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treaties and strategies**

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## What the boomerang misses: pursuing international film co-production treaties and strategies

### Abstract

This paper illustrates some of the dynamic ways that members of the Korean, Australian, New Zealand and Chinese creative and cultural industries have engaged with international instruments such as co-production treaties. Strategies, benefits returned and lost costs, that is, sacrifices that are made in the process of producing a film or digital media program in more than one country, and/or with an international team are investigated to reveal how creators are engaging with the demands of different governments' policies. It is hoped that this paper and the larger research project to which it is attached will assist scholars, creative and cultural industry practitioners and policymakers to understand the dynamics of international linkages and transnational cultural production flows – with a view toward enhancing the field of Korean Studies and Korea's future role in the power dynamics of cultural industries across the globe.

### Keywords

boomerang, misses, strategies, pursuing, production, international, film, treaties, co

### Disciplines

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# What the Boomerang Misses: Pursuing International Film Co-production Treaties and Strategies

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## ABSTRACT

*This paper illustrates some of the dynamic ways that members of the Korean, Australian, New Zealand and Chinese creative and cultural industries have engaged with international instruments such as co-production treaties. Strategies, benefits returned and lost costs, that is, sacrifices that are made in the process of producing a film or digital media program in more than one country, and/or with an international team are investigated to reveal how creators are engaging with the demands of different governments' policies. It is hoped that this paper and the larger research project to which it is attached will assist scholars, creative and cultural industry practitioners and policymakers to understand the dynamics of international linkages and transnational cultural production flows – with a view toward enhancing the field of Korean Studies and Korea's future role in the power dynamics of cultural industries across the globe.*

**Key words:** *Korean film industry, film policy, international co-production treaties, audio-visual cultural industries*

Boomerangs, which include throwing-sticks and clubs, come in diverse shapes and sizes. Ancient Egyptian, Australian Aboriginal and North American indigenous cultures, among others, used them primarily as hunting tools, but they were also used for starting fires, making music and playing sports. When launched correctly, a boomerang either follows an arc in the air and then returns close to the thrower or stops when it hits an intended target. Whether working alone or in a small group, throwers can maximise the boomerang's potential when the design, accuracy/technique, objective/target and surrounding elements, including competition, are taken into consideration and fully understood. Knowing what the boomerang can catch as well as miss in its path, that is, knowing its limitations, is a significant aspect of this process. Practitioners learn distinctive strategies to compensate for these limitations.

Official International Film Co-production Treaties (hereafter ICPTs), which are endorsed by national governments, are similar to boomerangs. They come in diverse shapes and sizes depending on their geographical specificity, intended function, management strategy and design. They are extremely important in the context of global trade, as discussed in detail by Goldsmith and O'Regan (2003, 2005, 2008), Goldsmith (2003, 2007), O'Regan and Goldsmith (2002), and Yecies (Forthcoming, 2008a, 2008b, 2007), Yecies and Goldsmith (2009) and Yecies and Shim (2007). As a translative instrument they harmonise economic and cultural relations between nations and bridge the gap between their diverging film regulations. ICPTs, which used to be primarily bilateral in nature, but are now witnessing more multilateral projects, are valued as a mechanism for developing local media industries. Along with informal personal networking and

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company-to-company deals, they are one of the primary pathways for collaboration between filmmakers and content producers from one or more nations. Like the boomerang, ICPTs have intentional targets and require a particular execution technique. However, both participating and potential producing parties often encounter unexpected hurdles in the returning pathways of such collaborative instruments. Although ICPTs are not obligatory, and certain countries embrace them more than others, there is a dark side to pursuing such agreements. Overcoming the central tensions that are addressed in this paper is more important now than ever before as the burgeoning creative and cultural industries of Korea and China look to each other and to Australia and New Zealand for new international co-production (hereafter ICP) strategies. They all share the desire to compete against the almighty US industry – which does not have any ICPTs nor does it feel the need to pursue such collaborative international instruments – and its culturally-specific films, which have long ensured the effectiveness of the Hollywood majors' overseas campaigns illustrated by Vasey (1997), Jarvie (1992) and Thompson (1985). They are all looking for ways to promote and/or preserve national identity as well as diversity from inside and from outside their audio-visual and cultural industries.

