of this Agreement and the annexed Protocols.

ARTICLE IX

Amendment of the Agreement and Protocols

1. This Agreement may be amended by written agreement of the Parties. Amendments shall enter into force on the date on which both Parties have notified each other by exchange of diplomatic notes that they have complied with the requirements of their respective national legislation.
2. The annexed Protocols may be amended by written agreement of the Administrations. As well, additional Protocols may be concluded and annexed to this Agreement. Such amendments and additional Protocols shall enter into force upon the date of signing and shall be included in the Annex to this Agreement by the Parties.

ARTICLE X

Entry into Force and Duration

1. This Agreement shall enter into force on the date of signature.
2. This Agreement shall remain in force until it is replaced by a new agreement or until it is terminated by either Party in accordance with Article XI of this Agreement.

ARTICLE XI

Termination of the Agreement and Protocols

1. This Agreement may be terminated by mutual agreement of the Parties, or by either Party by written notice of termination to the other Party through diplomatic channels. Such notice of termination shall enter into effect six months after receipt of the notice.
2. Any of the Protocols annexed to this Agreement may be terminated by agreement of the Administrations, or by either Administration by written notice of termination to the other Administration. Such notice of termination shall enter into effect six months after receipt of the notice. If more than one Administration has been designated pursuant to Article III(2), the Administration responsible for coordination with the Administration of the other Party shall provide such notice. Upon termination, the Annex to this Agreement shall be appropriately modified by the Parties.

IN WITNESS WHEREOF, the undersigned, duly authorised to that effect, have signed the present Agreement.

DONE in duplicate at _____, the 17th day of October 2000, in the English, French and Spanish languages, all texts being equally authentic.

**FOR THE GOVERNMENT
OF CANADA**

**FOR THE GOVERNMENT OF
THE ARGENTINE REPUBLIC**