

Explanatory Memorandum on the Film Co-production Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Federative Republic of Brazil

Title of the Treaty

Film Co-production Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Federative Republic of Brazil.

Command Paper: 9075

Subject Matter

The purpose of the co-production agreement is to provide an official framework under which film producers in both countries can share financial, technical and creative resources to enable them to make their films and qualify for national support measures in their own country. It allows co-productions to be made under the Agreement and to allow UK co-producers and their counterparts in Brazil to realise the benefits that stem from the Agreement.

Ministerial Responsibility

The Secretary of State for Culture, Media and Sport, the Rt. Hon. John Whittingdale MP, has responsibility for the policy underlying the Agreement and for implementing its provisions. The Secretary of State for Foreign and Commonwealth Affairs, Rt Hon Philip Hammond MP, has overall responsibility for policy relating to the UK's relations with Brazil.

Policy Considerations

The overall aim of having co-production agreements is to secure increased inward investment for the UK and encourage cultural cross-fertilisation by enabling filmmakers from both countries to work together using their respective strengths and facilities to create films that are culturally relevant to both countries.

The agreement also enables films made jointly by UK producers and their Brazilian counterparts to qualify as films with "national" status in both the UK and in Brazil, meaning that they are thus eligible to apply for any national incentives offered by either country. The agreement will help to maximise the potential of the film industries in both countries, including the infrastructure, the film culture, filmmaking facilities, locations and a suitably skilled workforce. Development of these film industries will be mutually beneficial to both countries, particularly in respect of the growth and competitiveness of their film industries and the enhancement of their film cultures.

A co-production relationship with Brazil will provide a foothold for the Brazilian export market and for complementary locations, which enhance the UK's competitiveness for productions without competing with locations in the UK. The agreement is also designed to increase the contribution films make to each country in terms of their accessibility to the public and as a medium

through which the diversity of the culture and heritage of both countries may be reflected, enhanced and promoted.

A film made under this agreement will be certified as a British film (under paragraph 4(5) of Schedule 1 to the Films Act 1985). Such qualification is important as it is one of the eligibility criteria for receiving film tax relief in the UK and is also important for the selective support available from the British Film Institute and other Lottery funded screen agencies. The eligibility criteria of these bodies include a requirement that a film is wholly or substantially capable of being certified as a British film.

Whilst the agreement sets in place criteria for films to be certified as British, it is important to note that approval as a British Film under the co-production agreement is not an automatic approval for benefits available to British films including tax relief.

Financial

The main cost is in the UK film tax relief. The lower end estimate is based on one UK-Brazilian production with a budget of between £1 and £3 million and where the UK contribution is between 40% and 60%. This gives an average UK spend of £1 million of which 80% would be allowable for tax relief purposes, costing £0.2 million (at 25% relief). The upper end assumes five such films over two years, or one larger budget film with UK spend of £5m. The total cost range would be between £ 1.7 - 8.3m.

The monetised benefits reflect spending of films which would not have occurred without the treaty being in place. The range reflects a lower case scenario where one film is made every two years with £1m UK spend, and the upper case involves five films with £1m spend made every two years. Alternatively, the upper case could reflect one larger budget inward investment feature with UK spend of £5m occurring every two years. Cost benefits are likely to be in the range of £ 4.2 - 20.8m.

Implementation

The co-production agreement will be further implemented by means of an Order in Council to be made under the Films Act 1985, specifying that films made under this Agreement will be capable of certification as British films. The Agreement shall enter into force on the date of receipt of the later of the two written notifications by which the parties shall notify each other through diplomatic channels of the completion of respective internal and legal procedures required for entry into force of the Agreement. The One-In-One-Out Rule has been considered as part of the process of concluding the Treaty, but is not applicable.

Consultations

In 2004 and 2005, the Department for Culture, Media and Sport (DCMS), in consultation with the UK Film Council and the UK film industry, conducted an 18 month comprehensive review of its co-production treaties. As a result of this review, then Secretary of State Tessa Jowell announced on 28 February 2005 the UK's intention to develop a new package of bilateral co-production

agreements, which deliver maximum economic and/or cultural benefits to the UK.

The treaty with Brazil was the tenth to be signed in full. As of June 2015 DCMS also has similar co-production agreements with China, Australia, Canada, France, Jamaica, New Zealand, South Africa, India, Morocco, Israel and Palestine.

A handwritten signature in black ink, consisting of a series of loops and curves, positioned above the name and title.

Ed Vaizey MP
Minister of Culture, Communications and Creative Industries