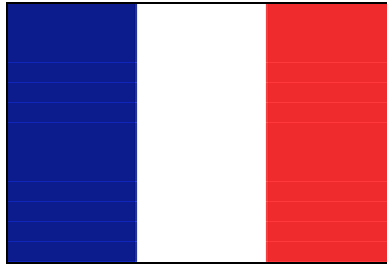


CINEMA STUDY ON TERRITORIALISATION REQUIREMENTS
(Annex to Part A)

MEMBER STATE LEGAL REVIEW



FRANCE
SYNTHESIS SHEET

July 2007

This Member State Synthesis Sheet should be read in conjunction with Chapter A of the Study on the economic and cultural impact, notably on co-productions, of territorialisation clauses of state aid schemes for films and audio-visual productions for the European Commission that is available on www.eufilmstudy.eu

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Charente Department Funding Scheme	1,552,000 ¹	Reg	N/A	N/A	N/A	N/A	N/A	N/A
Poitou-Charentes Funding Scheme		Reg	N/A	N/A	N/A	N/A	N/A	N/A
Rhône-Alpes CINEMA Funding Scheme	3,000,000	Reg	N/A	N/A	N/A	N/A	N/A	N/A
Conseil Régional de la Réunion	2,320,000	Reg	N/A	N/A	N/A	N/A	N/A	N/A
Aquitaine Image Cinéma/ Conseil régional d'Aquitaine (CRA)	1,231,000	Reg	N/A	N/A	N/A	N/A	N/A	N/A
Collectivité territoriale de Corse	1,587,000	Reg	N/A	N/A	N/A	N/A	N/A	N/A
Automatic Support	154,100,000 ²	Nat	N/A	N/A	N/A	N/A	N/A	N/A
Conseil Régional du Centre	1,080,000	Reg	N/A	N/A	N/A	N/A	N/A	N/A
Ile de France- Production	11,000,000	Reg	N/A	N/A	N/A	N/A	N/A	N/A
Selective Support	32,500,000 ³	Nat	N/A	N/A	N/A	N/A	N/A	N/A
Feam ⁴	5,000,000	Nat	N/A	N/A	N/A	N/A	N/A	N/A
Conseil Régional du Limousin	1,031,500	Reg	N/A	N/A	N/A	N/A	N/A	N/A
Région Nord Pas de Calais	2,764,000	Reg	N/A	N/A	N/A	N/A	N/A	N/A
Video for private use	6,430,000	Nat	N/A	N/A	N/A	N/A	N/A	N/A
RIAM ⁵	1,006,000	Nat	N/A	N/A	N/A	N/A	N/A	N/A

¹ Charente Department Funding Scheme is administered by Conseil Régional Poitou-Charentes.

² Figure from survey, budget for 2004.

³ Figure from survey, budget for 2004.

⁴ CNC notes: Not related to cinema/audiovisual support.

⁵ CNC notes: Not related to cinema/audiovisual support.

Cinema for the South	N/A ⁶	Nat	N/A	N/A	N/A	N/A	N/A	N/A	N/A
IFCIC ⁷	10,000,000 ⁸	Nat	N/A	N/A	N/A	N/A	N/A	N/A	N/A
SOFICA ⁹	32,800,000 (2006) ¹⁰	Nat	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Tax Credit	87,000,000 ¹¹	Nat	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Automatic Support for Exhibition ¹²	66,700,000	Nat	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Automatic Support for Distribution	14,200,000	Nat	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Selective Support for Distribution	3,300,000	Nat	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Selective Support for Cinema with the art and experimental cinema network	11,200,000	Nat	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Selective Support for Exhibitions – Theaters in Rural areas	10,000,000	Nat	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Support for Investment by Facilities company ¹³	5,400,000	Nat	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Procirep	N/A ¹⁴	Nat	N/A	N/A	N/A	N/A	N/A	N/A	N/A

⁶ No data available.

⁷ CNC notes: Not related to cinema/audiovisual support.

⁸ http://www.ifcic.fr/pc/ifcic/structur/ca_if_st.htm

⁹ CNC notes: Not related to cinema/audiovisual support

¹⁰ CNC states that this is not considered State Aid by the EC – according to CNC this scheme is not under CNC administration.

¹¹ Response to survey. There, CNC states that 0% of their total budget for 2004 is granted as tax incentives (for 2005 CNC states that 19.6% of their 328 MEUR budget is granted as tax incentives).

¹² CNC notes: Not related to cinema/audiovisual support.

¹³ CNC notes: This is not a CNC scheme.

¹⁴ No data available.

	Automatic Support for production of short films	6,200,000	Nat	N/A	N/A	N/A	N/A	N/A	N/A
	Automatic Support for production of feature films	53,700,000	Nat	N/A	N/A	N/A	N/A	N/A	N/A
	Selective support for production: advance on receipts	23,160,000	Nat	N/A	N/A	N/A	N/A	N/A	N/A
	Support for the development of feature films	2,700,000	Nat	N/A	N/A	N/A	N/A	N/A	N/A
	Selective support for production of short films	N/A	Nat	N/A	N/A	N/A	N/A	N/A	N/A

Table B – Indirect territorialisation Requirements

Member State	Names of Funding Schemes	Indirect territorialization requirements located under “Formal Nationality Certification Procedures”			Indirect territorialization requirements located under selective aid criteria and procedures			Indirect territorialization based on any other provisions in the law that forces the producer to make local spending		
		List of requirements	Estimation of the X% of how much local expending this involves in terms of film budget	Estimation of the X% of how much local expending this involves in relation to the total aid available	List of requirements	Estimation of the X% of how much local expending this involves in terms of film-budget	Estimation of the X% of how much local expending this involves in relation to the total aid available	List of requirements	Estimation of the X% of how much local expending this involves in terms of film-budget	Estimation of the X% of how much local expending this involves in relation to the total aid available
France	Conseil Régional Provence-Alpes-Côte d’Azur	N/A	N/A	N/A	Local Spending, Residence, and Shooting Location (2.4)	N/A	150 (2.4)	N/A	N/A	N/A
	Charente Department Funding Scheme	N/A	N/A	N/A	Shooting Location, local expenditures (5.4)	N/A	25 (5.4)	N/A	N/A	N/A
	Conseil Régional Poitou-Charentes	N/A	N/A	N/A	Residence, Local expenditures (6.4)	N/A	25 (6.4)	N/A	N/A	N/A

Rhône-Alpes CINEMA Funding Scheme	N/A	N/A	N/A	Residence, local expenditures (3.4)	N/A	From 150 to 400 (3.4)	N/A	N/A	N/A	N/A
Conseil Régional de la Réunion	N/A	N/A	N/A	Local expenditures, hiring local staff and service (4.4)	N/A	N/A	N/A	N/A	N/A	N/A
Aquitaine Image Cinéma/ Conseil régional d'Aquitaine (CRA)	N/A	N/A	N/A	Shooting Location, local spending, film subject related to the region Place of establishment, film theme, local spending (12.4)	N/A	N/A	N/A	N/A	N/A	N/A
Collectivité territoriale de Corse	N/A	N/A	N/A	Residence, Shooting Location (7.4)						
Automatic Support	See A.3	N/A	N/A	Local spending (8.4)	50 (8.4)	N/A	N/A	N/A	N/A	N/A
Conseil régional du Centre	N/A	N/A	N/A	Residence or establishment, film subject related to the region, Shooting location, hiring local staff (9.4)	N/A	N/A	N/A	N/A	N/A	N/A
Ile de France-Production	N/A	N/A	N/A	Shooting Location, hiring local staff, local spending (10.4)	N/A	N/A	N/A	N/A	N/A	N/A
Selective Support	N/A	N/A	N/A	Local Spending (11.4)	50 (11.4)	N/A	N/A	N/A	N/A	N/A
Feam	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Conseil régional du Limousin	N/A	N/A	N/A	Shooting location, residence (14.4)	N/A	N/A	N/A	N/A	N/A	N/A

Région Nord Pas de Calais	N/A	N/A	N/A	Shooting Location, place of origin (15.4)	N/A	N/A	N/A	N/A	N/A
Video for private use	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
RIAM	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Cinema for the South	N/A	N/A	N/A	Local spending, hiring local staff (18.4)	50 (18.4)	N/A	N/A	N/A	N/A
IFCIC	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
SOFICA	See A.3	N/A	N/A	N/A	N/A	N/A	20.3	N/A	N/A
Tax Credit	See A.3	N/A	N/A	Film produced mainly in France (21.4)	N/A	N/A	21.3	N/A	N/A
Automatic Support for Exhibition	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Automatic Support for Distribution	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Selective Support for Distribution	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Selective Support for Cinema with the art and experimental cinema network	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Selective Support for Exhibitions-Theaters in Rural areas	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Support for Investment by Facilities company	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Procirep	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Automatic Support for production of short films	N/A	N/A	N/A	Local spending, shooting location (29.4)	N/A	N/A	29.3	N/A	N/A
Automatic Support for production of feature films	See A.3	N/A	N/A	Shooting location, use of French equipment (30.3)	N/A	N/A	N/A	N/A	N/A
Selective support for production: advance on receipts	See A.3	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Support for the development of feature films	See A.3	N/A	N/A	Shooting location, use of French equipment (33.4)	N/A	N/A	33.3	N/A	N/A
Selective support for production of short films	N/A	N/A	N/A	Incentive for shooting location (31.4)	N/A	N/A	N/A	N/A	N/A

Table C – Budget and Territorialisation Intensity

Member State	Names of Funding Schemes	Available Budget	Objective explicit territorialisation requirement quantified in the law ¹⁵	Degree of the territorialisation ¹⁶		
				Funding Scheme Level ¹⁷	Funding body level	Member State Level ¹⁸
France	Conseil Régional Provence-Alpes-Côte d'Azur	2,320,000	150	high	No data	79 %
	Charente Department Funding Scheme	1,552,000 ¹⁹	25	moderate	No data	
	Conseil Régional Poitou-Charentes		25	moderate	No data	
	Rhône-Alpes CINEMA Funding Scheme	3,000,000	from 150 to 400	high	No data	
	Conseil Régional de la Réunion	2,320,000	not available		No data	
	Aquitaine Image Cinéma/ Conseil régional d'Aquitaine (CRA)	1,231,000	not available		No data	
	Collectivité territoriale de Corse	1,587,000	not available		No data	
	Automatic Support	154,100,000 ²⁰	not available		No data	
	Conseil régional du Centre	1,080,000	not available		No data	
	Ile de France-Production	11,000,000	not available		No data	
Selective Support	32,500,000 ²¹	not available		No data		

¹⁵ Assessment based on replies from local lawyers (see synthesis sheet)

¹⁶ High territorialisation: ratio “total amount subject to territorialisation”/“total budget available” >1

Moderate territorialisation: ratio “total amount subject to territorialisation”/“total budget available” =1 or <1

No territorialisation: total amount subject to territorialisation = 0

Assessment (Cambridge Econometrics/Ramboll) based on the methodology outlined in Appendix G

¹⁷ Formula: Sum of the budget of the scheme x its degree of territorialisation and divided by the sum of the budget of all the schemes.

Assessment (Cambridge Econometrics/Ramboll) based on the methodology outlined in Appendix G

¹⁸ “total amount subject to territorialisation”/“total budget available”

Assessment (Cambridge Econometrics/Ramboll) based on the methodology outlined in Appendix G

¹⁹ Charente Department Funding Scheme is administered by Conseil Régional Poitou-Charentes

²⁰ Figure from survey, budget for 2004

	Feam ²²	5,000,000	not available		No data
	Conseil régional du Limousin	1,031,500	not available		No data
	Région Nord Pas de Calais	2,764,000	not available		No data
	Video for private use	6,430,000	not available		No data
	RIAM ²³	1,006,000	not available		No data
	Cinema for the South	N/A ²⁴	not available		No data
	IFCIC ²⁵	10,000,000 ²⁶	not available		No data
	SOFICA ²⁷	32,800,000 (2006) ²⁸	not available		No data
	Tax Credit	87,000,000 ²⁹	not available		No data
	Automatic Support for Exhibition ³⁰	66,700,000	not available		No data
	Automatic Support for Distribution	14,200,000	not available		No data
	Selective Support for Distribution	3,300,000	not available		No data
	Selective Support for Cinema with the art and experimental cinema network	11,200,000	not available		No data
	Selective Support for Exhibitions-Theaters in Rural areas	10,000,000	not available		No data
	Support for Investment by Facilities company ³¹	5,400,000	not available		No data
	Procirep	N/A ³²	not available		No data
	Automatic Support for production of short films	6,200,000	not available		No data

²¹ Figure from survey, budget for 2004

²² CNC notes: Not related to cinema/audiovisual support

²³ CNC notes: Not related to cinema/audiovisual support

²⁴ No data available.

²⁵ CNC notes: Not related to cinema/audiovisual support

²⁶ http://www.ifcic.fr/pc/ifcic/structur/ca_if_st.htm

²⁷ CNC notes: Not related to cinema/audiovisual support

²⁸ CNC states that this is not considered State Aid by the EC – according to CNC this scheme is not under CNC administration.

²⁹ Response to survey. There, CNC states that 0% of their total budget for 2004 is granted as tax incentives (for 2005 CNC states that 19.6% of their 328 MEUR budget is granted as tax incentives).

³⁰ CNC notes: Not related to cinema/audiovisual support

³¹ CNC notes: This is not a CNC scheme

³² No data available.

	Automatic Support for production of feature films	53,700,000	not available		No data
	Selective support for production: advance on receipts	23,160,000	not available		No data
	Support for the development of feature films	2,700,000	not available		No data
	Selective support for production of short films	N/A	not available		No data

Table D – Co-Production Agreements

Member State	Titles of Co-Production Agreements	Dates of Entry into Force of Co-Production Agreements	Expected New Co-Production Agreements: Y/N
France	Germany (mini treaty/ « <i>mini Traité</i> »)	23 November 2001	?
	Germany	4 February 2002	
	Argentina	23 November 1984	
	Australia	15 May 1986	
	Austria	1 October 1997	
	Belgium	Not yet	
	Brasil	8 March 1969	
	Bulgaria	5 November 1972	
	Burkina Faso	1 May 1993	
	Cameroun	30 August 1993	
	Canada (CINEMA AND AUDIOVISUAL)	10 January 1985	
	Films Co-Production Agreement between France and Canada	11 July 1983	
	Films Co-Production Agreement between France and Canada	30 May 1983	
	Canada (AUDIOVISUAL)	14 March 1990	
	Chili	12 August 1992	
	Colombia	20 October 1985	
	Ivory Coast	2 March 1995	
	Denmark	26 November 1975	
	Egypt	1 February 1987	
	Spain	20 March 1989	
	Finland	4 March 1983	
	Georgia	19 May 1993	
	United Kingdom	7 February 1995	
	Greece (CINEMA)	19 January 1978	
	Guinea		
	Hungary	26 August 1970	
	India	15 February 1985	
	Iceland	1 July 1991	

	Israël	1 February 2004	
	Italia	1 June 2003	
	Liban	27 March 2000	
	Luxembourg	1 November 2003	
	Morocco	20 October 1989	
	Mexico	-	
	New Zealand	-	
	Netherlands	1 March 1989	
	Poland	28 October 1970	
	Portugal	22 July 1981	
	Tchecoslovakia	17 September 1968	
	Romania	6 October 1966	
	USSR	-	
	Senegal	2 June 1992	
	Sweden	17 November 1966	
	Switzerland	not yet	
	Tunisia	16 November 1994	
	Turkey	1 April 1996	
	Venezuela	-	
	Yougoslavia	21 September 1977	
	Canada	1989	
	Australia	1998	

France is currently a party to the European Convention on Cinematographic Co-Production. In addition, France has concluded 48 bilateral conventions on co-production (see reply A.3).

In France there are twenty-two funding schemes at the national level and eleven at the regional level.

2 Synopsis of conventions on co-production agreements

There are 48 bilateral conventions on co-production agreements.

In addition, France is a party to the European Co-Production Agreement, which it ratified in 2001, and the European Support Fund for the Co-Production of Cinematographic works (EURIMAGES; see reply A.3).

France is currently negotiating further conventions on co-production agreements (see reply A.5).

3 Synopsis of formal nationality certification procedures

Indirect territorialisation requirements are located under the rules on formal nationality certification procedures that apply to support granted by the CNC in the case of independent feature film productions and independent television productions.

Both independent feature film productions and independent television productions are subject to a formal procedure to assess and certify the nationality of the producer and the production. Articles 26-52 of Decree no. 99-130 govern the procedure for independent feature film productions. The procedure for television productions is regulated by Decrees no. 95-110 and no. 98-35, as amended in 2004.

In both cases, the authority responsible for assessing and certifying the nationality of an independent feature film or television production is the National Cinematography Centre (CNC). The General Director of the CNC delivers the certificate confirming that a film or television production corresponds to French nationality requirements. In the case of feature films a “Commission d’Agrément” is set up, composed of financial, artistic and technical experts, to approve both the investment proposal (in nearly all cases) and the production proposal (in all cases) in separate decisions. In the case of short films, the investment approval is considered as a production authorisation for the work. With regard to television productions, the CNC acts in its capacity as administrator of the Support Account for the Audiovisual Industry (COSIP).

In the case of feature films, Article 7 of Decree no. 99-130 sets out the criteria for assessing the eligibility for funding of production companies. They include

1. the authorisation of a production company by the CNC to carry out activities in France (in line with Article 14 of the Cinematographic Industry Code)
2. the nationality or residence (French, other EU or country of the cinematographic partner) of managers, directors or administrators of the producer company

3. the control (in the sense of the French Commercial Code) of the production company (French, other EU or country of the cinematographic partner)
4. the location (French or EC Member State) of a studio or laboratory
5. the location (in the country of the cinematographic partner) of a studio or laboratory in the case of an international co-production

The third criterion has led to case-law in the case of the film “*A Very Long Engagement*”, in which it was confirmed by the Paris Administrative Appeals Court that *de facto* decision making power by a production company whose nationality is neither French, nor other EU nor the country of the cinematographic partner removes eligibility for funding (see reply A.3).

According to Article 10 of Decree 99-130, criteria governing the work are essentially two-fold.

1. A work must be definable as European, on the basis of an assessment in accordance with a points system that applies different ratios according to whether the genre in question is fiction, cartoons or documentary.
2. The intensity of financial support for the work is assessed in accordance with a points system with different criteria and different ratios according to different genres.

However, even if a work does not reach the minimum score on the second type of criterion, the Director of the CNC, upon consultation with the approval committee, has the discretion to grant access to automatic financial support.

