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FILE 32

ALLIED ITALIAN MEETING + AGREEMENT FOR

Jan. - July 1944

ITALIAN MEETING + AGREEMENT FOR P.O.W.

6560
6646

(6/-/hls)

Junior Commander Hopkins,

Mr. Gaccia's memorandum to me
No. 243 of April 27th about stopping
the pay of Prisoners of War.

2. The Foreign Office and War Office
have considered General Cazzera's
objection and have decided nevertheless
to retain the practice. They ask that
the General be informed that, while H.M.
Government must retain their right to
impose this form of punishment, he may
rest assured that in practice H.M.
Government will employ it as sparingly
as possible.

7.7.24

6646

*Pruned told &
asked to inform*

G. H. 14/7

HEADQUARTERS ALLIED CONTROL COMMISSION

No. 243

27 April 1946

TO: Mr. A. Holford.

I saw General Gennaro today about his misunderstanding of our desire to resume our rights under the Geneva Convention to stop the pay of prisoners of war by way of penalty for misconduct.

The General took the point, but said that he had not expressed himself well in his memorandum of objection. What he had wanted to bring out was that Italian soldiers all felt very bitterly about stoppage of pay being used as a punishment. Their pay in any case was so small that this particular penalty told far more harshly upon Italian soldiers than it did upon British soldiers. Consequently if the British Authorities began once more to use stoppage of pay as a punishment, it would have a bad effect upon the morale of Italian prisoners who would be at a loss to understand why this form of punishment should be reinstated now that they were cobelligerents.

He therefore asks that British Authorities should reconsider this question in the light of what he had said. If they insisted on going ahead, he trusted that this form of punishment would be used very sparingly. I promised to pass on his remarks, but made it clear that I had not put a proposal to him for discussion. I had informed him of the intention of IAC to resume their rights.

Would you pass on the gist of the General's remarks to the F.C.? As it has political implications, I think that the Southern Department should know about this as well as Pet Dunn and Gerry Killimore.

Political Section

6645

243



p. 114. D.

Spencer Ruess

Prunella

for the

Cava dei Tirreni, 29 aprile 1944

$$30 \overline{) 4}$$

Caro Signor Caccia,

Dopo che ho avuto il piacere di discorrere personalmente con Lei, nell'ufficio segreteria del Capo del Governo, in merito alla proposta britannica di cessare l'applicazione dell'accordo stipulato per non infliggere ai prigionieri di guerra la punizione di sospensione della paga, ho saputo dal Ministro Prunas che Ella avrebbe ancora con lui perorato il punto di vista del Governo di S.M. Britannica.

Ritengo che per evitare malintesi sarebbe bene se Ella volesse fare inviare una risposta scritta alla mia nota 76, in modo che io possa meglio illustrare, all'occorrenza, le ragioni che inducono il Governo Italiano ad insistere sul suo punto di vista espresso nella nota surricordata.

Con ogni osservanza,

1000. *Blatta*

nalmente con Lei, nell'ufficio segreteria del Capo del Governo, in merito alla proposta britannica di cessare l'applicazione dell'accordo stipulato per non infliggere ai prigionieri di guerra la punizione di sospensione della paga, ho saputo dal Ministro Prunas che Ella avrebbe ancora con lui perorato il punto di vista del Governo di S.M. Britannica.

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Con ogni osservanza,

[illegible]

Allegato : copia della nota 76
data al Ministro Demog.

Mr. CACCIA
Commissione Alleata Controllo
Palazzo del Governo
Napoli

ALTO COMMISSARIO
PER I PRIGIONIERI DI GUERRA

n.76/Pol

Cava dei Tirreni, li 21 aprile 1944

OGGETTO: Accordo tra l'Italia e Gran Bretagna relativo all'abolizione della sospensione della paga ai prigionieri di guerra.

ALLA COMMISSIONE ALLEATA DI CONTROLLO

Salerno

1 - Mi riferisco alla nota colla quale codesta Commissione ha comunicato al R. Ministero degli Esteri italiano l'intenzione del Governo di S.M. Britannica di non dare ulteriore applicazione all'accordo stipulato con il R. Governo Italiano relativo all'abolizione della sospensione della paga ai prigionieri di guerra. Come codesta Commissione di Controllo ha certamente rilevato trattasi di un argomento di importanza morale assai piu' grande di quel che possa apparire a prima vista.

2 - Il Governo Italiano si rende perfettamente conto del desiderio del Governo Britannico, espresso a mezzo di codesta Commissione Alleata di Controllo, di riprendere le facoltà conferite dagli articoli 45 e 46 della Convenzione di Ginevra, ed alle quali i due Governi avevano concordemente rinunciato con l'accordo sopraricordato, di poter sospendere cioè la paga ai militari, per mancanza da essi commesse.

Esso deve fare constatare pero' che le considerazioni, le quali

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Esso deve fare constatare pero' che le considerazioni, le quali avevano indotto i due Governi contraenti, indipendentemente dal numero dei prigionieri di guerra da ciascuno di essi detenuto, ad abolire qule facolta', non solo permangono, ma che la durezza insita in una simile punizione, con la cobelligeranza ora in atto, arrecherebbe grave disappunto nell'animo di tutti i militari italiani tuttora detenuti in mani britanniche. Essi sono in attesa che le loro ⁶⁶⁴²condizioni siano sostanzialmente mutate in meglio, in virtu' non solo dell'armistizio, ma soprattutto in virtu' della cobelligeranza, e non certamente peggiorate col rincrudire le punizioni.

3 - Nella nota di codesta Commissione Alleata di Controllo e' accennato pure al fatto che, non avendo piu' il Governo Italiano in suo

potere prigionieri di guerra britannici, verrebbe a mancare la reciprocita' dell'applicazione dell'accordo. Ma non si puo' non osservare che il Governo Italiano, non avendo piu' in sua mano prigionieri di guerra britannici, non avrebbe piu' occasione di esercitare la reciprocita' nell'infliggere la sospensione della paga.

4. - Pertanto sulla base dei motivi umanitari esistenti gia' prima dell'armistizio e delle ragioni politiche sorte dopo l'armistizio e la dichiarazione italiana di cobelligeranza, si fa sicuro asseguamento che il Governo Britannico non voglia insistere sulla sua proposta, cosicche' l'accordo circa la rinuncia ad applicare ai prigionieri di guerra la sospensione della paga per motivi disciplinari rimanga sempre in vigore fino a che i militari italiani cessino dal loro attuale status di prigionieri di guerra.

Si ringrazia fin d'ora codesta Commissione Alleata di Controllo dell'appoggio che vorra' dare al pensiero sopra espresso.

L'Alto Commissario
(Generale Pietro Gazzera)

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L'Alto Commissario
(Generale Pietro Gazzera)

661

PP given to Wg. Halford 21/4

Tel. to F.O.

Following for Dean from Cecela.

No.

Italian Government has been informed that we wish to resume power to stop pay of prisoners of war.

2. Italian Government acknowledges with thanks proposal for resumption of remittances ^{by} prisoners of war and suggests that the procedure laid down in their Note Verbale to the U.S. Embassy in Rome No. 31 - 21177 - 93 of the 26th September, 1941, should be put into force again without change.

3. Documents follow by bag but substance of Note Verbale of 26th September can be telegraphed if copy is not available in London.

4. Italian Government have ^{now} asked the Americans to ^{do} follow our ~~lead over this~~. ^{likewise}

5. Please inform Phillimore with reference to his memorandum of 6th April.

6641

TOP SECRET

M203

41

23

M. H. L. P.

ACC MAIN (GEN MACFARLANE C COM)

17th. May. 1944.

TOP SECRET

Y16

PRIORITY

GEN MACFARLANE

A.F.H.Q.

