

No. 26601

**SPAIN
and
FRANCE**

**Agreement on cinematographic relations (with annex).
Signed at Paris on 25 March 1988**

Authentic text: Spanish and French.

Registered by Spain on 31 May 1989.

**ESPAGNE
et
FRANCE**

**Accord sur les relations cinématographiques (avec annexe).
Signé à Paris le 25 mars 1988**

Textes authentiques : espagnol et français.

Enregistré par l'Espagne le 31 mai 1989.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ ON CINEMATOGRAPHIC RELATIONS BETWEEN
THE KINGDOM OF SPAIN AND THE FRENCH REPUBLIC

The Kingdom of Spain and the French Republic,

Aware that co-productions can contribute to the development of their film industries and to the growth of economic and cultural exchanges between the two countries,

Intending to encourage the development of cinematographic cooperation between France and Spain,

Have agreed as follows:

Article I

For the purposes of this Agreement, the term “film” includes cinematographic works of any length and using any technical medium, including fiction, animated productions and documentaries, produced in accordance with existing provisions pertaining to the cinematographic industry in each country, for primary distribution to theatres in both countries.

Films co-produced and qualified under this Agreement shall be fully entitled to the benefits resulting from the provisions concerning the film industry which are in force or from those which may be enacted by each country.

These benefits accrue solely to the producer of the country that grants them.

Films to be co-produced by the two countries must be approved by both countries, after consultation between the competent authorities:

- In Spain: By the Director-General of the Instituto de la Cinematografía y de las Artes Audiovisuales;
- In France: By the Director-General of the Centre National de la Cinématographie.

Article II

In order to qualify for the benefits of co-production, films must be undertaken by producers whom the competent national authorities mentioned in article I consider to have good technical organization, sound financial backing and recognized professional standing.

Article III

Applications for co-production privileges submitted by producers from each of the two countries must, in order to be approved, be drawn up in accordance with the Application Procedure set forth in the annex to this Agreement, which forms an integral part thereof.

¹ Came into force on 20 March 1989, the date on which the Parties notified each other (on 9 September 1988 and 20 March 1989) of the completion of the required formalities, in accordance with article XVII.

Such approval shall be irrevocable unless the initial commitments in artistic, economic and technical matters are not observed.

Article IV

The proportion of the respective contributions of the co-producers from the two countries may vary from 20 (twenty) to 80 (eighty) per cent for each film.

The minority co-producer shall be required to make an effective technical and creative contribution. In principle, the contribution of the minority co-producer in creative staff, technicians and actors shall be in proportion to his investment. In exceptional circumstances, departures herefrom may be made through agreement between the competent authorities of both countries.

Creative staff includes those who act in an authorial capacity (the author of any pre-existing work, writer of the script or screen adaptation, director, music composer), as well as the chief editor, the director of photography and the art director. The contribution of each member of the creative staff shall be considered individually. In principle, each country's contribution must include the participation of at least two of the above-mentioned creative staff (or only one in the case of the director), one performer in a leading role and one performer in a supporting role.

Article V

The films must be made by French or Spanish directors or directors who are residents of France or residents of Spain, with the participation of technicians and performers who are of French or Spanish nationality or residents of France or residents of Spain.

If the film so requires, the participation of performers and technicians other than those mentioned in the preceding paragraph may be permitted by agreement between the competent authorities of the two countries. This option also applies to directors.

When all or part of the film is shot in a third country, preference shall be given to production staff from the two countries parties to this Agreement.

Article VI

The two Contracting Parties are interested in the co-production of films meeting the international standards subscribed to by France and Spain with other countries to which either of those Parties is bound by co-production agreements.

The eligibility of such films shall be considered on a case-by-case basis.

No minority contribution to such films shall be less than 20 (twenty) per cent of the budget, unless an exception is granted.

Article VII

A balance must be achieved with respect both to participation by creative staff, technicians and performers and to the financial and technical resources of the two countries (studios and laboratories).

The Joint Commission referred to in article XVI of this Agreement shall determine whether such a balance has been achieved and shall decide what measures are necessary to correct any imbalance.

Article VIII

Studio scenes shall be shot and sound and laboratory work shall be carried out in accordance with the following provisions:

Studios scenes shall be shot preferably in the country of the majority co-producer.

In every case, each co-producer shall be a co-owner of the original negative (image and sound), regardless of where the negative is stored.

In every case, each co-producer shall be entitled to an inter-negative in his own language. If one of the co-producers waives this right, the negative shall be stored at a place mutually agreed upon by the co-producers.

In principle, the negative shall be developed at a laboratory in the majority country, where the prints intended for use in that country shall also be made. The prints intended for use in the minority country shall be made at a laboratory in that country.

Article IX

Subject to legislation and regulations in force, each Contracting Party shall facilitate the entry into and temporary residence in its territory of the creative and technical personnel of the other Party.

They shall similarly permit the temporary entry and re-export of any film equipment necessary for the production of films under this Agreement.

