

1370

Declassified E.O. 12356 Section 3.3/NND No.

785017

ACC

10000/109/1020

SEIZURE OF I
SEPT. 1943; NO

Declassified E.O. 12356 Section 3.3/NND No.

785017

10000/109/1020

SEIZURE OF ITALIAN BOATS BY GREEKS
SEPT. 1943; NOV. 1945 - APR. 1946

1372

Declassified E.O. 12356 Section 3.3/NND No.

785017

Lo Com-

30

Letter at 34 submitted for sig. in accordance with suggestions contained in mins 32 & 33 from Poland. Folio 5 refers.

MS. 913

215 8/2

Issue. 11/2 9/3 - due at 30. 11/2

39.

A/C.C.

CSO Folio 38 for signature, please MS. 1814

5958

7544

Executive Commission:

31/

- 1- Ministry of Foreign Affairs request is at 5
- 2- Legal S/C opinion is at minute 11 with two other copies at 28/2/94

3. The file is therefore passed to you for necessary action.

99 Humpback
Hole

Legal S/C
PAX 12 Mar 1966
(A).

C.S.O. K. Ex. C.

32

Has the letter of 27 gone forward? ^{16.}

If not, subject to the views of my U.S. colleagues,
the Inf.A.'s request can be taken up either via the
two Embassies or our Embassies in Athens (in which
case suitable letters sh^d be addressed to the two Embassies
here by your office in the first instance) or by direct
approach to the Greek inf^o or the Adv. Council for
Turkey (in which case the two Embassies need not be
brought into the picture at all).

3/4/46

33

At Stock is

785017

1 3 7 3

2 Jan. 46.

MSL

Brigadier,
Executive Commission.

31

- Palady (A.C.)
1. Ministry of Foreign Affairs request is at 8
 2. Legal S/C opinion is at minute 10 with two other copies at 28/29
 3. The file is therefore passed to you for necessary action.

44 Hampden
place

Legal S/C
P.A.X. (A.C.)
14 March 46

C.S.O. to Ex. Com.

32

Has the letter of 27 gone forward? 16.

If not, subject to the views of my U.S. colleagues, the legal S/C request can be taken up either via the two Embassies or our Embassy in Athens (in which case suitable letters should be addressed to the two Embassies here by your office in the first instance) or by direct approach to the Greek office or the Att. Council for Italy (in which case the two Embassies need not be brought into the picture at all).

3/2/46

C.S.O.

33

W. H. H. (Bos)

There appears to be no Allied obligation (U.S.-U.K.) to represent Italian interests in this instance, since Italian participation (pages 5) is not considered sound (see minute 29). Consequently, 2nd alternative above is suggested, i.e. that Italian request contained in para 4 (pages 4) & incl. be forwarded to Greek on A.C.1 - W. H. H. (Bos) Mar 5/46

2A

TO : Executive Commissioner.

1. I am afraid that under either the terms of armistice or the Cunningham-De Courten agreement, the Italian Government has not much of a legal leg to stand on.

Under Art. 14 of the Long Terms "all Italian merchant shipping etc; wherever they may be, will be made available to the United Nations in good repair and in seaworthy condition".

Art. 1 (para 2) of the Cunningham-De Courten agreement sets out "that the provisions of this agreement do not affect the right of the United Nations to make such dispositions of any or all Italian ships as they may think fit. Their decisions in this respect will be notified to the Italian Government from time to time".

2. Both instruments are posterior and complementary to the Short Terms which must be considered as having been modified accordingly. Therefore Art. 5 of the Short Terms must not be read and interpreted alone but in conjunction with the later agreements to which Italy was also a party.

3. Therefore the United Nations could very well request the Italian authorities to salvage the ships in Greek waters and hand them to the Greeks for their use. On the other hand they could allow the Greeks to do the salvage themselves notifying the Italian authorities accordingly.

4. The only point in favour of the Italians and it is an important one in equity, is, as stated in Art. 3 of the Minister of Foreign Affairs' letter that "a disparity of treatment of Italian ships, merely based on their location at the time of capture, could hardly be deemed to be justifiable."

5. I think that the fact that some of the ships are sunken does not alter the legal position under the armistice and subsequent agreements.

6. Therefore if the armistice terms are deemed to apply to all Italian merchant shipping, wherever situated, the United Nations have the right to dispose of such shipping at their complete and unrestricted discretion. Under the armistice there has never been any question of considering Italian ships as a "war prize".

7. Whether the Greeks and Yugoslavs feel themselves bound by the armistice terms or not is a different question altogether.

G. G. HANNAFORD,
Lt. Colonel,
Deputy Chief Legal Advisor.

Legal Sub-Commission

1376

Art.1 (para 2) of the Cunningham-De Courten agreement sets out " that the provisions of this agreement do not affect the right of the United Nations to make such dispositions of any or all Italian ships as they may think fit. Their decisions in this respect will be notified to the Italian Government from time to time".

2. Both instruments are posterior and complementary to the Short Terms which must be considered as having been modified accordingly. Therefore Art.5 of the Short Terms must not be read and interpreted alone but in conjunction with the later agreements to which Italy was also a party.

