

**Loi du 19 décembre 2020 portant approbation :**

**1° du Traité de coproduction audiovisuelle entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement du Canada, fait à Ottawa, le 19 avril 2017 ;**

**2° du « Film co-production agreement between the Government of the Grand Duchy of Luxembourg and the Government of the People's Republic of China », fait à Beijing, le 12 juin 2017.**

Nous Henri, Grand-Duc de Luxembourg, Duc de Nassau,

Notre Conseil d'État entendu ;

De l'assentiment de la Chambre des Députés ;

Vu la décision de la Chambre des Députés du 17 décembre 2020 et celle du Conseil d'État du 19 décembre 2020 portant qu'il n'y a pas lieu à second vote ;

*Avons ordonné et ordonnons :*

**Art. 1<sup>er</sup>.**

Est approuvé le Traité de coproduction audiovisuelle entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement du Canada, fait à Ottawa, le 19 avril 2017.

**Art. 2.**

Est approuvé le « Film co-production agreement between the Government of the Grand Duchy of Luxembourg and the Government of the People's Republic of China », fait à Beijing, le 12 juin 2017.

Mandons et ordonnons que la présente loi soit insérée au Journal officiel du Grand-Duché de Luxembourg pour être exécutée et observée par tous ceux que la chose concerne.

*Le Ministre des Affaires étrangères  
et européennes,  
Jean Asselborn*

Château de Berg, le 19 décembre 2020.  
**Henri**

*Le Ministre des Communications  
et des Médias,  
Xavier Bettel*

**FILM CO-PRODUCTION AGREEMENT**  
**BETWEEN**  
**THE GOVERNMENT**  
**OF THE GRAND DUCHY OF LUXEMBOURG**  
**AND**  
**THE GOVERNMENT**  
**OF THE PEOPLE'S REPUBLIC OF CHINA**

**THE GOVERNMENT OF THE GRAND DUCHY OF LUXEMBOURG and THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA ("the Contracting Parties");**

**CONSIDERING** that the film industries of the two countries will benefit from closer mutual co-operation in the production of films;

**SEEKING** to build on and expand cooperation between the two countries in the area of film;

**DESIROUS** of enhancing 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;

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

**HAVE AGREED AS FOLLOWS:**

**ARTICLE 1**

Definitions

1.1. For the purposes of this Agreement:

- a. "Co-producer" means Chinese legal person or entity or Luxembourgish legal person or entity involved in the making of a co-production film, or, in relation to third-party co-productions under Article 6, includes third-party co-producers.
- b. "Co-production Film" is a film made by one or more Chinese producers ("the Chinese co-producer") in conjunction with one or more producers from Luxembourg ("Luxembourg co-producer") through joint investment and copyright, and includes a film to which Article 6 applies. A Co-production Film has a minimum creative and financial contribution from each co-producer, as set out in the Annex.
- c. "Film" means an aggregate of images, or of images and sounds, embodied in any material, including but not limited to fiction films, documentaries and animation films, and which are primarily intended for theatrical release, television, mobile phones and online platforms. "Film" also includes a film of a like nature to a feature film made for television ("telemovies").
- d. "Nationals" means:
  - i. in relation to China, citizens and legal persons of China;
  - ii. in relation to Luxembourg, any individual possessing Luxembourgish nationality;
- e. "Residents" means:
  - i. in relation to China, natural persons which are long-term or permanent Residents of China;

- ii. in relation to Luxembourg, persons who do not possess Luxembourgish nationality but are permanent Residents of Luxembourg or a natural or legal person as defined by the laws and administrative practices of the respective States.
- f. "Competent Authorities" means the authorities designated as such by the Contracting Parties as set out in the Annex.

## **ARTICLE 2**

### Recognition as a National Film and Entitlement to Benefits

2.1. A Co-production Film shall be entitled to the full enjoyment of all the benefits which are or will be accorded in China and Luxembourg respectively to national films subject to the laws and/or regulations in force from time to time in each country. These benefits accrue solely to the co-producer of the country that grants them.

