

FAQ – AUDIOVISUAL TREATY COPRODUCTIONS

The answers provided in this document are of a general nature and may vary depending on the coproduction treaties applicable to each project.

Please note that there are two sets of guidelines applicable to Canadian audiovisual coproduction treaties. Applicants are invited to consult Telefilm’s [website](#) for information on which guidelines apply to their project.

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A. General Questions

- 1. Can a project be recognized as a treaty coproduction if the authorities of a coproducing State refuse this project?**

No. The authorities of all coproducing States must jointly recognize the project as an audiovisual treaty coproduction.

- 2. Can a project be recognized as a treaty coproduction in the absence of a coproduction treaty between Canada and the coproducing State?**

No. The recognition of a project as a treaty coproduction is based on a treaty or a memorandum of understanding between Canada and another coproducing State.

- 3. I would like to apply for a preliminary recommendation under a coproduction treaty, but the writer (a national from a non-coproducing State) was still awaiting his permanent resident status in Canada at the time he wrote the script. Can the writer be considered as a Canadian participant?**

No. To be considered as a Canadian participant, the writer must have obtained permanent resident status in Canada and must maintain this status throughout his or her involvement in the project.

- 4. I hold a dual citizenship. Which State will my creative participation be attributed to?**

This is a decision that must be made by the project's producers and that must be maintained throughout the entire project. Please note that a dual citizen cannot claim both nationalities for the same project.

- 5. Are the First and Second Lead Performers defined by screen time or remuneration?**

Given the disparity in remuneration from State to State, Telefilm considers the time spent on screen in order to determine the First and Second Lead Performers. Please note that for documentary projects, on-screen subjects may also be considered as First and Second Lead Performers.

- 6. I'm a Canadian director living in the United States. Can I be recognized as a Canadian national, even though I do not pay taxes in Canada?**

Yes, provided you still have your Canadian citizenship.

- 7. What are the requirements on versioning and dubbing for coproductions?**

Subject to treaty requirements, the versioning and dubbing of a project in French and English must be made in Canada or the coproducing country. Please consult each treaty applicable to your project for specific requirements. In the event your project has also received financing from Telefilm under the Production program, please be advised your financing agreement with Telefilm may also contain requirements regarding dubbing and/or versioning.

8. What happens if the percentage of financial contributions in the project by each coproducer have changed at the final recommendation stage?

The financing percentages in the project may change at final recommendation, provided that: (i) the financing percentage of each coproducer may never fall below the minimum contribution required in the applicable treaty, and (ii) the creative contribution or other proportionality requirements set out in the relevant treaty must still be respected.

9. When should I submit my preliminary recommendation application to Telefilm?

When an application deadline is specified in the applicable treaty, this deadline is mandatory. If this deadline is not met, the project cannot be evaluated.

When an application deadline is not specified in the treaty, it is strongly recommended for applications to be submitted at least 30 days prior to principal photography or of the commencement of key animation. Applicants that are unable to meet this deadline may not receive their preliminary recommendation within the desired timeframe and are asked to contact Telefilm.

If you are making a documentary project and need to do some preliminary filming (e.g., for a time-sensitive event) but are not yet ready to submit your application, please contact Telefilm to discuss your project's requirements.

10. If I'm unable to provide all the required documentation when I apply for a preliminary recommendation, will my project be evaluated?

Your file will be received but the evaluation will be subject to receipt by Telefilm of all required documents (please see the "Documents required when applying" section on Telefilm's [Coproduction Web page](#)). Note that it is important not to miss your application filing deadline (see question 9 above).

11. Can I apply for a preliminary recommendation if I haven't signed a detailed coproduction agreement with my partner?

No. A detailed coproduction agreement is required (see Telefilm's [Coproduction Web page](#) for a list of required documents on application, the web page of the coproducing country, as well as the specific requirements under the various treaties).

12. The preliminary recommendation letter Telefilm sent me states that I must notify Telefilm of any major changes made to my production. What are these major changes?

The major changes that must be declared to Telefilm and foreign authorities are those changes that could infringe upon the applicable coproduction treaty. Examples of major changes include:

- The Canadian production company has changed during the production, or change in coproducing countries;
- Bankruptcy of one or more production companies; and
- Any change that might affect the treaty status of the project (ex. non-treaty elements, creative balance, percentage of contributions per coproducer, etc.).