3. Therefore the United Nations could very well request the Italian authorities to salvage the ships in Greek waters and hand them to the Greeks for their use. On the other hand they could allow the Greeks to do the salvage themselves notifying the Italian authorities accordingly.

4. The only point in favour of the Italians and it is an important one in equity, is , as stated in Art.3 of the Minister of Foreign Affairs' letter that "a disparity of treatment of Italian ships,merely based on their location at the time of capture, could hardly be deemed to be justifiable."

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7. Whether the Greeks and Yugoslavs feel themselves bound by the armistice terms or not is a different question altogether.

Legal Sub-Commission
2nd March 1946.

G. G. HANNAFORD,
Lt.Colonel,
Deputy Chief Legal Advisor.

Does AFHQ mean that we should ask
the Greek Govt. to interpret the "long terms"
and the Cunningham. Re Counter agreement?
I would suggest going back and asking
G-5 to answer the first question asked
in the last para of AC's letter of Dec 7
(para 12). I do not approve draft at 240.

If ultimately, there is any question to
be taken up with the Greeks I suggest
it be sent to Greek representative on
ACI as we are now treating this Yugoslav
question in which there is no humanitarian
or Allied commitment interest.

J. W. Elder Jones
Ref. Ad. (A) Feb. 24/46

W. G. Cunn

as.

Letter at 27 submitted for signature - with 26 refers.
Polar A is unwilling to take up this matter
until he knows whether the Italian
interpretation of the Quinistice terms (as set out
in pp. 495) is sound & says that seemed, not 255
the sub issues, & the proper authority for
interpreting these terms. 28/2 28/2

TO: EXEC CONTIN.

18

Ref 15 - CIA's views were obtained, see min 10. At a recent meeting I understand you ruled that the whole matter be referred to AFHQ as recommended in Navy S/O's minutes at 12. CIA agrees to this - see min 17.

6 Dec 45. Issue 100/12/1/1

22

Afcsd Ref 13- acknowledgment submitted for sig at 21

Ref 13- reminder to AFHQ submitted for sig at 20

7/2

Filed (H)
Filed (B)

24.

The matter of Italian ships in Greek waters was referred to AFHQ who recommended that this matter be handled through diplomatic channels. Draft letter at 24 is therefore submitted for your comments.

The legal opinion of the case is at 10. From para 1 it would appear that the Italian position is not sound & that therefore the matter should not be presented, but para. 4 seems to contradict this. As the matter of Italian ships in Yugoslav waters has been taken up, it seems we should also take it up this problem.

10/2

25.

C.S.O.

I see no objection to trying this on the legal diplomatic front.

100/12/1/1

26

C.S.O.

785017

Afeso
22
Ref 19 - acknowledgment submitted for sig at 21
Ref 13 - reminder to AFHQ submitted for sig at 20

Lead (A)
Lead (B)

2/2

24.

The matter of Italian ships in Greek waters was referred to AFHQ who recommended that this matter be handled through diplomatic channels. Draft letter of 24 is therefore submitted for your comments.

The legal opinion of the case is at 10. From para 1 it would appear that the Italian position is not sound and therefore the matter should not be presented, but para 4 seems to contradict this. As the matter of Italian ships in Yugoslav waters has been taken up, it seems we should also take it up this problem.

25 10/2

CSO.

25.

I see no objection to trying this in the next diplomatic round.

CSO.

26

I don't understand AFHQ's letter of Dec. 15 (p. 1522). In minute 24 interprets it correctly, it is certainly not responsive to SC's letter of Dec. 7 which ask whether Italian Govt. participation in interpreting Armistice terms is permissible - the Committee's interpretation was correct. How can we take that up through diplomatic channels?

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11.

Navy S/C.

Please see 4450. Legal S/C's comments at 10.
In view of these comments are we in a position
to ask the Greek Gov't to return to the Italians
ships sunk in their waters as requested in
para 4 of D.F.A.'s letter? 29/11.

12.

1 Dec

Exec Commissioner
Recommended that Ministry Foreign
Affairs ltr 14 November be forwarded to

AFHQ.

A.H.G. Butler

C.H. Exon.

14.

13 is signature error. This was decided by ^{you} Ex. C. 2
Navy S/C to refer this matter to AFHQ.

AS. 4/12.

AS. 4/12.

15.

C.S.O.

I cannot agree with the argument presented.

Sundry Italian vessels in Greek waters are property
the property of Greek Govt.

5953

C.A.A.'s views on this letter please (now &

changes when legality or title is concerned)

TT 8/4/21

16.

C.A.A.

Do not agree with action proposed in memo 12-1.e.

1381

785017

12

Sec Commissioner
Recommended that Ministry Foreign
affairs ltr 14 November be forwarded to
AFHQ.

1 Dec

A.H. J. Butcher

14. Ex. 100.

13. In signature pres. This was decided by ^{you} Ex. 100
Navy S/C to refer this matter to AFHQ.
68. 4/10.

4/12.

15.

C.S.O.

