

ANNEX 8-B
CO-PRODUCTION ON FILM

Article 1: Definitions

For the purposes of this Annex:

- (a) **competent authority** means the authority designated as such in the Appendix 8-B-1 to this Annex by each Party;
- (b) **co-producer** means one or more nationals of Korea or one or more nationals of China involved in the making of a co-production film, or, in relation to Article 5 (Third Party Co-Productions), one or more nationals of a third country/region;
- (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 of the Parties, and includes a film to which Article 5 applies. In order for a film to be approved under this Annex, the co-production film must satisfy the minimum levels for the performing, technical, craft and financial contributions of each co-producer, as well as the other requirements of this Annex; and
- (d) **film** means a series of images, or of images and sounds, including animation, which is intended to be shown in cinemas.
- (e) **nationals** means¹:
 - (i) for China,
 - citizens of the People's Republic of China as defined in the nationality law; or
 - legal persons in the People's Republic of China;
 - (ii) for Korea,
 - nationals of the Republic of Korea as defined in the nationality law; or
 - legal persons in the Republic of Korea.

Article 2: Recognition as a National Film and Entitlement to Benefits

A co-production film made in accordance with this Annex shall be fully entitled to all the benefits which are or may be accorded to national films by each Party under its respective national laws and regulations in force currently or in the future.

¹ For the purpose of this Annex, foreigners who have obtained permanent residence permits in Korea or China may enjoy the same treatment as Korean or Chinese nationals.

Article 3: Approval of Projects

1. Co-production films must receive provisional approval from the respective competent authorities of the Parties 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.
2. Co-production films must be made in accordance with the terms of the provisional approval which has been given by the competent authorities.
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 respectively by the competent authorities and to obtain their final approval.
4. In determining both provisional and final approval, the competent authorities shall apply the provisions of the Appendix 8-B-1 to co-production films.
5. The competent authorities shall consult with each other to enable them to determine whether a project conforms with the provisions of this Annex. Each competent authority, in deciding whether to grant or refuse provisional or final approval, shall apply its own policies and guidelines.
6. In relation to China, a co-production film shall be recognized as having completed the provisional approval process once the Chinese competent authority has granted it "Project Establishment" status. A co-production film shall be recognized as having completed the final approval process once the Chinese competent authority has granted it a "Film Public Screening Permit".
7. In relation to Korea, a co-production film shall be recognized as having completed the provisional or final approval process once the Korean competent authority provides written notification of such approval.

Article 4: Contributions

1. The proportion of the performing, technical and craft contributions (hereinafter jointly referred to as the "creative contribution") of each co-producer of a film shall be decided by arrangement between the co-producers, and shall be between 20 to 80 percent of the final creative contribution to the film.
2. The proportion of the financial contributions of each co-producer of a film shall be decided by arrangement between the co-producers, and shall be between 20 to 80 percent of the final production cost of the film. Calculation of the financial contribution may include in-kind contributions.

Article 5: Third Party Co-Productions

1. Where either Korea or China maintains with a third party a film co-production agreement, the competent authorities may approve a project for a co-production film under this Annex that is to be made in conjunction with a co-producer from that third party.

2. Approvals under this Article shall be limited to proposals in which the contribution of the third party co-producer is no greater than the lesser of the individual contributions of the Korea and China co-producers.

Article 6: Film Production

At least 90 percent of the footage included in a co-production film shall, subject to any departure from this rule which is mutually approved by the competent authorities, be specially shot for that film.

Article 7: Entry Facilitation

Subject to its national laws and regulations, each Party shall permit nationals of the other Party, and nationals of any third party co-producer approved under Article 5, to enter Korea or China for the purpose of making or promoting a co-production film.

Article 8: Import of Equipment

Each Party shall endeavor to provide, in accordance with its respective national laws and regulations, temporary admission, free of import duties and taxes, of technical equipment and filming materials for the making of co-production films.

Article 9: Film Distribution

1. The final approval of a co-production film by the competent authorities shall not oblige the relevant authorities of either Party to permit the public exhibition of the resulting film in the Party.

2. Both Parties shall endeavor to promote the global distribution of co-production films in order to enhance the competitiveness of the co-production films in the global market.

Article 10: Technical Cooperation

Both Parties shall endeavor to promote inclusive technical cooperation activities in film and related areas such as computer graphics, virtual reality and/or digital cinema technologies.

Article 11: Status of Appendix

Appendix 8-B-1 shall be an integral part of this Annex.

Article 12: Obligations under International Law

The provisions of this Annex are without prejudice to the obligations of the Parties under international law, including international agreements to which they are party.

Article 13: Non-Application of Dispute Settlement

Neither Party shall have recourse to Chapter 20 (Dispute Settlement) for any matter arising under this Annex. Any issues requiring attention shall be settled amicably through mutual discussion and dialogue between the Parties.

Article 14: Termination

Unless otherwise mutually agreed by the Parties, the provisions of this Annex shall continue to be applied in respect of any co-production film approved by the competent authorities and not yet completed at the time of termination of this Annex, and shall be effective until such co-production is completed.

Article 15: Termination of the Agreement between the Government of the Republic of Korea and the Government of the People's Republic of China Concerning the Co-Production of Films

The Agreement between the Government of the Republic of Korea and the Government of the People's Republic of China Concerning the Co-Production of Films shall terminate on the date of entry into force of this Agreement.

APPENDIX 8-B-1 IMPLEMENTING ARRANGEMENTS

1. The competent authorities for this Annex are, for Korea, the Korean Film Council (KOFIC), and, for China, the Film Bureau of the State Administration of Press, Publication, Radio, Film and Television.

The China Film Co-production Corporation is designated as the Chinese handling organization through which co-production films are assessed for co-production status.

Both competent authorities and the handling organization shall supervise and review the operation of this Annex, as well as mediate any disputes arising between the co-producers.

2. This Annex applies to film co-production between co-producers from Korea and Mainland of China only.

3. Application Process

In order to benefit from the provisions of this Annex, the co-producers must, before shooting commences, submit an application for co-production status and attach the documents listed below:

- (a) a copy of the documentation concerning the ownership of the copyright for the commercial exploitation of the work;
- (b) a synopsis of the film, including concrete information on the theme, and the complete script of the film;
- (c) a list of the technical and artistic contributions of each of the nationals from the countries or regions involved, indicating their nationalities and filmography, and, in the case of the actors, their nationality and the roles that they will play, with an indication of the type and length of the roles;
- (d) a work plan stating the periods and locations of principal photography on a weekly basis for studio and outdoor shooting;
- (e) a budget including the investors' letters of commitment and a detailed financing plan;
- (f) the co-production contract made between the producers, which states that the co-producers jointly own the property of the film and sets forth the allocation rates of the revenues from the exploitation of the film, including the revenues from overseas markets; and
- (g) any other documents and additional information that the competent authorities of two Parties may request.