

No. 53344*

**Canada
and
Germany**

Agreement between the Government of Canada and the Government of the Federal Republic of Germany on audio-visual relations (with annex). Gatineau, 22 June 2004

Entry into force: *22 June 2004 by signature, in accordance with article 15*

Authentic texts: *English, French and German*

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**Canada
et
Allemagne**

Accord entre le Gouvernement du Canada et le Gouvernement de la République fédérale d'Allemagne sur les relations audiovisuelles (avec annexe). Gatineau, 22 juin 2004

Entrée en vigueur : *22 juin 2004 par signature, conformément à l'article 15*

Textes authentiques : *anglais, français et allemand*

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[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT

BETWEEN

THE GOVERNMENT OF CANADA

AND

THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY

ON

AUDIO-VISUAL RELATIONS

**THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE
FEDERAL REPUBLIC OF GERMANY** referred to hereinafter as the "Contracting
Parties";

CONSIDERING that it is desirable to establish a framework for their audio-visual
relations and particularly for film, television and video co-productions;

CONSCIOUS that quality co-productions can contribute to the further expansion of the
film, television and video production and distribution industries of both countries as well
as 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

1. For the purpose of this Agreement, an "audio-visual co-production" is a project,
irrespective of length and format, produced for exploitation in theatres, on
television or for any other form of distribution. New forms of audio-visual
production and distribution will be included in the present Agreement by
exchange of notes.
2. The present Agreement and changes that will be brought to it shall be approved,
in Canada, by the Department of Canadian Heritage, and in the Federal Republic
of Germany, by the Federal Government Commissioner for Culture and Media.
3. Co-productions undertaken under this Agreement shall be subject to approval
after consultation between the administrative authorities of both countries:

In Canada:

In the Federal Republic of Germany:

Telefilm Canada;

the Federal Office of Economics and
Export Control (BAFA).

4. Every co-production proposed under this Agreement shall be produced and distributed in accordance with the national laws and regulations in force in Canada and in the Federal Republic of Germany.
5. Every co-production produced under this Agreement shall be considered to be a national production for all purposes by and in each of the two countries. Accordingly, each such co-production shall be fully entitled to take advantage of all benefits currently available to the film and video industries or those that may hereafter be decreed in each country. These benefits do, however, accrue solely to the producer of the country which grants them.
6. The Contracting Parties agree that television co-production projects that were submitted to their respective administrative authority prior to the date of signature of this Agreement shall be accorded the benefits in accordance with the Agreement between the Government of Canada and the Government of the Federal Republic of Germany regarding Film Relations, signed on May 30, 1978, and amended by the Exchange of Notes dated April 24, 1995, and December 7, 1995, between the Government of Canada and the Government of the Federal Republic of Germany, provided they comply with the other stipulations of the said Agreement and the said Exchanges of Notes.

ARTICLE 2

In order to qualify for the benefits of co-production, every co-production produced under this Agreement shall be undertaken by producers who have good technical organization, sound financial backing and recognized professional standing.

ARTICLE 3

1. The performing, technical, artistic and creative contribution of the co-producers shall be in reasonable proportion to their financial participation.
2. The participation of the minority co-producer shall be at least 20% (twenty percent) of the budget for each co-production.

ARTICLE 4

1. All participants in the making of film, television and video productions shall be Canadian or German nationals. National means:

in relation to Canada

- Canadian citizens;
- Permanent residents of Canada.

in relation to the Federal Republic of Germany

- Germans within the meaning of the Basic Law;
- Persons who belong to the German culture and are permanent residents of the Federal Republic of Germany;

- Nationals of a Member State of the European Union;
 - Nationals of another Contracting State to the Agreement of 2 May 1992 regarding the European Economic Area (EEA Agreement).
2. Actors, authors, artistic or technical staff members who do not fulfill the requirements of sub-section (1) of this Article, may participate, in exceptional cases and if the nature of the film, television and video co-productions so requires, by agreement of the administrative authorities of the Contracting Parties.
 3. All laboratory work, sound recording, post-synchronisation and mixing shall be carried out in Canada, in the Federal Republic of Germany, in another Member State of the European Union, or in another Contracting State to the Agreement of May 2, 1992, regarding the European Economic Area (EEA Agreement).
 4. Studio shooting and location shooting shall take place within the area of application of this Agreement, but any of the location shooting may be permitted by the administrative authorities of the Contracting Parties to take place outside the area of application of this Agreement if any of the technical aspects of the production or the action of the film, television and video co-production so requires.
 5. Two final versions shall be made of the film, television and video co-production, one in English or French and the other in German. The versions may include dialogues in another language if the script requires it.

ARTICLE 5

1. The co-producers shall decide jointly on the use of the original negative (picture and sound). Each of the co-producers shall be entitled to a duplicate negative. The making of a duplicate negative for a third language version shall be subject to the approval of both co-producers.
2. The co-producers make an agreement on where the negative shall be developed and where the original negative is kept for their joint use. Each co-producer shall be entitled to make the necessary copies for exploitation in his own country.

ARTICLE 6

1. In principle, receipts shall be allocated in proportion to the financial contribution of each co-producer.
2. Subject to the approval of the administrative authorities, this allocation may consist in a sharing of the receipts, or a division of territory, or a combination of both.
3. In principle, the majority co-producer shall be responsible for the export of the co-produced film, television and video unless the co-producers engage a world sales company for the exploitation of the co-produced film, television and video. Should difficulties arise in exporting to a particular country, the co-producer with the best possibility of arranging for export to that country shall assume this responsibility.

ARTICLE 7

1. Title credits and advertisement material for film, television and video co-produced under this Agreement shall indicate that the project is a co-production between the two countries.
2. Unless the co-producers agree otherwise, a co-production shall be shown at festivals as an entry of the majority co-producer or, if the financial contributions are equal, by the co-producer who provides the director.

ARTICLE 8

The administrative authorities shall, within the scope of this Agreement, look favourably upon co-productions undertaken by producers from Canada, the Federal Republic of Germany and from countries to which either of the two is bound by co-production agreements; in such cases, the provisions of Articles 3 and 4 of this Agreement shall apply with the necessary changes.

ARTICLE 9

Within the framework of their national laws and regulations, each Contracting Party shall facilitate the entry into and temporary residence in its territory of technical and artistic personnel of the other Contracting Party as well as the granting of working permits.

ARTICLE 10

1. There should be an overall balance in the number of co-productions, as well as an overall balance in the artistic, technical and financial contributions, between the two Contracting Parties.
2. The Joint Commission referred to in Article 13 of this Agreement shall determine whether this balance has been maintained and shall decide what measures are necessary in order to correct any imbalance.

ARTICLE 11

The Contracting Parties affirm their desire to promote by all available means the distribution and exploitation in their respective countries of film, television and video co-productions from the other country. However, approval of a co-production by the administrative authorities shall in no way be binding upon them in respect of the granting of a license to permit the co-production publicly.

ARTICLE 12

1. Productions produced under a twinning arrangement may be considered, with the approval of the administrative authorities, as co-productions and receive the same benefits. Notwithstanding Article 6, in the case of a twinning arrangement, the reciprocal participation of the producers of both countries may be limited to a financial contribution, without necessarily excluding all artistic or technical contribution.