For television productions, support is limited to companies (with the exception of broadcasters) located in France, and producer companies are to act as associate producers in accordance with Article 3 of Decree 95-110. Decrees no. 95-110 and 9-35 set out the criteria for assessing the eligibility for funding of television production companies. They include:

1. the nationality or residence (French, other EU or country of the cinematographic partner) of managers, directors or administrators of the producer company
2. the control (in the sense of the French Commercial Code) of the production company (French, other EU or country of the cinematographic partner)

According to Article 4 of Decree 95-110, the criteria applying to the television work are the following:

1. It must be a first broadcast and subject to taxation.
2. It must have been initially financed by one or more television broadcasters up to at least 25% of the production cost (as recently clarified by Decree 2006-258).

3. It must be definable as a European work, which is assessed in accordance with a points system that applies different ratios according to whether the genre is fiction, cartoons or documentary.
4. The original version of the work must be made totally or mainly in the French language or in a regional language spoken in France.
5. At least 50% of the production costs must be spent in France (in case of an international co-production, in which the French contribution is between 30% and 80%, this threshold is lowered to 30%).

The intensity of financial support for the work is established by considering the total expenditure per hour spent in France in terms of salaries payable and services provided by specialists and technicians. The calculation is made in accordance with a points system that applies different criteria and different ratios according to different genres. The total amount of the financial support allowed is 40% of the production costs, or 40% of the French contribution to international co-production. However, the Director of the CNC has the discretion to provide more support.

4 Synopsis of expected legal developments

France is currently negotiating a co-production agreement with South Korea.

The General Tax Code has been amended as from 1 January 2006 (in particular Articles 220, 220 F and 223 O, which embody Article 48 of the 2004 Rectified Finance Act) so as to extend the scope of tax credits to include expenditures of audiovisual productions.

A CNC review of the criteria for access to national financial support to non-EC companies was ordered in November 2004 and is still under way (see reply A.3).

B The French funding schemes

1. Overview

In France there are twenty-two funding schemes at the national level and eleven at the regional level.

2 Analysis of Support for Provence-Alpes-Côte d'Azur (PACA) (Conseil Régional Provence-Alpes-Côte d'Azur Funding Scheme)

2.1 Description of the funding scheme

The Conseil Régional Provence-Alpes-Côte d'Azur Funding Scheme is based on the State-CNC-Région Provence-Alpes-Côte d'Azur Convention on Cinematographic and Audiovisual Development of 2004-2006 (Conseil Régional Provence-Alpes-Côte d'Azur Regulations), Regulations and Guide06.

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study.

For contact information see reply B.14 for Conseil Régional Provence-Alpes-Côte d'Azur Funding Scheme, and for additional information on this scheme its website: http://www2.regionpaca.fr/index.php?id=209&no_cache=1

2.2 Synopsis of objective territorialisation requirements

2.2.1 Rules

No provisions containing objective explicit requirements apply to this funding scheme. The territorialisation requirements are located under selective aid granting criteria (see Section 2.4 below).

2.2.2 Practice

There is no judicial or administrative practice reported.

2.2.3 Discussion

N/A

2.2.4 Conclusions

N/A

2.3 Synopsis of indirect territorialisation requirements

2.3.1 Practice

There is no judicial or administrative practice reported.

2.3.2 Discussion

Indirect territorialisation requirements are located under the selective aid granting criteria and procedures. Please refer to Section 2.4 below for a thorough assessment of such requirements.

2.3.3 Conclusions

Please refer to Section 2.4 below for indirect territorialisation requirements.

2.4 Synopsis of selective aid granting procedures

Support for script writing, the production of short films of fiction, documentaries, feature films, and TV films, all of them including co-productions, are eligible for financial aid under the Conseil Régional PACA Funding Scheme.

Support for writing, research and development is only open to directors or scriptwriters residing in the region.

Short films of fiction need to be entirely shot in the PACA region, except when the production company or the director has its place of residence in the region. Documentaries need to be shot for at least 50% in the region, except when the production company or the director resides in the region. Feature films and TV films need to be shot for at least 50% (or, in case of the former, for at least three weeks) in the region.

In the case of short films of fiction and documentaries, a professional committee assesses the artistic quality and feasibility of the project. (See reply B.7 for the Conseil Régional PACA Funding Scheme).

The Conseil Régional PACA Funding Scheme applies rules according to which minimum requirements for shooting time in the region for short films of fiction and documentaries (funding for the former normally requiring 100% shooting in the region, and funding for the latter normally requiring at least 50%) may be lifted in case the applicant writer or director for the funding is a resident of the region.

2.5 Synopsis of the relation between territorialisation requirements and co-production agreements

Requests for funding for co-productions are assessed according to the same criteria as projects produced by a single producer (see reply B.8). In order to be entitled to the benefits granted to French films, French international co-productions have to fulfil the conditions laid down in the bilateral co-production agreements with France. According to these agreements, except for bilateral co-productions with Great-Britain, Spain and Italy, the minimum contribution of each co-producer shall not be less than 20% and the maximum contribution shall not exceed 80% of the total production costs of the film. The amount of the regional aid shall be included in the total of French public financial support. Most bilateral co-production agreements to which France is a party are based on the principle of national treatment. The films that comply with the requirements of the bilateral co-production agreements are treated as national films in each state party to the agreement. The films fully enjoy all the benefits that are or may be granted in France to national films.

2.6 Synopsis of purpose and cultural clauses applying to the funding scheme

The aid granted under the Conseil Régional PACA Funding Scheme aims at quantitatively and qualitatively strengthening and developing the feature-film culture in the region, in line with the memorandum on national education of the Ministries of Culture & Communications and Education of 14 December 2000 (reply B.12 for Conseil Régional PACA Funding Scheme).

3. Analysis of Support for Rhône-Alpes (Rhône-Alpes CINEMA Funding Scheme)

3.1 Description of the funding scheme

The Rhône-Alpes CINEMA Funding Scheme is based on the Etat-CNC-Région Rhône-Alpes Convention on Cinematographic and Audiovisual Development of 2004; on the Rhône-Alpes CINEMA Regulations and on the Guide06.

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study.

For contact information see reply B.14 for the Rhône-Alpes CINEMA Funding Scheme, and for additional information on this scheme its website www.cinema-en-rhone-alpes.com

3.2 Synopsis of objective territorialisation requirements

3.2.1 Rules

No provisions containing objective explicit requirements apply to this funding scheme. The territorialisation requirements are located under selective aid granting criteria. (See Section 3.4 below)

3.2.2 Practice

There is no judicial or administrative practice reported.

3.2.3 Discussion

N/A

3.2.4 Conclusions

N/A

3.3 Synopsis of indirect territorialisation requirements

3.3.1 Practice

There is no judicial or administrative practice reported.

3.3.2 Discussion

Indirect territorialisation requirements are located under the selective aid granting criteria and procedures. Please refer to Section 3.4 below for a thorough assessment of such requirements.

3.3.3 Conclusions

Please refer to Section 3.4 below for indirect territorialisation requirements.

3.4 Synopsis of selective aid granting procedures

As concerns writing support, short fiction films, short documentaries, and short animations are eligible for authors residing in the region.

For development support, the production company must be located in the region.

As concerns production support, short films, documentaries, fiction TV and TV animations are eligible. For short films, the production company must make expenditures of 150% of the grant in the region. For documentaries, the production company must make expenditures of at least 200% of the grant in the

region. For TV animation, TV films and TV series, expenditures in the region must amount to at least four times the amount of the grant, or 400%.

The indirect territorialisation requirements that apply to the Rhône-Alpes Funding Scheme can be summarised as follows: authors or companies must be residing or located in the region, and expenditures must be made in the region, in variable percentages depending on the type of work.

3.5 Synopsis of the relation between territorialisation requirements and co-production agreements

Requests for funding for co-productions are assessed according to the same criteria as projects produced by a single producer (see reply B.8). In order to be entitled to the benefits granted to French films, French international co-productions have to fulfil the conditions laid down in the bilateral co-production agreements with France. According to these agreements, except for bilateral co-productions with Great-Britain, Spain and Italy, the minimum contribution of each co-producer shall not be less than 20% and the maximum contribution shall not exceed 80% of the total production costs of the film. The amount of the regional aid shall be included in the total of French public financial support. Most bilateral co-production agreements to which France is a party are based on the principle of national treatment. The films that comply with the requirements of the bilateral co-production agreements are treated as national films in each state party to the agreement. The films fully enjoy all the benefits that are or may be granted in France to national films.

3.6 Synopsis of purpose and cultural clauses applying to the funding scheme

The aid granted under the Rhône-Alpes Funding Scheme aims at quantitatively and qualitatively strengthening and developing the feature-film culture in the region of Rhône-Alpes, in line with the memorandum on national education of the Ministries of Culture & Communications and Education of 14 December 2000 (reply B.12 for the Rhône-Alpes Funding Scheme).

4. Analysis of Support for the Production of TV Fiction (Conseil Régional de la Réunion Funding Scheme)

4.1 Description of the funding scheme

The Conseil Régional de la Réunion Funding Scheme is based on the Etat-CNC-Région Réunion Convention on Cinematographic and Audiovisual Development of 2004-2006, Conseil Régional de la Réunion Regulations, and Guide06.

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study.

For contact information see reply B.14 for the Conseil Régional de la Réunion Funding Scheme, and for additional information the general website on culture in this region: <http://www.regionreunion.com/fr/spip/spip.php?rubrique97> .

4.2 Synopsis of objective territorialisation requirements

4.2.1 Rules

No provisions containing objective explicit requirements apply to this funding scheme. The territorialisation requirements are located under selective aid granting criteria. (See Section 4.4 below)

4.2.2 Practice

There is no judicial or administrative practice reported.

4.2.3 Discussion

N/A

4.2.4 Conclusions

N/A

4.3 Synopsis of indirect territorialisation requirements

4.3.1 Practice

There is no judicial or administrative practice reported.

4.3.2 Discussion

Indirect territorialisation requirements are located under the selective aid granting criteria and procedures. Please refer to Section 4.4 for a thorough assessment of such requirements.

4.3.3 Conclusions

Please refer to Section 4.4 below for indirect territorialisation requirements.

4.4 Synopsis of selective aid granting procedures

Productions of TV fiction are eligible for financial aid under the Conseil Régional de la Réunion Funding Scheme if expenditures are made in the region. For the calculation of the extent of the local expenditures, the degree of highly valuable resort to local artistic and technical craftsmanship, the use of specialized services and the use of general services are taken into account. The aid is fixed at the level of 25% of the provisional budget, and is extendable to 50% in case no funding is received from the CNC. (See replies B.6 and B.7 for the Conseil Régional de la Réunion Funding Scheme).

4.5 Synopsis of the relation between territorialisation requirements and co-production agreements

Requests for funding for co-productions are assessed according to the same criteria as projects produced by a single producer (see reply B.8). In order to be entitled to the benefits granted to the French films, French international co-productions have to fulfil the conditions laid down in the bilateral co-production agreements with France. According to these agreements, except for bilateral co-productions with Great-Britain, Spain and Italy, the minimum contribution of each co-producer shall not be less than 20% and the maximum contribution shall not exceed 80% of the total production costs of the film. The amount of the regional aid shall be included in the total of French public financial support. Most bilateral co-production agreements to which France is a party are based on the principle of national treatment. The films that comply with the requirements of the bilateral co-production agreements are treated as national films in each state party to the agreement. The films fully enjoy all the benefits that are or may be granted in France to national films.

4.6 Synopsis of purpose and cultural clauses applying to the funding scheme

The aid granted under the Conseil Régional de la Réunion Funding Scheme aims at quantitatively and qualitatively strengthening and developing the feature film culture in the region of La Réunion, in line with the memorandum on national education of the Ministries of Culture & Communications and Education of 14 December 2000 (reply B.12 for the Conseil Régional de la Réunion Funding Scheme).

5. Analysis of Support for the Production of Short and Feature Animation Films (Charente Department Funding Scheme)

5.1 Description of the funding scheme

The Charente Department Funding Scheme is based on the Etat-CNC-Région Poitou-Charentes – Department of Charente – Department of Deux-Sèvres Convention on Cinematographic and Audiovisual Development 2004-2006, in the Charente Department Regulations and on the Guide06.

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study.

For contact information see reply B.14 for the Charente Department Funding Scheme, and for additional information on this scheme its website <http://www.charente-developpement.com/fr/index.phx>

5.2 Synopsis of objective territorialisation requirements

5.2.1 Rules

No provisions containing objective explicit requirements apply to this funding scheme. The territorialisation requirements are located under selective aid granting criteria. (See Section 5.4 below)

5.2.2 Practice

There is no judicial or administrative practice reported.

5.2.3 Discussion

N/A

5.2.4 Conclusions

N/A

5.3 Synopsis of indirect territorialisation requirements

5.3.1 Practice

There is no judicial or administrative practice reported.

5.3.2 Discussion

Indirect territorialisation requirements are located under the selective aid granting criteria and procedures. Please refer to Section 5.4 for a thorough assessment of such requirements.

5.3.3 Conclusions

Please refer to Section 5.4 below for indirect territorialisation requirements.

5.4 Synopsis of selective aid granting procedures

Short animation films and documentaries, which are defined as those films less than sixty minutes in duration, as well as feature animation films are eligible for financial aid under the Charente Department Funding Scheme if they are shot in the region and if expenditures are made in the region.

For short films a maximum production support of €3,000 per minute can be provided, and a substantial part of the financial aid must be spent in the region. For documentaries, 25% of expenditures must be made in the region. For feature animation films the maximum support is €300,000, and the amount of the production costs spent in the region must be not less than 25% (see replies B.6 and B.7 for the Charente Department Funding Scheme).

Financial support is awarded on the basis of an artistic and economic appraisal of the projects (see reply B.13 for the Charente Department Funding Scheme).

The Charente Department Funding Scheme presents indirect territorialisation requirements that may be summarised as follows: shooting must take place in Charente, and expenditures must be made in the region (see reply B.6).

5.5 Synopsis of the relation between territorialisation requirements and co-production agreements

Requests for funding for co-productions are assessed according to the same criteria as projects produced by a single producer (see reply B.8). In order to be entitled to the benefits granted to French films, French international co-productions have to fulfil the conditions laid down in the bilateral co-production agreements with France. According to these agreements, except for bilateral co-productions with Great-Britain, Spain and Italy, the minimum contribution of each co-producer shall not be less than 20% and the maximum contribution shall not exceed 80% of the total production costs of the film. The amount of the regional aid shall be included in the total of French public financial support. Most bilateral co-production agreements to which France is a party are based on the principle of national treatment. The films that comply with the requirements of the bilateral co-production agreements are treated as national films in each state party to the agreement. The films fully enjoy all the benefits that are or may be granted in France to national films.

5.6 Synopsis of purpose and cultural clauses applying to the funding scheme

The aid granted under the Charente Department Funding Scheme aims at quantitatively and qualitatively strengthening and developing the feature-film culture in the department, in line with the memorandum on national education of the Ministries of Culture & Communications and Education of 14 December 2000 (reply B.12 for the Charente Department Funding Scheme).

6. Analysis of Support by Conseil Régional Poitou-Charentes (Conseil Régional Poitou-Charentes Funding Scheme)

6.1 Description of the funding scheme

The Conseil Régional Poitou-Charentes Funding Scheme is based on the Etat-CNC-Région Poitou-Charentes – Department of Charente – Department of Deux-Sèvres Convention on Cinematographic and Audiovisual Development 2004-2006, the Conseil Régional Poitou-Charentes Regulations, and the Guide06.

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study.

For contact information see reply B.14 for the Conseil Régional Poitou-Charentes Funding Scheme, and for additional information on this scheme its website:

<http://www.cr-poitou-charentes.fr/fr/vivre-ensemble/culture/index.dml>

6.2 Synopsis of objective territorialisation requirements

6.2.1 Rules

No provisions containing objective explicit requirements apply to this funding scheme. The territorialisation requirements are located under selective aid granting criteria. (See Section 6.4 below)

6.2.2 Practice

There is no judicial or administrative practice reported.

6.2.3 Discussion

N/A

6.2.4 Conclusions

N/A

6.3 Synopsis of indirect territorialisation requirements

6.3.1 Practice

There is no judicial or administrative practice reported.

6.3.2 Discussion

Indirect territorialisation requirements are located under the selective aid granting criteria and procedures. Please refer to Section 6.4 for a thorough assessment of such requirements.

6.3.3 Conclusions

Please refer to Section 6.4 below for indirect territorialisation requirements.

6.4 Synopsis of selective aid granting procedures

Experimental works (pilots), short films of fiction, documentaries, feature films, audiovisual programmes, multimedia products and video games, all of the foregoing including co-productions, as well as the writing and re-writing of scripts are eligible for financial aid under the Conseil Régional Poitou-Charentes Funding Scheme if they are shot in the region of Poitou-Charentes.

Support for writing is granted to scripts that feature the region's heritage or themes when the author is from outside the region, or to any script when the author resides in the region.

Support offered for the production of feature films and audiovisual works must be spent to a significant extent in the region. No minimum or maximum limits are laid down. For the production of video games by companies located in the region, an obligation arises to produce a majority of successful video games in the region if the pre-production has received funding.

For support of pilot/experimental work and production of video games, residence of the producer in the region is required. In the case of video games, there is also an obligation to produce the majority of the products in the region when support has also covered pre-production. For support for short films of fiction and documentaries, 25% of the funding must be spent in the region.

For TV films and TV series, as well as animations, 25% of the total expenditures must be made in the region.

Financial support is granted to the most innovative and artistically most interesting projects (see reply B.7 for the Conseil Régional Poitou-Charentes Funding Scheme).

The Conseil Régional Poitou-Charentes Funding Scheme presents indirect territorialisation requirements that may be summarised as follows: residence or establishment in the region and expenditures made in the region (see reply B.6).

6.5 *Synopsis of the relation between territorialisation requirements and co-production agreements*

Requests for funding for co-productions are assessed according to the same criteria as projects produced by a single producer (see reply B.8). In order to be entitled to the benefits granted to French films, French international co-productions have to fulfil the conditions laid down in the bilateral co-production agreements with France. According to these agreements, except for bilateral co-productions with Great-Britain, Spain and Italy, the minimum contribution of each co-producer shall not be less than 20% and the maximum contribution shall not exceed 80% of the total production costs of the film. The amount of the regional aid shall be included in the total of French public financial support. Most bilateral co-production agreements to which France is a party are based on the principle of national treatment. The films that comply with the requirements of the bilateral co-production agreements are treated as national films in each state party to the agreement. The films fully enjoy all the benefits that are or may be granted in France to national films.

6.6 Synopsis of purpose and cultural clauses applying to the funding scheme

The aid granted under the Conseil Régional Poitou-Charentes Funding Scheme aims at quantitatively and qualitatively strengthening and developing the feature-film culture in the region of Poitou-Charentes, in line with the memorandum on national education of the Ministries of Culture & Communications and Education of 14 December 2000 (reply B.12 for the Conseil Régional Poitou-Charentes Funding Scheme).

