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FRANCE

Treaty Series No. 82 (1995)

Film Co-Production Agreement

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

Paris, 8 November 1994

[The Agreement entered into force on 7 February 1995]

***Presented To Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
November 1995***

LONDON:HMSO

**FILM CO-PRODUCTION AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND AND
THE GOVERNMENT OF THE FRENCH REPUBLIC**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic,

Considering that the film industries of their two countries will benefit from closer mutual co-operation in the production of films,

Considering that films of high quality, capable of enhancing the reputation of the 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:

- (i) a “co-production film” shall be a film made by one or more British producers (hereinafter referred to as “the British co-producer”) in co-operation with one or more French producers (hereinafter referred to as “the French co-producer”) and made in accordance with the terms of an approval given by the competent authorities of each country acting jointly.
- (ii) “nationals” means:
 - (a) in relation to the United Kingdom of Great Britain and Northern Ireland, British citizens, British Overseas citizens, British Dependent Territories citizens, British Nationals (Overseas), British subjects and British protected persons;
 - (b) in relation to France, French citizens;
 - (c) in relation to other member States, nationals of those member States.
- (iii) “residents” means:
 - (a) in relation to the United Kingdom of Great Britain and Northern Ireland, persons ordinarily resident in the United Kingdom;
 - (b) in relation to France, privileged residents of France;

- (c) in relation to other member State, persons whose residence or employment is in those member States.
- (iv) "Great Britain" means England, Wales and Scotland.
- (v) "producer" means the person by whom the arrangements necessary for the making of a film are undertaken.
- (vi) "competent authorities" means:
 - (a) in relation to the United Kingdom of Great Britain and Northern Ireland, the Department for Culture, Media and Sport;
 - (b) in relation to France, the Centre National de la Cinématographie.
- (vii) "member State" means any country that is, for the time being, a member State of the European Union and other States within the European Economic Area.

ARTICLE 2

A co-production film shall be entitled to the full enjoyment of all the benefits which are or may be accorded in the United Kingdom and France respectively to national films.

ARTICLE 3

In approving projects for co-production films for the purposes of this Agreement, the competent authorities of each country acting jointly shall apply the rules set out in the Annex, which forms an integral part of this Agreement.

ARTICLE 4

Each of the Contracting Parties shall provide, in accordance with their respective legislation and regulations including relevant European Community legislation, temporary admission fee of import duties and taxes of cinematographic equipment necessary for the making of co-production films.

ARTICLE 5

Each of the Contracting Parties shall permit the nationals and residents of the other party and nationals and residents of a member State enter and remain in the United Kingdom or France as the case may be, for the purpose of making and exploiting a co-production film, subject to the requirement that they abide by legislation relating to the right of entry and abode and to employment legislation.

ARTICLE 6

The two Contracting Parties shall give favourable consideration to the co-production of films of an international nature between the United Kingdom, France and countries to which

either of them is linked by a Co-production Agreement or which are Parties to the European Convention for Cinematographic Co-production¹.

The conditions under which these films are granted co-production status shall be examined by both competent authorities, acting jointly, on a case-by-case basis.

ARTICLE 7

There shall be a Mixed Commission, composed of representatives of each Government to supervise the review the working of the Agreement as well as, where necessary, to make proposals to the Contracting Parties for its modification.

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 wording of the Agreement.

ARTICLE 8

Each of the Contracting Parties shall notify the other in writing through the diplomatic channel of the completion of any procedure required by its constitutional law for giving effect to this Agreement.

The Agreement shall enter into force on the date of the later of these notifications² and upon this Agreement entering into force the Agreement dated 21 September 1965³ (and all modifications of that Agreement) 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 eighteen months from the date of its entry into force. Either Contracting Party wishing to terminate it shall give written notice to terminate to the other three months before the end of that period and the Agreement shall then terminate at the end of the eighteen months. If no such notice is given the Agreement shall automatically remain in force for successive periods each of eighteen months, unless written notice to terminate is given by either Contracting Party at least three months before the end of any period of eighteen months, in which case it shall terminate at the end of that period.

