

Agreement

between

The Government of New Zealand

and

The Government of the Republic of Singapore

Concerning the Co-Production of Films

The Government of New Zealand and the Government of the Republic of Singapore (“the Parties”)

Seeking to enhance cooperation between their two countries in the area of film;

Desirous of expanding and facilitating the co-production of films which may be conducive to the film industries of both countries and to the development of their cultural and economic exchanges;

Noting the Agreement between New Zealand and Singapore on a Closer Economic Partnership of 14 November 2000;

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

Have agreed as follows:

Article 1
Definitions

For the purposes of this Agreement

- (a) “competent authority” means the authority designated as such by each Party;
- (b) “co-producer” means one or more New Zealand nationals or one or more Singapore nationals involved in the making of a co-production film;
- (c) “co-production film” means a film made by one or more nationals of a Party in cooperation with one or more nationals of the other Party under a project approved jointly by the competent authorities;
- (d) “film” means an aggregate of images, or of images and sounds, embodied in any material, and includes television and video recordings, animations and digital format productions;
- (e) "legal entities" means any entity duly constituted or otherwise organised under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association; and
- (f) “nationals” means:
 - (i) for Singapore, citizens or permanent residents of Singapore; and (ii) for New Zealand, citizens or permanent residents of New Zealand.

Article 2
Competent Authority

Each Party shall appoint a competent authority for the purposes of this Agreement. A change in the appointed competent authority may be made by a Party giving notice of the change to the other Party through diplomatic channels.

Article 3
Approval of Co-production Film Projects

1. Prior to the commencement of the making of a co-production film, joint approval of the competent authorities shall be obtained. Approvals granted by the competent authorities shall be in writing and shall specify the conditions upon which the approval is granted. None of the co-producers shall be linked, directly or indirectly, through legal entities with common management, ownership or control, save to the extent that it is pursuant to the making of the co-production film itself.

2. In considering proposals for the making of a co-production film, the competent authorities shall, acting jointly and with due regard for their respective policies and guidelines, apply the rules as set out in the Annex to this Agreement.

3. The approval of a proposal to make a co-production film shall not bind the relevant authorities of either Party to grant a licence for the exhibition or broadcast of the completed co-production film.

Article 4
Contributions

1. For each co-production film, the contributions in terms of:

(a) the performing, technical, craft and creative participation of the co-producers; and

(b) production expenditure in each of the co-producer's countries,

shall be in reasonable proportion to their respective financial contributions.

2. Both the financial contribution, and the performing, technical, craft and creative participation of each co-producer shall account for at least 20% (twenty per cent) of the total effort in making the co-production film.

3. Notwithstanding the contribution rules set out in paragraphs 1 and 2 of this Article, in exceptional cases, the competent authorities may jointly approve co-production film projects where:

(a) the contribution of one of the co-producers is limited to the provision of finance only, in which case approvals shall be limited to projects where the proposed finance-only contribution is no greater than 50% (fifty per cent) of the total production costs of the film; or

(b) the competent authorities consider that the project would further the objectives of this Agreement and should be approved accordingly.

Article 5
Entitlement to Benefits

1. A co-production film 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. Any subsidies, tax incentives, or other financial benefits which may be granted by either Party in relation to a co-production film shall accrue to the co-producer who is permitted to claim those benefits in accordance with the existing measures of that Party.

Article 6
Third Country Co-Productions

1. Where either Party maintains with a third country a film or audio-visual co-production agreement, the competent authorities may approve a project for a co-production film under this Agreement that is to be made in conjunction with a co-producer from that third country.
2. Approvals under this Article shall be limited to proposals in which the contribution of the third country co-producer is no greater than the lesser of the individual contributions of the co-producers of either Party.

Article 7
Participation

1. Persons participating in a co-production film shall be nationals of either Party and, where there is a third co-producer, nationals of the third co-producer's country.

2. Notwithstanding paragraph 1 of this Article, competent authorities may jointly approve:

(a) where script or financing dictates, the participation of restricted numbers of performers from other countries;

(b) in exceptional circumstances, the participation of restricted numbers of technical personnel from other countries.

Article 8
Making up to First-Release Print

1. Co-production films shall be made and processed up to the manufacture of the first release print in New Zealand and/or Singapore and/or, where there is a third co-producer, in that third co-producer's country.

2. The competent authorities may jointly approve an exception to the requirements of paragraph 1 of this Article if, and only to the extent that, compliance with those requirements is technically impossible.

3. At least 90% (ninety per cent) of the footage included in a co-production film shall be specially shot or created for the co-production film unless otherwise approved by the competent authorities.

Article 9

Location Filming

1. Competent authorities may approve location filming in a country other than those of the participating co-producers.

2. Notwithstanding Article 7 (Participation), where location filming is approved in accordance with this Article, citizens of the country in which location filming takes place may be employed as crowd artists, in small roles, or as additional employees whose services are necessary for the location work to be undertaken.

Article 10

Soundtrack

1. The original soundtrack of each co-production film shall be made in one of the official languages of either Party, or in any combination of those permitted languages.

2. Narration, dubbing or subtitling in any other commonly used language or dialect of either Party shall be permitted.

3. Post release print dubbing into any other language may be carried out in third countries.

4. The soundtrack may contain sections of dialogue in any language in so far as is required by the script.

Article 11

Acknowledgements, Credits

A co-production film and the advertising and promotional material associated with it shall include either a credit title indicating that the co-production film is an “Official Singapore - New Zealand Co-Production” or an “Official New Zealand – Singapore Co-Production” or, where relevant, a credit which reflects the participation of Singapore, New Zealand and the country of a third co-producer, according to the origin of the majority co-producer or in accordance with an agreement between co-producers. In the event of equal financial participation of the co-producers, the credit title shall be according to the country of which the director is a national.

