

LEND-LEASE SETTLEMENT¹

Agreement signed at Washington May 16, 1946

Entered into force May 16, 1946

Amended by agreement on June 24 and 26, 1946²

60 Stat. 1753; Treaties and Other
International Acts Series 1532

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF INDIA ON SETTLEMENT FOR LEND- LEASE, RECIPROCAL AID, SURPLUS WAR PROPERTY, AND CLAIMS

The Government of the United States of America and the Government of India have reached agreement as set forth below regarding settlement for lend-lease, reciprocal aid, and surplus war property located in India and for the financial claims of each Government against the other arising as a result of World War II. This settlement is complete and final. Both Governments, in arriving at this settlement, have taken full cognizance of the benefits already received by them in the defeat of their common enemies, and of the aid furnished by each Government to the other in the course of the war, and no further benefits will be sought as consideration for lend-lease, reciprocal aid and surplus war property, or for the settlement of claims or other obligations arising out of the war, except as herein specifically provided.

1. (a) The term "lend-lease article" as used in this Agreement means any article transferred by the Government of the United States under the Act of March 11, 1941,³

(i) to the Government of India, or

(ii) to any other government and retransferred to the Government of India.

(b) The term "reciprocal aid article" as used in this Agreement means any article transferred by the Government of India to the Government of the United States under reciprocal aid.

¹ In a note of June 12, 1948, to the American Ambassador at Karachi, the Pakistani Minister of Foreign Affairs gave assurance that "the terms of the United States Settlement Agreement with India of May 16, 1946, would continue to devolve on the Government of Pakistan to the extent to which they are applicable and have to be fulfilled in Pakistan."

² *Post*, p. 1233.

³ 55 Stat. 31.

2. No payment will be made by either Government to the other on account of lend-lease and reciprocal aid articles and services transferred or retransferred at any time to either Government.

3. The Government of India agrees that no payment will be required from the Government of the United States on account of articles and services furnished to the United States armed forces in India between September 2, 1945, and May 31, 1946, both dates inclusive.

4. (a) The Government of India hereby acquires full title, without qualification as to disposition or use, to all lend-lease articles now in the possession of the Government of India (including lend-lease components of installations located in India and all lend-lease petroleum products in India other than aviation gasoline) except lend-lease articles described in Section 5 hereof.

(b) The Government of the United States agrees to complete as early as possible the transfer (which term, except as hereinafter provided, shall include delivery aboard ocean vessel in a United States port) of the articles selected by the Government of India which were covered by lend-lease requisitions filed by the Government of India with the Foreign Economic Administration and which were under contract, or were completed, but had not been transferred, on September 2, 1945. Such transfer will be made in the quantities and according to the specifications and other conditions, except as to time of delivery, set forth in the covering requisitions, to the extent that such articles are or will be available to the Government of the United States for transfer to the Government of India. Title to the articles covered by this paragraph shall pass to the Government of India immediately upon loading of the articles on board ocean vessel in a United States port, provided that risk of loss not recoverable from the supplier, carrier or other third party, shall be assumed by the Government of India upon shipment from the factory or other premises of the supplier. Title to any articles that shall not have been loaded on board ocean vessel in a United States port prior to midnight on July 31, 1946, or two months after receipt by the Government of India of notice of availability, whichever is later, shall be deemed to have been transferred as of such later date, and thereafter the Government of India shall be responsible for storing and moving such articles within the United States and for delivering such articles aboard ocean vessel in a United States port. The Government of the United States will pay the cost of ocean transportation to India on United States flag vessels only of such of the articles covered by this paragraph as are loaded aboard ocean vessel prior to July 1, 1946.

(c) The Government of the United States shall be deemed to have acquired, as of September 2, 1945, full title, without qualification as to disposition or use, to all reciprocal aid articles in the possession of the Government of the United States on that date, and to all articles furnished to the United States armed forces in India after that date, except that any reciprocal aid

articles or other articles furnished to the United States armed forces in India and incorporated into installations in India are hereby deemed to be returned to the Government of India as of the date the United States armed forces relinquish possession of such installations.

5. (a) The Government of the United States, in paragraph 12 of the Agreement Relating to Military Holdings (No. IV) dated March 27, 1946, between the Governments of the United States and of the United Kingdom,⁴ recognized that a proportion of United Kingdom lend-lease military holdings in India would be earmarked, as of April 1, 1946, for the requirements of the forces under command of the Commander-in-Chief India, and consented to the transfer of such holdings by the Government of the United Kingdom to the Government of India. In that Agreement, it was stated that the conditions governing the use and disposal of the lend-lease articles so earmarked would form the subject of negotiations between the Governments of the United States and of India. The transfer to the Government of India of those articles is hereby effected and the privileges of the Government of the United Kingdom and its obligations to the Government of the United States under that Agreement with respect to such articles are no longer operative. The privileges of the Government of India and its obligations to the Government of the United States with respect to such articles shall be those defined in this Agreement and shall be compatible with the principles of international security and welfare set forth in the Charter of the United Nations.⁵

(b) The Government of the United States hereby agrees that the lend-lease Harvard (AT-6 or AT-16) and Cornell (PT-26) aircraft and related spares now in the possession of the Royal Indian Air Force shall be treated in the same manner, and shall be subject to the same privileges and obligations, as the lend-lease articles covered by paragraph (a) above.

