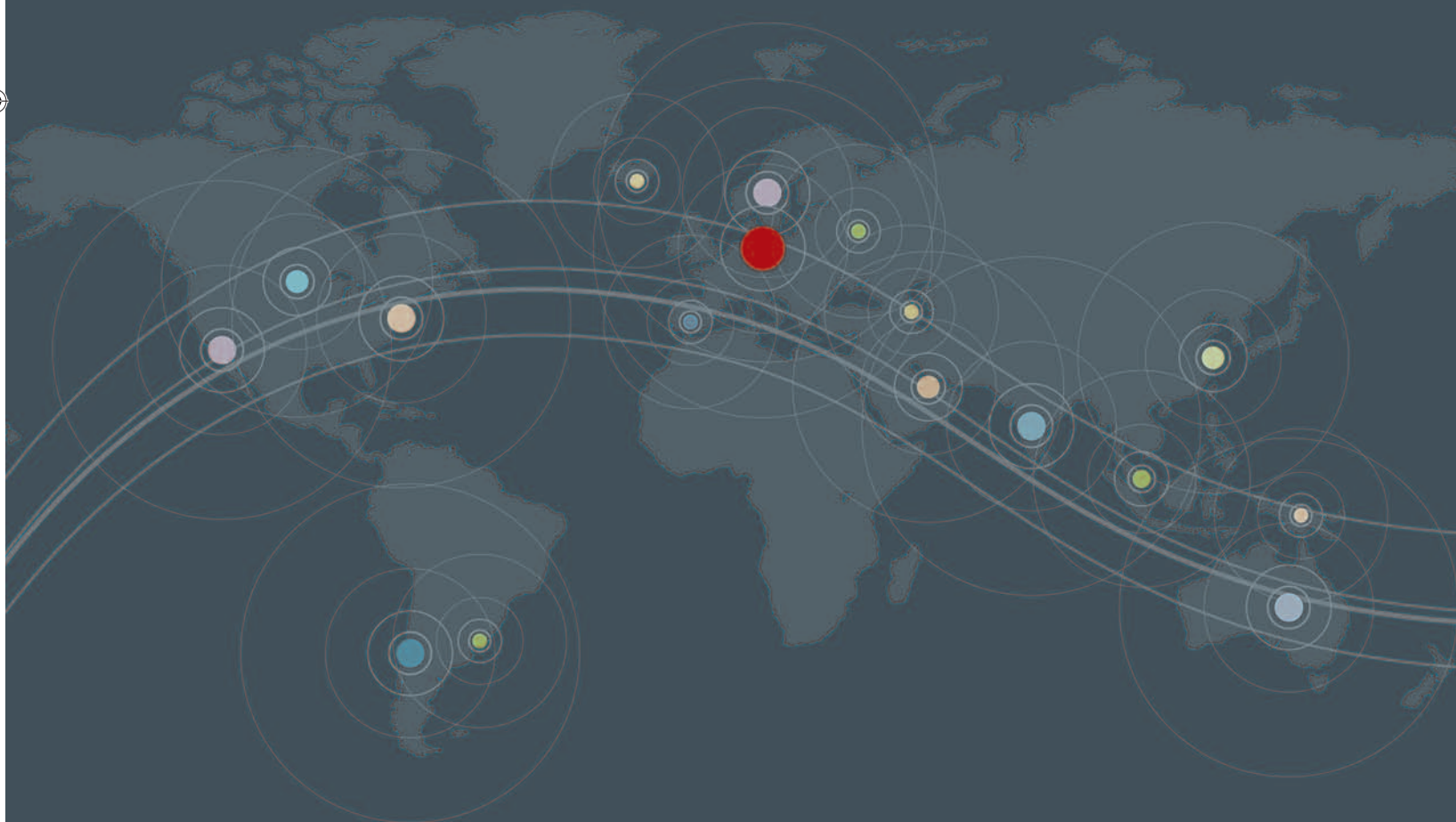


# Evaluation and proposed revisions of the European Convention on Cinematographic Co-production

A report prepared for the Council of Europe



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OLSBERG · SPI

This report was prepared by the UK-based international strategy consultancy

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# Abbreviations

## Abbreviations

The Council of Europe is referred to as the '**Council**'.

The European Convention on Cinematographic Co-Production is referred to as the '**Convention**'.

Olsberg•SPI is referred to as '**SPI**'.

SPI's assessment of the Convention is referred to as the '**Assignment**'.

## Acronyms

<b>AMSD</b>	Audiovisual Media Services Directive
<b>BFI</b>	British Film Institute
<b>CEP</b>	Creative Europe Programme
<b>CGI</b>	Computer Generated Imagery
<b>DCMS</b>	Department of Culture, Media, and Sport (UK)
<b>EAO</b>	European Audiovisual Observatory
<b>EEA</b>	European Economic Area
<b>EU</b>	European Union
<b>ICAA</b>	Instituto de Cinematografía y de las Artes Audiovisuales (Spain)
<b>IFB</b>	Irish Film Board
<b>SME</b>	Small and Medium-Sized Enterprises
<b>VAF</b>	Vlaams Audiovisueel Fonds (Belgium, Flemish Community)
<b>VFX</b>	Visual Effects
<b>VoD</b>	Video on Demand

## Country codes

<b>AL</b>	Albania
<b>AR</b>	Argentina
<b>AT</b>	Austria
<b>AU</b>	Australia
<b>BE</b>	Belgium
<b>CH</b>	Switzerland
<b>CZ</b>	Czech Republic
<b>DE</b>	Germany
<b>DK</b>	Denmark
<b>EE</b>	Estonia
<b>ES</b>	Spain
<b>FR</b>	France
<b>GE</b>	Georgia
<b>HR</b>	Croatia
<b>HU</b>	Hungary
<b>IE</b>	Republic of Ireland
<b>IQ</b>	Iraq
<b>IT</b>	Italy
<b>NL</b>	Netherlands
<b>NO</b>	Norway
<b>PL</b>	Poland
<b>RS</b>	Serbia
<b>RU</b>	Russian Federation
<b>SE</b>	Sweden
<b>SK</b>	Slovakia
<b>UK</b>	United Kingdom
<b>US</b>	United States of America

## Belgian Authorities possessing competence

<b>Belgium (Fl)</b>	Flemish Community of Belgium/Vlaamse Gemeenschap
<b>Belgium (Wal)</b>	Wallonia-Brussels Federation/Fédération Wallonie-Bruxelles



“No culture can live if it attempts to be exclusive”  
Mahatma Gandhi

# Section 1

## Executive summary

### 1.1

#### Introduction

The increased use and importance of co-productions is one of the major success stories of the European film sector over the last 15 or more years. Several factors have contributed to this phenomenon, including Eurimages, the MEDIA Programme and a plethora of national initiatives in direct support of greater co-production activity.

This study, however, finds and demonstrates that the European Convention on Cinematographic Co-production (the Convention) is foremost among these underpinning initiatives. By providing a platform to make co-productions more systematic and easier to construct, the Convention's contribution to the co-production arena, and therefore to European cinema as a whole, has been fundamental to its success.

Notwithstanding this fact, after 17 years in existence, there are some modest modifications to the way the Convention works that this report proposes, mostly reflecting the way in which the film industry itself has developed and changed over the years.

The remaining chapters of the report address the following:

- The overall context for the study
- Key issues to be addressed
- Survey results
- Recommendations
- Appendices.

The key findings and recommendations are briefly summarised in this section.

### 1.2

#### Key findings

In the years since the Convention first came into force, the economic, political and technical landscape has changed significantly, shaping both the objectives of the Convention and affecting the outcomes. The current European context comprises a range of factors including the enlargement of Europe itself; the emergence of new national film markets; advances in regulation; a revolution in technology; and of course global economic difficulties. Against this background, the Convention continues to be a crucial foundation for the co-production ecology.

The specific work of this study has revealed several key factors about the Convention that are explored in detail within the remainder of this report. They include:

- Substantial overall satisfaction with what the Convention has achieved
- A few areas where modernisation could usefully be introduced (these are summarised below) and
- A greater desire for modernisation from the producer community than other segments of our respondents (particularly Competent Authorities and screen agencies).

### 1.3

#### Key recommendations

Looking to the future, the report recommends addressing change in a number of areas, the most important of which are summarised as follows:

- In order to better co-ordinate and harmonise the implementation of the Convention across countries, create and introduce an Implementation Toolkit and an Intranet for use by all Competent Authorities
- Revisiting the points system in order to recognise the increasing importance of directors, new forms of creative expression (such as VFX expertise) and the importance of non-European performing talent to the more ambitious projects
- Changing the level of minimum financial participations from 10% to 5% (for multilateral co-productions) and from 20% to 10% for bilateral co-productions in order to improve the opportunities for less well resourced countries to participate in a broader range of projects
- Changing the maximum financial participation to 80% from 70% also in order to improve the opportunities for less well resourced countries to participate in a broader range of projects
- Create a new system of data gathering in order to establish a range of metrics about the level of co-production activity and the success with audiences of the films that are made. There is a strong desire amongst Competent Authorities to see better data in order to track the impact and performance of European co-productions
- Consider further changes at some future time involving the internationalisation of membership and adapting the points system to recognise the importance of European producers with strong track records in co-productions.

Section 5 of this report provides full details of these recommendations and also discusses those areas that were examined for change but where further investigation was thought to be warranted, such as broadening membership of the Convention outside Europe.

The study was carried out by strategy and management consultancy Olsberg•SPI (SPI), specialists in the global audio-visual industries.<sup>1</sup> The study was commissioned by the Council of Europe, and SPI would like to thank it and also Mr Roberto Olla (Executive Director of Eurimages) for their help and support throughout the process of the work.

1. See Appendix 4 (page 57) for further information on SPI.

## Section 2

# The overall context for the study

### 2.1

#### The Council of Europe

The Council of Europe (the Council) is an international organisation, founded in 1949, which currently comprises 47 European members. The core objective of the Council is to create a common democratic and legal area throughout the whole of the continent, ensuring respect for its fundamental values: human rights, democracy and the rule of law.

Amongst its aims, the Council works to foster European identity and unity, based on these shared fundamental values and a respect amongst the members for their common heritage and cultural diversity. More specifically, in the European audiovisual field, the Council has set up specialised bodies and produced legal instruments to achieve its aims which are based on the right to freedom of expression enshrined in Article 10 of the European Convention on Human Rights.

### 2.2

#### Eurimages

In light of these aims, in 1988, the Council set up Eurimages, the first European fund aimed at promoting the co-production, distribution and exhibition of European cinematographic works and encouraging co-operation among industry professionals in Europe. Eurimages currently has 36 members.

### 2.3

#### The European Convention on Cinematographic Co-production

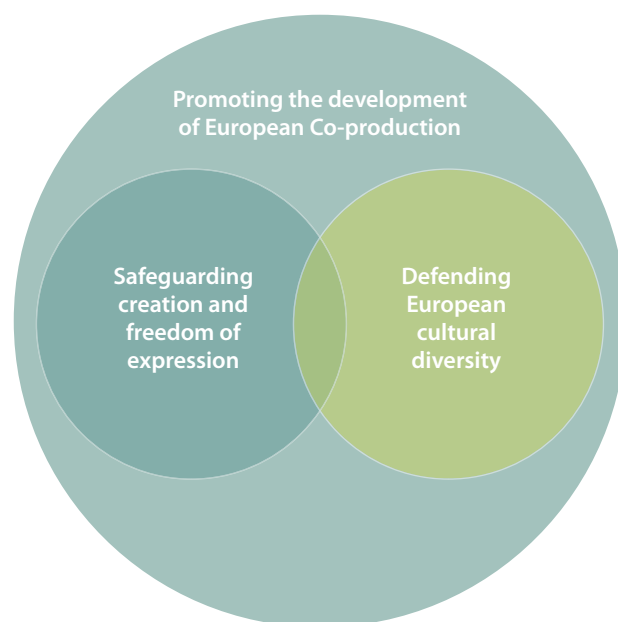
On 1 April 1994, The European Convention on Cinematographic Co-production entered into force and has since been ratified by 42 countries. The Convention is open to signature by the member states of the Council of Europe, other

states which are parties to the European Cultural Convention, as well as the accession of European non-member states.

The aims of the Convention are to promote the development of European multilateral cinematographic co-production, to safeguard creation and freedom of expression and defend the cultural diversity of the European member countries. This is to be achieved by reinforcing cinematographic co-production through a set of common rules intended to decrease restrictions and encourage European cooperation in the field.

Figure 1

#### Aims of the Convention



## 2.4 Co-production

Recent trends indicate that there has been a steady increase in European co-production activity over the last three years. The total number of European majority co-productions has increased from 201 in 2008 to 230 in 2010, with the total number of individual country participations in European co-productions rising from 437 in 2008 to 491 in 2010.<sup>2</sup>

## 2.5 The Assignment

SPI were instructed in the autumn of 2011 to conduct an assessment of the Convention. After 17 years in force, the Council has decided that it is necessary to conduct a study which contributes to the evolution of the Convention and the European film sector as a whole.

### Review of original objectives

The Assignment retrospectively evaluated the initial objectives cited at the time of the Convention's implementation. In particular, the Assignment considered the Convention's:

- **Practical application:** the extent to which member countries utilise the Convention for their co-production activity, as well as consideration of the differences in interpretation and application of the Convention.
- **Stimulation of creativity and support for freedom of expression:** an evaluation as to whether the Convention has provided a suitable framework to stimulate production of original international works.
- **Genuine cooperation:** the extent to which the Convention has fostered lasting and genuine international co-operation, both artistic and technical.
- **Development of production:** an assessment of the Convention's role in stimulating European production through decreased restrictions and common rules, and ultimately developing

European cinema and supporting the independent production companies that rely on the Convention.

- **Ease of use:** consideration of the Convention as a straight-forward and clear legal instrument.
- **Support for cultural diversity and the circulation of works:** whether the Convention has widened the distribution of the works produced under the Convention, and in particular outside of the principal country of origin.

