

**No. 14137**

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**BRAZIL  
and  
ITALY**

**Agreement on film co-production (with exchanges of notes). Signed at Rome on 9 November 1970**

*Authentic texts: Portuguese and Italian.*

*Registered by Brazil on 8 August 1975.*

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**BRÉSIL  
et  
ITALIE**

**Accord de coproduction cinématographique (avec échanges de notes). Signé à Rome le 9 novembre 1970**

*Textes authentiques : portugais et italien.*

*Enregistré par le Brésil le 8 août 1975.*

[TRANSLATION — TRADUCTION]

AGREEMENT<sup>1</sup> ON FILM CO-PRODUCTION BETWEEN THE  
GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL  
AND THE GOVERNMENT OF THE ITALIAN REPUBLIC

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The Government of the Federative Republic of Brazil and the Government of the Italian Republic, considering that their respective film industries will benefit from closer co-operation in the production of quality films and with a view to disseminating the cultural traditions of the two countries and facilitating the expansion of economic relations between them, have agreed as follows:

*Article 1.* Full-length co-production films covered by this Agreement shall be treated as films of national origin by the two countries. They shall benefit from the privileges granted under such provisions as are at present or may hereafter be in force in either country.

The privileges shall accrue only to the producers of the country by which they are granted.

*Article 2.* 1. Producers shall employ national personnel and technical facilities in fulfilling the technical, artistic and financial conditions required for co-productions.

2. The admission of a producer to participation in a co-production shall be governed by the legal provisions in force in the producer's own country.

3. Brazilian nationals habitually resident and working in Italy and Italian nationals habitually resident and working in Brazil may take part in co-productions on behalf of the country of which they are nationals.

4. The participation of actors who are not nationals of either co-producing country shall be permitted only as an exception and with the agreement of the competent authorities of the two countries.

5. Location shooting in a country not participating in a co-production may be permitted in order to meet the requirements of the scenario or the setting.

*Article 3.* Each co-production film shall comprise two negatives or one negative and one duplicate.

Each co-producer shall be the owner of a negative or a duplicate.

Co-production films shall be made in Portuguese or Italian.

*Article 4.* Within the framework of national legislation, every facility shall be granted in connexion with the travel and stay of the artistic and technical personnel working on the films and in connexion with the temporary and permanent import and export of the necessary material for their production and exhibition (raw stock, technical material, costumes, properties and advertising material) as well as for the currency transfers needed for payments connected with their production in accordance with the relevant arrangements in force between the two countries.

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<sup>1</sup> Came into force on 4 July 1974 by the exchange of the instruments of ratification, which took place at Brasilia, in accordance with article 15 (1).

*Article 5.* 1. Minor participation in each film shall not be less than 30 per cent of the cost of its production.

2. (a) The contribution of the minor co-producer must take the form of effective technical and artistic participation, which shall include at least one writer, one technician, one actor cast in a leading role and one actor cast in a supporting role.

(b) A director from one of the Contracting Parties shall be employed for each film.

3. In the case of films of special artistic or cultural merit or “spectaculars”, the requirements laid down in paragraphs 1 and 2 (a) of this article may be waived by the authorities of the Contracting Parties; the cost of films in the latter category must significantly be higher than the average film production cost in the majority country.

Participation by the minor co-producer shall not, however, be less than 20 per cent of the cost of the film.

4. Artistic, technical and financial participation in co-productions must, taken as a whole, be balanced.

*Article 6.* 1. The authorities of the two countries shall encourage the co-production of films of particular promise artistically, as spectacles, or financially by producers from the two Contracting Parties and from countries with which they both have co-production agreements. The conditions for the treatment of these films as co-production films shall be examined separately in each case.

2. The Joint Commission referred to in article 14 may determine each year the minimum cost figure for tripartite or multilateral co-production films.

3. The obligation to make a technical and artistic contribution may, subject to evaluation on a case-by-case basis, be waived in the case of a minor co-producer whose participation is 20 per cent of the cost.