Article 12

Immigration Facilitation

Each Party shall permit the nationals of the other country, and citizens of the country of any third co-producer approved under Article 6 (Third Country co-productions), to enter and remain in its territory for the purpose of making or promoting a co-production film, subject to the requirement that individuals comply with its laws, regulations and procedures relating to entry into or temporary stay in its territory.

Article 13
Import of Equipment

Each Party shall provide, in accordance with its respective legislation, temporary admission, free of import duties and taxes, of technical equipment for the making of co-production films.

Article 14
Taxation

Notwithstanding any other provision of this Agreement, for the purposes of taxation the laws in force in each Party shall apply subject to the provisions of the Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Protocol of 21 August 1973 and as amended by the Second Protocol to that Agreement of 1 July 1993.

Article 15
Joint Commission

1. There shall be a Joint Commission composed of representatives of the Parties, including the competent authorities and industry representatives.
2. The role of the Joint Commission shall be to supervise and review the operation of this Agreement and to make any proposals to the Parties which it considers necessary to further the objectives of this 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 16
Status of Annex

1. The Annex to this Agreement shall constitute an implementing arrangement in respect of this Agreement and shall be read in conjunction with the provisions of this Agreement.

2. Any modifications to the Annex shall be jointly agreed to by the competent authorities following consultations with the Joint Commission. Modifications made to the Annex should not result in conflicts with the provisions of this Agreement.

3. Modifications to the Annex shall be confirmed by the competent authorities in writing and shall take effect on the date specified by the competent authorities.

Article 17
Amendment

This Agreement may be amended by written agreement between the Parties through an exchange of diplomatic notes. Such amendments shall enter into force on such date or dates as agreed between the Parties.

Article 18
Entry into Force

This Agreement shall enter into force on the date on which the Parties have exchanged diplomatic notes confirming the completion of their respective procedures for the entry into force of this Agreement.

Article 19
Duration and Termination

1. This Agreement shall remain valid for a period of three years from the date it enters into force and thereafter automatically be renewed for further periods of three years.

2. Either Party may terminate this Agreement at the conclusion of a three-year period by giving six months' prior notice in writing through diplomatic channels.

3. Notwithstanding such termination, this Agreement shall continue as if in force in respect of any co-production film approved by the competent authorities and yet to be completed prior to such termination.

IN WITNESS WHEREOF, the undersigned, being duly authorised by the Parties, have signed this Agreement.

Done in duplicate at _____ this _____ day of _____ 2004,
all texts being equally authentic.

For the Government of
Zealand

New

For the Government of the Republic
of Singapore

ANNEX

1. This Annex constitutes an implementing arrangement in respect of the Agreement between the Government of the Republic of Singapore and the Government of New Zealand Concerning the Co-Production of Films (“the Agreement”) and shall be read in conjunction with the provisions of the Agreement.

2. The competent authorities for the Agreement are the Media Development Authority of Singapore (MDA) in Singapore and the New Zealand Film Commission (NZFC) in New Zealand.

3. The approval process under Article 3 (Approval of Co-production Film Projects) of the Agreement shall comprise two stages:

- (a) Provisional Approval upon application, and
- (b) Final Approval upon completion of the co-production film and prior to its distribution.

4. Each application for approval under the Agreement shall include the following documentation:

- a) the script;
- b) the name(s) of the author(s) of the script, or that of the adaptor(s) if it is drawn from a literary source;
- c) the name of the director(s) (a substitution clause is permitted to provide for replacement(s) if necessary);
- d) the detailed budget explaining the expenses to be incurred in the respective countries of the co-producers;
- e) the financing plan;

- f) a list of the creative and technical personnel indicating their nationalities and place of residence, and in the case of performers, the roles they are to play;
- g) the production schedule and workplan;
- h) a draft contract between the co-producers that includes the elements set out in paragraph 5 of this Annex; and
- i) any other information or documentation as deemed necessary by the competent authorities.

5. After obtaining provisional approval from the competent authorities to make a co-production film, the co-producers shall enter into a contract before the commencement of production governing the making of a co-production film which shall:

- a) provide that a co-producer may not assign or dispose of benefits referred to in Article 5(Entitlement to Benefits) of the Agreement except to or for the benefit of a national of that co-producer's country;
- b) set out, as between the co-producers, the arrangements regarding:
 - i) the ownership of all intellectual property rights arising from the making of the co-production film; and
 - ii) the exercise of rights of access to and use of copyright works created in the making of the co-production film;
- c) set out the financial liability of each co-producer for costs incurred:
 - i) in preparing a co-production project which is refused approval as a co-production film by the competent authorities;
 - ii) in making a co-production film which has been given such approval and fails to comply with the conditions of such approval; and

- iii) in making a co-production film, permission for whose public exhibition is withheld in any of the countries of the co-producers

- d) set out the arrangements regarding the division between the co-producers of the receipts from the exploitation of the co-production film including those from export markets;

- e) specify the dates by which the respective contributions of the co-producers to the production of the co-production film shall have been completed;

- f) specify whether the co-production film shall be shown in film festivals or television markets as a national co-production film of the majority co-producer or as a national co-production film of all the co-producers; and

- g) specify any other conditions imposed jointly by the competent authorities when granting provisional approval.