2.2. The benefits referred to in paragraph (2.1) of this Article include but not limited to:

- a. the lifting of any quota restrictions that would otherwise apply to the import, distribution or exhibition of the film, and
- b. access to any special import arrangements, agreed between a Party and a third country which operates import quota restrictions, for the import of domestic films of that Party.

2.3. Notwithstanding paragraphs 2.1 and 2.2 of this Article, eligibility for any benefits in fiscal treatment (subject to the film satisfying the criteria that domestic films must meet for such benefits) follows exclusively from the laws and/or regulations in force from time to time in each country, due regard being had to the provisions of the Agreement between the Government of the GD of Luxembourg and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income signed in Beijing on March 12, 1994.

## **ARTICLE 3**

### Competent Authorities

3.1. The Competent Authority of each Contracting Party shall be set out in the Annex to this Agreement. Notwithstanding Article 14, if a Contracting Party wishes to designate another authority as its Competent Authority, that Contracting Party shall notify the other Contracting Party in advance in writing through diplomatic channels of such changes.

## **ARTICLE 4**

### Approval of Projects

4.1. Co-production Films must receive provisional approval from the respective Competent Authorities before they are put into production. It is the responsibility of the co-producers to provide any documentation required by the Competent Authorities to enable the Competent Authorities to complete their provisional approval processes.

4.2. Co-production Films must be made in accordance with the terms of the provisional approval which has been given by the Competent Authorities.

4.3. Upon completion of production, it is the responsibility of the co-producers to submit to the Competent Authorities the completed Co-production Film (and any documentation required by the Competent Authorities) to enable the Competent Authorities to complete their final approval processes before the Co-production Film receives the benefits of final approval, pursuant to Article 2.1.

4.4. In determining both provisional and final approval, the Competent Authorities shall apply the Annex to this Agreement to Co-production Films.

4.5. The Competent Authorities shall consult with each other to enable them to determine whether a project conforms with the provisions of this Agreement. Each Competent Authority, in deciding whether to grant or refuse provisional or final approval, shall apply its own policies and guidelines.

4.6. When approving a Co-production Film, each Competent Authority may stipulate conditions of approval framed in order to achieve the general aims and objectives of this Agreement. In the event of a disagreement

between the Competent Authorities about the giving of such an approval or the inclusion of such a condition, the project concerned shall not be approved under this Agreement.

4.7. In relation to China, a Co-production Film will be recognized as having completed the provisional approval process once the Chinese Competent Authority has granted it "The Chinese-Foreign Co-Production Film Shooting Permit" status. A Co-production Film will be recognized as having completed the final approval process once the Chinese Competent Authority has granted it "The Film Public Screening Permit".

4.8. In relation to Luxembourg, a Co-production Film will be recognized as having completed the provisional approval process once the Luxembourg Competent Authority provides written notification to Luxembourg co-producer that provisional approval has been granted. A Co-production Film will be recognized as having completed the final approval process once the Luxembourg provides written notification to the Luxembourgish co-producer that final approval has been granted.

## **ARTICLE 5**

### Requirements on Co-production Companies

5.1. Production companies and studios involved in a Co-production Film must be registered in accordance with the laws and regulations of the relevant Contracting Party, and obtain any permit which is required by the Competent Authorities.

5.2. Co-production Films must be undertaken by film producers whose technical and financial capacity and professional experience satisfy the requirements of the respective Competent Authorities' approval processes.

## **ARTICLE 6**

### Co-production with Third-Party

6.1. With joint approval by the competent authorities, any third party co-producer may participate in co-producing a Co-production Film under this Agreement.

## **ARTICLE 7**

### Application for Co-production Status

7.1. The Chinese co-producer is responsible for applying for co-production status in China and doing all that is necessary to ensure the Co-production Film complies with the requirements of both the Chinese Competent Authority and the Chinese handling organization for granting co-production status.

7.2. The Luxembourgish co-producer is responsible for applying for co-production status in Luxembourg and doing all that is necessary to ensure the Co-production Film complies with the requirements of Luxembourg's Competent Authority for granting co-production status.

7.3. Any third party co-producer shall fulfill all conditions relating to the co-production status which would be required to be fulfilled to produce a film under the terms of the film co-production treaty in force between that co-producer's territory and either China or Luxembourg.