Article X

Contract clauses providing for the sharing of markets and receipts between co-producers shall be subject to approval by the competent authorities of both countries. Such sharing shall in principle be proportional to the respective contributions of the co-producers.

Article XI

When a co-produced film is exported to a country that has quota regulations:

(a) The film shall, in principle, be included in the quota of the country of the majority co-producer.

(b) If the respective contributions of the co-producers are equal, the film shall be included in the quota of the country that has the best opportunity of arranging for its export.

(c) If any difficulties arise, the film shall be included in the quota of the country of which the director is a national.

(d) If one of the co-producing countries enjoys unrestricted entry of its films into the importing country, co-produced works shall, like national films, be fully entitled to such unrestricted entry.

Article XII

A co-produced film shall, when shown, be identified as a "HISPANO-FRENCH CO-PRODUCTION" or a "FRANCO-SPANISH CO-PRODUCTION".

Such identification shall appear in a separate credit title, in all commercial advertising, in promotional material for cinematographic works and at the time of the film's release.

Article XIII

Unless otherwise decided by the co-producers, co-produced films shall be entered in international festivals by the country of the majority co-producer or, in the case of films produced on the basis of equal financial contributions, by the country of which the director is a national.

Article XIV

As an exception to the foregoing provisions of this Agreement, the benefits of bipartite co-production may be granted each year to four films, produced in each of the two countries, which meet the following conditions:

(1) They must be of recognized technical quality and artistic value, as determined by the competent authorities in France and Spain.

(2) Their cost must be equal to or greater than 5 million French francs or 100 million pesetas.

(3) The participation of the minority co-producer may be confined to a financial investment, in accordance with the co-production contract, but may not be less than 20 per cent of the total production cost.

(4) The films must meet the conditions stipulated for the granting of nationality by the legislation in force in the country of the majority co-producer.

(5) Their co-production contracts must include provisions concerning the sharing of receipts.

The benefits of bipartite co-production shall only be granted to each of these works upon authorization, given on a case-by-case basis, by the competent French and Spanish authorities.

In such cases, the benefits of bipartite co-production shall not become effective in the country of the minority co-producer until another film for which that country is the majority co-producer has been granted the benefits of co-production under the terms of this Agreement by the competent French and Spanish authorities.

France and Spain shall alternate as majority co-producer of films which are granted benefits under the provisions of this article.

There must be an overall balance in the financial contributions of the two Parties to the total number of such films.

If, in the course of a given year, the maximum number of films which meet the aforementioned conditions is reached, a Joint Commission shall meet to consider whether an overall financial balance has been achieved and whether other cinematographic works may be granted the benefits of co-production.

Article XV

No restrictions shall be placed on the import, distribution and showing of French films in Spain or Spanish films in France other than those contained in the legislation and regulations in force in the two countries.

Moreover, the Contracting Parties reaffirm their desire to foster by all available means the distribution in each country of films from the other country.

Article XVI

The competent authorities of the two countries shall examine the implementation of this Agreement as necessary in order to resolve any difficulties arising out of its application. They shall consider possible amendments with a view to developing cinematographic cooperation in the best interests of both countries.

The Joint Commission on cinematographic cooperation shall meet alternately in the two countries, in principle once every two years. However, it may be convened for special sessions at the request of one of the competent authorities, particularly in the case of major amendments to the legislation or the regulations governing the film industry, or when the application of this Agreement presents serious difficulties.

Specifically, it shall consider whether a numerical and percentage balance has been achieved with respect to the co-productions.

Article XVII

This Agreement shall enter into force as from the date on which both Parties notify each other of the completion of the formalities required for this purpose. It shall be valid for a period of one year from the date of its entry into force. It shall be renewed automatically for successive one-year periods unless it is denounced by one of the Parties three months before the expiration of any such period.

IN WITNESS WHEREOF the undersigned, being duly authorized by their Governments, have signed this Agreement at Paris, on 25 March 1988, in two originals in the Spanish and French languages, both texts being equally authentic.

For the Kingdom of Spain:

[Signed]

JAVIER SOLANA MADARIAGA
Minister
of Culture

For the French Republic:

[Signed]

FRANÇOIS LÉOTARD
Minister
of Culture and Communication

ANNEX

APPLICATION PROCEDURE

In order to benefit from the provisions of the Agreement, the producers from each country shall include with their co-production applications, submitted to their respective authorities one month before the shooting of the film is to begin, a set of documents including:

- A document concerning the acquisition of copyright for the use of the work;
- A detailed screenplay;
- A list of the technical and artistic contributions to be made by the two countries;
- A detailed cost estimate and financing plan;
- A production schedule for the film;
- A co-production contract concluded between the co-producing companies.

The competent authorities of the two countries shall exchange the above-mentioned documentation as soon as they have received it. The authorities of the country having the minority financial participation shall give their consent only after receiving the views of the authorities of the country having the majority financial participation.