### Looking to the future

The Assignment is also forward-looking and evaluates the Convention in light of both recent developments as well as expected developments in the near future. In particular, the Assignment will evaluate the significance of:

- **Technological change:** assessment of the Convention's need for adaptation following rapid technological developments, notably in relation to digital technologies and its corresponding effect on trends across the entire industry.
- **Changes in the economic context:** the extent to which the Convention provides a sufficiently flexible framework to respond to changes in: funding methods; variance in the signatories to the Convention; and the appetite for slate-funded projects. The Assignment will also consider whether the Convention is suitably flexible to respond to further economic and financial changes in the longer-term.

### Recommendations for change

Finally, on the basis of these results, the Assignment proposes recommendations for change both to the objectives of the Convention as well as to the Convention itself.

## 2.6 Our methodology

During the Assignment, SPI has implemented a 10 stage methodology to deliver the evidenced outputs that the Assignment requires. The 10 stages were as follows:

1. **Preliminary document review:** prior to the initial meeting with the Council, SPI conducted initial preliminary research to update our understanding of the Convention and its operation.

2. European Audiovisual Observatory, *World Film Market Trends*, 2008–2010.

2. **Launch meeting:** an initial face to face meeting in Strasbourg between the Council's representatives and SPI to plan the Assignment and agree on subsequent phases of the methodology.
3. **Desk research and discovery:** SPI conducted research into a number of key areas relevant to the Assignment. In particular, SPI reviewed resources and data to track and measure co-production activity.
4. **Confidential consultations:** SPI carried out 21 confidential consultations from a selection of countries deemed representative of the spread of countries that have ratified the Convention. These consultees included Competent Authorities, independent producers and media specialist lawyers and film agency executives.
5. **Online survey:** an online survey of 13 mostly multiple-choice questions was sent to 110 consultees covering all countries that have ratified the Convention. This was conducted towards the end of the Assignment to obtain opinions about emerging results of the evaluation. The online consultees gained a response rate of 51%.
6. **Innovation session:** SPI conducted and moderated a think tank session involving nine high-level industry executives from eight representative countries. SPI led the group in conducting its own analysis of the strengths, weaknesses, opportunities and threats of the Convention as well as in leading a discussion of hypothetical scenarios. This event was held in Paris on 15 December 2011.
7. **SPI team brainstorm:** SPI reviewed and analysed all data in an internal brainstorm meeting. This involved all members of the SPI team.
8. **Interim report and meeting:** an Interim Report of SPI's finding was presented to the Council for consideration. Several additional key points were identified for examination.
9. **Further research and consultations:** based on the discussions at the interim meeting, a program of further study was carried out in order to complete all data and information gathering, and analysis, expanding upon prior findings and recommendations.
10. **Final report:** a draft of the final report was presented to the Council prior to the final report.

Nearly all the phases are relevant to both the retrospective and forward-looking aspects of the Assignment. The exceptions are the desk research and the online survey which have been used predominantly to assess the Convention retrospectively, whereas the Innovation Session was intended to provide a more forward-looking perspective.

## 2.7 Current context

In the years since the Convention first came into force, the economic, political and technical landscape has changed significantly, shaping both the objectives of the Convention and affecting the outcomes. The current European context comprises a range of competing factors influencing the outcomes of the Convention of which the most notable are:

- **Enlargement of Europe:** since its formation in 1949, the Council has increased in membership from 10 to 47 European Member States, and the European Union has similarly risen from six Member States in 1958, to its current membership of 27. The reach and influence of these two key European organisations has never been wider and both continue to expand to widen the democratic reach and influence of Europe.
- **Gradual emergence of new film countries:** as a result of European expansion, the influence of the Convention grows but so too does the need for a flexible framework to meet the needs of a wider range of accession countries. In particular, the enlargement of Europe has allowed for the emergence of new or revived film economies in Europe beyond the more mature film economies of Western Europe.
- **Economic crisis:** since 2008 the global economic crisis has challenged Europe. Most recently, in December 2011, Europe developed new and stronger regulatory measures to address the debt crisis.

## 2.8

### European Audiovisual Policy

The goals of European audiovisual policy are informed by a small number of broad principles focused on providing access and creating parity within the Single Market, whilst also taking into consideration cultural factors. Central tenets of the European audiovisual policy include:

#### Regulatory frameworks

- **State aid:** within the EEA, any assistance given by a public body to undertakings which has the potential to distort competition and affect trade between EU Member States is subject to the EU State aid rules which generally include public support for audiovisual works.

The criteria for determining whether state support for cinema is compatible with EU competition law are defined in the 2001 Cinema Communication which has since been extended three times. The third extension in 2009 announced that new rules on State aid to cinematographic and other audiovisual works would come into effect by 31 December 2012, at the latest, when the existing rules would expire. Consultation on new proposals has yet to be finalised but the impact of changes to State Aid regulations could be detrimental to the whole arena of European co-productions.

- **Audiovisual Media Services Directive (AMSD):** the AMSD governs EU-wide coordination of national legislation on all audiovisual media, irrespective of whether content is delivered via traditional television broadcasts or on-demand services, and is aimed at creating a level playing field by establishing a common legal framework for the free movement of audiovisual media services.

#### European funding

- **Eurimages:** the Council's fund for the co-production, distribution and exhibition of European cinematographic works. Eurimages aims to promote the European film industry by encouraging the production and distribution of films and fostering European co-operation. The primary objective of the fund is cultural and its secondary objective economic.

- **MEDIA programme:** the European Commission's MEDIA programme is the EU support programme for the European audiovisual industry, co-financing training initiatives, the development of projects, as well as the promotion of European works.

The MEDIA programme has invested €1.5 billion since its launch in 1991, and is investing €755 million in the European film industry between 2007 and 2013. Its focus is to improve the distribution and promotion of European films and to strengthen the competitiveness of the sector.

- **MEDIA Mundus:** the European Commission's MEDIA Mundus programme is an international cooperation programme for the audiovisual industry to strengthen cultural and commercial relations between Europe's film industry and film-makers of third countries. The EU will provide €15 million of funding from 2011–2013 for projects submitted by audiovisual professionals from Europe and from third countries. It aims to increase consumer choice through widening the diversity of content available to Europeans, as well as creating new business opportunities for audiovisual professionals from Europe and around the globe.

#### Soft law

- **Creative content online:** digital technology and the internet have changed methods of audiovisual production, marketing and distribution. In response to these changes, the European Commission published a Green Paper in 2011 to assess the pace of change and to open the debate as to how best to address these challenges. Amongst other areas, the paper considers how the regulatory framework needs to be adapted to allow European companies to develop new business models, creators to find new distribution channels, European consumers to have improved access to content, and better remuneration for rights holders.
- **Media literacy:** the European Commission defines media literacy as representing the competence to: access the media; understand and criticise different aspects of media content; and to create a range of communications.

In 2007, the Commission adopted a communication on media literacy adding a building block to European audiovisual policy. This links to Article 33 of the AMSD which introduced a reporting obligation for the Commission on levels of media literacy in all Member States. In 2008, the Council and the European Parliament adopted their conclusions and initiative report on media literacy.

### Creative Europe Programme (CEP)

- **Creative Europe:** the EU programme is set to re-organise European audiovisual support and is currently under discussion in the Council of EU Ministers and the European Parliament who will be consulting until March 2012. With a proposed budget of €1.8 billion for the period 2014–2020, the implementation of the CEP will see the enhanced support of the creative and cultural industries in Europe and the folding in of current MEDIA and MEDIA Mundus provision into the CEP.

## 2.9 Digital issues

The growing importance of the internet and of digitisation technologies is opening up new possibilities for the independent film sector in Europe:

- **New models of production, marketing and distribution:** the convergence between content providers and new communication technologies brings together previously distinct markets, as traditional distribution systems are disturbed, allowing for disruptive technologies and business models to emerge.
- **Visual effects (VFX):** VFX continues to be a significant growth sector in the European film industry contributing increasingly higher proportions of films’ budgets on average and employing greater numbers of creative and technical professionals.

3. European Audiovisual Observatory, *The Circulation of European Co-productions and Entirely National Films in Europe 2008*.

4. European Audiovisual Observatory, *World Film Market Trends, 2008–2010*.

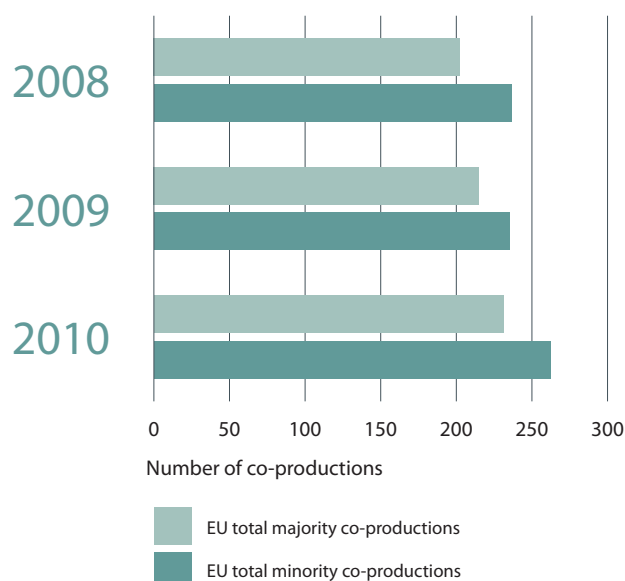
5. This is based on a list of majority co-producers and presumes that there was only one majority co-producer for each co-production. This total may be marginally lower if there are co-productions involving more than one party holding equal majorities and which could consequently been double-counted.

## 2.10 The importance of co-productions

### Trends in co-production

- **Trend towards bilateral co-productions:** studies have found that the majority of co-productions (68% from 2001–2007) are structured as bilateral co-productions. During the same period, 25% of co-productions included three countries, and 7% included four countries or more<sup>3</sup>.
- **Global ambition:** there is a trend for a number of notable co-productions to be increasingly global in their ambition. Films such as *Melancholia* (DK, SE, FR, DE), *Habemus Papam* (IT, FR), *This Must be the Place* (IT, IE) and the *Millennium Trilogy* (SE, DK) exemplify this trend.
- **Increase in the number of co-productions:** co-productions have been on a steady increase over the last three years<sup>4</sup> increasing from 201 co-productions in 2008 to 230 co-productions in 2010<sup>5</sup>.

**Figure 2**  
Global trends in EU co-production



## 2.11

### Benefits of co-productions

- **Propensity to travel:** European co-productions travel better than wholly national films. The European Audiovisual Observatory analysed films from 20 selected countries between 2001 and 2007, and found that on average co-productions are released in more than twice as many markets as national films<sup>6</sup>. The report also observed that 77% of all the co-productions sampled were released on at least one market beyond the co-production countries, compared to 33% for national films. As a result co-productions deliver on many of the key aims of European audiovisual policy.
- **Audience popularity:** the same study found that European co-productions attract on average approximately 2.7 times as many admissions (51,785) as national films (19,137). In addition, co-productions rely on non-national admissions for, on average, 41% of total admissions, compared to 15% for national films<sup>7</sup>.
- **Extending support networks:** co-productions encourage co-operation and exchange across Europe, connecting producers, national support agencies and Competent Authorities in an extended mutual network of support.
- **Default structure:** the co-production has become the default structure for European films which has brought certainty as well as allowing participating countries to build on their experiences.

## 2.12

### Additional factors influencing co-production activity

Whilst the Convention provides an indirect form of support for co-production, there are numerous other extraneous factors that will affect co-production activity and that are changing over time:

- **Individual country support schemes:** the principal motivating factor for parties using the Convention is the ability to gain access to the funding benefits available in individual countries.

6. European Audiovisual Observatory, *The Circulation of European Co-productions and Entirely National Films in Europe 2008*.

7. Ibid.

Accordingly, the success of the Convention is restricted to the value producers place on the available funding benefits in a given country.

- **Macroeconomic factors:** in particular, the exchange rates at a given time will influence the attractiveness of one country over another.
- **Political and diplomatic will:** some countries have international relationships that help to foster cooperative relationships and vice-versa. In addition, cultural and language sympathies may further extend this will.
- **Interlocking systems:** co-production activity is affected by the extent to which the Convention interlocks effectively with the national support schemes. For example, in some countries qualifying spend must take place entirely within that country and does not deem any spend that takes place within the country of a co-producing partner as qualifying spend. This inevitably restricts the attractiveness of the country as a co-producing partner.

## 2.13

### Key achievements of the Convention

SPI has identified six crucial achievements of the Convention, expressed in terms of what the Convention has become:

- **Supportive:** the Convention entered into force in 1994 and has allowed for the flourishing of European audiovisual co-operation as Europe has been steadily enlarged, with both Council and EU membership growing by 15 countries since that date.
- **Flexible:** The Convention has drawn 42 countries together for a common purpose, and has accommodated all budget ranges from small to high. It has provided a framework that has supported both established western film economies as well as the less developed film economies of accession countries. In addition, it already allows for third country co-productions to be put together.
- **Simple:** The Convention translates the basic desire and need to co-produce in the simplest non-cumbersome manner. It provides mechanisms which allow countries to step in and out of the agreement as they wish and encourages co-operation rather than demands it.

The Convention has also successfully bridged the legal jurisdictions of the 42 ratifying countries, providing legal clarity and certainty for each of those countries. It also overlays and interlocks easily with most funding systems in Europe with very few exceptions.

- **Democratic:** The Convention has spread decision-making powers across Europe and its lack of hierarchy has created a common experience in Europe both for administrators and producers.
- **Necessary:** The Convention's introduction has meant the gradual disappearance of bilateral agreements in Europe for the majority of larger film countries. For smaller emerging film nations it has allowed for the establishment of co-production arrangements without the need for negotiating bilateral agreements on a country-by-country basis. As a combined result, the majority of countries now rely heavily on the Convention for a substantial proportion of co-production activity.
- **Value for money:** Other than ratification administration costs (in terms of personnel time) the Convention does not have ongoing costs attached to it. For producers, the simplicity of arrangements and the longstanding nature of the Convention drive down a production's legal costs allowing the producer to focus on other elements such as the technical and creative.