7 Analysis of the Support by the Collectivité territoriale de Corse (Collectivité territoriale de Corse Funding Scheme)

7.1 Description of the funding scheme

The Collectivité territoriale de Corse Funding Scheme is based on the Etat-CNC-Collectivité Territoriale de Corse Convention 2004-2006 signed in 2004, the Corse Regulations and Guide06.

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study.

For contact information see Reply B.14 for the Collectivité territoriale de Corse Funding Scheme and for additional information on this scheme, its website <http://www.corse.fr/>

7.2 Synopsis of objective territorialisation requirements

7.2.1 Rules

No provisions containing objective explicit requirements apply to this funding scheme. The territorialisation requirements are located under selective aid granting criteria. (See Section 7.4 below).

7.2.2 Practice

There is no relevant judicial or administrative practice reported.

7.2.3 Discussion

N/A

7.2.4 Conclusions

N/A

7.3 Synopsis of indirect territorialisation requirements

7.3.1 Practice

There is no relevant judicial or administrative practice reported.

7.3.2 Discussion

Indirect territorialisation requirements are located under the selective aid granting criteria and procedures. Please refer to Section 7.4 for a thorough assessment of such requirements.

7.3.3 Conclusions

Please refer to Section 7.4 below for indirect territorialisation requirements.

7.4. Synopsis of selective aid granting procedures

Under the heading of writing and development support, this Scheme provides two types of support: (1) writing, and (2) development and innovation.

In order to be eligible under the writing funding scheme, the project must be presented directly by the author, who may belong to either one of the following two categories. First, an author residing in Corsica may apply for funding, irrespective of the subject and shooting location. Second, an author not residing in Corsica, but whose subject is of artistic interest and where at least 50% of the shooting will take place in Corsica, may also be eligible. In both cases, scripts in the Corsican language will benefit from a bonus of 15% of the amount of financial support awarded.

In order to qualify for the development and innovation funding scheme, a production company must fall into one of three categories. First, it is established in Corsica, irrespective of the subject and shooting location. Second, it is not established in Corsica, but its subject is of artistic interest and at least 60% of the shooting takes place in Corsica. Moreover, in this case, the production company must undertake to hire Corsican interns or those who are participating in a professional skills improvement programme. Third, it is not established in Corsica, but the author or director resides in Corsica, and the project is particularly important to their artistic or professional career.

To obtain financial support from the region, the work must be directed in substantial part in the region (at least 50% for documentaries and feature films, while short films must be entirely filmed in the region). Moreover, the director, the scriptwriter and the production company must be residents of the region in order to obtain financial support. (See reply B.7).

Both for the writing and development and innovation schemes, the project must present artistic interest. Furthermore, while, under the writing scheme, 50% of the shooting must take place in Corsica, under the development and innovation scheme, 60% of the shooting has to occur in that region, in addition to the requirement of hiring local interns and apprentices.

In the case of the third category of production company eligible for this funding scheme, i.e. one that is not resident in Corsica but where the author or director resides in Corsica, it is necessary to demonstrate the particular importance of the project to the artistic or professional career of either the author or director.

As concerns writing and development, the Funding Scheme presents indirect territorialisation requirements that can be summarised as follows: for the writing scheme, either residence in Corsica or substantial shooting in Corsica, and for the development scheme, the place of establishment or residence, or the shooting location must be in Corsica. In addition, support may only be granted to projects with artistic interest or where the project is particularly decisive to the director or author (see reply B.6).

Under the heading of production support, this Scheme provides six types of support for production:

- feature films
- short and medium films and independent documentaries (“*d’auteur*”)
- documentaries
- TV films
- series
- art-video and experimental multimedia

In order to be eligible under the **feature film** funding scheme, a production company must fall into one of three categories. First, it is established in Corsica,

irrespective of the subject and shooting location. Second it is not established in Corsica, but its subject is of artistic interest and at least 60% of the shooting takes place in Corsica. Moreover, in this case, the production company must undertake to hire Corsican interns or those who are participating in a professional skills improvement programme. Third, it is not established in Corsica, but the script is written by an author or directed by a director residing in Corsica, and for whose artistic or professional career the project is particularly decisive. Scripts in the Corsican language benefit from a bonus of 15% of the amount of financial support awarded. The support cannot exceed 30% of the total budget.

In order to be eligible under the **short and medium-film and independent documentary (*d'auteur*)** funding scheme, a production company must fall into one of two categories. First, it is established in Corsica, irrespective of the subject and shooting location. Second it is not established in Corsica, but its subject is of artistic interest and at least 60% of the shooting takes place in Corsica. Moreover, in this case, the production company must also undertake to hire Corsicans. Scripts in the Corsican language will benefit from a bonus of 15% of the amount of financial support awarded. The support cannot exceed 50% of the total budget.

In order to be eligible under the **documentary** funding scheme, a production company must fall into one of two categories. First, it is established in Corsica, irrespective of the subject and shooting location. Second it is not established in Corsica, but its subject is of artistic interest and at least 60% of the shooting takes place in Corsica. Scripts in the Corsican language will benefit from a bonus of 15% of the amount of financial support awarded. The support cannot exceed 50% of the total budget.

In order to be eligible under the **art-video and experimental multimedia** funding scheme, at least as far as experimental multimedia are concerned, an applicant must fall into one of three categories. First, it is a legal person established in Corsica, irrespective of the subject and shooting location. Second, it is not established in Corsica, but its subject is of artistic interest and the shooting takes place entirely in Corsica. Third, it is not established in Corsica, but the author or director resides in Corsica, and the project is particularly decisive to their artistic or professional career. The support cannot exceed 50% of the total budget.

For **TV films and series**, a production company must fall into one of three categories. First, it is established in Corsica, irrespective of the subject and shooting location. Second it is not established in Corsica, but its subject is of artistic interest and at least 60% of the shooting takes place in Corsica. Third, it is not established in Corsica, but the script is written by an author or directed by a director residing in Corsica, and for whose artistic or professional career the project is particularly decisive. Scripts in the Corsican language benefit from a bonus of 15% of the amount of financial support awarded. The support cannot exceed 30% of the total budget.

The Production Funding Scheme presents indirect territorialisation requirements, which may be summarised as follows: the place of establishment or residence and the shooting location. In addition, support may only be granted to projects with artistic interest or where the project is particularly decisive for the careers of the director or author (see reply B.6).

7.5 Synopsis of the relation between territorialisation requirements and co-production agreements

Requests for funding for co-productions are assessed according to the same criteria as projects produced by a single producer (see reply B.8). In order to be entitled to the benefits granted to French films, French international co-productions have to fulfil the conditions laid down in the bilateral co-production agreements with France. According to these agreements, except for bilateral co-productions with Great-Britain, Spain and Italy, the minimum contribution of each co-producer shall not be less than 20% and the maximum contribution shall not exceed 80% of the total production costs of the film. The amount of the regional aid shall be included in the total of French public financial support. Most bilateral co-production agreements to which France is a party are based on the principle of national treatment. The films that comply with the requirements of the bilateral co-production agreements are treated as national films in each state party to the agreement. The films fully enjoy all the benefits that are or may be granted in France to national films.

7.6 Synopsis of purpose and cultural clauses applying to the funding scheme

The Funding Scheme aims at quantitatively and qualitatively strengthening and developing the cinema culture in Corsica, as part of the action plan for artistic and cultural education for all, presented by the Ministry of Culture and Communication and the Ministry of Education on 14 December 2001. It helps ensure the development of cultural industries and the expansion of French culture and French cultural action. Lastly, it may contribute to the development of the national audio-visual production and creation as well as to the defence and illustration of the French language and culture.

8 Analysis of the Automatic Support from the Centre National de la Cinématographie Funding Scheme (Automatic Support)

8.1 Description of the funding scheme

The Automatic Support Funding Scheme is based on (1) Decree n°90-66 of 17 January 1990 adopted in application of law n°86-1067 of 30 September 1986 and setting up the general principles concerning broadcasting of films and audiovisual works by TV services producers, (2) Order of 21 May 1992 adopted in application

of article 6 of Decree n°90-66 of 17 January 1990, amended, setting up the general principles concerning the broadcasting of films and audiovisual works, (3) Decree n°95-110 of 2 February 1995 regarding financial support for production, preparation and distribution of audiovisual works, (4) Decree n°98-35 of 14 January 1998 regarding financial support for the audiovisual industry, and (5) Order of 3 May 1995 adopted in application of Article I paragraph III of Decree n°95-110 of 2 February 1995 (modified by Decrees of 23 October 2001 and 24 September 2004; see Reply B.4 for the Automatic Support Funding Scheme).

Decree n°90-66 was amended by Decree n°2001-1330 of 28 December 2001 and by Decree n°2004-1481 of 23 December 2004. Decree n°95-110 was amended by Decree n°2004-1009 of 24 September 2004 and by Decree n°2005-1396 of 10 November 2005, which in turn was amended by Decree n°2006-258 of 3 March 2006. Decree n°98-35 was amended by Decree n°2004-1010 of 24 September 2004, by Decree n°2005-1268 of 4 October 2005, and by Decree n°2005-1396 of 10 November 2005, which in turn was amended by Decree n°2006-324 of 20 March 2006. In addition, as concerns the Automatic Support for preparation and development scheme, Order of 10 April 1995 adopted for the application of paragraphs II and III of article 7 of Decree n°95-110 of 2 February 1995 also applies. Lastly as concerns the Automatic Support for promotion of audiovisual programmes, Order of 31 May 1995 adopted for the application of paragraphs II and III of article 7 of Decree n°95-110 of 2 February 1995 also applies.

For contact information see Reply B.14 for the Automatic Support Funding Scheme and for additional information on this scheme, its website <http://www.cnc.fr>.

8.2 Synopsis of objective territorialisation requirements

8.2.1 Rules

No provisions containing objective explicit requirements apply to this funding scheme. The territorialisation requirements are indirect (see Section 8.3 below).

8.2.2 Practice

There is no relevant judicial or administrative practice reported.

8.2.3 Discussion

N/A

8.2.4 Conclusions

N/A

8.3 Synopsis of indirect territorialisation requirements

8.3.1 Practice

There is no relevant judicial or administrative practice reported.

8.3.2 Discussion

Please refer to the legislation listed in Section 8.1 above, and particularly to Articles 4 and 6 of Decree n°95-110 of 2 February 1995. This Scheme provides two types of automatic support: (1) production, and (2) production: advance on rights.

To be eligible for this funding scheme, Article 4 of Decree n°95-110 of 2 February 1995 imposes two obligations on producers established in France, or in the case of international co-productions where French participation amounts to at least 80% of all production costs.

1. The work must be made entirely or mainly in its original version in the French language or in a regional language spoken in France.
2. At least 50% of all production costs must be spent in France.

The amount of automatic support may be increased by 25% if the work is made entirely or mainly in French in the original version or in a language spoken in France, and if at least 80% of all production costs are spent in France (Article 6 of the Decree).

An amendment by Decree n°2006-258 of 3 March 2006 introduced a new article 8-1 whereby, as concerns audiovisual works, production expenses in France are limited to 80% of the production budget for calculating the aid amount.

Moreover, according to Article 4, in the case of international co-productions in which the French contribution is less than 80% of all production costs, (1) this work must be financed by a French contribution of at least 30% of production costs and (2) at least 30% of costs must be spent in France (an amendment by Decree n°2006-258 of 3 March 2006 has reduced this last proportion to 24%; see replies B.6 and B.7).

The production: advance on rights scheme follows the same rules as the re-investment scheme. Implementation of the automatic financial support reveals *de facto* territorialisation requirements in the case of audiovisual works. The amount of granted support is related to the amount of expenditure in France. In order to obtain financial support, the work must be defined as a European work, i.e. it must meet artistic and technical requirements set out in Decree of 21 May 1992 adopted in application of Article 6 of Decree n°90-66 of 17 January 1990, amended, describing the general principles concerning the broadcasting of films and audiovisual works.

A points system helps determine just how European a work might be, and different criteria and calculation tables apply according to whether the work is a fiction, cartoon or documentary. In addition, salaries and labour costs are taken into account for the calculation of expenditures. This applies both to French nationals and those of other Member States. Expenditures concerning services to be provided by technical industries and by animation specialists located in France, as well as intellectual property rights-related expenses in France, are taken into account, together with technical expenditures that are not fixed sums in direct relation to shooting and post-production.

Coefficients are then used to determine the amount of support to be granted, based on the amount of spending in France. Therefore the implementation of the automatic support scheme reveals that this aid scheme contains the obligation of spending specific amounts in France. As concerns cartoons, special bonus points are awarded when expenditures are more than 70% and when the script is in French or the original version is in French. The film must be shot in the French language or in a language spoken in France and at least half of the costs must be spent in France.

Moreover, indirect territorialisation requirements are located under the rules on formal nationality certification procedures. Please refer to Section A.3 above.

8.3.3 Conclusions

This scheme grants automatic support through a points system used to determine the European nature of a work. This procedure on its own does not require expenditure in France. However, the specific expenditures that need to be made in France amount to indirect territorialisation requirements, especially when one considers the bonus points allocated to works using the French language or spending more than 70% of their expenditure in France.

8.4. Synopsis of selective aid granting procedures

This scheme grants automatic support (see reply B.13).

8.5 Synopsis of the relation between territorialisation requirements and co-production agreements

Requests for funding for co-productions are assessed according to the same criteria as projects produced by a single producer (see reply B.8). In order to be entitled to the benefits granted to French films, French international co-productions have to fulfil the conditions laid down in the bilateral co-production agreements with France. According to these agreements, except for bilateral co-productions with Great-Britain, Spain and Italy, the minimum contribution of each co-producer shall not be less than 20% and the maximum contribution shall

not exceed 80% of the total production costs of the film. The amount of the regional aid shall be included in the total of French public financial support. Most bilateral co-production agreements to which France is a party are based on the principle of national treatment. The films that comply with the requirements of the bilateral co-production agreements are treated as national films in each state party to the agreement. The films fully enjoy all the benefits that are or may be granted in France to national films.

One should note that in cases where French participation is less than 80% of total costs, international agreements prevail over the rules set out in Article 4 with regards to the obligation of French participation being at least 30%. In addition, the producer is free to spend **at least** 20% of production costs in other Member States without risking any reduction of automatic financial support. The total amount of support is limited to 40% of the French contribution to the co-production (Article 9).

8.6 Synopsis of purpose and cultural clauses applying to the funding scheme

The Automatic Support Funding Scheme aims at quantitatively and qualitatively strengthening and developing the cinema culture in France, as part of the action plan for artistic and cultural education for all, presented by the Ministry of Culture and Communication and the Ministry of Education on 14 December 2001. It helps ensure the development of cultural industries and the expansion of French culture. Lastly, it may contribute to the development of the national audio-visual production and creation as well as to the defence and illustration of the French language and culture.

9 Analysis of the Support by Conseil Régional du Centre (Conseil Régional du Centre Funding Scheme)

9.1 Description of the funding scheme

The Conseil Régional du Centre Funding Scheme is based on the Convention Etat-CNC-Region Centre 2004-2006 signed in 2004, the Regulations and Guide06. There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study. For contact information see Reply B.14 for the Conseil Régional du Centre Funding Scheme and for additional information on this scheme, its website <http://www.regioncentre.fr/>

An associated structure called Centre Images is in charge of developing cultural cooperation. It is responsible for the cinema and audiovisual sectors, and takes over the responsibilities of the APCVL (Atelier de production Centre Val de Loire). It manages the support funds for the Centre region. For contact

information see Reply B.14 for the Conseil Régional du Centre Funding Scheme and for additional information, its website www.centreimage.fr

9.2 Synopsis of objective territorialisation requirements

9.2.1 Rules

No provisions containing objective explicit requirements apply to this funding scheme. The territorialisation requirements are located under selective aid granting criteria (see Section 9.4 below)

9.2.2 Practice

There is no relevant judicial or administrative practice reported.

9.2.3 Discussion

N/A

9.2.4 Conclusions

N/A

9.3 Synopsis of indirect territorialisation requirements

9.3.1 Practice

There is no relevant judicial or administrative practice reported.

9.3.2 Discussion

Indirect territorialisation requirements are located under the selective aid granting criteria and procedures. Please refer to Section 9.4 for a thorough assessment of such requirements.

9.3.3 Conclusions

Please refer to Section 9.4 below for indirect territorialisation requirements.

9.4. Synopsis of selective aid granting procedures

This Scheme provides two types of writing and development support: (1) feature films and (2) documentaries.

In order to be eligible for the documentary funding scheme, the film project must either (1) be presented by an author-director or an associate producer permanently established in the Centre region, irrespective of the subject or shooting location,

or (2) have a subject directly related to the Centre region and its geographical, historical, cultural, economic or social characteristics.

Either the film must be submitted by an author, director or producer who is permanently living in the region or the film's subject must be related to the region's characteristics. The amount to be spent in the region is not mentioned (see reply B.7). As concerns writing and production, the scheme thus presents indirect territorialisation requirements that may be summarised as follows: establishment of the recipient and subject of the film.

This scheme provides four types of support for production: (1) feature films, (2) short films, (3) documentaries, and (4) animation.

To be eligible for the first or second feature film funding scheme, at least 40% of the film (with a minimum shooting time of eighteen days) must be shot on the territory of the region (interior or exterior setting). Moreover, the producer undertakes to hire professionals from the region (technicians and artists) in the film's production and direction.

In order to be eligible under the short film and short animated film funding schemes, the films must be entirely shot in the region.

A short film must be entirely shot in the region and at least 40% of the shooting of a feature film must take place in the region. In both cases professionals established in the region must have priority in providing the production and direction services. There is no mention of a specific amount of expenditures to be spent in the region (see reply B.7).

As concerns production, the Funding Scheme presents indirect territorialisation requirements that may be summarised as follows: shooting location and hiring of local professionals.

9.5 Synopsis of the relation between territorialisation requirements and co-production agreements

Requests for funding for co-productions are assessed according to the same criteria as projects produced by a single producer (see reply B.8). In order to be entitled to the benefits granted to French films, French international co-productions have to fulfil the conditions laid down in the bilateral co-production agreements with France. According to these agreements, except for bilateral co-productions with Great-Britain, Spain and Italy, the minimum contribution of each co-producer shall not be less than 20% and the maximum contribution shall not exceed 80% of the total production costs of the film. The amount of the regional aid shall be included in the total of French public financial support. Most bilateral co-production agreements to which France is a party are based on the

principle of national treatment. The films that comply with the requirements of the bilateral co-production agreements are treated as national films in each state party to the agreement. The films fully enjoy all the benefits that are or may be granted in France to national films.

