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February 2001

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 Mobile-Satellite Services and Associated Feeder Links in Canada and in 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 MOBILE-SATELLITE SERVICES
AND ASSOCIATED FEEDER LINKS
IN CANADA AND IN 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;

RECOGNIZING that the Parties have signed, under the auspices of the ITU, the *Memorandum of Understanding to Facilitate Arrangements for Global Mobile Personal Communications by Satellite, Including Regional Systems* (GMPCS-MOU); 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 Covered Services, as defined herein, to users in Canada and in 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 Covered Services, as defined herein, to, from, and within the territories of the Parties.

- 1.2 To facilitate the provision of Covered 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 Covered 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 Covered 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 Mobile-Satellite Service (“MSS”) means any radiocommunication signals that are transmitted and/or received by Mobile Earth Stations using one or more Satellites licensed by either Party or, alternatively, between two or more Satellites used by this service which are licensed by either Party ;
 - 1.2 Feeder Links means a radio link between a Fixed Earth Station and one or more MSS Satellites licensed by either Party;
 - 1.3 Covered Services means MSS and MSS Feeder Links;
 - 1.4 Mobile Earth Station means an Earth Station used to provide MSS while in motion, during halts at unspecified points, or at any specified point within a particular area;
 - 1.5 Fixed Earth Station means an Earth Station at a specified fixed point used to provide MSS Feeder Links and interconnection between the MSS Satellite Network and the public switched telephone network and/or other networks;
 - 1.6 Unless otherwise specified in this Protocol, the term Earth Station shall include both Mobile Earth Stations and Fixed Earth Stations which are used for the purpose of providing the Covered Services; and
 - 1.7 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

Covered Services 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 Covered Services.
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 Covered Services 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 Mobile Earth Stations) and any other applicable Licence for the provision of Covered Services.
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 and Earth Stations licensed by either Party, and to all applications for a Licence or authorization, including Blanket Licences and other applicable Licences, for MSS Satellite Networks, to transmit and/or receive Covered Service signals via Satellites and Earth Stations 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 Covered Services via Satellites licensed by either Party (including licences for Fixed Earth Stations), 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 Covered Services via Satellites licensed by either Party (including Licences for Fixed Earth Stations), 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 the Covered Services 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 MSS 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 Covered Services via Satellite, including Licences for Fixed Earth Stations, licensed by either Party; and
 - 5.3 Persons granted a Licence in Mexico to transmit and/or receive the Covered Service via Satellites, including Licences for Fixed Earth Stations, licensed by either Party (including Licences for transmission to, or for commercialization of signals coming from, such Satellite).
6. The Parties acknowledge that there may be special circumstances where it would be in the interests 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 a catastrophic failure of either system or during any period of temporary shortage of adequate Satellite facilities.
7. Each Administration shall permit Covered Services 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. Each Administration shall ensure that Earth Stations licensed by such Administration for the provision of Covered Services are able to interconnect to such Party's public switched telecommunications network and/or other networks under non-discriminatory, transparent and cost-oriented terms at any technically feasible point in the network.
9. Communications involving signals of Covered Services to or from third countries through satellites licensed by either Party 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, policies 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.
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 Advanced Publication or in 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 the Covered Services.
5. In the event that there is harmful interference to a Satellite or an Earth Station licensed by one of the Parties for the provision of the Covered Services, 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, consult on solutions and 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 policies, technical rules and regulations and result in technical compatibility of the affected Satellite Networks and terrestrial systems of the Administration.

ARTICLE VIII

MSS and Related Authorizations

1. Canada agrees to permit Satellites licensed by Mexico to provide domestic and international Covered Services 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 Covered Service signals via Satellites licensed by either Administration (including Blanket Licences and other applicable Licences), Persons must comply with applicable Canadian laws, regulations, rules, administrative provisions, policies and licensing procedures. Fixed Earth Stations licensed by either Administration will be able to transmit Covered Services to, and receive Covered Services from, Mobile Earth Stations licensed by Canada within the territory of Canada via Satellites licensed by either Administration.
2. Mexico agrees to permit Satellites licensed by Canada to provide domestic and international Covered Services 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 Covered Service signals via Satellites licensed by either Administration (including Licences for Fixed Earth Stations), Persons must comply with applicable Mexican laws, regulations, rules, administrative provisions, policies and licensing procedures. Fixed Earth Stations licensed by either Administration will be able to transmit

Covered Services to, and receive Covered Services from, Mobile Earth Stations licensed by Mexico within the territory of Mexico via Satellites licensed by either Administration.

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 frequency bands are referred to by Article V of this Protocol:

MSS Frequency Bands

<u>Uplink Frequencies</u>	<u>Downlink Frequencies</u>
148 - 150.05 MHz	137 - 138 MHz
399.9 - 400.05 MHz	400.15 - 401 MHz
454 - 456 MHz	
459 - 460 MHz	
1610 - 1626.5 MHz	2483.5 - 2500 MHz
1626.5 - 1660.5 MHz	1525 - 1559 MHz
1990 - 2025 MHz	2165 - 2200 MHz

MSS Feeder Link Frequency Bands

<u>Uplink Frequencies</u>	<u>Downlink Frequencies</u>
5 150 - 5 250 MHz	6 700 - 7 075 MHz
12.75 - 13.25 GHz	10.7 - 10.95 GHz
	11.2 - 11.45 GHz
29.1 - 29.5 GHz	19.3 - 19.7 GHz

MSS Inter-Satellite Links

23 - 23.55 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 laws, regulations, rules, administrative provisions, policies and licensing procedures of the Parties, conditions set forth in this Protocol and 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 Covered Services in frequency bands not listed above.