**Figure 3**

Achievements of the Convention versus aims

**AIMS**

**Development of co-productions**

**Achievements**

- Co-productions of all types on the increase
- Trend for greater international ambition
- Heavy reliance on Convention (falling away of multi-lateral agreements)

**Freedom of expression and cultural diversity**

**Achievements**

- Textual safeguards: preserve national subsidiarity
- Circulation of non-national works
- Co-operation between small and large countries
- Plurality of voices
- Ability to interlink with national policy
- Applicable to all budget ranges

## Section 3

# Key issues to be addressed

### 3.1

#### Overview

Within the consultations there was at a very general level a difference in response amongst the different categories of respondents. Typically, 'on the ground' producers were in favour of some change and were quick to generate suggested modifications. By contrast, the legal community and Competent Authorities were more likely to recognise the successes to date and were felt to be slightly more resistant to change.

There were commonly expressed views about the minimum and maximum financial participations. In particular, many producers, Competent Authorities and national agencies of small countries expressed a desire to reduce the minimum financial participation and increase the maximum financial participation, which together, in their current form, were sometimes deemed inhibitive to the growth of smaller film economies. There was also support amongst some producers to reconsider the weighting of the points test which was believed to be anachronistic in some respects.

### 3.2

#### Financial participation

##### Minimum financial participation for smaller countries

- There was substantial general support, but with a few notable exceptions, for lowering the minimum financial participation threshold of 10%.
- The minimum threshold of 10% presents an obstacle for those countries that may have smaller film sectors or be less well-endowed economically and consequently less able to contribute the minimum required. This is especially relevant in the case of larger budget films, where the majority co-producer is from a wealthier country. Consequently, smaller countries often miss out on the opportunity to participate in larger budget films that on average have a better chance of non-national distribution (which is a policy aim of the Convention).
- In addition, this obstacle to countries with more nascent film industries is damaging to their longer-term growth, as smaller countries participating in larger films will gain the additional benefit of experience as well as growing their film industry contacts and international networks.
- By contrast, it was argued by a few countries that if the participation threshold were reduced to less than 10%, the creative participation would not be meaningful. Such a reduction would encourage relationships that were purely financial. In these circumstances, allowing access to the larger country's benefit systems would not be politically palatable.
- On bilateral co-productions the view also extended to reducing the minimum financial participation below the current level of 20%, for similar reasons.

### Maximum financial participation for European countries

- There was also significant challenge to the rationale for fixing the maximum financial participation as low as 70% (Article 6(1) of the Convention) with respondents in the Focus Group suggesting increases as high as 90%. Often these changes were suggested as a corollary of reducing the minimum financial participation for the reasons cited above.
- There was a general feeling that by raising the maximum participation and reducing the minimum participation, more small countries would become involved in larger co-productions, paving the way for more three-way multilateral co-productions. This would open up potential for more valuable collaboration among European countries with no prior history of collaboration. This would be particularly helpful for new signatories to the Convention that have lower per capita support from their domestic governments.

### Maximum financial participation for non-European countries

- The current maximum financial participation of 30% (Article 2(2)(b) of the Convention), applicable to parties participating in multilateral co-productions who are not signatories to the Convention, was occasionally questioned. The general view was expressed that the 30% limitation tends to inhibit collaboration in a range of cases extending from bespoke art-house films that require a greater international involvement to more mainstream global productions with the potential for wider distribution.
- Some consultees felt that opportunities did present themselves from time to time for international co-productions whereby the type of film would suit a greater financial participation from the non-European country, but it was frustrating to them that the Convention restricted these opportunities. Accordingly, some consultees would welcome the chance to increase the maximum financial participation of non-European countries in order to facilitate such opportunities when they appear.
- It was noted that if this participation was increased, the European points test would probably need to be adjusted to reflect the participation of countries that would not contribute to the 'European-ness' of the project.

## 3.3

### Differences and co-ordination issues across countries

#### Competent Authorities

- It was noted that across the 42 members there are slight differences in interpretation and implementation of the regulations that are aggravated by the lack of standard guidance. In addition, these differences can extend to the way in which member countries exercise discretion.
- This is worsened by the lack of coordination between the Competent Authorities. For example, there is no unified method of communication between the Competent Authorities allowing them to liaise with each other and keep up to date with each other's methods and practices.
- Some of these discrepancies were deemed to be within the scope of reasonable and expected difference, especially when comparing Competent Authorities with such vastly different resources and whose experience of co-production may vary significantly.

## 3.4

### Digital innovation issues

#### Modernising the Convention to reflect digital innovations

- Post production, and in particular visual effects and computer generated imagery, has become far more important in the creative process and increasingly requires a greater proportion of films' budgets utilising a wide range of creative and technical talent, support services and equipment. In addition, the increased financial growth of some visual effects houses has stimulated a trend for these companies to act as film financiers. This reliance on the sector is not adequately reflected in the points system which only ascribes one point for the post-production location.

#### Exhibition windows

- Newer forms of digital distribution, predominantly streamed or downloaded video content, are increasingly important in the delivery of content to audiences outside the exhibition window.

However, it remains difficult to identify the territories from where these revenue streams emanate, and as a consequence it is difficult for producers and distributors to evaluate exactly which market share is being sufficiently reached by European films and whether there is interest from new markets. Consequently, it is harder for companies to know where to focus marketing spend or to build a more general picture of the suitability of certain online markets for different types of films.

Consequently, there was support for the widening of data collected by the European Audiovisual Observatory. In particular, whereas the Observatory currently only collects box office figures in relation to European co-productions, consultees thought that it would be beneficial to collate non-theatrical data to provide a fuller performance picture. It was noted that certain national bodies were already collecting such statistics, such as in Sweden, where a mechanism has been put in place to measure catch-up viewing on television.

### Slate Funding

- There has been increasing use of slate funding as a policy tactic at a national level in order to encourage a portfolio approach to development but there was little support for adapting the Convention for the use of companies with slates and regular co-producing partners.

## 3.5

### Opening up of the Convention to third countries

#### Opening membership of the Convention beyond Europe

- The Convention applies to all co-productions involving at least three co-producers established in three different Parties to the Convention, and one or more co-producers who are not established in such Parties.
- The view was occasionally expressed that opportunities sometimes arose for producers to co-produce with non-European members, but that the projects did not require three co-producers from Convention countries as required by the Convention. This view was more prevalent amongst countries that had few bilateral arrangements with parties outside Europe.

- This is a similar view to that expressed in relation to increasing the financial participation of non-European countries to above 30% (discussed at 3.2 above), and seems to represent a frustration of some producers who have been unable to involve non-European countries when opportunistic moments have arisen.
- Nonetheless, there was a prevailing view amongst Competent Authorities that further opening up their domestic incentive schemes would be unacceptable at the present time.

## 3.6

### Modernising the current points test

There was a great deal of support, particularly amongst the producer community, to adapt the points system which was deemed to be outdated in respect of modern filming techniques and priorities.

#### Above-the-line talent – directors and writers

- It was agreed that the three points given to both the director and the writer was imbalanced and was deemed to be an old-fashioned weighting implemented in the past to recognise the auteur writer/director which is no longer the dominant model across the signatory countries.
- It was commonly suggested that many European directors were now focusing on directing as their careers expanded, bringing enhanced recognition, and as a result they were not sharing the writing function. Consequently, it was thought that there should be more points for the director than the writer.

#### Above-the-line talent – actors

- As European directors have become more successful and sought after, and the budgets of their films increased (such as Polanski's *Ghost Writer* or Lars Von Trier's *Melancholia*), productions increasingly have to attract A-list talent to help the films reach a wider audience and recoup the higher spend. However, as this sometimes necessitates bringing in non-European talent for lead roles, this reduces the ability of the project to earn actor points. This issue needs to be addressed in the points test if the Convention is going to support the growth of higher-budget films.

### Above-the-line talent – producers

- There are currently no points available for producers under the points test which does not reflect the role of the modern producer which has become increasingly onerous and complex.
- It was suggested that experienced European producers might be given points based on their track record which could support the sustainability of such producers' businesses. This would also be an indirect way of compensating large projects that had non-European A-list talent, as only an experienced producer would be able to bring such talent onto a project.

### Definitions

- The descriptions of the heads of departments (labelled "technical craft group" in the Convention) included in the points test do not clearly correspond to heads of departments. All four definitions require redefining for clarity. These are currently:
  - Cameraman
  - Sound recordist
  - Editor
  - Art director.

The suggested new definitions included:

- Director of photography
- Sound designer
- (Picture) Editor
- Production designer.

## 3.7

### Copyright and ownership issues

- Article 7 of the Convention requires that "the co-production contract must guarantee to each co-producer joint ownership of the original picture and sound negative". However, it was noted that the Article only deals with the physical negatives and not the essential rights which have to be negotiated on a project-by-project basis. Nonetheless, it seems beyond the realm of the Convention to assign rights (proportionally or otherwise) as this is a matter for commercial negotiation between the producers.

# Section 4

## Survey results

### 4.1

#### Our approach

##### Selection of respondents

- In collaboration with the Client SPI created a universe of potential respondents for the survey covering as much as possible the 42 countries. In some cases it was impossible to find any suitable contact for one of the smaller less active countries (this was the case for Liechtenstein and Montenegro). In each of the countries we contacted a selected individual who represented one of the following categories of people:
  - the Competent Authority for the Convention
  - the National Film Agency (where possible the dedicated Head of Production or Co-Productions)
  - a suitably experienced producer
  - a specialist film lawyer.
- In some cases (eg of less active countries) it was not possible to find representatives of all of the above categories. For example in Russia only the Competent Authority was contacted. Generally speaking in mature film countries (eg France, UK, Germany) we were able to contact one of each of the above categories of individual. In smaller countries (eg Georgia or Croatia) we contacted more typically two of the above categories (i.e. the Competent Authority and a producer).
- In total 119 individuals were approached. Nine of these emails proved to be unreachable giving a final head count of 110 people approached. We had 56 responses representing an overall response rate of approximately 51%.

#### Survey content

- The survey questions were developed by SPI and signed off by the Client prior to wider circulation. The survey was delivered online via the Survey Monkey application.
- The survey consisted of nine key questions for the majority of respondents and 13 key questions for respondents who represented a Competent Authority. The majority of questions were multiple choice. The survey was in four sections as follows:
  - Part A – About you
  - Part B – Evaluating the Convention
  - Part C – Modernising the Convention
  - Part D – Administering the Convention (this section was for Competent Authorities only)

### 4.2

#### Key findings of survey

- The survey was well responded to and represents a variety of opinions from both the public 'supply' side and the industry 'demand' side across a highly representative selection of countries.
- A key theme which was highly rated on more than one question was the Convention's ability to allow countries to seek funding outside of its native borders. The Convention's ability to help access finance across Europe can therefore be thought of as one of the overriding successful features of the Convention. More precisely on this theme:
  - The most popular advantage to European co-productions was indicated at 68% to be the ability to access funding benefits outside of a home country
  - "I value the ability to access sources of film funding outside of my native country" was the most highly indicated 'value factor' at 80%.

- There is a desire to see greater co-operation and harmonisation of processes amongst countries. This was witnessed by high response rates to questions related to this issue as well as the high number of individual comments which were made on this issue in the 'free expression' section of the survey.
- The majority of respondents 58% believe that the current points test system can be restrictive. Of those commenting that the current points test can be restrictive further analysis reveals that there was a spread of individuals from both the public sector and industry representing a spread of countries who felt this to be true.
- The minimum financial participation issue of European countries is certainly an issue for many. However, there is exactly equal weight of those who believe that the minimum financial participation of European countries should both be changed and remain the same.
- The majority of respondents 62.5% would not like to see the maximum financial participation of European countries increased.
- Producers were highly represented amongst those respondents indicating that they would like to see an increase in the maximum levels of non-European financial participation.
- Of those Competent Authorities answering on their most frequent co-production partner countries, France and Germany emerge strongly as the most likely co-production partners.
- 44.4% of Competent Authorities who answered use the Convention for 50% or more of all its co-productions arranged by that country. It is therefore clear that many countries rely heavily on the Convention as an instrument for ensuring that co-productions happen.
- There is a strong desire amongst Competent Authorities to see better data collation in the future to track the impact and performance of European co-productions.
- Finally we asked the Competent Authorities to comment on perceived levels of satisfaction with reciprocity of arrangements. 17 or 89.4% of all respondents to this particular question indicated that they felt that at least sometimes or all of the time felt that their country's offer was reciprocated. The vast majority of these positive responses (73.7%) felt that their offer was sometimes reciprocated.

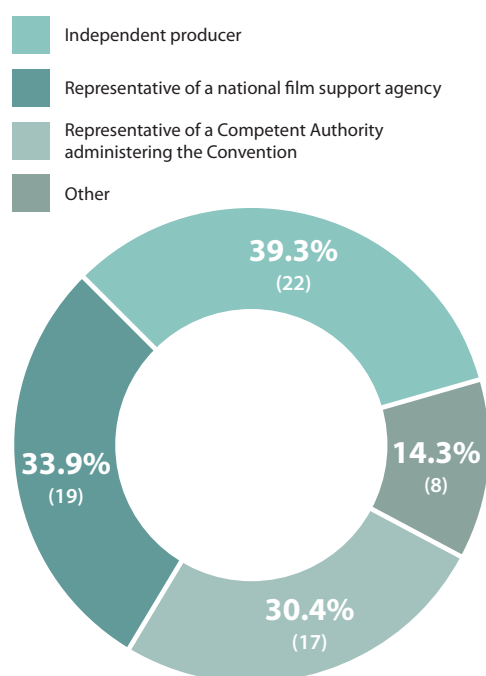
### 4.3 About our respondents

#### Respondents by function

- Of our 56 respondents
  - 39.3% were independent producers
  - 33.9% were representatives of a national film agency
  - 30.4% were representatives of a Competent Authority
  - 14.3% were in the 'other' category (ie likely a specialist film lawyer).

