

AGREEMENT
ON FILM AND VIDEO RELATIONS
BETWEEN
THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF THE NETHERLANDS

The Government of Canada and the Government of the Netherlands

Considering that it is desirable to establish a framework for video and film relations and particularly for coproductions;

Conscious that quality coproductions can contribute to the development of the film culture of the film and video industries of both countries as well as to the development of their cultural and economic exchanges;

Convinced that these exchanges will contribute to the enhancement of the relations between the two countries;

Have agreed as follows:

I - COPRODUCTIONS

ARTICLE I

For the purposes of this Agreement, the words "film and video coproduction", refer to projects irrespective of length or format including animation and documentaries, produced either on film, videotape or videodisc, for distribution in theatres, on television, videocassette, videodisc or any other form of distribution.

Coproductions undertaken under the present Agreement must be approved by the following competent authorities:

In Canada: the Minister of Communications.

In the Netherlands: The Production Fund, the Dutch Film Fund, and the Coproduction Fund for Home Broadcasting (COBO)

These coproductions are considered to be national productions by and in each of the two countries. Subject to the national legislation and regulations in force in Canada and the Netherlands coproductions are fully entitled to take advantage of the benefits available to the film and video industries or those that may be decreed in each country. These benefits accrue solely to the producer of the country that grants them. It is up to the Competent Authorities of both countries to determine who shall be a coproducer in his own country.

ARTICLE II

The benefits of the provision of this Agreement apply only to coproductions undertaken by producers who have good technical organization, sound financial backing and recognized professional standing.

ARTICLE III

The producers, the writers and the directors of coproductions, as well as technicians, performers and other production personnel participating in the production, must be Canadian or Dutch, or of the nationality of one of the European Economic Community (EEC) member countries, or permanent residents of Canada or of the Netherlands, or permanent residents of one of the member countries of the European Economic Community (EEC).

Should the coproduction so require, the participation of performers other than those provided for in the first paragraph may be permitted, subject to approval by the competent authorities of both countries.

ARTICLE IV

The proportion of the respective contributions of the coproducers of the two countries may vary from twenty (20) to eighty (80) per cent of the budget for each coproduction.

Location shooting, exterior or interior, in a country not participating in the coproduction may be authorized, if the script or the action so requires and if technicians from Canada and the Netherlands take part in the shooting. The laboratory work shall be done in either Canada or the Netherlands unless it is technically impossible.

The minority coproducer shall be required to make an effective technical and creative contribution. In principle, the contribution of the minority coproducer in technicians and performers shall be in proportion to his investment. This contribution should comprise the participation of not less than three technicians, one performer in a leading role and two performers in a supporting role. Departures herefrom may be approved by the competent authorities of both countries. The authorities encourage the exchange of trainees.

ARTICLE V

Live action shooting and animation works such as storyboards, layout, key animation, in between and voice recording must, in principle, be carried out alternately in Canada and the Netherlands.

ARTICLE VI

The competent authorities of both countries look favourably upon coproductions undertaken by producers of Canada, the Netherlands and countries to which Canada or the Netherlands is linked by coproduction agreements.

The proportion of the minority contribution in these coproductions shall be not less than twenty (20) percent for each coproduction.

The minority coproducers shall be obliged to make effective technical and creative contribution.

ARTICLE VII

Two copies of the final protection and reproduction material used in the production shall be made for all coproductions. Each coproducer shall be the owner of a copy of the protection and reproduction material and shall be entitled to use it to make the necessary reproductions. Moreover, each coproducer shall have access to the original production material in accordance with the conditions agreed upon between the coproducers. At the request of both coproducers and subject to the approval of the competent authorities in both countries, only one copy of the final protection and reproduction material may be made for low budget productions. In this case, the material would be kept in the country of the majority coproducer, unless coproducers agree otherwise. The other coproducer would have access to the material at all times.

ARTICLE VIII

The original sound track of each coproduction shall be made in either English or French or Dutch. Double shooting in French and Dutch or English and Dutch may be made. Dialogue in other languages may be included in the coproduction as the script requires.

The dubbing or subtitling of each coproduction into French or English shall be carried out in Canada. The dubbing or subtitling of each coproduction in Dutch shall be carried out in the Netherlands. Any departures herefrom must be approved by the competent authorities of both countries.

ARTICLE IX

Subject to their legislation and regulations in force, Canada and the Netherlands shall facilitate the entry into and temporary residence in their respective territories of the creative and technical personnel dependent on the coproducer of the other country. They shall similarly permit the temporary entry and re-export of any equipment necessary for the coproduction under this Agreement.

ARTICLE X

The sharing of the receipts should, in principle, be proportional to the total contribution of each of the coproducers and shall be subject to approval by the competent authorities of both countries. This sharing consists of either a sharing of receipts or a sharing of markets or a combination of both formulas.

ARTICLE XI

Approval of a coproduction proposal by the competent authorities of both countries is in no way binding upon them in respect of the granting of license to show the coproduction.

ARTICLE XII

Where a coproduction is exported to a country that has quota regulations:

- (a) it shall in principle be included in the quota of the country of the majority coproducer;
- (b) it shall be included in the quota of the country that has the best opportunity of arranging for its export, if the respective contributions of the coproducers are equal;
- (c) If any difficulties arise with clause a) and b), it shall be included in the quota of the country that carries the most favourable arrangement for its exportation.

