

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

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of India (“hereinafter called the Parties”):

Considering that there is potential for the film industries of each country to work together on account of shared or complementary characteristics that include the structure of each film industry, the film culture of each country and the extent of the availability in each country of film-making facilities, a suitably skilled workforce and locations for filming;

Recognising that development of such potential will be the mutual advantage of each Party, in particular in respect of the growth and competitiveness of their film industries and the enhancement of their film cultures;

Noting the benefits available in each country to film with national film status;

Desiring to encourage the making of films that reflect, enhance and convey the diversity of culture and heritage in both the countries;

Acknowledging the benefits that would flow from the making of such films and their increased public availability; and

Noting on the basis of mutual cooperation, the Agreement is intended to produce benefits for both the parties.

Have agreed as follows:

ARTICLE 1 Definitions

(1) In this Agreement:

“Approved Co-production” means a co-produced film which has Approved Co-Production status in accordance with Article 2;

“Co-producer” means any individual, partnership, body corporate or unincorporated association who is a co-producer of a film;

“Competent Authority” means a government department or other body as shall be nominated by the respective Party in each country to make decisions on applications for the grant of Approved Co-production status;

“Film” includes any record, however made, of a sequence of visual images, which is a record capable of being used as a means of showing that sequence as a moving picture, and for which there is an expectation for theatrical release and public exhibition.

“Indian Co-producer” means a co-producer who is established and/or incorporated in India; and

“UK Co-producer” means a co-producer who is established and/or incorporated in England, Wales, Scotland or Northern Ireland.

(2) References to film-making contribution benefiting the UK or India include, in particular, the expenditure in that country on goods and services which directly results from the co-production and the use made of film-making facilities or filming locations in that country.

(3) Subject to Article 2(2) the Annex forms an integral part of this Agreement. Any reference to this Agreement includes the Annex.

ARTICLE 2 Approved Co-production status

(1) The Competent Authorities may grant approved co-production status to a film which provides appropriate film-making and cultural benefits to the UK and India; and meets the requirements set out in this Agreement.

(2) The Parties shall jointly arrive at, through a subsequent exchange of notes, a mutually agreed Annex to this Agreement. The Annex shall include requirements as to:

(a) the appropriate film-making and cultural benefits to the UK and India;

(b) the nature of co-producers;

- (c) the minimum and maximum financial contributions of co-producers;
 - (d) film making contributions of co-producers;
 - (e) content, language, credits, locations and personnel; and
 - (f) any other matters that the Parties consider desirable.
- (3) The Annex shall also include rules of procedures on:
- (a) the granting of approvals of an application for Approved Co-production status;
 - (b) the withdrawal of Approved Co-production status;
 - (c) any other matters that the Parties consider desirable.
- (4) The Annex shall include provision as to the criteria for measuring mutual benefits.
- (5) The Annex shall enter into force as soon as the Parties have notified each other of the completion of their respective legal and constitutional procedures.
- (6) In determining an application made to it, a Competent Authority shall apply these requirements in accordance with guidance published by the Competent Authority under this Article.
- (7) Each Competent Authority may from time to time publish guidance consisting of such information and advice as it considers appropriate with respect to:
- (a) how applications are to be made to the Competent Authority; and
 - (b) the operation and interpretation of this Agreement
- (8) Such guidance shall, in particular, set out:
- (a) how the Competent Authority proposes to make decisions on applications for the grant of Approved Co-production status, and
 - (b) factors it will take into account when exercising any discretion conferred on it by this Agreement.
- (9) Nothing in this Agreement binds the relevant authorities in the UK or India to permit the public exhibition of a film, which has been granted Approved Co-production status.

ARTICLE 3 Benefits

(1) This Article applies in relation to any film which has Approved Co-production status under this Agreement.

(2) Each Party shall permit, in accordance with their respective legislation, including, for the UK relevant European Community legislation, temporary import and export, free of import or export duties and taxes, of any equipment necessary for the production of an Approved Co-production.

(3) Each Party shall permit any person employed in the making of promotion of an Approved Co-production to enter and remain in the UK and India, as the case may be, during the making or promotion of the film, subject to the requirement that they comply with the legislation relating to entry, residence and employment.

(4) Each Party shall treat a film falling within paragraph (1) of this Article as a national film for the purposes of any benefits afforded in that country to national films.

(5) The question of which Party may claim credit for an Approved Co-production as a national film at an International Film Festival shall be determined:

(a) by reference to whichever is the greater of either:

(i) the total financial contributions made by the UK Co-producer or Co-producers (taken together), or

(ii) the total financial contributions made by the Indian Co-producer or Co-producers (taken together); or

(b) if the respective total financial contributions are equal, by reference to whichever of the UK or India the director of the film is most closely associated with.