I cannot agree with the argument presented.

surely Italian vessels in Greek waters are property
the property of Greek Govt.

5953

C.L.A.'s view on this latter plea (now a
change when legality or title is concerned)

77 x 4/12

16.

C.L.A. Do you agree with action proposed in memo 13-1.e.
to refer this matter to AFHQ?

17. 12 6/12

yes - 9/12

6 Dec 45
yes - 9/12
9/12 found
H. L. L.

785017

Declassified E.O. 12356 Section 3.3/NND No.

TO : Executive Commissioner.

1. I am afraid that under either the terms of armistice or the Cunningham-De Courten agreement the Italian Government has not much of a legal leg to stand on.

Under Art. 14 of the Long Terms "all Italian merchant shipping etc; wherever they may be, will be made available to the United Nations in good repair and in seaworthy condition". Art. 1 (2 para) of the Cunningham-De Courten agreement sets out that the provisions of this agreement do not affect the right of the United Nations to make such dispositions of any or all Italian ships as they may think fit. Their decisions in this respect will be notified to the Italian Government from time to time".

2. Both instruments are posterior and complementary to the Short Terms which must be considered as having been modified accordingly. Therefore Art. 5 of the Short Terms must not be read and interpreted alone but in conjunction with the later agreements to which Italy was also a party.

3. Therefore the United Nations could very well request the Italian authorities to salvage the ships in Greek waters and hand them to the Greeks for their use. On the other hand they could allow the Greeks to do the salvage themselves notifying the Italian authorities accordingly.

4. The only point in favour of the Italians and it is an important one in equity, is, as stated in Art. 3 of the Minister of Foreign Affairs' letter that "a disparity of treatment of Italian ships, merely based on their location at the time of capture, could hardly be deemed to be justifiable."

5. I think that the fact that some of the ships are sunken does not alter the legal position under the armistice and subsequent agreements.

6. Therefore if the armistice terms are deemed to apply to all Italian merchant shipping, wherever situated, the United Nations have the right to dispose of such shipping at their complete and unrestricted discretion. Under the armistice there has never been any question of considering Italian ships as a "war prize".

7. Whether the Greeks and Yugoslavs feel themselves

5952

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785017

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5952

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7. Whether the Greeks and Yugoslavs feel themselves bound by the armistice terms or not is a different question altogether.

G.G. Hannaford

G.G. HANNAFORD,
Lt. Col.
Deputy Chief Leg. Advisor

Legal S/C
28 November 1945

Polad (H)
Polad (H)

b.

Ref 4-5- cannot the U.S. Ministry of Foreign Affairs approach the Greek delegate to A.C.I. direct? Or must it be dealt with via the embassies in Athens?

AS 16/11.
7

AC is proper channel of communication between Italian & Greek Govts. which have no direct relations. AC can either forward communications to Allied embassies. There is to AFHQ where they can be put into diplomatic channels through U.S. Policy & Admin. The attached memorandum (475) covers various questions of interpretation of various terms which seems problem for first instance for A.C. - not the Greeks. Shouldn't to get S/C have a look at it to determine if Italian position is sound?

J. William Jones
Pol. Ad. (Am) Nov 21/45

Yes, I am in it so. We have had many 5851
Similar Italian claim against Yugoslav
which we have handled in our
manor proposed by Mr. Jones.

Legal S/C.

9.

L. H. Hopkinson

We would be grateful to have more
information.

AS 16/11.
7

AC is proper channel of communication between Italian & Greek Govts. which have no direct relations. AC can either forward communications to Allied embassies here or to AFHQ where they can be put into diplomatic channels through U.S. Polad & Reamin. The attached memorandum (405) however raises question of interpretation of committee terms which seems problem for first instance for AC - not the Greeks. Chamberlain's legal S/C have a look at it. The substance of Italian position is sound?

J. W. Kelley Jones
Pol. Ad. (Am) Nov 24/45

Yes, I am in it so. We have used many 5951
8/
Similar Italian claims against Yugoslavs
which we have handled in our
manuscript proposed by Mr. Jones.

Legal S/C.
9.

H. Hopkinson

We would be grateful to have your ^{views} comments on 405 opposite, to determine if the Italian position is sound.

H. 28/11.

1386

Declassified E.O. 12356 Section 3.3/NND No.

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38

Ref: 5610/38/33

19. April 1946.

SUBJECT: Position of Italian Ships in Greek Waters.

TO : The Ministry of Foreign Affairs.

Reference your memorandum no. 6/4520/2064 dated 14 Nov 45 regarding the position of Italian ships in Greek waters.

5

37

A reply has been received from the Greek Government to the effect that the question of the condition and whereabouts of Italian ships in Greek waters was put before the commission of Economical Problems, which has decided that since these Italian ships are in Greek waters they will be considered as enemy property under sequestration, until the final solution of this question at the Peace Treaty.

M. S. LUSH

Brigadier,
Acting Chief Commissioner.

Copy to: *Poland's
Poland's
Legal s/c
Legal s/c* } *See m. 39.*
5610/13/EC of 7 Dec. 1945.