This paper introduces the benefits of engaging with official ICPs as well as the lost costs for producing partners. It will also present various ICP projects that have experienced pitfalls with a view toward improving future opportunities between the aforementioned nations. Ultimately, the aim is to illustrate some of the dynamic strategies that creative and cultural industries are engaging to meet the demands of different governments' policies and to overcome the limitations of representative cross-cultural linkages made while producing a film, TV show or digital media program in more than one country, and/or with an international team. There are only a small number of cases addressed in this paper as well as in the papers offered by Ae-Gyung Shim and Ben Goldsmith. This is a fascinating topic that needs more attention elsewhere, but for today it is hoped that scholars, creative and cultural industry practitioners and policymakers will gain a deeper understanding of the dynamics of transnational cultural production flows – with a view toward enhancing Korea's future role in the power dynamics of cultural industries across the globe.

### **PERCEIVED BENEFITS VS. THE DARK SIDE**

Official ICPs are facilitated through memorandums of understanding (MOUs) and treaties between pairs of countries. Under the rules of these instruments, each country agrees to specific guidelines under which a co-production can occur. These types of agreements have two ideal (underlying but distinctive) purposes: one aims for an economic benefit and the other results in a collaborative cultural experience. ICP agreements have a significant positive spin. They are 'offensive' because they compound funding sources, enabling producers to make a bigger and better end-product – i.e. feature film, documentary, mini TV series or telemovie – that can potentially compete with a better-funded US production.

All formal agreements generally share the same fundamental aims and outcomes – namely they are designed to facilitate ongoing international cultural exchange via audio-visual production collaborations, collective financing for projects, and new distribution and thus consumption markets for completed projects. Within this process co-production partners acquire privileged insights and inroads into each other's market while enabling them to combine their creative and technical expertise. The ultimate outcome is a film, television program or other digital media content that from the inside of each country has cleared local content regulations and thus can be considered a 'domestic' production in

each of the respective partner countries. This national status achieved by an international co-production provides unprecedented access to markets and foreign audiences that might otherwise be governed and protected by local censorship and import regulations in those markets. Historically, co-productions have generated larger revenues in smaller markets than the domestically-produced films from those markets because of the ability to cast large stars from the partnering countries, resulting in higher fees that broadcasters (of telemovies and miniseries) or film distributors are willing to pay for the end product. Generally speaking, for instance, a successful China-Korea co-produced film (usually the first named country denotes a majority partner in terms of content and financing) potentially would have access to the estimated 36,000 and 2,058 cinema screens in China and Korea respectively<sup>2</sup> and hundreds of millions of China's media consumers – whether via public cinema screens, private television screens at home or mobile screens on portable devices.<sup>3</sup> Simply stated, after a period of courtship between the governments and creative industries of two countries and the signing of an ICPT, possibilities are cast outward with the hopes of returning something economically-viable *and* culturally-enriching.

However, as is the case when throwing a boomerang, there is a real possibility of missing the target – particularly if the target is moving as in the case of the industry's current economic conditions or any nation's ratings and censorship guidelines, for that matter. Over time, the combined pools of cash in each country that producers gain access to have proven more popular than having a collaborative cultural experience because of the brunt of criticism aimed at the exploitation of the game played to acquire this cash. In this sense, ICP agreements are 'defensive' or 'protective' because they set minimum requirements for cultural content and other 'local' employment obligations. Here, something that can be considered local is often sought-after to fulfil policy requirements, that is, to tick a box on a form, rather than to grow from an organic desire to tell a local story. I will return to this forced nature and negative context of local content requirements shortly.

Among the countries mentioned thus far, Australia leads the pack with one of the oldest agreements in the form of an MOU with France signed in 1986. Australia's other agreements established, in chronological order, include: United Kingdom (1990), Canada (1990), Italy (1993), New Zealand (MOU, 1994), Vietnam (MOU, 1996), Israel (1997), Ireland (1998), Germany (2001), China (2006) and Singapore (2008), while proposed treaties with Denmark, Malaysia, India and South Africa are currently pending (and another treaty with Fiji died in 2004). New Zealand is the runner-up with ten agreements, including Spain, South Korea, Ireland, Germany, the UK, Singapore, Italy, France, Canada and Australia. Presently, China has signed co-production treaties with Canada, Italy and Australia and is under negotiation with the UK, India and Bulgaria. South Korea is a relative latecomer to signing ICPTs, having signed treaties with France (2006) and New Zealand (2008). By way of comparison, as of 2005 the Canadian government has displayed the most conscientious enthusiasm about pursuing ICPTs. Canada has had more ICPTs than all of these combined, with a total of 52 agreements across Europe, Asia, North and South America and parts of Africa – namely, as an effective mechanism for stimulating the development of its national audio-visual and creative industries. Canada is

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<sup>2</sup> Screen Australia, *Get the Picture*, "Top 20 countries ranked by number of cinema screens, 2003–2007", Available at <http://www.afc.gov.au/gtp/acompscreens.html>, accessed 11 January 2009. At the moment, the number of Australian screens is 2,000.

