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AGREEMENT whereby the Plenary of the Federal Institute of Telecommunications approves the Program on Geostationary Orbital Positions for Commercial use, which Proceeding of Public Auction will be carried out during the year 2014.

Federal Institute of Telecommunications

AGREEMENT WHEREBY THE PLENARY OF THE FEDERAL INSTITUTE OF TELECOMMUNICATIONS APPROVES THE PROGRAM ON GEOSTATIONARY ORBITAL POSITIONS FOR COMMERCIAL USE, WHICH PROCEDURE OF PUBLIC AUCTION WILL BE CARRIED OUT DURING THE YEAR 2014.

BACKGROUND

I. **Decree of the Constitutional Reform.** The 11th of June, 2013, the “Decree by which several provisions of articles 6o, 7o, 27, 28, 73, 78, 94 and 105 of the Political Constitution of the United Mexican States are amended and added, in the matter of telecommunications” (the “Decree of the Constitutional Reform”), by which was disposed the creation of the Federal Institute of Telecommunications (the “Institute”) was published in the Official Gazette of the Federation.

In this sense, the Institute was integrated, in terms of what is provided by article Sixth Transitory of the Decree of Constitutional Reform, the 10th of September, 2013, as an autonomous constitutional body with its own legal status and patrimony, which object is the efficient development of broadcasting and telecommunications according to that set forth in the Political Constitution of the United Mexican States (the “Constitution”) and in the terms set by the laws, having into its charge the regulation, promotion and supervision of the best use and exploitation of the radioelectric spectrum, networks and the provision of the broadcasting and telecommunication services.

Likewise, in terms of what is set on the fourth paragraph of Article Seventh Transitory of the Decree of the Constitutional Reform mentioned above, the Institute must exercise its attributions in accordance with that provided by the Decree itself and, in that not opposed to it, in the laws in force in the matter of economic competence, broadcasting and telecommunications, when the adjustments to the legal framework foreseen in article Third Transitory of the Decree aforementioned wouldn’t have been performed to the date of the integration of the same, as well as to continue the administrative process of the procedures begun previously to the integration thereof in terms of the legislation applicable upon the beginning.

II. **International Telecommunication Union.** The International Telecommunication Union (the “ITU”) is the specialized organism of the United Nations for the technologies of information and communication. It is in charge of maintaining and extending the international cooperation among its Member States for the improvement and rational use of all kind of communications, to impulse the development of the technical media and its efficient exploitation, in order to increase the output of the telecommunication services, to increase the use thereof and to generalize as much as possible its use by the public. At the present, the ITU has 193 Member States, among which is Mexico.

The ITU performs the allocation, the allotment and the registration of the frequency bands of the radioelectric spectrum for the communication services. With regard to the space communications, the ITU is depositary of the instruments, procedures and information basis used to carry out the international coordination for the use and occupation of the Geostationary Orbital Positions (the “POGs” [*for its signals in Spanish*]) and of the other orbits and its respective associated frequencies in order to avoid harmful interferences between the satellite networks of the several Member States.

In this regard, Mexico, as a Member State of the ITU, substantiates the proceedings to occupy and to exploit the GOPs with associated frequency bands, according to that set forth by the Radio Regulations of the ITU (the “RR”).

III. **International Management.** The Ministry of Communications and Transportation (the “Ministry”) and the extinguished Federal Commission of Telecommunications (the “Commission”), negotiated, in due time, before the ITU the filings MEXSAT113 KU EXT, MEXSAT113 L-CEXT-X, MEXSAT116.8 KU EXT and MEXSAT116.8 L-CEXT-X (the “Filings”), in order to occupy the POGs 113° West and 116.8° West with the extended C and extended Ku associated frequency bands, in accordance with that provided for such purpose by the RR.

In this regard, the Advanced Publication Information (“API”), corresponding to the extended Ku frequencies band in the POGs 113° West and 116.8° West, was published by the Radiocommunication Bureau of the ITU (“BR”), in the International Frequency Information Circular (“BR IFIC”) number 2583 of the 28th of November, 2006. On the other hand, the API corresponding to the extended C frequency band in the POGs 113° West and 116.8° West, was published in the BR IFIC number 2640 of the 24th of March, 2009.

