

**AGREEMENT BETWEEN THE REPUBLIC OF INDIA AND THE
PORTUGUESE REPUBLIC ON AUDIO-VISUAL CO-
PRODUCTION**

The Republic of India and the Portuguese Republic, hereinafter referred to as "the Parties"

TAKING INTO ACCOUNT that both Parties have ratified and are committed to implementing the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, signed in Paris, on the 20th October 2005;

SEEKING to improve the cooperation between the two States in the audio-visual field and aware of the contribution that co-production can make to the development of the audio-visual industry;

DESIROUS of promoting and facilitating the co-production of films between the two States, and the development of their cultural and economic exchanges;

CONVINCED that these exchanges shall contribute to improve the relations between the two States,

HAVE AGREED AS FOLLOWS:

Article 1

Definitions

In this Agreement, unless the Agreement otherwise requires:

1. "Approved Co-production" means a film, including feature film, documentary and animation film irrespective of length, for exploitation in cinemas, televisions or any other form of distribution, jointly invested in and produced by co-producers made in accordance with the terms of recognition given by the competent authorities of Republic of India and Portuguese Republic under this Agreement. New forms of audio-visual production shall be included in the present Agreement by exchange of notes between the Parties.

2. "Competent Authorities" means both Competent Authorities responsible for the implementation of this Agreement or either Competent Authority in regard to its own State, as the case may be. The Competent Authorities are:

- (i) On behalf of the Republic of India, the Ministry of Information and Broadcasting;

- (ii) On behalf of the Portuguese Republic, the Instituto do Cinema e Audiovisual – ICA, I.P. (Film and Audio-visual Institute).

3. The term “Co-producer” means a person who is a citizen of the Republic of India or the Portuguese Republic or a legal entity based or established in the territory of either State who is authorized to enter into co-production contracts with a view to organising, carrying out and co-financing film production;

Article 2

Recognition as a National Film and Entitlement to Benefits

1. An Approved Co-production shall be fully entitled to all the benefits which are or may be accorded to national films by each of the Parties under their respective national laws.
2. These films shall be entitled to claim all State support and benefits available to the film and video industries and the privileges granted by the provisions in force in the respective States.

Article 3

Temporary Entry into the State

1. Each Party shall permit, in accordance with their respective legislation(s), temporary import and export of any equipment necessary for the production of an Approved Co-production.
2. Each Party is committed to process as quickly as possible and according to applicable law any request of a person engaged in the making or promotion of an Approved Co-production to enter and remain in the State for the length of stay as needed to complete the Approved Co-production.

Article 4

Participants

1. The persons participating in the production of an Approved Co-production shall fulfill the following requirements:

(a) As regard to the Republic of India, they shall be –

- (i) Nationals/Citizens of the Republic of India, or;
- (ii) Entities which are established and/or incorporated in India.

(b) As regard to the Portuguese Republic, they shall be –

- (i) Nationals/Citizens of the Portuguese Republic or the European Economic Area;
- (ii) Entities which are based or established in the Portuguese Republic.

2. Participants in the co-production as defined in subparagraphs (a) and (b) must retain their national status at all times throughout the production activity, and may not acquire or lose such status at any point during the course of production activity.

3. Should the film so require, the participation of professionals who are not citizens of any of the co-producing States may be permitted, subject to the approval of the competent authorities of both States.

Article 5

Contributions in Bilateral Co-production

1. As a general rule, the approved co-production status under this Agreement is granted to bilateral co-productions in which the contribution of the minority co-producer is not below 20% (twenty per cent) of the total cost of the film.

2. Notwithstanding the provisions of this Agreement and in the interest of bilateral co-productions, even those films which are produced in one of the two States and where the minority contribution is limited to financial investment may be granted approved co-production status according to the Co-production Agreement. In such a case, the minority contribution may not be less than 20% (twenty per cent) of the total cost of the film.

Article 6

Conditions for obtaining Co-production status

1. Approved co-productions shall require, prior to the commencement of shooting, approval of the Competent Authorities of both States.
2. The approvals granted under the national laws of both States shall be in writing and shall specify the conditions under which the approval is granted.
3. None of the co-producers shall be linked by common management, ownership or control, save to the extent that such links are inherent in the making of the Approved Co-production itself.
4. In considering proposals for the making of an Approved Co-production, both Competent Authorities shall apply the rules and principles set out in this Agreement, including the Annexure which is part of this Agreement, with due regard to their respective policies and guidelines.

