



Australian Government

Department of the Environment, Water, Heritage and the Arts



Submission 6.1
TT 12 March 2008

Mr Kelvin Thomson MP
Chair
Joint Standing Committee on Treaties
Parliament House
CANBERRA ACT 2600

Dear Mr Thomson

I am writing to you in relation to the following treaties tabled in the Parliament on 12 March 2008 and considered at the hearing of the Joint Standing Committee on Treaties on 8 May 2008:

- Film Co-production Agreement between the Government of Australia and the Government of the People's Republic of China; and
- Agreement between the Government of Australia and the Government of the Republic of Singapore concerning the co-production of films.

I would like to submit a response to a question raised by the Hon Kevin Andrews MP and taken on notice by the Department of the Environment, Water, Heritage and the Arts during the hearing.

With reference to Article 8 in the China agreement and Article 12 in the Singapore agreement, which allow for the entry of foreign nationals into Australia pursuant to the agreements, Mr Andrews asked:

For example, if someone comes in as a gaffer on a crew under this arrangement, will they have to meet the minimum threshold requirements or could they be subject to a lesser amount of pay because they are, for example, a Chinese national working on a film under a co-production agreement in Australia?

Response:

Foreign Actors and Crew enter Australia under the visa Subclass 420 (Entertainment visa).

Foreign crew enter under subclause 420.222 (4) for both subsidised and non-government subsidised productions; and under subclause 420.222 (6) if the production is being made under a co-production agreement between Australia and another country.

Subclause 420.225 applies to all cast and crew members, except for those entering to perform for non-commercial purposes. This regulation states that 'Unless the applicant seeks to enter Australia to perform purely for non-commercial purposes, the applicant is to be employed or engaged in Australia in accordance with the standards for wages and working conditions provided for under relevant Australian legislation and awards'.

Union consultation is part of the sponsorship application process for all cast and crew members. The relevant union comments on the Australian standards for wages and working conditions for each applicant as part of the sponsorship assessment. If there is no dispute from the union, this requirement is generally considered satisfied and no further clarification is sought.

For country-to-country agreements, there is no requirement for sponsorship. The visa applicant is required to produce a letter of support from the relevant Australian government agency (the Australian Film Commission as Australia's competent authority in relation to film co-production agreements) identifying the name of the agreement and attesting that the applicant has been selected under the terms of the agreement.

If the Department of Immigration and Citizenship has concerns that the minimum Australian wages and working conditions have not been offered in the contract, or there is union dispute about the conditions, advice is sought from the Department of Education, Employment and Workplace Relations or the state/territory department responsible for industrial matters. Advice may also be sought from the trade union or relevant industry/employer groups covering the employer's company as appropriate.

Should you require any further information on this matter, please contact either Mr Stephen Richards, Manager, Film Incentives and International Section on 6275 9645 or email – Stephen.Richards@environment.gov.au, or Ms Raelene Glenn, Film Incentives and International Section on 6275 9632 or email – Raelene.Glenn@environment.gov.au

Yours sincerely



Peter Young
Assistant Secretary
Film and Creative Industries Branch

2 / May 2008