



TREATY SERIES 2016
No. 10

**Audiovisual Co-Production Treaty between the Government of
Ireland and the Government of Canada**

Done at Ottawa on 4 February 2016

Notifications of the completion of the procedures necessary for the entry into force of
this Treaty exchanged on 6 April 2016 and 1 June 2016

Entered into force on 1 July 2016

AUDIOVISUAL CO-PRODUCTION TREATY BETWEEN THE GOVERNMENT OF IRELAND
AND THE GOVERNMENT OF CANADA

THE GOVERNMENT OF IRELAND AND THE GOVERNMENT OF CANADA (the “Parties”),

RECOGNIZING that quality audiovisual treaty co-productions contribute to the vitality of the audiovisual industries of the Parties and to the development of their economic and cultural exchanges;

APPRECIATING that cultural diversity is nurtured by constant exchanges and interaction between cultures and that it is strengthened by the free flow of ideas;

CONSIDERING that, in pursuit of international co-operation, the UNESCO *Convention on the Protection and Promotion of the Diversity of Cultural Expressions*, done at Paris on 20 October 2005, encourages audiovisual co-production treaties as a means of promoting international co-operation;

AGREEING that these exchanges may enhance the relations between the Parties;

RECOGNIZING that these objectives may be achieved by granting, insofar as possible, domestic benefits to qualified audiovisual treaty co-productions;

HAVE AGREED as follows:

Article 1
Definitions

For the purpose of this Treaty:

- (a) “audiovisual” means a film, television, and/or video work on any production support known or not yet known for any distribution platform intended for viewing;
- (b) “competent authority” means for each Party, the authority which has the overall responsibility for the implementation of this Treaty;
- (c) “administrative authority” means for each Party, the designated authority which administers this Treaty;
- (d) “national” means a natural or legal person as defined by the law of the respective States and which, under that law, has the right to benefit from the application of this Treaty; in the case of Ireland, “national” also includes:
 - i) a national of a Member State of the European Union; or
 - ii) a national of another Contracting Party to the Agreement on the European Economic Area of 2 May 1992;

and “Irish”, in this context, shall mean any one or more of the same;

- (e) “producer” means a national managing the production of a work;

- (f) “third-State” means a State which has a co-production treaty or memorandum of Understanding with at least one of the Parties;
- (g) “non-party” means a State which does not have a co-production treaty or memorandum of Understanding with either Party;
- (h) “work” means an audiovisual work, including every version of that work, to be subsequently recognized as an audiovisual treaty co-production by each Party;
- (i) “Irish elements” means expenditures made in Ireland by the Irish producer or expenditures on Irish creative and technical personnel made in another State or States by the Irish producer, in the course of the production of a work;
- (j) “Canadian elements” means expenditures made in Canada by the Canadian producer or expenditures on Canadian creative and technical personnel made in another State or States by the Canadian producer, in the course of the production of a work.

Article 2

General Conditions

1. Each Party shall consider every work as if it were its own production in establishing whether that work is entitled to the same benefits as that Party’s own audiovisual industry.
2. Each Party shall grant the benefits referred to in paragraph 1 to the producers of a work who are its own nationals.
3. Each Party shall strive to achieve overall balance of the financing of works co-produced over a period of five years.
4. Each Party shall ensure that its producer fulfills, at a minimum, the requirements set out in articles 3 to 5 for a work to be considered eligible for the benefits of this Treaty.
5. The provisions relevant to the administration of this Treaty will be set out in the Annex.

Article 3

Participating producers

1. To be eligible under this Treaty, a work shall be jointly produced by producers of both Parties.
2. In addition to producers of Ireland and Canada, third-State producers may also participate in a work.

Article 4

Proportionality

1. The share of work expenditures spent on Irish elements shall be in reasonable proportion to the Canadian financial participation.
2. The share of work expenditures spent on Canadian elements shall be in reasonable proportion to the Irish financial participation.

3. The Parties, through the mutual written consent of their administrative authorities, may recommend exemptions from paragraphs 1 and 2, notably for storyline and creative purposes.

Article 5
Nationality of Participants

1. Every participant in a work shall be a national of one of the Parties save as otherwise specifically provided in the Annex to this Treaty.

2. The Parties, through the mutual written consent of their administrative authorities, may in addition to the provisions of the Annex to this Treaty recommend exemptions from paragraph 1, notably to allow third-State nationals or non-party nationals to participate in a work for storyline, creative, or production purposes.

Article 6
Temporary Entry and Residence

Subject to their respective laws and regulations, each Party shall facilitate the following:

(a) The temporary entry into and residence in their respective territories of the creative and technical personnel engaged by the producer of the other Party for the purpose of the work;

(b) The temporary entry and re-export of any equipment necessary for the purpose of the work.

Article 7
Copyright and Revenues

The Parties, through their administrative authorities, shall ensure that the sharing of copyright and revenues is, in principle, proportional to their producer's financial contribution, and no lesser than the minimum financial contribution identified in the Annex.

Article 8
Distribution

1. Each Party, through its administrative authority, shall ensure that its producer demonstrates the existence of a distribution or broadcasting commitment for the work in the territories of each Party and, if third-State producers are involved in the work, in the territory of each of their respective States.

2. The Parties, through the mutual written consent of their administrative authorities, may accept an alternative distribution commitment in lieu of the commitment described in paragraph 1.

Article 9
Material Changes

Each Party shall ensure that its producer promptly advises its administrative authority of any material change to a work that may affect its qualification for benefits under this Treaty.

Article 10
Communication

1. Each Party, through its competent authority, shall promptly notify the other of any amendment or judicial interpretation of domestic law that may affect benefits available under this Treaty.
2. Each Party, through its administrative authority, shall collect and share statistical information on the performance, distribution or exhibition, on its territory, of the work receiving benefits under this Treaty.