<sup>3</sup> Here, 'successful' means that the film in question passes China's rigorous two-stage censorship approval process, which involves pre-production/script and final cut/content approval.

unique in this regard, nonetheless, their track record of ICPTs makes South Korea and China appear more ambivalent about reaching out to potential international collaborations in this way – and for good reasons. However, it should be remembered that there are many unofficial co-production activities amongst these countries. As is going to be shown in the case of Korea, whilst Korea's official ICPTs number only two, its international co-production activities have noticeably increased in the early 2000s with the globalization efforts initiated by Korean production companies – particularly in conjunction with other Asian countries such as China and Japan.

Korea, which has not signed an ICPT with China yet, has pursued the Chinese market through multiple private levels. Since 2006, production companies such as MK Pictures, Beijing Nabi Pictures and Boram Pictures have actively sought-after co-production opportunities with the PRC. According to China's film law, any film that has been completed with a mixture of Chinese funding, staff and actors, as well as foreign investment, can be treated as a 'local' Chinese film. Thus this 'local' film is not restricted by import quota regulations in China (Moon *Cine21* no. 550). While the government (via the Korean Film Council's) aim of signing an ICPT with China is lagging behind its ICPT with New Zealand, the aforementioned private companies have found their own pathways for entering the Chinese market. Here, the Korean Film Council (KOFIC) and, partly, the Korean Creative Content Agency (KOCCA) – through several targeted industry networking events and project developments between the Korean and Chinese industries – have been invaluable catalysts for bi-lateral collaborations. One recent outcome of these efforts is a film called *Sophie's Revenge*. This film stars Korean actor So Ji-seup alongside the beautiful and talented Chinese actresses (and now pop singers) Zhang Ziyi and Fan Bingbing. It is directed by Yimeng Jin and produced by the Beijing Perfect World Co and CJ Entertainment. At the time of writing, *Sophie's Revenge* is waiting to be released simultaneously in China, Hong Kong and Korea on 14 August 2009.

In terms of ICPTs impacting on how film industries conduct business, it is no secret that US producers will go anywhere that offers the best bottom-line, which is also a moving target; they favor the national industries in New Zealand, Australia and parts of Europe because of the attractive tax and rebate incentives that their governments offer them to produce films there.<sup>4</sup> One thing to be remembered here is that ICPTs exist next to other instruments such as production incentives, location and producer offset incentive schemes, which include cash rebates (often presented at the airport upon departure), tax credits (deductions, exemptions and waivers) and advance or post-production rebates. Governments use these types of incentives to develop economic growth, to modernise industry infrastructure and to increase domestic employment and training opportunities – all while promoting tourism. Members of the US film industry have been taking advantage of these incentives while ignoring a more direct pathway toward official ICPTs. However, today the US film industry is facing unique challenges with the national industry in China, in which collaborative partnerships seem indirectly possible through an ICPT mechanism. Once signed, the China-Bulgaria ICPT will provide new opportunities for a large part of Hollywood because of the relationship between Bulgaria's previously state-owned Boyana Film studio and the US film industry. Boyana Film studio is now known as the US-owned NU Boyana Film Studios, and is one of the largest film production complexes in Europe (owned by California-based Nu Image/Millennium Films).<sup>5</sup> To me this deal really seems

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<sup>4</sup> Nick Holdsworth, "Film production competition heats up in Eastern Europe", 9 April 2009, *Variety.com*, Accessed 1 March 2009.

[www.variety.com/article/VR1118002301.html?categoryid=2866&cs=1&query=bulgaria+film+industry](http://www.variety.com/article/VR1118002301.html?categoryid=2866&cs=1&query=bulgaria+film+industry)

<sup>5</sup> Before it purchased the Bulgarian studio from the government, Nu Image had made at least 60 feature films

to be a backdoor US-China agreement, which will provide at least certain members of the US film industry increased access to the Chinese market. This is one masked but direct way ‘in’ to China.