*Article 7.* The balance in the over-all financial, artistic and technical participation by the co-producing countries shall be reviewed each year by the Joint Commission.

The total amount of the contributions in currency owed by the co-producers of the two countries shall also be verified each year by the Joint Commission with a view to ensuring that a balance exists between the two countries. If an imbalance is found to exist, it shall be offset in the course of the following year.

*Article 8.* Application for the grant of co-production privileges to a film shall be made to the competent authorities, together with the film co-production contract and the treatment, at least 30 days before filming begins.

*Article 9.* The balance due on the contribution of the minor co-producer shall be remitted to the major co-producer within 60 days of delivery of all the material needed to prepare the version in the language of the country having minor participation.

*Article 10.* 1. Receipts shall be divided between the co-producers, in so far as possible, in proportion to their shares in the cost of production.

2. Contract provisions for the division of receipts and markets between the co-producers shall require the approval of the competent authorities of the two countries.

*Article 11.* 1. If a co-production 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 of the major co-producer.

2. If the films of one of two Contracting Parties can enter the importing country without restriction, the benefit of this arrangement shall apply to co-production films.

3. Films in which the co-producers have participated on an equal basis shall be exported as products of the country having the better export opportunities.

*Article 12.* The credit titles for co-production films shall include a separate frame containing, in addition to the names of the producers, the phrases "Brazilian-Italian co-production" or "Italo-Brazilian co-production".

This phrase shall also be included in advertising and at artistic and cultural events, particularly international festivals.

In the event of disagreement between the co-producers, a film shall be entered at international festivals by the country of the major co-producer. A film in which the two countries have participated on an equal basis shall be entered by the country of which the director of the film is a national.

*Article 13.* The National Film Institute in Brazil and the Ministry of Tourism and Entertainment in Italy shall be the competent authorities for the implementation of this Agreement.

The procedural rules applicable to co-productions shall be jointly determined.

*Article 14.* 1. During the period of validity of this Agreement, a Joint Commission, meeting alternately in Brazil and in Italy, shall be convened each year.

The Brazilian delegation shall be presided over by a representative of the National Film Institute.

The Italian delegation shall be presided over by a representative of the Ministry of Tourism and Entertainment.

They shall be assisted by officials and experts.

2. The duties of the Joint Commission, in addition to those specified in articles 6 and 7 above, shall be to examine and resolve any difficulties arising out of the application of this Agreement, to consider possible amendments and improvements thereto and to make proposals concerning its renewal.

3. Either Contracting Party may for valid reasons request the convening of an extraordinary session of the Joint Commission. In the event that the film legislation of one of the two countries is amended, such a session may be convened within a period of one month.

*Article 15.* 1. This Agreement shall enter into force on the date of the exchange of the instruments of ratification and shall remain in force for a period of one year.

2. This Agreement shall be automatically renewed from year to year unless one of the Contracting Parties denounces it by giving written notice to that effect at least three months before the date of expiry.

DONE at Rome on 9 November 1970, in duplicate in the Portuguese and Italian languages, both texts being equally authentic.

For the Government  
of the Federative Republic  
of Brazil:

CARLOS MARTINS THOMPSON FLORES

For the Government  
of the Italian Republic:

FRANCO EVANGELISTI

## EXCHANGE OF NOTES

*1 a*

Rome, 9 November 1970

Sir,

With reference to the Agreement on film co-production concluded today between the Government of the Italian Republic and the Government of the Federative Republic of Brazil, I have the honour to propose that the following rules should be observed in implementing the Agreement itself:

1. Special importance is attached to the provision of article 5 of the Agreement on assigning a leading role to an actor from the country of the minor co-producer.

2. In the implementation of article 5, paragraph 3, of the Agreement, the decisive factor with respect to the artistic and cultural merit of a film is the evaluation of the competent authorities of the country of the major co-producer.