Article 11
Annex

1. The Annex to this Treaty is for administrative purposes and is not legally binding.
2. The Annex may be modified by the Parties, through the mutual written consent of their competent authorities, provided that these modifications do not conflict with this Treaty.

Article 12
Meetings and Amendments

1. Meetings will be held as needed between representatives of the competent authority of each Party to discuss and review the terms of this Treaty.
2. The Parties may amend this Treaty by mutual written consent. Each Party shall notify the other Party in writing of the completion of the domestic procedures required for the entry into force of the amendments. The amendments shall enter into force on the first day of the first month following the date of the second of these notifications.

Article 13
Transitional Provisions

1. A Party shall not discontinue benefits granted for a work for a period of two years following termination of this Treaty, solely due to that termination.
2. This Treaty replaces the *Agreement on Film and Video Relations between the Government of Ireland and the Government of Canada*, done at Dublin on 4 April 1989 (the “1989 Agreement”). A Party may continue to confer benefits pursuant to the 1989 Agreement in relation to a work which qualified for benefits under that earlier treaty, provided that:
 - (a) the producer of the work, which qualified under the 1989 Agreement, notifies each administrative authority, in writing, that it elects to continue receiving such benefits under that earlier treaty; and
 - (b) the election is made within six months of the date of the entry into force of this Treaty.

Article 14
Settlement of Disputes

The Parties shall endeavor to resolve, by mutual consent, any dispute regarding the interpretation or application of this Treaty. They shall do so through consultations.

Article 15
Entry into Force

1. Each Party shall notify the other Party in writing of the completion of its internal procedures required for the entry into force of this Treaty. This Treaty shall enter into force on the first day of the first month following the date of the second notification of the completion of the procedures required for the entry into force.
2. This Treaty shall remain in force for a period of five years from the date of entry into force.
3. This Treaty shall renew automatically at the end of five years from the date of entry into force and at the end of every subsequent five-year period.
4. A Party wishing to terminate this Treaty shall give written notice of termination to the other Party at least six months before the end of the fifth year following entry into force or, if this Treaty is renewed, at least six months before the end of any subsequent five-year period.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Government, have signed this Treaty.

Done in Ottawa on the 4th day of February 2016, in duplicate, in the English and French languages, each version being equally authentic.

**FOR THE GOVERNMENT OF
IRELAND:**

RAY BASSETT

FOR THE GOVERNMENT OF CANADA

MÉLANIE JOLY

ANNEX

This Annex is for administrative purposes and is not part of the *Audiovisual Co-production Treaty between the Government of Ireland and the Government of Canada* (the “Treaty”).

The Parties understand that:

1. DEFINITIONS

The definitions of the Treaty apply to this Annex.

In this Annex:

- (a) “key position” includes the following eight (8) positions, set out below by type of work:
 - (i) animation: director, screenwriter, music composer or sound designer, lead actor (voice) or second lead (voice), animation director, storyboard supervisor or picture editor, special effects director or stereoscopy director, and layout director;
 - (ii) documentary: director, screenwriter or researcher, music composer, lead actor or narrator, second lead actor or narrator, director of photography, art director or production designer, and picture editor;
 - (iii) fiction: director, screenwriter, music composer, lead actor, second lead actor, director of photography, art director or production designer, and picture editor;
 - (iv) for types of work, other than those described above, such as non-linear digital works, the positions to be included as key positions will be determined by mutual consent of the administrative authorities;
- (b) “dubbing” means the production of any version of the work in a language other than its original language or languages.

2. MINIMUM FINANCIAL CONTRIBUTION BY PRODUCERS

- (a) The Irish producer of a work will contribute a minimum of fifteen (15) percent of the total production budget.
- (b) The Canadian producer of a work will contribute a minimum of fifteen (15) percent of the total production budget.
- (c) In the case of a multipartite work with a third-State producer, the minimum contribution of each of the producers will not be lower than ten (10) percent of the total production budget.

3. KEY POSITIONS

All eight (8) key positions may be filled by one or more nationals of either Party or as follows:

(a) At least seven (7) of the eight (8) key positions in the production of a work will be filled by:

- i. one or more Canadian nationals; and
- ii. one or more Irish nationals.

(b) The remaining key position in the production of a work from (a) may be filled by a third-State national or a non-party national.

(c) Notwithstanding (a), in a high budget work, a second key position out of the eight (8) in the production of the work, may be filled by a third-State national or a non-party national. Thresholds for high production budgets will be defined by the administrative authority of each Party.

4. LOCATION AND TECHNICAL SERVICES

(a) A work will be produced in the territory of one of the Parties and may also be produced in the territory of a third-State producer.

(b) The administrative authorities may, by mutual written consent, allow a work to be produced in the territory of a third-State or a non-party for storyline and/or creative reasons.

(c) The administrative authorities may, by mutual written consent, allow technical services to be provided in the territory of one or more third-State or non-parties provided that producers demonstrate the non-availability of those services in the territory of either Party and provided that the value of such services does not exceed twenty-five (25) percent of the total production budget of a work.

5. DUBBING

(a) All dubbing services of a work, in English and French or the other Party's official language(s), will be performed in the territory of one of the Parties or of a third-State producer.

(b) Where a producer can reasonably demonstrate that the dubbing capacity does not exist in the territory of either Party or of a third-State producer, the administrative authorities may by mutual consent allow the dubbing to be performed elsewhere.

6. MODIFICATION

The Parties may modify the provisions of this Annex, through the mutual written consent of their competent authorities, provided that these modifications do not conflict with the Treaty.