One might ask why Korea and the US among other countries are so keen to gain access to the Chinese market? The answer is this: the total number of films that have been made since the government initiated market liberalisation in 2001, has made this world power a hot market. China is in the middle of a boom. Apart from the dominating state-controlled film studios, more than 350 private domestic companies across all aspects of pre- and post-production have entered the market. Next to India and the US, China is one of the largest film producers across the planet. According to *The Hollywood Reporter’s Special Issue on Chinese Film Industry* (undated, p. 2-3), in 2007 the industry produced an all-time high of 402 feature films (up from 330 in 2006) as well as another 122 HD digital films for television – all part of the 1100 feature film applications for that year of which 82% were given the green light for production. Among the 402 films made in China in 2007 were about 50 ICPs with 20 different countries and regions. Producing with a Chinese partner is a luring proposition for some of the previously-mentioned reasons, such as access to a massive number of eyeballs and wallets.

However, the coming together of two countries with different cultural backgrounds, such as in a Chinese-Canadian co-production, is proving to be more difficult than expected. The benefits of reduced costs – estimated to be a fraction of producing in the US or in Hong Kong – can quickly evaporate because of divergences between local and foreign production methods. On the ground and in their own way, Chinese filmmakers are a talented and experienced mob. But they do things differently from, say, a Canadian production crew. This fact has caused numerous ICP projects, such as the Canadian-Chinese four-part television miniseries *Iron Road* (2008), starring Peter O’Toole, Sun Li (China), Sam Neill (New Zealand), Tony Leung (Hong Kong) and Luke MacFarlane (Canada) to go vastly over budget. To be fair, production crews on both sides of an agreement still have a lot to learn about each other’s local customs and traditional operating methods. Appropriate expectations, in other words, reasonable targets achievable through experience, are needed for such dynamic international collaborations.

At the same time, the Chinese government’s approach to media regulations is vastly different from other nations, which makes China a challenging partner. In essence, the State Administration of Radio, Film, and Television (SARFT) is focused on ‘purifying’ screen content with the goal of developing a child-friendly screen culture. Films portraying hardcore sex, rape, prostitution or nudity, among other things, are forbidden. The use of obscene or sexually-implicit dialogue and soundtrack music in domestic films is forbidden too, even though this style of content is often allowed in foreign screenings. The violent attempted rape scene in the James Bond film *Quantum of Solace* (2008), which opened un-edited across China on 1250 screens, is a case in point. However, censorship targets often move without warning, making it more difficult for local filmmakers, let alone foreign co-producing partners, to hit the bullseye – particularly given China’s two-layered censorship approach: once in the script development stage and again in the final-cut stage. The Australian producers of Bruce Beresford’s film *Mao’s Last Dancer* (expected to be released in 2009), which is based on the popular autobiographical book by Li Cunxin, desired the film to be a formal co-production film, but the Chinese government (represented by the China Film Co-Production Corporation,

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in Bulgaria over a 10-year period.

CCFC) has decided not to sanction it. Hence, ‘China’ will be but one of many locations where *Mao’s Last Dancer* was shot.

Nonetheless, even for countries with similar cultural backgrounds it is still challenging to pursue an ICP. Take the example of *BeastMaster* (1999-2002), a 66-episode official Australian-Canadian co-produced television series that was shot on location in Queensland, Australia. This is a case that reveals further insights into some of the trade-offs and controversies associated with ICPs. The original material was based on a sword-fantasy science fiction novel written by Andre Norton and published initially in the US in 1959. Undoubtedly, the project brought valuable work to the Australian production industry. Australian broadcasters acquired the US-looking *BeastMaster* series for approximately one-tenth of the cost of other Australian television programs that had been pre-sold to them. Hence, this seemingly foreign production simultaneously met quota conditions surrounding Australian content while maintaining a significant competitive advantage over truly local content. However, given that the series evidently did not contain Australian or Canadian content one can say that the program’s producers exploited the ICP system to leverage funding from the Australian Film Finance Corporation (hereafter FCC), the then-Government’s core agency for financing film and television productions that met the objectives of the Australian Content Standard under the *Broadcasting Services Act 1992*.<sup>6</sup> These were standards that attempted to galvanise the broadcasting of domestic content, which reflected multiculturalism and promoted (Australia’s) cultural identity – all while enabling the local industry to flourish under its own creative control.

Another interesting formal ICP is Peter Weir’s Australian-French film *Green Card* (1990), which was shot entirely in New York and distributed by Australia’s Village Roadshow. It showcased the poorly English-spoken French star Gérard Depardieu and the all-American actress Andie MacDowell. Although there is a noticeable absence of Australian cultural identity, *Green Card* qualified as a ‘locally-funded’ production under the FCC at the time. Although discussed only tersely, the *BeastMaster* and *Green Card* productions highlight some of the dear costs and sacrifices that follow ICPs and their impact on local industries. More research is needed on these and other films in order to better understand how to overcome the challenges of international film policy instruments.

