

The Agreement was
previously published
as Italy No. 1 (1998)
Cm 4029

CULTURE

Treaty Series No. 105 (2000)

Agreement

**between the Government of
the United Kingdom of Great Britain and Northern Ireland
and the Government of the Italian Republic**

**concerning the
Co-Production of Films**

London, 5 May 1998

[The Agreement entered into force on 2 May 2000]

*Presented To Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
September 2000*

**AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND AND
THE GOVERNMENT OF THE ITALIAN REPUBLIC CONCERNING
THE CO-PRODUCTION OF FILMS**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Italian Republic (hereinafter referred to as the Contracting Parties);

Considering that the development of the film industries of their two countries will benefit from closer mutual co-operation in the production of films and the resulting increases in financial and cultural exchanges;

Considering that films capable of enhancing the prestige of the film industries of the two countries should benefit from the provisions of this Agreement;

Have agreed as follows:

ARTICLE 1

For the purposes of this Agreement:

(1) "film" means a cinematographic work of any length or medium, including a cinematographic work of fiction, animation or documentary, which is intended to be shown in cinemas; except that this term does not include a work which is not a film for the purposes of the Films Act 1985 of the United Kingdom (as amended from time to time) or which is not within the scope of any similar legislation from time to time in force in the United Kingdom or Italy governing the provision of benefits under international agreements relating to the co-production of films.

(2) a "co-production film" means a film made in accordance with the terms of an approval given by the competent authorities acting jointly, in accordance with the Annex to this Agreement,

(i) by one or more United Kingdom producers ("the United Kingdom co-producer") in conjunction with one or more Italian producers ("the Italian co-producer"); or

(ii) by a United Kingdom co-producer and an Italian co-producer in conjunction with one or more third co-producers.

(3) (i) "United Kingdom producer" means a producer who fulfils all conditions relating to status which are required to be fulfilled, as if that producer were the only producer, in order to satisfy the provisions of paragraph 4(2)(a) of Schedule 1 to the Films Act 1985 as amended from time to time;

- (ii) “Italian producer” means a producer who fulfills all the conditions relating to status which are required to be fulfilled, as if that producer were the only producer, in order for the production to be eligible as a film of Italian nationality;
 - (iii) “third producer” means a producer from a country with which either or both of the Contracting Parties have signed a Co-production Agreement or from a country which is a party to the Council of Europe Convention on Cinematographic Co-production of 2 October 1992. A third producer must fulfil all the conditions relating to status which would be required to be fulfilled in order to produce a film under the terms of an aforementioned Co-production Agreement or the Council of Europe Convention on Cinematographic Co-production of 2 October 1992, as the case may be;
 - (iv) “third co-producer” means one or more third producers from the same country.
- (4) “nationals” means:
- (a) in relation to the United Kingdom, British Citizens, British Overseas Citizens, British Dependent Territories Citizens, British Nationals (Overseas), British Subjects and British Protected Persons;
 - (b) in relation to Italy, Italian citizens;
 - (c) in relation to other member States, nationals of those member States;
 - (d) in relation to the country of a third co-producer, nationals of that country.
- (5) “residents” means:
- (a) in relation to the United Kingdom, persons ordinarily resident in the United Kingdom;
 - (b) in relation to Italy, persons ordinarily resident in Italy;
 - (c) in relation to other member States, persons whose ordinary residence or whose employment is in those member States;
 - (d) in relation to the country of a third co-producer, persons ordinarily resident in that country.
- (6) “producer” means the person by whom the arrangements necessary for the making of a film are undertaken.
- (7) “member State” means a member State of the European Union or a State within the European Economic Area.
- (8) “competent authorities” means in relation to the United Kingdom, the Department for Culture, Media and Sport and in relation to Italy, the Dipartimento dello Spettacolo della Presidenza del Consiglio dei Ministri.

- (9) (a) “the United Kingdom” means the United Kingdom of Great Britain and Northern Ireland;
- (b) “Italy” means the Italian Republic.

ARTICLE 2

In approving films made under this Agreement, the competent authorities, acting jointly, shall apply the rules set out in the Annex, which forms an integral part of this Agreement.

ARTICLE 3

A co-production film shall be entitled to the full enjoyment of all the benefits which are or may be accorded to national films in the United Kingdom and Italy respectively, subject to the laws and regulations in force from time to time in those countries. Only the United Kingdom co-producer shall be entitled to the benefits accorded to national films in the United Kingdom and only the Italian co-producer shall be entitled to the benefits accorded to national films in Italy.

ARTICLE 4

Each of the Contracting Parties shall permit, in accordance with their respective laws and regulations and free of import duties and taxes, the temporary admission and re-export of cinematographic equipment for the making of co-production films.