SUBJECT MY MEMORANDUM NUMBER CHARLIE CHARLIE SLANT GEORGE SLANT TWO NINE SEVEN OF
 FIFTEENTH MAY TO CHIEF OF STAFF ENCLOSING LETTER FROM BADOGLIO REGARDING PRISONERS OF WAR
 TO PARH TO APPS PERSONAL FOR BRITISH RESIDENT MINISTER FROM ACC MAIN FROM MACFARLANE
PERSONAL PARH SEE ALSO TELEGRAM FOX FOUR FIVE THREE SEVEN FIVE TO ME FROM GENERAL
 GAMMELL PD PARA TWO PD I HAVE TODAY READ STATEMENT IN HOUSE OF COMMONS BY JAMES GRIGG
 AND ARTICLE ON ITALIAN PRISONERS OF WAR IN TIMES OF MAY TENTH PD IT IS VERY PROBABLE
 THAT BADOGLIO WILL FOLLOW UP HIS LETTER WITH A REQUEST FOR VERBAL EXPLANATIONS AND
 DISCUSSIONS PD IN THE MEANTIME IN ACCORDANCE WITH ABOVE QUOTED TELEGRAM I WILL STALL
 HIM PD PARA THREE PD I HEAR THAT YOU ARE MOVING TO VISIT ITALY AGAIN VERY SHORTLY PD
 I HOPE YOU WILL BRING WITH YOU ALL AVAILABLE INFORMATION TO ENABLE NOEL CHARLES TO
 REPRESENT THE POINT OF VIEW OF HQ TO THE ITALIAN GOVERNMENT PD I AM NATURALLY KEEPING
 NOEL CHARLES FULLY INFORMED OF THE SITUATION PD

NOEL MACON MACFARLANE
 Lieutenant-General.
 Chief Commissioner.

6640

TOP SECRET

"TIMES" - May 10th, 1944.

GREATER FREEDOM FOR ITALIAN PRISONERS

LABOUR BATTALIONS OF VOLUNTEERS

Further details regarding the scheme for Italian prisoners of war in the United Kingdom "to join more effectively in the common war effort," announced by the Secretary of State for War in the House of Commons yesterday, were given by a War Office official last night.

Volunteers from among the prisoners will be organized in Italian labour battalions, which will be employed on work of national importance, as may be required. In many cases this will be the work they are at present doing, such as agriculture, forestry, &c. Their employment in a combatant capacity is not at present envisaged.

Although they must remain prisoners of war, the men in these units will enjoy greater liberty, and British guards and sentries will be withdrawn from the camps. The Italians will be largely responsible for their own administration and the maintenance of good order.

They will not be allowed to enter shops, public houses, cinemas, or restaurants, or to use public transport except for the purpose of going to or from their work, and some restrictions of their relations with the civilian population will still be maintained.

Special arrangements are being made to provide cinema shows, concerts, and entertainments in the camps, and to enable the men of one battalion to communicate with those of another. They will carry special identity cards, and will wear a distinctively coloured uniform and field-service cap, with the shoulder title "Italy," and Italian badges of rank, in place of the patched clothing.

The basic rate for Italian privates will be 7s. a week, instead of the previous hourly rate of 3d. and 11d. (or a maximum of 6d. or 1s. a day). Small additions to the basic rate of 7s. a week for certain types of work are under consideration.

ITALIAN PRISONERS

SIR J. GRIGG, replying to Mr. IVOR THOMAS (Keighley, Lab.), said:—In order to give effect to the Italian Government's declaration of co-belligerency and to enable those who are anxious to do so to join most effectively in the common war effort, Italian prisoners of war under the control of his Majesty's Government in the United Kingdom who volunteer are being formed into units organized on a military basis. These units will be under the ultimate command of British officers, but will be staffed, so far as practicable, by Italian officers and non-commissioned officers. Members of these units will wear Italian badges of rank and will enjoy certain improvements in treatment, particularly in respect of liberty and pay, in comparison with prisoners of war who do not volunteer and whose treatment will remain as at present. COMMANDER LOCKER-LAMPSON (Birmingham, Handsworth, U.K.)—Is Sir Oswald Mosley a co-belligerent? (Laughter.)

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394

18 May 1944

TO: Mr. H. A. Caccia
Political Section, Hq ACC, Naples.

In the note from Pat Dean which you asked me to hand to Colonel Upjohn mention is made of some documents which the latter thinks it important he should see. The sentence reads as follows:-

"In this connexion you should look at Foreign Office telegram No. 445 of the 18th January to Washington, Washington telegram No. 96 Saving of the 18th April to the Foreign Office and Foreign Office telegram No. 166 Saving of 3rd May to Washington, copies of all of which have been sent to Sir Noel Charles by bag."

We have not got copies of these, but perhaps you could procure them.

J. M. Pearson
J. M. PEARSON
Captain
Political Section

*Papers sent to Major P. for
Col. Upjohn 10.6. last*

Dean's note is No. C 5775/14/62 of 11 May

Mr. Halford looking over note 6638

Capt. P. told.

Mr. H. reminded again 10/5

TOP SECRET

FATIMA M137

20

FATIMA (GEN MACFARLANE C COMM)

5th. April. 1944.

TOP SECRET

V 16

PRIORITY

FREEDOM

SUBJECT PRISONERS OF WAR PD REFERENCE BY FATIMA MIKE ONE THREE SIX PD PAREN TO AFHQ FOR
GENERAL WILSON CMA BRITISH RESIDENT MINISTER AND CIVIL AFFAIRS FROM FATIMA FROM MACFARLANE
PERSONAL PAREN PART ONE PD AS THE RESULT OF MY CONVERSATIONS WITH BAIOGLIO AND GAZZERA
 I AM CONVINCED THAT THERE IS NO PROSPECT EITHER NOW OR IN THE FUTURE OF REACHING AN
 AGREEMENT WITH THE ITALIAN GOVERNMENT WHICH DOES NOT PROVIDE FOR ABOLITION OF PRISONER OF
 WAR STATUS PD IN CONSIDERING FUTURE POSSIBLE COURSES OF ACTION THE FOLLOWING MAY BE
 HELPFUL PD PAREN TWO PD IN OUR OPINION HERE THE LOGICAL COROLLARY TO REGARDING THE
 ITALIANS AS CO BELLIGERENTS IS TO RELEASE THESE PRISONERS OF WAR FROM THEIR PRESENT
 STATUS AND TO FORM THEM INTO UNITS OF THE ITALIAN ARMY AS LABOUR UNITS FOR EMPLOYMENT IN
 AREAS WHERE THE PRESENT JURISDICTIONAL DIFFICULTIES DO NOT APPLY CMA PRINCIPALLY IN THE
 MEDITERRANEAN AREA AS MANY AS POSSIBLE BEING EMPLOYED IN ITALY PD I REALISE THAT THIS
 WOULD INVOLVE A MAJOR DISLOCATION OF LABOUR AND A VERY DIFFICULT SHIPPING PROBLEM PD
 THESE PROBLEMS WILL IN ANY CASE HAVE TO BE SOLVED EVENTUALLY AND THE EARLIER THE BETTER
 FROM THE STANDPOINT OF GOOD RELATIONS WITH ITALY PD PAREN THREE PD IF IT IS IMPOSSIBLE
 TO MOVE THESE PRISONERS OF WAR AS SUGGESTED AND THUS AVOID THE STATUS PROBLEM CMA I
 REALISE THAT SPECIAL LEGISLATION WOULD HAVE TO BE PASSED TO PROVIDE FOR THE MAINTENANCE

6637

FATIMA M137 - 2

OF DISCIPLINE AND PAY FOR ITALIAN ARMY UNITS IN AMERICAN AND BRITISH TERRITORIES PD
PART FOUR PD SHOULD NEITHER OF THESE COURSES PROVE POSSIBLE THERE IS NEVERTHELESS AN
IMMEDIATE NEED FOR USING THESE PRISONERS OF WAR ON TYPES OF WORK NOT PERMITTED BY THE
GENEVA CONVENTION PD IT IS CLEAR THAT THE EMPLOYMENT OF ITALIAN PRISONERS OF WAR ON SUCH
WORK WOULD BE A TECHNICAL BREACH OF THE CONVENTION PD HOWEVER ARTICLE THREE ONE OF THE
CONVENTION WAS FRAMED IN ORDER TO PREVENT PRISONERS OF WAR BEING COMPELLED TO ASSIST
DIRECTLY IN THE ENEMY'S EFFORT AGAINST THEIR OWN COUNTRY AND THIS CONDITION IS
INAPPLICABLE IN PRESENT CIRCUMSTANCES PD IN ADDITION THE ASSURANCES I HAVE RECEIVED FROM
BADOGLIO INDICATE THAT HE IS ANXIOUS TO DO EVERYTHING POSSIBLE TO ENABLE ITALIAN
PRISONERS OF WAR TO TAKE A GREATER SHARE IN HELPING OUR WAR EFFORT AGAINST THE ENEMY PD
I AM THEREFORE OF THE OPINION THAT SHOULD THE DECISION BE MADE TO USE THESE ITALIANS ON
WAR WORK BADOGLIO CMA WHILE RESERVING ALL HIS RIGHTS CMA IS UNLIKELY TO APPEAL TO THE
PROTECTING POWER PARTICULARLY IF THE WORK IS DONE ON A VOLUNTEER BASIS AND IS
ACCOMPANIED BY BETTER TREATMENT IN RESPECT OF PAY CMA LIBERTIES ETC PD THERE IS ALWAYS
A CHANCE THAT SOMEONE OTHER THAN BADOGLIO WILL RAISE THE QUESTION ON POLITICAL GROUNDS
CMA BUT THIS COULD BE AT LEAST PARTIALLY OFFSET BY INVITING ITALIAN OFFICERS 6638VE

