

Film Co-production Agreements with China and Singapore

Introduction

- 5.1 The Australia International Co-production Program for films was established in 1986 and since then has supported approximately 100 co-produced film and television productions worth over \$900 million.¹
- 5.2 The objectives of the program are to:
- increase the output of high-quality productions through allowing the capacity for greater equity investment from partner countries;
 - open up new markets for Australian films;
 - share the risk and cost of film production;
 - enable the interchange of creative talent and skills; and
 - strengthen diplomatic ties while creating employment opportunities for Australian practitioners in this important industry.²
- 5.3 Australia currently has film co-production agreements of treaty level status with Canada, the United Kingdom, Italy, Israel, Ireland and

1 Mr Peter Young, *Transcript of Evidence*, 8 May 2008, p. 25.

2 Mr Peter Young, *Transcript of Evidence*, 8 May 2008, p. 26.

Germany. It also has Memoranda of Understanding with France and New Zealand.

- 5.4 The proposed treaty actions are two film co-production agreements: one with China and the other with Singapore.³

Definitions

- 5.5 'Film' has been defined differently in the two agreements. For the China agreement, film includes feature films, animations, documentaries and telemovies, limiting the definition to content expected to be shown in theatrical cinemas and feature films made for television.⁴ Other television formats were not included in the scope of the treaty because at the time of negotiations the Chinese government did not have an authority with responsibility for these formats.⁵
- 5.6 Film is defined in the Singapore agreement to include feature films, television, video recordings, animations and digital format productions. Both parties agreed to the scope of the agreement being as broad as possible, thus the definition of film includes all of the above productions.⁶

Obligations

- 5.7 Both agreements set out procedures for the competent authorities of each party to approve projects, including provisions for:
- Consultation between parties to ensure a project conforms with the terms of the agreement;
 - Monitoring the balance of creative and financial contributions;
 - According benefits to co-productions that are provided to national films;

3 Full Title: Film Co-Production Agreement between the Government of Australia and the Government of the People's Republic of China, done at Beijing on 27 August 2007 and Agreement between the Government of Australia and the Government of the Republic of Singapore concerning the co-production of films, done at Sydney on 7 September 2007.

4 China National Interest Analysis (NIA), para 3.

5 China NIA, 'Consultation', para 7.

6 Singapore NIA, para 3 and 'Consultation', para 5.

- Facilitating the import and export of equipment and the entry of nationals of the other party; and
- Implementation arrangements.⁷

Reasons for Australia to take treaty action

- 5.8 An important aspect of film co-production agreements is that each country must treat co-productions as local content. This includes providing producers with the benefits that would ordinarily be reserved for local productions, such as tax incentives, financing arrangements and more liberal broadcast rights.
- 5.9 Australian-Chinese and Australian-Singaporean co-productions will be eligible to apply for any benefits or programs of assistance available in each country. In Australia, they would be eligible to access the Australian Screen Production Incentive – Producer Offset under the *Income Tax Assessment Act 1997* and would be eligible to qualify as ‘Australian program content’ for the purposes of the Australian Content Standard for commercial television broadcasting.⁸ In addition, official co-productions will be able to access direct film agency funding through the Australian Film Commission and Film Finance Corporation Australia.
- 5.10 In China and Singapore, an official co-production will be considered a Chinese or Singaporean production for the purposes of official financial support and audiovisual regulation. In the case of China, approved projects will be treated as national films and afforded preferential access to China’s distribution and exhibition sectors. Such films will also bypass the strict foreign film quota of 20 films per annum.⁹
- 5.11 The Committee notes that the issue of the foreign film quota of 20 films was considered outside the scope of negotiations for this agreement.¹⁰ The Committee considers, however, that the Government should take the opportunity in appropriate fora to make representations to the Chinese Government to lift the 20 foreign film quota significantly higher with a view to eventually abolishing it.