## **ARTICLE 8**

### Import of Equipment

8.1. Each of the Contracting Parties shall provide, in accordance with their respective legislation, temporary admission, free of import duties and taxes, of cinematographic equipment for the making of Co-production Films.

## **ARTICLE 9**

### Immigration Facilitation

9.1. Each of the Contracting Parties shall permit the personnel of the other country who conform with Article 1-1 (d) and (e) and citizens of the territory of any third party co-producer to enter and remain in China or Luxembourg as the case may be, for the purpose of making or exploiting a Co-production Film, subject to

the requirement that they comply with the relevant laws in the respective territories relating to entry and stay including return.

#### **ARTICLE 10**

##### Respect for Laws and Cultural Practices

10.1. The production crews from both Contracting Parties shall respect the constitution, laws and regulations, ethnic cultures, religious beliefs and local customs and conventions of the country where shooting takes place.

#### **ARTICLE 11**

##### Permission to Exhibit Publicly

11.1. The approval of a Co-production Film by the Competent Authorities shall not bind the relevant authorities in either Contracting Party to permit the public exhibition of the resulting film.

#### **ARTICLE 12**

##### International Film Festivals

12.1. The majority co-producer enjoys first option to send a Co-production Film to film festivals. If both co-producers approve, either one may send a Co-production Film to international film festivals provided that the respective Competent Authorities have been informed of this intention 30 days before the event starts.

#### **ARTICLE 13**

##### Exchange of Films

13.1. The Competent Authorities encourage the film organizations and individuals of the two countries to exchange and cooperate with each other, including importation and exhibition of each other's films, and location shooting and production in each other's territory.

#### **ARTICLE 14**

##### Status of Annex

14.1. The Annex to this Agreement forms an integral part of this Agreement, implementing this Agreement.

14.2. Subject to Article 3.1 and notwithstanding Article 15.2, any modifications to the Annex shall be jointly agreed by the Competent Authorities. No modification to the Annex shall conflict with the provisions of this Agreement.

14.3. Modifications to the Annex shall be confirmed by diplomatic notes and shall take effect on the date specified in such diplomatic note.

#### **ARTICLE 15**

##### Amendment and Review

15.1. The Competent Authorities of both Contracting Parties shall supervise and review the working of this Agreement, strive to resolve any difficulties in its implementation, and make any proposals considered necessary for any modification of this Agreement.

15.2. The Contracting Parties may amend this Agreement by mutual consent. Any such amendments shall enter into force in accordance with the terms specified in Article 17.

#### **ARTICLE 16**

##### International Obligations

16.1. The provisions of this Agreement are without prejudice to other international obligations of the Contracting Parties, including the obligations of the Government of GD of Luxembourg arising from the European Union Law.

**ARTICLE 17**

## Entry into Force, Duration and Termination

17.1. The Contracting Parties of this Agreement shall, through diplomatic channel, notify each other that their respective domestic requirements for entry into force have been completed. This Agreement shall enter into force on the thirtieth day after the receipt of the latter date of these two notifications.

17.2. This Agreement shall remain in force for a period of four years.

17.3. Either Contracting Party may terminate this Agreement by giving six months' written notice to the other Contracting Party.

17.4. If no written notice is given by either Contracting Party six months before the expiration date, this Agreement shall be automatically extended for a further period of four years, and shall thereafter be renewable for similar periods accordingly.

17.5. A film made in accordance with an approval by the Competent Authorities under this Agreement but completed after the termination of this Agreement shall be treated as a co-production film and its co-producers shall accordingly be entitled to all the benefits of this Agreement.

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Agreement.

DONE at BEIJING, on 12<sup>th</sup> June 2017, in duplicate in Chinese and English languages, all texts being equally authentic.

