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INTERNATIONAL BUREAU ANNOUNCES CONCLUSION OF U.S.-MEXICO
PROTOCOL FOR DIRECT-TO-HOME SATELLITE SERVICES

1. On April 26, 1996, the United States and Mexico concluded negotiations and signed a bilateral agreement concerning the transmission and reception of signals from satellites for the provision of satellite services to users in the United States of America and the United Mexican States (the "Agreement"). The purpose of the Agreement is to "facilitate the provision of services to, from, and within the United States and Mexico via commercial satellites...and to establish the conditions relating to the use in both countries of satellites licensed in the United States and Mexico."

2. The Agreement provided for the inclusion of Protocols in the Annex to the Agreement, in order to address particular kinds of satellite services. During the drafting of the first "Protocol" to the Agreement (the "Protocol"), the International Bureau sought comment on the proposal to conclude the Protocol, and on factors that the International Bureau should take into account in its advice to and consultations with the Department of State and other members of the Executive Branch. Request for Comment on U.S.-Mexico DTH-FSS/BSS Protocol, DA 96-1309, released August 14, 1996. The Protocol addresses specifically the provision of direct-to-home fixed-satellite and broadcast-satellite ("DTH- FSS/BSS") services to, from, and within U.S. and Mexican territory.

3. On November 8, 1996, the U.S. and Mexico signed the "Protocol Concerning the Transmission and Reception of Signals from Satellites for the Provision of Direct-to-Home Satellite Services in the United States of America and the United Mexican States." The Protocol entered into force on November 11, 1996; a copy of the Protocol is attached to this Public Notice.

4. Both the Protocol and the Agreement are available for viewing and copying in Room 102, 2000 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS Inc., 202-857-3800. For additional information, please contact Tom Boasberg (202-418-0431) or Suzanne Hutchings (202-418-0762) of the International Bureau.

**PROTOCOL CONCERNING THE
TRANSMISSION AND RECEPTION OF SIGNALS FROM SATELLITES
FOR THE PROVISION OF
DIRECT-TO-HOME SATELLITE SERVICES
IN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES**

Recognizing the long standing bonds of friendship and cooperation between the Governments of the United States of America and the United Mexican States;

Pursuant to the Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Transmission and Reception of Signals from Satellites for the Provision of Satellite Services to Users in the United States of America and the United Mexican States, signed April 28, 1996 (herein referred to as the "Agreement") and the 1992 North American Free Trade Agreement between the Government of the United States of America, the Government of Canada, and the Government of the United Mexican States;

Recognizing the enhanced opportunities for the provision of satellite services in the United States and Mexico, the growing needs of the satellite communications industries of both countries, and the public interest in development of these services;

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 (ITU), and that both Parties will apply these same positive efforts and expertise in the pending and future coordination of Satellites licensed by the Parties which are subject to this Protocol to enhance the benefits of the Protocol for both Parties; and

In order to establish the conditions for the transmission and reception of signals from Satellites licensed by the Parties for the provision of Direct-to-Home Fixed-Satellite Services and Broadcasting-Satellite Services to users in the United States and Mexico;

The Government of the United States of America and the Government of the United Mexican States (the Parties) agree as follows:

ARTICLE I. Purposes

The purposes of this Protocol are:

1. To establish conditions and technical criteria for the use of U.S. and Mexican Satellites for the delivery of Direct-to-Home Fixed-Satellite Services and Broadcasting-Satellite Services to, from, and within the territories of the Parties.
2. To facilitate the provision of Direct-to-Home Fixed-Satellite Services and Broadcasting-Satellite Services covered by this Protocol to, from, and within the United States and Mexico via Satellites licensed by the Parties.

ARTICLE II. Definitions

1. For the purposes of this Protocol, it is understood that "Direct-to-Home Fixed-Satellite Services" ("DTH-FSS") and "Broadcasting-Satellite Services" ("BSS") mean one-way, encrypted video or video/audio radiocommunication signals that are transmitted by Satellites licensed by the Parties for direct reception by subscribers for periodic remuneration.
2. The terms defined in the Agreement are applicable to this Protocol.

3. The terms, "Advance Published" and "Coordination" shall have the meanings given to such terms in the ITU Radio Regulations.

ARTICLE III. Implementing Entities

As provided for in Article III of the Agreement, the Administrations shall be the Federal Communications Commission (FCC) of the United States of America and the Secretaría de Comunicaciones y Transportes (SCT) of the United Mexican States.