Afterwards, the coordination information corresponding to the extended Ku frequency band in the POGs 113° West and 116° West was published in the BR IFIC number 2637 of the 10th of February, 2009; while for the extended C frequency band in the POG 113° West was published in the BR IFIC number 2675 of 10th of August, 2010; and for the POG 116.8° West was published in the BR IFIC number 2691 of the 5th of April, 2011.

According to that set forth in Resolution 49 of the ITU, the respective information, with the due administrative diligence for the extended Ku and the extended C frequency bands in the POGs 113° West and 116.8° West, was published in the BR IFIC 2747 of the 25th of June, 2013.

Likewise, the information for the Notification of the extended Ku and extended C frequency bands in the POGs 113° West and 116.8° West was published in Part I-S in the BR IFIC 2748 of the 9th of July, 2013, as well as Part II-S and Part III-S in the BR IFIC 2757 of the 12th of November, 2013.

IV. Request from the Subdepartment of Communications of the Ministry of Communications and Transportations through official letter 2.083/2013 dated the 13th of August, 2013, the Subdepartment of Communications requested to the extinguished Commission to carry out the proceedings necessary for the auction of the POGs 113° West and 116.8° West, both destined to the provision of the fixed satellite service.

V. Information provided by the Unit of the Regulatory Policy. The 8th of November, 2013, the Unit of the Regulatory Policy of the Institute (the “UPR”) sent to the Services Unit for the Industry of the Institute itself (the “USI”), the technical-regulatory inputs necessary for the preparation of the auction program for the POGs 113° West and 116.8° West and its associated C and Ku extended bands. Additionally, in the Sole Annex of official letter IFT/D05/UPR/DGERCVS/020/2013 dated the 14th of November, 2013, the UPR sent additional information to the USI where it indicates that according to the information provided by Telecomunicaciones de Mexico, the dates foreseen for the occupation of the POGs 113° West and 116.8° West, are the 22nd of August, 2016 and the 10th of December, 2016, respectively.

VI. Proposal of the USI. Based on that provided by article 25 Item A) fraction V of the Organic Statute of the Institute, the USI prepared the project of the Program on the orbital resources of consideration with its associated frequency bands which will be the subject of the public auction in order that the Plenary of the Institute has the knowledge of the contents of such documents and, as the case may be, it adopts the Agreement corresponding to such effect.

In virtue of the Background indicated, and

CONSIDERING

First.-Governance of the State in the matter. Article 25 of the Constitution sets forth that it corresponds to the State the governance of the national development to guarantee that it is integral and sustainable, thus strengthening the Sovereignty of the Nation and its democratic regime and that, through the promotion of the economic growth, the employment and a more fair distribution of income and wealth, allows the full exercise of freedom and the dignity of the individuals, groups and social classes which security is protected by the Constitution.

The aforementioned precept itself provides that the State will plan, conduct, coordinate and orient the national economic activity and it will carry out the regulation and the foment of the activities demanding the general interest, within the framework of the rights granted by the Constitution itself.

Second.- Constitutional principles in the matter of concessions of goods owned by the Nation, monopolies and transfer of goods of the public domain. Article 27 of the Constitution sets forth, in its relevant part, that it corresponds to the Nation the direct domain of the space located on the national territory, in which case such domain is inalienable and imprescriptible and the exploitation, use or the utilization of the resources in question by the individuals or by the corporations constituted according to the Mexican laws, cannot be made but through

concessions granted by the Federal Executive in accordance with the rules and conditions provided by the laws, except for broadcasting and telecommunications, which will be granted by the Institute.

Likewise, in terms of that provided by article 28 of the Constitution, the monopolies and the monopolistic practices are prohibited in the terms and conditions set forth by the laws.

Additionally, such constitutional precept sets forth the power of the authorities of (i) prosecuting every concentration or hoarding in one hand or few hands the goods of necessary consumption, as it is with the telecommunications sector the use of the radioelectric spectrum, as well as (ii) prosecuting every act constituting an undue exclusive advantage for the benefit of one or several determined persons and for the detriment of the public in general.

Likewise, such device indicates that the via-satellite communication and the railroads are priority areas for the national development; thus, the State, exercising its governance on them, will protect the security and sovereignty of the Nation and, upon the granting of concessions and permits, it will keep or establish the domain of the respective communication paths according to the laws in the matter.