For the Government of  
the Grand Duchy of Luxembourg

*suivent les signatures*

For the Government of  
the People's Republic of China

*suivent les signatures*

**ANNEX**

**IMPLEMENTING ARRANGEMENT  
TO THE FILM CO-PRODUCTION AGREEMENT  
BETWEEN  
THE GOVERNMENT OF THE GRAND DUCHY OF LUXEMBOURG  
AND  
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA**

**A. Competent Authorities**

The Competent Authorities for the Film Co-production Agreement ("the Agreement") between the government of Grand Duchy of Luxembourg and the government of the People's Republic of China are as follows:

1. The Chinese Competent Authority is the State Administration of Press, Publication, Radio, Film and Television. The Chinese Competent Authority designates the China Film Co-production Corporation as the Chinese handling organization through which co-production films are assessed for co-production status.
2. The Luxembourgish Competent Authority is the Ministry of State and the Ministry of Culture having designated Film Fund Luxembourg as the handling organization.

**B. Rules Applying to Co-Production Films**

The following rules of this Annex apply to Co-production Films under the Agreement:

1. Application for benefits under the Agreement for any co-production must be made simultaneously to both authorities at least thirty (30) days before shooting begins. The authorities will provide the applicant no later than five (5) working days before shooting with a statement of their decision. Documentation submitted in support of an application shall consist of the following items, drafted in Chinese and/or English, as requested by the respective Competent Authorities:

- a. The final script;
- b. A document providing proof that the copyright for the production has been legally acquired;
- c. A copy of the co-production contract signed by the two co-producers. The contract shall include in any case:
  - i. The title of the Co-Production;
  - ii. The name of the producer, author of the script or that of the adaptor if it is drawn from a literary source;
  - iii. The name of the director (a substitution clause permitted to provide for his/her replacement if necessary);
  - iv. The budget, including the financing plan;
  - v. International distribution estimates;
  - vi. The respective shares of the co-producers in any over or under expenditure, which shares shall in principle be in proportion 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 section B.8 of this Annex is respected;
  - vii. A clause recognizing that admission to benefits under the Agreement does not bind the Competent Authorities in either country to permit public exhibition of the Co-Production;
  - viii. The period when shooting is to begin;
  - ix. A clause stipulating that the majority co-producer shall take out insurance policy covering at least "all production risks" and "all original material production risks";
- d. The distribution contract, where this has already been signed;
- e. A list of the creative and technical personnel indicating nationalities and role, and in the case of performers, the roles they are to play;
- f. The production schedule;
- g. The detailed budget, identifying the expenses to be incurred in each country by each producer;
- h. The synopsis.

The Competent Authorities of the two countries can demand any further documents and all other additional information deemed necessary. Amendments, including the replacement of a co-producer, may be made in the original contract but they must be submitted for approval by the Competent Authorities of both countries before the Co-Production is finished. The replacement of a co-producer may be allowed only in exceptional cases and for reasons satisfactory to both the Competent Authorities.

The Competent Authorities will keep each other informed of their decisions as set out under section B.1 of this Annex.

2. The contract or contracts governing the making of the Co-production Films will provide that a co-producer may assign or dispose of the benefits referred to in Article 2 of the Agreement only to a Co-producer who is a National or Resident of or established in that co-producer's country.

3. The Competent Authorities will satisfy themselves that conditions of work in the making of Co-production Films under the Agreement in each of the countries of the participating co-producers are in broad terms comparable and that in the event that location shooting of the film takes place in a country other than that of a co-producer, conditions will be, in broad terms, no less favorable.

4. None of the co-producers will be linked by common management, ownership or control, save to the extent that it is inherent in the making of the Co- production Film itself.

5. Co-production Films will be made and processed up to the creation of the first release print in China or Luxembourg, and when there is a third party co- producer, in that co-producer's territory. Re-voicing of co-production films may be carried out in China or Luxembourg, and when there is a third party co- producer, in that co-producer's territory. The majority of this work will normally be carried out in the country of the co-producer which has the major financial participation but the Competent Authorities may mutually approve other arrangements. The Competent Authorities may also mutually approve location filming in a country other than the countries of the participating co-producers.

6. Individuals participating in the making of Co-production Films, i.e. the main cast and crew, will be Nationals or Residents of China or Luxembourg (including a natural or legal person as defined by the laws and administrative practices of the respective States) or of a member state of the European Union or the European Economic Area, or, where there is a third party co-producer, citizens of that co-producer's territory.