ARTICLE 5

Each of the Contracting Parties shall permit nationals and residents of the other Contracting Party, nationals and residents of a member State and nationals and residents of the country of any third co-producer to enter and remain in the United Kingdom or Italy as the case may be, for the purpose of making or promoting a co-production film, subject to the requirement that they comply with the relevant laws relating to entry, residence and employment.

ARTICLE 6

There shall be a Mixed Commission composed of representatives of the Contracting Parties, which shall include representatives of the competent authorities and of the film industry. The Mixed Commission shall supervise and review the working of this Agreement and make any proposals they consider necessary for the modification of the Agreement to the competent authorities.

Representatives from the United Kingdom and Italy shall be equal or approximately equal in number.

The Mixed Commission shall meet at the request of either Contracting Party,

particularly in the event of substantial amendment of the legislation applicable to the film industry or in the event of difficulties arising in the interpretation of the Agreement. The Commission shall meet within six months of such a request. The meetings of the Commission shall be held alternately in London and Rome, or at a venue which is mutually agreed by the Contracting Parties.

ARTICLE 7

The provisions of this Agreement are without prejudice to the obligations of the Contracting Parties arising under international law and under European Community law.

ARTICLE 8

This Agreement shall enter into force on the date of receipt of the later of the two notifications by which the Contracting Parties communicate officially to each other that their respective constitutional procedures have been completed.

Upon the entry into force of this Agreement, the Agreement dated 30 September 1967¹ between the Contracting Parties concerning the co-production of films shall cease to have effect.

ARTICLE 9

This Agreement shall remain in force initially for a period of two years from the date of its entry into force. If either Contracting Party gives written notice of termination to the other Contracting Party three months before the end of that period the Agreement shall terminate at the end of that period. If no such notice is given the Agreement shall remain in force for successive periods each of two years, unless written notice to terminate is given by either Contracting Party at least three months before the end of any period of two years, in which case it shall terminate at the expiry of that period.

ARTICLE 10

At the request of either Contracting Party, this Agreement may be revised by common consent at any time after the expiry of two years from the date of its entry into force. The Agreement may be revised by common consent at an earlier date if in the opinion of either Contracting Party changes in the films legislation or regulations of either country make this necessary.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

Done in duplicate at London this fifth day of May 1998 in the English and the Italian languages, both texts being equally authoritative.

For the Government of the United
Kingdom of Great Britain and

For the Government of the Italian Republic:

¹

Treaty Series No. 27 (1968); Cmnd. 3573.

Northern Ireland:

THOMAS CLARKE

WALTER VELTRONI

ANNEX

- (1) Applications for approval as a co-production film shall be submitted to the competent authorities according to the application procedure in Appendix I. That appendix shall form an integral part of this Agreement.
- (2)
 - (a) The competent authorities shall decide whether any project put forward for approval conforms with the provisions of this Agreement. Any project found so to conform may then be given approval by the competent authorities;
 - (b) When approving a project the competent authorities may stipulate conditions of approval framed so as to achieve the general aims and provisions of this Agreement (including the rules to this Annex);
 - (c) All decisions pursuant to this paragraph shall be taken by the competent authorities acting jointly.
- (3) The competent authorities acting jointly shall satisfy themselves before giving their approval to a co-production project that the project is fully capable of being realised within the terms of their approval. For this purpose they may take all necessary steps to satisfy themselves of the feasibility of the project, including, but not limited to, the timely availability of the necessary finance, personnel and technical equipment.

Approval may be withdrawn in the case of:

- (a) failure to comply with feasibility forecasts given to the competent authorities;
 - (b) provision of false or misleading information to the competent authorities;
 - (c) a breach of any conditions stipulated in accordance with clause 2(b) of this Annex.
- (4) Approval shall not be given to a project where the co-producers are linked by common management or control, save to the extent that such links are inherent in the making of the co-production film itself.
- (5)
 - (a) In the case of bilateral co-productions, each co-producer shall have a financial and creative contribution of not less than 20% and not more than 80% of the total financial and creative contribution to the co-production film. In the case of multilateral co-productions, each co-producer shall have a financial and creative contribution of not less than 10% and not more than 70% of the total financial and creative contribution to the co-production film.
 - (b) The contribution of each co-producer in terms of the participation of his nationals or residents in the making of the film in general and in terms of his contribution of creative personnel, technicians, actors and technical equipment in particular shall be in reasonable proportion to that co-producer's financial contribution to the total production cost.
- (6)
 - (a) Where the contribution of a minority co-producer to a co-production film is purely

financial, approval may nevertheless be given, provided that:

- (i) the minority co-producer is not in a position to make the non-financial contributions prescribed in clause (5)(b) of this Annex; and
- (ii) subject to clause (7) below, a maximum of six United Kingdom minority co-productions and six Italian minority co-productions are approved annually in reliance upon this clause; and
- (iii) in the joint opinion of the competent authorities, the proposed co-production works to promote European cinematography; and
- (iv) in the case of bilateral co-productions, the minority financial contribution is not lower than 20% nor higher than 25% of the total production costs, although the competent authorities acting jointly may lower the minimum contribution to 10% in the case of high budget films; and
- (v) in the case of multilateral co-productions the minority financial contribution is not lower than 10% nor higher than 25% of the total production cost and the contribution of a third co-producer does not exceed that of the United Kingdom or the Italian co-producer making both a financial and a non-financial contribution.