FATIMA M137 - 3

THE OPERATION OF THE PLAN ONCE IT IS IN PROGRESS PD PAGE FIVE PD ~~(S)~~ IF THIS PLAN IS ADOPTED ON A VOLUNTARY BASIS TO MEET OUR IMMEDIATE NEEDS WE HAVE GOOD REASONS FOR HOPING THAT THERE WILL BE NO SERIOUS POLITICAL REPERCUSSIONS PD ~~(S)~~ WHILE BAROGGIO IS UNWILLING TO SIGN AWAY ITALIAN RIGHTS UNDER THE GENEVA CONVENTION HE MIGHT WELL BE WILLING TO ADOPT THE NEGATIVE ATTITUDE OF LEAVING US TO SHOULDER THE RESPONSIBILITY FOR OUR OWN DECISIONS PD ~~(S)~~ IT MUST HOWEVER BE REALISED THAT PROLONGED CONTINUATION OF PRISONER OF WAR STATUS WILL ADVERSELY AFFECT OUR CC DASH BELLIGERENT RELATIONS WITH ITALY

6635

ROSL MASON MACFARLANE
Lieutenant-General.
Chief Commissioner.

41

19

SUGGESTED POINTS FOR INTERVIEW

1. I have received your letter which is completely unacceptable, and I must therefore hand it back to you.
2. I have brought with me a text of the agreement which represents the limit which my Governments are prepared to go and therefore the limit of my instructions. My object in coming is to ask you whether you are willing to sign this agreement or not.
3. If you will not my Governments are bound to take the most serious view of this failure of the Italian Government to cooperate at a critical moment for reasons which can only be regarded as totally inadequate.
4. I shall have to report this failure to my Governments.

If, nevertheless, Badoglio refuses to sign -----

5. In reporting the present position home it would help me to explain your case if you would write me a letter saying that you fully agree with any measures taken to improve the conditions of Italian Prisoners of war and to increase their opportunities to take part in the common war effort at the most critical time. A draft letter is attached.

6634

D R A F T

Our recent conversations with regard to the Italian soldiers now held as prisoners of war by the governments of the United States and the British Commonwealth have been of much value to me in clarifying the technical difficulties involved in effecting a complete change in their status. As you know I am most anxious to arrive at a settlement of this matter completely satisfactory and practical from every standpoint. While I strongly urge that the governments of the United States and British Commonwealth give consideration to the removal of Italians from prisoner of war status I appreciate the difficulties which beset such a course at the moment. However you may be sure that I completely concur in any steps which the governments may see fit to take which will improve the conditions of Italian prisoners of war and permit them increased opportunities to assist in the common war effort.

[Whitely 11 1/2 1940 can be a real asset]

TOP SECRET

FATIMA 2131

(18)

FATIMA (GEN MACFARLANE C COMM)

2nd. April, 1944.

TOP SECRET

MAJOR DOR

PRIORITY

FRENCH

RESIDENT

SUBJECT PRISONERS OF WAR PD PARIS TO AFHQ FOR GENERAL WILSON CMA FOREIGN MINISTER AND
CIVIL AFFAIRS FROM FATIMA FROM MACFARLANE PERSONAL PARIS PD REFERENCE MIKE ONE TWO SEVEN
 PD IMMEDIATELY AFTER RETURN FROM SICILY RAIOLIO ASKED ME TO LUNCH TODAY TO DISCUSS
 FURTHER THE POW AGREEMENT IF I THINK AND HOPE THAT IT WILL NOW BE POSSIBLE TO NEGOTIATE
 AN AGREEMENT IF RAIOLIO HAS CONTRACTED TO SEND ME IN WRITING TOMORROW VARIOUS QUESTIONS
 WHICH HE STILL WISHED TO CLARIFY BUT ON THE MAJOR POINTS OF DIFFERENCE NAMELY STATUS AND
 COMMAND I THINK I HAVE CONVINCED HIM THAT IT IS POSSIBLE TO ACCEPT THEM WITHOUT POLITICAL
 DISASSSENT FOR HIM AND HIS GOVERNMENT PD I HAVE TO TELEGRAPH AGAIN VERY SHORTLY PD

ROBERT E. DOE,
 Major, AGP.
 Secretary-General.

6632

TOP SECRET

(17)

31 March 1944

Brief Notes for Chief Commissioner for Conversation with Badoglio

The advantages and disadvantages of the proposed scheme from the point of view of the Italians are summarized below in the event that their reiteration may be helpful in your coming discussion or of Badoglio indicating a willingness to consider the scheme on its merits as opposed to rejecting it for purely political reasons.

Advantages.1. To the Individual.

Increased liberty* - better opportunities to contribute to the war effort - removal for all practical purposes of P/W stigma and appearance - opportunity for earning more and providing for dependents - incorporation in Italian units with Italian officers and NCOs.

(Note* Reference to increased liberty. Although their liberty must be limited, all soldiers are restricted to some extent in this respect. In general, members of these units will be restricted on military lines; liberty will be increased progressively as local circumstances and resources permit and it becomes evident that increased freedom will not be abused by them or resented by local inhabitants.)

2. To the Italian Government.

Opportunity to demonstrate their desire to cooperate fully - replacement of Protecting Power by direct liaison officers - opportunity to make capital out of increased advantages obtained for 500,000 Italians - organization of all Italian prisoners under their own officers and own military lines in preparation for their eventual return home.

Disadvantages.1. Status - Command.2. Lack of Universal Application.

ANSWERS. As to 1, this is a political and prestige matter and is not a point which will affect the men themselves unless they misbehave; it is outweighed by the advantage to the individual of further opportunities and a very considerable increase in liberty. It is technically unavoidable. As to 2, the exceptions incorporated in the latest draft of the agreement have reduced this objection to a very small proportion.

GENERAL ANSWERS.

Refusal will leave present ~~and~~ status with all its disadvantages; it will be extremely mal vu by the British and American Governments and will be unpopular with the men themselves.

6631

CC/P/147

CONFIDENTIAL

(16)

FNSM/rj

22nd. March, 1944.

Thank you for your letter of 19th. March.

1. I am very glad to hear that your study of the question is proceeding rapidly and I hope that you will be in a position to discuss the agreement further with me at a very early date. As I may be proceeding to Sicily for a short visit at the end of this week I trust that you will be able to meet me again not later than Friday.
2. As regards the financial questions involved. These do not affect the main agreement and it is unnecessary that they should be considered in connection with our principal task which is to reach agreement on the main agreement.
3. In the meantime and in confirmation of my remarks on the occasion of our last meeting I am in a position to inform you that the Allied Governments intend that the Italian Government will be ultimately responsible for all issues of pay regarded as advances on their behalf. The issues of pay referred to are the issues of pay to all grades and ranks of the service units consisting of Italian volunteers. Other financial questions relate to the rates of advances which will necessarily vary in the different areas involved but which will not increase the liability of the Italian Government under the Geneva Convention.
4. I am sure that you share my desire that our discussions on the main agreement should not be prolonged or affected by these financial considerations which can be dealt with separately.

S.E. Generale Pietro Gazzera.

ROSL MASON MACFARLANE 662
Lieutenant-General,
Chief Commissioner.

Telegram No. 30 of 27th March 44
Foreign Office TO Resmin Naples

Your Telegram No. 32.

Nothing appeared in the Sunday Times and it is thought unlikely that there will be anything in the next issue. We naturally do not want publicity until negotiations have ended.

If question raised in the Advisory Council they should be reminded that we hold the great bulk of Italian prisoners in Allied hands and are therefore particularly interested in making arrangements acceptable to the Badoglio Government under which they can be employed to the general advantage of the war effort of the United Nations.

JCE/FCW.

6629

/P/157

(14a)

FMM/rj

27th. March, 1944.

As requested by you, I send you herewith some informal comments upon the points raised in your Note Verbale of 24th. March. These form a resume of my verbal explanations at our last discussion.

NOEL MASON MACFARLANE,
Lieutenant-General,
Chief Commissioner.