ARTICLE IV. DTH-FSS and BSS Frequencies

1. This Protocol applies to the use of the frequency bands typically paired as set forth in the Appendix.
2. This Protocol only addresses the frequency bands in the Appendix.

ARTICLE V. Conditions of Use

1. Licenses for DTH-FSS and BSS shall be issued as efficiently and expeditiously as possible by the Administrations, including, if applicable, Blanket Licenses for receive-only earth stations for subscribers.

2. Each Party shall apply its laws, regulations, rules, and licensing procedures in a non-discriminatory manner among all entities who apply for a License to transmit and receive DTH-FSS or BSS signals via Satellites licensed by the other Party.
3. Each Administration will advise the other Administration in writing when applications are received requesting a License to transmit or receive DTH-FSS or BSS signals via a Satellite licensed by the other Administration. That Administration will also advise the other Administration in writing of the action taken on the application for a License at the time the decision is taken.
4. Non-conformance to the applicable laws, regulations, rules, and licensing procedures of a Party may result in loss of the License granted by the relevant Administration.
5. The principal applicable Mexican and U.S. laws, regulations, rules, and licensing procedures of the Parties are indicated below:
 - 5.1 For the United States, the laws, regulations, rules, and licensing procedures for the grant of Licenses in the United States to transmit or receive DTH-FSS or BSS signals via Satellites licensed by the Parties (including Licenses for U.S. transmit/receive and receive-only earth

stations communicating with such Satellites), to be applied in a manner consistent with Article VI of this Protocol, include 47 U.S. Code of Federal Regulations (CFR), Parts 2, 25, 76, and 100, the Communications Act; and any other laws, regulations, rules, and licensing procedures of the United States, present and future, related to these services.

5.2 For Mexico, the laws, regulations, rules, and licensing procedures for the grant of Licenses in Mexico to transmit or receive DTH-FSS or BSS signals via Satellites licensed by the Parties (including Licenses for transmission to, or for commercialization of signals coming from, such Satellites), to be applied in a manner consistent with Article VI of this Protocol, include the Ley Federal de Telecomunicaciones, the Ley de Vías Generales de Comunicación, the Ley Federal de Radio y Televisión and the Reglamento de Televisión por Cable; and any other laws, regulations, rules, and licensing procedures of Mexico, present and future, related to these services.

5.3 The Administrations will exchange the most up-to-date official texts of national laws, regulations, rules, and licensing procedures related to DTH-FSS and BSS at the time of signature of this Protocol, and on June 1 of every year thereafter.

6. Under this Protocol, DTH-FSS and BSS may be provided for transmission and/or reception within and/or between the territories of the Parties. Each Party reserves the right at any time to refuse to accept signals originating from third countries.

7. Nothing in this Protocol shall be construed to permit interim or permanent limits on the number of:
 - 7.1 DTH-FSS or BSS Satellites licensed by the Parties which may transmit to, from, and/or within the territory of either Party pursuant to this Protocol or the Agreement;

 - 7.2 entities granted a License in the United States to transmit or receive DTH-FSS or BSS signals via Satellites licensed by the Parties (including Licenses for U.S. transmit/receive and receive-only earth stations communicating with such Satellites);

 - 7.3 entities granted a License in Mexico to transmit or receive DTH-FSS or BSS signals via Satellites licensed by the Parties (including Licenses for transmission to, or for commercialization of signals coming from, such Satellites).

8. 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 orbit 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 Rules and Regulations and applicable national technical rules and regulations, and result in technical compatibility of the affected satellite networks of the Administrations.

9. Each Administration shall permit DTH-FSS and BSS signals to be delivered directly to subscribers through Satellites licensed by either Party without requiring that they be retransmitted over an intermediary satellite system.

ARTICLE VI. Programming and Advertising

1. In order for DTH-FSS and BSS services to be economically viable, neither Party shall impose significant restrictions on the amount or origin of advertising and program content. In this regard, the following key principles shall apply:
 - 1.1 Any requirements for domestic program content and/or education and public interest programming should be limited to a modicum of the total

program channels of these multi-channel DTH-FSS and BSS systems.

Any such requirements may be met on a system-wide basis, that is, they do not need to be met on a per-channel basis.

- 1.2 Each Party acknowledges that a Party may impose non-discriminatory restrictions on program content and advertising, such as material involving obscenity, indecency, national security, and public health and safety concerns. Any such restriction on the amount or origin of programming and advertising transmitted through DTH-FSS or BSS services will not hinder the distribution of programming and advertising to the national market of either Party or to the regional market.