ARTICLE 10

¹ Treaty Series No. 14 (1994) Cm 2495.

² The Agreement entered into force on 7 February 1995.

³ Treaty Series No. 9 (1966) Cmnd. 2898

At the request of either Contracting Party, this Agreement may be revised by common consent at any time after the expiry of eighteen months 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.

ARTICLE 11

The provisions of this Agreement are subject to the international law obligations and the European Communities obligations of the parties.

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

Done in duplicate at Paris this Eighth day of November 1994, in the English and French languages, both text being equally authoritative.

For the Government of the United
Kingdom of Great Britain and
Northern Ireland:

For the Government of the French
Republic:

ASTOR

D. WALLON

ANNEX I

- (i) The competent authorities of each country acting jointly shall consider any project for a co-production film that may be submitted to them and, after verifying that it conforms with the provisions of this Agreement, shall decide whether a film made in accordance with that project, subject to such conditions as they may stipulate at the time in order to achieve the general aims and provisions of this Agreement, is approved by them as a co-production film.

Subject to the completed film having conformed to the terms of approval stipulated by the competent authorities of each country acting jointly, the Contracting Governments shall take the necessary steps to ensure that it receives in their respective in their respective territories the benefits set out in Article 2 of this Agreement.

- (ii) In respect of each co-production film:
 - (a) the British co-producer shall fulfil all conditions relating to status which are required to be fulfilled in order to satisfy the provisions of paragraph 4(2)(a) of Schedule 1 to the Films Act 1985 amended from time to time;
 - (b) the French co-producer shall fulfil all the conditions relating to his status which he would be required to fulfil, if he were the only producer, in order to be entitled to payments from the Fonds de Soutien.
- (iii) The benefits referred to in paragraph (ii) above shall be the sole property of the British and French co-producers respectively and the contract or contracts governing the making of the co-production film shall not provide for such benefits to be assigned in whole or in part by the co-producer from one country to the co-producer from the other.
- (iv) Individuals taking part in the making of a co-production film shall be nationals or residents of the United Kingdom, France or another member State. As an exception, nationals or residents of third countries may take part as leading artists or principal directors subject to the approval of the competent authorities of each country acting jointly. Where under the provisions of paragraph (v), approval has been given to location filming in a third country, nationals or residents of that country may be employed as crowd artists or as employees supernumerary to the normal categories of employment subject to the approval of the competent authorities of each country acting jointly.
- (v) To competent authorities of each country acting jointly shall have the power to approve location filming in a third country.
- (vi) Subject to the provisions of paragraph (v), co-production films shall be made, processed dubbed and sound recorded in the United Kingdom and/or France, but dubbing into languages other than English and French may be carried out in third countries of the language concerned. The majority of the work of making (studio and location shooting), processing, dubbing and sound-recording shall normally be carried out in the country which has the major financial participation.

- (vii) The proportions contributed by the respective co-producers from each country shall be between 20 per cent and 80 per cent per film. Their contribution in terms of creative personnel, technicians, actors and technical equipment shall normally be proportional to their investment. The contribution of the minority co-producer must involve effective technical and artistic participation.
- (viii) (a) The balance of contributions by each country shall be assessed by the competent authorities over a period of two years.

(b) Over each period of two years, there shall be an approximate balance between the contributions from each country in respect of the usage of studios and laboratories, and the employment of artists, technicians and other personnel in the making of films under this Agreement.
- (ix) The provisions in the contract for a co-production film covering the division between the co-producers of the receipts from the exploitation of the film including those from export markets shall be approved by the competent authorities of each country acting jointly.
- (x) Approval shall not be given to a co-production project where the co-producers are linked by common management or control, other than to the extent that is inherent in the making of the co-production film itself.

