

No. 31549

**CANADA
and
MEXICO**

**Film and Television Co-production Agreement (with annex).
Signed at Ottawa on 8 April 1991**

Authentic texts: English, French and Spanish.

Registered by Canada on 27 January 1995.

**CANADA
et
MEXIQUE**

**Accord de coproduction d'œuvres cinématographiques et
audiovisuelles (avec annexe). Signé à Ottawa le 8 avril
1991**

Textes authentiques : anglais, français et espagnol.

Enregistré par le Canada le 27 janvier 1995.

FILM AND TELEVISION CO-PRODUCTION AGREEMENT¹ BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE UNITED MEXICAN STATES

The Government of Canada and the Government of the United Mexican States (hereinafter referred to as the "Parties"),

Considering that it is desirable to establish a framework for audiovisual relations and particularly for film, television and video co-productions;

Conscious that quality co-productions can contribute to the further expansion of the film, television and video production and distribution industries of both countries as well as to the development of their cultural and economic exchanges;

Convinced that these exchanges will contribute to the enhancement of relations between the two countries;

Have agreed as follows:

ARTICLE I

1. For the purpose of this Agreement, a "co-production" is a project, irrespective of length, including animation and documentary productions, produced either on film, videotape or videodisc, or in any other format hitherto unknown, for exploitation in theatres, on television, videocassette, videodisc or by any other form of distribution, whether now known or to become known.

2. Co-productions undertaken under the present Agreement must be approved by the following competent authorities:

| | | |
|-----------|---|--|
| In Canada | : | the Minister of Communications; and |
| In Mexico | : | Secretaría de Gobernación and the Consejo Nacional para la Cultura y las Artes |

3. Every co-production undertaken under this Agreement shall be produced and distributed in accordance with the national legislation and regulations in force in Canada and Mexico;

4. Every co-production produced under this Agreement shall be considered to be a national production for all purposes by and in each of the two countries. Accordingly, each such co-production shall be fully entitled to take advantage of all benefits currently available to the film and video industries or those that may hereafter be decreed in each country. These benefits do, however, accrue solely to the producer of the country which grants them.

¹ Came into force on 26 November 1991, the date on which the Parties notified each other of the completion of their internal ratification procedures, in accordance with article XVIII (1).

ARTICLE II

The benefits of the provisions of this Agreement apply only to co-productions undertaken by producers who have good technical organization, sound financial backing and recognized professional standing.

ARTICLE III

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

2. The minority co-producer shall be required to make an effective technical and creative contribution. In principle, this contribution shall be in proportion to his investment and should comprise the participation of a combination of creative personnel, technicians, performers (in either leading or supporting roles or both) and facilities. Departures from this principle must be approved by the competent authorities of both countries.

ARTICLE IV

1. The producers, writers and directors of co-productions, as well as the technicians, performers and other production personnel participating in such co-productions, must be Canadian or Mexican citizens, or permanent residents of Canada or Mexico.

2. The term "Canadian citizen" has the same meaning as in the Citizenship Act, as it may be amended from time to time.

3. The term "permanent resident of Canada" has the same meaning as in the Immigration Act, 1976, as it may be amended from time to time.

4. The term "Mexican citizen" has the same meaning as in the Political Constitution of the United Mexican States.

5. The term "permanent resident of Mexico" has the same meaning as in the General Law of Mexican Population.

6. Should the co-production so require, the participation of performers other than those provided for in the first paragraph may be permitted, subject to approval by the competent authorities of both countries.

ARTICLE V

1. Location shooting, exterior or interior, in a country not participating in the co-production may, however, be authorized, if the script or the action so requires and if technicians from Canada and Mexico take part in the shooting.

2. Live action shooting and animation works such as storyboards, layout, key animation, in between and voice recording must, in principle, be carried out in one or the other of the two co-producing countries.

3. The laboratory work shall be done in either Canada or Mexico, unless it is technically impossible to do so, in which case the laboratory work in a country not participating in the co-production may be authorized by the competent authorities of both Parties.

ARTICLE VI

1. The competent authorities of both countries look favourably upon co-productions undertaken by producers of Canada, Mexico and any country to which Canada or Mexico is linked by an official co-production agreement.

2. The proportion of any minority contribution in such a co-production shall be not less than twenty per cent (20%).

3. Each minority co-producer in such a co-production shall be obliged to make an effective technical and creative contribution.

4. Except as otherwise expressly provided, the provisions of this Agreement shall apply *mutatis mutandis* to any co-production submitted to the competent authorities of both countries hereunder.

