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Spectrum Management and Telecommunications Policy

International Agreements

Protocol Between the Government of Canada and the Government of the United Mexican States concerning the Transmission and Reception of Signals from Satellites for the Provision of Fixed-Satellite Services in Canada and the United Mexican States

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Note

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This Protocol has been negotiated under the authority of the Government of Canada by Industry Canada.

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PROTOCOL
BETWEEN
THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF THE UNITED MEXICAN STATES
CONCERNING
THE TRANSMISSION AND RECEPTION OF SIGNALS FROM SATELLITES
FOR THE PROVISION OF FIXED-SATELLITE SERVICES
IN CANADA AND THE UNITED MEXICAN STATES

RECOGNIZING the long standing bonds of friendship and co-operation between the Governments of Canada and the United Mexican States (herein referred to as the “Parties”);

PURSUANT to the *Agreement Between the Government of the United Mexican States and the Government of Canada Concerning the Provision of Satellite Services*, signed April 9, 1999 (herein referred to as the “Agreement”);

RECOGNIZING the sovereign right of countries to regulate their telecommunications, including the use and operation of the radio spectrum within their territory;

EMPHASIZING that there has been a long standing and successful bilateral relationship in coordinating the respective Satellite Systems of both countries through the International Telecommunication Union (the “ITU”), and that both Parties will apply these same positive efforts and expertise in the pending and future coordination of Satellites licensed by the Government of Canada (herein referred to as “Canada”) and by the Government of the United Mexican States (herein referred to as “Mexico”), which are subject to this Protocol;

RECOGNIZING the enhanced opportunities for the provision of Satellite Services in Canada and in Mexico arising from the World Trade Organization General Agreement on Trade in Services, the growing needs of the Satellite communications industries of both Parties, and the public interest in the development of these services; and

IN ORDER TO facilitate the establishment of the conditions for the transmission and reception of signals from Satellites licensed by either Party for the provision of domestic and international Fixed-Satellite Services, as defined herein, to users in Canada and Mexico,

THE PARTIES agree as follows:

ARTICLE I

Purposes

1. The purposes of this Protocol are:
 - 1.1 To establish conditions and technical criteria for the use of Canadian and Mexican Satellites and Earth Stations for the provision of Fixed-Satellite Services, as defined herein, to, from, and within the territories of the Parties.
 - 1.2 To facilitate the provision of Fixed-Satellite Services covered by this Protocol to, from, and within Canada and Mexico via Satellites licensed by either Party.

ARTICLE II

Scope

1. The provisions of this Protocol are without prejudice to the rights and obligations of Canada and Mexico under the Constitution and Convention of the ITU (Geneva, 1992, as amended from time to time) and its Radio Regulations, the North American Free Trade Agreement and the General Agreement on Trade in Services (GATS) of the World Trade Organization, in particular the Fourth Protocol on Basic Telecommunication Services.
2. For Canada, this Protocol is limited to the consideration of Fixed-Satellite Services and does not include those services which are regulated under the Broadcasting Act of Canada, where such services are intended for direct reception by the public.
3. For Mexico, this Protocol is limited to the consideration of Fixed-Satellite Services and does not include those services which are intended for direct reception by the public, either free or restricted (paid subscription services).

ARTICLE III

Definitions

1. For the purposes of this Protocol:
 - 1.1 Fixed-Satellite Services (“FSS”) mean any radiocommunication signals that are transmitted and/or received by Earth Stations, located at specified fixed positions or at any fixed point within a specified area, using one or more Satellites licensed by either Party;
 - 1.2 FSS include, but are not limited to, signals carrying video or video/audio distributed to cable television head-end and multipoint distribution service facilities; and
 - 1.3 The terms “Advance Publication” and “Coordination” shall have the meanings set forth in the ITU Radio Regulations.
2. The terms defined in the Agreement are also applicable to this Protocol.

ARTICLE IV

Implementing Entities

1. As provided for in Article III of the Agreement, the Administrations responsible for implementing this Protocol shall be:
 - 1.1 For Canada, the Department of Industry; and
 - 1.2 For Mexico, the Secretaría de Comunicaciones y Transportes.

ARTICLE V

Fixed-Satellite Service Frequencies

1. This Protocol applies solely to the frequency bands typically paired as set forth in the appendix to this Protocol (the “Appendix”) utilized for the provision of FSS.

