No. 795

INDIA
and
PAKISTAN

Agreement on banking (with annexes). Signed at Lahore, on 23 April 1949

Official text: English.
Registered by India on 10 May 1950.

INDE
et
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Accord sur les opérations bancaires (avec annexes). Signé à Lahore, le 23 avril 1949

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Enregistré par l'Inde le 10 mai 1950.

No. 795. AGREEMENT[1] ON BANKING BETWEEN THE GOVERNMENT OF INDIA AND THE GOVERNMENT OF PAKISTAN. SIGNED AT LAHORE, ON 23 APRIL 1949

PART I — COMMERCIAL BANKS

SECTION I — COMPLAINTS REGARDING THE TRANSFER AND DELAY IN PAYMENT OF MUSLIM ACCOUNTS

1. It was agreed as follows :—

(a) In the case of banks functioning in both or either of the Dominions, if any Muslim accounts have been transferred from West Pakistan to India without application from the depositors, such accounts should be re-transferred to Western Pakistan to a branch of the same bank or if the bank has no branch, action will be taken as in *(c)* below.

(b) In the case of banks which are functioning in East Punjab and East Punjab States and have also branches in West Pakistan, the accounts of all Muslim depositors in East Punjab and East Punjab States should be transferred to their branches in West Pakistan, except in the following cases :—

(i) Where the accounts have been in operation in East Punjab and East Punjab States after 31.12.47 and no request for the transfer of the account has been received.

(ii) Where a specific request for the retention of the account in East Punjab and East Punjab States has been received.

In order to remove the possibility of any objection from depositors against the transfer of their accounts, it was agreed that the bank concerned will immediately advertise the proposed transfer of all Muslim accounts and invite the depositors to inform the banks within a period of one month if they have any objection to the transfer of their accounts to Pakistan. All Muslim accounts to be transferred should be transferred by 30.6.49 as far as possible.

[1] Came into force on 10 May 1949, with retroactive effect as from 23 April 1949, by the exchange of the instruments of ratification.

(c) Lists of Muslim accounts with banks functioning in East Punjab and East Punjab States, which have no office in West Pakistan, should be kept with a bank in West Pakistan to be specified for the purpose and arrangements should be made with that bank for payment of such deposits in Pakistan on receipt of applications from the depositors.

(d) Muslim accounts with banks in India but outside East Punjab and East Punjab States will be transferred to a branch of the bank concerned in Pakistan on simple application from the depositor, leaving the detailed formalities, if any, to be complied with in Pakistan before payment is made. Such applications should preferably be made through the branch of the bank in West Pakistan.

(e) The arrangements set out in sub-paras *(a)*, *(b)*, *(c)* and *(d)* will not apply to Banks under a scheme of arrangement.

2. *Banks under schemes of arrangements*

Banks under a scheme of arrangement in one Dominion should also apply to a High Court of the other Dominion for sanction of a scheme of arrangement for creditors in the other Dominion.

3. *Indemnity Bonds*

As in the case of succession certificates, the desirability of entering into some mutual arrangement whereby in cases of loss of fixed deposits, cheque books and pass books, indemnity bonds obtained or executed, in one Dominion, are accepted in the other Dominion was recognised and it was agreed that the legal implications will be examined by the two Governments.

4. *Inactive Accounts*

It was agreed that it was desirable that the banks in both the Dominion particularly in the " evacuee areas ", should notify the names and addresses of those depositors who have not operated their accounts from 31.12.47 to 31.3.49, to the Central Banks of the respective Dominions. The information so collected by the Central Banks will be exchanged between them to facilitate the tracing of constituents or their successors and the disposal of the balances. The Central Banks of the two Dominions will examine this further and work out a detailed scheme for the exchange of this information.

SECTION II — COMPLAINTS OF BANKS

5. The Pakistan representatives agreed to examine the complaints of the banks in regard to orders issued by the West Punjab Government requiring the payment of security deposits of contractors to the C.M.A., Lahore Cantonment.

6. *Grant of permits to bank staff for a minimum period of one year :*

It was agreed that the Pakistan Government will consider the grant of permits to bank staff permanently stationed in West Pakistan and certain specified officers of the head office for a period of one year at a time, the permits to cover the whole of West Pakistan wherever necessary.

7. *Removal of bank records and remittance of surplus Funds :*

It was agreed that if banks which are not functioning in Pakistan normally, deposit an amount equal to their outstanding liabilities in West Pakistan, they should be permitted to remove their account books and to remit surplus funds provided certified copies of accounts in respect of outstanding liabilities are kept in Pakistan so long as they are outstanding. Vouchers etc. pertaining wholly to accounts in Pakistan will not be removed if arrangements can be made by the State Bank of Pakistan for their custody.

The amount of the deposit to be retained in Pakistan will be verified by the State Bank and the deposits will be made in favour of a bank approved by the State Bank.

NOTE : The outstanding liabilities in the case of a bank under a scheme of arrangement, mean liabilities outstanding in terms of the scheme sanctioned by a High Court in Pakistan.

It was agreed that similar arrangements will be made in the case of the Indian Branches of the Australasia Bank.

8. *(a)* Non-payment to banks of sale proceeds of goods hypothecated to them but requisitioned or sold by Provincial Governments in Pakistan.

(b) Requirement that suits should be filed before goods pledged to banks can be sold by them.

(c) Requirement that the sale proceeds of goods mortgaged with banks should on realisation by the banks be handed over to the Custodian of Evacuee Property.

The position as it emerged out of the discussions is as follows :—

(i) In the case of pledged stocks, i.e. stocks pledged with possession with banks functioning in Pakistan (Possession by the bank not necessarily implying that the stocks are in premises belonging to or leased by the bank), the banks can sell the stocks and deposit with the Custodian only the surplus sale proceeds. Functioning banks will include those which have schemes of arrangement sanctioned for Western Pakistan and are actually working there.

India representatives raised the question that the surplus sale proceeds should be treated as bank deposits and credit directly to the evacuee's account at the banks. It was pointed out by Pakistan representatives that the question was really of academic interest as in most cases the banks' claims exceed the value of the pledge stocks, but promised to consider the suggestion.

(ii) In the case of hypothecated stocks, although the entire sale proceeds had to be deposited with the Custodian and the banks have to register their claims with him, the Custodian is allowing exemptions from this requirement to banks which have been complying with the orders regarding the submission of returns etc. and the exempted banks enjoy the same facilities as in (i) above. The banks should, therefore, represent their cases individually to the Custodian and on his admitting the claim, they will be entitled to adjust their dues against the sale proceeds as in the case of (i) above.

(iii) No suits are required to be filed in courts in regard to stocks pledged or hypothecated, the Custodian himself finally admitting the claims.

(iv) A recommendation has been made to the two Governments by the Inter-Dominion Commission on Evacuee Property that in the case of mortgages of immovable property also, suits will not be required to be filed in civil courts and that the claims will be registered and admitted by the Custodian on production of mortgage deeds and such other evidence as may be required in any particular case.

(v) As a further concession to scheduled banks the Inter-Dominion Commission on Evacuee Property have recommended that the Custodian should register claims in respect of unsecured debts incurred by the evacuees with the banks on proof of the debts supported by an acknowledgment from the debtor. The Custodian will also be prepared to register claims