**Figure 4**  
Survey respondents by function

**Please indicate which of the following roles you occupy:**  
*(Please note you may indicate more than one box if you represent both a Competent Authority and a national film support agency.)*



## 4.4

### Evaluating the Convention

#### Advantages of co-productions

- Given five possible options and an opportunity for free expression the most popular advantage to European co-productions was highly indicated at 68% to be the ability to access funding benefits outside of a home country. At 28% the second most popular answer was that European co-productions contribute to the cultural diversity and flourishing of Europe. Interestingly, the 'hard reality' of financing co-productions comes in squarely in first place with an intended aim of the Convention (contributing to cultural diversity) being placed second but significantly behind the need to finance production.

**Figure 5**

Advantages to European co-productions response (percent and count)

What is the biggest advantage of European co-productions? (Please choose only one.)		
Answer options	Response percent	Response count
European co-productions allow for the circulation of non-national works throughout Europe	24.0%	12
European co-productions allow productions to access funding benefits outside of a home country	68.0%	34
European co-productions contribute to the cultural diversity and flourishing of Europe	28.0%	14
European co-productions are cost-effective	0.0%	0
European co-productions are more popular with audiences	2.0%	1
Other (please specify)	4.0%	2
<b>Answered question</b>		<b>50</b>
<b>Skipped question</b>		<b>6</b>

- Only two respondents chose to provide another suggested advantage to European co-productions. The first response was that European co-productions help create a European network. The second was a reflection that European co-productions make it possible for small countries to fund bigger films.

## 4.5

### Valuing the Convention

- Respondents were given 10 possible factors regarding the Convention to evaluate on a scale of 1 being highly important to 5 not important. The full list of the 10 factors are as follows:
  - I value the Convention's ease of use
  - I value the Convention's ability to bridge legal jurisdictions within Europe
  - I value the Convention's ability to reduce the need for bilateral agreements
  - I value the Convention's longstanding nature and therefore all parties understand how the Convention works
  - I value the ability to work with a range of partner countries throughout Europe
  - I value the Convention's ability to include non-European countries in a European co-production
  - I value the Convention's democratic influence to spread decision making powers across Europe
  - I value the fact the Convention can apply to film budgets of all levels
  - I value the fact the Convention has enabled artistic and cultural co-operation throughout Europe
  - I value the ability to access sources of film funding outside of my native country
- "I value the ability to access sources of film funding outside of my native country" was the most highly indicated within the highly important category at 80% of those responding to this question. Second most indicated in the highly important category was "I value the ability to work with a range of partner countries throughout Europe" at 57.1%.

## Section 4 • Survey results

- The following table summarises all responses by both actual number of responses and average rating.

**Please note** as the scale of importance is rated as 1 being highly important to 5 not important then the **lowest** average ratings out of five are the most indicative of degree of overall importance.

**Figure 6**

Aspects of the Convention as valued by survey respondents (number of responses and ratings)

Please indicate how important each of the following factors are to you:						
Answer options	Highly important	Important	Somewhat important	Not important	Rating average	Response count
I value the Convention's ease of use	12	25	10	2	2.04	49
I value the Convention's ability to bridge legal jurisdictions within Europe	19	16	14	0	1.90	49
I value the Convention's ability to reduce the need for bilateral agreements	20	16	11	1	1.85	48
I value the Convention's longstanding nature and therefore all parties understand how the Convention works	14	20	13	0	1.98	47
I value the ability to work with a range of partner countries throughout Europe	30	16	3	0	1.45	49
I value the Convention's ability to include non-European countries in a European co-production	12	22	13	2	2.10	49
I value the Convention's democratic influence to spread decision making powers across Europe	7	20	15	5	2.38	47
I value the fact the Convention can apply to film budgets of all levels	21	19	8	0	1.73	48
I value the fact the Convention has enabled artistic and cultural co-operation throughout Europe	28	16	4	1	1.55	49
I value the ability to access sources of film funding outside of my native country	40	10	0	0	1.20	50
<b>Answered question</b>						<b>50</b>
<b>Skipped question</b>						<b>6</b>

- The following diagram summarises the importance of the various factors via percentage response:

**Figure 7**

Aspects of the Convention as valued by survey respondents (percentages)

Please indicate how important each of the following factors are to you:

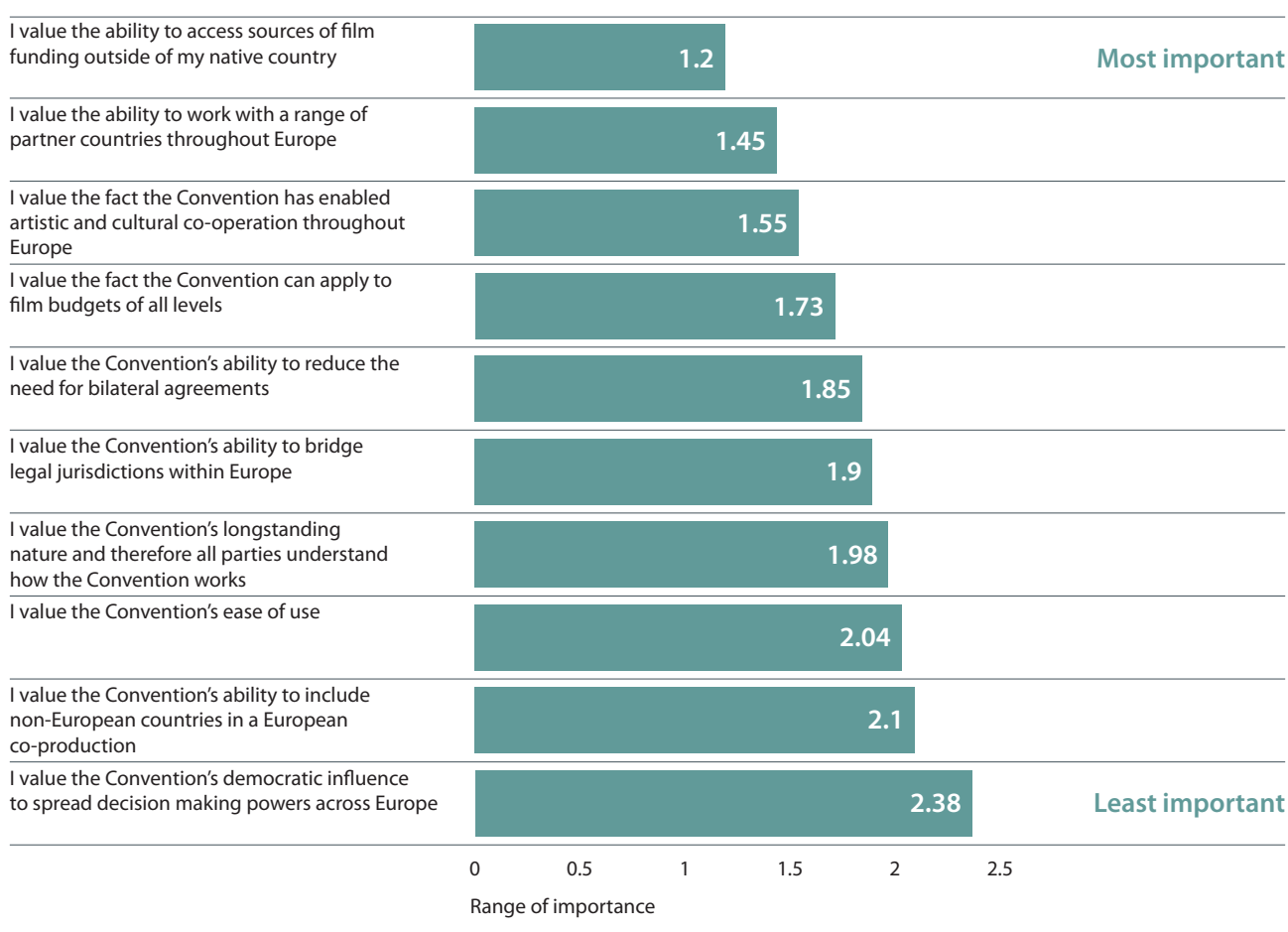


Section 4 • Survey results

- The following diagram summarises the importance of the various factors via rating. **Please note again** the lesser numerical value indicates a higher degree of importance:

**Figure 8**  
Aspects of the Convention as valued by survey respondents (ratings)

Please indicate how important each of the following factors are to you:



### Potential issues for the Convention

- We asked respondents to comment on a range of issues with the Convention that had been raised in consultation. We asked respondents to comment on whether they agreed or not as to the following issues:
    - Minimum financial participation rules for European countries are difficult to fulfil
    - Maximum financial participation rules for European countries are too low
    - Maximum financial participation rules for non-European countries are too low
  - Differences in interpretation and implementation amongst countries can cause problems
  - Knowing who to contact in Competent Authorities in partner countries is an issue
  - The current points system to test European elements of the film can be restrictive.
- The results are provided in figures 9 and 10 (see below and page 28).

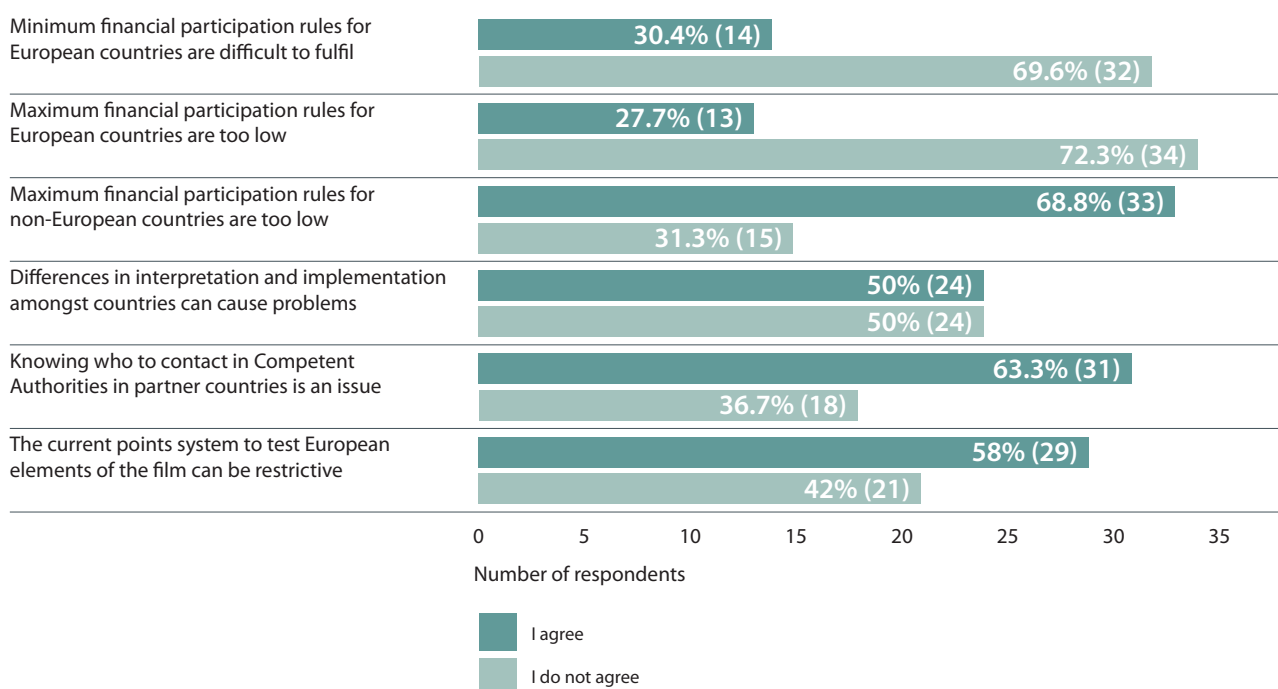
**Figure 9**

Valuation of issues related to the Convention

Do you agree with any of the following statements?			
Answer options	I agree	I do not agree	Response count
Minimum financial participation rules for European countries are difficult to fulfil	24	24	48
Maximum financial participation rules for European countries are too low	13	34	47
Maximum financial participation rules for non-European countries are too low	14	32	46
Differences in interpretation and implementation amongst countries can cause problems	33	15	48
Knowing who to contact in Competent Authorities in partner countries is an issue	31	18	49
The current points system to test European elements of the film can be restrictive	29	21	50
<b>Answered question</b>			<b>50</b>
<b>Skipped question</b>			<b>6</b>

**Figure 10**  
Valuation of Issues related to the Convention (percentages)

Do you agree with any of the following statements?:



- The highest rating issues were as follows:
  - Differences in interpretation and implementation amongst countries can cause problems 68.8%
  - Knowing who to contact in Competent Authorities in partner countries is an issue 63.3%
  - The current points system to test European elements of the film can be restrictive 58%.
- There is therefore a clear desire for greater harmony of implementation across countries as well as greater co-ordination between countries.
- Of those commenting that the current points test can be restrictive (29 people or 58% of all who answered this particular question), further analysis reveals that there was a spread of individuals (four Competent Authorities, 10 national film agencies, 15 producers and three others) representing a spread of countries (from the mature to less mature economies) who felt this to be true.

- In comparison issues to do with financial participation were less highly rated:
  - Minimum financial participation rules for European countries are difficult to fulfil 50%
  - Maximum financial participation rules for non-European countries are too low 30.4%
  - Maximum financial participation rules for European countries are too low 27.7%.<sup>8</sup>
- Issues to do with financial participation are more fully analysed in the section which follows.

8. In the question which immediately follows asking whether or not the maximum financial participation for European countries should be changed there is a slightly higher positive response to the issue (37.5% believe that there should be an increase) than the current finding above that only 27.7% believe that maximum financial participation rules are too low. In contrast to these results of the survey, the consultation and the Focus Group work suggested a relative openness by many countries to increase the current maximum level.

## 4.6 Modernising the Convention

### Financial participation levels – overall results

- Respondents were asked to comment on current levels of financial participation. Of those answering this question an equal 50% felt that minimum financial participation of European countries should both be and not be changed. This is a key issue for the Convention and the survey's 'dead heat' on this particular issue is somewhat unhelpful but not entirely surprising as it is a potentially controversial issue with varying points of view as indicated by our consultation work.