In this regard, the State may, being subject to the laws and in the cases of general interest, concession the provision of public services or the exploitation, use and usage of the goods owned by the Federation, as the geostationary orbital positions assigned to the country, as well as the radioelectric spectrum.

Third.-Competence Scope of the Institute. As it is set on the article 28 Constitutional, the Institute is an autonomous body with legal status and own patrimony, which main objective is the efficient development of the broadcasting and the telecommunications according to what is provided in the Constitution and what is set in the law, and for which purpose is the regulation, promotion and supervision of the best use and exploitation of the radioelectric spectrum, the networks and the service provision of the broadcasting and telecommunications, as well as of the access to active and passive infrastructure and other essential goods.

Meanwhile, article 27 of the Constitution confers the Institute the power to grant concessions in the matter of telecommunications and broadcasting; thus, if the Federal Law of Telecommunications in force (the “Law”) provides such power to the Secretariat of Communications and Transport, this opposes to the Decree of Constitutional Reform itself, then the attributions granted by such Law to this agency are exclusive competence of the Institute as consequence of the aforementioned Constitutional Reform.

Likewise, the 23rd of September, 2013 the Organic Statute of the Institute was published in the Official Gazette of the Federation, which provides in its article 9 fraction II, the power of the Plenary of the Institute of regulating, promoting and supervising the best use and efficient exploitation of the radioelectric spectrum, the orbital resources, the satellite services, the telecommunications networks and the provision of broadcasting and telecommunications services. In this same regard, fraction VIII, of the device indicated, provides the competence of the Plenary to approve the programs to occupy and exploit the orbital resources with their bands of associated frequencies, including those which will be the matter of public auction.

With regard to the aforementioned, the Law, related to the matter of merit, provides the following:

- a) That it is of public order and that its object is to regulate the use, the taking advantage and exploitation of the radioelectric spectrum of the telecommunication networks and of via-satellite communication, and that these are considered as general communication channel.
- b) That it corresponds to the State the governance in the matter of telecommunications, for which purpose it will protect the security and the sovereignty of the Nation. Likewise, in any moment, the State will keep the domain on the radioelectric spectrum and the orbital positions assigned to the country.
- c) That other of its goals is to promote an efficient development of the telecommunications; to exercise the governance of the State in the matter, to guarantee the national sovereignty; to encourage a sound competence among the different service providers of telecommunications, in order that they provide their best prices, diversity and quality for the benefit of the users and to promote an appropriate social coverage.
- d) That the concessions to occupy and to exploit the geostationary orbital positions and satellite orbits assigned to the country with their respective frequency bands and rights of emission and reception of signals will be granted through the procedure of public auction, for which purpose an economic compensation may be required for the granting of such concessions.

In this regard and in accordance with that aforementioned, the Organic Statute of the Institute sets forth, as it may be pertinent, that it is an autonomous body, with legal status and own patrimony, which purpose is the efficient development of broadcasting and telecommunications, according to that provided in the Constitution and in the terms set forth by the laws. For such effect, it will have under its charge the regulation, promotion and supervision of the best use, and exploitation of the radioelectric spectrum, the networks and the provision of the public services of broadcasting and telecommunications, as well as the access to the active and passive infrastructure and other essential goods, guaranteeing that set forth in articles 6o. and 7o. of the Constitution; likewise, this will be the authority in the matter of economic competence in the broadcasting and telecommunications sectors.

Derived from the aforementioned, the Plenary is the body of the government of the Institute and it corresponds to it, among other attributions, the regulation, promotion and supervision of the use, usage and the efficient exploitation of the radioelectric spectrum, the orbital resources, satellite services, telecommunications networks and the provision of broadcasting and telecommunication services; the approval of the programs on frequency bands of the radioelectric spectrum in the matter of telecommunications broadcasting with their corresponding categories, modalities of use, classifications and geographic coverage, including those which will be the matter of the public auction, as well as to approve the programs to occupy and exploit the orbital resources with its associated frequency bands, including those which will be matter of public auction.

Fourth.- National Planning. The part A of article 26 Constitutional provides that the State will organize a democratic planning system of the national development impressing solidity, dynamism, competitiveness, permanence and equity for the growth of economy for the independence and the political, social and cultural democratization of the Nation.