(b) For the purposes of this paragraph:

- (i) “minority co-producer” means a minority co-producer who is either a United Kingdom co-producer or an Italian co-producer;
- (ii) “high budget film” shall be given the meaning agreed by the competent authorities acting jointly;
- (iii) the competent authorities shall act jointly.

(7) If, in any period of one year, twelve films are approved in reliance upon clause (6) above, the Mixed Commission shall meet in order:

- (a) to examine whether, with respect to those twelve films a balance has been maintained between the Contracting Parties in respect of the contribution of each to the production costs;
- (b) to determine whether additional films may be allowed to benefit from financial-only co-production in accordance with clause (6) above.

If the Mixed Commission meeting cannot take place the competent authorities may allow the application of clause (6) on condition of reciprocity, on a case-by-case basis, to films that fall within its terms.

(8) (a) Co-production films shall be made, processed and dubbed up to the creation of the first release print in the countries of the participating co-producers. The competent authorities acting jointly may approve location filming in a country

other than the countries of the participating co-producers;

- (b) Co-production films will be recorded in English, Gaelic, Welsh, Italian, another language indigenous to Italy or a language indigenous to the country of a third co-producer although co-production films may contain passages of dialogue in other languages if this is required by the script. Post-release print dubbing into languages other than English, Gaelic, Welsh, Italian, another language indigenous to Italy or a language indigenous to the country of a third co-producer may be carried out in third countries.
 - (c) The majority of the work of making a co-production film including studio and location shooting and post-production including processing and pre-release print dubbing shall, subject to any departure from this rule which is approved by the competent authorities acting jointly, be carried out in the country of the co-producer which has made the major financial contribution. In the event of equal financial contributions, the work of making a co-production film shall, subject to any departure from this rule which is approved by the competent authorities, be divided between the co-producing countries as equally as possible. The contributions of two or more producers from any one country shall be aggregated for this purpose.
- (9) (a) Individuals participating in the making of co-production films shall be nationals or residents of the United Kingdom, Italy, another member State or, where there is a third co-producer, nationals or residents of that co-producer's country. In exceptional circumstances, where script or financing dictates, principal directors or performers from other countries may be engaged. The engagement of such performers shall be restricted and subject to the approval of the competent authorities acting jointly.
- (b) Where the competent authorities have, under the provisions of clause 8(a) of this Annex, approved location filming in a country other than that of the participating co-producers, nationals or residents of that country may be employed where their services are necessary for the location work to be undertaken.
- (10) The competent authorities acting jointly shall satisfy themselves (after taking into account the difference of climate and other factors including current legislation and traditional methods of working) that conditions of work in the making of co-production films under this Agreement are broadly comparable to those prevailing in the United Kingdom and Italy.
- (11) Any music specially composed for a co-production film shall, subject to any departure from this rule which is approved by the competent authorities acting jointly, be composed by nationals or residents of the United Kingdom, Italy, another member State or, where there is a third co-producer, by citizens of that co-producer's country.
- (12) At least ninety per cent (90%) of the footage included in a co-production film, subject to any departure from this rule which is approved by the competent authorities acting jointly, shall be specially shot for that film.
- (13) (a) Each co-production film shall include in the opening and closing titles either a

separate credit title indicating that the film is either a “United Kingdom-Italy co-production” or an “Italy-United Kingdom co-production”, or where relevant, a credit which reflects the participation of the United Kingdom, Italy and the countries of the third co-producers. The order of precedence will be determined by the size of the financial contribution of the co-producer so that the country making the largest contribution will appear first except in the country in which each co-producer is established in which case the home territory may take precedence. In cases of equal contribution, the precedence in the credit shall be determined by the co-producers.

- (b) On the same basis as set out at clause 13 (a) above, the names of the relevant countries shall appear in all publicity and promotion material, including that relating to international festivals.

(14) The import, distribution and exhibition of co-production films shall not be subject to any restrictions except for those established by law and regulation, in force in either the United Kingdom or Italy.

