

No. 1214

**UNITED STATES OF AMERICA
and
INDIA**

Agreement for financing certain educational exchange programs (with explanatory memorandum). Signed at New Delhi, on 2 February 1950

Official text: English.

Registered by the United States of America on 3 June 1951.

**ÉTATS-UNIS D'AMÉRIQUE
et
INDE**

Accord relatif au financement de certains programmes d'échange dans le domaine de l'éducation (avec memorandum explicatif). Signé à New-Delhi, le 2 février 1950

Texte officiel anglais.

Enregistré par les États-Unis d'Amérique le 3 juin 1951.

No. 1214. AGREEMENT¹ BETWEEN THE GOVERNMENT OF INDIA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA FOR FINANCING CERTAIN EDUCATIONAL EXCHANGE PROGRAMS. SIGNED AT NEW DELHI, ON 2 FEBRUARY 1950

The Government of India and the Government of the United States of America :

Desiring to promote further mutual understanding between the peoples of India and the United States of America by a wider exchange of knowledge and professional talents through educational contacts;

Considering that Section 32 (b) of the United States Surplus Property Act of 1944, as amended by Public Law No. 584, 79th Congress,² provides that the Secretary of State of the United States of America may enter into an agreement with any foreign government for the use of currencies or credits for currencies of such foreign government acquired as a result of surplus property disposals for certain educational activities; and

Considering that certain Indian rupees have been received by the Government of the United States of America pursuant to the Agreement between the Government of India and the Government of the United States of America on Settlement of Lend-Lease, Reciprocal Aid, Surplus War Property, and Claims, signed May 16, 1946,³ as modified in accordance with the Indian Independence (International Arrangements) Order of 1947;

Have agreed as follows :

Article 1

There shall be established a foundation to be known as the United States Educational Foundation in India (hereinafter designated "the Foundation"), which shall be recognized by the Government of India and the Government of the United States of America as an organization created and established to facilitate the administration of the educational program to be financed by funds made available by the Government of the United States of America

¹ Came into force on 2 February 1950, as from the date of signature, in accordance with article 15.

² United States : 60 Stat. 754.

³ United Nations, *Treaty Series*, Vol. 4, p. 183.

under the terms of the present Agreement. Except as provided in Article 3 hereof the Foundation shall be exempt from the domestic and local laws of India and the United States of America as they relate to the use and expenditures of currencies or credits for currencies for the purposes set forth in the present agreement.

The funds made available by the Government of the United States of America, within the conditions and limitations hereinafter set forth, shall be used by the Foundation or such other instrumentality as may be agreed upon by the Government of India and the Government of the United States of America for the purpose, as set forth in Section 32 (b) of the United States Surplus Property Act of 1944, as amended, of

- (1) financing studies, research, instruction, and other educational activities of or for citizens of the United States of America in schools and institutions of higher learning located in India or of the nationals of India in United States schools and institutions of higher learning located outside the continental United States, Hawaii, Alaska (including the Aleutian Islands), Puerto Rico, and the Virgin Islands, including payment for transportation, tuition, maintenance, and other expenses incident to scholastic activities; or
- (2) furnishing transportation for nationals of India who desire to attend United States schools and institutions of higher learning in the continental United States, Hawaii, Alaska (including the Aleutian Islands), Puerto Rico, and the Virgin Islands and whose attendance will not deprive citizens of the United States of America of an opportunity to attend such schools and institutions.

Article 2

In furtherance of the aforementioned purposes, the Foundation may, subject to the provisions of the present agreement, exercise all powers necessary to the carrying out of the purposes of the present agreement including the following :

- (1) Receive funds.
- (2) Open and operate bank accounts in the name of the Foundation in a depository or depositories to be designated by the Secretary of State of the United States of America.
- (3) Disburse funds and make grants and advances of funds.
- (4) Acquire, hold, and dispose of property in the name of the Foundation as the Board of Directors of the Foundation may consider necessary

or desirable, provided however that the acquisition of any real property shall be subject to the prior approval of the Secretary of State of the United States of America.

- (5) Plan, adopt, and carry out programs in accordance with the purposes of Section 32 (b) of the United States Surplus Property Act of 1944, as amended.
- (6) Recommend to the Board of Foreign Scholarships, provided for in the United States Surplus Property Act of 1944, as amended, students, professors, research scholars, residents in India, and institutions of India qualified to participate in the programs in accordance with the aforesaid Act.
- (7) Recommend to the aforesaid Board of Foreign Scholarships such qualifications for the selection of participants in the program as it may deem necessary.
- (8) Provide for periodic audits of the accounts of the Foundation as directed by auditors selected by the Secretary of State of the United States of America.
- (9) Engage an Executive Officer, administrative and clerical staff and fix and pay the salaries and wages thereof out of the funds made available.

Article 3

All commitments, obligations and expenditures by the Foundation shall be made pursuant to an annual budget to be approved by the Secretary of State of the United States of America pursuant to such regulations as he may prescribe.

