

**AGREEMENT
BETWEEN
THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF THE ITALIAN REPUBLIC
ON FILM CO-PRODUCTIONS**

Rome, November 13, 1997

**AGREEMENT
BETWEEN
THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF THE ITALIAN REPUBLIC
ON FILM CO-PRODUCTIONS**

**THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE
ITALIAN REPUBLIC**, hereinafter referred to as the "Parties";

CONSIDERING that the film, television, video and new media industries of their respective countries could benefit from co-productions that, by their technical quality and artistic and entertainment value, would enhance the reputation and contribute to the economic expansion of the film, television, video and new media production and distribution industries of Canada and Italy;

HAVE AGREED as follows:

ARTICLE 1

1. For the purpose of this Agreement, an "audiovisual co-production" is a project irrespective of length, including animation and documentary productions, produced in any format, for exploitation in theatres, on television, videocassette, videodisc, CD-ROM or by any other form of distribution. New forms of audiovisual production and distribution will be included in the present Agreement.
2. Every co-production produced under the present Agreement shall be considered to be national films by both countries. Such films are by right entitled to the benefits resulting from the provisions in force or from those which may be decreed in each country. These benefits accrue solely to the producer of the country that grants them.

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

in Canada:

by the Minister of Canadian Heritage, through the official body to be designated for this purpose; and

in Italy:

by the Presidency of the Council of Ministers, Department of Performing Arts

ARTICLE 2

In order to qualify for the benefits of co-production, the co-producers shall provide evidence that they have good technical organization, recognized professional standing and qualifications and the necessary financial resources to bring the production to a successful conclusion.

ARTICLE 3

1. If the scenario or the subject of the film so requires, location shooting, exterior or interior, in a country not participating in the co-production may be authorized.
2. The producers, scriptwriters, directors and performers of co-productions, as well as technicians participating in the production, must be nationals of Canada or Italy, or permanent residents of Canada, or nationals of member States of the European Union.
3. Should the film so require, the participation of performers who are not citizens of one of the co-producing countries may be permitted, but only in exceptional circumstances, and subject to agreement between the competent authorities of both countries. However, foreign performers who are normally resident and employed in Canada or Italy may, in exceptional circumstances, take part in co-production as residents of one or the other of the said countries.

ARTICLE 4

1. The respective contributions of the producers of the two countries may vary from twenty (20) to eighty (80) per cent for each film, the minority participation being not less than twenty per cent of the production cost of the film.
2. 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 financial contribution and in any case his creative and technical contribution shall include at least one author, one technician, one performer in a leading role and one performer in a supporting role.
3. Departures of the provisions of the foregoing paragraph may be made jointly by the competent authorities of both countries, but a Canadian director or an Italian director shall be employed in any co-production.

ARTICLE 5

1. The parties to this Agreement look favourably upon co-productions meeting international standards by Canada, Italy and any country to which Canada or Italy is bound by an official co-production agreement.
2. The conditions of acceptance for such films shall be determined in each case.
3. No minority contribution to such films shall be less than twenty (20) per cent of the budget. The creative and technical contributions shall conform to this percentage.

ARTICLE 6

1. Two negatives or at least one negative and one duplicate negative shall be made of all co-produced films. Each co-producer shall be entitled to make a further duplicate or prints therefrom. Moreover, each co-producer shall be entitled to use the original negative in accordance with the conditions agreed upon between the co-producers themselves.

2. Two versions shall be made of any co-produced film; such versions may be either in English and in Italian or in French and in Italian.

ARTICLE 7

The two contracting parties shall facilitate the temporary entry and the re-export of any film equipment necessary for the production of films under this Agreement. Each contracting party shall permit the creative and technical staff of the other party to enter and reside on its territory, without any restriction, for the purpose of participating in the production of these films.

ARTICLE 8

1. The minority co-producer shall pay any balance outstanding on his contribution to the majority co-producer within sixty (60) days following delivery of all the materials required for the production of the version of the film in the language of the minority country.
2. Failure to meet this requirement shall entail the loss of the benefits of the co-production.

ARTICLE 9

1. For the present purposes, productions produced under a twinning arrangement may be considered, with the approval of the competent authorities, as co-productions and receive the same benefits. Notwithstanding Article 3, in the case of a twinning arrangement, the reciprocal participation of the producers of both countries may be limited to a financial contribution alone, without necessarily excluding all artistic or technical contribution.
2. To be approved by the competent authorities, these productions must meet the following conditions:
 - there shall be respective reciprocal investment and an overall balance with respect to the conditions of sharing the receipts of co-producers in productions benefitting from twinning;

- the twinned productions must be distributed under comparable conditions in Canada and in Italy;
- twinned productions may be produced either at the same time or consecutively, on the understanding that, in the latter case, the time between the completion for the first production and the start of the second does not exceed one (1) year.

ARTICLE 10

1. Contract clauses providing for the sharing of markets and receipts between co-producers shall be approved by the competent authorities of both countries. Such distribution shall in principle be based on the percentage of the respective contribution of the co-producers to the production of each film.
2. Where a co-production contract provides for the pooling of markets, the receipts from each national market shall be paid into the pool only after the national investments have been recovered.
3. Premiums and financial benefits provided for in Article 1 of the Agreement shall not be pooled.
4. The transfers of funds resulting from the application of this Agreement shall be made in accordance with the provisions in force in this field in both countries.

ARTICLE 11

Contracts between co-producers shall clearly set out the financial liabilities of each in respect of the apportionment of:

- (a) preliminary expenditures on the preparation of a project;
- (b) expenditures on a project that has been approved by the competent authorities in both countries but that, in its finished form, does not meet the conditions governing such approval;
- (c) expenditures on a film co-produced under this Agreement but the showing of which is not permitted in one or the other of the two countries concerned.

