

No. 10194

**ARGENTINA
and
SPAIN**

Agreement concerning films and film production (with exchange of notes). Signed at Buenos Aires on 28 August 1969

Authentic text: Spanish.

Registered by Argentina on 14 January 1970.

**ARGENTINE
et
ESPAGNE**

Accord en matière de relations cinématographiques (avec échange de notes). Signé à Buenos Aires le 28 août 1969

Texte authentique: espagnol.

Enregistré par l'Argentine le 14 janvier 1970.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN SPAIN AND ARGENTINA CONCERNING FILMS AND FILM PRODUCTION

The Government of the Argentine Republic and the Government of Spain, with a view to strengthening further the ties existing between their two countries, and given their common origin, language and culture, have decided to conclude an Agreement on Films and Film Production which will promote co-operation in the industrial as well as the artistic and intellectual fields.

For that purpose they have appointed as their Plenipotentiaries :

His Excellency Juan Carlos Onganía, President of the Argentine Republic :
His Excellency Juan B. Martín, Minister for Foreign Relations and Public Worship ;

His Excellency Francisco Franco Bahamonde, Head of the Spanish State, Generalissimo of the Armed Forces : His Excellency José María Alfaro y Polanco, Ambassador Extraordinary and Plenipotentiary to the Government of Argentina,

Who, having exchanged their full powers, found in good and due form, have agreed as follows :

TITLE I

EXCHANGE OF FILMS

Article 1

The High Contracting Parties shall promote the fullest possible exchange of films between the two countries for cultural and commercial purposes in accordance with the general regulations in force in each country.

At the same time, the competent authorities of Spain and Argentina agree to establish a special régime for the purpose of achieving their objective of promoting the exchange of films. The regulations constituting the said régime are set forth in the articles of this Agreement which follow.

Article 2

(I) On a basis of reciprocity, the competent authorities of Spain and Argentina shall regard full-length Argentine films in Spain and full-length Spanish

¹ Came into force on 28 August 1969 with retroactive effect from 1 March 1969, in accordance with article 31 of the Agreement and the provisions of the accompanying exchange of notes.

films in Argentina which are governed by the régime established by this Agreement as films of national origin.

(II) It shall not be mandatory to exhibit the Spanish films in Argentina governed by this régime, but every Argentine exhibitor may, by exhibiting them, fulfil his legal obligation to exhibit national films. Similarly, Argentine films shall be used by Spanish distributors and exhibitors to fulfil their legal obligation to distribute and exhibit national films, and shall be taken into account for purposes of granting dubbing permits (*baremo*) to their importers.

(III) In no case shall the aforementioned Spanish or Argentine films be entitled to the economic protection which the two Governments accord to their national films.

Article 3

(I) The quota for full-length films subject to the régime established in article 2 of this Agreement shall be 25 (twenty-five). This quota may be increased to a maximum of 30 (thirty) if the conditions specified in article 7 are met.

(II) The procedures for giving effect to this special régime for the exchange of films and for the distribution and exhibition of the films subject thereto shall be established in accordance with the measures of implementation described in the exchange of letters between the competent authorities of the two Governments.

Article 4

(I) Each Government shall take the necessary measures to ensure that every possible facility shall be granted for the importation into their respective territories of films originating in the other country on a basis of reciprocity of treatment.

(II) The full-length films regarded as being of national origin under this Agreement may be imported freely into the country where they are to be exhibited, and shall be exempt in Argentina and Spain from the payment of duties, fees, taxes and all other charges normally applied to foreign films.

Article 5

(I) Only cinematographic films produced in Argentina or Spain which have been duly authorized by the competent body in each country shall be considered to be covered by this Agreement.

(II) This Agreement does not apply to films co-produced with third countries in which the participation of either of the High Contracting Parties is less than the contributions of the other participants.

(III) The only prerequisite for exhibiting the Spanish and Argentine films covered by this Agreement in Argentina and Spain respectively shall be the exhibition permit issued by the agencies established for that purpose in each country.

Article 6

Under the terms of this Agreement, the free entry into Argentina and Spain of an unlimited number of short films shall be permitted.

Article 7

The quotas referred to in article 3 shall be increased automatically up to a limit of 30 (thirty) films in each of the countries, with an additional permit being issued for each Hispano-Argentine co-production in the country which is the majority co-producer. For films with equal participation, the co-producers shall agree on which country's quota shall be increased. The additional permit shall remain at the disposal of the co-producer of the other country originating the increased quota, who must use it for a film produced in that country and shall be allowed a period of one year from the date of approval of the co-production to exercise his right to exhibit the film in the importing country. If the right is not exercised within the one-year period, the use of the additional permit shall be subject to the régime governing the original quota.