(c) The articles described in paragraphs (a) and (b) above will be referred to in this Agreement as "lend-lease articles in the possession of the armed forces under command of the Commander-in-Chief India".

(d) The Government of the United States hereby consents to the transfer, for purposes compatible with the principles of international security and welfare set forth in the Charter of the United Nations, of any lend-lease articles in the possession of the armed forces under command of the Commander-in-Chief India, to the United Kingdom armed forces without prior authority of the Government of the United States subject to the following understandings:

(i) Subsequent reports, in such practicable form and detail as may later be mutually agreed, regarding transfers of such articles will be made to the Government of the United States;

(ii) The Government of the United States reserves the right to reopen with the Government of India the question of requiring prior consent of

⁴ TIAS 1509, *post*, UNITED KINGDOM.

⁵ TS 993, *ante*, vol. 3, p. 1153.

the Government of the United States to such transfers, should there be a material change in the existing arrangements between the United Kingdom armed forces and the armed forces of the Government of India.

(e) The Government of the United States, with respect to lend-lease articles in the possession of the armed forces under command of the Commander-in-Chief India, reserves the right to recapture any such articles which, as of the date upon which notice requesting return is received by the Government of India, are in the possession of the armed forces under command of the Commander-in-Chief India, although the Government of the United States does not intend to exercise generally this right of recapture. In respect of cases where it wishes from time to time to exercise its right of recapture, the Government of the United States will give reasonable notice of its intention and will provide full opportunity to the Government of India for discussion of that Government's need for the articles in question, without limiting the right of recapture.

(f) The Government of India will not, without prior consent of the Government of the United States, or except as specifically provided in this Agreement, transfer lend-lease articles in the possession of the armed forces under command of the Commander-in-Chief India, to any other government outside India for military use, or dispose of such articles for civilian use outside India, whether by sale, loan or otherwise, but such articles may be transferred, used or disposed of in India without restriction. Transfers made under provisions of this paragraph will be made only for purposes compatible with the principles of international security and welfare set forth in the Charter of the United Nations.

(g) Those articles in the United Kingdom military holdings in India which have been or may be declared by the Government of the United Kingdom as surplus to its requirements are to be retransferred for civilian use in India to the Government of India, and the Government of the United States, in consideration of the mutual undertakings described in this Agreement, hereby consents to the retransfer to the Government of India of such articles for civilian use in India; and the Government of India, may, without restriction, use in India, or dispose of for use in India, any such articles, without giving rise to any liability to the Government of the United States. It is recognized by the Government of the United States that the estimates provided by the Government of India of the types and quantities of the articles covered by this paragraph represent an indication of the order of the quantities involved which, although providing a fair measure of the overall amount covered, will be subject to variations as to particular items and quantities.

6. (a) The Government of India hereby assumes responsibility for the settlement and payment of claims against the Government of the United States or members of the United States armed forces, arising from acts or omissions occurring before June 1, 1946, in the course of military duties of

members of the United States armed forces in India to the same extent as the Government of India assumed responsibility under reciprocal aid prior to September 2, 1945.

(b) Except as provided in this Agreement, financial claims between the two Governments arising out of existing arrangements, where the liability for payment has heretofore been acknowledged and the method of computation mutually agreed, are not covered by this settlement as they will be settled in accordance with such arrangements.

(c) Notwithstanding any other provisions of this Agreement, the following claims will be settled in accordance with procedures already established or to be established after appropriate discussion:

(i) Claims arising out of cash reimbursement lend-lease requisitions filed by the Government of India, and

(ii) claims arising out of lend-lease requisitions for locomotives and rolling stock in which the Government of India agreed to pay for the postwar use of such equipment.

(d) In consideration of the undertakings in this Agreement, and with the objective of arriving at as comprehensive a settlement as possible and of obviating protracted negotiations between the two Governments, all other financial claims whatsoever of one Government against the other which arose out of lend-lease or reciprocal aid, or otherwise arose on or after September 3, 1939 and prior to September 2, 1945, out of or incidental to the conduct of World War II, and which are not otherwise dealt with in this Agreement, are hereby waived, and neither Government will hereafter raise or pursue any such claims against the other.