5. Competent Authorities shall publish guidelines namely with respect to further specifications on the application procedure and special cases.

6. When adopting such guidelines, the Contracting Parties shall ensure a coherent interpretation and implementation of this Agreement.

7. Nothing in this Agreement binds the competent authorities in the territories of the Parties to permit the public exhibition of a film, which has been granted Approved Co-production status.

Article 7

Film Negatives and Languages

1. The original soundtrack of each Approved Co-production shall be made in Hindi, or any other Indian language or dialect, or in Portuguese, or in English, or in any combination of those permitted languages. Dialogue in other languages may be included in the Approved Co-production, as the script requires.

2. The dubbing or subtitling into one of the permitted languages of the Republic of India shall be carried out in the Republic of India.

Article 8

Minority and majority contribution in the case of multilateral co-productions

Subject to the specific conditions and limits laid down in laws and regulations in force in the Parties, in the case of multilateral co-productions, the minority contribution may not be less than 10% (ten per cent) and the majority contribution may not exceed 70% (seventy per cent) of the total cost of the film.

Article 9

Balanced contribution

1. A general balance should be maintained with regard to both the artistic and technical personnel, including the cast, and with regard to the financial investment and facilities (studios, laboratories, and postproduction).

2. The Joint Commission, established in terms of this Co-production Agreement, shall carry out a review to see whether this balance has been maintained.

3. If this is not the case, the Joint Commission may propose measures which it considers necessary in order to re-establish such a balance.

Article 10

Joint Commission

1. The Joint Commission shall comprise an equal number of members from both Parties, representing the Governments and the film industry of both Parties.

2. The role of the Joint Commission shall be to supervise and review the implementation and operation of this Agreement and to make any proposals considered necessary to improve the implementation of the Agreement.

3. The Joint Commission shall be convened, whether by meeting or otherwise, at the request of either of the Parties within six months of such a request.

Article 11

Entry in International Film Festivals

1. As a rule, applications for selection of Approved Co-productions in international festivals shall be submitted by the majority co-producer.

2. Films produced on the basis of equal contributions shall be entered as a film of the State of which the director is a national, provided that the director is not from a third State in which case the film shall be submitted as a film of the State of which the lead actor is a national, subject to the agreement of the competent authorities of both Parties.

Article 12

Credits

A co-production film and the promotional materials associated with it shall include either a credit title indicating that the film is "an official Portuguese-Indian co-production" or "an official Indian-Portuguese co-production" or where relevant a credit which reflects the participation of the other contracting State.

Article 13

Amendment

1. This Co-production Agreement may be amended by the mutual written consent of the Parties through the exchange of notes between the Parties through the diplomatic channel.
2. Amendments thus approved shall enter into force as provided for in article 15, paragraph 1.

Article 14

Settlement of Disputes

Any dispute arising out of the interpretation or implementation of this Agreement shall be settled consensually through consultation and negotiation between the Parties.

Article 15

Entry into Force, Duration and Termination of the Agreement

1. This Agreement shall enter into force 30 (thirty) days after the reception of the later of the notifications, in writing and through the diplomatic channels, indicating that all the internal procedures required for that purpose have been fulfilled.

2. This Agreement shall continue to be in force, unless either Party terminates the present Agreement by giving a written notice of its intention to terminate it to the other Party at least six (6) months in advance.

3. Termination of the present Agreement shall not affect the implementation of the projects which are already in progress under the present Agreement and shall be continued in accordance with the terms and conditions of the Agreement.

4. The Annexure of this Agreement shall be an integral part of this Agreement.

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

Done at New Delhi on the 14th of February of 2020 in two originals, each in Hindi, Portuguese and English languages, all texts being equally authentic. In case of divergence in interpretation, the English text shall prevail.

