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Before the  
**Federal Communications Commission**  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Satelites Mexicanos, S.A., DE C.V.

Petition for Declaratory Ruling

File No. SAT-PDR1999121400131

Received  
FEB 2 2000  
Satellite Policy Branch  
International Bureau

## Opposition of Telesat Canada

Telesat Canada ("Telesat"), by its attorneys, files this opposition in the above-captioned proceeding, which addresses Satelites Mexicanos, S.A., DE C.V.'s ("SatMex") request that the Commission include three Mexican-licensed satellites—Solidaridad 1, Solidaridad 2 and SatMex 5—on the United States' "Permitted Space Station" list.<sup>1</sup> That list identifies non-U.S.-licensed satellites approved to communicate with U.S. ALSAT earth stations.<sup>2</sup>

Telesat files this opposition to note that SatMex 5, one of the satellites proposed for inclusion on the Permitted Space Station list, is not yet internationally coordinated with Canada pursuant to the International Telecommunication Union's ("ITU") international Radio Regulations. According to Section 25.137(b) of the Commission's rules, entities filing a Petition

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<sup>1</sup> Public Notice, "Satellite Policy Branch Information Applications Accepted for Filing," DA No. 00-71, Report No. SAT-00034 (Jan. 14, 2000) (accepting for filing SatMex's Petition for Declaratory Ruling).

<sup>2</sup> *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States*, IB Docket No. 96-111, FCC 99-325 (First Order on Reconsideration) (Oct. 29, 1999) ("*DISCO II First Reconsideration*") (establishing the Permitted Space Station list).

for Declaratory Ruling for inclusion of a non-U.S. satellite on the U.S. Permitted Space Station list must "include the technical information specified in §§ 25.114(c)(5-11) and (c) (14)" unless "the international coordination process for the non-U.S. licensed space station has been completed."<sup>3</sup> In its petition for declaratory ruling, SatMex did not include the required technical information. Rather, SatMex stated that coordination of SatMex 5 with the United States has been completed and cited to three prior FCC earth station applications.<sup>4</sup> Each of these substantively identical applications asserts erroneously, at Exhibit I, that "[b]oth the international coordination process and the coordination process between the satellites and the United States have been completed" for SatMex 5.<sup>5</sup> As noted above, international coordination discussions with Canada have not yet concluded and thus SatMex's petition is substantively incomplete.

It is true that international coordination for the SatMex 5 satellite is well-underway. Canada and Mexico began discussions concerning SatMex 5 in April 1997. Since that first information sharing meeting, representatives of both countries and/or Telesat and SatMex have met eight times.<sup>6</sup> In May 1999, a new approach including coordination of all the Canadian and

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<sup>3</sup> 47 C.F.R. § 25.137(b); *see also*, *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Services in the United States*, 12 F.C.C. Rcd 24094, 24176 (Report and Order) (1997) ("DISCO II Order").

<sup>4</sup> *Letter to Thomas S. Tycz, Chief, Satellite and Radiocommunication Division, FCC, from Carmen Ochoa, General Counsel, Satelites Mexicanos S.A. DE C.V.* (Dec. 14, 1999).

<sup>5</sup> *See e.g.*, File Nos. SES-MOD-19990401-00537, SES-MOD-19990401-00539, SES-MOD-19990401-00544.

<sup>6</sup> Formal Bilateral Canada/Mexico meetings took place in October 1997 and May 1999. Technical Working Group Meetings were held in November 1997, December 1997, May 1998, October 1998, November 1999 and December 1999.

Mexican orbital positions was agreed and two meetings were held toward the end of 1999, in November and December, to implement that approach. At this time, however, a coordination agreement for SatMex 5 has not been reached and good faith discussions are on-going.

Telesat respectfully requests that SatMex 5 not be included on the Permitted Space Station list until the international coordination process is completed. Prior coordination of SatMex 5 between Canada and Mexico is particularly important because the footprints for SatMex 5 and Telesat's planned satellites in nearby Canadian positions would overlap both in Canada and the United States. Thus, unrestricted use of SatMex 5 in the United States prior to coordination with Canada could result in unacceptable interference to future users of Telesat's satellites and SatMex 5, including U.S. earth stations. Withholding placement of SatMex 5 on the Permitted Space Station list would be consistent with the FCC's previously expressed concern that inclusion of a satellite on the Permitted Space Station list not result in harmful interference.<sup>7</sup> The requirement in the FCC's rules that the international coordination process be completed or technical information submitted furthers this policy objective and should not be ignored here.

For the above reasons, Telesat requests that the FCC take note of the fact that coordination discussions for SatMex 5 between Mexico and Canada have not yet concluded and postpone inclusion of SatMex 5 on the space station list pending completion of the international coordination process.

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<sup>7</sup> See *DISCO II First Reconsideration*, ¶¶ 12 and 16 (expressly reserving the right to impose "operating conditions or constraints on earth stations accessing [non-U.S. satellites on the Permitted Space Station list] to ensure that operations will not cause harmful interference to other satellite systems" and to include such "conditions [ ] on that list").

Respectfully submitted,

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January 24, 2000

## CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of January, 2000, I caused copies of the foregoing  
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