9.6 Synopsis of purpose and cultural clauses applying to the funding scheme

The Conseil Régional du Centre Funding Scheme aims at quantitatively and qualitatively strengthening and developing the cinema culture in Centre, as part of the action plan for artistic and cultural education for all, presented by the Ministry of Culture and Communication and the Ministry of Education on 14 December 2001. It helps ensure the development of cultural industries and the expansion of French culture and French cultural action. Lastly, it may contribute to the development of the national audio-visual production and creation as well as to the defence and illustration of the French language and culture.

10 Analysis of the Support for Production by Région Ile-de-France (Production Ile-de-France)

10.1 Description of the funding scheme

The Production Ile-de-France Funding Scheme is based on the Convention Etat-CNC-Region 2001.

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study.

For contact information see Reply B.14 for the Production Ile-de-France Funding Scheme and for additional information on this scheme, its website <http://www.iledefrance.fr>.

10.2 Synopsis of objective territorialisation requirements

10.2.1 Rules

No provisions containing objective explicit requirements apply to this funding scheme. The territorialisation requirements are located under selective aid granting criteria. (See Section 10.4 below)

10.2.2 Practice

There is no judicial or administrative practice reported.

10.2.3 Discussion

N/A

10.2.4 Conclusions

N/A

10.3 Synopsis of indirect territorialisation requirements

10.3.1 Practice

There is no judicial or administrative practice reported.

10.3.2 Discussion

Indirect territorialisation requirements are located under the selective aid granting criteria and procedures. Please refer to Section 10.4 for a thorough assessment of such requirements.

10.3.3 Conclusions

Please refer to Section 10.4 below for indirect territorialisation requirements.

10.4. Synopsis of selective aid granting procedures

This Scheme provides four types of support for production: (1) cinematographic works, (2) TV fiction, (3) documentaries, and (4) animation.

In order to be eligible for the cinematographic and audiovisual works of fiction and TV fiction funding schemes, at least 50% of the film (with a minimum shooting time of twenty days) must be shot on the territory of Ile-de-France. The project must carry out at least two types of technical services in Ile-de-France, out of the four following: (1) setting and costumes, (2) technical equipment, (3) editing and sound, and (4) laboratories and post-production. This means that 80% of the spending takes place in Ile-de-France. Moreover, the project must respect labour laws and collective agreements. Lastly, the producer undertakes to hire three interns from the region, of whom at least two will be appointed to tasks other than production management. For audiovisual, the intern must be hired in the framework of the collective agreement. For cinema, the intern must be remunerated, sign an internship agreement and be supervised by a mentor (see replies B.6 and B.7).

In order to be eligible for the documentaries funding scheme, at least 40 days (eight weeks) of the film's editing and post-production must take place on the territory of Ile-de-France. The project must carry out two types of technical services in Ile-de-France: (1) technical equipment, and (2) laboratories and post-production. This means that 80% of the spending takes place in Ile-de-France. Moreover, the project must respect labour laws and collective agreements. Lastly,

the producer undertakes to hire three interns from the region, of whom at least two will be appointed to tasks other than production management. For audiovisual, the intern must be hired in the framework of the collective agreement. For cinema, the intern must be remunerated, sign an internship agreement and be supervised by a mentor (see replies B.6 and B.7).

In order to be eligible for the animation funding scheme, at least 50% of the time used to create the animation, from the layout to compositing, except pre- and post-production, must be respected. The project must carry out at least two types of technical services in Ile-de-France, out of the three following: (1) expenses related to hiring preparation and creation specialists, (2) postproduction expenses, including special effects, (3) film and other image support expenses, and laboratories expenses. A service is considered to be carried out in Ile-de-France when 80% of the spending takes place in Ile-de-France. Moreover, the project must respect labour laws and collective agreements. Lastly, the producer undertakes to hire three interns from Ile-de-France at different stages of the creation process. For audiovisual, the intern must be hired in the framework of the collective agreement (see replies B.6 and B.7).

The Production Funding Scheme presents indirect territorialisation requirements, namely with regards to the shooting (or editing and post-production, as well as creation) location, hiring of local interns and technical services to be carried out in the region, which translates into an obligation of spending 80% in Ile-de-France for that particular service. Furthermore, the criteria for selective aid include artistic, economic, technical and financial information presented in the file studied by a reading committee (see reply B.13).

10.5 Synopsis of the relation between territorialisation requirements and co-production agreements

Requests for funding for co-productions are assessed according to the same criteria as projects produced by a single producer (see reply B.8). In order to be entitled to the benefits granted to French films, French international co-productions have to fulfil the conditions laid down in the bilateral co-production agreements with France. According to these agreements, except for bilateral co-productions with Great-Britain, Spain and Italy, the minimum contribution of each co-producer shall not be less than 20% and the maximum contribution shall not exceed 80% of the total production costs of the film. The amount of the regional aid shall be included in the total of French public financial support. Most bilateral co-production agreements to which France is a party are based on the principle of national treatment. The films that comply with the requirements of the bilateral co-production agreements are treated as national films in each state party to the agreement. The films fully enjoy all the benefits that are or may be granted in France to national films.

10.6 Synopsis of purpose and cultural clauses applying to the funding scheme

The Production Funding Scheme aims at quantitatively and qualitatively strengthening and developing the cinema culture in Ile-de-France, as part of the action plan for artistic and cultural education for all, presented by the Ministry of Culture and Communication and the Ministry of Education on 14 December 2001. It helps ensure the development of cultural industries and the expansion of French culture. Lastly, it may contribute to the development of the national audio-visual production and creation as well as to the defence and illustration of the French language and culture.

11 Analysis of the Selective Support from the Centre National de la Cinématographie (Selective Support)

11.1 Description of the funding scheme

The Selective Support Funding Scheme is based on (1) Decree n°90-66 of 17 January 1990 adopted in application of law n°86-1067 of 30 September 1986 and setting up the general principles concerning broadcasting of films and audiovisual works by TV services producers; (2) Order of 21 May 1992 adopted in application of article 6 of Decree n°90-66 of 17 January 1990, amended, setting up the general principles concerning the broadcasting of films and audiovisual works; (3) Decree n°95-110 of 2 February 1995 regarding financial support for production, preparation and distribution of audiovisual works; and (4) Decree n°98-35 of 14 January 1998 regarding financial support for the audiovisual industry (see Reply B.4 for the Selective Support Funding Scheme).

Decree n°90-66 was amended by Decree n°2001-1330 of 28 December 2001 and by Decree n°2004-1481 of 23 December 2004. Decree n°95-110 was amended by Decree n°2004-1009 of 24 September 2004 and by Decree n°2005-1396 of 10 November 2005, which in turn was amended by Decree n°2006-258 of 3 March 2006. Decree n°98-35 was amended by Decree n°2004-1010 of 24 September 2004, by Decree n°2005-1268 of 4 October 2005, and by Decree n°2005-1396 of 10 November 2005, which in turn was amended by Decree n°2006-324 of 20 March 2006. In addition, as concerns the Selective Support for preparation and development scheme, Order of 10 April 1995 adopted for the application of paragraphs II and III of article 7 of Decree n°95-110 of 2 February 1995 also applies. Lastly as concerns the Selective Support for promotion of audiovisual programmes, Order of 31 May 1995 adopted for the application of paragraphs II and III of article 7 of Decree n°95-110 of 2 February 1995 also applies.

For contact information see reply B.14 for the Selective Support Funding Scheme and for additional information on this scheme, its website: <http://www.cnc.fr>.

11.2 Synopsis of objective territorialisation requirements

11.2.1 Rules

No provisions containing objective explicit requirements apply to this funding scheme. The territorialisation requirements are located under selective aid granting criteria. (See Section 11.4 below)

11.2.2 Practice

There is no judicial or administrative practice reported.

11.2.3 Discussion

N/A

11.2.4 Conclusions

N/A

11.3 Synopsis of indirect territorialisation requirements

11.3.1 Practice

There is no judicial or administrative practice reported.

11.3.2 Discussion

Indirect territorialisation requirements are located under the selective aid granting criteria and procedures. Please refer to Section 11.4 for a thorough assessment of such requirements.

11.3.3 Conclusions

Please refer to Section 11.4 below for indirect territorialisation requirements.

11.4. Synopsis of selective aid granting procedures

The scheme relies on the legislation mentioned in Section 11.1 above, and in particular on Articles 4 and 6 of Decree n°95-110 of 2 February 1995.

This Scheme provides four types of selective support: (1) financing of audiovisual programmes, (2) new technologies in production, (3) preparation and development, and (4) promotion of audiovisual programmes.

In order to be eligible for this funding scheme, Article 4 of Decree n°95-110 of 2 February 1995 imposes two obligations on producers established in France, or, with regard to international co-productions, where French participation is of at least 80% of all production costs: (1) the work must be made entirely or mainly in its original version in the French language or in a regional language spoken in France, and (2) at least 50% of all production costs must be spent in France.

The amount of automatic support may be increased by 25% if the works are made entirely or mainly in their original version in the French language or in a regional language spoken in France, and if at least 80% of all production costs are spent in France (Article 6 of the Decree).

Moreover, according to this same article, concerning international co-productions in which French contribution is less than 80% of all production costs, this work must be (1) financed by a French contribution at least equal to 30% of production costs and (2) at least 30% of costs are spent in France (an amendment by Decree n°2006-258 of 3 March 2006 has reduced the proportion to 24%; see replies B.6 and B.7). The film must be shot in the French language or in a language spoken in France and at least half of the costs must be spent in France.

The criteria for selective aid for audiovisual programmes include the obligation that the broadcasting rights be pre-purchased by a French broadcaster. The programme must be financed by a French contribution of at least 30% of production costs and production expenditures must be spent in France in a proportion of at least 30% of the final cost (50% if the French contribution is more than 80%; see reply B.13).

The criteria for selective aid for new technologies in production include the showing of (1) an authentic innovative use of digital technologies at one production stage, (2) a significant duration and budget of the sequences implementing these digital technologies with respect to the total duration and budget of the work, and (3) an appropriate match between the artistic process and the technologies used (see reply B.13).

The criteria for selective aid for the promotion of audiovisual programmes include the obligation that (1) the support not exceed 50% of the expenses incurred by the company, and (2) the subsidy be used only for services provided by professionals located in France. Furthermore, the dubbing may be carried out abroad if the producer or distributor keeps the copy's exploitation rights. If a European aid for sound, subtitles or distribution has already been granted, no support for promotion can be granted for the same work (see reply B.13).

The Selective Support Funding Scheme presents indirect territorialisation requirements in the shape of a minimum amount of expenditures to be made in France.

11.5 Synopsis of the relation between territorialisation requirements and co-production agreements

Requests for funding for co-productions are assessed according to the same criteria as projects produced by a single producer (see reply B.8). In order to be entitled to the benefits granted to French films, French international co-productions have to fulfil the conditions laid down in the bilateral co-production

agreements with France. According to these agreements, except for bilateral co-productions with Great-Britain, Spain and Italy, the minimum contribution of each co-producer shall not be less than 20% and the maximum contribution shall not exceed 80% of the total production costs of the film. The amount of the regional aid shall be included in the total of French public financial support. Most bilateral co-production agreements to which France is a party are based on the principle of national treatment. The films that comply with the requirements of the bilateral co-production agreements are treated as national films in each state party to the agreement. The films fully enjoy all the benefits that are or may be granted in France to national films.

One should note that in cases where French participation is below 80% of total costs, international agreements prevail over the rules set out in Article 4 with regard to the obligation of French participation being of at least 30% (see also Section 11.2.1 above for applicable co-production rules). **In addition, the producer is free to spend at least 20% of production costs in other Member States without risking any reduction of automatic financial support.** The total amount of support is limited to 40% of the French contribution to the co-production (Article 9).

11.6 Synopsis of purpose and cultural clauses applying to the funding scheme

The Selective Support Funding Scheme aims at quantitatively and qualitatively strengthening and developing the cinema culture in France, as part of the action plan for artistic and cultural education for all, presented by the Ministry of Culture and Communication and the Ministry of Education on 14 December 2001. It helps ensure the development of cultural industries and the expansion of French culture. Lastly, it may contribute to the development of the national audio-visual production and creation as well as to the defence and illustration of the French language and culture.

12 Analysis of Support by the Conseil Régional d'Aquitaine (Conseil Régional d'Aquitaine Funding Scheme)

12.1 Description of the funding scheme

The Conseil Régional d'Aquitaine Funding Scheme is based on the Convention Etat-CNC-Region 2004-2006 signed in 2004, the regulations and the Guide06. There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study.

For contact information see Reply B.14 for the Conseil Régional d'Aquitaine Funding Scheme and for additional information, its website <http://www.aquitaine.fr/>

12.2 Synopsis of objective territorialisation requirements

12.2.1 Rules

No provisions containing objective explicit requirements apply to this funding scheme. The territorialisation requirements are located under selective aid granting criteria. (See Section 12.4 below).

12.2.2 Practice

No judicial or administrative practice is reported.

12.2.3 Discussion

N/A

12.2.4 Conclusions

N/A

12.3 Synopsis of indirect territorialisation requirements

12.3.1 Practice

No relevant judicial or administrative practice is reported.

12.3.2 Discussion

Indirect territorialisation requirements are located under the selective aid granting criteria and procedures. Please refer to Section 12.4 for a thorough assessment of such requirements.

12.3.3 Conclusions

Please refer to Section 12.4 below for indirect territorialisation requirements.

12.4. Synopsis of selective aid granting procedures

This scheme provides three types of writing and development support: (1) feature films, (2) documentaries, and (3) TV films.

In order to be eligible for this funding scheme, the film must be shot to a significant extent in Aquitaine. The author may belong to either one of the following two categories. First, the author resides in Aquitaine, irrespective of the subject and shooting location. Second, the author or producer is not located in Aquitaine, but they undertake to shoot the film in Aquitaine.

In order to be eligible specifically for Fiction TV support, the project leader can be from outside the region if the subject is related to the region's characteristics. The film must be shot entirely or in significant part in the region, and expenditures must be spent on the region's territory.

Either (1) the producer or author is established in Aquitaine, or (2) the film's theme is related to the region and its geographical, historical, cultural, social and economic characteristics. Moreover, the film must be shot to a significant extent in the region. The production expenditure must be spent in Aquitaine; however there is no mention of a precise amount to be spent (see reply B.7).

As concerns writing and development, the Conseil régional d'Aquitaine Funding Scheme presents indirect territorialisation requirements, which may be summarised as follows: the shooting must take place to a significant extent in Aquitaine, expenditures must be made in the region— yet no proportion is specified— and the film's subject must be related to the region's geographical, historical, cultural, economic and social characteristics.

This Scheme provides five types of support for production: (1) feature films, (2) short films, (3) documentaries, (4) TV fiction, and (5) animation.

In order to be eligible under the feature film funding scheme, films must be shot entirely or to a significant extent in the region and expenditures must be spent in the region.

The short-film funding scheme is available in priority to (1) production companies registered with the Trade Registry of Aquitaine (*Registre du Commerce d'Aquitaine*) and holding an authorisation from the CNC, or to (2) associations registered in Aquitaine whose main activity consists in film or audiovisual production. However, a production company from outside the region and holding an authorisation from the CNC may be eligible if the film's theme is related to Aquitaine and its characteristics. The shooting in Aquitaine must represent a significant part of the overall shooting time.

No specific criteria are given for eligibility under the documentary or animation funding schemes.

To be eligible under the TV fiction funding scheme, the project leader may be from outside the region, but in that case, the subject must be related to the region's characteristics. The film must be shot entirely or to a significant extent in the region, and expenditures must be spent on the region's territory.

As concerns production, the Conseil régional d'Aquitaine Funding Scheme presents indirect territorialisation requirements which can be summarised as follows: place of establishment, film's theme being related to the region and its geographical, historical, cultural, social and economic characteristics (except for

feature films), shooting location (entirely or to a significant extent in the region), expenditures to be spent in Aquitaine—without mention of a precise amount to be spent (see reply B.7).

12.5 Synopsis of the relation between territorialisation requirements and co-production agreements

Requests for funding for co-productions are assessed according to the same criteria as projects produced by a single producer (see reply B.8). In order to be entitled to the benefits granted to French films, French international co-productions have to fulfil the conditions laid down in the bilateral co-production agreements with France. According to these agreements, except for bilateral co-productions with Great-Britain, Spain and Italy, the minimum contribution of each co-producer shall not be less than 20% and the maximum contribution shall not exceed 80% of the total production costs of the film. The amount of the regional aid shall be included in the total of French public financial support. Most bilateral co-production agreements to which France is a party are based on the principle of national treatment. The films that comply with the requirements of the bilateral co-production agreements are treated as national films in each state party to the agreement. The films fully enjoy all the benefits that are or may be granted in France to national films.

12.6 Synopsis of purpose and cultural clauses applying to the funding scheme

The Conseil Régional d'Aquitaine Funding Scheme aims at quantitatively and qualitatively strengthening and developing the cinema culture in Aquitaine, as part of the action plan for artistic and cultural education for all, presented by the Ministry of Culture and Communication and the Ministry of Education on 14 December 2001. It helps ensure the development of cultural industries and the expansion of French culture and French cultural action. Lastly, it may contribute to the development of the national audio-visual production and creation as well as to the defence and illustration of the French language and culture.

13 Analysis of the Automatic Support for Multimedia Publishing (FEAM) from the Centre National de la Cinématographie (FEAM Support)

13.1 Description of the funding scheme

The FEAM Support Funding Scheme is based on the Convention between the CNC and the Ministry of Industry signed in 1989: Support fund for multimedia publishing.

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study (see reply B.4). For contact information see Reply B.14 for the FEAM Support Funding Scheme and for additional information on this scheme, its website: www.cnc.fr

13.2 Synopsis of objective territorialisation requirements

13.2.1 Rules

No provisions containing objective explicit territorialisation requirements apply to this funding scheme.

13.3 Synopsis of indirect territorialisation requirements

There are no indirect territorialisation requirements reported.

13.4. Synopsis of selective granting procedures

N/A (see reply B.13).

13.5 Synopsis of the relation between territorialisation requirements and co-production agreements

Requests for funding for co-productions are assessed according to the same criteria as projects produced by a single producer (see reply B.8). In order to be entitled to the benefits granted to French films, French international co-productions have to fulfil the conditions laid down in the bilateral co-production agreements with France. According to these agreements, except for bilateral co-productions with Great-Britain, Spain and Italy, the minimum contribution of each co-producer shall not be less than 20% and the maximum contribution shall not exceed 80% of the total production costs of the film. The amount of the regional aid shall be included in the total of French public financial support. Most bilateral co-production agreements to which France is a party are based on the principle of national treatment. The films that comply with the requirements of the bilateral co-production agreements are treated as national films in each state party to the agreement. The films fully enjoy all the benefits that are or may be granted in France to national films.