S.E. Generale Pietro Gazzera.

6623

Point 1. Agreement to cover Prisoners of War in French hands as having been captured under Supreme Allied Command.

Prisoners of War are held by governments and not by the Supreme Allied Commander. Some of those P/W now held by the French were captured by British or American forces and later transferred to them. They thus became a French responsibility and the question can only be settled by agreement between the French Committee and the Italian Government. The Italians themselves handed over many British P/W to the Germans long before Italy surrendered.

If the Italian Government sign the agreement, I am prepared to recommend to the United States and British Governments

1. That they should urge the French Committee either
 - a. to remedy the matters complained of by the Italian Government, or
 - b. to enter into a similar agreement with the Italian Government, and

2. Not to hand over any additional Italian P/W captured by British/American forces to the French.

Point 2. Type of Employment.

No colored British/American troops are employed on work which white troops are not equally performing. There is absolutely no distinction between types of work on which white and colored British/American troops are employed.

There is no objection in principle to units being allowed to fight.

Point 3. Question whether P/W should be allowed "to volunteer."

There is no objection to abandonment of idea of volunteering provided

- a. Formation of special units is not made completely obligatory on the detaining governments who are not at present prepared to form such units in areas where work is not available or the prisoners are unsuitable for employment as being recalcitrant or sick. The British and American Governments will, however, undertake to form these units wherever it is possible to do so and, where work is not available, all suitable prisoners will be transferred as soon as possible to areas where they can join such units. The general policy with regard to prisoners seriously sick will be to repatriate them, but no undertaking can be given in view of the shortage of shipping. As to recalcitrants, formation into special units would merely strengthen their re-

calcitrance by permitting additional opportunities to spread political disaffection, whilst to repatriate them would be unfair to those serving the common cause as co-belligerents.

- b. Italian Government will give the necessary orders to Italian P/W, whom the detaining government wish to employ, to join the units and work as ordered.

Point 4. Command.

There is no objection to Italian officers and NCOs exercising their usual functions of command and administration provided sufficient are available in each territory and provided the legal powers necessary to enforce orders are ultimately exercised by British/American officers who alone can convene and serve as members of military courts or award disciplinary or judicial sentences. (Italian officers could award minor disciplinary punishments such as deprivation of privileges, confinement to barracks or extra fatigues).

British/American command in the sense stated above is consistent with Article 45, and Italian officers will enjoy all the normal attributes of commanders, orders being generally issued by them, except that the sanction behind their orders must be exercised by British/American officers. This is legally the only possible solution, and experience has shown that it will work perfectly well in practice.

Note: Apart from its legal impossibility, insistence on sole Italian command involves certain practical difficulties; e.g., in the U.K. there are 90 Italian officers (mostly very junior) for 80,000 P/W.

Point 5. Suggestion that P/W status is inconsistent with co-belligerency.

P/W status continues under International law until peace is restored or the P/W is repatriated. Article 75 shows that even after restoration of peace P/W status can be retained until repatriation.

Point 6. Prisoner of War Status.

If P/W status were abolished, the position in British and United States territories would be that British and American military law would cease to apply whilst Italian military law would be equally inapplicable. Thus no sentence or award by either British/American or Italian officers involving restraint of liberty in the case of any one of the half million Italian Prisoners of War now held would be legal and those responsible for enforcing such sentences or awards would themselves be liable to legal proceedings.

The reasons why P/W status must be retained have already been explained in an earlier memorandum, and its retention is inevitable. 6820

Point 7. Claim to full liberty for Italian P/W in British/American territories.

This is impossible for the following reasons:

- a. Other United Nations Governments would resent such treatment.
- b. There have been a number of instances of Italian maltreatment of British and American P/W and this is sufficiently well known as to cause resentment at home. In particular in the U.K. the treatment accorded at Benghazi has caused great bitterness.
- c. Public transport, amusement, and shopping facilities are severely limited, particularly in U.K. and unrestricted access to them would lead to great resentment.
- d. Public feeling is such that in parts of the U.S. and of the British Commonwealth it would be impossible initially to grant other than a restricted amount of liberty to Italian personnel.

The intention of the British and American Governments is to increase the degree of liberty accorded gradually as circumstances will permit in the particular locality involved.

(12a)

DRAFT OF AGREEMENT FOR THE USE OF PRISONERS OF WAR

The Government of the United States of America and the Governments of the British Commonwealth, having accepted the Italian people as co-belligerent and the Italian Government having expressed the desire that also all officers, non-commissioned officers and soldiers of the Italian Forces held as prisoners of war by those Governments should cooperate with the British and American peoples in a common military effort for cobelligerency, stipulate the following agreement.

Article 1

This agreement will remain in effect, unless modified by mutual agreement, up to the conclusion of peace between the Italian Government and the Governments of the British Commonwealth and of the U.S.A.

Article 2

All prisoners of war held by the Governments of the British Commonwealth and of the United States shall as far as possible be organized into Italian military units with Italian uniforms, insignia, and badges of rank and they may be used in services or work of a military character in the same way and in the same localities as units of the forces of the Governments of the British Commonwealth and United States may be employed.

Article 3

These Italian Military Units will so far as possible be organized in any area where there are Italian prisoners of war. Their connection with special Italian military officers is set out in Article 5. They will be organized with Italian officers and non-commission-

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Article 3

These Italian Military Units will so far as possible be organized in any area where there are Italian prisoners of war. Their connection with special Italian military officers is set out in article 5. They will be organized with Italian officers and non-commissioned officers drawn as soon as practicable from prisoners of war camps and they will be utilized directly under the orders of the British or American military authorities.

Article 4

Although in order to provide for the continuation of pay, jurisdiction and discipline the present status of all Italian service personnel held by the Governments of the British Commonwealth and of the United States must be retained, the remaining provisions of the Geneva Conventions relative to the treatment of prisoners of war and of the wounded and sick in armies in the field are suspended by mutual agreement from 1st May 1944. The treatment of all such personnel, shall, however, continue to be no less favorable than that assured by the Prisoner of War Convention.

Article 5

In order to safeguard the interests of all such Italian service personnel and to assist in the organization and operation of the Italian Military Units, specially selected officers will be appointed to discharge the functions hitherto exercised by the protecting power in the countries where Italian prisoners of war are held. These officers will correspond directly with the Italian Government.

Article 6

The American and British Governments may also equip, arm, train and employ the Italian Military Units in combat on the fronts of cobelligerency, always under the orders of the officers and non-commissioned Italian officers of these units.

Article 7

Repatriation of the Italian military personnel now prisoners of war may be effected at any time according to the availability of the means of transportation of the American and British Governments on request of the Italian Government for the Italian needs of cobelligerency and for health and humanitarian reasons.

Article 8

All Italian military personnel shall be repatriated within the shortest period practicable after conclusion of the peace, excepting that by virtue of special agreements stipulated between the contracting Governments they may be repatriated previously.

Article 7

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6623

174
11a
DRAFT FROM CHIEF COMMISSIONER TO GENERAL GAZDAR

As requested by you in informal
Landing Committee March 1944

I send you herewith a memorandum commenting upon the points raised in your Note Verbale of 24 March. ^{There form a decision of no verbal} The memorandum has been sent in answer to your request in the ^{explanations of our last discussion} same way as that forwarded on 19 March, and we in fact discussed these points at our meeting on 25 March.

At that meeting two points appeared to cause you the most difficulty. These were:

(i) that it would not be possible for the U.S. and British Governments, to form Italian Military Units in all places where Italian prisoners of war are detained; and

(ii) the question of command and status.

It may help you if I comment briefly on these two points.

As to (i), you will see from paragraph of the attached memorandum that the Governments, which I represent, have made certain further suggestions which I think you will agree go a long way to meet the Italian Government's objections. ~~Confident that the suggested procedure should in practice be satisfactory and I trust that you can now agree to it.~~ [I feel]

As to point (ii), this is fundamental. I have at our two meetings explained the legal reasons why the legal ^{power} form of command must be vested in American or British territories in American or British officers and these reasons are the same as those which require the retention of prisoner of war status in these territories. In

It may help you if I comment briefly on these two points.