5950

*PA. 19
4*

8

1387

785017

Declassified E.O. 12356 Section 3.3/NND No.

37

5610 A

GREEK DELEGATION
TO THE
ADVISORY COUNCIL
FOR ITALY

Ref. No 1755

Rome, 16 April 1946.

APR 18 1946

36

Sir,

Following my letter No 1292 of 14 March 1946, I have the honour to bring to your knowledge that the Greek Ministry of Foreign Affairs has informed me that the question of the condition and whereabouts of Italian ships in Greek waters was put before the commission of Economical Problems, which has decided that since these Italian ships are in Greek waters they will be considered as enemy property under sequestration, until the final solution of this question at the Peace Treaty.

Yours very truly,

G. F. S. S. S. S.
S. F. S. S. S. S. S.
Ambassador.

Brigadier
M. S. LUSH,
Executive Commissioner,
Allied Commission.

See in 39.
4. 38

5949

001

FOR ITALY

1388

785017

Declassified E.O. 12356 Section 3.3/NND No.

Ref. No 1755

Rome, 16 April 1946.

APR 15 1946

Sir,

Following my letter No 1292 of 14 March 1946, I have the honour to bring to your knowledge that the Greek Ministry of Foreign Affairs has informed me that the question of the condition and whereabouts of Italian ships in Greek waters was put before the commission of Economical Problems, which has decided that since these Italian ships are in Greek waters they will be considered as enemy property under sequestration, until the final solution of this question at the Peace Treaty.

Yours very truly,

G. A. Savitsky
G. SAVITSKY
Ambassador.

59-19

Brigadier
M. S. LUSH,
Executive Commissioner,
Allied Commission.

*See No. 39.
4 38*

9/5
(corr X)

GREEK DELEGATION
TO THE
ADVISORY COUNCIL
FOR ITALY

Ref. No 1292

Rome, 14 March 1946

Sir,

I have the honour to acknowledge receipt of your letter No 5610/34/EC dated 11 March 1946 by which you inform me of the desire of the Italian Ministry for Foreign Affairs to obtain certain information as to the present condition and whereabouts of Italian ships in Greek waters, the contents of which I have transmitted to my Government.

Yours very truly,

G. Kiriatis

G. KIRIATIS
Ambassador

Brigadier

M.S. LUSH,

Executive Commissioner,

Allied Commission.

4

Ref 7-37

Ref 12

5948

34

5610 40

36

Declassified E.O. 12356 Section 3.3/NND No.

785017

1389

Rome, 14 March 1946

Sir,

I have the honour to acknowledge receipt of your letter No 5610/34/EO dated 11 March 1946 by which you inform me of the desire of the Italian Ministry for Foreign Affairs to obtain certain information as to the present condition and whereabouts of Italian ships in Greek waters, the contents of which I have transmitted to my Government.

Yours very truly,

C. EXIMIAS
C. EXIMIAS
Ambassador

Brigadier
M.S. LUSH,
Executive Commissioner,
Allied Commission.

8943

(Mrs S)

Ref 7-37

Ref 7-37

Declassified E.O. 12356 Section 3.3/NND No. 785017

Ref. : 5610/34/783

11. March 1946

Your Excellency,

The Allied Commission has been asked by the Italian Ministry of Foreign Affairs to approach you concerning the matter of Italian ships in Greek waters.

It is understood that on September 8th 1943 a number of Italian ships (some of them sunk) were to be found in Greek or Aegean waters. Particulars of these vessels are given in the attached list.

The Ministry of Foreign Affairs would appreciate it if your Government would obtain all possible information as to the present condition and whereabouts of these ships, in order to ensure their return to their owners or to safeguard their salvage rights, if they are sunk.

The Allied Commission would be happy to transmit any reply you may wish to make to the Italian Ministry of Foreign Affairs.

Yours very truly

M. S. LUSH

Brigadier,
Executive Commissioner.

H. E. G. Brintaris
Greek Delegate to the Advisory Council
for Italy

5947

See 7-36 PA
201/3

1392

Declassified E.O. 12356 Section 3.3/NND No.

785017

Ref: 5640/M

February 1946

SUBJECT: Italian Ships in Greek Waters.

TO : G-5 AFHQ.

1. Reference your G-5: 564.6 WEI of 13 February 1946.
2. It would be greatly appreciated if you would once more study our letter 5610/13/51 of 7 December 1945 and inform us whether the Italian interpretation of the Armistice terms is sound. The U.S. and U.K. Embassies are unwilling to take this matter up until they know whether, in fact, the Italian request is valid, and it is understood that SACRED and his staff alone have the power to interpret the Armistice terms.
3. If it is decided that the interpretation is sound the matter will, of course, be immediately taken up through diplomatic channels, as laid down by you.

For the Chief Commissioner,

Brigadier
Executive Commissioner

Copy to: Colad 'A'
Colad 'B'
Navy 3/3
Legal 3/3.

5946

see M28-33

Declassified E.O. 12356 Section 3.3/NND No. 785017

1393
5610
3544
G-5
23
Ex Comm
ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 561.6 NEI

13 February 1946

SUBJECT: Italian Ships in Greek Waters.