13.6 Synopsis of cultural clauses applying to the funding scheme

N/A (see reply B.12).

14 Analysis of the Support for Conseil Régional du Limousin (Conseil Régional du Limousin Funding Scheme)

14.1 Description of the funding scheme

The Conseil Régional du Limousin Funding Scheme is based on the Convention Etat-CNC-Region 2004-2006 signed in 2004, the regulations and the Guide06.

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study.

For contact information see Reply B.14 for the Conseil Régional du Limousin Funding Scheme and for additional information on this scheme, its website <http://www.limousin.fr/>

14.2 Synopsis of objective territorialisation requirements

14.2.1 Rules

No provisions containing objective explicit requirements apply to this funding scheme. The territorialisation requirements are located under selective aid granting criteria. (See Section 14.4 below)

14.2.2 Practice

There is no judicial or administrative practice reported.

14.2.3 Discussion

N/A

14.2.4 Conclusions

N/A

14.3 Synopsis of indirect territorialisation requirements

14.3.1 Practice

There is no judicial or administrative practice reported.

14.3.2 Discussion

Indirect territorialisation requirements are located under the selective aid granting criteria and procedures. Please refer to Section 14.4 for a thorough assessment of such requirements.

14.3.3 Conclusions

Please refer to Section 14.4 below for indirect territorialisation requirements.

14.4. Synopsis of selective aid granting procedures

This scheme provides three types of writing and development support: (1) feature films, (2) documentaries, and (3) short films.

To be eligible for writing support (in the case of short films), the shooting must take place in Limousin entirely.

In order to be eligible for the writing and development support, a category that applies to feature films only, the shooting must take place in Limousin to a significant extent.

In other words, one may interpret the eligibility requirements for the writing support as being two-fold: either (1) the author is from the region, in which case the shooting location is not relevant or (2) the author is from outside the region and then the shooting must take place in Limousin, be it entirely (as is the case for short films) or to a significant extent (see reply B.7).

As concerns writing and development, the Conseil Régional du Limousin Funding Scheme presents indirect territorialisation requirements, which can be summarised as follows: the shooting must take place entirely or significantly in Limousin, if the author is not from the region. For the writing and development support, the film must be shot to a significant extent in the region, irrespective of the place of residence of the author.

This scheme provides four types of support for production: (1) feature films, (2) short films, (3) documentaries, and (4) fiction TV.

To be eligible under the feature-film funding scheme, the film must be shot to a significant extent in the Limousin region.

To be eligible under the short-film funding scheme, the shooting must take place entirely in Limousin. The support granted cannot exceed 25% of the total budget.

To be eligible under the documentary funding scheme, the project can stem from either (1) an author-director or a production company established in Limousin or (2) an author-director or a production company not established in the region, but whose film's subject is of regional interest. The support granted cannot exceed 25% of the total budget.

In order to be eligible under the fiction TV funding scheme, the film must be shot to a significant extent in the Limousin region.

As concerns production, the Conseil Régional du Limousin Funding Scheme presents indirect territorialisation requirements in the shape of the shooting requirement namely that it must take place entirely or to a significant extent in Limousin; and in terms of the place of residence or establishment of the author-director or production company (in certain cases only).

14.5 Synopsis of the relation between territorialisation requirements and co-production agreements

Requests for funding for co-productions are assessed according to the same criteria as projects produced by a single producer (see reply B.8). In order to be entitled to the benefits granted to French films, French international co-productions have to fulfil the conditions laid down in the bilateral co-production agreements with France. According to these agreements, except for bilateral co-productions with Great-Britain, Spain and Italy, the minimum contribution of each co-producer shall not be less than 20% and the maximum contribution shall not exceed 80% of the total production costs of the film. The amount of the regional aid shall be included in the total of French public financial support. Most bilateral co-production agreements to which France is a party are based on the principle of national treatment. The films that comply with the requirements of the bilateral co-production agreements are treated as national films in each state party to the agreement. The films fully enjoy all the benefits that are or may be granted in France to national films.

14.6 Synopsis of purpose and cultural clauses applying to the funding scheme

The Conseil Régional du Limousin Funding Scheme aims at quantitatively and qualitatively strengthening and developing the cinema culture in Limousin, as part of the action plan for artistic and cultural education for all, presented by the Ministry of Culture and Communication and the Ministry of Education on 14 December 2001. It helps ensure the development of cultural industries and the expansion of French culture and French cultural action. Lastly, it may contribute to the development of the national audio-visual production and creation as well as to the defence and illustration of the French language and culture.

15 Analysis of the Support by Région Nord Pas de Calais (Région Nord Pas de Calais Funding Scheme)

15.1 Description of the funding scheme

The Région Nord Pas de Calais Funding Scheme is based on the Convention State CNC-Region 2004-2006 signed in 2004, the CRRAV regulation and the Guide06. There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study.

For contact information see Reply B.14 for the Région Nord Pas de Calais Funding Scheme and for additional information on this scheme, its website: <http://www.npdc.fr/>

An associated structure called the Regional Centre for Audiovisual Resources (*Centre régional des ressources audiovisuelles*) (CRRAV) acts as co-producer.

For contact information see B.14 and for additional information on this scheme, its website <http://www.crrav.fr/>

15.2 Synopsis of objective territorialisation requirements

15.2.1 Rules

No provisions containing objective explicit requirements apply to this funding scheme. The territorialisation requirements are located under selective aid granting criteria. (See Section 15.4 below)

15.2.2 Practice

There is no judicial or administrative practice reported.

15.2.3 Discussion

N/A

15.2.4 Conclusions

N/A

15.3 Synopsis of indirect territorialisation requirements

15.3.1 Practice

There is no judicial or administrative practice reported.

15.3.2 Discussion

Indirect territorialisation requirements are located under the selective aid granting criteria and procedures. Please refer to Section 15.4 for a thorough assessment of such requirements.

15.3.3 Conclusions

Please refer to Section 15.4 below for indirect territorialisation requirements.

15.4. Synopsis of selective aid granting procedures

This scheme provides four types of writing and development support: (1) feature films, (2) short films, (3) documentaries, and (4) animation.

To be eligible for this funding scheme, the film project must be certified under the Regional Involvement procedure run by CRRAV, both in artistic and technical terms. Regional involvement is assessed according to a points system where the

place of origin or residence of the production company, technicians, actors, screenwriter, director and general crew members are taken into account.

The CRRAV has set up a points system aiming at evaluating the project's involvement in the region. To be eligible, the work must fulfil artistic and technical criteria laid down in the regional involvement grid. The project must gather 40 points for documentaries and short animations, 60 points for short or medium films of fiction, and 80 points for feature films and animated series. For producers and directors from outside the region, at least half of the shooting must take place in Nord-Pas-de-Calais. Moreover, a credit of 20 points may be granted when the film is shot entirely in the region (see reply B.7).

The points system is *per se* composed of selective aid criteria. The system relies on an arguably straightforward procedure, whereby points are allocated following a study of the cast and crew's place of origin or residence. The selective aid criteria set out in the regional involvement assessment procedure include the obligation of hiring local workers, sometimes combined with the obligation of shooting at least half of the film in the region.

This scheme provides five types of support for production: (1) feature films, (2) short films, (3) documentaries, (4) fiction TV, and (5) animation.

The points system described in Section 15.2.1 applies to this scheme also, but with some specific additional criteria.

To be eligible for this funding scheme, the film project must be certified under the Regional Involvement procedure run by CRRAV, both in artistic and technical terms. Regional involvement is assessed according to a points system where the place of origin or residence of the production company, technicians, actors, screenwriter, director and general crew members are taken into account.

Under the points system the work must fulfil artistic and technical criteria laid down in the regional involvement grid. The project must gather 40 points for documentaries and short animations, 60 points for short or medium films of fiction, and 80 points for feature films and animated series. For producers and directors from outside the region, at least half of the shooting must take place in Nord-Pas-de-Calais. Moreover, a credit of 20 points may be granted when the film is shot entirely in the region. (See B.7).

In order to be eligible under the feature film funding scheme, when the producer is not from the region, at least half of the shooting must take place in the region. The ceiling is set taking into account the number of weeks of shooting in the region and the shooting's importance.

In order to be eligible under the short-film funding scheme, when the producer is not from the region, more than half of the shooting must take place in the region.

There are no specific criteria for eligibility under the documentary, TV fiction or animation funding schemes.

As concerns production, the scheme presents indirect territorialisation requirements, since the system relies on a straightforward procedure, whereby points are allocated following a study of the place of origin or residence of the cast and crew (the project must hire a certain number of local cast and crew members in order to be eligible for the support).

15.5 Synopsis of the relation between territorialisation requirements and co-production agreements

Requests for funding for co-productions are assessed according to the same criteria as projects produced by a single producer (see reply B.8). In order to be entitled to the benefits granted to French films, French international co-productions have to fulfil the conditions laid down in the bilateral co-production agreements with France. According to these agreements, except for bilateral co-productions with Great-Britain, Spain and Italy, the minimum contribution of each co-producer shall not be less than 20% and the maximum contribution shall not exceed 80% of the total production costs of the film. The amount of the regional aid shall be included in the total of French public financial support. Most bilateral co-production agreements to which France is a party are based on the principle of national treatment. The films that comply with the requirements of the bilateral co-production agreements are treated as national films in each state party to the agreement. The films fully enjoy all the benefits that are or may be granted in France to national films.

15.6 Synopsis of purpose and cultural clauses applying to the funding scheme

The Région Nord Pas de Calais Funding Scheme aims at quantitatively and qualitatively strengthening and developing the cinema culture in Nord-Pas-de-Calais, as part of the action plan for artistic and cultural education for all, presented by the Ministry of Culture and Communication and the Ministry of Education on 14 December 2001. It helps ensure the development of cultural industries and the expansion of French culture and French cultural action. Lastly, it may contribute to the development of the national audio-visual production and creation as well as to the defence and illustration of the French language and culture.

16 Analysis of the Automatic and Selective Support for Publication of video-cassettes or video-discs for private use from the Centre National de la Cinématographie (Video Publication for Private Use Support)

16.1 Description of the funding scheme

The Video Publication for Private Use Support Funding Scheme is based on (1) Decree n°2003-1018 of 24 October 2003 concerning financial support for the videographic industry; (2) Order of 24 October 2003 adopted in application of article 8 of Decree n°2003-1018 of 24 October 2003; and (3) Order of 29 August 2005 setting up the State financial support calculation rates granted to cinematographic works production companies, for videocassettes or video-discs marketed for private use.

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study (see reply B.4).

For contact information see Reply B.14 for the Publication for Private Use Support Funding Scheme and for additional information on this scheme, its website: <http://www.cnc.fr>.

16.2 Synopsis of objective territorialisation requirements

16.2.1 Rules

No provisions containing objective explicit territorialisation requirements apply to this funding scheme.

16.3 Synopsis of indirect territorialisation requirements

No indirect territorialisation requirements apply to this funding scheme.

16.4 Synopsis of selective granting procedures

N/A (see reply B.13).

16.5 Synopsis of the relation between territorialisation requirements and co-production agreements

N/A (see reply B.8).

16.6 Synopsis of cultural clauses applying to the funding scheme

N/A (see reply B.12).

17 Analysis of the Selective Support for Research and Development: RIAM from the Centre National de la Cinématographie (RIAM Support)

17.1 Description of the funding scheme

The RIAM Support Funding Scheme is based on Cooperation between the Ministry of Culture and Communication, the Ministry of Education and the Ministry created in 1999. Programmes are funded by the National Agency for Research (*Agence Nationale de la recherche*) and the Centre National de la Cinématographie (CNC). The National Agency for Research was created by Law n°2004-1484 of 30 December 2004 and the Finance Act of 2005.

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study (see reply B.4). For contact information see Reply B.14 for the RIAM Support Funding Scheme and for additional information on this scheme, its website: <http://www.cnc.fr>.

17.2 Synopsis of objective territorialisation requirements

17.2.1 Rules

No provisions containing objective explicit territorialisation requirements apply to this funding scheme.

17.3 Synopsis of indirect territorialisation requirements

No indirect territorialisation requirements apply to this funding scheme.

17.4. Synopsis of selective granting procedures

N/A (see reply B.13).

17.5 Synopsis of the relation between territorialisation requirements and co-production agreements

N/A (see reply B.8).

17.6 Synopsis of cultural clauses applying to the funding scheme

N/A (see reply B.12).

18 Analysis of the Interministerial Selective Assistance Fund for Film Production in Developing Countries—Cinema for the South Fund from the Ministry of Foreign Affairs, the Ministry of Culture and Communications, and the Centre National de la Cinématographie (Cinema for the South Fund)

18.1 Description of the funding scheme

The Cinema for the South Fund was created in 1984 and has assisted in the creation of over 340 feature films. Its funding is provided by the French Ministry of Culture and Communication (through the Centre National de la Cinématographie) and the French Ministry of Foreign Affairs. It handles feature, animation and creative documentary film projects intended for theatrical release in France and abroad. The Fund is available in all countries in Africa, Latin America, the Near and Middle East (except Israel, Turkey since 1992, Kuwait, Qatar, Bahrain, Oman, Saudi Arabia, the United Arab Emirates), and Asia (except Korea, Japan, Singapore and Taiwan), along with the following Central and European countries: Albania, Bosnia and Herzegovina, Croatia, Serbia and Montenegro, Macedonia, Armenia, Georgia, Azerbaijan, Kazakhstan, the Kyrgyz Republic, Uzbekistan, Tajikistan, Turkmenistan.

For contact information see Reply B.14 for the Cinema for the South Fund and for additional information websites: <http://www.cnc.fr> and <http://www.diplomatie.gouv.fr>.

18.2 Synopsis of objective territorialisation requirements

18.2.1 Rules

No provisions containing objective explicit requirements apply to this funding scheme. The territorialisation requirements are located under selective aid granting criteria (see reply 18.4 below).

18.2.2 Practice

There is no judicial or administrative practice reported.

18.2.3 Discussion

N/A

18.2.4 Conclusions

N/A

18.3 Synopsis of indirect territorialisation requirements

18.3.1 Practice

There is no judicial or administrative practice reported.

18.3.2 Discussion

Indirect territorialisation requirements are located under the selective aid granting criteria and procedures. Please refer to Section 18.4 for a thorough assessment of such requirements.

18.3.3 Conclusions

Please refer to Section 18.4 below for indirect territorialisation requirements.

18.4. Synopsis of selective aid granting procedures

The scheme relies on the “Fonds Sud” regulations. It provides three types of assistance: (1) production, (2) post-production, and (3) re-writing.

The CNC and French Ministry of Foreign Affairs each provide 50% of the grant. While all or part of the funding from the Ministry of Foreign Affairs must be spent in an eligible country, funding from the CNC can only be spent in France.

A maximum of 40% of expenses can be earmarked for production costs, a minimum of 50% for post-production costs, and 10% for overhead costs.

As concerns production, eligible expenses cover (1) salaries and social security taxes for French technicians in the positions of director of photography, sound engineer, and art director, (2) film purchased in France, and (3) equipment (film camera, digital camera and their transport) rented in France.

Regarding post-production, all of the following are eligible expenses: (1) laboratory (developing), picture editing, sound editing, mixing, special effects, film-to-tape transfer, calibration, film credits, translator, French and English subtitles, printing of original and first copies (one original language version, one original language version with French subtitles, one original language version with English subtitles), internegative, and Dolby, (2) expenses related to employing French technicians (salaries and related social security taxes) for the positions of film editor, sound editor, and mixer.

For post-production assistance, the accepted expenses are on the post-production list except for laboratory work (developing).

All other expenses that are not on this list are to be reviewed on a case-by-case basis (see replies B.6 and B.7).

A commission made up of ten members nominated for two years examines the applications. It issues an opinion on each application, based on the project’s artistic quality and feasibility (see reply B.13).

Moreover, the greater part of the sum must be earmarked for post-production in France. An exception may be allowed in certain cases thus raising from 15% to 25% the amount of funding.

The scheme presents indirect territorialisation requirements. Indeed, funding from the CNC may only be spent in France, which in other words means that 50% of the grant must be spent in France. Moreover, some specific expenses must take place in France, from the hiring of French technicians to the purchase and rental of equipment in France, and the obligation to conduct certain activities in France.

18.5 Synopsis of the relation between territorialisation requirements and co-production agreements

Requests for funding for co-productions are assessed according to the same criteria as projects produced by a single producer (see reply B.8). In order to be entitled to the benefits granted to French films, French international co-productions have to fulfil the conditions laid down in the bilateral co-production agreements with France. According to these agreements, except for bilateral co-productions with Great-Britain, Spain and Italy, the minimum contribution of each co-producer shall not be less than 20% and the maximum contribution shall not exceed 80% of the total production costs of the film. The amount of the regional aid shall be included in the total of French public financial support. Most bilateral co-production agreements to which France is a party are based on the principle of national treatment. The films that comply with the requirements of the bilateral co-production agreements are treated as national films in each state party to the agreement. The films fully enjoy all the benefits that are or may be granted in France to national films.

Payment of this grant is subject to the establishment of a co-production contract signed by the production company from the eligible country. An official co-production, i.e., an intergovernmental co-production agreement with France is not necessary.

Since this fund specifically addresses co-productions, there does not seem to be any obstacle to concluding such agreements. On the contrary, they are mandatory in order to be eligible for the grant. Co-production agreements are at the basis of this funding scheme, which, although it contains many territorialisation requirements, does not restrict the freedom to conclude such agreements.

18.6 Synopsis of purpose and cultural clauses applying to the funding scheme

The Cinema for the South Fund aims at quantitatively and qualitatively strengthening and developing the cinema culture in France, as part of the action plan for artistic and cultural education for all, presented by the Ministry of Culture and Communication and the Ministry of Education on 14 December 2001. It

helps ensure the development of cultural industries and the expansion of French culture. Lastly, it may contribute to the development of the national audio-visual production and creation as well as to the defence and illustration of the French language and culture.

19 Analysis of the Loan Support from the Institut de financement du cinéma et des industries culturelles (IFCIC) and from the Centre National de la Cinématographie (IFCIC Loan Support)

19.1 Description of the funding scheme

The IFCIC Loan Support Funding Scheme is based on (1) the Decree n°99-130 of 24 February 1999 regarding financial support for the film industry (entered into force on 26 March 1999), (2) the Convention between Etat-CNC-IFCIC and (3) IFCIC Statute (see reply B.4).