ARTICLE XIII

A coproduction shall when shown be identified as a "Canada-the Netherlands coproduction" or "the Netherlands-Canada coproduction" depending upon the origin of the majority coproducer or in accordance with an agreement between coproducers.

Such identification shall appear in the credits, in all commercial advertising and promotional material and whenever this coproduction is shown.

ARTICLE XIV

Unless the coproducers agree otherwise, a coproduction shall be entered at international festivals by the country of the majority coproducer or, in the event of equal financial participation of the coproducers, by the country of which the director is a national.

ARTICLE XV

The competent authorities of both countries shall jointly establish the rules of procedure for coproductions taking into account the legislation and regulations in force in Canada and the Netherlands. These rules of procedure are attached to the present Agreement.

II - EXCHANGE OF FILMS

ARTICLE XVI

No restrictions shall be placed on the import, distribution and exhibition of Dutch film and video productions in Canada or Canadian film and video productions in the Netherlands other than those contained in the legislation and regulations in force in each of the two countries.

It would be desirable that the dubbing or subtitling in English or French of each Dutch production distributed and exhibited in Canada be carried out in this country and that the dubbing and subtitling in Dutch of each Canadian production distributed and exhibited in the Netherlands be carried out in this country.

III - GENERAL PROVISIONS

ARTICLE XVII

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 technical resources (studio and laboratory), taking into account the respective characteristics of each country.

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 recommend at need possible amendments with a view to developing film and video cooperation in the best interests of both countries.

A Joint Commission is established to look after the implementation of this Agreement. The Joint Commission shall examine if this overall balance has been achieved and, in case of the contrary, shall determine the measures deemed necessary to establish such a balance. A meeting of the Joint Commission shall take place in principle once every two years and it 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 and video industries in one country or the other, or where the application of this Agreement presents serious difficulties. The Joint Commission shall meet within six (6) months following its convocation by one of the two parties.

ARTICLE XVIII

The present Agreement will be applied from the day of its signature. It shall come into force when each party has notified the other that its internal ratification procedures have been completed.

It shall be valid for a period of three (3) years from the date of its entry into force; a tacit renewal of the Agreement for like periods shall take place unless one or the other country gives written notice of termination six (6) months before the expiry date. Coproductions in progress at the time of notice of termination of the Agreement by either Party, shall continue to benefit fully until completion from the conditions of this Agreement. After expiry of the Agreement its terms shall continue to apply to the liquidation of receipts from completed coproductions.

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

Done in triplicate at _____, this _____ day of _____, in the English, French and Dutch languages, each version being equally authentic.

For the Government of Canada

For the Government of the Netherlands

ANNEX

RULES OF PROCEDURE ACCORDING TO ARTICLE XV OF THE

AGREEMENT BETWEEN THE GOVERNMENT OF CANADA
AND THE GOVERNMENT OF THE NETHERLANDS

Application for benefits under this Agreement for any coproduction must be made simultaneously to both administrations at least thirty (30) days before shooting begins. The administration of the country of which the majority coproducer is a national shall communicate its proposal to the other administration within twenty (20) days of the submission of the complete documentation as described below. The administration of the country of which the minority coproducer is a national shall thereupon communicate its decision within twenty (20) days.

Documentation submitted in support of an application shall consist of the following items, drafted in English or French in the case of Canada and in Dutch in the case of the Netherlands.

- I. The final script.
- II. A document providing proof that the copyright for the coproduction has been legally acquired.
- III. A copy of the coproduction contract signed by the two coproducers.

The contract shall include:

1. the title of the coproduction;
2. the name of the author of the script, or that of the adaptor if it is drawn from a literary source;
3. the name of the director (a substitution clause permitted to provide for his replacement if necessary);
4. the budget;
5. the financing plan;
6. the distribution of receipts and markets;
7. the respective shares of the coproducers in any over or underexpenditure, which shares shall in principle be proportional to their respective contributions, although the minority coproducer's share in any overexpenditure may be limited to a lower percentage or to a fixed amount providing that the minimum proportion permitted under Article IV of the Agreement is respected;

8. a clause recognizing that admission to benefits under this Agreement does not bind the competent authorities in either country to permit public exhibition of the coproduction;
9. a clause prescribing the measures to be taken where:
 - (a) after full consideration of the case, the competent authorities in either country refuse to grant the benefits applied for;
 - (b) the competent authorities prohibit the exhibition of the coproduction in either country or its export to a third country;
 - (c) either party fails to fulfil its commitments;
10. the period when shooting is to begin;
11. a clause stipulating that the majority coproducer shall take out an insurance policy covering at least "all production risks" and "all original material production risks".

IV. The distribution contract, where this has already been signed.

V. A list of the creative and technical personnel indicating their nationalities and, in the case of performers, the roles they are to play.

VI. The production schedule.

VII. The detailed budget identifying the expenses to be incurred by each country.

VIII. The synopsis.

The competent administration 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 coproducer, may be made in the original contract but they must be submitted for approval by the competent administrations of both countries before the coproduction is finished. The replacement of a coproducer may be allowed only in exceptional cases and for reasons satisfactory to both the competent administrations.

The competent administrations will keep each other informed of their decisions.