2. The use of the frequency bands set forth in the Appendix in the territory of a Party, must comply with the applicable Canadian and Mexican laws, regulations, rules, administrative provisions, policies, licensing procedures, conditions set forth in this Protocol and the respective national frequency allocation tables, and take into consideration the systems currently operating in these bands and any applicable international agreements of the Parties.
3. This Protocol does not apply to frequency bands not listed in the Appendix.

ARTICLE VI

Conditions of Use

1. Licences or authorizations for the provision of FSS shall be issued as efficiently and expeditiously as possible by the Administrations in conformance with their respective laws, regulations, rules, administrative provisions, policies and licensing procedures for transmit and/or receive Earth Stations (including Blanket Licences and spectrum Licences for transmit and/or receive Earth Stations) and any other applicable Licence for the provision of FSS.
2. Each Party shall apply its domestic laws, regulations, rules, administrative provisions, policies and licensing procedures in a transparent and non-discriminatory manner to the Satellites licensed by either Party, and to all applications for a Licence to transmit and/or receive FSS signals via Satellites licensed by either Party.
3. Non-conformance to the applicable laws, regulations, rules, administrative provisions, policies and licensing procedures of a Party may result in loss of the Licence or authorization granted by the relevant Administration.
4. The principal laws, regulations, rules, policies and licensing procedures of the Parties, which are applicable to this Protocol, are indicated below:
 - 4.1 For Canada, the laws, regulations, rules, policies and procedures for the granting of Licences in Canada to transmit or receive FSS signals via Satellites licensed by either Party, include the Industry Canada Act, the Radiocommunication Act, the Telecommunications Act, the Broadcasting Act, their subordinate regulations and related policies, Orders and Decisions, and any other laws, regulations, rules, administrative provisions, policies and licensing procedures of Canada related to these services, as amended from time to time.
 - 4.2 For Mexico, the laws, regulations, rules, policies and procedures for the granting of Licences in Mexico to transmit or receive FSS signals via Satellites licensed by either Party (including Licences for transmission to, or for commercialization of signals coming from, such Satellites), include the Ley Federal de Telecomunicaciones, the Ley de Vías Generales de Comunicación, the Ley Federal de Radio y Televisión, the Reglamento de Telecomunicaciones, the Reglamento de Comunicación Vía Satélite, the Reglamento del Servicio de Televisión y Audio Restringidos, the Reglas del Servicio de Larga Distancia, the Reglas para prestar el Servicio de Larga Distancia Internacional, and any other laws, regulations, rules, administrative provisions, policies and licensing procedures of Mexico related to these services, as amended from time to time.
 - 4.3 The Administrations will exchange the most up-to-date official texts of national laws, regulations, rules, administrative provisions, policies and licensing procedures related to FSS at the time of signature of this Protocol, and on June 1 of every year thereafter.

5. Nothing in this Protocol shall be construed to permit interim or permanent limits on the number of:
 - 5.1 FSS Satellites licensed by either Party which may transmit to, from, and/or within the territory of either Party pursuant to this Protocol and the Agreement;
 - 5.2 Persons granted a Licence or authorization in Canada to transmit and/or receive FSS signals via Satellites licensed by either Party;
 - 5.3 Persons granted a Licence in Mexico to transmit and/or receive FSS signals via Satellites licensed by either Party (including Licences for transmission to, or for commercialization of signals coming from, such Satellites).
6. The Parties acknowledge that there may be special circumstances where it would be in the interest of both countries not to preclude their respective Satellites from providing assistance to one another. One such case would be the provision of support and assistance, subject to the availability of facilities and to the extent it is technically feasible, in the case of catastrophic failure of either system or during any period of temporary shortage of adequate satellite facilities.
7. Each Administration shall permit FSS signals to be transmitted directly to and received from Earth Stations through Satellites licensed by either Party without requiring that such signals be retransmitted over an intermediary Satellite System.
8. The Administrations will apply their respective laws, regulations, rules, administrative provisions, polices and licensing procedures governing the distribution of signals for the provision of cable television service and multipoint distribution service.
9. Communications to or from third countries are permitted under this Protocol. Transmission or reception of such signals to or from third countries shall be subject to each Party's applicable laws, regulations, rules, administrative provisions, polices and licensing procedures, applied in a non-discriminatory and transparent manner, regardless of which Party licensed the relevant Satellite.