TO : Headquarters, Allied Commission,
APO 394.

Reference your 5610/20/EC, dated 7 February 1946.

1. Your letter 5610/13/EC dated 7 December 1945 was answered by this Headquarters G-5: 561.6 NEI dated 15 December 1945, a copy of which is attached for your convenience.

BY COMMAND OF LIEUTENANT GENERAL MORGAN:

F. G. A. Parsons
F. G. A. PARSONS
Brigadier
Acting Assistant Chief of Staff, G-5

Incl: as above

See 27-5945

(11553)

1394

Declassified E.O. 12356 Section 3.3/NND No.

785017

22

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512
AH/CM/j

G-5: 561.6 NEI

15 December 1945

SUBJECT: Italian Ships in Greek Waters.

TO : Headquarters, Allied Commission,
APO 394.

13

1. Reference your 5610/13/EC dated 7 December 1945, above subject.

2. The vessels in question appear to come within the decision expressed in paragraph 2 of letter, this Headquarters, G-5: 561.6 NEI dated 3 October 1945 to Headquarters, Allied Commission. Therefore no attempts will be made in this Headquarters to go into the merits or the position of the Italian Ministry of Foreign Affairs, as expressed in your letter.

3. These matters should continue to be handled as expressed in paragraph 3 of letter, this Headquarters, G-5: 561.6 NEI dated 3 October 1945.

BY COMMAND OF LIEUTENANT GENERAL MORGAN:

5609/EC
folio 43

(4 ships seized
by Yugoslavs.
Two diplomatic
channels).

A. L. HAMBLIN,
Brigadier General CSC,
Assistant Chief of Staff, G-5.

5944

1395

785017

Declassified E.O. 12356 Section 3.3/NND No.

21

Ref: 5610/21/30

7 February 1946

SUBJECT: Italian Ships in Greek Waters.

TO : Ministry of Foreign Affairs.

19

Ref your memo 6/473/162 dated 29 January 1946.

13

1. This matter was passed to AFHQ on 7 December 1945 but no reply has yet been received.

20

2. A further letter has been sent requesting an early reply and I will communicate with you as soon as it is received.

For the Chief Commissioner,

EL. W. HINDS

Brigadier
Executive Commissioner

5943

PA
8/2
[Signature]

Declassified E.O. 12356 Section 3.3/NND No. 785017

Ref: 5610/20/20

7 February 1946

SUBJECT: Italian ships in Greek waters.

TO : G-5 AFHQ.

13
It would be appreciated if a reply could be given to my letter 5610/13/20 dated 7 December 1945, please.

For the Chief Commissioner

M. W. LIND-SMITH

Brigadier
Executive Commissioner

See 23

5942

A
8/2

[Handwritten signature]

1397

Declassified E.O. 12356 Section 3.3/NND No.

785017



Ministero degli Affari Esteri

561056
6/448/162
19-
FEB 6 1946

MEMORANDUM FOR THE ALLIED COMMISSION

Subject: Italian ships in Greek waters.

1. Reference is made to this Ministry's memorandum 6/4502/2064, dated November 14th, 1945.

2. It would be very much appreciated to be informed as to how the a/m matter is progressing.

Rome, January 29th, 1946

See 20521.27.34
M.22.24-26.28-33-35

(miss 5)

1398

Declassified E.O. 12356 Section 3.3/NND No.

785017

13

HEADQUARTERS ALLIED COMMISSION
APO 394
Office of the Executive Commissioner

Ref: 5610/13/EC

7 December 1945

SUBJECT: Italian Ships in Greek Waters

TO : C-5, AFHQ

1. We have received a letter from the Italian Ministry of Foreign Affairs dated 14 November 1945 concerning a number of Italian ships (some of them sunk) which on 8 September 1943 were to be found in Greek or Aegean waters. Allied Commission is asked to take up the matter with the Greek Authorities in order to obtain all possible information as to their present condition and to secure their return to their owners or have the salvage rights acknowledged.

2. The Ministry asks that these vessels are not considered as war booty because:

(a) Article 5 of the armistice signed on September 3rd, 1943, states that Italian merchant ships (wherever located) are subject to requisition by the Allied Commander-in-Chief. It is obvious that by this provision the Allies have implicitly waived the prize right; if not, they would hardly have needed to lay claim to requisition.

(b) The Cunningham-De Courten agreement, dated September 23rd, 1943 provides that Italian merchant ships, flying Italian flag and manned by Italian crews, shall be employed under the same conditions as those applying to merchantmen of the Allied Nations.

(c) As regards sunken ships, the Italian Government feel that their capture, i.e. an actual seizure, cannot take place until the ship is in a position to make a seizure possible, in other words, until she has been refloated. Consequently the capture by the Allies of craft that, though sunk in the waters of territories occupied by them prior to 8th of September 1943, had not yet been salvaged at that date, could not be captured by the Allied Authorities but should be returned to the Italian Authorities, save, of course, the right of reimbursement of salvage expenses. Such principle has already found a practical application when the Allied Authorities provided that the Italian

5941

ships they

See 22/3
See 20

see 11/8
11/12

1399

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- 2 -

12.

ships they recovered in Italian harbours be returned to Italy, save, of course, the payment of salvage expenses.

