



On approval of the Agreement between the Government of the Republic of Kazakhstan and the Government of the People's Republic of China on cooperation in joint filmmaking

Unofficial translation

Decree of the Government of the Republic of Kazakhstan dated September 18, 2017 No. 574.

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The Government of the Republic of Kazakhstan hereby RESOLVES:

1. To approve the attached Agreement between the Government of the Republic of Kazakhstan and the Government of the People's Republic of China on cooperation in joint filmmaking, executed in Astana on June 8, 2017.

2. This resolution shall take effect from the date of its signing.

*Prime Minister
of the Republic of Kazakhstan*

B. Sagintayev

Approved
by Resolution No. 574
of the Government
of the Republic of Kazakhstan
dated September 18, 2017

Agreement

between the Government of the Republic of Kazakhstan and the Government of the People's Republic of China on cooperation in joint filmmaking

The Government of the Republic of Kazakhstan and the Government of the People's Republic of China, hereinafter referred to as the Parties, guided by the Agreement between the Government of the Republic of Kazakhstan and the Government of the People's Republic of China on cultural and humanitarian cooperation of August 31, 2015, and by the fact that close cooperation in cinematography scopes development of the film industry of the two states, willing to expand bilateral cooperation in filmmaking and promoting development of the film industry of the two states, and also their cultural and economic exchange, being confident that cooperation in the film production will contribute to the expansion of relations between the Republic of Kazakhstan and the People's Republic of China, have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1) “co-producer” - legal entities of the Republic of Kazakhstan and the People’s Republic of China, bound by an agreement on joint production of a film, or legal entities or organization, or third party persons engaged in joint filmmaking in accordance with Article 7 of this Agreement;

2) “co-production film” - a film that was created with participation of one or more producers of the Republic of Kazakhstan (“co-producer of Kazakhstan party”) together with one or more producers of the People’s Republic of China (“co-producer of the Chinese party”) that through joint investment and copyright received the status of a co-production film, including a film to which Article 7 of this Agreement applies;

3) “film” - an audiovisual work created in any form and in various genres on the basis of creative design, consisting of images, sound, recorded on film, magnetic tape or other types of media and connected in a thematic whole in successively connected frames, and intended for perception by appropriate technical means;

4) "nationals" means:

in relation to the Republic of Kazakhstan - nationals of the Republic of Kazakhstan;

in relation to the Republic of China - nationals and legal entities of the Republic of China;

5) "residents":

in relation to the Republic of Kazakhstan - persons who are not citizens of the Republic of Kazakhstan, but who permanently reside in its territory;

in relation to the People's Republic of China - individuals permanently residing in the territory of the People's Republic of China;

6) “competent authorities ” - authorities defined by the governments of both parties;

7) “third party” - any party that is not a Party to this Agreement, but involved in joint production with the Republic of Kazakhstan and the People's Republic of China under Article 7 of this Agreement.

Article 2. Competent authorities

1. The competent authorities of the Parties are:

on behalf of the Government of the Republic of Kazakhstan - the Ministry of Culture and Sports of the Republic of Kazakhstan;

on behalf of the Government of the People’s Republic of China - the Film Bureau of The State Administration of Press, Publication, Radio, Film and Television of the People’s Republic of China (SAPPRFT)

The competent authority of the Chinese party determines the performer from among the companies of China engaged in the joint production of films, and is also responsible for assessing qualifications of the joint films.

2. The Parties shall notify each other of the changes in the competent authorities through diplomatic channels.

Article 3. Adoption of conditions and assistance

1. Conditions for creating joint films shall be determined by the competent authorities in accordance with the application to this Agreement.

2. The competent authorities of the Parties shall assist in production and distribution of the joint films in accordance with the national legislation of the Parties.

Article 4. National films and benefits

1. Joint films that meet the requirements of this Agreement shall be considered national films in Kazakhstan and China.

2. Joint films enjoy all the benefits and protection that are granted to national films in accordance with the national legislation of the Parties.

Article 5. Qualification of co-producers

In the implementation of this Agreement, the Parties shall provide supporting assistance as co-producers of legal entities or organizations availing of the material and technical base, financial means and expertise in the film production.

Article 6. Approval of Joint Films

1. Competent authorities of the Parties shall decide on qualifying each joint film as a “national film” in accordance with this Agreement and the national legislation of the Parties.