Article 3 of Decree n°99-130 of 24 February 1999 was amended by Decree n°2005-1268 of 4 October 2005, which entered into force on 12 October 2005.

For contact information see Reply B.14 for the IFCIC Loan Support Funding Scheme and for additional information on this scheme, its website: <http://www.cnc.fr>.

19.2 Synopsis of objective territorialisation requirements

19.2.1 Rules

No provisions containing objective explicit territorialisation requirements apply to this funding scheme.

19.3 Synopsis of indirect territorialisation requirements

No indirect territorialisation requirements apply to this funding scheme.

19.4 Synopsis of selective granting procedures

N/A (see reply B.13).

19.5 Synopsis of the relation between territorialisation requirements and co-production agreements

N/A (see reply B.8).

19.6 Synopsis of cultural clauses applying to the funding scheme

N/A (see reply B.12)

20 Analysis of the Sofica Tax Relief Incentive from the Centre national de la cinématographie (Sofica)

20.1 Description of the funding scheme

The Sofica Tax Relief Incentive funding scheme is based on the Code général des impôts (General Tax Code), Articles 163 septdecies (which came into force on 1 January 2002), 217 septies (which came into force on 13 July 1985), 238 bis HE (which came into force on 30 June 2000), 238 bis HF (which came into force on 10 January 1996), 238 bis HG (which came into force on 13 July 1985), 238 bis HH (which came into force on 31 December 1990), 238 bis HI (which came into force on 1 January 2004), 238 bis HJ (which came into force on 1 January 2006), 238 bis HK (which came into force on 1 January 2006), 238 bis HL (which came into force on 13 July 1985), 238 bis HM (which came into force on 13 July 1985), and 46 quindicies A to 46 quindicies F (Annex 3 of the General Tax Code) (A to E came into force on 19 September 1985 and F came into force on 9 June 2002). It is also based on the Companies' Charter for film and audiovisual industry financing (*Charte des sociétés pour le financement de l'industrie cinématographique et audiovisuelle*) (SOFICA) (2005).

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study.

For contact information see Reply B.14 for the Sofica Tax Relief Incentive funding scheme and visit its website: www.cnc.fr.

This scheme provides a tax relief to works whose original version was made in the French language, and which can benefit from support from the film and audiovisual industries provided under Articles 76 of the 1960 Finance Act n° 59-1454 of 26 December 1959 (*Loi de finances pour 1960*) and 61 of the 1984 Finance Act n° 83-1179 of 29 December 1983 (*Loi de finances pour 1984*), except (1) works listed at Article 12 of the 1976 Finance Act n° 75-1278 of 30 December 1975 (*Loi de finances pour 1975*), (2) works used for advertising, (3) information and current debate programmes and sports and variety shows, and (4) documentaries or programmes that only secondarily contain original creation elements.

However, within the 20% limit of yearly funding, tax relief may be granted to co-production works created in the language of the majority co-producer's country, if it is established in a Member State of the European Community.

20.2 Synopsis of objective territorialisation requirements

20.2.1 Rules

No provisions containing objective explicit territorialisation requirements apply to this funding scheme.

20.2.2 Practice

There is no judicial or administrative practice reported.

20.2.3 Discussion

N/A

20.2.4 Conclusions

N/A

20.3 Synopsis of indirect territorialisation requirements

20.3.1 Practice

There is no relevant judicial or administrative practice reported.

20.3.2 Discussion

SOFICA must invest 80% of yearly funding for co-productions in films in French original language. No more than 20% of yearly funding may be invested in co-productions in the language of the majority co-producer established in another Member State of the European Union (see reply B.7).

The only relevant requirements under the Sofica Tax Relief Incentive are that the film must be in the French language and that it can benefit from support from the film and audiovisual industries.

The scheme provides a tax credit to production initiatives. The aim of the scheme is to stimulate private-sector investment in film and audiovisual production by providing a cushion against the inherent risks of investment in film production. The very aim of such a mechanism is to promote and encourage the indigenous film industry and the development of a film industry in France. The purpose of the funding scheme itself (to promote and encourage the indigenous film industry and the development of a film industry in France) may therefore constitute an indirect territorialisation requirement.

Moreover, indirect territorialisation requirements are located under the rules on formal nationality certification procedures. Please refer to Section A.3 above.

20.3.3 Conclusions

Arguably the procedure for obtaining support from the film and audiovisual industries may involve indirect territorialisation.

20.4. Synopsis of selective aid granting procedures

The Sofica Tax Relief Incentive provides tax relief for investments in films in the original version in the French language, from a Member State of the European Community and which can benefit from support from the film and audiovisual industries.

In the case of co-productions, 80% of the funding must be granted to films in the French language, while the remaining 20% may be granted to films in the language of the majority co-producer's country (see replies B.6 and B.7).

No indirect territorialisation requirements are located under the selective aid granting criteria and procedures.

20.5 Synopsis of the relation between territorialisation requirements and co-production agreements

Requests for funding for co-productions are assessed according to the same criteria as projects produced by a single producer (see reply B.8). In order to be entitled to the benefits granted to French films, French international co-productions have to fulfil the conditions laid down in the bilateral co-production agreements with France. According to these agreements, except for bilateral co-productions with Great-Britain, Spain and Italy, the minimum contribution of each co-producer shall not be less than 20% and the maximum contribution shall not exceed 80% of the total production costs of the film. The amount of the regional aid shall be included in the total of French public financial support. Most bilateral co-production agreements to which France is a party are based on the principle of national treatment. The films that comply with the requirements of the bilateral co-production agreements are treated as national films in each state party to the agreement. The films fully enjoy all the benefits that are or may be granted in France to national films.

20.6 Synopsis of cultural clauses applying to the funding scheme

The Sofica Tax Relief Incentive Funding Scheme aims at quantitatively and qualitatively strengthening and developing the cinema culture in France, as part of the action plan for artistic and cultural education for all, presented by the Ministry of Culture and Communication and the Ministry of Education on 14 December 2001. It helps ensure the development of cultural industries and the expansion of French culture. Lastly, it may contribute to the development of the national

audio-visual production and creation as well as to the defence and illustration of the French language and culture (see reply B.12)

21 Analysis of the Tax Incentive from the Centre national de la cinématographie (Tax Credit)

21.1 Description of the funding scheme

The Tax Credit funding scheme is based on the (1) Finance Act n°2004-1485 of 30 December 2004, art.28 rectified for 2004 (entered into force on 1 January 2005); (2) Decree n°2004-21 of 7 January 2004 adopted in application of articles 220 sexies and 220 F of the General Tax Code and relating to the approval of feature films giving right to a tax credit for expenses in the production of cinematographic works; (3) Decree n°2005-315 of 1 April 2005 adopted in application of articles 220 sexies and 220 F of the General Tax Code and relating to the approval of audiovisual works giving right to a tax credit for expenses in production; (4) Decree n°2005-407 of 29 April 2005 adopted in application of articles 220 sexies and 220 F of the General Tax Code and relating to a tax credit for production expenditures for cinematographic and audiovisual works and amended annex III to the Code; and (5) Decree n°2006-317 of 22 March 2006 adopted in application of articles 220 sexies and 220 F of the General Tax Code and relating to a tax credit for production expenditures for cinematographic and audiovisual works and amended annex III to the Code.

Act n°2005-1719 of 30 December 2005 art.24 finances for 2006 and Act n°2005-1720 of 30 December 2005 art.109 I rectified finance for 2005 came into force on 1 January 2006.

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study.

For contact information see Reply B.14 for the Tax Credit funding scheme and visit the website www.cnc.fr.

21.2 Synopsis of objective territorialisation requirements

21.2.1 Rules

No provisions containing objective explicit territorialisation requirements apply to this funding scheme. Indirect territorialisation requirements are located under the selective aid granting criteria and procedures. Please refer to Section 21.2.3 above for a thorough assessment of such requirements.

21.2.2 Practice

There is no judicial or administrative practice reported.

21.2.3 Discussion

N/A

21.2.4 Conclusions

N/A

21.3 Synopsis of indirect territorialisation requirements

21.3.1 Practice

There is no reported practice on indirect territorialisation requirements.

21.3.2 Discussion

Indirect territorialisation requirements are located under the selective aid granting criteria and procedures. Please refer to Section 21.4 for a thorough assessment of such requirements.

Moreover, the purpose of the funding scheme itself (to promote and encourage the indigenous film industry and the development of a film industry in France) arguably implies indirect territorialisation.

In addition, indirect territorialisation requirements are located under the rules on formal nationality certification procedures. Please refer to Section A.3 above.

21.3.3 Conclusions

Please refer to Section 21.4 below for indirect territorialisation requirements.

21.4. Synopsis of selective aid granting procedures

The Finance Act for 2004 (n°2003-1311 of 30 December 2003, Article 88) created a tax credit for film productions, based on production expenditures for operations carried out in France. It is governed by Article 220 sexies of the General Tax Code (*Code général des impôts*).

Film and audiovisual production companies may benefit from the tax credit for feature films or audiovisual works approved by the CNC. The works must (1) be created entirely or mainly in the French language or in a language spoken in France, (2) benefit from film and audiovisual financial support, (3) be created mainly on French territory (specific artistic reasons may justify an exemption in

this case), and (4) contribute to the development of French and European film and audiovisual creation and diversity.

The tax credit amounts to 20% of total eligible production expenditures. The conditions under which works must be carried out in order to benefit from the tax credit depend on the type of work: fiction, documentary or animation.

As concerns works of fiction and documentaries, a points system has been established, whereby technicians, creation collaborators, other than the director and production workers, must be French nationals or nationals of another Member State of the European Union, **among others** [...]. Foreigners residing in France are assimilated to French nationals. Technical industries must be established in France and personally carry out shooting and post-production services in France.

Regarding animation works, the same nationality criteria apply for creation technicians, animation service collaborators, and animation creation collaborators. Technical personnel must be established in France and personally carry out shooting and post-production services in France.

It is to be noted that non-refundable public subsidies directly assigned to the eligible expenditure are excluded from the tax base.

The maximum amount of tax credit is €500,000 for works of fiction or documentaries and of €50,000 for works of animation. As concerns associate co-production, the tax credit is granted to each producer proportionately to its share in the expenditure. In 2005, the ceiling was increased to €1m (one million).

In 2005, the tax credit was extended to the audiovisual sector and also amounts to 20% of total eligible expenditures.

Audiovisual works can benefit from the tax credit only when the amount of eligible expenditures is equal to or higher than €2,333 per minute (for documentaries), €5,000 per minute (for works of fiction), and €3,000 per minute (for those intended for a young public). The sum of the tax credits calculated under the same audiovisual work cannot exceed €1,150 per minute for works of fiction and documentaries, and €1,200 per minute for animation works.

In order to comply with the EC Treaty rules, the system was modified by Article 109 I of Act n°2005-1720 of 30 December 2005, the Finance Act rectified for 2005. A new ceiling was established. Eligible expenditures cannot exceed 80% of the production budget, and as far as international co-productions are concerned, 80% of the French co-producer's contribution. The tax credit cannot result in a public financial support of more than 50% of the production budget (60% for difficult and low-budget works). These new provisions apply to expenditures for which the associate producer has requested temporary approval after 1 January 2006.

The Tax Credit scheme provides tax relief for investments in films in the French language or in a language spoken in France, that can benefit from support from the film and audiovisual industries, and that are created mainly on French territory (see replies B.6 and B.7).

The indirect territorialisation requirements that apply to this funding scheme may be summarised as follows: the film must be eligible to support from the film and audiovisual industries, and it must be produced mainly on French territory.

Furthermore, it aims at contributing to the development of French and European film and audiovisual creation and diversity, and to promote and encourage the indigenous film industry and the development of a film industry in France.

21.5 Synopsis of the relation between territorialisation requirements and co-production agreements

Requests for funding for co-productions are assessed according to the same criteria as projects produced by a single producer (see reply B.8). In order to be entitled to the benefits granted to French films, French international co-productions have to fulfil the conditions laid down in the bilateral co-production agreements with France. According to these agreements, except for bilateral co-productions with Great-Britain, Spain and Italy, the minimum contribution of each co-producer shall not be less than 20% and the maximum contribution shall not exceed 80% of the total production costs of the film. The amount of the regional aid shall be included in the total of French public financial support. Most bilateral co-production agreements to which France is a party are based on the principle of national treatment. The films that comply with the requirements of the bilateral co-production agreements are treated as national films in each state party to the agreement. The films fully enjoy all the benefits that are or may be granted in France to national films.

The tax credit is distributed among co-producers in proportion to their effective participation in the expenditures. Eligible expenditures cannot exceed 80% of the production budget, and as far as international co-productions are concerned, 80% of the French co-producer's contribution. The tax credit cannot result in a public financial support of more than 50% of the total production budget (60% for difficult and low-budget works).

21.6 Synopsis of purpose and cultural clauses applying to the funding scheme

The Funding Scheme aims at quantitatively and qualitatively strengthening and developing the cinema culture in France, as part of the action plan for artistic and

cultural education for all, presented by the Ministry of Culture and Communication and the Ministry of Education on 14 December 2001. It helps ensure the development of cultural industries and the expansion of French culture. Lastly, it may contribute to the development of the national audio-visual production and creation as well as to the defence and illustration of the French language and culture.

22 Analysis of the Automatic Support for exhibition by the Centre National de la Cinématographie (Automatic Exhibition Support)

22.1 Description of the funding scheme

The Automatic Exhibition Support Funding Scheme is based on Decree n°98-750 of 24 August 1998 regarding financial support for the diffusion of specific cinematographic works in theatres and financial support to the modernisation and the construction of theatres; Decree of 24 August 1998 adopted in application of Decree n°98-750 of 24 August regarding financial support of film theatrical exhibition amended by Decrees of 31 July 2001 and 23 October 2001; Decree n°99-130 of 24 February 1999 regarding financial support for the film industry; Order of 29 August 1999, setting up the rate for calculating the financial support granted to film production companies of films of a duration of more than one hour, adopted in application of provisions of chapter II –Title III of Decree n°99-130 of 24 February 1999 concerning automatic support for the production and preparation of feature films.

Decree n°98-750 of 24 August 1998 was amended by Decree n°2002-567 of 22 April 2002 entered into force on 24 April 2002. Decree n°99-130 of 24 February 1999 was amended by Decree n°2001-771 of 28 August 2001, Decree n°2001-1030 of 6 November 2001, Decree n°2003-27 of 8 January 2003, Decree n°2003-1017 of 24 October 2003, Decree n°2005-1071 of 29 August 2005, Decree n°2005-1268 of 4 October 2005, and Decree n°2005-1787 of 30 December 2005³³.

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study (see reply B.4). For contact information see Reply B.14 for the Automatic Exhibition Support Funding Scheme and for additional information on this scheme, its website <http://www.cnc.fr>.

22.2 Synopsis of objective territorialisation requirements

22.2.1 Rules

No provisions containing objective explicit territorialisation requirements apply to this funding scheme.

³³ In 2006, Decree n°2005-1787 of 30 December 2005 was amended as follows

- Decree n°2006-258 of 3 March 2006
- Decree n°2006-324 of 20 March 2006
- Decree n°2006-949 of 28 July 2006

22.2.2 Practice

There is no relevant judicial or administrative practice reported.

22.2.3 Discussion

N/A

22.2.4 Conclusions

This scheme does not present objective explicit territorialisation requirements.

22.3 Synopsis of indirect territorialisation requirements

There are no indirect territorialisation requirements reported.

22.4. Synopsis of selective aid granting procedures

N/A

22.5 Synopsis of the relation between territorialisation requirements and co-production agreements

N/A (see reply B.8).

22.6 Synopsis of purpose and cultural clauses applying to the funding scheme

N/A (see reply B.12)

23 Analysis of the Automatic Support for distribution by the Centre National de la Cinématographie (Automatic Distribution Support)

23.1 Description of the funding scheme

The Automatic Distribution Support Funding Scheme is based on Decree n°90-66 of 17 January 1990 adopted in application of Law n°86-1067 of 60 September 1986 and setting up the general principles concerning film and audiovisual works broadcasting by TV services producers; Order of 21 May 1992 adopted in application of Article 6 of Decree n°90-66 of 17 January 1990, amended, setting up the general principles concerning film and audiovisual works broadcasting; Decree n°99-130 of 24 February 1999 concerning financial support for the film industry; and Order of 29 August 2005 setting up the rate for calculating the

financial support granted to production companies in application of Article 15 of Decree n°99-130 of 24 February 1999.

Decree n°99-130 of 24 February 1999 was amended by Decree n°2001-771 of 28 August 2001, Decree n°2001-1030 of 6 November 2001, Decree n°2003-27 of 8 January 2003, Decree n°2003-1017 of 24 October 2003, Decree n°2005-1071 of 29 August 2005, and Decree n°2005-1268 of 4 October 2005. Decree n°90-66 of 17 January 1990 was amended by Decree n°2001-1330 of 28 December 2001 and Decree n°2004-1481 of 23 December 2004.

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study (see reply B.4).

For contact information see Reply B.14 for the Automatic Distribution Support Funding Scheme and for additional information on this scheme, its website <http://www.cnc.fr>.

23.2 Synopsis of objective territorialisation requirements

23.2.1 Rules

No provisions containing objective explicit territorialisation requirements apply to this funding scheme.

23.3 Synopsis of indirect territorialisation requirements

There are no indirect territorialisation requirements reported.

23.4 Synopsis of selective aid granting procedures

N/A

23.5 Synopsis of the relation between territorialisation requirements and co-production agreements

N/A (see reply B.8).

23.6 Synopsis of purpose and cultural clauses applying to the funding scheme

N/A (see reply B.12)

24 Analysis of the Selective Support for distribution by the Centre National de la Cinématographie (Selective Distribution Support)

24.1 Description of the funding scheme

The Selective Distribution Support Funding Scheme is based on Decree n°90-66 of 17 January 1990 adopted in application of Law n°86-1067 of 60 September 1986 and setting up the general principles concerning film and audiovisual works broadcasting by TV services producers; Order of 21 May 1992 adopted in application of Article 6 of Decree n°90-66 of 17 January 1990 amended setting up the general principles concerning film and audiovisual works broadcasting; Decree n°99-130 of 24 February 1999 regarding financial support for the film industry; and Order of 22 March 1999, adopted in application of the provisions of chapter II of Title V of Decree n°99-130 of 24 February 1999 concerning selective support for the distribution of feature films (amended by decrees of 31 Mai 2001, of 7 September 2001, of 14 May 2003. In 2006 the decree of 28 July 2006 amended the decree of 22 March 1999).