13. I am coproducing a 26-episode animation series. I haven't hired all the writers yet, and some will be hired by my coproducer. Will this prevent the issuance by Telefilm of a preliminary recommendation?

No, provided Telefilm is informed of the nationality of all writers (confirmed or pending). *Creator declarations* (available on Telefilm's [website](#)) signed by the Canadian screenwriters may be provided with the preliminary application or later in the process.

Note: When the final recommendation application is submitted, you must submit the *Canadian Producer Declaration (Final Recommendation)* (available on Telefilm's [website](#)) to confirm the final list of screenwriters hired by both the Canadian and the foreign coproducer.

14. Do I need to submit another Declaration of Canadian Status of Corporation and Corporate Information for each application?

No, these declarations do not have to be uploaded with your application if they are up-to-date (i.e., signed within the last year) and there have been no changes to their content.

15. What types of audiovisual works are eligible to be recognized as treaty coproductions?

Each treaty has its own definition of an eligible audiovisual work. We recommend that you consult the text of the treaty you wish to use. In addition, it is the coproducers' responsibility to verify if a work eligible under a coproduction treaty is also eligible under the various funding and tax credit programs to which the coproducer intends to apply.

16. Am I allowed to give producer-related credits to non-coproducing country individuals?

Yes, certain courtesy credits are allowable on condition that:

- 1) You provide a Declaration – Exemption for Non-Canadian/Non-Coproducing Courtesy Credit for each individual; and
- 2) Your project complies with the requirements indicated in the document "Courtesy Credit Exemptions for Non-Coproducing Producer-Related Personnel" (documents available on Telefilm's [website](#)).

Note: if it appears clearly from the project's credits that a non-coproducing country individual is receiving a courtesy credit due to their role within a distributor or broadcaster, no declaration or equivalent credit for coproducing country individuals will be required.

B. Questions on Treaties that Entered into Force before July 1, 2014

1. My coproducer and I have secured the rights to a published work and have hired the American author of the work to serve as a consultant on our production. Is this allowed?

Subject to the applicable treaty, a creative consultant from a non-coproducing State may be eligible under certain conditions. This consultant and the justification for their participation in the project would need to be indicated in the *Declaration of Non-Coproducing Country Elements* available on Telefilm's Coproduction [Web page](#) and which will need to be submitted with your application.

2. I would like to do a bipartite coproduction. My coproducer will finance 60% of the production and I will

finance the remaining 40%. How should I divide the key creative positions?

The breakdown of key creative positions between coproducers must be proportional to their respective financial contributions. Key creative positions are listed in the Guidelines for Audiovisual Treaty Coproductions Governed by Canadian Treaties that Entered into Force before July 1, 2014.

Producers may also use the Creative Evaluation Grid (available on Telefilm’s [Coproduction Web page](#) in the “Evaluation Grids” section) when applying for a preliminary recommendation for their project.

3. Should there be a correlation between the financial contribution, the copyright ownership and the creative and technical participation of a coproduction project?

Yes, there should be a correlation. Subject to the provisions of the applicable treaty, the financial contribution of each coproducer should be proportional to the following components:

- Revenue Sharing;
- Copyright Ownership;
- Creative Positions and, as required by relevant treaty, technical positions.

4. An investor from a non-coproducing country has financed 60% of my project’s total production budget. How much of the revenue can be given to this investor?

Subject to the applicable treaty, the Canadian producer may share its revenue with such investors. Telefilm expects the Canadian producer’s share of revenues to be proportional to the Canadian contribution and to at least meet the minimum percentage set out in the treaty.

C. Questions on Treaties that Entered into Force from July 1, 2014 Onwards

1. Which States can be designated as coproducing States?

Coproducing States are Canada and the country with whom Canada has signed the relevant treaty, as well as any other country that has a treaty or MOU with either of the States, and has a producer participating in the project through a coproduction agreement.

2. Are nationals of each coproducing State required to take part in the work?

Yes, nationals from all coproducing States **must** participate in the project.

3. What is the proportionality requirement?

The proportionality required by the treaty is met when the amount of expenditures incurred on Canadian elements* by the Canadian coproducer corresponds to the Canadian financial contribution, minus expenditures on non-treaty country elements approved by the administrative authorities.