ARTICLE VII

1. The original sound track of each co-production shall be made in either English, French or Spanish. Shooting in any two, or in all, of these languages is permitted. Dialogue in other languages may be included in the co-production as the script requires.

2. The dubbing or subtitling of each co-production into French and English, or into Spanish shall be carried out respectively in Canada or Mexico. Any departures from this principle must be approved by the competent authorities of both countries.

ARTICLE VIII

1. Except as provided in the following paragraph, no fewer than two copies of the final protection and reproduction materials used in the production shall be made for all co-productions. Each co-producer shall be the owner of one copy of the protection and reproduction materials and shall be entitled to use it, in accordance with the terms and conditions agreed upon by the co-producers, to make the necessary reproductions. Moreover, each co-producer shall have access to the original production material in accordance with those terms and conditions.

2. At the request of both co-producers and subject to the approval of the competent authorities in both countries, only one copy of the final protection and reproduction material need be made for those productions which are qualified as low budget productions by the competent authorities. In such cases, the material will be kept in the country of the majority co-producer. The minority co-producer will have access to the material at all times to make the necessary reproductions, in accordance with the terms and conditions agreed upon by the co-producers.

ARTICLE IX

Subject to their legislation and regulations in force, the Parties shall:

- a) facilitate the entry into and temporary residence in their respective territories of the creative and technical personnel and the performers engaged by the co-producer of the other country for the purpose of the co-production; and
- b) similarly permit the temporary entry and re-export of any equipment necessary for the purpose of the co-production.

ARTICLE X

The sharing of receipts by the co-producers should, in principle, be proportional to their respective contributions to the production financing. This sharing may consist of a proportionate sharing of receipts, a sharing of markets, a sharing of media or a combination of these formulas. The overall formula for establishing the sharing of receipts may also take into account the difference in the size of the markets of the Parties and shall, in any case, be subject to approval by the competent authorities of both countries.

ARTICLE XI

Approval of a co-production proposal by the competent authorities of both countries does not constitute a commitment to either or both of the co-producers that governmental authorities will grant a licence to show the co-production.

ARTICLE XII

1. Where a co-production is exported to a country that has quota regulations, it shall be included either in the quota of the country:

- a) of the majority co-producer;
- b) that has the best opportunity of arranging for its export, if the respective contributions of the co-producers are equal; or
- c) of which the director is a national, if any difficulties arise with the application of paragraphs (a) and (b) hereof.

2. Notwithstanding Paragraph 1, in the event that one of the co-producing countries enjoys unrestricted entry of its films into a country that has quota regulations, a co-production undertaken under this Agreement shall be as entitled as any other national production of that country to unrestricted entry into the importing country.

ARTICLE XIII

1. A co-production shall, when shown, be identified as a "Canada-Mexico Co-production" or "Mexico-Canada Co-production" according to the origin of the majority co-producer or in accordance with an agreement between co-producers.

2. Such identification shall appear in the credits, in all commercial advertising and promotional material and whenever this co-production is shown.

ARTICLE XIV

1. In the event of presentation at international film festivals, and unless the co-producers agree otherwise, a co-production shall be entered by the country of the majority co-producer or, in the event of equal financial participation of the co-producers, by the country of which the director is a national.

2. Prizes, grants, incentives and other economic benefits awarded to the cinematographic or audiovisual works may be shared between the co-producers, in accordance with what has been established in the co-production contract and in conformity with applicable legislation in force in the two countries.

3. All prizes which are not in cash form, such as honourable distinctions or trophies awarded by third countries, for cinematographic and audiovisual works produced according to the norms established by this agreement, shall be kept in trust by the majority co-producer or according to terms established in the co-production contract.

ARTICLE XV

The competent authorities of both countries shall jointly establish the rules of procedure for co-productions taking into account the legislation and regulations in force in Canada and Mexico. These rules of procedure are attached to the present Agreement.

ARTICLE XVI

1. No restrictions shall be placed on the import, distribution and exhibition of Mexican film, television and video productions in Canada or that of Canadian film, television and video productions in Mexico other than those contained in the legislation and regulations in force in each of the two countries.

2. It would be desirable that the dubbing or subtitling in English and French of each Mexican production distributed and exhibited in Canada be carried out in Canada and that the dubbing or subtitling in Spanish of each Canadian production distributed and exhibited in Mexico be carried out in Mexico.

ARTICLE XVII

1. During the term of the present Agreement, an overall balance shall be aimed for with respect to financial participation as well as creative personnel, technicians, performers, and facilities (studio and laboratory), taking into account the respective characteristics of each country.