2. Competent authorities of the Parties shall mutually agree on the compatibility of joint films with the articles of this Agreement. When deciding on the final approval of a co-production film, the competent authorities of the Parties shall be guided by the national legislation of the states of the Parties, and also apply their own practice.

3. When considering and releasing one joint film, the competent authorities of the Parties shall be entitled to develop conditions for its approval. In the event of disagreement between the competent authorities of the Parties regarding the approval of the joint film project or inclusion of additional terms, this project shall not be subject to approval under this Agreement.

Article 7. Third Party Producer

1. Upon reached decision on joint production and distribution, the Parties may invite a third party to cooperate.

2. On consent of the Parties, without prejudice to mutual interests, another producer from a third state can be admitted to participation in the joint production with a contribution of not more than 30% of the total budget of the joint production film.

Article 8. Delivery and removal of equipment, observance of the law and respect of culture

1. Each Party shall assist members of the crew of the other Party during entry into the territory of its state in accordance with the national legislation of the Parties, including assistance in the temporary delivery and removal of the filming equipment, which is required for a joint film.

2. Film crews of the Parties shall respect the Constitution, legislation, national culture, customs and generally accepted rules of the state in which the film is shot.

Article 9. Screening of a movie

The parties, in accordance with their national legislation, shall assist in the public screening of joint movies on the territory of the states of the Parties filmed under this Agreement.

Article 10. Language and subtitles

1. Within the framework of this Agreement, each joint film shall have two language versions: Kazakh and Chinese. If plots require, other languages can be included in these two versions.

2. All the joint film versions shall be marked "joint film production of the Republic of Kazakhstan and the People's Republic of China." This mark shall appear at the beginning of the film, the end of the film, advertising, in promotional materials and in all places where the film is viewed, including when participating in international film festivals.

Article 11. Regulation of copyright and participation in international film festivals

1. The copyright for a joint film as an object of intellectual property and other rights associated with its use shall be governed by a civil law contract, the national legislation of the Parties and international treaties with participation of the states of the Parties.

2. By agreement of the co-producers of the Parties and the authors, each of the Parties may send a joint film to the international film festival, while the co-producers must inform the competent authorities of the Parties of their intention 30 (thirty) days before the opening of the film festival.

Article 12. Financial Settlement

The Parties shall independently bear the costs that arise in the course of implementation of this Agreement by them, within the funds provided by the national laws of the states of the Parties, unless otherwise agreed in each case.

Article 13. Amendments and additions to the Agreement

To enhance effectiveness of this Agreement, amendments and additions may be made to it, which shall be an integral part of this Agreement, drawn up in separate protocols and take effect in the procedure provided for in Article 17 of this Agreement.

Article 14. Application to this Agreement

1. Application to this Agreement is an integral part of it.
2. Any changes in the application shall be made with the unanimous consent of the Parties and shall not contradict the articles of this Agreement.
3. Changes to the application can be made by exchanging notes through diplomatic channels and take effect in the manner provided for by this Agreement.

Article 15. International Obligations

Provisions of this Agreement shall not affect the rights and obligations of the Parties arising from other international agreements to which their states are parties.

Article 16. Settlement of Disputes

Disputes and disagreements related to the interpretation and application of this Agreement shall be resolved through consultations and negotiations between the Parties.

Article 17. Commencement, Validity Term and Termination of the Agreement

1. This Agreement shall take effect from the date of receipt by diplomatic channels of the last written notice of completion by the Parties of the internal procedures necessary for its commencement.
2. This Agreement shall be valid for 5 (five) years. The Agreement is automatically extended for subsequent five-year terms, if neither Party notifies the other Party in writing of its intention not to extend this Agreement no later than 6 (six) months before the expiry of its initial or subsequent validity terms.
3. Termination of this Agreement shall not affect joint films, the production of which was approved, started or ended before termination of this Agreement, including for the receipt of benefits.

Executed in Astana on June 8, 2017 in two copies, each in Kazakh, Chinese and Russian languages, all the texts being equally authentic.

*For the Government
of the Republic of Kazakhstan*

*of the People's Republic of China
Application*

to the agreement between
the Government of the
Republic of Kazakhstan
and the Government of the
People's Republic of China
on cooperation in filmmaking

1. This application defines procedures and conditions of applying for qualification of a joint film.

2. Co-producers must submit an application to the competent authorities of each Party to qualify the joint film as a national film. Application for making of a joint film under this Agreement shall be submitted to the competent authorities of the Parties at least 60 (sixty) days before the filming start.