As to (i), you will see from paragraph ___ of the attached memorandum that the Governments, which I represent, have made certain further suggestions which I think you will agree go a long way to meet the Italian Government's objections. ~~I feel confident that the suggested procedure should in practice be satisfactory and I trust that you can now agree to it.~~

As to point (ii), this is fundamental. I have at our two meetings explained the legal reasons why the legal ^{power} form of command must be vested in American or British territories in American or British officers and these reasons are the same as those which require the retention of prisoner of war status, ~~in the those territories.~~ In this connection I invite your attention to paragraph ___ of the attached memorandum and to point (1) on the first page of the memorandum of 19 March. As a soldier, you will realise that discipline must be based on legal jurisdiction and that ^{it} is worse than useless to attempt to enforce discipline without proper legal sanctions. Subject, however, to the ^{possibility} of enforcing jurisdiction and discipline being in the ~~hands~~ of the competent American or British officers, Italian officers will be able to exercise their normal functions of command and administration including the power to inflict minor disciplinary punishments. ~~I am bound to say that this seems to me a very fair and sensible arrangement and the only one which still fits in with the basic legal requirements. I am confident that on reflection you will agree with this view.~~

Having given you these explanations, I must impress upon you the importance which the Governments which I represent attach to an agreement on this whole matter being reached as soon as possible. You will appreciate that the proposals now made are the result of a most careful study of the whole problem in London and Washington and ^{that} in reaching their decision the British and American Governments have looked chiefly to the way in which ~~the services of~~ the Italian prisoners of war can best serve the common war effort. These Governments are most anxious to make the treatment of these Italians as favourable as possible and if the present proposals are accepted they will go far to effect this. The fact that in some respects these proposals may fail to meet all the wishes of the Italian Government is due not to any lack of goodwill but to legal and ^{other} extraneous circumstances (such as shortage of shipping) which are inevitable in present conditions. I earnestly hope therefore that at our next meeting on March 28th you will be able to give a favourable reply to the proposals which have now been made ^{feel} since I ~~fear~~ that otherwise there will be little object in continuing our discussions further.

In that event the Italian authorities will have lost a great opportunity to improve the general conditions of life and employment for the large number of their compatriots in British and American territories and of affording them a chance to give their best services to the common cause. ~~This could only injure the interests of the men themselves for reasons which they and their families would find it hard to understand and would also be most disappointing to the British and American Governments.~~ I cannot think you will allow this opportunity to pass.

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6621

NOTE FOR CHIEF COMMISSIONER ON JOINTS RAJ ET BY CHIEF

GAZALPA AT MEETING ON 21/5/44.

Point 1. Agreement to cover 2/3 in French hands as having been captured under

Quoted Allied Command.

This is impossible unless the French Committed are to be made parties to the agreement. Further under the convention 2/3 are in the power of the government whose forces captured them and not of any individual or formation. It is true that some of those now held by the French were captured by British or American forces and later handed over, thus becoming a French responsibility. The right of transfer between Allied Governments has not hitherto been questioned and the Italians themselves handed over many British 2/3 to the Germans long before Italy surrendered.

The U.S. Government and U.I.C. are now pressing the French to return those so handed over. All that can be done is - (1) to undertake to recommend to the U.S. and British Governments that they should press the French either (a) to treat Italian 2/3 better or (b) to enter into a similar agreement with the Italian Government. (2) to undertake not to hand over any additional Italian 2/3 captured by British/American forces to the French.

Point 2. Type of employment.

No coloured British/American troops are employed on work which might involve would not equally be required to perform. This stipulation is accordingly meaningless.

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Point 2. Type of Employment.

No coloured British/American troops are employed on work which white troops could not equally be required to perform. This stipulation is accordingly meaningless. There is no objection in principle to units being allowed to fight.

Point 3. Italian Government does not agree that P/Ws should be allowed to volunteer.

There is no objection to abandonment of idea of volunteering provided (a) formation of special units is not made obligatory on the detaining government which may retain the right to treat Italians who cannot be employed for lack of 6620 thousands in South and East Africa) or are unsuitable for employment as being insufficient or with substantially as they are being treated at present and (b) Italian Government will give the necessary orders to Italian P/Ws should the detaining government fail to employ. To join the units and work as ordered. Failure to obey such orders will permit the detaining government to take disciplinary action including return to unselected treatment.

The point is that unemployed or reconciliatory can not be shipped back to Italy.

- - 2 - -

(a) because there is no shipping. (b) because there would be a large increase in their numbers if this was the solution.

Point 4. Italian Government insist on Italian officers to command units.

No objection in principle provided sufficient are available in each territory and nothing is stated which would derogate from the fact that British/American officers alone can convene and serve as members of military courts or award disciplinary or judicial sentences. (Italian officers could award minor disciplinary punishment such as deprivation of privileges or extra fatigues.

British/American command is consistent with article 45 which the Italian agree to retain and it follows that Italian officers will enjoy the outward show of command, orders being generally issued by them but the sanction behind their orders must be exercised by British/American officers. This in fact what the retaining

P/W status means.

Note: Insistence of Italian command would involve certain practical difficulties e.g. in the U.K. there are 90 Italian officers (mostly very junior) for 80,000 prisoners of war.

Point 5. Italians argue that P/W status is inconsistent with co-belligerency.

This is a political and for present purposes a debating point. Co-belligerency is a status hitherto unknown to international law in the Italian argument is indistinguishable from a claim that they should now be treated as allies. P/W status continues under international law until peace is restored or the P/W is repatriated.

...to refrain and it follows that Italian officers will enjoy the outward show

of command, orders being generally issued by them but the sanction behind their orders must be exercised by political officers.

ON 07/07/2018 15:00:00

[illegible]

Notes Incident of Italian command would involve certain practical difficulties e.g. in the U.K. there are 96 Italian officers (mostly very junior) for 30,000 prisoners of war.

Point 5. Italians argue that P/ status is inconsistent with co-belligerency.

is a status hitherto unknown to international law and the action argument is indistinguishable from a claim that they should now be treated as allies. E/CONF.2/12

Article 75 shows that even after restoration of peace, I/W status can be retained in full
restoration. If I/W status is retained, obviously an Italian citizen cannot

[illegible]

6193

Point 6. Prisoner of War Status (CP Photostat Copy of USG Instructions)

If P/W status was abolished in the absence of specific legislation the position in British and US territories would be that no sentences or award by either British/American on Italian officers involving restraint of liberty in the case of anyone of the several million Italian P/W now held would be legal and those responsible for enforcing such sentences or awards would themselves be liable to legal proceedings. In addition special legislation would be required to provide pay for those Italian P/W in the US.

In the first approach made to the US Government (telegrams 6907 and 6908 of October 12 FO to Washington) the above instances were not fully stated and in their reply (4724 October 13) the US Government suggested that P/W status should be abolished and that Italian P/W should become members of military units of the Italian Government under what would in fact be effective American/British, etc., control--Fascist sympathizers would be segregated and treated as military prisoners of the Italian Government.

In reply (7515 November 4, paras 3b, 5, 7, 8, 9) HMG pointed out the legal impossibility stated above and in their answer (5004, November 5) the US Government after consultation with General Eisenhower, accepted principle that P/W status must be retained. This position of the two governments has been indicated on subsequent correspondence and is specifically dealt with in the instructions from COS (para 4, FM 344, March 13).

The photostat instruction is dated 13 October 1943 and outlines a

probably scheme of Organization and was issued before the position was

military units of the Italian Government under what would in fact be effective American/British, etc., control--Fascist sympathizers would be segregated and treated as military prisoners of the Italian Government.

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The photostat instruction is dated 13 October 1943 and outlines a "Probably Scheme of Organization" and was issued before the position was finally agreed by the USG and HMG. In view of the AGREEMENT reached it is presumably and in any case no such solution would work in British territory (see Para 3 FAN 346 March 13 as subsequently amended showing the USG position in the sense of the instructions issued by COS to General Canziani when he was in the USA.)

The suggestion that an Italian divisional commander is required in each theater indicates clearly that the Italian have not properly understood that the difficulty of jurisdiction makes it impossible for an Italian of the line as for a British/American to hold a court martial and award and sentence involving
in British or American territory.

2 2 1 8
Declassified E.O. 12065 Section 3-402/NNDC No. 785020

If Prisoner of War Status is abolished. ^{if P/W is retained} ~~if P/W is retained~~ ^{the Italian} ~~the Italian~~
officer can have no judicial or disciplinary powers.

