

No. 29505

**FEDERAL REPUBLIC OF GERMANY
and
PORTUGAL**

Agreement concerning relations in the field of cinematography (with annex). Signed at Lisbon on 29 April 1988

Authentic texts: German and Portuguese.

Registered by Germany on 28 January 1993

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
PORTUGAL**

Accord relatif aux relations dans le domaine cinématographique (avec annexe). Signé à Lisbonne le 29 avril 1988

Textes authentiques : allemand et portugais.

Enregistré par l'Allemagne le 28 janvier 1993.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FEDERAL
REPUBLIC OF GERMANY AND THE GOVERNMENT OF THE
PORTUGUESE REPUBLIC CONCERNING RELATIONS IN THE
FIELD OF CINEMATOGRAPHY

The Government of the Federal Republic of Germany and the Government of the Portuguese Republic,

Anxious to promote cooperation in the field of cinematography,

Desiring to encourage the co-production of films likely to promote film production in the two countries,

Have agreed as follows:

CO-PRODUCTION

Article 1

The Contracting Parties shall treat films co-produced by producers of both countries in accordance with the provisions of this Agreement within the framework of their respective national legislation.

Article 2

(1) Films co-produced under this Agreement shall be regarded as national films.

(2) Co-producers shall receive such subsidies and other financial benefits as are granted in the territory of a Contracting Party under its legislation.

(3) Co-productions to which this Agreement is to apply shall be subject to mutually agreed approval before the start of shooting by the competent authorities of the two Contracting Parties: the competent authority in the Federal Republic of Germany shall be the Bundesamt für Wirtschaft (Federal Office for Industry and Commerce), and in Portugal the Instituto Português do Cinema (Portuguese Institute for the Cinema).

(4) Approval shall be subject to the appropriate implementation of the co-production project.

Article 3

The privileges available for co-productions shall be granted to producers who have a good technical and financial organization and adequate professional qualifications.

¹ Came into force on 17 November 1989, i.e., 30 days after the date of receipt of the last of the notifications by which the Parties had informed each other of the completion of the required constitutional procedures, in accordance with article 15 (1).

Article 4

(1) Participation by the co-producers shall consist of financial, artistic and technical contributions. The artistic and technical contributions of each co-producer shall be in proportion to his financial contribution.

(2) The share of the minority co-producer in the costs of production of the film shall as a rule be at least 30 per cent.

(3) In exceptional cases, a minimum financial participation of 20 per cent may be accepted if the film is of particular importance to the two countries and the production costs are higher than average.

Article 5

(1) The participants in the making of the film must, in the case of the Federal Republic of Germany, be German nationals or belong to the German cultural community and have their permanent residence in the Federal Republic of Germany; in the case of the Portuguese Republic, they must be Portuguese nationals or have a residence permit for the Portuguese Republic. If, in accordance with these provisions, persons can be classified as being from both States, the co-producers shall agree upon their classification. If no agreement is reached, these persons shall be classified as being from the State of the co-producer to whom they are under a contractual obligation.

(2) The artistic and technical participation by the co-producer making the minority financial contribution shall include at least one scriptwriter or adaptor, one assistant director or other important artistic or technical member of the team and one actor in a leading role and an important role, or two actors in important roles and one actor in a supporting role, all being nationals of the minority co-producer country. If the minority co-producer provides the director, one actor in an important role for the country of minority financial contribution shall then be sufficient.

(3) Exceptionally, the participation of performers or writers who do not fulfil the requirements of paragraph (1) of this article may, having regard to the requirements of the film, be permitted with the agreement of the competent authorities of the Contracting Parties.

(4) In so far as the technical requirements are met, laboratory work and sound processing (mixing, dubbing, etc.) shall be carried out within the area of validity of this Agreement. In the case of location shooting in third countries, the relevant part of the negative may be developed there and a master copy made. A balance shall be sought in the use of the technical facilities of the Contracting Parties.

(5) In so far as the technical requirements are met, studio shooting should be carried out in studios that are within the area of validity of this Agreement.

(6) (a) Each producer shall be a part owner of the original negative (picture and sound), shall have free access to it and shall be entitled to a duplicate negative in his own language version. The consent of both producers shall be required for the production of a duplicate negative in a language other than those of the Contracting Parties.

(b) An original or dubbed version in German or in Portuguese shall be made from the final version of the film, if the script so requires.

Article 6

(1) Receipts shall as a rule be allocated in proportion to the financial contribution of each co-producer. This may be achieved *inter alia* through a division of the territories and areas of distribution. The size of the markets of the Contracting Parties shall be taken into account.

(2) The co-producers shall agree on rules for international sales.