ARTICLE 4 Films in production before and after entry into force

(1) A film shall be eligible for the grant of Approved Co-production status even if production commenced before this Agreement entered into force, but only if:

- (a) The first day of principal photography of the film is no more than 18 months before the date on which the Agreement enters into force, and
 - (b) Production of the film is completed after the date on which the Agreement enters into force.
- (2) An Approved Co-Production shall continue to be eligible to receive any benefits available under this Agreement on or after the date on which the Agreement ceases to have effect, but only if:
- (a) before that date, the Competent Authorities have given the film requisite approval for Approved Co-production status under Article 2.
 - (b) its principal photography commenced before the date on which the Agreement ceases to have effect, and
 - (c) production of the film is completed before the end of the period of twelve months commencing with the date on which the Agreement ceases to have effect.

ARTICLE 5 Review and Amendment

- (1) The Parties shall keep the Agreement under review and, where they consider it appropriate to do so, may recommend that changes be made.
- (2) The Parties shall report to the other annually in writing on the current state of the Agreement.
- (3) The Parties may, at any time through an exchange of mutually agreed notes, make amendments to the Agreement.
- (4) Any such amendment shall enter into force as soon as the Parties have notified each other of the completion of their respective legal and constitutional procedures.

ARTICLE 6 International obligations

- (1) The provisions of this Agreement are without prejudice to the international obligations of the Parties, including in relation to the United Kingdom obligations arising from European Community law.

ARTICLE 7 Entry into force

(1) This Agreement shall enter into force as soon as the Parties have notified each other of the completion of their respective legal and constitutional procedures.

(2) Either Party may terminate this Agreement at any time by giving at least 6 months' prior written notice to the other Party.

(3) The Agreement shall cease to have effect on the expiry of the period of notice given under paragraph (2) of this Article.

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

Done in duplicate at New Delhi this the Fifth Day of December 2005 in the English and the Hindi languages, both texts being equally authentic. In case of any divergence in interpretation, the English text shall prevail.

Sd/-
For the Government of the United
the Republic
Kingdom of Great Britain and
Northern Ireland

Sd/-
For the Government of
of India

Rules for applications
for approval of Film Co-production Agreement
between
the Government of the Republic of India
and
the Government of United Kingdom of Great Britain
and Northern Ireland

Applications for qualification of a film for co-production benefits under this Agreement for any co-production must be made to competent authority at least thirty (30) days before shooting begins.

2. Documentation submitted in support of an application shall consist of the following items, drafted in English:

2.1 The final script and synopsis;

2.2 Documentary proof of having legally acquired the rights to produce and exploit the co-production and that the copyright for the co-production has been legally acquired;

2.3 Proof of compliance with the prescribed procedure for permission regarding entry of crew, equipment and for shooting location in India;

2.4 A copy of the co-production contract signed by the two co-producers.

The contract shall include –

- a) the title of the co-production;
- b) the name of the author of the script, or that of the adaptor if it is drawn from a literary source; necessary permission for adapting the literary work into a film from the author/legal heirs may be attached;
- c) the name of the director
- d) the budget;
- e) the financing plan;
- f) a clause establishing the sharing of revenues, markets, media or a combination of these;
- g) a clause detailing the respective shares of the co-producers in any over or under expenditure, which shares shall in principle be proportional to their respective contributions, although the minority co-producer's share in any over expenditure may be limited to a lower percentage or to a fixed amount providing that the minimum proportion permitted under the Agreement is respected;

- h) a clause stating that the competent authorities have to be informed if the percentage of the contribution of a co-producer changes subsequent to the approval of the competent authorities;
 - i) a clause stating that films co-produced under this Agreement may be publicly exhibited in either country in accordance with prescribed rules/procedures;
 - j) a clause recognizing that admission to benefits under this Agreement does not constitute a commitment that governmental authorities in either country will grant a license to permit public exhibition of the co-production;
 - k) a clause prescribing the measures to be taken where:
 - (i) after full consideration of the case, the competent authorities in either country refuse to grant the benefits applied for;
 - (ii) the competent authorities prohibit the exhibition of the co-production in either country or its export to a third country;
 - (iii) either one or the other Party fails to fulfill its commitments;
 - l) the period when shooting is to begin;
 - m) a clause stipulating that the majority co-producer shall take out an insurance policy covering at least “all production risks” and “all original material production risks”; and
 - n) a clause providing for the sharing of the ownership of copyright on a basis that it is proportionate to the respective contributions of the co-producers.
- 2.5 the distribution contract, where it has already been signed, or a draft if it has yet to be concluded;
- 2.6 a list of the creative and technical personnel indicating their nationalities and, in the case of performers, the roles they are to play;
- 2.7 the production schedule;

2.8 the detailed budget identifying the expenses to be incurred by each country; and

2.9 all contracts and other relevant financial documentation for all participants in the financial structure.

3. The competent authorities can demand further documents and all other additional information deemed necessary.

4. The final shooting script (including the dialogue) should be submitted to the competent authority prior to the commencement of shooting.

5. Amendments may be made in the original contract, but they must be submitted for approval by the competent authorities before the co-production is finished.

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