Decree n°99-130 of 24 February 1999 was amended by Decree n°2001-771 of 28 August 2001, Decree n°2001-1030 of 6 November 2001, Decree n°2003-27 of 8 January 2003, Decree n°2003-1017 of 24 October 2003, Decree n°2005-1071 of 29 August 2005, and Decree n°2005-1268 of 4 October 2005. Decree n°90-66 of 17 January 1990 was amended by Decree n°2001-1330 of 28 December 2001 and Decree n°2004-1481 of 23 December 2004.

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study (see reply B.4).

For contact information see Reply B.14 for the Selective Distribution Support Funding Scheme and for additional information on this scheme, its website <http://www.cnc.fr>.

24.2 Synopsis of objective territorialisation requirements

24.2.1 Rules

No provisions containing objective explicit territorialisation requirements apply to this funding scheme.

24.3 Synopsis of indirect territorialisation requirements

There are no indirect territorialisation requirements reported.

24.4 Synopsis of selective aid granting procedures

As concerns films, criteria include: the cinematographic qualities of the work, types of promotion selected by the distributor: budget (ceiling of €450,000), independence of the distributor and its finance statement, liabilities on previous films.

As concerns distributors, criteria include: the number, features and origin of the film, investments, amount scheduled for promotion, liabilities on previous films, quality and homogeneity of the programme, distributor's finance statement, and review of activities carried out by the distributor.

Concerning support for distribution companies (in difficulty), the quality of the editorial policy is recognised.

Finally, with regard to foreign films with a limited broadcast, the quality of the film and the origin of the film (if it is unknown in France) are taken into account.

24.5 Synopsis of the relation between territorialisation requirements and co-production agreements

N/A (see reply B.8).

24.6 Synopsis of purpose and cultural clauses applying to the funding scheme

N/A (see reply B.12).

25 Analysis of the Selective Support for cinema with the art and experimental cinema network and for independent cinema by the Centre National de la Cinématographie (Selective Cinema Support)

25.1 Description of the funding scheme

The Selective Cinema Support Funding Scheme is based on Decree n°99-130 of 24 February 1999 regarding financial support for the film industry, Decree n°98-750 of 24 August 1998 regarding financial support for the broadcasting of certain films and financial support for the creation and modernisation of theatres, amended by the decrees n°99-130 of 24 February 1999, n°2001-734 of 31 July 2001, n°2001-771 of 28 August and n°2002-567 of 22 April 2002; and Order of 22 June 1998 adopted in application of article 11 of the decree n°67-356 of 21 April 1967 regarding State financial for the creation and modernisation of theatres.

Decree n°99-130 of 24 February 1999 was amended by Decree n°2001-771 of 28 August 2001, Decree n°2001-1030 of 6 November 2001, Decree n°2003-27 of 8 January 2003, Decree n°2003-1017 of 24 October 2003, Decree n°2005-1071 of 29 August 2005, and Decree n°2005-1268 of 4 October 2005.

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study (see reply B.4).

For contact information see Reply B.14 for the Selective Cinema Support Funding Scheme and for additional information on this scheme, see its website: <http://www.cnc.fr>.

25.2 Synopsis of objective territorialisation requirements

No provisions containing objective explicit territorialisation requirements apply to this funding scheme.

25.3 Synopsis of indirect territorialisation requirements

There are no indirect territorialisation requirements reported.

25.4. Synopsis of selective aid granting procedures

Criteria for aid focus on the quality of the works and their historical and artistic interest.

As concerns the Art and Experimental network, the following criteria are taken into account (Article 3 of the Decree of 22 April 2002):

- local conditions and cultural environment in which the owner is active
- importance of the actions of animation carried out for the promotion of its programmes
- particular effort made by the owner in the field of the dissemination and the diversity of works
- conditions of reception and comfort

(See reply B.13).

25.5 Synopsis of the relation between territorialisation requirements and co-production agreements

N/A (see reply B.8).

25.6 *Synopsis of purpose and cultural clauses applying to the funding scheme*

N/A (see reply B.12)

26 Analysis of the Selective Support for exhibitions—for modernisation and construction of film theatres in rural areas by the Centre National de la Cinématographie (Film Theatres Support)

26.1 Description of the funding scheme

The Film Theatres Support Funding Scheme is based on Decree n°99-130 of 24 February 1999 regarding financial support for the film industry; Decree n°98-750

of 24 August 1998 regarding financial support for the broadcasting of certain films and financial support for the creation and modernisation of theatres, amended by the decrees n°99-130 of 24 February 1999, n°2001-734 of 31 July 2001, n°2001-771 of 28 August and n°2002-567 of 22 April 2002; and Order of 22 June 1998 adopted in application of article 11 of the decree n°67-356 of 21 April 1967 regarding State financial for the creation and modernisation of theatres.

Decree n°99-130 of 24 February 1999 was amended by Decree n°2001-771 of 28 August 2001, Decree n°2001-1030 of 6 November 2001, Decree n°2003-27 of 8 January 2003, Decree n°2003-1017 of 24 October 2003, Decree n°2005-1071 of 29 August 2005, and Decree n°2005-1268 of 4 October 2005.

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study (see reply B.4).

For contact information see Reply B.14 Film Theatres Support Funding Scheme and for additional information on this scheme, see its website: <http://www.cnc.fr>.

26.2 Synopsis of objective territorialisation requirements

26.2.1 Rules

No provisions containing objective explicit territorialisation requirements apply to this funding scheme.

26.3 Synopsis of indirect territorialisation requirements

There are no indirect territorialisation requirements reported.

26.4. Synopsis of selective aid granting procedures

Criteria for aid include

- cinematographic interest of the project
- social utility
- quality of installation
- relation between the investment amount and the stakes of the project
- financial equilibrium condition of the future exploitation
- quality of animation and cultural orientations

(See reply B.13).

No indirect territorialisation requirements are located under the selective aid granting procedure and criteria.

26.5 Synopsis of the relation between territorialisation requirements and co-production agreements

N/A (see reply B.8).

26.6 *Synopsis of purpose and cultural clauses applying to the funding scheme*

N/A (see reply B.12)

27 Analysis of the Support for investment by films and television industry facilities companies by the Centre National de la Cinématographie (Facilities Support)

27.1 Description of the funding scheme

The Facilities Support Funding Scheme is based on Decree n°99-130 of 24 February 1999 regarding financial support for the film industry. This decree came into force on 26 March 1999, and was amended by Decree n°2001-771 of 28 August 2001, Decree n°2001-1030 of 6 November 2001, Decree n°2003-27 of 8 January 2003, Decree n°2003-1017 of 24 October 2003, Decree n°2005-1071 of 29 August 2005, and Decree n°2005-1268 of 4 October 2005.

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study (see reply B.4).

For contact information see Reply B.14 for the FACILITIES Support Funding Scheme and for additional information on this scheme, its website: <http://www.cnc.fr>

27.2 Synopsis of objective territorialisation requirements

No provisions containing objective explicit territorialisation requirements apply to this funding scheme.

27.3 Synopsis of indirect territorialisation requirements

There are no indirect territorialisation requirements reported.

27.4 Synopsis of selective aid granting procedures

N/A

27.5 Synopsis of the relation between territorialisation requirements and co-production agreements

N/A (see reply B.8).

27.6 *Synopsis of purpose and cultural clauses applying to the funding scheme*

N/A (see reply B.12).

28 Analysis of the PROCIREP Selective Financial Support from the Société des producteurs de cinéma et de télévision (PROCIREP Support)

28.1 Description of the funding scheme

The PROCIREP Support Funding Scheme is based on Article 321-9 of the Copyright and related rights Act of 3 July 1985, which came into force on 5 July 1985.

PROCIREP is a collecting society for film and television producers, and is in charge of copyright levies to producers.

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study (see reply B.4).

For contact information see Reply B.14 for the PROCIREP Support Funding Scheme and for additional information on this scheme, its website <http://www.procirep.fr>.

28.2 Synopsis of objective territorialisation requirements

No provisions containing objective explicit territorialisation requirements apply to this funding scheme.

28.3 Synopsis of indirect territorialisation requirements

There are no indirect territorialisation requirements reported.

28.4. Synopsis of selective aid granting procedures

As concerns TV creation (documentary and magazine), a commission assesses technical, artistic and financial elements, in particular: the artistic team, the note of intention by the producer, authors and/or directors, the credibility of the budget and financing plan, the producer's experience, and a justification for the subsidy request.

As concerns feature film scriptwriting, a commission evaluates technical, legal and financial elements and takes into account the quality and coherence of the projects (see reply B.13).

No indirect territorialisation requirements are located under the selective aid granting procedures and criteria.

28.5 Synopsis of the relation between territorialisation requirements and co-production agreements

N/A (see reply B.8).

28.6 Synopsis of purpose and cultural clauses applying to the funding scheme

N/A (see reply B.12)

29 Analysis of the Automatic Support for Production of short films from the Centre National de la Cinématographie (Automatic Short Film Support)

29.1 Description of the funding scheme

The Automatic short film Support Funding Scheme is based on (1) Decree n°90-66 of 17 January 1990 adopted in application of law n°86-1067 of 30 September 1986 and setting up the general principles concerning broadcasting of films and audiovisual works by TV services producers; (2) Order of 21 May 1992 adopted in application of article 6 of Decree n°90-66 of 17 January 1990, amended, setting up the general principles concerning the broadcasting of films and audiovisual works; (3) Decree n°99-130 of 24 February 1999 regarding financial support for the film industry; and (5) Order of 22 March 1999 adopted in application of the provisions of chapter II of title IV of Decree n°99-130 of 24 February 1999 concerning automatic support for the production and preparation of short films (amended by Decree of 31 May 2001, OJ 2 April 1999 – 13 June 2001) (see reply B.4).

Decree n°99-130 of 24 February 1999 was amended by Decree n°2001-771 of 28 August 2001, Decree n°2001-1030 of 6 November 2001, Decree n°2003-27 of 8 January 2003, Decree n°2003-1017 of 24 October 2003, Decree n°2005-1071 of 29 August 2005, and Decree n°2005-1268 of 4 October 2005. Decree n°90-66 was amended by Decree n°2001-1330 of 28 December 2001 and by Decree n°2004-1481 of 23 December 2004.

For contact information see Reply B.14 for the Automatic short film Support Funding Scheme and for additional information on this scheme, its website: <http://www.cnc.fr>.

29.2 *Synopsis of objective territorialisation requirements*

29.2.1 Rules

No provisions containing objective explicit territorialisation requirements apply to this funding scheme. Please refer to indirect territorialisation requirements at 29.3 below.

29.2.2 Practice

There is no relevant judicial or administrative practice reported.

29.2.3 Discussion

N/A

29.2.4 Conclusions

N/A

29.3 *Synopsis of indirect territorialisation requirements*

29.3.1 Practice

There is no relevant judicial or administrative practice reported.

29.3.2 Discussion

Article 78 of Decree n°99-130 of 24 February 1999 is the main provision governing this funding scheme.

In order to be eligible for this funding scheme, the film must be (1) made with the help of a studio and laboratory located in France or in a Member State of the European Union, (2) defined as a European work³⁴ (European elements of the work are assessed with the help of a points system), and (3) be directed totally or mainly in a French original version or in a regional language spoken in France. However, the French original version is not compulsory for films derived from an opera or documentary for which the subject-matter requires the use of a specific language, or for cartoons.

To receive an additional support of 25% of the invested amount, the producer must spend at least 80% of production costs in France.

Moreover, a subsidy of 1% per shooting day is granted if the producer films in a studio located in France. The amount of the additional subsidy cannot be more than 50% of the studio costs and no more than €305,000 for the whole work.

Consequently, the total amount of the subsidy depends on the place of expenditures.

³⁴ Article 10 of Decree n°99-130 of 24 February 1999

In order to obtain investment approval (Article 83 of Decree n°99-130), the CNC considers the following elements: (1) technical conditions scheduled for the film's direction, (2) shooting location, studio, practical set, and (3) language and nationality of actors, technicians and creative collaborators³⁵.

29.3.3 Conclusions

The scheme presents indirect territorialisation requirements that may be summarised as follows: at least 80% of the costs must be spent in France in order to receive a 25% subsidy. Moreover, if the film is shot in a studio in located in France, an additional 1% daily subsidy may be granted. Territorialisation could be said to exist, since the scheme involves the obligation of spending a substantial proportion of the budget in France.

29.4. *Synopsis of selective aid granting procedures*

This scheme grants automatic short film support. (See B.13).

29.5 *Synopsis of the relation between territorialisation requirements and co-production agreements*

Requests for funding for co-productions are assessed according to the same criteria as projects produced by a single producer (see reply B.8). In order to be entitled to the benefits granted to the French films, French international co-productions have to fulfil the conditions laid down in the bilateral co-production agreements with France. According to these agreements, except for bilateral co-productions with Great-Britain, Spain and Italy, the minimum contribution of each co-producer shall not be less than 20% and the maximum contribution shall not exceed 80% of the total production costs of the film. The amount of the regional aid shall be included in the total of the French public financial support. Most bilateral co-production agreements to which France is a party are based on the principle of national treatment. The films that comply with the requirements of the bilateral co-production agreements are treated as national films in each state party to the agreement. The films fully enjoy all the benefits that are or may be granted in France to national films.

In cases where French participation is not in the majority, the film may be shot in the language of the country of the majority co-producer and on its territory (if this share is of more than 50%) following an intergovernmental co-production agreement.

³⁵ These criteria are laid down in the application form, article 1 of Decree of 29 March 1999.

There does not seem to be any inconsistency between territorialisation requirements and conditions resulting from co-production agreements. Territorialisation requirements under this scheme appear to create no explicit obstacle to the conclusion and implementation of co-production agreements.

29.6 Synopsis of purpose and cultural clauses applying to the funding scheme

The Automatic short film Support Funding Scheme aims at quantitatively and qualitatively strengthening and developing the cinema culture in France, as part of the action plan for artistic and cultural education for all, presented by the Ministry of Culture and Communication and the Ministry of Education on 14 December 2001. It helps ensure the development of cultural industries and the expansion of French culture. Lastly, it may contribute to the development of the national audio-visual production and creation as well as to the defence and illustration of the French language and culture.

30 Analysis of the Automatic Support for Production of feature films from the Centre National de la Cinématographie (Automatic Feature Film Support)

30.1 Description of the funding scheme

The Automatic feature film Support Funding Scheme is based on (1) Decree n°90-66 of 17 January 1990 adopted in application of law n°86-1067 of 30 September 1986 and setting up the general principles concerning broadcasting of films and audiovisual works by TV services producers, (2) Order of 21 May 1992 adopted in application of article 6 of Decree n°90-66 of 17 January 1990, amended, setting up the general principles concerning the broadcasting of films and audiovisual works, (3) Decree n°99-130 of 24 February 1999 regarding financial support for the film industry, (5) Order of 22 March 1999 adopted in application of the provisions of chapter II of title IV of Decree n°99-130 of 24 February 1999 concerning automatic support for the production and preparation of feature films (amended by Decree of 31 May 2001, OJ 2 April 1999 – 13 June 2001), (6) Order of 29 September 2004 amending Decree of 22 March 1999, adopted in application of provisions of chapter II – Title III of Decree n°99-130 of 24 February 1999 concerning automatic support for the production and the preparation of feature films, (7) Order of 29 August 2005, setting up the rate for calculating the financial support granted to film production companies of films with a running time more than one hour in application of the provisions of article 15 of Decree n°99-130 of 24 February 1999, (8) Order of 29 August 2005 setting up the rates for calculating the State financial support granted to film production companies for film commercial distribution in the form of video-cassettes for public private use, (9) Order of 29 August 2005, setting up the definitive rate for calculating the financial support granted to film production companies for films with a running time of more than one hour in application of the provisions of article 17 of Decree n°99-130 of 24 February 1999, and (10) Order of 29 August 2005, setting up the rate of supplementary granting for film production companies

adopted in application of the provisions of Article 32 of Decree n°99-130 of 24 February 1999. (see B.4).

Decree n°99-130 of 24 February 1999 was amended by Decree n°2001-771 of 28 August 2001, Decree n°2001-1030 of 6 November 2001, Decree n°2003-27 of 8 January 2003, Decree n°2003-1017 of 24 October 2003, Decree n°2005-1071 of 29 August 2005, and Decree n°2005-1268 of 4 October 2005. Decree n°90-66 was amended by Decree n°2001-1330 of 28 December 2001 and by Decree n°2004-1481 of 23 December 2004.

For contact information see Reply B.14 for the Automatic feature film Support Funding Scheme and for additional information on this scheme, its website: <http://www.cnc.fr>.

30.2 Synopsis of objective territorialisation requirements

30.2.1 Rules

No provisions containing objective explicit territorialisation requirements apply to this funding scheme. The territorialisation requirements are indirect (see Section 30.3 below)

30.2.2 Practice

There is no judicial or administrative practice reported.

30.2.3 Discussion

N/A

30.2.4 Conclusions

N/A

30.3 Synopsis of indirect territorialisation requirements

30.3.1 Practice

There is no relevant judicial or administrative practice reported.

30.3.2 Discussion

This scheme grants automatic support through a points system used to determine the European nature of a work. In order to be eligible for this funding scheme, the work must be defined as a European work, according to the financial points

system laid down in the Decree of 22 March 1999. The Director of the CNC may grant an exemption provided that the film reaches at least 20 points (normally the threshold is 25 points).

Conditions related to artistic and technical elements must be met, such as, in the case of fiction, use of the French language, nationality of the director, author, actors, creative collaborators and workers, and the location for shooting and post-production, and the use of French technical equipment.

With regard to feature films and documentaries, criteria include the obligation that the film company be authorised by the CNC to carry out its activities in France³⁶. Production companies must be managed by directors and administrators who are French nationals (or French residents) or nationals of another Member State of the European Union. Producers must not be controlled³⁷ by one or several persons that are not nationals of one of the EU Member States.

The film must be directed in the French original expression, i.e. totally or mainly in a French-language original version or in a regional language spoken in France, unless the script requires otherwise. All contracts regarding authors, the film director, artists and actors, technicians, and assistants are ruled by French law. Studio and laboratory activities must be carried out in France.

As regards cartoons, French law must apply to all contracts, specialized studios must be located in France, and all services related to picture editing, laboratory voice recording, sound effects, audio, and mixing must be provided by studios located in France.

Moreover, according to Article 32 of Decree n°99-130, a supplementary subsidy of 25% may be granted if the film reaches 64 out of 100 points (or 60 points for films where the script requires derogation). According to Article 146, an additional 5% subsidy may be granted for films that reach 85 points. Under Article 145, an additional 1% daily subsidy may be allocated to films shot in a studio located in France.

The amount of financial support is thus proportional to the expenditure made in France.

In addition, indirect territorialisation requirements are located under the rules on formal nationality certification procedures. Please refer to Section A.3 above.