Point 7. Italian Government Claim Full Liberty for Italian P/W in British/American territories. This is impossible for the following reasons to which USG and PMG attach great importance; (a) Allied Governments would resent such treatment (Greeks, Yugoslavs); (b) there have been a number of instances of Italian maltreatment of British and American P/W and this is ^{well} known as to cause resentment at home; In particular in the UK the treatment accorded at Benghazi has caused great bitterness; (c) The Eighth Army who captured large numbers would resent complete liberty and so would their relatives at home; (d) ^{Public} ~~the problems of~~ transport, amusement and shopping facilities are severely limited, particularly in UK and unrestricted access to them would lead to great resentment; (e) opportunities for sexual relations with women would cause severe public criticism and serious effect on the morale of troops overseas; (f) public feeling is such that in parts of the US and ⁱⁿ ~~in~~ the British Commonwealth it would be impossible initially to grant ~~these~~ ^{them} restricted amount of liberty to Italian personnel.

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6617

(9)

If any detailed comment is to be given to General Gazzera now on the economic proposals to be made about prisoners of war, it should be made very plain to him that they do not form part, as General Gazzera's letter seems to imply, of the Main Agreement which has been proposed. It is most important that the main agreement should not be impelled or delayed by arguments over the financial proposals (either the joint Anglo-U.S. or the two British proposals). This could be made clear in both the unofficial note to General Gazzera and in the covering letter from General Mason MacFarlane. At some stage before the Main Agreement is signed it may be necessary to explain to the Italians some details about the three economic points mentioned in FAN 346 and a draft has been drawn up of what might be said if the three points and some brief explanation of them are to be communicated now in reply to General Gazzera. It might, however, be better (a) to communicate the three points with no explanatory notes or (b) to reply that no communication can be made at present on the economic points which are quite separate from the Main Agreement, as to which the Italian reply is urgently required.

As a further alternative no written answer need be sent and the position explained orally to General Gazzera ~~is~~ one of the three ways suggested above.

6616

ECONOMIC POINTS

(These points are supplementary to and do not form part of the Agreement, the text of which was handed to General Gazzeri on 18th March 1944)

1. The United States Government and the Governments of the British Commonwealth propose that the Italian Government will be ultimately responsible for issues of pay to Italian service personnel, which will be regarded as advances made on behalf of the Italian Government."

Note: This responsibility is recognized by Article 23 of the Geneva Prisoners of War Convention, which states that "all advances made to prisoners of war by the way of pay shall be reimbursed, at the end of hostilities, by the power in whose service they were."

A similar responsibility^{is} accepted by all Governments of the United Nations and it would clearly be consistent with cobelligerency that Italian service personnel should derive their pay from their own Government.

2. The Governments of the British Commonwealth propose that:
 - a. "Advances of pay will be made to Italian officers held by them sufficient to satisfy their reasonable spending requirements in the places where they are and they will not in the future be charged for messing."

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2. The Governments of the British Commonwealth propose that:

a. "Advances of pay will be made to Italian officers held by them sufficient to satisfy their reasonable spending requirements in the places where they are and they will not in the future be charged for messing."

Note: The present arrangement under which such Italian officers are credited in sterling with their full pay at Italian Army rates is unsatisfactory and artificial. These large credits are in practice of no use, either to the officers, who cannot be given the opportunity to spend them on goods already in short supply to the civilian population nor, and more important, to their families in Italy.

6615

Under this proposal H. M. Governments will advance such sums as the officers require for their reasonable spending requirements. The amounts will be fixed in accordance with their rank and the Italian military representative will be consulted on them. The amounts fixed will be notified from time to time to the Italian Government. The balance of their pay may then be credited to them in Italy by the Italian Government.

2 2 2 4

This scheme is simple and conforms with reality, since it avoids all exchange difficulties and ensures that sufficient money is available for the officers' current needs, while the balance will either be accumulated in his own account against his return or will be available for the current needs of his dependents.

b. The pay of officers protected under the Geneva Red Cross Convention will be the same as that of other Italian service personnel."

Note: Special treatment is provided for such officers under the Red Cross Convention on the understanding that they are to be repatriated as soon as a way for their return to their own forces is available. This distinction is quite inconsistent with their remaining as cobelligerents to look after their own compatriots, while the present arrangement is subject to precisely the same objections as have been stated above with reference to the pay of combatant officers. This proposal will give them similar advantages to those which combatant officers will receive under the altered procedure.

Italian mother ranks protected by the Red Cross Convention are already receiving pay at the same rates as combatant mother ranks."

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6612

SECRET

(8)

SECRET

PRIORITY (OP)

FREEDOM

FATIMA

M/C NO... 29/16

REF NO...65406

FILED....161629 MAR

REC'D....161725A MAR

JRLBZ

(TO GEN MACEDERLANE, THIS ACC ACTION CITE-NAGAP SIGNED GINC).

THE FOLLOWING IS A CORRECTION JUST RECEIVED FROM THE COMBINED CHIEFS OF STAFF TO VAN 346 TRANSMITTED BY HAND OF MAJOR VAN DUSEN TO YOU THIS DATE. PLEASE CORRECT YOUR COPY AS FOLLOWS: PARAGRAPH 3 OF VAN 346 SHOULD READ "NOTHING WAS SAID TO GARCERA CONTRARY TO WHAT WAS CONTAINED IN DRAFT POWWAL AGREEMENT OR TO WHAT IS CONTAINED IN PRESENT DRAFT OF LETTER". REMAINDER OF MESSAGE REMAINS UNCHANGED

ACC DISTR:

ACTION- Secy Gen

INFO - File

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U. S. SECRET SQUAD BRITISH MOST SECRET
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ROUTINE

FROM: AGMAR FROM THE COMBINED CHIEFS OF STAFF

TO : FREEDOM AGENTS FOR WILSON

REF. NO. THIS MESSAGE: AFHQ 2069, USFOR 686, SHAF281,
13 March 1944

FAN 344.

Combined chiefs have considered your letter of 11 February and its inclosures regarding the proposed agreement (contained in FAN 314, 5 January, 44) and have reached the following conclusions which are set forth for your information and general guidance:

1. Since Marshal BADOLLO has taken exception to certain features of the draft formal agreement contained in FAN 314, the United States and British Commonwealth Governments will be satisfied with an exchange of letters merely confirming the agreement described in W-1515, of 6 October, W-2111, of 9 October, W-2902, of 19 October, and W-3775, of 30 October, all from AIRHQ to WAR, and its applicability outside NORTH AFRICA and SICILY. The basic features of the agreement described in the telegrams referred to are only 2 in number. The first is that the Italian government waives the application of articles 9, 31 and 32 of the GENEVA Prisoners of War convention to its personnel in detention as prisoners of war by the United States and British Commonwealth Governments, respectively, insofar as these articles restrict the location and nature of employment. The second is that the Italian Government would henceforth exercise the protective functions now exercised through a neutral power.

2. It is not desired to submit the Italian prisoners to the command of any of the United Nations except the United States and British Commonwealth Governments. It is not desired to employ the prisoners who are organized into service units in any occupations more hazardous or more lowly than the occupations which are performed by service units composed of the personnel of the United States and British Commonwealth Governments. The prisoners, both those organized into service units and those not so organized, will have all the protections of the Prisoners of War convention except those mentioned in paragraph 1, which are plainly incompatible with the full cooperation of the personnel concerned as nationals of the belligerent Italian Government. It must be quite apparent to the Italian Government, for example, that the personnel concerned cannot give the cooperation in the war effort that the Italian

U. S. SECRET REMAINS BRITISH MOST SECRET

AFSC N 266/14

REF. NO. 2069, 13 March 1944

Government has itself called upon such personnel to give, and, at the same time, limit their labors to such as have no direct relation with war operations. So far as protection of the just interests of these personnel is concerned, provision therefore will be effectively implemented by setting up the necessary Italian Prisoner-of-war, representation in the countries in which such personnel are located, with appropriate power to act in regard to their welfare vis-a-vis the respective governments concerned. For example, Italian officers of appropriate rank might be appointed to act as representatives of the Italian Government and to deal with these matters, visiting the camps, so far as possible dealing with complaints on the spot, where necessary making appropriate representations on behalf of the personnel concerned, and in all other respects, protecting power on behalf of prisoners of war.

DISCHARGING
FUNCTIONS
SIMILAR TO THOSE
NOW EXERCISED BY

3. If, in addition to the foregoing, the Italian Government desires to avail itself of the benefit of any of the terms of the draft formal agreement contained in FAN 314, the United States and British Commonwealth Governments will be glad to agree, provided that the terms thus selected by the Italian Government are safeguarded in favor of the United States and British Commonwealth Governments to the same extent as is provided in such draft agreement. For example, referring to article 3, discipline, promotion, and internal administration of service units may be exercised by the competent Italian authorities if Marshal BADOGLIO desires, provided the agreement to allow this to be done is coupled with such safeguards as now appear in the article.