### Minimum financial participation for European countries

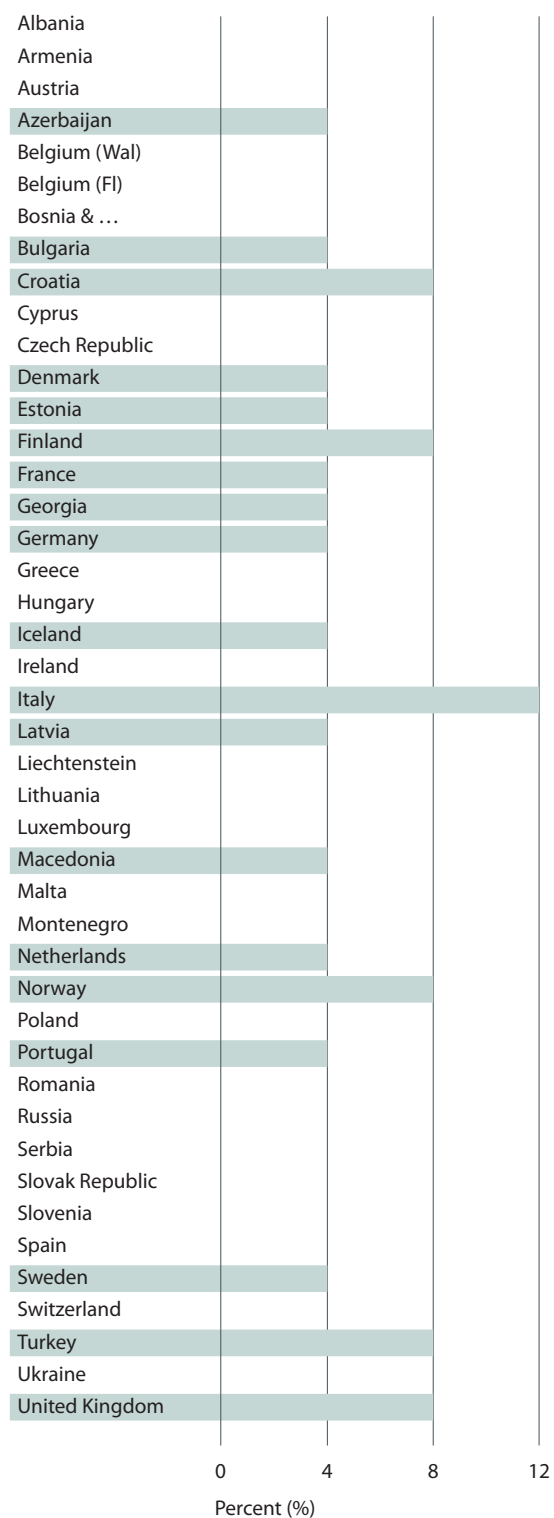
- Of those who indicated they **would** like to see a change in the minimum financial participation of European countries 15 were independent producers, five were representatives of Competent Authorities, six of national film agency and three were in the other category representing a variety of points of view.
- Interestingly, those indicating a preference for change in the minimum financial participation of European countries represented a range of countries from more mature countries such as France and the UK to smaller countries such as Iceland and Georgia. Without compromising confidentiality we cannot further analyse our respondents on this one particular issue for example we cannot indicate whether it was or was not a Competent Authority in each of the territories who indicated a preference for this particular change.

**Figure 11**

Changes with regard to current levels of financial participation (overall totals)

With regard to the current levels of minimum and maximum financial participation, would you like to see any of the following changes?			
Answer options	Yes I would like to see change	No I would not like to see change	Response count
The minimum financial participation of European countries should be decreased	25	25	50
The maximum financial participation of European countries should be increased	18	30	48
The maximum financial participation of non-European countries should be increased	24	24	48
<b>Answered question</b>			<b>50</b>
<b>Skipped question</b>			<b>6</b>

**Figure 12**  
Preference for change to minimum financial participation for European countries (by country)



### Maximum financial participation of non-European countries

- Respondents are equally split as to the raising of the maximum financial participation of non-European countries. However, and perhaps unsurprisingly, of those preferring this change an overwhelming 71% of the 24 respondents are independent producers. These independent producers represent a spread of countries ranging from the mature to the less established countries.

### Maximum financial participation of European countries

- The overall preference is to increase the maximum financial participation of European countries. This was confirmed by the results of our Focus Group and is not thought to be a controversial issue but one that may enable greater ease of financing of productions.

### Other issues

- We asked respondents to comment on a range of other issues raised in consultation as follows:
  - Greater cooperation and collaboration amongst the Competent Authorities
  - Widening out of the Convention to further and better include non-European countries
  - Better information and data sharing on the number, value and market performance of European co-productions.
- Results are provided in figure 13 (see page 31).
- Again the need for greater co-operation between Competent Authorities scored highly. The highest rated issue in this section was the need for better information and data sharing on the performance of co-productions.
  - Greater cooperation and collaboration amongst the Competent Authorities 89.8%
  - Widening out of the Convention to further and better include non-European countries 62.5%
  - Better information and data sharing on the number, value and market performance of European co-productions 90%.
- Those indicating the need for better sharing of data included both the public sector (32 individuals) and industry (23 individuals).

**Figure 13**  
Preferences for change in other areas

Please indicate which of the following elements of the Convention, if any, you would like to see changed in the future:			
Answer options	Yes I would like to see change	No I would not like to see change	Response count
Greater cooperation and collaboration amongst the Competent Authorities	44	5	49
Widening out of the Convention to further and better include non-European countries	30	18	48
Better information and data sharing on the number, value and market performance of European co-productions	45	5	50
<b>Answered question</b>			<b>50</b>
<b>Skipped question</b>			<b>6</b>

#### Individually suggested areas for change

● In question nine of the survey we invited respondents to suggest any other areas or issues that they consider important for the future modernisation of the Convention. Specifically the question we asked was “Do you have any further thoughts on the current success of the Convention and how it might be improved or modernised? If you do have any further thoughts please comment below”. There were a range of different answers provided. We have grouped together all the various responses under certain common themes which emerged as follows:

- Standardising country approaches
- The points system
- Financing
- Third party countries
- Digital and post issues
- General praise
- Other suggested initiatives.

● The vast majority of responses were related to the theme of standardising country approaches (there were seven comments given on standardising country approaches). For all other areas with the exception of other suggested initiatives (of which there were three comments) generated two responses. In total there were 20 individual comments. Full details of all individual comments and our thematic groupings thereof are provided in Appendix 3.

## 4.7

### Administering the Convention

- The final section of the survey was exclusively for completion by the Competent Authorities of which we had 20 respondents.<sup>9</sup>

#### Frequency of co-production partnerships

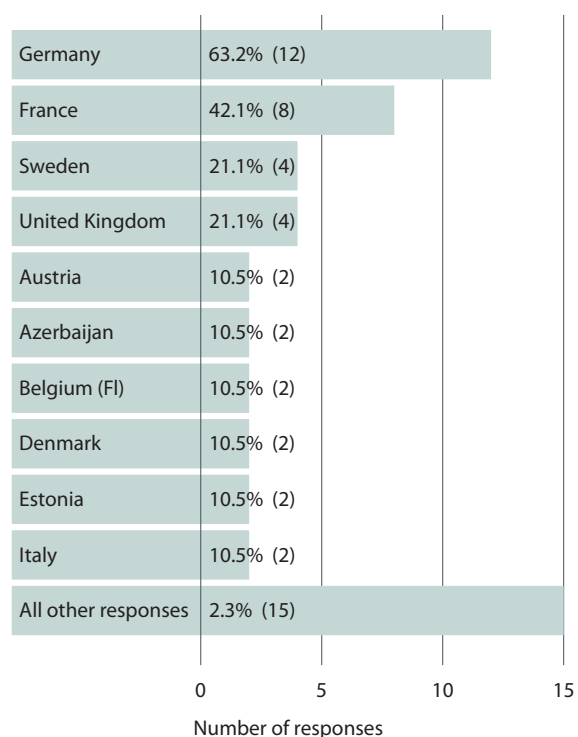
- We asked respondents to estimate the top three countries with which their own country most frequently co-produced with. It is not surprising that France and Germany (both of which have a strong emphasis on co-productions as elements of national film policy) should be the two most popular responses.
- A chart of results is provided (see figure 14) in descending order.<sup>10</sup>
- Whilst the top results of France and Germany are of no surprise, there is little more which can meaningfully be derived from the spread of responses given that there was not a complete response from all or as near as possible to all of the 42 countries. For example Ireland, an active co-production partner in Europe, was not cited by any countries. This result only indicates which countries did or did not answer this section of the survey. Without revealing the exact Competent Authorities who answered this particular section we cannot comment further on country pairing co-production trends in this section.
- In the absence of further analysis a full list of all responses for this question is provided on page 33 (figure 15).

**Figure 14**

Summary of estimation of level of frequency of co-productions (by country)

**We are interested in knowing which countries you most frequently co-produce with. Please estimate the top three countries your country has most co-produced with:**

*(Please only indicate the top three countries)*



9. Please note that in question two 17 individuals indicated that they were representatives of the Competent Authorities however in question 10 20 individuals indicated that they were representatives of the Competent Authorities. However, it may be that where an individual was both a representative of the Competent Authority and a national film agency that the individual elected to identify themselves as a representative of a national film agency in the first instance, thus explaining this slight difference in totals.

10. Those registering one vote included the following countries Belgium (Wal), Croatia, Finland, Luxembourg, Macedonia, Netherlands, Russia, Switzerland and the Ukraine. Those registering no votes include Albania, Armenia, Bosnia & Herzegovina, Cyprus, Czech Republic, Georgia, Greece, Hungary, Iceland, Ireland, Latvia, Liechtenstein, Lithuania, Malta, Poland, Portugal, Romania, Slovak Republic, Slovenia, Turkey.

**Figure 15**

Full list estimation of level of frequency of co-productions (by country)

**... Please estimate the top three countries your country has most co-produced with:**  
(Please only indicate the top three countries)

Answer options	Response percent	Response count
Albania	0.0%	0
Armenia	0.0%	0
Austria	10.5%	2
Azerbaijan	10.5%	2
Belgium (Wal)	5.3%	1
Belgium (Fl)	10.5%	2
Bosnia & Herzegovina	0.0%	0
Bulgaria	0.0%	0
Croatia	5.3%	1
Cyprus	0.0%	0
Czech Republic	0.0%	0
Denmark	10.5%	2
Estonia	10.5%	2
Finland	5.3%	1
France	42.1%	8
Georgia	0.0%	0
Germany	63.2%	12
Greece	0.0%	0
Hungary	0.0%	0
Iceland	0.0%	0
Ireland	0.0%	0
Italy	10.5%	2
Latvia	0.0%	0
Liechtenstein	0.0%	0
Lithuania	0.0%	0
Luxembourg	5.3%	1
Macedonia	5.3%	1
Malta	0.0%	0
Montenegro	0.0%	0
Netherlands	5.3%	1
Norway	10.5%	2
Poland	0.0%	0
Portugal	0.0%	0
Romania	0.0%	0
Russia	5.3%	1
Serbia	10.5%	2
Slovak Republic	0.0%	0
Slovenia	0.0%	0
Spain	10.5%	2
Sweden	21.1%	4
Switzerland	5.3%	1
Turkey	0.0%	0
Ukraine	5.3%	1
United Kingdom	21.1%	4
<b>Answered question</b>		<b>19</b>

### Proportional use of the Convention for co-productions

- 44.4% of Competent Authorities answering used the Convention for 50% or more than all its co-productions arranged by that country. It is therefore clear that many countries rely heavily on the Convention as instrument for ensuring that co-productions happen.
- Further analysis by the SPI team as to which particular countries were using the Convention within the given percentage ranges shows many of the bigger more established countries using the Convention within the 30–50% range, a high number of established but less sizeable countries were using the Convention 70% or more of the time. Countries which used the Convention less were smaller countries with lower production levels and a lesser overall tendency to co-produce. Further details on the exact countries are not given for the purposes of keeping anonymity of responses.

**Figure 16**

Estimation of proportion of co-productions (by percentage)

**Please estimate the proportion of co-productions from your country which use the Convention:**  
(Please choose only one.)

Answer options	Response percent	Response count
0 – 10%	5.5%	1
10 – 30%	22.2%	4
30 – 50%	27.7%	5
50 – 70%	11.1%	2
70 – 90%	22.2%	4
90 – 100%	11.1%	2
<b>Answered question</b>		<b>18</b>

### Possible future measurements of the Convention's impact

● The Brief for the Assignment highlighted the fact that to date no indicators for measuring the success of the Convention have been established. We therefore asked Competent Authorities to reflect upon a small number of meaningful indicators which might be used in the future to evaluate the impact of the Convention as follows:

- Number of co-productions
  - Origin of co-productions
  - European box office success
  - Number of broadcast transmissions
  - Number of sales (physical or electronic)
  - Critical success (awards at International Festivals)
  - Production volume/production value.
- All of the suggested metrics were very highly rated with each one receiving a yes from more than 81% of the respondents to this question. The highest rated answer was critical success (awards at International Festivals). Full results are as follows:
- Number of co-productions 88.9%
  - Origin of co-productions 87.5%
  - European box office success 89.5%
  - Number of broadcast transmissions 87.5%
  - Number of sales (physical or electronic) 94.1%
  - Critical success (awards at International Festivals) 100%
  - Production volume/production value 81.3%.