In this regard, the Law of Planning arises as a standard of the public order and social interest which object, among others is to establish the standards and the basic principles according to which the National Planning of Development will be carried out and to guide, in function thereof, the activities of the Federal Public Administration.

In this manner, such ordinance provides that the planning must be carried out as a mean for the efficient performance of the responsibility of the State on the integral and sustainable development of the country and it must lay out to the achievement of the political, social, cultural and economic goals and objectives contained in the Constitution.

Likewise, it is indicated that the purpose of the national planning of the development is the rational and systematic ordinance of actions which, based on the exercise of the attributions of the Federal Executive in the matter of regulation and promotion of the economic, social, political, cultural activity, of protection to the environment and rational exploitation of the natural resources, is the transformation of the reality of the country, in accordance with the standards, principles and objectives set forth by the Constitution itself and the law.

Thus, observing that provided by the Law of Planning, the 20th of May, 2013, the “*Decree upon which the National Development Plan 2013-2018 is approved*” (hereinafter the “PND” [for its signals in Spanish]), was published in the Official Gazette of the Federation which Objective 4.5 called “*Democratizing the access to telecommunications services*” in its Strategy 4.5.1, it is provided that it must “*strengthen the development and technological innovation of telecommunications which extends the coverage and accessibility to impulse better services and to promote competence, looking for cost reduction and the efficiency of communications*”.

For such purpose, the promotion of a greater offer of telecommunication services has been set as one of the lines of action, as well as the private investment in the sector, with which the advanced electronic services can be offered improving the added value of the productive activities.

Likewise, with the objective to bring Mexico to its highest potential, the PND, besides of the five national goals, defines three Transverse Strategies among which is the one called “*Democratizing Productivity*”, which requires to carry out public policies removing the obstacles limiting the productive potential of the citizens and of the companies, which involves, among other things, to have an infrastructure with lower costs to carry out the economic activity.

In this regard, it is convenient to take into account that in accordance with the last paragraph of Article Seventeenth Transitory of the Decree of the Constitutional Reform, the Institute must perform the actions

necessary to contribute with the objectives and goals fixed in the PND and other programmatic instruments related to the broadcasting and telecommunication sectors.

Thus, the disposal in the market of the orbital resources and the associated frequency bands, subject matter of this Agreement, seeks as a goal encouraging the private investment in the sector, generating employees, and promoting, in due time, a greater offer of telecommunication services allowing the participation of more competitors in the telecommunication market.

Fifth.- Right to telecommunication services. In terms of that provided by article 6° of the Constitution, the State will guarantee the right of access to the information and communication technologies, as well as to the broadcasting and telecommunications services, including the broad band and internet. For such purposes, the State will set forth effective competence conditions in the provision of such services.

For that, the telecommunication services are considered public services of general interests, thus the State will guarantee that these are provided under the conditions of competence, quality, plurality, universal coverage, interconnection, convergence, continuity, free access and without arbitrary interference.

Sixth.- Technical-Regulatory considerations and characteristics of the bands associated to the orbital positions. The extended Ku and extended C frequency bands, are currently allocated to the fixed satellite service, through which the provision of services is carried out such as intra-corporate communications, dedicated data links and direct-to-home television, among others.

In this regard, it is important to take into account the use of the extended C band in the space-Earth segment, according to the National Table of Frequency Allocation in addition to the fixed satellite service, it is also allocated to the fixed and mobile services; thus, in due time, the assignment of the POGs with their respective associated extended C band, must be subject to the coordination necessary in order to reach a coexistence free from harmful interference with the operators of fixed networks operating currently on the same band under the coverage of one concession previously granted.

Likewise, it is clear out that if the POGs 113° West and 116.8° West in the extended Ku and extended C bands may have continental coverage, the service area coordinated with the MEXSAT113 KU EXT, MEXSAT113 L-CEXT-X, MEXSAT116.8 KU EXT and MEXSAT116.8 L-CEXT-X filings before the ITU comprises only the national territory. Nevertheless, such service area can be modified with the purpose to be extended to the total continental coverage according to the purposes which may convene to the licensee, upon the compliance of the relevant procedure of coordination which is provided in the RR.