(3) In general, a co-produced film shall be shown at film festivals as an entry of the majority co-producer or of the co-producer who provides the director. By mutual agreement, the film may also be shown as an entry of both co-producers.

Article 7

Title credits or closing credits and important advertisement material for co-produced films shall include an indication that the film is a co-production of the two Contracting Parties.

Article 8

(1) The competent authorities shall, within the scope of this Agreement, recognize as co-productions films which have been produced jointly by producers from the Federal Republic of Germany, the Portuguese Republic and third countries with which one or the other Contracting Party has concluded co-production agreements.

(2) The provisions of article 4, paragraph 1, and of article 5, paragraphs 1 and 2, shall apply to co-productions within the meaning of paragraph 1 of this article; a participation by the minority co-producer of 20 per cent in the costs of making the film shall, however, be deemed sufficient. The remaining provisions of article 5 shall apply *mutatis mutandis*.

Article 9

Within the framework of their respective national legislation, each Contracting Party shall facilitate for accepted co-productions:

(a) The entry into and temporary residence in its territory of technical and artistic personnel of the other Contracting Party;

(b) The import and export into or out of its territory of technical and other shooting material of producers of the other Contracting Party.

Article 10

Applications for approval of a co-production shall be submitted to the competent authorities in accordance with the implementation procedure annexed to this Agreement.

Article 11

The competent authorities shall regularly inform each other about matters concerning the granting, refusal, modification or cancellation of approvals of co-productions.

EXCHANGE OF FILMS

Article 12

The Contracting Parties affirm their desire to promote to the extent possible the distribution and utilization in each of the two countries of films from the other country.

GENERAL PROVISIONS

Article 13

(1) A mixed commission composed of representatives of the Governments and competent experts of the two Contracting Parties shall be established to monitor the implementation of the Agreement and, if necessary, to suggest amendments to it. It may also consider proposals for promoting further cooperation in the cinematographic field.

(2) While this Agreement is in effect, the mixed commission shall meet as a rule every three years, alternately in the Federal Republic of Germany and the Portuguese Republic; a meeting may also be convened at the request of either Contracting Party, especially in the event of an important change in the legislation or regulations governing the film industry.

Article 14

This Agreement shall also apply to *Land Berlin*, unless the Government of the Federal Republic of Germany makes a contrary declaration to the Government of the Portuguese Republic within three months of the date of entry into force of this Agreement.

Article 15

(1) The two Contracting Parties shall notify each other of the completion of the constitutional procedures required for the entry into force of this Agreement. The Agreement shall enter into force 30 days after the receipt of the later notification. It shall be implemented on a provisional basis from the date of its signature.

(2) This Agreement shall be concluded for three years from the date of entry into force. It shall be extended for successive periods of three years unless one or the other Contracting Party gives written notice of termination at least three months before expiry of this period.

DONE at Lisbon on 29 April 1988, in duplicate in the German and Portuguese languages.

For the Government
of the Federal Republic of Germany:

POENSGEN

For the Government
of the Portuguese Republic:

LUIS SALGADO DE MATOS

ANNEX PURSUANT TO ARTICLE 10

IMPLEMENTATION PROCEDURE

In order to benefit from the provisions of the Agreement, the producers of the two countries must submit the application for approval of a co-production to their competent authorities four weeks before the commencement of shooting.

In particular, the following documents shall be attached to the application:

- A detailed script or other manuscript providing adequate information on the planned subject-matter and its treatment;
- The staff and cast lists, indicating activities or roles and the nationality of the participants;
- Proof that the author's rights or an option on them have been acquired;
- The co-production contract concluded between the co-producers subject to approval by the authorities;
- The arrangements regarding the respective shares of the two producers in any additional costs. In principle, such shares shall be proportional to their respective financial contributions, although the share of the minority producer may be limited to a lower percentage or to a fixed amount;
- An estimate of costs and a detailed financial plan;
- A summary of the technical contribution of each of the two Contracting Parties;
- The work schedule, with information on the expected shooting locations for the film.

The authorities may request further documentation and information necessary for their assessment of the project.

The authorities of the Contracting Party making the minority financial contribution may give their approval only after receiving the relevant statement of position from the authorities of the Contracting Party making the majority financial contribution. In principle, the competent authorities of the State of the majority co-producer shall inform the competent authorities of the State of the minority co-producer of their proposed decision within twenty days from the receipt of all the documents. The competent authorities of the State of the minority co-producer shall, in principle, state their position in the following seven days.

Subsequent amendments to the co-production contract shall be submitted immediately to the competent authorities for approval.

Approval may be made subject to conditions and terms which ensure compliance with the provisions of the Agreement.