TITLE II

CO-PRODUCTIONS

Article 8

(I) Co-produced films shall be treated as films of national origin by the authorities of the two countries, and may be exhibited in both countries without any restriction. They shall automatically enjoy the benefits granted under the regulations in force or those which may be enacted in either country during the period of validity of this Agreement.

(II) The benefits accorded by each country to its entirely national films and, in consequence, to co-produced films, shall accrue only to the co-producer of the country by which they are granted.

Article 9

In order to be recognized as co-productions for purposes of this Agreement, films must be based on scripts of international value and of a quality calculated to enhance the prestige of the Argentine and Spanish film industries. The competent authorities of the two countries shall be responsible for determining whether films are of sufficiently high quality, and whether their scripts possess the required characteristics and merit.

Article 10

(I) In order to qualify for the benefits of co-production, films must be undertaken by producers who have good technical organization, sound financial backing and professional standing recognized by the national authorities in their country.

(II) In order to encourage more ambitious co-productions, the High Contracting Parties agree that the cost of full-length films covered by this Agreement shall not be less than 8 million pesetas or 40 million pesos in national currency. These figures may be changed through an exchange of letters signed by the competent authorities of the two countries.

Article 11

The two Parties shall grant every facility for the travel and stay in their country of artists and technicians working on these films, and for the import and export of the material necessary for shooting and exhibition of co-produced films (raw film, technical equipment, costumes, sets and properties, publicity material, etc.).

Article 12

(I) Of each co-produced film, there must be one negative and one or more fine-grain prints (for duping).

(II) Each co-producer shall have ownership of the negative or duplicating print. The original negative shall be freely available to both producers.

(III) Where it is not technically feasible to have copies made in Argentina or Spain, the competent authorities of the two countries shall authorize them to be made in another country.

Article 13

As long as this Agreement is in force, an over-all balance shall be achieved with regard to majority and minority participation by Argentina and Spain in co-productions and with regard to the total contributions made to the films by the two countries.

Article 14

(I) Without prejudice to the over-all balance described in the preceding article, the respective contribution of the co-producers of the two countries to each film may vary between 30 per cent (thirty per cent) and 70 per cent (seventy per cent). Those contributions shall consist of the following :

- (a) Personnel;
- (b) Contributions of services and equipment;
- (c) Shooting location;
- (d) Financial contributions.

The technical and artistic contributions of the co-producers shall be established by regulations to be agreed between the competent authorities of the two countries. The financial contribution of a co-producer may not exceed 50 per cent (fifty per cent) of his total participation.

(II) The films must be made by directors, technicians and actors of Argentine or Spanish nationality. Each film must be directed by a single director, except in the case of "serial" films. The participation of an artistic supervisor or a person exercising similar functions shall not be permitted.

(III) As an exceptional measure, the participation of a director or performer of recognized international standing who is not a national of either of the two countries bound by this Agreement may be permitted with the prior agreement of the authorities of the co-producing countries.

(IV) As an exceptional measure, and by agreement between the competent authorities of the two countries, the participation of artists of recognized international standing from countries which have signed co-production agreements with Argentina and Spain may be permitted.

(V) Shooting, both of interior and exterior scenes, shall be done only in the territories of the two countries, except in special cases arising from the necessities of the plot and duly approved by the competent authorities of the two countries.

(VI) Co-production plans must be submitted for approval by the competent authorities of the two countries at least 50 (fifty) full calendar days before the date on which shooting is to start. The plans must include the film budget, the extent of participation of each of the co-producers, the technical and artistic equipment required, the agreed apportionment of earnings and markets, the contract concluded between the co-producers for carrying out the project and any other data necessary to study and evaluate the project.

(VII) After a plan has been approved by the competent authorities of the two countries, it may not be amended unless authorized by the said authorities.

Article 15

(I) Earnings from the exhibition of such films shall be shared by the co-producers of the participating countries in proportion to the percentage of the participation of each co-producer, or according to such other method as may be agreed upon for that purpose by the co-producers. Such apportionment shall be approved by the competent authorities of the two countries.