4. In no event can the United States and British Commonwealth Governments agree at this time to releasing the personnel concerned from the nominal status of prisoners of war. Some of the basic reasons for this conclusion (i. e., bad effect on our allies of release of prisoners, difficulty of exercise of authority over prisoners once released, etc.) were set forth in A-3775, of 30 October. Furthermore, as nominal prisoners of war these personnel have established rights and obligations, which are well understood, under an international convention binding upon all the governments concerned. Should these personnel, however, be transferred from the technical prisoner status to civilian status, they will become subject to the diverse legal systems and special wartime laws governing the responsibilities and disabilities placed on residents of the several countries in which they may be. These include liability to compulsory military service for duration of the war, in both the European and Asiatic Theaters, in the forces of several of the countries concerned. If transferred to military status as members of the Italian Armed forces, then under the legal systems of certain of the countries involved, including the United States and the United Kingdom special legislation would be needed in order to provide a basis for maintaining, paying, administering, and/or controlling these personnel; for example, there would be no way in that case for the United States to pay them,

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AFHQ # 266/14 REF. NO. 8069, 13 March 1944

and the Italian Government would itself have to find the funds. The delays and complexities which would result from changing the status of these personnel at this time, as will be seen from the above examples, would be intolerable.

5. As regards the duration of the arrangement, from the use of the term "prisoner of war" it is implicit that the arrangement will lapse automatically on peace with ITALY, unless the parties mutually make other arrangements earlier, and you are authorized to give assurances on this point. The point is also covered in the draft of letter referred to in the next paragraph.

6. It is requested that all necessary steps be taken to accomplish exchange of letters with all feasible expedition. A draft which would be acceptable to United States and British Commonwealth Governments is set forth in immediately following message, number FAN 345. It is emphasized, however, that in the drafting of the letters you are free to exercise wide discretion within the framework of the instructions contained in this message. You are also free to use in your discussions with the Italian Government any of the considerations discussed in this message, in order to make clear to Italian Government the impossibility of proceeding otherwise than as herein instructed.

NOTE: FAN 344 IS MC IN 5146	6/1/44 G-1	383.6/21
W1819 No longer in AFHQ MC FILES		383.6/21
W2111 No longer in AFHQ MC FILES		383.6/21
W2902 No longer in AFHQ MC FILES		383.6/21
W5775 No longer in AFHQ MC FILES		383.6/21
FAN 345 IS MC IN 9017	14/3/44 G-1	

ACTION: G-1

INFORMATION: SOS
 MCS
 G-3
 G-4
 G-1 (B)
 G-2
 MR MURPHY
 MR MCWILLIAM
 FMG
 FINANCE
 GAO
 C/S NATO
 AG RECORDS

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AFSC N 369/14

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ROUTINE

FROM: AFHQ FROM THE COMBINED CHIEFS OF STAFF

TO: FREEDOM ALGIERS FOR WILSON

REF. NO: THIS MESSAGE: AFHQ 2067, USFOR H 634, SHANT 273. 13 March 1944

EN 345

Government of the UNITED STATES and the Governments of the British Commonwealth, having accepted the Italian people as Cobelligerents, and the Italian Government having expressed the desire that all Italian Officers, Warrant Officers, and enlisted personnel at present held as prisoners of war by the British Commonwealth and the UNITED STATES should work together with the American and British peoples in Military activities in the form of special services, the following agreement is confirmed:

This agreement shall remain in force, unless modified by earlier agreement, until peace is restored respectively between the Italian Government and the other Governments concerned.

The Italian Government confirms that the application of articles 9, 30-1 and 30-2 of the GENEVA Prisoners of War Convention of July 20-7, 1920-9 is suspended in so far as those articles restrict the location and nature of employment, and that the provisions of the convention concerning functions of the protecting power and its Representatives are replaced by direct relations between the Government of the UNITED STATES and the Governments of the British Commonwealth of Nations, respectively, on the one part, and the Italian Government on the other. Provision for the welfare of the Italian personnel concerned will be made by setting up the necessary special Italian representation in the countries in which such personnel are located, with power to discharge the functions hitherto exercised by the protecting power.

Italian volunteers now, or hereafter, as and when practicable, enrolled in service units, will perform work in the Military effort similar to that performed by service units of the Government of the United States and of the Governments of the British Commonwealth and to that being performed at this time in the Mediterranean Area by existing service units composed of

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AFSC R 369/14

similar Italian personnel. Such volunteers shall serve under United States or British Commonwealth Command, and as far as possible, the units in which the volunteers are enrolled will bear the character of Italian Units. The Italian personnel covered by this agreement, both those organized into service units and those not so organized, shall enjoy the benefit of all provisions of the Prisoners of War Convention except those which have been suspended as incompatible with the desired cooperation between the Governments concerned.

ACTION: G-1

INFORMATION:	SCS	MR MURPHY
	MOS	MR MACMILLAN
	G-3	PMO
	G-4	FINANCE
	G-1 (B)	
	G-2	CAO
	* *	C/S NATO
	AG RECORDS	

MC IN 9017 14 March 44 1242a Ref. No. AFHQ 2067 USFOR R 684
SERIAL 273 m/v/p

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INCOMING MESSAGE

AFHQ MESSAGE CENTER

WAF

filed 132102A

AFHS N 172/14
132357A
gwc

ROUTINE

FROM: AUSAIR FROM THE COMBINED CHIEFS OF STAFF

TO : FREEDOM ALGIERIA WILSON

REF NO THIS MESSAGE: USFOR R685, AFHQ 2068, 13 March 1944 SHARP 266

BLN 346

A confidential annex to instructions from Combined Chiefs of Staff.

This is confidential background;

1. Paragraph 6, of BLN 344, first sentence. Earliest possible signature is essential to facilitate desired use of Italian prisoners in other Theaters in connection with forthcoming operations.

2. You will note messages omit all mention of limitation of activities to war against GERMANY. Such limitation would embarrass effective use in AUSTRALIA and INDIA of prisoners now there. This is not intended, however, to open the way to using these prisoners of war after peace is raised.

3. Nothing was said to, contrary to what was contained in draft formal agreement or to what is contained in present draft of letter.

4. Procedure now directed makes unnecessary simultaneous conclusion of detailed financial agreement. You should, however, inform BADUOLIO, orally, before letters are exchanged, that it is the intention that the Italian Government will be ultimately responsible for all issues of pay regarded as advances on their behalf. Should BADUOLIO inquire what issues of pay will be regarded as advances on behalf of the Italian Government, you may inform him that the reference is to issues of pay to all grades and ranks of the service units consisting of Italian volunteers.

You should further inform BADUOLIO that, in respect of the British Commonwealth only, it is the intention that the following financial conditions should supersede the present arrangements;

- 1 -

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AFSC N 172/14 REF. NO. USFOR F 685, AFHQ 2058, 13 Mar 1944

~~A. The minimum pay of officers will be the front rates of pay converted at the official rate of exchange operating in Italy and no charge will in future be made for messing.~~

B. The pay of protected personnel will be the same as that of other Italian service personnel.

Should BADOLLO raise the question as to American rates of pay, you may tell him that there is under consideration an increase of present rates. Protected personnel on the same basis as service personnel would be paid.

PAM 344 is MC IN 9042 14/3/44 (G-1)

ACTION: G-1

INFORMATION: SUB
MGB
G-3
G-4
G-1(B)
G-2
MR. MURPHY
MR. MAGILLIAN
RSG
FINANCE
C/O
C/S NATO
AG RECORDS
et

MC IN 9045

14 March 44

1250L

Ref No

AFHQ 2068

USFOR F685

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- 2 -

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TO FOR ACTION: AGWAR, FOR MARSHALL

SIGNED MIDNIGHTER, SITE HAGAR

Italian prisoners of war in Allied possession at the time of the armistice are still prisoners of war. Reference your 8924, 30th September. The following policy has been adopted with respect to these prisoners:

General ALEXANDER has been given authority, as to prisoners of war taken in ITALY prior to the armistice and not evacuated from ITALY, to release, parole or detain at his discretion, depending solely upon which status will most aid the war effort. The number to be released to be kept to a minimum each case being fully justified by essential war requirements. Those who are fascists or members of the MAFIA and non-cooperatives will be segregated, detained as prisoners of war, and eventually will probably be evacuated from ITALY.