### **CONCLUSION: OVERCOMING THE ‘DARK SIDE’**

For some producers who are familiar with working alone, ICPTs are unproductive and impractical for five primary reasons: 1) they are too complex; 2) they remain out of synch with other incentives available within the majority partner’s own country; 3) producers are forced to balance loyalties between two sets of rules, two sets of government funding, two sets of bureaucracies and two sets of crews – often speaking languages other than their native tongue; 4) they can cost more because of the need to negotiate complex legal agreements; and 5) on a smaller note, different time zones can make communication difficult, particularly if the project is a European, Australian and North American co-production. Despite these challenges, treaty co-productions seem to work well for children’s drama and animation because of the ability to dub the end product into multiple languages, that is, increasing the production’s flavour of local identity without sacrificing

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<sup>6</sup> On 1 July 2008 the FCC and the Australian Film Commission (AFC) merged under the umbrella brand name of Screen Australia, which is now the centralised government agency responsible for encouraging local and international investment in and promotion of Australia’s screen production industries. In 2005, the Australian Communications and Media Authority’s *Broadcasting Services (Australian Content) Standard 2005* superseded the Australian Content Standard under the *Broadcasting Services Act 1992*.



the cost. As Betz (2001, 35) observes, “The tensions between national identity and international policy are borne out in the ultimate untranslatability of its specific confluences of sound and image, voice and body, language and performer.”

In defence of employment situations, trade guilds, associations and unions comprise the largest and the most vocal opposition to ICPTs because they are perceived to be taking jobs away from locals by taking the pre-production, shooting and post-production to another country. For this reason, Screen Australia has taken great care to consult with unions wherever and whenever possible during the selection and construction of international agreements. For the whole of a national industry, ICPs can ultimately damage or impede local industry development, which is an explicit objective of supporting regulations. As evidenced by the films discussed today, ICPs can also circumvent cultural imperatives, because they weaken the cultural relevance of the content to any one international partner by trying to appeal to and represent the cultural identities of all partnering countries all at once. Rather than directly impacting adversely on other art forms such as theatre, music, visual arts, these five problems potentially plague everyone who works in the industries that inform or entertain audiences (including but not limited to journalists, actors, dancers, sportspeople, cartoonists, photographers, orchestral & opera performers and others working in public relations, advertising, book publishing and website production.

Those who avoid ICPs tend to consider their terms as virtually unworkable. That is, the creative and production control process is difficult for the partnering producers from each territory, adding, among other things, greater costs (e.g. duplication of fees and extra admin, legal and accounting costs). Furthermore, while ICPTs tend to cater for film and television production, other areas of the audio-visual and cultural industry, such as in theatre or music tend to pursue informal or unofficial agreements and collaborative events/festivals rather than a predetermined set of government rules and regulations. In addition, the gaming industry, unlike the film and television industry, tends to conduct more unique one-on-one international commercial agreements as opposed to following general co-production treaties due to the availability of different types of direct markets and distribution channels.

For scholars in Korean Studies and in Film and Cultural Studies as well as for audio-visual and cultural industry practitioners, the issues presented here are of critical concern for the Korean film industry but they largely remain under-examined. Further research into these matters is necessary because it promises to provide new perspectives on the dynamics of such international linkages and transnational cultural production flows in the Asia-Pacific region, while assisting cultural practitioners and policymakers to understand Korea’s future role in the power dynamics of cultural industries across the globe. Ultimately, it is hoped that this and other similar projects will encourage stronger bonds between Korea and its Asia-Pacific neighbours, specifically regarding the resistance to the “Americanization” (i.e. globalisation) of digital media, by fostering dialogue, promoting networking opportunities and informing future policy development. The preliminary findings in the present paper may be significant because they promise to expand existing knowledge about traditional media and to offer insights into the development of cultural content for new digital media in Korea, China, Australia and New Zealand – nations that are eagerly searching for effective pathways toward international collaboration.

However, like the boomerang, the design/general properties, functionality and execution of ICPTs is paramount for success, let alone, sustainability. Clear targets need to

be identified and controls for influencing variables need to be in place. Understanding the best ways forward requires an appreciation of each other's history and culture, as well as the characteristics of each other's modern audiences and media consumers. On paper, it is precisely the ICPT that promises to provide deep and privileged insights into these issues. Yet, in reality, as suggested today, the hunt for the so-called perfect project and the communication required to complete this project is marred by a fear of what is lost or what it will cost to do so.

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