ARTICLE 12

Approval of a proposal for the co-production of a film by the competent authorities of both countries is in no way binding upon them in respect of the granting of permission to show the film thus produced.

ARTICLE 13

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

- (a) it shall normally be included in the quota of the country of the majority co-producer;
- (b) if the respective contributions of the co-producers are equal, it shall be included in the quota of the country that has the best opportunity of arranging for its exhibition;
- (c) if any difficulties arise, it shall be included in the quota of the country of which the director of the film is a national;
- (d) if one of the co-producing countries enjoys unrestricted entry of its films into the importing country, co-produced films shall by right be entitled to this free entry as in the case of its national films.

ARTICLE 14

- 1. All co-produced films shall be identified as Canadian-Italian or Italo-Canadian co-productions.
- 2. Such identification shall appear in a separate credit title, in all commercial advertising, whenever co-produced films are shown at artistic or cultural events and at international festivals.

ARTICLE 15

1. Co-produced films shall normally be entered in international festivals by the country of the majority co-producer.
2. Films produced on the basis of equal contributions shall be entered by the country of which the director is a national.

ARTICLE 16

1. The competent authorities of both countries shall jointly establish the rules of procedure for co-productions, taking into account the laws regulating the film industry in Italy and similar laws, both federal and provincial, in Canada.
2. Applications for qualification of a film for co-production benefits shall be filed, with the required supporting documents, in each case at least thirty (30) days before the commencement of shooting or key animation, in accordance with the Rules of Procedure which are attached to the present Agreement.
3. In principle, the competent authorities of the two countries shall notify each other of their decisions in reference to any such applications for co-production as soon as possible, but not necessarily within the aforementioned limit of thirty days.

ARTICLE 17

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 and video co-operation in the best interests of both countries.

3. A Mixed Commission is established to look after the implementation of this Agreement. The Mixed 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. Meetings of the Mixed Commission shall take place as required and 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 Mixed Commission shall meet within six (6) months following its convocation by one of the Parties.

ARTICLE 18

1. No restrictions shall be placed on the import, distribution and exhibition of Italian film, television and video productions in Canada or that of Canadian film, television and video productions in Italy other than those contained in the legislation and regulations in force in each of the two countries, including, in the case of Italy, the obligations deriving from the norms of the European Union.
2. In addition, the contracting parties underline their determination to favour, by all possible means, the distribution in their respective countries of productions from the other country.

ARTICLE 19

1. This Agreement will replace the original Agreement dated June 16, 1970.
2. This Agreement shall come into force on the date of the exchange of the instruments of ratification and shall be valid for a period of five years.
3. It may be renewed for like periods by tacit agreement failing notice of termination in writing given by one of the contracting parties six months prior to its expiry.
4. Co-productions which have been approved by the competent authorities and which are in progress at the time of notice of termination of this Agreement by either Party, shall continue to benefit fully until completion from the provisions of this Agreement. After expiry or termination of this Agreement, its terms shall continue to apply to the division of revenues from completed co-productions.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at Rome this 13th day of November 1997, in the English, French and Italian languages, each version being equally authentic.

**FOR THE GOVERNMENT
OF CANADA**

**FOR THE GOVERNMENT OF
THE ITALIAN REPUBLIC**

Sheila COPPS

Walter VELTRONI

ANNEX

RULES OF PROCEDURE

Applications for qualification of a film for co-production benefits must be filed, in principle simultaneously, to the competent administrations no less than thirty days prior to the commencement of shooting of the film.

Applications must be accompanied by the following documents in the English or French languages for Canada and in the Italian language for Italy:

- I. a detailed treatment;
- II. a document providing proof that the copyright of the film adaptation has been legally acquired or failing this a valid option;
- III. the co-production contract, subject to the approval of the competent administrations of the two countries.

This document must include:

- 1. the title of the film;
- 2. the name of the writer or of the person responsible for adapting the subject if it is drawn from a literary source;
- 3. the name of the director (a safety clause is permitted for his replacement, if necessary);
- 4. the amount of the budget;
- 5. the amount of the financial contributions of the co-producers;
- 6. the sharing of the receipts and markets;

7. the undertaking between the co-producers concerning their participation in any costs which exceed the budget or in the benefits from any savings in the production cost, proportionate to their respective participation. The participation in over-expenditure may be limited to 30% of the budget of the film;
8. a clause in the contract must provide that the admission of the film to the benefits of the agreement does not bind the competent authorities to permit the public exhibition of the film.

Under the circumstances, therefore, there must be a clause setting out the conditions of a financial settlement between the co-producers:

- (a) if the competent authorities of either country refuse the application following examination of the complete file;
 - (b) if the competent authorities do not permit exhibition of the film in either country or in third countries;
 - (c) if the financial contributions have not been made according to the terms of Article 8 of the Agreement;
9. a clause aiming at establishing measures to be implemented if one of the co-producers does not entirely fulfill his commitments;
10. a clause which requires the majority co-producer to take out an insurance policy covering all production risks;
11. the approximate starting date of shooting;
- IV. the plan for financing the film;
- V. the list of the technical and artistic equipment and personnel, and, for the personnel, stating their nationalities, including the roles to be played by the performers;
- VI. the production schedule.

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

In principle, the final shooting script (including the dialogue) should be submitted to the competent administrations 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 administrations of both countries before the film is finished.

The replacement of a co-producer may be allowed only in exceptional cases and for reasons declared valid by the competent administrations.

The competent administrations will keep each other informed of their decisions, enclosing one copy of the file.