The above argument is supported not only by the letter but also by the spirit of the armistice and of the subsequent recognition of Italy as a co-belligerent. On the other hand a disparity of treatment of Italian ships, merely based on their different location at the time of capture, could hardly be deemed to be justifiable.

3. We would be grateful if you could inform us whether the Italian interpretation of the armistice terms is sound and what further action you wish to be taken in the matter.

For the Chief Commissioner:

M. S. LUSH

Brigadier
Executive Commissioner

Copy to:

Polad (A)

Polad (B)

Legal S/C

Navy S/C

5810



Ministry of Foreign Affairs

5610

6/4502/2064 (5)

(4)

R. A. S. Nov

3

MEMORANDUM FOR THE ALLIED COMMISSION

Subject: Italian ships in Greek waters.

1. The Ministry for Foreign Affairs beg to inform the Allied Commission that on September 8th, 1943 a number of Italian ships (part of them sunken), were to be found in Greek or Aegean waters. Particulars concerning these vessels are tabulated in the enclosed list.

2. In the light of the reasons already illustrated to the Allied Commission in Memorandum n. 6/4487/2058, dated November 10th, 1945, concerning the Italian ships seized by the Yugoslav Authorities, the a/m. vessels in Greek and Aegean waters should not be considered as war prize; in fact:

//a) Article 5 of the armistice signed on September 3rd, 1943, states that Italian merchant ships (wherever located) are subject to requisition by the Allied Commander-in-Chief. It is obvious that by this provision the Allies have implicitly waived the prize-right; if not, they would hardly have needed to lay claim to requisition.

b) The Cunningham-De Courten agreement, dated September 23rd, 1943 provides that Italian merchant ships, flying Italian flag and manned by Italian crews, shall be employed under the same conditions as those applying to merchantmen of the Allied Nations.

c) As regards sunken ships, the Italian Government feel that their capture, i.e. an actual seizure, cannot take place until the ship is in a position to make a seizure possible. In other words, until she has been refloated. Consequently the capture by the Allies of craft that, though sunk in the waters of territories occupied by them prior to 8th of September 1943, had not yet been salvaged at that date, could not be captured by the Allied Authorities but should be returned to the Italian Authorities, save, of course, the right of reimbursement of salvage expenses. Such principle has

La V. S. 10-18

MEMORANDUM FOR THE ALLIED COMMISSION

Subject: Italian ships in Greek waters.

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2. In the light of the reasons already illustrated to the Allied Commission in Memorandum n.6/4487/2058, dated November 10th, 1945, concerning the Italian ships seized by the Yugoslav Authorities, the a/m. vessels in Greek and Aegean waters should not be considered as war prize; in fact:

- a) Article 5 of the armistice signed on September 3rd, 1943, states that Italian merchant ships (wherever located) are subject to requisition by the Allied Commander-in-Chief. It is obvious that by this provision the Allies have implicitly waived the prize-right; if not, they would hardly have needed to lay claim to requisition.
- b) The Cunningham-De Courten agreement, dated September 23rd, 1943 provides that Italian merchant ships, flying Italian flag and manned by Italian crews, shall be employed under the same conditions as those applying to merchantmen of the Allied Nations.
- c) As regards sunken ships, the Italian Government feel that their capture, i.e. an actual seizure, cannot take place until the ship is in a position to make a seizure possible, in other words, until she has been refloated. Consequently the capture by the Allies of craft that, though sunk in the waters of territories occupied by them prior to 8th of September 1943, had not yet been salvaged at that date, could not be captured by the Allied Authorities but should be returned to the Italian Authorities, save, of course, the right of reimbursement of salvage expenses. Such principle has

(Miss Sampson)

See R.19

See R.10-18
P.T.O.



Ministero degli Affari Esteri

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already found a practical application when the Allied Authorities provided that the Italian ships they recovered in Italian harbours be returned to Italy, save - of course - the payment of salvage expenses.

3. The above argumentation is supported not only by the letter but also by the spirit of the armistice and of the subsequent recognition of Italy as a cobelligerent. On the other hand a disparity of treatment of Italian ships, merely based on their different location at the time of capture, could hardly be deemed to be justifiable.

4. The Ministry for Foreign Affairs will appreciate it greatly if the Allied Commission will kindly take up the matter with the Greek authorities in order to obtain all possible information as to the present conditions and situation of the ships in question and in order to secure that they be returned to their owners or that their salvage right be acknowledged, in the case of the still sunken ships.

5. The Ministry for Foreign Affairs will be very grateful to the Allied Commission for their kind interest in the matter and will greatly appreciate an early reply.