(II) Where the co-producers are unable to receive their proportional share of earnings from third countries, especially in the cases referred to in article 16 of this Agreement, all proceeds from the sale or exhibition of the films in such third countries shall be collected by the exporting co-producer, who shall transfer to the other co-producer his proportional share in the same currency as that in which it was collected or in the currency established by mutual agreement, with the approval of the competent authorities.

Article 16

(I) If a co-produced film is exported to a country where film imports are subject to quota restrictions, the film shall as a rule be charged against the quota of the country having majority financial participation.

(II) If the two countries have equal participation, the film shall be charged against the quota of the country having the better opportunities for export to the purchasing country, or, failing that, against the quota of the country where the greater part of the film has been shot.

(III) If the films of one of the two co-producing countries enjoy the privilege of entry into the importing country without restriction, that privilege shall be extended to co-produced films, which shall be given the same treatment as entirely national films of the country concerned.

(IV) If there is a geographical division of territories, and a co-produced film is exported to a country where the import of films is subject to quota restrictions, the film shall be charged against the quota of the country having the exhibition rights, unless that country has used up its quota, in which case the export may be charged against the quota of the other co-producing country.

Article 17

(I) Co-produced films shall be designated as "Hispano-Argentine co-production" or "Argentine-Spanish co-production", when exhibited commercially, at any artistic, cultural or technical screening and in international competitions,

and the designation shall appear in the credit titles. The designation used shall depend on which country has majority participation, if total markets are shared on a percentage basis, or on the territory where the film is shown, where the respective markets of the two co-producing countries have been allocated.

(II) This designation shall also appear in all advertising, announcements or communications concerning the presentation of the co-produced film.

Article 18

(I) In international competitions, co-produced films shall be entered by the country chosen by agreement between the co-producers with the approval of the competent authorities of the two countries.

(II) In the event of disagreement, the film shall be entered by the country having majority participation, or, in case of equality of participation, by the country of the director's nationality. If the director is not a national of either country, it shall be entered by the country in which most of the film was shot.

Article 19

The competent authorities of the two countries may authorize co-production of films of great international value by Argentina, Spain and third countries.

Article 20

Argentine and Spanish producers may agree to make paired co-productions, with each film of the pair being shot in a different country, i.e., one in Argentina and the other in Spain. Productions of a pair of film shot at alternate locations shall be governed by a special contract.

Article 21

The competent authorities of the two countries shall agree on the joint plan for production of each pair of films, and shall ensure that the two films are of comparable cost.

Article 22

In the co-productions referred to in article 20, minority participation shall be not less than 20 per cent (twenty per cent), and shall consist of the types of contribution referred to in article 14, paragraphs 1 (a), (b), and (c), including at

least two principal actors, who may or may not play leading roles, who habitually perform in the country of the minority co-producer. For each pair of films, the contribution of each co-producer shall be equalized so that their respective participations in the two films are balanced.

Article 23

Production of the second film shall begin not more than one year from the date on which the exhibition of the first film in either of the two co-producing countries has been officially approved. This one-year period shall not include the time during which the applications were being considered by the competent government authorities. Production of a film shall be considered to have begun when it has been duly authorized and at least two weeks of shooting have been completed.

The benefit of economic protection, or recovery of costs, for the first film shall be temporarily withheld from the majority co-producer until work on the second film has begun, at which time the said benefit shall be restored to the minority co-producer retroactively.

The competent government authorities of the two countries may extend the above-mentioned period by up to six months provided there are reasonable grounds for doing so.

Article 24

If the parties so request, and if there are sufficient grounds for doing so, the competent government authorities may grant authorization for the second film of a pair to be made by other producers. In that case, the substitute producer(s) shall complete production of the second film under the same conditions as those that the co-producers of the first film would have had to fulfil under the provisions of this Agreement.

Article 25

In the co-productions mentioned in article 20, the cash profits from the exhibition of each film anywhere in the world, including the two co-producing countries, shall be apportioned strictly on the basis of their respective contributions, according to the "pool" system. If later experience so dictates, the competent authorities may permit the application of another system through an exchange of letters. Unless there is an agreement to the contrary, each co-producer shall be responsible for the management of sales in his own country. The co-producers shall make arrangements for the management of sales in third countries.

TITLE III

GENERAL PROVISIONS

Article 26

On a basis of reciprocity and for purposes of the production of entirely national films and films co-produced with third countries, the Argentine and Spanish authorities shall regard as their own nationals artists, technicians and other professionals associated with the creation of films who are nationals of the other country but who habitually work in either country.

