

No. 50853

**Brazil
and
India**

Agreement between the Government of the Federative Republic of Brazil and the Government of the Republic of India on Audiovisual Co-Production (with annex). New Delhi, 4 June 2007

Entry into force: *3 November 2010 by notification, in accordance with article 13*

Authentic texts: *English, Hindi and Portuguese*

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**Brésil
et
Inde**

Accord entre le Gouvernement de la République fédérative du Brésil et le Gouvernement de la République de l'Inde relatif à la coproduction audiovisuelle (avec annexe). New Delhi, 4 juin 2007

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Textes authentiques : *anglais, hindi et portugais*

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[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT BETWEEN THE GOVERNMENT OF THE FEDERATIVE REPUBLIC
OF BRAZIL AND THE GOVERNMENT OF THE REPUBLIC OF INDIA
ON AUDIOVISUAL CO-PRODUCTION

The Government of the Federative Republic of Brazil

and

The Government of the Republic of India
(hereinafter referred to as the “Contracting Parties”),

Seeking to enhance cooperation between their two countries in the
audio-visual area;

Desirous of expanding and facilitating the co-production of
audiovisual works, which may be conducive to the development of the film and
audiovisual industries of both countries and to the expansion of cultural and
economic exchanges between them;

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:

1. “Audiovisual Co-production” means an audiovisual work jointly
invested in and produced by one or more Brazilian co-producers
and one or more Indian co-producers under a project approved by
both Competent Authorities.

2. “Audiovisual Work” means any record of a sequence of related images, irrespective of length, which is intended to be made visible as a moving image through the use of devices, regardless of the medium of initial or subsequent fixation, and for which there is an expectation for public exhibition. It includes films and video recordings, animation and documentary productions for exploitation in theatres, on television, DVD or by any other form of distribution. New forms of audiovisual production shall be included in the present Agreement by exchange of Notes between the Contracting Parties.
3. “Co-producer” shall be:
 - a) as regards the Republic of India:
 - i) nationals/citizens of the Republic of India;
 - ii) permanent residents of India; and
 - iii) entities which are established and/or incorporated in India.
 - b) as regards the Federative Republic of Brazil:
 - i) nationals/citizens of the Federative Republic of Brazil;
 - ii) permanent residents of Brazil; and
 - iii) entities which are established and/or incorporated in Brazil.
4. “Competent Authority” means:
 - a) on behalf of the Federative Republic of Brazil, the Ministry of Culture; and
 - b) on behalf of the Republic of India, the Ministry of Information and Broadcasting.

ARTICLE 2

Benefits

1. An Audiovisual Co-production shall be treated as a national Audiovisual Work by both Contracting Parties and, therefore, shall be fully entitled to all the benefits which are or may be accorded to national Audiovisual Works by each of the Contracting Parties under their respective national laws.
2. Any benefits available in Brazil may only be accorded to a Brazilian Co-producer.

3. Any benefits available in India may only be accorded to an Indian Co-producer.

4. The sharing of expenses and revenues shall be as mutually decided by the Co-producers.

ARTICLE 3

Approval of Projects

1. Audiovisual Co-productions shall require, prior to the commencement of shooting, approval of both the Competent Authorities.

2. Approvals are granted under their respective national laws and shall be in writing and specify the conditions upon which the approval is granted. 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 Audiovisual Co-production itself.

3. In considering proposals for the making of an Audiovisual Co-production, both Competent Authorities shall apply the rules and principles set out in this Agreement as well as in its Annex, with due regard for their respective policies and guidelines.

ARTICLE 4

Contributions

1. For each Audiovisual Co-production:

a) the performing, technical, craft and creative participations of the Co-producers; and

b) the production expenditure of the Co-producer in the Federative Republic of Brazil or in the Republic of India

shall be in reasonable proportion to their respective financial contributions and as mutually decided by both the Co-producers.

2. Both the financial contribution and the managerial, performing, technical, craft and creative participation of each Co-producer shall account for at least 20% (twenty per cent) of the total budget of the Audiovisual Co-production.

3. Notwithstanding the contribution and participation rules set out in paragraphs 1 and 2 of this Article, in exceptional cases both Competent Authorities may approve Audiovisual Co-productions where:

- a) the contribution by one Co-producer is limited to the provision of finance only, in which case the proposed finance-only contribution shall be 20% (twenty per cent) or more of the total budget of the Audiovisual Co-production; or
 - b) despite falling outside the contribution rules, the Competent Authorities consider that the project would further the objectives of this Agreement and should be approved accordingly.
4. Subject to the specific conditions and limits laid down in laws and regulations in force in the Contracting 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 Audiovisual Work.

ARTICLE 5

Third Country Co-Productions

1. Where either the Federative Republic of Brazil or the Republic of India maintains with a third country an Audiovisual Co-production agreement, the Competent Authorities may approve a project for an Audiovisual Co-production 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 Brazilian and Indian Co-producers.

ARTICLE 6

Participants

1. The screenwriters, the director, actors and other artistic and technical personnel participating in an Audiovisual Co-production shall be:
- a) as regards the Republic of India,
 - i) nationals/citizens of Republic of India; and
 - ii) permanent residents of India.
 - b) as regards the Federative Republic of Brazil,
 - i) nationals/citizens of the Federative Republic of Brazil; and