7 Singapore NIA, paras 13 to 19 and China NIA, paras 13 to 18.

8 China NIA, para 9 and Singapore NIA, para 9.

9 Mr Peter Young, *Transcript of Evidence*, 8 May 2008, p. 26.

10 Mr Peter Young, *Transcript of Evidence*, 8 May 2008, p. 27.

- 5.12 Both agreements will open new markets for Australian film in Asia, which the Committee understands is an increasingly important region for the global film and television industry. In particular, Singapore has positioned itself as a global media hub within the Asian region. Australian producers' access to the Singaporean market and consequently the broader Asian market will therefore be facilitated by this agreement.¹¹
- 5.13 The agreements will also facilitate government approvals for location filming, provide access to studio facilities at reduced rates and allow for more favourable revenue sharing arrangements from distribution and box office takings.¹²
- 5.14 Mr Peter Young of the Department of the Environment, Water, Heritage and the Arts told the Committee that:
- [t]hrough these agreements the industries and filmmakers of the participating countries can improve the quality and competitiveness of their productions by allowing for a pooling and exchange of creative and financial elements which may not otherwise occur.¹³
- 5.15 The Department also expected that the agreements would result in an increase in production levels in both countries as:
- [w]hat the co-production agreement can do is make the difference between a film being made and not being made at all.¹⁴
- 5.16 The agreements are based upon a principle of reciprocity, with the expectation that financial and creative contributions will be balanced over a period of time so that the film industries of both countries benefit equally.¹⁵
- 5.17 The film industry, and especially producers, strongly support the agreements as 'they see the capacity to utilise these arrangements to inject significant additional resourcing into their projects'.¹⁶
- 5.18 The Committee notes, however, that human rights organisations or other groups that may have an interest in freedom of speech issues in
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11 Singapore NIA, para 10.

12 Mr Peter Young, *Transcript of Evidence*, 8 May 2008, p. 26.

13 Mr Peter Young, *Transcript of Evidence*, 8 May 2008, p. 26.

14 Mr Peter Young, *Transcript of Evidence*, 8 May 2008, p. 27.

15 Mr Stephen Richards, *Transcript of Evidence*, 8 May 2008, p. 28.

16 Mr Peter Young, *Transcript of Evidence*, 8 May 2008, p. 30.

China and Singapore were not consulted as part of negotiations.¹⁷ The Committee questioned the Department about any censorship concerns in relation to both China and Singapore, particularly given the two stage approval process outlined in the China agreement and the potential for a film to be approved at the initial stages and then not receive final approval. The Committee heard that it was unlikely a film would not receive final approval provided it had been made in accordance with the approved script, as any issues would be raised in the provisional approval stage.¹⁸ In relation to Singapore, limitations on foreign participation will remain in line with the Singapore-Australia Free Trade Agreement.¹⁹

- 5.19 The Committee considers that where the Government is aware that a treaty under negotiation has a bearing on freedom of expression issues, consultation should include human rights organisations.
- 5.20 The Committee also raised issues with the Department about the wages and conditions of workers coming to Australia under these agreements and whether these must meet Australian requirements. The Department advised that the relevant visa category provides that the applicant is to be employed or engaged in Australia in accordance with the standards for wages and working conditions provided for under relevant Australian legislation and awards. Union consultation is also part of the sponsorship process for all cast and crew members.²⁰
- 5.21 While administrative costs will be absorbed by Screen Australia,²¹ the Committee notes that in terms of providing funding assistance for co-productions, it will be a competitive process with potentially more parties competing for funding.

Implementation

- 5.22 All legislative measures, including taxation, migration and customs legislation, required to implement this agreement are already in place.

17 Mr Peter Young, *Transcript of Evidence*, 8 May 2008, p. 28.

18 Ms Catherine Waters, *Transcript of Evidence*, 8 May 2008, p. 29.

19 Mr Peter Rayner, *Transcript of Evidence*, 8 May 2008, p. 29.

20 Department of the Environment, Water, Heritage and the Arts, Submission No. 6.1, p. 2.

21 Existing film agencies will be merged into Screen Australia on 1 July 2008.

Conclusion and recommendations

- 5.23 The Committee has previously reviewed a number of film co-production treaties and in each case recommended that binding treaty action be taken. The Committee considers that the proposed co-production agreements with China and Singapore will also contribute to employment, technical development and cultural exchange within the film industry and recommends that binding treaty action be taken.

Recommendation 8

The Committee recommends that where the subject matter of a treaty has a bearing upon freedom of expression issues, the Australian Government broaden its consultation to include relevant human rights organisations.

Recommendation 9

The Committee recommends that the Australian Government utilise any opportunities to make representations to the Chinese Government to lift its 20 foreign film quota significantly higher, with a view to eventually abolishing the quota.

Recommendation 10

The Committee supports the *Film Co-production Agreement between the Government of Australia and the Government of the People's Republic of China* and recommends that binding treaty action be taken.

Recommendation 11

The Committee supports the *Agreement between the Government of Australia and the Government of the Republic of Singapore concerning the co-production of films* and recommends that binding treaty action be taken.