ARTICLE VII

Technical Coordination Procedures

1. Nothing in this Protocol shall affect the rights and obligations of a Party to frequency assignments and associated orbital positions already assigned to it in accordance with the ITU Radio Regulations, including Appendices S30, S30A and S30B.
2. Nothing in this Protocol shall affect the rights and obligations of a Party regarding the technical coordination of frequencies and associated orbital positions of Satellites of the other Party or third parties not covered by this Protocol, pursuant to the ITU Radio Regulations.
3. Any Satellite licensed by one of the Parties that is in the Advance Publication or Coordination stage or in operation in accordance with the relevant ITU Radio Regulations, shall continue to have its appropriate status under the ITU Radio Regulations notwithstanding the provisions of this Protocol.
4. This Protocol shall not oblige either Administration to require that any operator of a Satellite licensed by one of the Parties substantially alter its ongoing operations and technical characteristics in order to accommodate new Satellites licensed by either Party for the provision of FSS.

5. In the event that there is harmful interference to a Satellite licensed by one of the Parties, notification shall be made to the Administration responsible for licensing the interfering Satellite or Earth Station. Both Administrations shall analyze the information on the interfering signal, shall consult on solutions and shall seek to agree on the appropriate actions to resolve the interference.
6. Each Administration agrees to exert its best efforts to assist the other Administration in the technical coordination of new, and modifications to current, Satellite Network frequency assignments and associated orbital positions. Each Administration shall concur with the requests of the other Administration made through the ITU for coordination of Satellite Networks, and modifications thereto, provided that such requests are consistent with ITU Radio Regulations and applicable national technical rules and regulations and result in technical compatibility of the affected Satellite Networks and terrestrial systems of the Administrations.

ARTICLE VIII

FSS and Related Authorizations

1. Canada agrees to permit Satellites licensed by Mexico to provide domestic and international FSS to, from, and within Canada, subject to compliance with the conditions set forth in Article IV (1.1) of the Agreement. In order to receive a Licence in Canada to transmit and/or receive FSS signals via Satellites licensed by either Administration (including Licences and authorizations for Canadian transmit/receive and receive-only Earth Stations communicating with such Satellites), Persons must comply with applicable Canadian laws, regulations, rules, administrative provisions, policies and licensing procedures.
2. Mexico agrees to permit Satellites licensed by Canada to provide domestic and international FSS to, from, and within Mexico, subject to compliance with the conditions set forth in Article IV (1.2) of the Agreement. In order to receive a Licence in Mexico to transmit and/or receive FSS signals via Satellites licensed by either Administration (including Licences for transmission to, or for commercialization of signals coming from, such Satellites), Persons must comply with applicable Mexican laws, regulations, rules, administrative provisions, policies and licensing procedures.

ARTICLE IX

Entry into Force, Amendment and Termination

1. This Protocol shall enter into force upon signature by both Parties.
2. The Appendix to this Protocol may be amended by an exchange of letters between the Administrations.
3. This Protocol shall remain in force until it is replaced by a new Protocol, or until it is terminated in accordance with Article XI of the Agreement.
4. Termination of this Protocol shall enter into effect six months after receipt of notification. Upon termination, an Administration may, at its discretion, terminate any Licence or authorization issued pursuant to this Protocol.

IN WITNESS WHEREOF, the respective representatives have signed the present Protocol.

DONE at Mexico City, this 16th day of January 2001, in duplicate, in the English, French and Spanish languages, each text being equally authentic.

**FOR THE GOVERNMENT
OF CANADA**

Keith H. Christie
Ambassador

**FOR THE GOVERNMENT OF
THE UNITED MEXICAN STATES**

Pedro Cerisola y Weber
Secretary of Communications
and Transportation

WITNESS OF HONOR

Ezequiel Padilla Couttonlenc
Ambassador of Mexico in Canada

APPENDIX

1. The following FSS frequency bands are referred to by Article V of this Protocol:

<u>Uplink Frequencies</u>	<u>Downlink Frequencies</u>
5.925 - 6.425 GHz	3.700 - 4.200 GHz
14.0 - 14.5 GHz	11.7 - 12.2 GHz
12.75 - 13.25 GHz	10.70 - 10.95 GHz
	11.20 - 11.45 GHz
13.75 - 14.00 GHz	11.45 - 11.70 GHz
	10.95 - 11.20 GHz
27.50 - 30.00 GHz	17.70 - 20.20 GHz

2. Consistent with Article VI, Paragraph 4 of this Protocol, the use of the frequency bands listed above, in the territory of a Party, must comply with the applicable Canadian and Mexican laws, regulations, rules, administrative provisions, policies and licensing procedures, conditions set forth in this Protocol, the respective national frequency allocation tables and take into consideration the systems currently operating in these frequency bands and any applicable international agreements of the Parties.
3. This Protocol does not apply to frequency bands not listed above.