● A note of caution should be given for the future use of metrics to measure the Convention's success. Firstly, it should be remembered that the Convention is a stimulant or mechanism for intervention rather than a direct intervention body itself. Thus the Convention has an indirect or consequential impact on activity. This presents different challenges for measurement when compared to a direct intervention, such as with a film investment fund. Also, many of the results of the activities stimulated by the Convention take place at national signatory state level and thus even further outside the Convention's own direct control. Secondly, whilst there is a strong appetite amongst Competent Authorities to better account for co-production activities in Europe, it should be remembered that the current system of collation of European wide data via the European Audiovisual Observatory necessitates the involvement of the Competent Authorities themselves providing the necessary data to the EAO. However, the results of the survey point to the likely future success of the collation of data and the desire to better and more fully understand European co-production activity.

**Figure 17**  
Possible future metrics

**In the future the Council of Europe would like to ensure that the impacts of the Convention are better understood and accounted for across Europe. Which of the following possible areas of data would you like to see collected?**

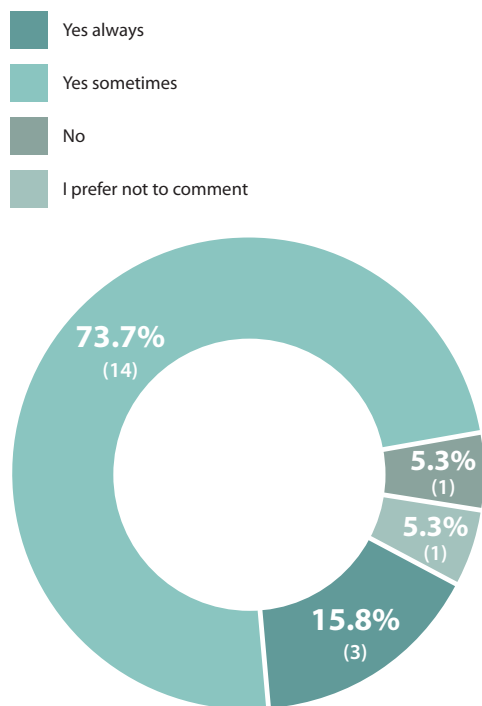
Answer options	Yes	No	Response count
Number of co-productions	16	2	18
Origin of co-productions	14	2	16
European box office success	17	2	19
Number of broadcast transmissions	14	2	16
Number of sales (physical or electronic)	16	1	17
Critical success (awards at International Festivals)	17	0	17
Production volume/production value	13	3	16

### Levels of satisfaction with reciprocity

- Finally we asked the Competent Authorities to comment on perceived levels of satisfaction with reciprocity of arrangements. Seventeen of the respondents (89.4%) to this particular question indicated that they felt that at least sometimes or all of the time felt that their country's offer was reciprocated. The vast majority of these positive responses (73.7%) felt that their offer was sometimes reciprocated.
- The notion of reciprocity is key to the Convention and its future. The Convention currently allows for the possibility of derogation from the Convention should a country not feel reciprocated.<sup>11</sup>
- Therefore ensuring that in the future this mostly positive result remains true will be an important challenge for the Convention moving forward.

**Figure 18**  
Levels of reciprocity satisfaction

**In your opinion has your country as a result of the Convention experienced sufficient reciprocity from other countries?**



### 4.8 Key conclusions on the survey

- In general the results of the survey are extremely positive and in many ways reassuring.
- Firstly, it is positive that there was a strong response to the survey and that the views were highly representative of all elements of the sector and of a variety of countries.
- Secondly, the results of the survey in many ways confirm the key issues and challenges facing the Convention as surfaced by the consultation work. Many of the key findings from the survey such as, sometimes, the difficulties posed by the points test; producers' desire to change the minimum financial participation levels for European countries; and the desire to better harmonise each country's approach to implementation were all issues which were in one form or another raised during consultation.
- There are high levels of satisfaction with the Convention and there is strong evidence to suggest that the Convention itself and its impact are highly valued throughout Europe. There are of course several areas with room for improvement in order to maximise that impact.

11. See Article 10 (2) on General Balance "A Party which, over a reasonable period, observes a deficit in its co production relations with one or more other Parties may, with a view to maintaining its cultural identity, withhold its approval of a subsequent co-production until balanced cinematographic relations with that or those Parties have been restored".

# Section 5

## Recommendations

### 5.1

#### Helping the administrators of the Convention

- A key finding of this work is the need to better co-ordinate and harmonise the implementation of the Convention across countries. SPI suggests that the Client consider the advantages of a number of low cost initiatives outlined below which would help address this issue.

#### The Toolkit

- The creation of an 'Implementation Toolkit' for common use by all Competent Authorities. The Toolkit would be a guidance document which gave simple and clear advice on the administration of the Convention explaining best practice and expectations of level of service so that all Competent Authorities operate on the same practical basis. The Toolkit might include for example guidance on 'grey' areas such as use of discretion (for example if a project does not obtain 15 points in the points test). The Toolkit might also usefully contain all up to date contact details of the relevant managers of the Convention for the Competent Authorities. With this being a public document, the process of certification would become even more transparent, something that producers have requested.

#### An intranet

- It is an admirable fact that the Convention has in recent year's spanned 42 countries and created a network of access to support for film right across Europe and beyond. This fact is all the more remarkable given that to date no specific intranet system exists for the various Competent Authorities together. It is believed that the administration of the Convention would be helped through the setting up of such an intranet

portal of support. Such a portal might include the ability to post open questions or queries to all Competent Authorities on best practice or be a quick means for one specific country to ask confidential questions of another in a swift and timely manner. Certainly the creation of a secure intranet would give Competent Authorities a community within which they could address issues and discuss practices putting everybody in touch with each other. It would also encourage the sharing of information about production data to a common standard.

- The intranet portal could also be supplemented by a regular emailed newsletter.

### 5.2

#### Revisiting the points system

- There is an overall belief that the current points test system can be restrictive. Having taken this finding and all other issues raised via consultation, survey and research into account, SPI recommends a number of changes to the current points system as follows:

#### Performing talent

- The current allocation of three points to lead role and the overall allocation of six points to the use of European talent can be restrictive for bigger budget more ambitious European films which seek to use non-European A-List acting talent, which increases the global visibility and appeal for the project. Ultimately the wider global circulation of European works must be a desirable aim for the Convention to achieve.

- SPI suggests a modification to the use of non-European acting talent in lead roles whilst still retaining the European identity of the films. Awarding points for the European nature of the role (ie playing a European character) rather than the actual nationality of the actor/actress could help overcome this difficulty.
- SPI believes that on balance by giving points to at least one non-European actress/actor in a lead role would greatly increase the flexibility of the test and allow for the flourishing of more successful European films to the betterment of the European industry as a whole.

### Creative talent

- The research discloses a support for re-calibrating the allocation of points between the director and screenwriter. Currently the balance is equal at three each but SPI recommends that, if the total points for this segment must remain at seven, then a point is taken from the screenwriter and an additional point given to the director.
- If it was necessary to keep the overall balance of creative talent points at seven points then the addition of the producer would require a re-assignment of points in this category. It is suggested that the recalibration should be as follows:
  - Director four points
  - Screenwriter two points
  - Composer one point

The above re-calibration would represent a minimal change to address the current absence of the producer.

- SPI recommends that the role of the producer as a key member of the creative team could be formally recognised within the points system, especially in the case of European producers with strong track records in co-production. For example, an additional point could be available for delegate European producers with strong co-production credits. This change, although more complicated, would thus reward experienced successful co-producers and assist with the corporate goals of growth and sustainability for European production companies.

- The change would also recognise the fact that over the last decade the function of producer has become even more complex and challenging, as finance has become scarcer and funding structures more complex.
- At the present time this concept (of rewarding experienced producers by allocating a point to those that qualify) has considerable support among the production community, unsurprisingly. Our consultations have not revealed equivalent support from Competent Authorities and others and so SPI recommends further exploration of the concept is warranted before changes are made.

### Use of VFX and CGI

- The use of VFX and CGI in films is increasingly important. As sophistication of artistry improves this element of filmmaking is an increasingly creative and aesthetic element of a film. To recognise the increased importance of VFX/CGI in modern filmmaking, SPI would recommend adding an extra element to the technical group of main VFX or CGI location and awarding thereby at least one point for its use by European-based VFX artists.

### Technical and craft talent

- The current language describing technical and craft positions are somewhat unclear in as much as the current roles do not directly refer to Heads of Departments, even though this is implicitly understood currently by most countries. Any change in definitions and terms would perhaps lead to translation issues from country to country. Nevertheless, some clarity should be brought to the current categories of technical and craft crew through a new articulation of the roles as Heads of Departments rather than the current loose use of terms.

**Figure 19**  
Current points system summary

European elements	Weighting points
<b>CREATIVE GROUP</b>	(possible 7 points)
Director	3
Scriptwriter	3
Composer	1
<b>PERFORMING GROUP</b>	(possible 6 points)
First role	3
Second role	2
Third role	1
<b>TECHNICAL CRAFT GROUP</b>	(possible 6 points)
Cameraman	1
Sound recordist	1
Editor	1
Art director	1
Studio or shooting location	1
Post-production location	1

**Figure 20**  
New points system summary

European elements	Weighting points
<b>CREATIVE GROUP</b>	(possible 7 points)
Director	4
Scriptwriter	2
Composer	1
<b>PERFORMING GROUP</b>	(possible 6 points)
First role <i>(based on nationality of role not actor/actress)</i>	3
Second role	2
Third role	1
<b>TECHNICAL CRAFT GROUP</b>	(possible 7 points)
Director of photography (HOD)	1
Sound designer (HOD)	1
(Picture) Editor (HOD)	1
Production designer (HOD)	1
Studio or shooting location	1
Post-production location	1
Main VFX or CGI location	1

### Changes to point system summary

- The tables (see left) summarise both the current points system and the commutation of all of the suggested changes to the Test in Section 5.2. Please note however that the new points system summary (figure 20) does not incorporate the more ambitious suggestion of a points allocation for producers.
- With the addition of one extra point for the use of VFX/CGI the overall total of points in the new system rises to 20 rather than 19 points.

## 5.3 Financial participation

### Minimum and maximum financial contributions for European countries

- Our survey works showed a relatively equal weight of overall opinion as to the desire to change or not change the minimum financial participation of European countries, but within the categories of respondent it is the producers who are overwhelmingly keen on this change. Our consultation work and focus group work revealed that the current minimum levels are certainly the biggest obstacle for smaller countries participating in many co-productions. Indeed even at the €2million budget level a 10% financial participation is felt to be a challenge for many countries with less substantial resources.
- SPI believes that the further encouragement of the participation of less well resourced countries in higher budget levels should be a highly desirable aim for the Convention. It is through more continued and sustained exposure to more ambitious projects that a country's film culture and skills base will mature and develop. Whilst, it may be true that initially some purely financial arrangements are made, over time industry relationships are formed, skills are improved and the involvement of the smaller countries will become more creatively meaningful. SPI believes that such an ambition is directly related to the overall aims of the Convention itself to promote the overall development of European co-production in all 42 countries.
- SPI recommends that minimum contributions on a multi-lateral co-production be reduced from 10% to 5% and on bi-laterals from 20% to 10%.

- As a corollary to this SPI would also recommend the increase of the maximum contribution in such circumstances to 80% from 70%. This second recommendation also is better supported by the producer community than among other consultees/respondents. Despite the survey results, the consultations revealed openness on this matter.

### Maximum financial contributions for non-European countries

- According to the survey work respondents are equally split as to the raising of the maximum financial participation of non-European countries. Producers were highly represented amongst the respondents indicating that they would like to see an increase in the maximum levels of non-European financial participation.
- On balance SPI recommends not changing the maximum financial contribution for non-European countries at this time. SPI believes that this change is not particularly desired beyond the producer community and it might be extremely hard to achieve agreement amongst European Competent Authorities on this matter.

## 5.4

### Measuring future impact

- There is a strong desire amongst Competent Authorities to see better data collation in the future to track the impact and performance of European co-productions. The particular metrics which are considered to be of high use to the various countries were indicated in the survey was follows:
  - Number of co-productions
  - Origin of co-productions
  - European box office success
  - Number of broadcast transmissions
  - Number of sales (physical or electronic)
  - Critical success (awards at International Festivals)
  - Production volume/production value.

- Whilst it would be a matter of further negotiation between the Council of Europe, the EAO and the Competent Authorities as to exact nature of the final performance indicators for the future, and indeed what it is possible to collate in each individual country, nevertheless it is clear that box office is no longer an adequate measure of performance in isolation. There is a need to better account for success with audiences and SPI suggests that various methods should be explored of tracking accurate data for other forms of 'distribution'<sup>12</sup>. Other forms of new distribution should encompass VoD, download, 'catch-up TV' in order to reflect modern ways in which consumers choose to watch films.
- Whilst this recommendation may entail additional work both for the European Audiovisual Observatory and the Competent Authorities the results of the survey are a clear signal that better accounting for the performance of European co-productions is strongly desired amongst stakeholders.

## 5.5

### Opening up to third countries

- One aspect that SPI was asked to specifically consider was the appetite amongst consultees to widen the Convention to include more countries beyond Europe. The Convention is already used to accommodate third party countries as minority co-producers in a European co-production. However, given the maximum levels of financing allowed from third countries the use of the European Convention is currently limited in the extent that the Convention can embrace non-European Countries.
- There is a developing opinion (although not yet held on all circles) that the internationalisation of Convention by allowing non-European countries to join is likely to provide a number of advantages that reflect the increasing globalisation of the sector. Indeed, this trend has already been seen in a number of Council of Europe treaties for example addressing cyber crime and human trafficking. The recent announcement that Eurimages itself is exploring such expansion also supports movement in this direction.

12. Telefilm Canada has recently announced a new system to measure success of a film well beyond box office metrics, for example.

- In anticipation of this trend developing, SPI recommends that the issue of expanding membership of the Convention beyond Europe should be most seriously considered again at some future point, but at this time no changes should be made.
- The results of our explorations with regard to increasing the permitted maximum financial contribution of non-European countries are inconclusive. For example the survey results are exactly equally split. Many Competent Authorities are concerned that it would not be possible to open up their benefits system beyond Europe. For those who would like to see a further opening up of the Convention, this desire is more driven by frustration of not being able to use the Convention to embrace opportunistic moments where they feel there may be some possibility of engaging with non-European countries. This is more likely to be the case in countries with very small numbers of non-European bilateral or multilateral treaties.
- On balance it is recommended by SPI that the Convention not be further extended, at this time, in order to reflect the majority of feeling on this matter. However, we note a general shift to a more international perspective in certain organisations (as noted above, such as with Eurimages and the MEDIA Programme) and over time we anticipate attitudes to such expansion for the Convention might change.