A co-production film shall not be distributed by or on behalf of the same organisation in both the United Kingdom and France. Departures from this rule may be approved by the competent authorities of each country acting jointly.

- (xi) The competent authorities of each country 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 as to the availability within the time required of the necessary finance, personnel, etc. The contracts between the co-producers of a co-production film shall specify the dates by which their respective contributions to the production of that film shall have been completed.

- (xii) The competent authorities of each country acting jointly shall satisfy themselves (after taking into account the differences of climate and other factors including current legislation and traditional methods of working) that conditions of employment in the making of co-production films under this Agreement in each of the two countries are in broad terms comparable.
- (xiii) Conditions of work in the making of co-production films shall be those prevailing in the country of major financial participation except in the case of shooting in the country of minor financial participation in which event conditions of work of that country shall apply.
- (xiv) Where a third country enquires for the purpose of its import controls whether a film covered by this Agreement is British or French, the competent authorities of each

country acting jointly shall give a decision.

- (xv) At least 90 per cent of the photographs included in a co-production film shall be specially shot for that film.

The competent authorities of each country acting jointly shall have the power to approve variation of this minimum percentage.

- (xvi) The approval of a project for a co-production film by the competent authorities of each country acting jointly under the conditions of paragraph (i) of this Annex shall not bind the authorities in either country to permit the public exhibition of the resulting film.
- (xvii) The contracts between the co-producers shall clearly set out the financial liability of each co-producer for the costs incurred:
 - (a) in preparing a project which is refused conditional approval as a co-production film by the competent authorities of each country acting jointly;
 - (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 either country.
- (xviii) The contracts between the co-producers shall provide that every co-production film shall have two negatives or at least one negative and one duplicate negative, and that each co-producer shall be the proprietor of a negative or duplicate negative and shall have the right to use it for taking a duplicate negative or prints in accordance with the conditions set forth in the contract.
- (xix) Each co-production film shall include a separate credit title indicating that the film is either a "British-French" co-production film or "Franco-British" co-production film.
- (xx) Payments and financial transfers in connection with films made under this Agreement shall be effected within the framework of existing agreements and regulations.
- (xxi) The provisions of paragraphs (iv), (v), (vii), (viii) and (x) of this Annex may from time to time be varied by the competent authorities of each country acting jointly and any such provision shall take effect as so varied when the variation has been published both in the United Kingdom, and in France in the Journal Officiel de la République Française.
- (xxii) Films made in accordance with an approved co-production project but completed after the termination of this Agreement shall be entitled to all the benefits conferred by Article 2 of this Agreement.

ANNEX II

By way of derogation from the provisions of this Agreement, in the case of works to which the minority co-producer is not in a position to make the required artistic and technical contribution, films made in either of the two countries may enjoy the benefit of co-production status provided that they meet the following conditions:

- (a) involve a minority participation which may be limited to the financial field, in accordance with the co-production contract, but which shall not be less than 20 per cent nor above 30 per cent of the production cost.
- (b) are the subject of co-production contracts which include provisions on the distribution of earnings.

The benefit of co-production status will be granted to each film only after authorisation on a case-by-case basis by the competent authorities of the United Kingdom and France, acting jointly, under the following conditions:

films to which the provisions of this Annex apply must be equally apportioned between British majority and French majority co-productions. The competent authorities shall allow works to be given financial co-production status on terms of reciprocity between majority and minority co-productions: normally a film for a film. However, a temporary imbalance may be accepted. If the imbalance reaches the level of two films to the advantage of either of the Contracting Parties, then, for the country which is "in deficit", only a majority co-production may be allowed to benefit from this Agreement. In addition, for any one company, two financial co-productions in succession may not be allowed to benefit from this Agreement without a majority financial co-production by that company having previously been given financial co-production status;

financial co-productions made by either party must be evenly balanced over these films as a whole;

this overall balance must be assessed over a period of one year. If a balance is not

achieved at the end of the period considered, a Mixed Commission shall meet to investigate ways of re-establishing it.