(15) Where a third country enquires for the purpose of its import controls whether a co-production film made under the terms of this agreement is British or Italian, the competent authorities of each country acting jointly shall decide how the enquiry shall be answered.

(16) When a co-production film is exported to a country where imports of co-production films are subject to quotas, and one of the co-producing countries does not have the right of free entry for its co-production films to the importing country:

- (a) the co-production film shall normally be added to the quota of the country which has the majority contribution to the production costs;
- (b) in the case of a co-production film which comprises equal contributions to the production costs from different countries, the co-production film shall be added to the quota of the country which has the best opportunities for exporting to the importing country;
- (c) when the provisions of the preceding two sub-paragraphs cannot be applied, the co-production film shall be entered into the quota of the party which provides the director.

(17) (a) The Contracting Parties shall seek to ensure that an overall balance is achieved as regards:

- (i) the contribution of the United Kingdom and of Italy to the production costs of co-production films;
- (i) the usage of studios and laboratories in the United Kingdom and in Italy;
- (ii) the employment of nationals and residents of the United Kingdom and of

Italy as artistic and technical personnel;

(b) The balance of contributions by each country shall be assessed by the competent authorities over a period of two years.

(18) Either competent authority may withhold approval of a project as a co-production film if, during the second year referred to in clause 17(b), it considers that the balance of each country's contributions would be seriously prejudiced by such approval.

(19) The approval of a project for a co-production film by the competent authorities shall not bind the relevant authorities in either country to permit the public exhibition of the resulting film.

(20) A film made in accordance with an approval by the competent authorities under this Agreement but completed after the termination of this Agreement shall be treated as a co-production film and its co-producers shall accordingly be entitled to all the benefits of this Agreement.

(21) The provisions of this Annex may from time to time be amended by the mutual consent in writing of the competent authorities, after consultation with the Mixed Commission if the competent authorities acting jointly consider such consultation necessary, provided that those amendments do not conflict with Articles 1-10 inclusive of the Agreement.

APPENDIX

Requests for approval of co-production projects under the terms of the present Agreement should be presented to both competent authorities at the same time, at least forty days before the beginning of shooting. The country of the majority co-producer will normally communicate its proposal to the other within twenty days from the receipt of the request.

In order that requests to benefit from the contents of the present Agreement may be assessed by the competent authorities, the following must be attached:

1. a list of the artistic and technical contributions;
2. draft screenplay and a script synopsis;
3. a copy of the contract for the purchase of the copyright or any other proof of purchase of the copyright for the commercial exploitation of the work;
4. a copy of the co-production contract, expressed to be subject to the approval of the competent authorities. The co-production contracts between the co-producers shall:
 - (i) give the title of the film;
 - (ii) identify the co-producers party to the contract;
 - (iii) give the full name and nationality of the principal director to the project;
 - (iv) include a financial plan showing the sources and sums of finance making up each co-producer's financial contribution to the production costs;
 - (v) include a budget which reflects the percentage of expenditure by each co-producer which should normally correspond to the financial value of the artistic and technical contributions;
 - (vi) give the full name and nationality of the author of the screenplay or of the adapter if it has a literary source;
 - (vii) make provision regarding the respective copyright entitlements of the co-producers;
 - (viii) state the date of start of photography;
 - (ix) provide that:
 - (a) a sufficient number of copies of the final production and reproduction material used in the production be made for all the co-producers;
 - (b) each co-producer be the owner of a copy of the production and reproduction material and be entitled to use it to make the necessary reproductions;

- (c) the original production material be deposited in a place chosen by common agreement of the co-producers and each co-producer have access to that original production material in accordance with the conditions agreed upon between the co-producers;
- (x) set out the financial liability of each co-producer for costs incurred:
 - (a) in preparing a project which is refused conditional approval as a co-production film by the competent authorities;
 - (b) in making a film which has been given such conditional approval and fails to comply with the conditions of such approval; or
 - (c) in making an approved co-production film, permission for whose public exhibition is withheld in any of the countries of the co-producers;
- (xi) set out the arrangements regarding the division between the co-producers of the receipts from the exploitation of the film, including those from export markets. Such division should normally be proportional to the respective financial contributions of the co-producers and must be expressed as subject to the approval of the competent authorities;
- (xii) specify the dates by which their respective contributions to the production of that film shall have been completed. In the case of the minority co-producer, arrangements must be made for the possible balance of the minority share to be paid to the majority co-producer within a period of sixty days from the date of delivery of all the material necessary for the preparation of the version of the film in the country of the minority co-producer;
- (xiii) make provision for any overage or underage resulting from the total budgeted costs being exceeded or under spent to be divided in such a way as not to cause the project to fall outside the terms of the UK/Italy Co-production Agreement or the terms of the conditional co-production approval given by the competent authorities.