3. The following documents shall be attached to the application referred to in the second article of this application:

- 1) script and synopsis of the film;
- 2) authorizing documents for shooting and copyright use, also documents certifying the rights to the film production, commercial opening and use;
- 3) list of filming crew members with indication of nationality, position, the cast and their nationality. The filming crew members should be culture and art figures recognized by the national laws of the states of the Parties;
- 4) film production schedule;
- 5) contract signed by the scriptwriter and film director;
- 6) certificate of registration of co-producers, if this document is provided for by the national legislation of the Parties;
- 7) commercial plan for making a film;
- 8) film production contract signed by co-producers or current cooperation agreement on the production, opening and use of the film.

4. The film production contract signed by the co-producers, or the current cooperation agreement on the production, opening and use of the film shall include the following information:

- 1) the title of the film;
- 2) names and addresses of co-producers;
- 3) names of the script author and the film director;
- 4) in the budget of the joint film, it is necessary to indicate the source of financing, including information on taxes established by the national legislation of the states of the Parties, and also the proportion of the co-producers' contribution;
- 5) plan of sharing revenue from commercial use;
- 6) date of the film shooting;
- 7) co-producers' responsibility for breach of the contract;

8) that each co-producer is a common owner of the original materials (pictures and sounds) of the film; the co-producers of the two Parties agree on the storing place of the original materials;

9) that each co-producer has the right to possess a copy of the film in his own state language;

10) that the settlement between co-producers is made 60 (sixty) days from the date of completion of the film, the specified period is indicated in the contract on the joint opening and use of the film.

The competent authorities of the Parties may require attaching the necessary documents and information in accordance with the national legislation of the states of the Parties.

The initial contract may be amended, including replacement of the producer, but before the shooting of the joint film, the competent authorities of the Parties must be notified of the entered changes. Co-producer replacement shall be made only in exceptional cases, and on the grounds recognized by the competent authorities of the Parties.

5. In the event of a change in the joint film production contract prior to completion of the work, copies of the contract must be submitted to the competent authorities of the Parties for consideration and approval.

6. The crew of each co-producer must include at least one main author, one main actor and one bit part. In exceptional cases, with permission of the competent authorities of the Parties, it is allowed to change the scale of the co-producer's crew.

7. Creation, treatment of a joint film and production of the copy of the first release shall be carried out in the territory of the states of the Parties, and in the event of participation of a co-producer from a third party, it can be carried out in the territory of a third party. The bulk of production work is generally carried out in the country of the co-producer, who invests more, but the competent authorities of the Parties can jointly approve other executive procedures, in particular, permit location filming outside co-producers' countries.

8. Co-producers shall confer on the proportion of creative contribution to the production (creativity contribution) and contribution of the funds necessary for the film production. In general, contribution of each co-producer in the performance, technique and specialty of the joint film should coincide with the proportion of the contributed funds. When assessing the proportion of contribution of the co-producers' funds, the competent authorities of the Parties may agree upon the contribution, not expressed in financial terms (providing a film studio, etc.), as part of the contribution.

The co-producers' contribution to the means and creativity should be at least 20% of the total contribution of funds and creativity of the joint film, while no more than 80% of the total contribution. In exceptional cases, the competent authorities of the Parties may agree on different percentage limits, but the lower and upper limits shall be 10% and 90%, respectively. Contribution of third party co-producers approved for participation in joint filmmaking, shall be at least 10% and not more than 30% of the total contribution.

9. The contract between co-producers shall specify:

1) production for co-producers of a sufficient number of copies of the final product (protected) and copies of materials for printing and copying. Each co-producer is required to have a set of copies of the final products and materials, also the right to produce the necessary copies. By the co-producers' collective agreement, the film materials must be registered at the development and printing production agreed by the Parties. Each co-producer has the right to use them;

2) economic responsibility of each co-producer for expenses on the film in the following cases:

expenses arising at the preparatory stage from refusal of the competent authorities of the Parties to provisionally approve the joint movie;

expenses for production of the film that was provisionally approval by the competent authorities of the Parties, but that did not fulfill the terms of this approval;

expenses for production of the film that is approved but is not allowed for viewing in the countries of co-producers;

3) procedure for sharing the profits from the premiere and the use of the movie between co-producers, in particular, profits from foreign markets. Profit sharing should be proportionate to the co-producers' contribution. Such sharing can be based on profit, market, or a combination of profit and market;

4) date of receipt of the contribution to the film.