## 5.6 Slates

- Another aspect that SPI was asked to specifically consider was the appetite amongst consultees to adapt the Convention to better accommodate slate-funded projects. At present there is insufficient desire to see this happen.

# Appendix 1

## Landscape of European co-productions

### A1.1

#### Summary of key terms of the convention

The following provides a brief summary of some of the principal requirements of the Convention:

#### Assimilation to national films

- European films falling within the scope of the Convention are entitled to the benefits granted to national films by the legislative and regulatory provisions in each Convention country participating in the relevant co-production.

#### Scope

- The Convention affects two different types of co-producers: a co-producer established in a country that is party to the Convention and a non-European co-producer established in a country that is not party to the Convention.
- The Convention applies to:
  - co-productions involving at least three co-producers, established in three different Parties to the Convention; and
  - co-productions involving at least three co-producers established in three different Parties to the Convention and one or more co producers who are not established in such Parties; and
  - bilateral co-productions in the absence of any agreement governing bilateral co-production relations between two Parties to the Convention (provided no reservations have been made under the Convention).

#### Financial and creative contributions

- Each co-producer contributes a share of the finance. The minimum and maximum financial contributions are detailed below. The largest contributor is deemed to be the majority country for that film.

	Minimum threshold	Maximum threshold
Non-Party (after all non-Party contributions aggregated)	10%	30%
Bilateral Party	20%	80%
Multilateral Party	10%	70%

- The contribution of the co-producers relating to creative, technical and artistic personnel, cast and facilities, must be proportional to their investment. There are however conditions under which a minority financial only contribution may be permitted.
- The craft team involved in filming must also be made up of nationals of the States which are partners in the co-production, and post-production shall normally be carried out in those States (unless justified by demands of screenplay).

#### Rights of co-producers

- Co-production contract must guarantee to each co-producer joint ownership of the original picture and sound negative. The contract shall include the provision that this negative shall be kept in a place mutually agreed by the co-producers, and shall guarantee them free access to it.
- The co-production contract must also guarantee to each co-producer the right to an internegative or to any other medium of duplication.

### Points test

- A work must qualify as European to access benefits through the Convention. Accordingly it must achieve at least 15 points out of a possible total of 19, according to the schedule of European elements set out below.
- The competent authorities may, after consulting together, exercise their discretion to grant European co-production status, if they consider that the work reflects a European identity, and the work has less than 15 points.

European elements	Points
<b>CREATIVE GROUP</b>	
Director	3
Scriptwriter	3
Composer	1
<b>PERFORMING GROUP</b>	
First role	3
Second role	2
Third role	1
<b>TECHNICAL CRAFT GROUP</b>	
Cameraman	1
Sound recordist	1
Editor	1
Art director	1
Studio or shooting location	1
Post-production location	1

## A1.2

## Case study country summaries

Co-production activity <sup>13</sup>	National support <sup>14</sup>	Examples of co-productions supported by national support body / released in 2010 <sup>15</sup>
<b>CROATIA</b>		
<b>2008</b> Total co-pros: unspecified by EAO Majority co-pros: unspecified by EAO Minority co-pros: unspecified by EAO	<b>Croatian Audiovisual Center</b> 2010 National production support fund. Budget: €5.9 million.	<b>2 Sunny Days</b> Ognjen Svilicic (HR, FR)
<b>2009</b> Total co-pros: unspecified by EAO Majority co-pros: unspecified by EAO Minority co-pros: unspecified by EAO	Current Croatian tax incentive/ rebate for international productions: 20% cash rebate on qualifying spend.	<b>The Abandoned</b> Adis Bakrac (HR, RS, FR)
<b>2010</b> Total co-pros: unspecified by EAO Majority co-pros: unspecified by EAO Minority co-pros: unspecified by EAO		<b>On the Path</b> Jasmila Zbanic (HR, AU, GE)
<b>2010</b> <b>Box Office admissions:</b> <sup>16</sup> 3.3 million		
<b>CZECH REPUBLIC</b>		
<b>2008</b> Total co-pros: 9 Majority co-pros: 5 Minority co-pros: 4	<b>Czech Film Commission</b> 2011 National production support fund. Budget: €6 million.	<b>Habermann's Mill</b> Juraj Herz (AT, DE, CZ)
<b>2009</b> Total co-pros: 12 Majority co-pros: 8 Minority co-pros: 4	Average award to 2010 majority co-production: €292,152. Average award to 2010 minority co-production: €130,285.	<b>Kooky</b> Jan Sverak (CZ, DK)
<b>2010 (provisional)</b> Total co-pros: 9 Majority co-pros: 4 Minority co-pros: 5	Current Czech tax incentive/ rebate for international productions: 20% cash rebate on qualifying spend.	<b>Identity Card</b> Ondrej Trojan (CZ, SK)
<b>2010</b> <b>Box Office admissions:</b> 13.5 million		

13. All co-production data provided in column one as per *Marche du Film 2010/11: Focus, World Film Market Trends*.14. All data provided in column two as per *Marche du Film 2011: The Funds Book*.15. All data provided in column three as per *Marche du Film 2011: The Funds Book*.

16. All Box figures are EAO provisional figures from press release dated 11 February 2011.

## Appendix 1 • Landscape of European co-productions

DENMARK			
<b>2008</b>		<b>Danish Film Institute</b>	<b><i>In a Better World</i></b>
Total co-pros:	12	2011 Regional FilmFyn fund. Budget: €1.5 million.	Susanne Bier (DK, SE)
Majority co-pros:	6	Average award to 2010 majority co-production: €350,000.	<b><i>Simon and the Drake</i></b>
Minority co-pros:	6	Average award to 2010 minority co-production: €100,000.	Lisa Ohlin (DK, SE, NO, DE)
<b>2009</b>		<b>Also, Filmby Aarhus fund</b>	<b><i>Father of Four – Back to the Nature</i></b>
Total co-pros:	14	Maximum award to 2010 majority co-production: €300,000.	Claus Bjerre (DK, SE)
Majority co-pros:	7	Average award to 2010 minority co-production: €60,000.	
Minority co-pros:	7	Current Danish tax incentive/ rebate for international productions: N/A.	
<b>2010 (provisional)</b>			
Total co-pros:	9		
Majority co-pros:	6		
Minority co-pros:	3		
<b>2010</b>			
<b>Box Office admissions:</b>	13 million		
ESTONIA			
<b>2008</b>		<b>Estonian Film Commission</b>	<b><i>The Snow Queen</i></b>
Total co-pros:	2	Average award to 2010 majority co-production: €206,000 (and up to a maximum of €383,000).	Marko Raat (EE, NO)
Majority co-pros:	1	Average award to 2010 minority co-production: €99,000.	<b><i>Phobos</i></b>
Minority co-pros:	1	Current Estonian tax incentive/ rebate for international productions: N/A.	Oleg Assadulin (EE, RU)
<b>2009</b>			<b><i>Rad Mercury</i></b>
Total co-pros:	4		Andres Puustusmaa (EE, RU)
Majority co-pros:	1		
Minority co-pros:	3		
<b>2010 (provisional)</b>			
Total co-pros:	4		
Majority co-pros:	3		
Minority co-pros:	1		
<b>2010</b>			
<b>Box Office admissions:</b>	2.1 million		

FRANCE			
<b>2008</b>		<p><b>Centre National de la Cinematographie</b></p> <p>2011 National support fund. Budget: €30 million.</p> <p>Maximum award to 2010 majority co-production: €600,000.</p> <p>Awards to 2010 minority co-production: b/w €150,000–600,000.</p> <p>In 2011, around 15 other funds available with a combined budget of more than €40 million. Notable funds include the Ile-de-France Regional Authority which had a budget of €14m in 2011 and numerous regional funds with budgets around €3m in 2011.</p> <p>Current French tax incentive/ rebate for international productions: 20% of qualifying spend.</p>	<p><i>Une Estonienne à Paris</i> Ilmar Raag (FR, ES, BE)</p> <hr/> <p><i>Lenfant d'en haut</i> Ursula Meier (FR, CH)</p> <hr/> <p><i>Un amour de jeunesse</i> Mia Hansen-Love (FR, DE)</p>
Total co-pros:	95		
Majority co-pros:	51		
Minority co-pros:	44		
<b>2009</b>			
Total co-pros:	93		
Majority co-pros:	45		
Minority co-pros:	48		
<b>2010 (provisional)</b>			
Total co-pros:	118		
Majority co-pros:	60		
Minority co-pros:	58		
<b>2010</b>			
<b>Box Office admissions:</b>	206.5 million		
GERMANY			
<b>2008</b>		<p><b>German Federal Film Board</b></p> <p>2010 German Federal Film Fund. Budget: €60 million.</p> <p>In 2011, there were around eight other major funds, with budgets totaling more than €117 million.</p> <p>Current German tax incentive/ rebate for international productions: 20% of qualifying spend.</p>	<p><i>The Three Musketeers</i> Paul W. S. Anderson (DE, FR, UK, US)</p> <hr/> <p><i>Ludwig II</i> Peter Sehr (DE, FR, AT)</p> <hr/> <p><i>The Girl with Nine Wigs</i> Marc Rothemund (DE, NL)</p>
Total co-pros:	44		
Majority co-pros:	15		
Minority co-pros:	29		
<b>2009</b>			
Total co-pros:	62		
Majority co-pros:	42		
Minority co-pros:	20		
<b>2010 (provisional)</b>			
Total co-pros:	58		
Majority co-pros:	23		
Minority co-pros:	35		
<b>2010</b>			
<b>Box Office admissions:</b>	126.6 million		



SPAIN		
<b>2008</b>		
Total co-pros:	49	
Majority co-pros:	26	
Minority co-pros:	23	
<b>2009</b>		
Total co-pros:	51	
Majority co-pros:	22	
Minority co-pros:	29	
<b>2010 (provisional)</b>		
Total co-pros:	49	
Majority co-pros:	34	
Minority co-pros:	15	
<b>2010</b>		
<b>Box Office admissions:</b>	97.2 million	
<p><b>Spanish Film Commission</b></p> <p>2011 Production support annual budget: €8 million.</p> <p>Average award to 2010 majority co-production: €353,125.</p> <p>Average award to 2010 minority co-production: €50,000.</p> <p>2011 Feature film support (Amortization). Budget: €49 million.</p> <p>Current Spanish tax incentive/ rebate for international productions: N/A.</p>		
<p><i><b>Tralas Luces</b></i> Sandra Sanchez (ES, AR)</p> <hr/> <p><i><b>La mujer del Eternauta</b></i> Adan Aliaga Pastor (ES, AR)</p> <hr/> <p><i><b>Che: Guerilla</b></i> Steven Soderbergh (ES, US)</p>		
UNITED KINGDOM		
<b>2008</b>		
Total co-pros:	23	
Majority co-pros:	10	
Minority co-pros:	13	
<b>2009</b>		
Total co-pros:	26	
Majority co-pros:	6	
Minority co-pros:	20	
<b>2010 (provisional)</b>		
Total co-pros:	21	
Majority co-pros:	12	
Minority co-pros:	9	
<b>2010</b>		
<b>Box Office admissions:</b>	169.2 million	
<p><b>British Film Institute</b></p> <p>2011 Budget: €17m.</p> <p>Current UK tax incentive/rebate for international productions: Rebate of 20–25% (of 80% of total costs) depending on budget of film.</p>		
<p><i><b>Streetdance 2 3D</b></i> (UK, DE, IT)</p> <hr/> <p><i><b>Submarine</b></i> Richard Ayoade (UK, US)</p>		

# Appendix 2

## Consultation list

### A2.1

#### Consultation list

The following people were consulted:

- Robert Baliński, Polish Film Institute (Poland)
- Ger Bouma, Nederlands Filmfonds (Netherlands)
- Wolfgang Brehm, Lawyer (Germany)
- Sophie Borowsky, Lawyer (France)
- Isabel Davies, BFI (UK)
- Pierre Druot, VAF (Flanders)
- Bruno delle Ragione, Lawyer (Italy)
- Tomas Eskilsson, Film i Väst (Sweden)
- Cristobal Garcia, Morena Films (Spain)
- Peter Garde, Zentropa (Denmark)
- Dariusz Jablonski, Apple Film (Poland)
- Javier Jaragones, Lawyer (Spain)
- Anna Mansi, BFI (UK)
- Stefano Massenzi, Lucky Red (Italy)
- Hugh Muckian, DCMS (UK)
- Boris T. Matic, Propeler Film / Zagreb Film Festival (Croatia)
- Per Neumann, Lawyer (Denmark)
- Patrick O'Neil, IFB (Ireland)
- Pablo Pérez de Lema Sáenz de Viguera, ICAA (Spain)
- Pavel Strnad, Negativ Film (Czech Republic)
- Dorien van de Pas, Nederlands Filmfonds (Netherlands)

### A2.2

#### Focus Group

On Thursday the 15 December 2011, SPI attended the Eurimages meeting in Paris to conduct a focus group with selected Eurimages country representatives. Those individuals were as follows:

- Julien Ezanno, France
- Nuno Fonseca, Portugal
- Peter Gustafsson, Sweden
- Petri Kemppinen, Finland
- Jean-Luc Ormieres, France (Producer)
- Alessandra Priante, Italy
- Sanja Ravlic, Croatia
- Karin Schockweiler, Luxembourg
- Miroljub Vuckovic, Serbia

Our agenda on the day was as follows:

- SWOT on the Convention
- Participant views on modernisation
- Discussion of findings of the Report thus far.