30.3.3 Conclusions

³⁶ Authorisation of Article 14 of the Film Industry Code (Code de l'Industrie cinématographique)

³⁷ Within the meaning of Article L 233-3 of the French Commercial code.

The Feature Film Production Funding Scheme presents indirect territorialisation requirements in the conditions related to artistic and technical elements (the location for shooting and post-production, and the use of French technical equipment).

30.4. Synopsis of selective aid granting procedures

This scheme grants automatic feature film support (see reply B.13).

30.5 Synopsis of the relation between territorialisation requirements and co-production agreements

Requests for funding for co-productions are assessed according to the same criteria as projects produced by a single producer (see reply B.8). In order to be entitled to the benefits granted to French films, French international co-productions have to fulfil the conditions laid down in the bilateral co-production agreements with France. According to these agreements, except for bilateral co-productions with Great-Britain, Spain and Italy, the minimum contribution of each co-producer shall not be less than 20% and the maximum contribution shall not exceed 80% of the total production costs of the film. The amount of the regional aid shall be included in the total of French public financial support. Most bilateral co-production agreements to which France is a party are based on the principle of national treatment. The films that comply with the requirements of the bilateral co-production agreements are treated as national films in each state party to the agreement. The films fully enjoy all the benefits that are or may be granted in France to national films.

According to bilateral co-production agreements with France, each co-producer cannot contribute less than 20% and more than 80% of total production costs. The contribution of each of the co-producers includes effective technical and artistic participation. The co-producers' contribution relating to creative, technical and artistic staff, cast and facilities must be proportional to their investment.

Under these agreements, the film is considered as a French film, and is thus entitled to benefits granted to French films. Therefore, it must reach 25 out of 100 points to be eligible for the automatic support scheme.

According to Article 11 of Decree n° 99-130, the French financial support cannot have the effect of raising the French participation to more than 50% of the total financial support. However, an exemption can be granted by the Director of the CNC on the basis of artistic and economic considerations.

CO-PRODUCTION BETWEEN FRANCE AND GERMANY

A supplementary selective subsidy is granted to co-productions between France and Germany in the context of the bilateral Mini Treaty signed in Cannes in May 2001. The projects must offer a common interest for the two countries and provide an artistic contribution of quality to the co-production. This selective subsidy, granted by the two States, must not amount to more than 20% of the total production costs. However, the CNC and the Filmförderungsanstalt can respectively grant derogations.

According to Article 10 (IV) of the Decree 90-130, the points system is not applied with regard to international co-operation, in which the French contribution is a minority contribution without effective technical and artistic participation. The three following bilateral co-production agreements authorise a financial contribution.

COPRODUCTION BETWEEN FRANCE AND GREAT BRITAIN

According to the bilateral co-production agreement between France and Great Britain (*Film Co-Production Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic*) the co-producer contribution must not be less than 20% and the maximum contribution must not exceed 80% of total production costs. However, minority participation could be limited to a financial contribution without technical and artistic contribution. Under the conditions laid down in Annex II of this agreement, this financial contribution cannot be less than 20% or more than 30% of total production costs. As a result, without artistic and technical participation, the film will not reach 25 points out 100, and therefore, will not be eligible for French financial support.

COPRODUCTION BETWEEN FRANCE AND SPAIN

Under Article 4 of the bilateral co-production agreement between France and Spain, the co-producer contribution must not be less than 20% or more than 80% of total production costs. The minority contribution shall involve an effective technical and artistic contribution. However, an exemption can be granted by the CNC together with the ICCA (*Instituto de la Cinematografía y de las Artes Audiovisuales*). According to Article 14, a financial participation could be authorized, but this contribution shall not be less than 10% of total production costs.

COPRODUCTION BETWEEN FRANCE AND ITALY

According to Article 4 of the bilateral co-production agreement between France and Italy, each co-producer may not contribute less than 10% or more than 90% of total production costs. Therefore, a financial participation without any technical and artistic requirements is allowed. However, in case of French minority participation, the film shall not be eligible for French financial support.

There seems to be no explicit obstacle resulting from territorialisation requirements under this scheme for the conclusion and implementation of co-production agreements.

30.6 Synopsis of purpose and cultural clauses applying to the funding scheme

The scheme aims at quantitatively and qualitatively strengthening and developing the cinema culture in France, as part of the action plan for artistic and cultural education for all, presented by the Ministry of Culture and Communication and the Ministry of Education on 14 December 2001. It helps ensure the development of cultural industries and the expansion of French culture. Lastly, it may contribute to the development of the national audio-visual production and creation as well as to the defence and illustration of the French language and culture.

31 Analysis of the Selective Support for production of short films by the Centre National de la Cinématographie (Selective Short Film Production Support)

31.1 Description of the funding scheme

The Selective Short Film Production Support Funding Scheme is based on (1) Decree n°90-66 of 17 January 1990 adopted in application of Law n°86-1067 of 60 September 1986 and setting up the general principles concerning film and audiovisual works broadcasting by TV services producers; (2) Order of 21 May 1992 adopted in application of Article 6 of Decree n°90-66 of 17 January 1990 amended setting up the general principles concerning film and audiovisual works broadcasting; (3) Decree n°99-130 of 24 February 1999 regarding financial support for the film industry; and (4) Order of 22 March 1999, adopted in application of the provisions of chapter II of Title V of Decree n°99-130 of 24 February 1999 concerning selective support for the Short Film Production of feature films (amended by decrees of 31 May 2001, of 7 September 2001, of 14 May 2003—In 2006 the decree of 28 July 2006 amended the decree of 22 March 1999).

Decree n°99-130 of 24 February 1999 was amended by Decree n°2001-771 of 28 August 2001, Decree n°2001-1030 of 6 November 2001, Decree n°2003-27 of 8 January 2003, Decree n°2003-1017 of 24 October 2003, Decree n°2005-1071 of 29 August 2005, and Decree n°2005-1268 of 4 October 2005. Decree n°90-66 of

17 January 1990 was amended by Decree n°2001-1330 of 28 December 2001 and Decree n°2004-1481 of 23 December 2004.

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study (see reply B.4).

For contact information see Reply B.14 for the Selective Short Film Production Support Funding Scheme and for additional information on this scheme, its website: <http://www.cnc.fr>.

31.2 Synopsis of objective territorialisation requirements

31.2.1 Rules

No provisions containing objective explicit requirements apply to this funding scheme. The territorialisation requirements are located under selective aid granting criteria. (See Section 31.4 below)

31.2.2 Practice

There is no reported judicial or administrative practice.

31.2.3 Discussion

N/A

31.2.4 Conclusions

N/A

31.3 Synopsis of indirect territorialisation requirements

31.3.1 Practice

There is no judicial or administrative practice reported.

31.3.2 Discussion

Please refer to Section 31.4 below.

31.3.3 Conclusions

Please refer to Section 31.4 below for indirect territorialisation requirements.

31.4. Synopsis of selective aid granting procedures

Articles 78 and 87 of Decree n°99-130 govern this funding scheme. The work must be directed totally or mainly in a French-language original version or in a regional language spoken in France. However, the French-language original version is not compulsory for films derived from an opera or documentary for which the subject-matter requires the use of a specific language, or for cartoons. An additional 1% daily subsidy may be granted to films shot in studios in France.

The scheme presents indirect territorialisation requirements, because of the incentive to film in a studio in France, even though one could argue that qualifying for the 1% bonus for shooting in France is not a requirement for benefiting from the scheme in the first instance.

31.5 Synopsis of the relation between territorialisation requirements and co-production agreements

Requests for funding for co-productions are assessed according to the same criteria as projects produced by a single producer (see reply B.8). In order to be entitled to the benefits granted to French films, French international co-productions have to fulfil the conditions laid down in the bilateral co-production agreements with France. According to these agreements, except for bilateral co-productions with Great-Britain, Spain and Italy, the minimum contribution of each co-producer shall not be less than 20% and the maximum contribution shall not exceed 80% of the total production costs of the film. The amount of the regional aid shall be included in the total of French public financial support. Most bilateral co-production agreements to which France is a party are based on the principle of national treatment. The films that comply with the requirements of the bilateral co-production agreements are treated as national films in each state party to the agreement. The films fully enjoy all the benefits that are or may be granted in France to national films.

The film must be shot in the language of the country of the majority co-producer, if this contribution is of at least 50% of production costs. However this condition may be waived for films derived from an opera or documentary for which the subject-matter requires the use of a specific language, or for cartoons.

There does not seem to be any contradiction with regard to co-production and territorialisation requirements.

31.6 Synopsis of purpose and cultural clauses applying to the funding scheme

The scheme aims at quantitatively and qualitatively strengthening and developing the cinema culture in France, as part of the action plan for artistic and cultural education for all, presented by the Ministry of Culture and Communication and the Ministry of Education on 14 December 2001. It helps ensure the development

of cultural industries and the expansion of French culture. Lastly, it may contribute to the development of the national audio-visual production and creation as well as to the defence and illustration of the French language and culture (see reply B.12).

32 Analysis of the Selective Support for production: advance on receipts by the Centre National de la Cinématographie (Selective Advance on Receipts Production Support)

32.1 Description of the funding scheme

The Selective Advance on Receipts Production Support Funding Scheme is based on (1) Decree n°90-66 of 17 January 1990 adopted in application of Law n°86-1067 of 60 September 1986 and setting up the general principles concerning film and audiovisual works broadcasting by TV services producers; (2) Order of 21 May 1992 adopted in application of Article 6 of Decree n°90-66 of 17 January 1990 amended setting up the general principles concerning film and audiovisual works broadcasting; (3) Decree n°99-130 of 24 February 1999 regarding financial support for the film industry; and (4) Order of 22 March 1999, adopted in application of the provisions of chapter II of Title V of Decree n°99-130 of 24 February 1999 concerning selective support for the Advance on receipts Production of feature films (amended by decrees of 31 May 2001, of 7 September 2001, of 14 May 2003—In 2006 the decree of 28 July 2006 amended the decree of 22 March 1999).

Decree n°99-130 of 24 February 1999 was amended by Decree n°2001-771 of 28 August 2001, Decree n°2001-1030 of 6 November 2001, Decree n°2003-27 of 8 January 2003, Decree n°2003-1017 of 24 October 2003, Decree n°2005-1071 of 29 August 2005, and Decree n°2005-1268 of 4 October 2005. Decree n°90-66 of 17 January 1990 was amended by Decree n°2001-1330 of 28 December 2001 and Decree n°2004-1481 of 23 December 2004.

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study (see reply B.4).

For contact information see Reply B.14 for the Selective Advance on Receipts Production Support Funding Scheme and for additional information on this scheme, its website: <http://www.cnc.fr>.

32.2 Synopsis of objective territorialisation requirements

32.2.1 Rules

No provisions containing objective explicit requirements apply to this funding scheme. Please refer to indirect territorialisation requirements at Section 32.3 below.

32.2.2 Practice

There is no judicial or administrative practice reported.

32.2.3 Discussions

N/A

38.2.4 Conclusions

N/A

32.3 Synopsis of indirect territorialisation requirements

32.3.1 Practice

There is no judicial or administrative practice reported.

32.3.2 Discussion

Indirect territorialisation requirements are located under the rules on formal nationality certification procedures. Please refer to Section A.3 above

32.3.3 Conclusions

Please refer to Section A.3 for indirect territorialisation requirements.

32.4. Synopsis of selective aid granting procedures

Article 10 of Decree n°99-130 governs this funding scheme. It provides that in order to benefit from financial support, the film must be (1) made in a studio or laboratory located in France or in a Member State of the European Union, and (2) defined as a European work, according to a points system.

No indirect territorialisation requirements are located under the selective aid granting criteria and procedures.

32.5 Synopsis of the relation between territorialisation requirements and co-production agreements

Requests for funding for co-productions are assessed according to the same criteria as projects produced by a single producer (see reply B.8). In order to be entitled to the benefits granted to French films, French international co-productions have to fulfil the conditions laid down in the bilateral co-production agreements with France. According to these agreements, except for bilateral co-productions with Great-Britain, Spain and Italy, the minimum contribution of each co-producer shall not be less than 20% and the maximum contribution shall not exceed 80% of the total production costs of the film. The amount of the

regional aid shall be included in the total of French public financial support. Most bilateral co-production agreements to which France is a party are based on the principle of national treatment. The films that comply with the requirements of the bilateral co-production agreements are treated as national films in each state party to the agreement. The films fully enjoy all the benefits that are or may be granted in France to national films.

Within the scope of an international co-production agreement, the film may be shot in the co-producer's country.

32.6 Synopsis of purpose and cultural clauses applying to the funding scheme

The scheme aims at quantitatively and qualitatively strengthening and developing the cinema culture in France, as part of the action plan for artistic and cultural education for all, presented by the Ministry of Culture and Communication and the Ministry of Education on 14 December 2001. It helps ensure the development of cultural industries and the expansion of French culture. Lastly, it may contribute to the development of the national audio-visual production and creation as well as to the defence and illustration of the French language and culture (see reply B.12).

33 Analysis of the Support for the development of feature films by the Centre National de la Cinématographie (Feature Film Development Support)

33.1 Description of the funding scheme

The Feature Film Development Support Funding Scheme is based on (1) Decree n°90-66 of 17 January 1990 adopted in application of Law n°86-1067 of 60 September 1986 and setting up the general principles concerning film and audiovisual works broadcasting by TV services producers; (2) Order of 21 May 1992 adopted in application of Article 6 of Decree n°90-66 of 17 January 1990 amended setting up the general principles concerning film and audiovisual works broadcasting; (3) Decree n°99-130 of 24 February 1999 regarding financial support for the film industry; and (4) Order of 22 March 1999, adopted in application of the provisions of chapter II of Title V of Decree n°99-130 of 24 February 1999 concerning selective support for the Advance on receipts Production of feature films (amended by decrees of 31 May 2001, of 7 September 2001, of 14 May 2003—In 2006 the decree of 28 July 2006 amended the decree of 22 March 1999).

Decree n°99-130 of 24 February 1999 was amended by Decree n°2001-771 of 28 August 2001, Decree n°2001-1030 of 6 November 2001, Decree n°2003-27 of 8 January 2003, Decree n°2003-1017 of 24 October 2003, Decree n°2005-1071 of 29 August 2005, and Decree n°2005-1268 of 4 October 2005. Decree n°90-66 of 17 January 1990 was amended by Decree n°2001-1330 of 28 December 2001 and Decree n°2004-1481 of 23 December 2004.

There were no significant regulatory changes during the reference period from 2001 to 2005 affecting the legal questions addressed by this study (see reply B.4).

For contact information see Reply B.14 for the Feature Film Development Support Funding Scheme and for additional information on this scheme, its website: <http://www.cnc.fr>.

33.2 Synopsis of objective territorialisation requirements

33.2.1 Rules

No provisions containing objective explicit requirements apply to this funding scheme. The territorialisation requirements are located under selective aid granting criteria (see Section 33.4 below).

33.2.2 Practice

There is no judicial or administrative practice reported.

33.2.3 Discussion

N/A

33.2.4 Conclusions

N/A

33.3 Synopsis of indirect territorialisation requirements

33.3.1 Practice

There is no judicial or administrative practice reported.

33.3.2 Discussion

Indirect territorialisation requirements are located under the selective aid granting criteria and procedures. Please refer to Section 33.4 for a thorough assessment of such requirements.

In addition, indirect territorialisation requirements are located under the rules on formal nationality certification procedures. Please refer to Section A.3 above.

33.3.3 Conclusions

Please refer to Section 33.4 below for indirect territorialisation requirements.

33.4. Synopsis of selective aid granting procedures

In order to benefit from financial support, the film must be (1) directed entirely or mainly in a French-language original version or in a regional language spoken in France and (2) meet the investment approval criteria.

To obtain the investment approval, the work must be defined as a European work and achieve at least 25 out of 100 points in the financial points system. The Director of the CNC may grant an exemption when the work reaches at least 20 points. Points can be won when the conditions of territorialisation relating to artistic and technical elements are met.

In the case of fiction, the artistic and technical investments criteria include the French original expression, the nationality of the director, authors, actors, creative collaborators, and workers, as well as the shooting and post-production location and equipment used.

In the case of feature films and documentaries, film industry companies must be authorised by the CNC to carry out their activities in France³⁸. Producers must be managed by directors and administrators who are French nationals (or French residents) or nationals of another Member State of the European Union. Producers must not be controlled³⁹ by one or several persons that do not have the nationality of one of the EU Member States. The producer must be European in accordance with the conditions laid down in Article 7 of Decree 99-130.

The film must be directed entirely or mainly in the French language or in a regional language spoken in France, except in cases mandated by the script.

All contracts regarding authors, the film director, artists and actors, technicians, and assistants are ruled by French law, and activities relating to studio and laboratory are carried out in France.

Each automatic support generated by the exploitation of the work (TV broadcasting, exploitation in theatres and in video-cassette and video-CD-Rom form) shall be determined in proportion to the expenditures spent in France.

The scheme arguably presents indirect territorialisation requirements, through the technical and artistic investment criteria (such as shooting location and use of French equipment). Implementation of the financial points system reveals territorialisation requirements, as the amount of financial support is proportionate to the amount of expenditures made in France.

³⁸ Authorisation of Article 14 of the Film Industry Code (Code de l'Industrie cinématographique)

³⁹ Within the meaning of Article L 233-3 of the French Commercial code.

33.5 Synopsis of the relation between territorialisation requirements and co-production agreements

Requests for funding for co-productions are assessed according to the same criteria as projects produced by a single producer (see reply B.8). In order to be entitled to the benefits granted to French films, French international co-productions have to fulfil the conditions laid down in the bilateral co-production agreements with France. According to these agreements, except for bilateral co-productions with Great-Britain, Spain and Italy, the minimum contribution of each co-producer shall not be less than 20% and the maximum contribution shall not exceed 80% of the total production costs of the film. The amount of the regional aid shall be included in the total of French public financial support. Most bilateral co-production agreements to which France is a party are based on the principle of national treatment. The films that comply with the requirements of the bilateral co-production agreements are treated as national films in each state party to the agreement. The films fully enjoy all the benefits that are or may be granted in France to national films.

33.6 Synopsis of purpose and cultural clauses applying to the funding scheme

The scheme aims at quantitatively and qualitatively strengthening and developing the cinema culture in France, as part of the action plan for artistic and cultural education for all, presented by the Ministry of Culture and Communication and the Ministry of Education on 14 December 2001. It helps ensure the development of cultural industries and the expansion of French culture. Lastly, it may contribute to the development of the national audio-visual production and creation as well as to the defence and illustration of the French language and culture (see reply B.12).

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Attachments:

- Replies to the legal questionnaire by Yannick-Eléonore Scaramozzino, attorney at law, Scaraye – Cabinet d’Avocats, France
- Regulations for France