



Industry
Canada

Industrie
Canada

April 9, 1999

Spectrum Management and Telecommunications Policy

International Agreements

Agreement between the Government of Canada and the Government of the United Mexican States Concerning the Provision of Satellite Services

AGREEMENT BETWEEN
THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF THE UNITED MEXICAN STATES
CONCERNING THE PROVISION OF SATELLITE SERVICES

THE GOVERNMENT OF CANADA and THE GOVERNMENT OF THE UNITED MEXICAN STATES, hereinafter referred to as the "Parties";

RECOGNIZING the sovereign right of both countries 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 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";

HAVE AGREED as follows:

ARTICLE I

Objectives and Scope

The objectives of this Agreement are:

1. To facilitate the provision of services to, from and within Canada and the United Mexican States via commercial satellites that each Party licenses and coordinates pursuant to ITU Radio Regulations, and
2. To establish the conditions relating to the use in both countries of satellites licensed in Canada and in the United Mexican States.

The Parties agree that:

3. The provisions of this Agreement are without prejudice to the rights and obligations of Canada and of the United Mexican States under the Constitution and Convention of the ITU (Geneva, 1992) 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, and
4. This Agreement applies to various Satellite Services except for those which are regulated under the Broadcasting Act of Canada, the Ley Federal de Telecomunicaciones and the Ley Federal de Radio y Televisión of the United Mexican States, where such services are intended for direct reception by the public.

5. Protocols annexed to this Agreement will be established to address various satellite services except for those services which are regulated under the Broadcasting Act of Canada, the Ley Federal de Telecomunicaciones and the Ley Federal de Radio y Televisión of the United Mexican States, where such services are intended for direct reception by the public.

ARTICLE II

Definitions

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

1. “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.
2. “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.
3. “Licence” means the concession, authorization, or permit granted to a Person by a Party's Administration, which confers the authority to operate a Satellite or Earth Station, to provide Satellite Services, or to utilize the radio frequency spectrum.
4. “Person” means a natural or legal person.
5. “Protocol” means a document annexed to this Agreement, in which are included the conditions for the transmission and reception of signals of a specific Satellite Service.
6. “Satellite” means a Space Station providing commercial communication services licensed by a Party and whose operation is coordinated and implemented pursuant to the ITU Radio Regulations by the same Party or its Administration.
7. “Satellite Network” means a Satellite System or part of a Satellite System, consisting of only one Satellite and the cooperating Earth Stations.
8. “Satellite Operator” means the Person licensed by a Party to operate a Satellite Space Station to provide Satellite Transmission Capacity.
9. “Satellite Service” means any radiocommunication service involving the use of one or more Satellites.
10. “Satellite Service Provider” means a Person licensed by a Party, to provide Satellite Services within its territory, territorial waters or national airspace.
11. “Satellite System” means a space system using one or more Satellites.
12. “Satellite Transmission Capacity” means the portion of the Satellite which is able to be used to communicate in the provision of Satellite Services. The term does not include telemetry, tracking and telecommand functions of the Satellite.
13. “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 the United Mexican States, the Secretariat of Communication and Transports.
2. Authorities may designate one or more entities, herein referred to as Administrations, to be responsible for implementing the Protocols, which are or will be included in the Annex to this Agreement. In those cases where an Authority designates more than one Administration, it should establish only one Administration to be responsible for coordination with the Administration of the other Party.

ARTICLE IV

Conditions of Use

1. Canada and the United Mexican States each have laws, regulations and policies that govern Canadian and Mexican 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 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 Mexican Satellites will be permitted to provide service to, from and within Canada, in conformance with applicable provisions of Canadian law, to the extent that these services enhance competition in the Canadian market for Satellite Services, and to the extent that these services enhance public interest objectives, and reciprocity is afforded to Canadian Satellite Operators in the United Mexican States.
- 1.2 Canadian Satellites will be permitted to provide service to, from and within the United Mexican States, in conformance with applicable provisions of Mexican law, to the extent that these services enhance competition in the Mexican market for Satellite Services, and to the extent that these services enhance public interest objectives, and reciprocity is afforded to Mexican Satellite Operators in Canada.
2. The conditions for the transmission and reception of signals from Satellites licensed by each Party or Administration shall be as agreed in the Protocols which shall comply with national laws and regulations as amended from time to time, and shall be annexed as an integral part of this Agreement.
3. For the objectives of this Agreement, the Parties agree that the Mexican or Canadian entities that 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. A Party shall not require a Satellite Operator licensed by the other Party to obtain an additional licence for either the construction or the operation of the Satellite. Licences for Earth Stations and Satellite Services must comply with national laws and regulations, as amended from time to time.

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 will, 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 and regulations 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 the United Mexican States, foreign ownership restrictions are at present contained in Article 12 of the Ley Federal de Telecomunicaciones published in 1995, and the Ley de Inversión Extranjera published in 1993.

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 and regulations 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 and additional Protocols concluded by written agreement of the Administrations. Such amendments and additional Protocols shall enter into force upon on 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 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. 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(s). 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 respective representatives have signed the present Agreement.

DONE in duplicate at Mexico City , this 9th day of April 1999, in the English, French and Spanish languages, all texts being equally authentic.

**FOR THE GOVERNMENT
OF CANADA**

original signed by

**S. E. Gooch
Ambassador of Canada
in Mexico**

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

original signed by

**Carlos Ruiz Sacristán
Secretary of Communications
and Transportation**