In the case of a film with equal participation (50-50), this evaluation shall be made jointly by the authorities of the two countries.

3. The competent authorities of the two countries shall take care to ensure that the balance of co-productions is maintained.

If necessary, they shall hold meetings every six months or even at shorter intervals.

4. The terms of article 6, paragraph 3, of the Agreement shall require the employment, within the framework of each minor participation of 20 per cent, of two of the following: an author, an actor cast in a leading role and a qualified technician. Under the terms of the same paragraph, a co-production film cannot be recognized as being of Italian nationality from the standpoint of, and for purposes of, the first film directive of the Council of the European Economic Community of 15 October 1963 if the artistic and technical contributions of the co-producer or co-producers having the nationality of a State member of the Community are in aggregate less than 30 per cent.

5. The negative of a co-production film shall be developed in the country of the major co-producer, and the copies to be used for exhibition in the said country shall be printed there. The copies to be used for exhibition of the film in the country of the minor co-producer shall be printed in that country. Any departure from this principle on technical grounds must be agreed upon in each case by the authorities of the two countries.

In the case of a film to be printed in Technicolor the copies of which are obtained from a Technicolor master print, it shall be sufficient that each producer is the owner of one negative or one master colour positive.

6. In estimating the costs of film co-productions, account shall also be taken of the costs of preparing the various versions of the co-producer countries.

7. The balance due in respect of minor participation may be adjusted between the co-producers through compensation from the proceeds or from sales in third countries if such compensation is effected within the period prescribed for fulfilment of the total contribution of the minor co-producer.

Transfers of shares of economic exploitation rights of films between co-producers of the two countries shall not be permitted.

8. As regards the division of markets referred to in article 10, paragraph 2, of the Agreement, the Italian market shall be reserved to the Italian co-producer and the Brazilian market to the Brazilian co-producer, while proceeds from other countries shall be divided in proportion to participation.

9. The balance provided for in article 7 of the Agreement shall be reviewed for the first time at the end of the first year of the period of validity of the Agreement.

I should be grateful if you would inform me of the Brazilian Government's agreement to the foregoing.

Finally, with reference to article 2 of the Agreement, I deem it appropriate to point out that Italian Act No. 1213 of 4 November 1965 provides, *inter alia*:

- (a) In article 4, that actors who are nationals of a country which is not a member of the European Economic Community and who have resided in Italy for more than three years may be treated as nationals for purposes of employment in the film industry. In general, the employment of nationals of States members of EEC is governed by EEC Council Rule No. 38 of 25 March 1964.
- (b) In article 19, paragraph 3, that recognition of a co-production lapses *ipso jure* if the minor co-producer does not remit the balance of his participation within 60 days of delivery of the material, as provided in article 9 of the Agreement; in that case, the film also loses Italian nationality if it does not meet all the conditions laid down in articles 4 and 10 of the above-mentioned Act.
- (c) In article 19, paragraph 6, that the number of films which each Italian firm may make in co-production with a minor share may not exceed twice the number of films made by the same firm, alone or in co-production with a major share, and recognized as national films over a period not exceeding two years.

Please accept, Sir, etc.

FRANCO EVANGELISTI

His Excellency Mr. Carlos Martins Thompson Flores  
Ambassador of Brazil

II a

Rome, 9 November 1970

Sir,

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

[See note Ia]

I have the honour to inform you that the Brazilian Government is in agreement with the foregoing and takes note of the above provisions.

I take this opportunity, etc.

CARLOS MARTINS THOMPSON FLORES

His Excellency Deputy Franco Evangelisti  
Under-Secretary of State for Tourism and Entertainment

*I b*

Rome, 9 November 1970

Sir,

With reference to article 13 of the Agreement on film co-production concluded today between the Government of the Italian Republic and the Government of the Federative Republic of Brazil, I have the honour to propose that the following procedural rules for co-production should be established:

Applications for the grant of film co-production privileges must be submitted in Italy to the Ministry of Tourism and Entertainment and in Brazil to the National Film Institute at least 30 days before filming begins, as provided in article 8 of the Agreement.