7. (a) The Government of the United States, in consideration of the mutual undertakings described in this Agreement, hereby acknowledges that the Government of India has acquired full title to all United States property in India which has heretofore been declared to the Office of the Foreign Liquidation Commissioner, United States Department of State, as surplus to the requirements of the United States Department of State or the United States War or Navy Departments, and which has heretofore been delivered to the Government of India or is in the process of being delivered to the Government of India; and will hereafter acquire full title to all United States property in India hereafter declared to the Office of the Foreign Liquidation Commissioner, United States Department of State, as surplus to the requirements of the United States Department of State or the United States War or Navy Departments.

(b) The Government of India will undertake and vigorously prosecute a program of disposal of the property described in paragraph (a) above with a view to obtaining the best possible return therefor, but such disposal shall be in conformity with such directives as the Government of India has issued and may issue from time to time which apply equally to the disposal of its own

surplus and those of the Government of the United Kingdom. This disposal program will be so conducted as to accord the same treatment to the property described in paragraph (a) above and to surpluses of the Government of the United Kingdom located in India and of the Government of India. Members and veterans of the United States armed forces in India, United States agencies, citizens, corporations, firms and nonprofit institutions in India and the United Nations Relief and Rehabilitation Administration will be accorded opportunity to buy on the same basis as is accorded to other buyers of like character in India.

(c) The Government of India agrees to report to the Government of the United States, at quarterly periods, beginning September 30, 1946, the amount of proceeds in rupees arising from the disposal of the property covered by this section. The term "proceeds" as used herein means the gross proceeds received by the Director General of Disposals of the Government of India from the sale of such property, minus the normal customs duties paid by buyers of imported goods, as collected by the Government of India through inclusion of such customs duties in the price of the property sold. Any of the property covered by this section which the Director General of Disposals sells to any department of the Government of India shall be priced in the same manner as property sold to other parties in India.

(d) Disposal of the property covered by this section shall be continued until such time as the Government of India determines that further disposal cannot be made on a profitable basis. At the time such determination is made, or July 1, 1948, whichever is earlier, the Government of India will render to the Government of the United States a final report of the proceeds in rupees received by the Government of India for the property covered by this section.

(e) Upon rendition of the final report described in paragraph (d) above, the Government of the United States shall become entitled to an amount equal to one-half of the excess of the proceeds described in the final report over a sum equivalent to \$50,000,000 converted at the rate of exchange between dollars and rupees now in effect. The Government of the United States will receive the amount to which it is entitled by any of the following methods or by any combination thereof designated by the Government of the United States:

(i) Delivery of title to the Government of the United States by the Government of India, of real property and improvements of real property in India as selected and determined by agreement between the two Governments;

(ii) by establishment of a rupee fund for expenditure by the Government of the United States, in accordance with agreements to be reached between the two Governments, for carrying out educational and cultural programs of benefit to the two countries;

(iii) should any balance remain after meeting the requirements described in paragraphs (i) and (ii) above, by payment in rupees to the Government

of the United States for defraying the governmental expenses of the United States in India.

(f) The Government of India agrees that it will not cause the exportation to the United States, its territories or possessions, of any of the surplus property covered by this Agreement in the same, or substantially the same form, if such property was originally produced in the United States and is readily identifiable as such, and agrees that it will not resell any of the property concerned to any person, firm, or government for the purpose of export to the United States, its territories or possessions, contrary to any statute or regulation of the Government of the United States as notified by the Government of the United States.

(g) The provisions of this Agreement supersede all previous agreements between the Governments of the United States and of India relating to United States surplus property.

8. The Government of India, when it disposes of articles acquired pursuant to paragraphs 4(a), 4(b), 5(g) and 7(a) of this Agreement, will use its best endeavors to avoid discrimination against the legitimate interests of the United States manufacturers or producers of such articles, or their agents or distributors in India.

9. The Government of India reaffirms its intention to negotiate at a future date for the use and convertibility of rupee balances held by the Government of the United States in India, as a consequence of the disposal by the Office of the Foreign Liquidation Commissioner, of United States surplus property in India not covered by this Agreement. Pending such negotiations, these rupee balances may be used to defray governmental expenses of the Government of the United States in India.

10. Nothing in this Agreement affects any obligation entered into by the Government of India in connection with any silver transferred by the Government of the United States under lend-lease.

11. This Agreement shall take effect as from this day's date.

DONE, in duplicate, at Washington this sixteenth day of May 1946.

For the Government of the United States of America:

DEAN ACHESON
*Acting Secretary of State
of the United States of America*

For the Government of India:

A. A. WAUGH
*Member for Industries and Supplies,
Viceroy's Executive Council, Government of India*