Rome, November 14th, 1945

One ENCLOSURE



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SITUAZIONE DEL NAVIGLIO AFFONDATO O RIMASTO IN GRECIA E IN EGEO

Tipo	Nome	T.S.L.	Dislocazione all'8 sett. 1943
P/fo	QUIRINALE	3799	Grecia-Incagliato Can. S. Mauro
"	ASCIANGHI	610, 66	Pireo -Autoaffondato
"	APRILIA	1259	Egeo -Aff. largo Rodi 7.44
"	CAPO PINO	4785	Grecia-Affondato Suda 2.44
"	GINETTO	1136	Prevesa- Incagliato
"	LIVENZA	5343	Grecia- Aff. largo di Candia
"	PIER LUIGI	2571	Grecia- Affondato Suda
"	POLCEVERA	2609	Grecia- Aff. largo Samos
"	SALVATORE	2252	Grecia- Aff. largo Candia
"	VESTA	3351	Pireo - Autoaffondato
"	CAROLA (ex franc. Corso Fougler)	1348	Grecia- Affondato
"	MONSTELLA	5311	Grecia- Affondato Corfù
"	CELENO	3740	Egeo - Affondato in Egeo
"	ANNARELLA	5999	Egeo - Rimasto in Egeo
"	CAMOGGI		Grecia- Aff. a Patmo
"	LEOPARDI		Egeo - Aff. in Egeo
"	VOLTA	1189	Egeo - Affondato a Lisso
"	BUCINTORO	1273	Egeo - Affondato a Lero
"	BIRBIGNO		Egeo - Rimasto a Lero
"	CORRADO DEL GRECO	6837	Egeo - Affondato a Lero
"	CAPRI	68	Egeo - Affondato a Lero
"	PLUTO		Egeo - Affondato largo Stampalia
"	POEZIA	639	Egeo - Affondato a Rodi
"	RUBICONE	1740	Egeo - Rimasto a Lero
"	SILVA		Grecia- Affondato a Mudros
"	TAGANROG		Egeo - Affondato in Egeo
"	VERSILIA		Grecia- Aff. a Capo Naxos
"	CITTA' DI SAVOIA	2500	Egeo - Arenato a Portolago
"	PORTO DI ROMA	470	Egeo - Affondato a Lero
"	TARQUINIO	749	Grecia- Affondato a Creta
"	MARRHUA		Egeo - Affondato a Lero
"	PRODE	1244	Egeo - Affondato a Lero
"	GESINI (F.110)	2423	Grecia- Autoaff. a Salonicco
"	MOROSINI	638	Grecia - Aff. largo Santexin
"	TEAGLIA (F.108)	1165	Grecia- Autoaff. a Pireo
"	AREZZO		Grecia- Affondato a Volo
"	IRENE	1122	Grecia- Affondato a Iraclion
"	AVIGNIA		Egeo - Rimasta a Lero
"	POSTIGLIONI	3274	Egeo - Affondato a Lero
"	IVOREA	791	Grecia- Rimasta a Sira
"	ADDA		Grecia- Dal Pireo per Mar Nero
"	BIANCAMAPIA	3741	Grecia- Affondato a Intea
"	CELENO	74,54	Egeo - Affondato a Porto Tisani
"	PO'		Grecia- Affondato a Patraso
"	ELIKI	16,51	Grecia- Rimasto al Pireo
"	URANO (R.98)	447,47	Grecia- Rimasto a Volo
"	LORIS		Grecia- Rimasto a Salonicco
"	CICLOPE	213,58	Egeo - Rimasto a Lero
"	VULCAN	90,91	Grecia- Rimasto a Sira
"	BEIRORIE		
"	NINO CHIESA		

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R. MINISTERO
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AFFARI ESTERI