Article 27

For purposes of exhibiting films in third countries, the Argentine authorities shall consider entirely Spanish films as Argentine productions and the Spanish authorities shall consider entirely Argentine films as Spanish productions.

Article 28

The Dirección General de Cultura Popular y Espectáculos of Spain and the Instituto Nacional de Cinematografía of the Argentine Republic shall be responsible for carrying out this agreement and shall establish modalities for its implementation.

Article 29

A Joint Commission composed of representatives of the High Contracting Parties shall meet once a year, alternately in Argentina and Spain, preferably on the occasion of the International Film Festivals of Mar del Plata and San Sebastián, for the purpose of verifying compliance with, or proposing changes in, this Agreement. These meetings may be held at any time and place at the request of either of the Parties.

Article 30

The High Contracting Parties undertake to transmit to each other information concerning the exchange of films and co-productions and the exhibition of such films within the terms of this Agreement.

Article 31

This Agreement shall enter into force on the date of its signature and shall have effect retroactively from the first day of March of the year one thousand nine hundred and sixty-nine until the thirty-first day of December of the year one thousand nine hundred and seventy. It shall be automatically extended for a further period of one year unless denounced by either of the High Contracting Parties on three months' notice.

IN WITNESS WHEREOF, the aforementioned Plenipotentiaries have signed this Agreement in two equally authentic copies, in the city of Buenos Aires, on the twenty-eighth day of August, one thousand nine hundred and sixty-nine and have thereto affixed their seals.

For the Government
of the Argentine Republic :

Juan B. MARTÍN
Minister for Foreign Relations
and Public Worship

[SEAL]

For the Government of Spain :

José María ALFARO Y POLANCO
Ambassador

[SEAL]

EXCHANGE OF NOTES

I

SPANISH EMBASSY

Sir,

I have the pleasure of transmitting to you herewith a note concerning the Agreement between Spain and Argentina concerning Films and Film Production, signed on today's date, in which, pursuant to that Agreement, I am pleased, on behalf of my Government, to inform you of the following :

1. The Spanish film authorities, under article 3, paragraph (2) of the Agreement between Spain and Argentina concerning Films and Film Production, signed on today's date, agree that, in every calendar year including the current year, five full-length Argentine films shall enjoy the distribution and exhibition benefits specifically accorded under Spanish law to 'special interest' Spanish films. Those benefits are described in article 37, paragraphs (b) and (c) of the Order of 19 August 1964, which states that such films shall be assigned double value for purposes of granting dubbing permits to their importers and determining the Spanish screening quota as calculated by the number of days each film is screened, which is at present one Spanish film for every three foreign films.

These films shall be selected by the Instituto Nacional de Cinematografía of the Argentine Republic. In that connexion, it is our hope that films will be chosen from among those of distinguished merit, such as would be required in Spain for the granting of those benefits.

2. In order to enhance the advantages accruing to Argentine productions under article 2, paragraph (2) of the Agreement signed on today's date, the Spanish authorities agree that, while the Agreement is in force, another five Argentine films shall be counted each year for the purposes mentioned in that article (*baremo*), provided that they make up one third of the exhibition 'minimum' referred to in article 26 of the Order of 19 August 1964 and supplementary provisions. These five films shall also be selected by the Instituto Nacional de Cinematografía of the Argentine Republic."

If the proposals contained in the present note are acceptable to the Government of the Argentine Republic, I have the honour to propose that this note and your reply confirming your Government's acceptance shall constitute an Agreement between our Governments, which would enter into force retroactively from 1 March 1969.

Accept, Sir, etc.

José María ALFARO
Ambassador of Spain

His Excellency Dr. Juan B. Martín
Minister for Foreign Relations and Public Worship
Buenos Aires

II

Buenos Aires, 28 August 1969

Sir,

I have the honour to acknowledge receipt of your note of today's date, which reads as follows :

[See note I]

I have the pleasure, on behalf of the Government of the Argentine Republic, of confirming my acceptance of the contents of above note. Consequently, your note and this reply constitute part of the Agreement between Spain and Argentina concerning Films and Film Production signed on today's date.

Accept, Sir, etc.

Juan B. MARTÍN
Minister for Foreign Relations and Public Worship

His Excellency José María Alfaro y Polanco
Ambassador Extraordinary and Plenipotentiary of Spain
S/D