# Appendix 3

## The survey

### A3.1

#### Individual responses to question 9 of the survey

- In question 9 of the survey we invited respondents to suggest any other areas or issues that they consider important for the future modernisation of the Convention. Specifically the question we asked was “Do you have any further thoughts on the current success of the Convention and how it might be improved or modernised? If you do have any further thoughts please comment below.” There were a range of different answers provided. We have grouped together all the various responses under certain common themes which emerged as follows:
  - Standardising country approaches
  - The points system
  - Financing
  - Third party countries
  - Digital and post issues
  - General praise
  - Other suggested initiatives
- The vast majority of responses were related to the theme of standardising country approaches (there were seven comments given on standardising country approaches). For all other areas with the exception of other suggested initiatives (of which there were three comments) generated two responses. In total there were 20 individual comments.

#### Standardising country approaches

- “I suppose it would help to have a better standardisation and centralised registration office instead of many different institutions, using different check tools, including appeal institutions being able to consider specific situations.”
- “Generally, the text of the conventions could be shortened, sharpened and updated.”
- “We think that a common conference among representatives of members states would be useful. This would allow better coordination of a work flow among competent authority representatives, as well as joint approach in interpretations of its rules. We thought that the procedures of obtaining co-production status could be further detailed. Maybe it would be useful and time consuming to have common template forms for that.”
- “We thought that the procedures of obtaining co-production status could be further detailed. Maybe it would be useful and time consuming to have common template forms for that.”
- “Common knowledge of the convention is low. Some kind of easily accessible information leaflet would be great for us, to give to producers.”
- “To facilitate non-European funding for European works, and all competent authorities need to certify on the same terms. Increased communication and clarification on implementation is required.”
- “Adapted to modern treaties such as CH /DE/ AT trilateral treaty.”

### The points system

- "The point system is too restrictive and should be lowered."
- "I think the points system is an issue because there is no real 'star' system in Europe - I'd like to see one small modification on the use of non European stars that can have."

### Financing

- "The current convention creates a lot of artificial 'financing'. It would be better to have very loose regulations but only count hard cash, not in-kind, services or so on."
- "Greater flexibility for financial co-productions, based upon e.g. economic value for the minority co-producer [example: 10% minority co-producer, but 25% of budget is spent in minority country]. Should lead to amendments of clauses 8, 9 and 10."

### Third party countries

- "Allowance of third party co-producers."
- "The issue with non-European countries is in my opinion due to the lack of a third party provision in the Convention, which would allow a bi-lateral treaty with a non-Convention signatory country to participate as per the terms of that agreement."

### Digital and post issues

- "Adaptation to the digital era."
- "I also feel that in the digital age, as post production work may be carried out in more than one country, it is currently rather restrictive to require the work to be carried out in the countries where there is a co-producer. For signatory countries, perhaps there could be a de minimus limit below which it is not necessary to have a co-producer from that country. There have been calls in the some countries for treaties to allow for certain TV formats to be incorporated. I wonder whether this question will be considered as part of this consultation. Clarity around the submission times for provisional applications would be helpful."

### General praise

- "I think it has worked well, and a proof of that is the number of countries involved"
- "The Convention serves us well, because we don't have many [4] bilateral agreements for co-productions with other European countries. As a country with small cinema budgets and small cinema production we can profit by a rule of a minority co-producer of 10%"

### Other suggested initiatives

- "Every national TV should have a fund devoted to pre-buy European co-productions."
- "Since Eurimages has become an essential contributor for co-productions it would be ideal to increment the amount they have at disposal to be able to satisfy core productions. Sometimes it is hard to guarantee the minimal financial participation; this should be decreased, especially for big budgets."
- "I would like to see an European Film institute established with purpose of supporting European film projects with European audience potential in order to make European films for the European cinema market. Today European films cannot compete with US mainstream films in the cinema. An European Film institute could support films projects from European producers that have high potential without demanding it done as a co production. Under the old system, these co-production projects are often made only for the purpose of qualifying for pan European support from different member countries. The old system creates Euro pudding film without theatrical audience appeal. European culture can only survive trough a wide audience appeal from its films. The European Film institute should only look for the powerful European film that can achieve a wide pan-European theatrical release that would be able to compete with the US films on the market. On the side of this new set up each member country should continue to support local national films."

## A3.2

### Example copy of the survey

#### Introduction: about this survey

Olsberg•SPI\* has been retained by the Council of Europe to conduct an assessment of the European Co-Production Convention.

After 17 years in force, with 42 countries having ratified the Convention, the Council of Europe has decided that it is necessary to conduct a study which contributes to the evolution of the Convention and the European film sector as a whole.

Our brief is to evaluate the current success of the Convention and to consider the need for change, if any, to the Convention in the future.

As part of that work we are inviting specially selected representatives of all 42 countries to respond to a brief online survey regarding the Convention. We would be very grateful if you would complete the survey by clicking on the link 'next' below.

The survey consists of approximately nine key questions for most people and 13 key questions for respondents who are representing a Competent Authority.

The sections are as follows:

Part A – About you

Part B – Evaluating the Convention

Part C – Modernising the Convention

Part D – Administering the Convention \*\*

In all cases these questions are brief and most questions are multiple choice. The survey should take no more than 10 minutes of your time.

Please note that your answers are confidential. Only aggregated anonymous data will be provided to the Council of Europe or third parties. Individual responses will only ever be seen by members of the Olsberg•SPI team.

We very much hope that you will be able to give of your time to answer these questions. They will provide valuable insight into the current success and possible future direction of the Convention.

We would be extremely grateful if you could complete this survey by 7pm GMT on Wednesday the 1 February 2012.

If you have any questions please do not hesitate to contact Libbie McQuillan of Olsberg•SPI on libbie@o-spi.com or on +44 (0) 203 176 4844.

Many thanks for your participation  
Olsberg•SPI

*\* Olsberg•SPI is a management consultancy firm based in London specialised in the film and television sectors.*

*\*\*Please note Part D is for Competent Authorities only.*

## Part A About you

1. Please indicate your name:  
(Please note this question is optional)

2. Please indicate which of the following roles you occupy:  
(Please note you may indicate more than one box if you represent both a Competent Authority and a national film support agency)

- Representative of a Competent Authority administering the Convention
- Representative of a national film support agency
- Independent producer
- Other

3. Please indicate which country you represent:

- Albania
- Armenia
- Austria
- Azerbaijan
- Belgium (Wal)
- Belgium (Fl)
- Bosnia & Herzegovina
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Georgia
- Germany
- Greece
- Hungary
- Iceland
- Ireland
- Italy

- Latvia
- Liechtenstein
- Lithuania
- Luxembourg
- Macedonia
- Malta
- Montenegro
- Netherlands
- Norway
- Poland
- Portugal
- Romania
- Russia
- Serbia
- Slovak Republic
- Slovenia
- Spain
- Sweden
- Switzerland
- Turkey
- Ukraine
- United Kingdom

## Part B Evaluating the Convention

4. What is the biggest advantage of European co-productions? (Please choose only one)

- European co-productions allow for the circulation of non-national works throughout Europe
- European co-productions allow productions to access funding benefits outside of a home country
- European co-productions are cost-effective
- European co-productions are more popular with audiences
- European co-productions contribute to the cultural diversity and flourishing of Europe
- Other (please specify)

5. Please indicate how important each of the following factors are to you:

Answer options	Highly important	Important	Somewhat important	Not important
I value the Convention's ease of use				
I value the Convention's ability to bridge legal jurisdictions within Europe				
I value the Convention's ability to reduce the need for bilateral agreements				
I value the Convention's longstanding nature and therefore all parties understand how the Convention works				
I value the ability to work with a range of partner countries throughout Europe				
I value the Convention's ability to include non-European countries in a European co-production				
I value the Convention's democratic influence to spread decision making powers across Europe				
I value the fact the Convention can apply to film budgets of all levels				
I value the fact the Convention has enabled artistic and cultural co-operation throughout Europe				
I value the ability to access sources of film funding outside of my native country				

6. Do you agree with any of the following statements?

Answer options	I agree	I do not agree
Minimum financial participation rules for European countries are difficult to fulfil		
Maximum financial participation rules for European countries are too low		
Maximum financial participation rules for non-European countries are too low		
Differences in interpretation and implementation amongst countries can cause problems		
Knowing who to contact in Competent Authorities in partner countries is an issue		
The current points system to test European elements of the film can be restrictive		

## Part C Modernising the Convention

7. With regard to the current levels of minimum and maximum financial participation, would you like to see any of the following changes?

Answer options	Yes I would like to see change	No I would not like to see change
The minimum financial participation of European countries should be decreased		
The maximum financial participation of European countries should be increased		
The maximum financial participation of non-European countries should be increased		

8. Please indicate which of the following elements of the Convention, if any, you would like to see changed in the future:

Answer options	Yes I would like to see change	No I would not like to see change
Greater cooperation and collaboration amongst the Competent Authorities		
Widening out of the Convention to further and better include non-European countries		
Better information and data sharing on the number, value and market performance of European co-productions		

9. Do you have any further thoughts on the current success of the Convention and how it might be improved or modernised?

*If you do have any further thoughts please comment below:*

**10. For the purposes of navigating the survey, we ask again which of the following roles you occupy:**

- I am a representative of a Competent Authority administering the Convention
- I am not a representative of a Competent Authority administering the Convention

## Part D Administering the Convention

**This part of the survey is to be completed by representatives of the Competent Authorities only**

**11. We are interested in knowing which countries you most frequently co-produce with. Please estimate the top three countries your country has most co-produced with:**  
*(Please only indicate the top three countries)*

- Albania
- Armenia
- Austria
- Azerbaijan
- Belgium (Wal)
- Belgium (Fl)
- Bosnia & Herzegovina
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Georgia
- Germany
- Greece
- Hungary
- Iceland
- Ireland
- Italy
- Latvia

- Liechtenstein
- Lithuania
- Luxembourg
- Macedonia
- Malta
- Montenegro
- Netherlands
- Norway
- Poland
- Portugal
- Romania
- Russia
- Serbia
- Slovak Republic
- Slovenia
- Spain
- Sweden
- Switzerland
- Turkey
- Ukraine
- United Kingdom

**12. Please estimate the proportion of co-productions from your country which use the Convention?**

- 0 – 10%
- More than 10% but less than 30%
- More than 30% but less than 50%
- More than 50% but less than 70%
- More than 70% but less than 90%
- More than 90% to 100%

**13. In the future the Council of Europe would like to ensure that the impacts of the Convention are better understood and accounted for across Europe. Which of the following possible areas of data would you like to see collected?**

Answer options	Yes	No
Number of co-productions		
Origin of co-productions		
European box office success		
Number of broadcast transmissions		
Number of sales (physical or electronic)		
Critical success (awards at International Festivals)		
Production volume/production value		

**14. In your opinion has your country as a result of the Convention experienced sufficient reciprocity from other countries?**

- Yes always
- Yes sometimes
- No
- I prefer not to comment

## End of survey

On behalf of the Council of Europe and Olsberg•SPI we would like to thank you for your responses.

Breakdown of data will only ever be seen by Olsberg•SPI and presented to the Council of Europe and others on an aggregate basis only.

# Appendix 4

## About the consultants: Olsberg•SPI

SPI is an international, 'boutique' strategy consultancy that provides high level advice to public and private sector clients in the world of screen-based media. Formed in 1992, it has become perhaps the leading specialist consultancy in this sector.

For its public sector clients, SPI understands how the fast-growing screen industries compete in international terms; how important it is to balance a healthy, growing indigenous industry with measures to attract incoming productions and how the screen-based creative industries are a major driver of economic activity.

SPI's commercial clients operate at all points along the value chain and Olsberg is an expert in developing corporate strategies, advising on tax incentives and understanding how changes in digital technology are affecting the landscape and strategies in these areas.

Its recent client list encompasses, among others:

- State bodies: for example government departments in Malaysia, Hong Kong, Chile, Finland, Italy, Sweden, Czech Republic, New Zealand, Canada and Australia as well as the UK
- National screen agencies in all these countries, and more
- Regional agencies (dozens of film commissions from New South Wales, Australia to the Highland and Islands, Scotland)
- Supra national bodies such as the Council of Europe, the MEDIA Programme of the EU, Europe's CineRegio and the European Film Agency Directorate,
- Independent companies involved in all aspects of the screen business (studios, producers, distributors, sales agents, post production, animation)

- National and international broadcasters (such as BBC and Channel 4)
- Trade associations and rights management societies
- Training organisations and conference organisers (Australian Film, Television and Radio School, EMAP Conferences, Madrid's Media Business School, the UK's Skillset, Screen Training Ireland).

SPI provides strategic advisory and management consulting services in a wide range of areas, for example:

- Analysis and strategic advice on building healthy and sustainable national and regional screen sectors, and recommendations for public policies to support this
- Advice on the creation and evaluation of fiscal incentives for production
- Strategic advice on inward investment and exports for national and regional public bodies
- Comparative costs analyses for small and large film productions around the Globe
- The strategic implications of digital media innovation
- The links between growth in tourism and a nation's film and television output
- Strategic advice for screen commissions, including business and marketing plans
- Marketing and business strategies for small and large scale film studios
- Film and television library valuations
- Mapping and economic impact studies covering creative industries in the screen sector
- Business development strategies for screen content companies
- Acquisition and divestment advice for owner/managers of SMEs

- Writing prospectus-style funding proposals
- The design and implementation of advanced training courses for audio-visual professionals.

SPI's principal, Jonathan Olsberg, has a background variously as film financier, distributor, sales agent, producer and executive producer and therefore understands media issues as practitioner as well as consultant. He is a member of the European Film Academy, the British Academy of Film and Television Arts and the British Screen Advisory Council. His first career was in investment banking, in London and New York.

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## Brehm & v. Moers

SPI included for this study the Berlin-based international media lawyer **Wolfgang Brehm** of Brehm & v. Moers ([www.bvm-law.de](http://www.bvm-law.de)) who specialises in film co-production and financing. Wolfgang Brehm has elaborated the legal questions for the study and co-ordinated the legal evaluation that was carried out in the various jurisdictions.