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Rimorch.	ALGHERO	Grecia-Affondato a Patrasso
"	MAGELLANO	Grecia-Affondato a Patrasso
"	POSSENTE (ex Kima)	Grecia-Affondato a Pireo
"	S.ALESSIO	Grecia-Rimasto a Patrasso
"	S.CATALDO	Grecia-Rimasto a Suda
"	S.ELIA	Grecia-Rimasto a Pireo
"	ARLENZA	Grecia-Affondato a Pireo
"	TAVOLARA	Egeo -Affondato a Lero
"	P.E.30	Egeo -Affondato a Lero
"	GAETA	Egeo -Rimasto a Lero
Bac.gall.	G.O.25	Egeo -Affondato a Lero
Pontone	G.A.12	Egeo -Affondato a Lero
N/v.	FRANCO	Grecia-Affondato a Parga
"	MIRIA (V.187)	Grecia-Affondato Argostoli
"	GIUSEPPE C. (V.186)	Grecia-Rimasto Argostoli
"	ELVIRA (V.306)	Grecia-Rimasto a Patrasso
"	FELINO (V.152)	Grecia-Affondato a Navarrino
"	DANTE ALIGHIERI (V.199)	Grecia-Rimasto Argostoli
"	DUE FRATELLI (V.151)	Grecia-Rimasto a Pireo
"	EURIGHETTA MADDALENA	Grecia-Rimasto a Pireo
"	356, 97	Grecia-Rimasto in Grecia
"	S.BARTOLO	-Affondato ?
"	38, 06	-Affondato ?
"	FEPPINO	-Affondato ?
"	CARMELO PADRE B.	Grecia-Rimasto a Sira
"	ALESSANDRO E.	Egeo -Rimasto a Rodi
"	AIN ZARA	Egeo -Rimasto a Lero
"	MARGERITA (V.178)	Grecia-Rimasto a Candia
"	FAMIGLIA MERICA	Egeo -Affondato a Lero
"	ALLEANZA	Egeo -Affondato a Lero
"	MICHELE G.	-Affondato ?
"	PEGASO	-Affondato ?
"	PIAVE (P.35)	-Affondato ?
"	SAN GIORGIO (B.173)	Grecia-Rimasto a Sira
"	BIANCAMARIA (F.104)	Egeo -Rimasto a Rodi
"	FALCO (B.435)	Egeo -Rimasto a Lero
"	DOMENICO (R.142)	Grecia-Rimasto a Candia
"	AURA	Egeo -Affondato a Lero
"	IMPERO	Egeo -Affondato a Lero
"	ROMA	-Affondato ?
"	S.ANTONIO DI PADOVA	-Affondato ?
"	DENTICE	-Affondato ?
"	EDVIGE	-Affondato ?
"	RIM	Grecia-Affondato a Navarrino
"	MARIA SS.DELLE GRAZIE	-Affondato ?
"	VASILIKI	-Affondato ?
"	LANCIOTTO PIERO (A.S.80)	Grecia-Affondato a Patmo
"	MICHELANGELO (O.80)	Grecia-Affondato Samos
"	AIMA (R.136)	Grecia-Affondato Argostoli
"	PATRIZIA (R.191)	Grecia-Rimasto Argostoli
"	2. MARIA COSTANZA (R.130)	Grecia-Affondato Argostoli
"	ROSINA (R.171)	Grecia-Rimasto Argostoli
"	TORREADOR (B.150)	Grecia-Affondato Argostoli
"	IDANGELA (B.198)	Grecia-Affondato Argostoli
"	FAUNO (R.177)	Grecia-Affondato Patrasso
"	FANUN FORTUNE (R.87)	Grecia-Affondato Prevesa
"	PRINCIPE UMBERTO (R.157)	Grecia-Affondato Prevesa

Rimorch.

ALGERO
MAGELLANO
POSSENTE (ex Kima)
S. ALESSIO
S. CATALDO
S. ELIA
ARPENZA
TAVOLARA
P.E.30
GAETA
G.O.25
G.A.12

Bac.gall.
Pontone

M/v.

FRANCO
MIRIA (V.187)
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IDANGELA (B.198)
FAUNO (R.177)
FANUN FORTUNE (R.87)
PRINCIPE UMBERTO (R.157)
FEDELSONO
LA NUOVA MARIA LUISA 35, 22

Grecia-Affondato a Patrasso
Grecia-Affondato a Patrasso
Grecia-Affondato a Pireo
Grecia-Rimasto a Patrasso
Grecia-Rimasto a Suda
Grecia-Rimasto a Pireo
Grecia-Affondato a Pireo
Egeo -Affondato a Lero
Egeo -Affondato a Lero
Egeo -Rimasto a Lero
Egeo -Affondato a Lero
Egeo -Affondato a Lero

Grecia-Affondato a Parga
Grecia-Affondato Argostoli
Grecia-Affondato Argostoli
Grecia-Rimasto Argostoli
Grecia-Rimasto a Patrasso
Grecia-Affondato a Patrasso
Grecia-Affondato a Navarrino
Grecia-Rimasto Argostoli
Grecia-Rimasto a Pireo
Grecia-Rimasto a Pireo
Grecia-Rimasto in Grecia
Grecia-Aff. a Stogos (Patrasso)
Grecia-Rimasto a Pireo
Grecia-Rimasto a Pireo
Grecia-Rimasto in Grecia
-Affondato ?
-Affondato ?
-Affondato ?

Grecia-Rimasto a Sira
Egeo -Rimasto a Rodi
Egeo -Rimasto a Lero
Grecia-Rimasto a Candia
Egeo -Affondato a Lero
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Grecia-Affondato a Navarrino
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Grecia-Affondato a Patrasso
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M/P	SAN CIRO	51,59	Grecia-Rimasto a Pireo
"	SAN FRANCESCO D'ASSISI	29,33	Grecia-Rimasto a Pireo
"	LAGO TANA	47,27	Grecia-Rimasto a Karkis
"	COMANDANTE MADDALENA (R.14)	69	Grecia-Rimasto in Grecia
"	CONDOTTIERO (R.112)	66	Grecia-Rimasto in Grecia
"	AVANGUARDISTA (B.319)	5,76	Grecia-Rimasto a Patrasso
"	AMOR DI PATRIA (B.276)	101,31	Grecia-Rimasto a Patrasso
Mona FRIEDA			Grecia-Rimasto a Pireo
"	QUIETA		Grecia-Rimasto a Pireo
"	GINA	48,60	Grecia-Rimasto a Pireo
"	33		Grecia-Rimasto a Suda

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