For the Republic of India

For the Portuguese Republic



(T.C.A. Kalyani)

(Carlos Pereira Marques)

Joint Secretary to the
Government of India

Ambassador of Portugal to
India

ANNEXURE

PROCEDURE

1. Applications for any benefits under this Agreement in aid of any co-production must be submitted simultaneously to the Competent Authorities at least sixty (60) days before filming begins. The Competent Authorities of the State of which the majority co-producer or another co-producer indicated by the co-producers is a citizen shall convey their decision to the Competent Authorities of the other State within thirty (30) days of the submission of the complete documentation listed below. Again within thirty (30) days, the Competent Authorities of the other State shall convey their decision to the Competent Authorities of the first State and to the co-producer appointed by the co-producers.

2. Applications should be supported by the following documents:

2.1 Final version of the script;

2.2 Evidence of the lawful acquisition of the copyright necessary to a given co-production;

2:3 A signed copy of a co-production contract concluded between co-producers, which should contain:

- a) The title of the co-production;
- b) The name of the author of the screenplay or of the person who adapted the screenplay, if it is based on literary sources;
- c) The name of the director;
- d) A clause defining the division of revenues and markets;
- e) A clause setting forth a share in the copyright in proportion to the input of individual co-producers;
- f) A clause describing what to do if the budget is exceeded;
- g) A clause describing the measures to be taken if one of the co-producers fails to provide the financial contribution agreed upon in the co-production contract;
- h) A clause confirming that the acceptance of a co-production does not imply any production will be distributed in the States-Parties;
- i) A clause obligating the majority co-producer to take out an insurance policy providing cover at least against "all production risks" and "all production risks connected with original materials."

- 2.4 A synopsis;
- 2.5 A financial plan, stating the financial input of the co-producers;
- 2.6 Indication of the date on which principal photography commences and planned production and postproduction calendar;
- 2.7 Distribution/ broadcasting/ sales agreements, if such agreements have already been concluded;
- 2.8 A detailed budget, showing the expenditures to be incurred by the co-producers in each State.

Guidelines for the implementation of the Agreement between the Republic of India and Portuguese Republic on Audio-visual Co-production.

Common Provisions

1. The Competent Authorities may ask for any additional documents or information which they consider essential in order to consider an application for a coproduction.

2. The final screenplay (with script) should be presented to the Competent Authorities prior to the start of filming.

3. Amendments, including a change of co-producer, may be made to the original co-production contract. However, any amendments must be submitted to the Competent Authorities for approval before the co-production is completed. A change of co-producer is permissible only in exceptional circumstances, and for reasons considered by the Competent Authorities to be satisfactory. The Competent Authorities shall inform each other of the decisions they have reached.

Provisions Applying to Indian co-producers and to filming in the Republic of India

1. Each application addressed to the Indian Ministry of Information and Broadcasting (MIB), should be accompanied by four copies of the screenplay and film synopsis together with a processing fee of US\$ 225 payable to Pay & Accounts Officer, Ministry of Information and Broadcasting or for the amount as may be revised from time to time.

2. If the film is to be shot wholly or partly in the Republic of India, the co-producers must provide the Indian Embassy in the Portuguese Republic and Ministry of Information and Broadcasting with the following information:

- (a) Details of any non-Indian members of the film crew: names, passport numbers and expiry dates, State which issued the passport, nationality, permanent and temporary address;
- (b) An accurate description of the shooting locations and the film crew's travel plans;
- (c) A description of the cinematographic equipment and quantity of film to be brought in to the Republic of India temporarily.

3. Within three weeks of receipt of the required set of documents, the Ministry of Information and Broadcasting will send the appropriate filming permit to all co-producers and the Competent Authorities in the other State. A longer period for issuing the filming permit may be required if filming is to take place in some restricted areas.

4. If it is necessary to obtain assistance from the Ministry of Defence, Ministry of Culture, etc. separate agreements may have to be concluded with these Ministries. Requests for such assistance may be submitted via the Ministry of Information and Broadcasting.

5. If the film portrays a person, permission by this person or his/her legal heir is required and copy of the permission should be attached to the screenplay.

6. Each film for whose production the assistance of the Armed Forces has been obtained must be presented to the Ministry of Defence in order to obtain permission for its distribution.

7. In particular cases, a film may have to be presented to a representative of the Government of the Republic of India or to the Indian Embassy in the Portuguese Republic before it can be shown anywhere in the world. Also in particular cases, a liaison officer may be assigned to a film crew at the expense of the Government of the Republic of India.