2. The competent authorities of both countries shall examine the terms of implementation of this Agreement as necessary in order to resolve any difficulties arising from its application. They shall, as needed, recommend possible amendments with a view to developing film, television and video co-operation in the best interests of both countries.

3. A Joint Commission is established to look after the implementation of this Agreement. The Joint Commission shall examine if this balance has been achieved and, in case of the contrary, shall determine the measures deemed necessary to establish such a balance. A meeting of the Joint Commission shall take place in principle once every two years and it shall meet alternately in the two countries. However, it may be convened for extraordinary sessions at the request of one or both competent authorities, particularly in the case of major amendments to the legislation or the regulations governing the film, television and video industries in one country or the other, or where the application of this Agreement presents serious difficulties. The Joint Commission shall meet within six (6) months following the convocation by one of the Parties.

ARTICLE XVIII

1. The present Agreement shall come into force on the date when each Party has informed the other via diplomatic channels that its internal ratification procedures have been completed.

2. It shall be valid for a period of three (3) years from the date of its entry into force; a tacit renewal of the Agreement for like periods shall take place unless one or the other Party gives written notice of termination six (6) months before the expiry date.

3. This Agreement may be amended by the Parties by mutual agreement, at the request of either Party. Agreed changes shall enter into force following an exchange of letters between the Parties, through diplomatic channels, confirming that the required formalities have been completed.

4. Termination of this Agreement will not affect co-productions approved by the competent authorities which are in progress at the time of notice of termination. After the expiry or termination of this Agreement, its terms shall continue to apply to the division of receipts from completed co-productions.

DONE at Ottawa this 8th day of April, 1991, in two originals, each in the English, French and Spanish languages, the texts in each of the three languages being equally authentic.



MARCEL MASSE

For the Government
of Canada



FERNANDO SOLANA MORALES

For the Government
of the United Mexican States

ANNEXRULES OF PROCEDURE

Application for benefits under this Agreement for any co-production must be made simultaneously to both administrations at least thirty (30) days before shooting begins. The administration of the country of which the majority co-producer is a national shall communicate its proposal to the other administration within twenty (20) days of the submission of the complete documentation as described below. The administration of the country of which the minority co-producer is a national shall thereupon communicate its decision within twenty (20) days.

Documentation submitted in support of an application shall consist of the following items, drafted in English or French in the case of Canada and in Spanish in the case of Mexico:

- I. The final script;
- II. Documentary proof that the copyright for the co-production has been legally acquired;
- III. A copy of the co-production contract signed by the two co-producers;

The contract shall include:

1. the title of the co-production;
2. the name of the author of the script, or that of the adaptor if it is drawn from a literary source;
3. the name of the director (a substitution clause is permitted to provide for his replacement if necessary);
4. the budget;
5. the financing plan;
6. a clause establishing the sharing of receipts, markets, media or a combination of these;
7. a clause detailing the respective shares of the co-producers in any over or under expenditure, which shares shall in principle be proportional to their respective contributions, although the minority co-producer's share in any overexpenditure may be limited to a lower percentage or to a fixed amount providing that the minimum proportion permitted under Article VI of the Agreement is respected;
8. a clause recognizing that admission to benefits under this Agreement does not constitute a commitment that governmental authorities in either country will grant a licence to permit public exhibition of the co-production;

9. a clause prescribing the measures to be taken where:
 - (a) after full consideration of the case, the competent authorities in either country refuse to grant the benefits applied for;
 - (b) the competent authorities prohibit the exhibition of the co-production in either country or its export to a third country;
 - (c) either party fails to fulfil its commitments;
 10. the period when shooting is to begin;
 11. a clause stipulating that the majority co-producer shall take out an insurance policy covering at least "all production risks" and "all original material production risks";
 12. A clause providing for the sharing of the ownership of copyright on a basis which is proportionate to the respective contributions of the co-producers.
- IV. The distribution contract, where this has already been signed;
- V. A list of the creative and technical personnel indicating their nationalities and, in the case of performers, the roles they are to play;
- VI. The production schedule;
- VII. The detailed budget identifying the expenses to be incurred by each country; and
- VIII. The Synopsis.

The competent authorities of the two countries may demand any further documents and all other additional information deemed necessary.

In principle, the final shooting script (including the dialogue) must be submitted to the competent authorities prior to the commencement of shooting.

Amendments, including the replacement of a co-producer, may be made in the original contract, but they must be submitted for approval by the competent authorities of both countries before the co-production is finished. The replacement of a co-producer may be allowed only in exceptional cases and for reasons satisfactory to both the competent authorities.

The competent authorities shall keep each other informed of their decisions.