** Expenditures on Canadian elements are expenditures made in Canada by the Canadian coproducer and expenditures related to Canadian creative and technical personnel made in another State by the Canadian*

coproducer in the course of production of the project.

4. Is online distribution an eligible method of distribution/broadcast, and if so, which platforms are eligible for this type of distribution/broadcast in Canada?

Yes, this method of distribution/broadcast is eligible, subject to the applicable treaty and upon presentation of a commitment for such distribution by the coproducer that is choosing this method.

The list of eligible platforms in Canada is available here: <https://www.canada.ca/en/canadian-heritage/services/funding/cavco-tax-credits/notices-bulletins/public-notice-2017-01/acceptable-online-services.html>.

Please contact Telefilm if the platform on which you wish to show your project is not on this list.

Note: It is important for the producer to verify whether the selected method of distribution is also eligible for the various funding or tax credit programs to which the producer intends to apply.

5. Is an interactive non-linear project an acceptable format for a coproduction?

Subject to treaty requirements, such a project may be eligible for certification purposes, however, it may fall outside of the scope of an audiovisual work eligible for federal tax credits. Please consult the CAVCO website for more information.

6. What are the distribution requirements for the Canadian producer?

A distribution commitment for Canada must be submitted with your application.

Note: It is important for the producer to verify whether the distribution arrangements also meet the requirements of the various funding or tax credit programs to which the producer intends to apply.

7. What are the key positions applicable for treaties that entered into force from July 1, 2014 onwards?

Except for the Canada-India treaty and the Canada-China treaty (where the key positions applicable to Treaties that entered into force before July 1, 2014, apply), the key positions are specified in each treaty and may vary from one treaty to the other. Please consult the treaty applicable to your project for more details.

8. Is the creative evaluation grid still an applicable tool for calculating creative participation for treaties that entered into force from July 1, 2014?

No, except for projects coproduced under the Canada-India treaty and the Canada-China treaty.

9. Can my project qualify if only one key position is held by a Canadian national?

Yes (except for projects coproduced under the Canada-India treaty and the Canada-China treaty), provided that:

- All key positions are filled by nationals of the coproducing States (subject to the exemptions

- permitted under the applicable treaty);
- All other criteria under the treaty are fulfilled, notably the requirement regarding proportionality between the financial contribution and expenditures on Canadian elements;
- The Canadian key position is a **full** position (i.e., not shared between the coproducing States) and is valid for the entire duration of the work for which the Canadian was hired.

Furthermore, if the project is a television series, Telefilm Canada expects there to be a full Canadian key position in each episode. In such cases, the producer must complete the document “List of Key Positions – TV Series” which is available on the Coproduction web page.

10. My documentary series includes animation sequences in addition to live-action. What type of work should this “hybrid” project be submitted as?

The type of work and positions recognized will be those of the predominant technique.

11. My project includes a total of 6 key positions instead of 8. Is my project eligible?

Yes. Telefilm will base its analysis of key positions on the 6 existing positions as reflected in the applicable treaty. In all cases, the minimum of 1 full Canadian key position remains applicable.

12. My project includes a key position that is shared between two nationals of the coproducing States. Is this possible and how will this position be counted?

Yes, it is possible. Key positions can be shared between two or more nationals of the coproducing States (e.g., co-writers) so long as the minimum of 1 full (i.e., non-shared) Canadian position is met.

13. The applicable treaty for my project says that a key position can be filled by a national of a State other than the coproducing States. Is it possible to fill two different half key positions with two nationals of a State other than the coproducing States?

No, that is not possible.

14. I see that for certain key positions, there is a choice of two positions (e.g. Music Composer or Sound Designer for animation projects). How can this position be counted?

The coproducers must agree on the key positions that will be used. Only one of two possible positions may be used and must be the same position in the application to each State's authority.

15. How do I know if my project qualifies as “high budget”?

Producers should consult the Telefilm website and, if necessary, contact Telefilm Canada before starting their project to validate if the project qualifies as high budget.

16. My project is considered as a high budget project by the authorities of the coproducing States. How many key positions can be filled by nationals of States other than the coproducing States?

An eligible project that qualifies as “high budget” can have a second key position filled by a national of a

State other than the coproducing States.

17. When a new treaty enters into force, can I still request that my coproduction project be evaluated under the old treaty?

That will depend on the transitional provisions set forth in each new treaty. Please contact Telefilm for more information.