Thus, the associated characteristics to such filings are as follows:

POG (*West)	Filings before the ITU	Commercial Nomenclature	Frequency Range (MHz)		Spectrum Quantity (MHz)	Service Type	Coverage
			space-Earth Segment	Earth-space Segment			
113.0	MEXSAT113 KU EXT	Extended Ku	11450–11700	13750-14000	500 (250 x 2)	Fixed satellite service	National territory
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116.8	MEXSAT113 L-CEXT-X	Extended C	3400-3700	6425-6725	600 (300 x 2)		
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116.8	MEXSAT116.8 KU EXT	Extended Ku	11450-11700	13750-14000	500 (250 x 2)		
	MEXSAT116.8 L-CEXT-X	Extended C	3400-3700	6425-6725	600 (300 x 2)		

Based on the aforementioned and founded on that provided by articles 6, 25, 27 and 28 of the Political Constitution of the United Mexican States; Sixth and Seventh Transitory of the “Decree upon which several provisions of articles 60, 70, 27, 28, 73, 78, 94 and 105 of the Political Constitution of the United Mexican States

are amended and added, in the matter of telecommunications”, published in the Official Gazette of the Federation the 11th of June 2013; 1, 2, 7, 10 fraction II, 11 fractions III and IV, 14, 15, 16 and 29 of the Federal Telecommunications Law; 3 and 4 and other applicable of the Regulation of Via Satellite Communication and 1, 8, 9 fractions I, II, VII, VIII and XI and 25 part A fraction V of the Organic Statute of the Federal Institute of Telecommunications, the Plenary of this Institute issues the following:

AGREEMENT

SOLE.- The Program on geostationary positions is approved for the following commercial use:

**“PROGRAM ON GEOSTATIONARY ORBITAL POSITIONS FOR COMMERCIAL USE, WHICH
PROCEDURE OF PUBLIC AUCTION WILL BE CARRIED OUT DURING THE YEAR 2014”
SPECIFICATIONS OF THE GEOSTATIONARY ORBITAL POSITIONS (POG)**

Frequency Range (MHz)

POG	Filing before the International Telecommunication Union	Commercial Nomenclature	space-Earth Segment	Earth-space Segment	Spectrum Quantity (MHz)
113.0° West	MEXSAT113 KU EXT	Extended Ku	11450-11700	13750-14000	500 (250 x 2)
	MEXSAT113 L-CEXT-X	Extended C	3400-3700	6425-6725	600 (300 x 2)
116.8° West	MEXSAT116.8 KU EXT	Extended Ku	11450-11700	13750-14000	500 (250 x 2)
	MEXSAT116.8 L-CEXT-X	Extended C	3400-3700	6425-6725	600 (300 x 2)

* The fix satellite service must be subject to that set forth in the Radio Regulations of the International Telecommunication Union and in the Bilateral and Multilateral Agreements which for such purpose have been entered into by the Government of the United Mexican States.

In the call published by the Federal Institute of Telecommunications for the public auction of the geostationary orbital positions mentioned above, the requirements and date of sale of the corresponding basis will be defined.

Likewise, this Program may be modified or added by the Federal Institute of Telecommunications, through the respective publication in the Official Gazette of the Federation.*.

TRANSITORY

SOLE.- This Agreement must be published in the Official Gazette of the Federation for the pertinent effects.

The President, **Gabriel Oswaldo Contreras Saldívar**.- Signature.- The Commissioners: **Luis Fernando Borjón Figueroa, Ernesto Estrada González, Adriana Sofía Labardini Insunza, María Elena Estavillo Flores, Mario Germán Fromow Rangel, Adolfo Cuevas Teja**.- Signatures.

This Agreement was approved by the Plenary of the Federal Institute of Telecommunications in its IV Ordinary Meeting held the 11th of December, 2013 upon unanimous voting of the Commissioner present, Gabriel Oswaldo Contreras Saldívar, Luis Fernando Borjón Figueroa, Ernesto Estrada González, Adriana Sofía Labardini Insunza, María Elena Estavillo Flores and Adolfo Cuevas Teja, based on the paragraphs nineteenth fractions I and III and twentieth of article 28 of the Decree upon which several provisions of the Political Constitution of the United Mexican States are reformed and added, in the matter of telecommunications, published in the Official Gazette of the Federation the 11th of June, 2013; as well as in articles 1, 2 and 11 of the Organic Statute of the Federal Institute of Telecommunications through Agreement P/IFT/111213/41.