2. This Protocol does not apply to the transmission of any audio-only DTH-FSS or BSS signal that does not solely contain music. The advertising-related provisions of this Article shall not apply to such music-only audio transmissions covered by this Protocol, recognizing the current practices of entities providing DTH-FSS and BSS whose audio transmissions solely contain music.

ARTICLE VII. Technical Coordination Procedures

1. Nothing in this Protocol shall affect the rights and obligations of a Party to frequency assignments and associated orbit positions already assigned to it in

accordance with the ITU Radio Regulations, including Appendices 30, 30A and 30B.

2. Nothing in this Protocol shall affect the rights and obligations of a Party regarding the technical Coordination of frequencies and associated orbit 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 Advance Published, in Coordination 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 obligate 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 the Parties for the provision of DTH-FSS or BSS.
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. 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.

ARTICLE VIII. DTH-FSS, BSS and Related Authorizations

1. The United States agrees to permit Satellites licensed by Mexico to provide DTH-FSS and BSS to, from, and within the United States, given that the conditions set forth in Article IV(1.1) of the Agreement have been met. In order to receive a License in the United States to transmit or receive DTH-FSS or BSS signals via Satellites licensed by the Parties (including Licenses for U.S. transmit/receive and receive-only earth stations communicating with such Satellites), entities must comply with applicable U.S. laws, regulations, rules, and licensing procedures.

2. Mexico agrees to permit Satellites licensed by the United States to provide DTH-FSS and BSS to, from, and within Mexico, given that the conditions set forth in Article IV(1.2) of the Agreement have been met. In order to receive a License in Mexico to transmit or receive DTH-FSS or BSS signals via Satellites licensed by the Parties (including a License for transmission to, or for commercialization of signals coming from, such Satellites), entities must comply with applicable Mexican laws, regulations, rules, and licensing procedures.

ARTICLE IX. Entry Into Force, Amendment and Termination

1. This Protocol shall enter into force November 11, 1996.
2. The Appendix to this Protocol may be amended by an exchange of letters between the Administrations.
3. This Protocol shall apply to the provision by Satellites licensed by the Parties of video or video/audio distributed to cable television head-end and multipoint distribution service (restricted microwave television service) facilities one year from the date of signature of this Protocol, unless a Protocol between the Parties on Fixed-Satellite Services which covers video or video/audio distribution to cable television head-end and multipoint distribution service facilities enters into force prior to that date. This paragraph does not affect the rights of the Parties to apply laws, regulations, rules, and licensing procedures of the Parties governing the provision of cable television service and multipoint distribution services to end users.
4. In addition, the Parties recognize that technological convergence is leading to different types of satellite systems providing similar services. Therefore, the Parties agree to initiate negotiations in a number of satellite areas related to the services being provided under this Protocol within five years of the entry into

force of this Protocol. These satellite-related areas include Fixed-Satellite Services, Mobile-Satellite Services for both geostationary and non-geostationary satellite systems, and audio-only services.

5. 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.
6. In addition to the provisions for termination in accordance with Article XI of the Agreement, this Protocol may be terminated upon sixty days written notice if a Party determines that the other Party has failed to conform to the principles set forth in Articles VI and VIII of this Protocol.
7. Upon termination of this Protocol, an Administration may, at its discretion, terminate any License that had been issued pursuant to this Protocol.

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

Done at Washington, this eighth day of November, 1996, in duplicate, in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE
UNITED MEXICAN STATES:

APPENDIX

1. The following frequency bands are referred to in Article IV of this Protocol:

For DTH-FSS services:

| <u>Uplink Frequencies</u> | <u>Downlink Frequencies</u> |
|---------------------------|--|
| 5.925 - 6.425 GHz | 3.7 - 4.2 GHz |
| 6.725 - 7.025 GHz | 4.5 - 4.8 GHz ¹ |
| 12.75 - 13.25 GHz | 10.70 - 10.95 GHz 11.20 - 11.45 GHz |
| 13.75 - 14.0 GHz | 11.45 - 11.70 GHz 10.95 - 11.20 GHz |
| 14.0 - 14.50 GHz | 11.70 - 12.20 GHz |

For BSS services:

| <u>Uplink Frequencies</u> | <u>Downlink Frequencies</u> |
|---------------------------|-----------------------------|
| 17.30 - 17.80 GHz | 12.20 - 12.70 GHz |

2. This Protocol does not address frequency bands not listed above.

¹This frequency band is not available for use in the United States, and has limitations in Mexico.