The complete documentation for the grant of privileges, which must reach the competent authorities of the two countries before filming begins, must include the following, drawn up in the national language of each of the countries:

- I) The scenario and dialogue of the film;
- II) A document establishing that possession of copyright for the film adaptation was legally acquired or, failing that, a valid option;
- III) The co-production contract (one original signed and initialled and three certified true copies) concluded, subject to approval by the competent authorities of the two countries. This document must indicate:

- 1) The title of the film;
- 2) The name of the author of the story, or of the adapter in the case of a story taken from a literary work;
- 3) The name of the director (an escape clause may be included to provide for his possible replacement);
- 4) The total cost;
- 5) The cost of the contributions by the co-producers;
- 6) The division of receipts and markets;
- 7) The undertaking of the co-producers to share the burden of possible cost overruns or to benefit from savings in the cost of the film in proportion to their respective contributions. Liability for cost overruns may be limited to 30 per cent of the cost of the film;
- 8) The contract must contain a clause providing that admission to privileges under the Agreement does not require the competent authorities of the two countries to authorize public showing.

Another clause must accordingly specify the terms of the financial settlement between the parties in the event that the competent authorities of either country fail to approve the application for privileges after examining the complete documentation. A similar clause must also provide for the possibility that the competent authorities fail to authorize showing of the film in either of the two countries or its export.

There must also be a special clause regulating relations between the co-producers in the event that payments of financial contributions are not made in accordance with the provisions of article 9 of the Agreement;

- 9) The tentative date for the start of filming;
- IV) The financial arrangements;
- V) A list of the technical and artistic elements, showing their nationality and the roles assigned to the actors;
- VI) The work schedule.

The competent authorities of the two countries may request any necessary additional documents and information.

Mutually agreed changes, including replacement of one of the co-producers, may be made in the co-production contract originally submitted; they shall be subject to approval by the competent authorities of the two countries before the film is completed.

Replacement of a co-producer shall be permitted only in exceptional cases for reasons recognized as valid by the competent authorities of the two countries, which shall inform each other of their decision, attaching a copy of the documentation.

Co-producers may be informed of the decision on applications only after agreement is reached between the competent authorities of the two countries.

I should be grateful if you would inform me of the Brazilian Government's agreement to the foregoing.

Please accept, Sir, etc.

FRANCO EVANGELISTI

His Excellency Mr. Carlos Martins Thompson Flores  
Ambassador of Brazil

II b

Rome, 9 November 1970

Sir,

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

[*See note Ib*]

I have the honour to inform you that the Brazilian Government is in full agreement with the foregoing.

I take this opportunity, etc.

CARLOS MARTINS THOMPSON FLORES

His Excellency Deputy Franco Evangelisti  
Under-Secretary of State for Tourism and Entertainment



I c

Rome, 9 November 1970

Sir,

In the course of the conversation on film relations between our two countries, the possibility was also considered that the major co-producer in a co-production might associate himself with a producer of a third country even though the third country in question and the country of the minor co-producer were not bound by a co-production agreement.

It is understood that in such cases the rights of the minor co-producer under the Agreement on co-production concluded today shall not be impaired.

I should be grateful if you would inform me of the Brazilian Government's agreement to the foregoing.

Please accept, Sir, etc.

FRANCO EVANGELISTI

His Excellency Mr. Carlos Martins Thompson Flores  
Ambassador of Brazil

II c

Rome, 9 November 1970

Sir,

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

[See note I c]

I have the honour to inform you that the Brazilian Government is in full agreement with the foregoing.

I take this opportunity, etc.

CARLOS MARTINS THOMPSON FLORES

His Excellency Deputy Franco Evangelisti  
Under-Secretary of State for Tourism and Entertainment