Article 4

The management and direction of the affairs of the Foundation shall be vested in a Board of Directors consisting of eight Directors (hereinafter designated "the Board"), four of whom shall be nationals of India and four of whom shall be citizens of the United States of America. In addition, the principal officer in charge of the Diplomatic Mission of the United States of America to India (hereinafter designated "the Chief of Mission") shall be Honorary Chairman of the Board. He shall cast the deciding vote in the event of a tie vote by the Board and shall appoint the Chairman of the Board. The Chairman as a regular member of the Board shall have the right to vote. The Government of India shall have the power to appoint and remove the nationals of India on the Board. The Chief of Mission shall have the power to appoint

and remove the citizens of the United States of America on the Board, at least two of whom shall be officers of the United States Foreign Service establishment in India.

The Directors shall serve from the time of their appointment until the following December 31 and shall be eligible for reappointment. Vacancies by reason of resignation, transfer of residence outside India, expiration of service or otherwise, shall be filled in accordance with the appointment procedure set forth in this article.

The Directors shall serve without compensation but the Foundation is authorized to pay the necessary expenses of the Directors in attending the meetings of the Board.

Article 5

The Board shall adopt such by-laws and appoint such committees as it shall deem necessary for the conduct of the affairs of the Foundation.

Article 6

Reports acceptable in form and content to the Secretary of State of the United States of America shall be made annually on the activities of the Foundation to the Government of India and the Secretary of State of the United States of America.

Article 7

The principal office of the Foundation shall be in the capital city of India, but meetings of the Board and any of its committees may be held in such other places as the Board may from time to time determine, and the activities of any of the Foundation's officers or staff may be carried on at such places as may be approved by the Board.

Article 8

The Executive Officer shall be responsible for the direction and supervision of the Board's programs and activities in accordance with the Board's resolutions and directives and the provisions of this agreement. In his absence or disability, the Board may appoint a substitute for such time as it deems necessary or desirable. In the event it is found to be impracticable for the Board to engage an Executive Officer, the Government of the United States of America may provide an Executive Officer and such assistants as may be deemed necessary to ensure the effective operation of the program.

Article 9

The Secretary of State of the United States of America will make available for expenditure as authorized by the Board currency of the Government of India in an amount not to exceed the equivalent of \$400,000.00 (United States currency) during any single calendar year from Indian currency held in the account of the Treasurer of the United States and available for purposes of this agreement in accordance with United States law. Such amounts made available shall not be in excess of the budgetary limitation established pursuant to Article 3 of the present Agreement.

Article 10

Furniture, equipment, supplies, and any other articles intended for official use of the Foundation shall be exempt in the territory of India from customs duties, excises, and surtaxes, and every other form of taxation.

All funds and other property used for the purposes of the Foundation, and all other official acts of the Foundation within the scope of its purposes shall likewise be exempt from taxation of every kind in the territory of India.

Article 11

The Government of India shall extend to citizens of the United States of America residing in India and engaged in educational activities under the auspices of the Foundation such privileges with respect to exemption from taxation, and other burdens affecting the entry, travel, and residence of such persons as are extended to Indian nationals residing in the United States of America engaged in similar activities.

Article 12

Wherever, in the present agreement, the term "Secretary of State of the United States of America" is used, it shall be understood to mean the Secretary of State of the United States of America or any officer or employee of the Government of the United States of America designated by him to act in his behalf.

Article 13

The present agreement may be amended by the exchange of diplomatic notes between the Government of India and the Government of the United States of America.

Article 14

The Government of India and the Government of the United States of America shall make every effort to facilitate the exchange of persons programs authorized in this agreement and to resolve problems which may arise in the operations thereof.

Article 15

The present agreement shall come into force upon the date of signature.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed the present agreement.

DONE at New Delhi, in duplicate, this second day of February, 1950.

For the Government of India :

[SEAL]

Jawaharlal NEHRU

Prime Minister and
Minister for External Affairs

For the Government of the United States of America :

[SEAL]

Loy W. HENDERSON

Ambassador

EXPLANATORY MEMORANDUM AS TO THE MANNER IN WHICH
THE GOVERNMENT OF INDIA AGREES TO IMPLEMENT THE
PROVISIONS OF ARTICLES 10 AND 11

The Government of India desires to inform the Government of the United States of America as to the manner in which it is prepared to give effect to the provisions of Articles 10 and 11 with respect to the granting of exemptions from customs duties, excises and other forms of taxation on furniture, equipment, supplies and other articles intended for the use of the Foundation, and likewise to the exemption from income-tax of the beneficiaries of the fund working in India.

Under the existing laws the Government of India is prevented from granting outright exemption. The Government of India, however, is prepared to make an annual grant to the Foundation of an amount equivalent to the total amount of taxes paid by the Foundation and its participants for customs duties, excises and other forms of taxation, including income-tax, for use as the Foundation sees fit. This modification seems to accomplish the objectives as set forth in Articles 10 and 11.

The procedure outlined in this memorandum for the implementation of Articles 10 and 11 is agreeable to the Government of the United States.

Jawaharlal NEHRU

Prime Minister and
Minister for External Affairs

Loy W. HENDERSON

Ambassador