In circumstances, where script or financing dictates, personnel (cast or crew) from other countries maybe engaged. The engagement of such personnel will be in accordance with the applicable laws and regulations of the Contracting Parties.

Where the competent authorities have approved location filming in a country other than that of the participating co-producers, citizens of that country may be employed as crowd artists, in small roles, or as additional employees whose services are necessary for the location work to be undertaken.

7. The performing, technical and craft contribution (being the "creative" contribution) and the financial contribution of each co-producer will be agreed by the co-producers, provided that the performing, technical and craft contribution of each co-producer to a Co-production Film will be in reasonable proportion to each of the co-producer's financial participation. When assessing the financial contribution of each co-producer, the Competent Authorities may mutually approve "in kind" contribution (including, but not limited to, the provision of studio facilities) as part of the financial contribution. The Competent Authorities encourage the exchange of industry personnel and students.

8. Each co-producer will have a financial and creative contribution of not less than twenty per cent (20%) of the total financial and creative contribution for the Co-production Film, and not more than eighty per cent (80%) of the total. In a particular case, the Competent Authorities may agree to different limits, but subject to new minimum and maximum limits of 10% and 90%, respectively. In the event that a third party co-producer is approved to participate in the Co-Production Film, its contribution shall be no less than ten per cent (10%) and no more than twenty per cent (20%).

9. Any music specially composed for a Co-production Film will, subject to any departure from this rule which is approved by the Competent Authorities, be composed by Nationals or Residents of China, Luxembourg or of a member state of the European Union or, where there is a third party co-producer, by citizens of that co-producer's territory. The engagement of such personnel will be in accordance with the laws and regulations of the Contracting Parties. In circumstances, where script or financing dictates, music composers from other countries may be engaged. The engagement of such personnel will be in accordance with the applicable laws and regulations of the Contracting Parties.

10. At least ninety per cent (90%) of the footage included in a Co-production Film will, subject to any departure from this rule which is mutually approved by the competent authorities, be especially shot for that film.

11. The contracts between the co-producers shall:

a. provide that a sufficient number of copies of the final protection and reproduction material used in the production be made for all the co-producers. Each co-producer will be the owner of a copy of the protection and reproduction material and will be entitled to use it to make the necessary reproductions. Moreover, each co-producer will have access to the original production material in accordance with the conditions agreed upon between the co-producers which at least will contain a clause stating that each co-producer is co-holder of the tangible elements of the film and guarantee that all materials are copyright protected and that any exploitation can only be conducted with agreement of both co-producers;

The material should be registered to the joint names of the co-producers in a jointly agreed upon laboratory to which each co-producer should have access.

b. set out the financial liability of each co-producer for costs incurred:

- i. in preparing a project which is refused conditional approval as Co-production Film by the Competent Authorities;
- ii. in making a film which has been given such conditional approval and fails to comply with the conditions of such approval; or
- iii. in making an approved Co-production Film, permission for whose public exhibition is withheld in any of the countries of the co-producers;

c. set out the arrangements regarding the division between the co-producers of the revenues from the exploitation of the film, including those from export markets; the sharing of revenues should, in principle be proportional to the total contribution of each of the co-producers and shall be subject to approval by the Competent Authorities of both countries. This sharing consists of either a sharing of revenues or a sharing of markets or a combination of both formulas.

d. specify the dates by which their respective contributions to the production of that film will have been completed.

12. Each Co-production Film will include either a separate credit title indicating that the film is either a "China-Luxembourg Co-production" or a "Luxembourg-China Co-production", or where relevant, a credit which reflects the participation of China, Luxembourg and the territory of the third party co-producer and will carry the logos of the Competent Authorities.

13. Over each period of four years commencing on the date that the Agreement enters into force, an overriding aim of the Agreement, monitored by the Competent Authorities, will be to ensure that an overall balance is achieved as regards:

- a. the contribution of each country to the production costs of all Co- production Films;
- b. the usage of studios and laboratories;
- c. the employment of all performing, craft and technical personnel; and
- d. the participation in each of the major performing, craft and technical categories and in particular, that of the writer, director and lead cast.

14. The Competent Authorities will inform each other of new Agreements set up with other countries, in order to increase the effectiveness of the Agreement.