There are about 82,000 Italian prisoners of war in USA possession in NORTH AFRICA and SICILY, approximately 40,000 are in British hands, and probably 20,000 in French hands. In view of the Italian Government's statement of desire to do everything possible to help drive the Germans out of ITALY, we are now proceeding to organize prisoners of war in our possession in NORTH AFRICA and SICILY into non-combatant service and labor units under their own officers and NCO's to perform any duties whatever which we require of them in furtherance of the war effort. We are giving no publicity to this action.

With respect to the prisoners in NORTH AFRICA, it is obviously impracticable to release or parole them and then utilize them as civilians for labor purposes since under release or parole they would be required to maintain themselves. Such action at this time would have serious complications in French communities. Our plan therefore, is, that all those cleared by G-2 who will sign an agreement to assist the Allies in every way possible, will be maintained, housed and clothed and fed in Allied camps, but worked under their own officers and NCO's with initially 1 USA officer and such NCO's as may be necessary per Co, with a minimum guard which we hope to eventually eliminate entirely. We will pay this personnel at rates provided under the GENEVA Convention for all labor performed, and will grant a certain degree of liberty or pass privileges. Parallel instructions will be issued by the British authorities in this Theater with respect to Italian prisoners in British hands. We will keep the French informed as to what we are doing in this regard. Action to initiate this use of Italian prisoners of war is now under way in each Base Section. A copy of the instructions on this matter will be forwarded by airmail in order that you may have full details.

We have withdrawn from prisoner status and released a small number of officers whom the Italian Government desired. In the near future we will probably release a number of officers and enlisted prisoners who volunteer for special missions, or who are specialists of various types and whose services are desired for technical installations in ITALY or in NORTH AFRICA. In this category are airplane mechanics who are needed to maintain Italian planes which

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are flown to NORTH AFRICA. In connection with the Italian crews which accompanied the Italian planes, we have authorized General SPAATZ to hire such of these as he desires as civilians and employ them in the maintenance and operation of these planes.

Recommend that Italian prisoners in USA hands be used without regard to the limitations of the GENEVA Convention as to the type of labor which may be performed, but that no publicity be given to this matter. It is impracticable at this time to consider any repatriation of Italian prisoners in mass.

It is possible that as we proceed further North into ITALY we will require some prisoners of war for service and labor units in ITALY, in which event we shall move them as complete units under our control, which is quite a different matter than repatriation.

Those prisoners who decline to volunteer to assist the war effort or who are not cleared by G-2 will be segregated and maintained in present prisoner of war camps until arrangements can be made for evacuation to the UNITED STATES.

ORIGINATOR: G-1

AUTHENTICATION: B M CAMBRIDGE, BRIG GEN

INFORMATION: SCS
DPC
G-1 (B)
G-2
FMG
G-3
G-4
JCS MATCOUSA
SUMMARY
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AG RECORDS

AG OCT 1610

6 Oct 43

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Ref No. T-1815

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- 2 -

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NAFOUR MESSAGE

PRIORITY

TO: AGWAR FOR GENERAL MARSHALL

REF NO W-2111

SIGNED KISSEHOVEN SITE MAGAP

Your 9620, 6 October.

Instructions will be forwarded to you within a day or so. Some delay due to necessity of close coordination between British issue and our own. Each prisoner who volunteers will sign a form captioned "Declaration of Italian prisoner of war" in which the individual offers his services to the Allied cause unconditionally. This will be accepted by camp commandants and placed on file in the camp. An identification card will be issued to each prisoner who signs this declaration. This is in line with your explanation regarding publicity that the Italians so employed comprise a selected volunteer group.

It is difficult to gauge the attitude of the German and Mussolini Puppet Governments with reference to reprisals but we regard such a step as remote. The Badoglio Government recently asked us for a token repatriation of a limited number of prisoners of war. Our reply to the Allied Military Mission with the Badoglio Government is as follows:

"We are not willing at this time to make any token release of Italian prisoners of war except for specific purposes for duties connected with Italian units assisting us in driving the Germans out of Italy.

In this connection, reference our 7552, 21 September and your 68, 23 September, we are proceeding with the organization of Italian prisoners in non-combat service and labor units under Italian officers and NCO's. These units still have prisoner status but will be maintained in camps and fed, clothed, and sheltered by the Allies and will eventually be granted a certain degree of liberty or leave privileges. They will be paid at rates provided by the Geneva Convention. It is possible that at some future date we will transfer some of these service units to Italy to perform service functions, at which time the matter as to whether they will be continued in a prisoner of war status or released to the Italian Government will be decided upon the basis of Italian support and whether the Italian Government is at that time able to maintain them.

Italian officers and enlisted men now in prisoner of war camps need an expression from the Italian Government to the effect that they are to assist the Allies in every way on non-combat duties connected with the war effort and that Italian officers and NCO's who are now prisoners of war may command service and labor units formed from prisoners of war without violating the Italian Penal Code. This expression should be in a form to be posted in prisoner of war enclosures and not to be broadcast since publicity of this matter is not desired."

We will continue to keep you fully informed as to progress in this matter. Anticipate no difficulties with the Italian Government.

ORIGINATOR: G-1

AUTHENTIC SIGN: B.M. SAWBRIDGE, EMIG GEN, GSC

INFORMATION: G-1 B, G-2 AF, G-3 AF, G-4, PMS, SCS, DTC, SUMMARY, AG RECORDS

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9 Oct 43

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Ref No W-2111

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NAFOUSA

TO FOR ACTION: AGWAR

REF NO: W-2902

ROUTINE

SIGNED: EISENHOWER, CITE REGAP

In response to our request for a statement from the Italian Government to prisoners of war now in our hands whom we are organizing into labour groups, the following message has been received from Marshal BADOGLIO. This is being prepared for posting within the various Prisoner of War Camps.

"To the Officers, Warrant Officers and enlisted personnel comprising Italian War prisoners of the Anglo-Americans.

In the new political-military situation, arisen because of the attitude and hostile German action towards Italy, it is our intention to proffer the Allies all possible, active collaboration in order to achieve the common objective of ridding our country of the residue of German troops still occupying a large section of our nation.

It is therefore, our duty to help the Allies in every possible way, excepting in actual combat. We are to be linked together closely in bellicose activities constituting special services and in work under the command of officers to be designated.

In that manner you will collaborate efficaciously from now on in the fight for our redemption from the century old enemy as the very populace in ITALY is now doing alongside the Anglo-American forces for the liberation of the Homeland. Signed: The Marshal of ITALY: BADOGLIO."

No publicity other than this posting given this message. NOTE: Italian translation of above was also transmitted in the message

ORIGINATOR: G-1

AUTHENTICATION: B M BARBRIDGE, BRIG GEN

INFORMATION:

SCS

DFC

G-2

G-3

G-1 (B)

G-4

MGS

LIAISON

CAO

CIV AFF

PMO

BUREAU

AG RECORDS

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19 Oct 43

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REF NO. W-2902

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ROUTINE

ROUTINE

TO FOR ACTION: AGMAR FOR GENERAL MARSHALL

REF NO: W-3775

SIGNED: EISENHOWER, CITE MAGAP

The proposals outlined in your LHM of 20th October are considered impracticable and undesirable for the following reasons:

Para 1. Both proposals have the eventual effect of liberating Italians in NORTH AFRICA who are now prisoners of war. Any wholesale liberation of Italians, no matter where held, will have adverse effect upon governments and people of United Nations and particularly on French in NORTH AFRICA where serious incidents would be difficult, if not impossible to avoid. French military and civilian opinion as disclosed by mail intercepts has been critical of Allied favorable treatment of prisoners of war, and fearful that the Italians would escape the consequences of their participation in the war as a member of the axis.

Para 2. As prisoners of war, we have a definite obligation to shelter, clothe, feed, and provide medical care for all prisoners of war, and to pay those who work for us, all at well understood scales under the GENEVA Convention. If released, the question will arise at once as to authority to continue such care and supervision and to agree upon the scales.

Para 3. The present policy, (our W-1815 of 6th October, and W-2111 of 9th October), has proven eminently practicable, has been accepted by the Italian Government, (our W-2902 of 18th October), and is popular with Italian prisoners of war who are cooperating whole-heartedly in the details of organization. It has caused no protests from the French.

The acceptance by the Italian Government of our present policy concerning prisoners of war in effect constitutes under article 83 a modification of the GENEVA Convention by agreement between the belligerents concerned. Since Italian and USA and British governments are in direct communication there is no need or right of intervention by the protecting power.

The situation at present in NORTH AFRICA is that Italian prisoners of war have been and are being organized on a volunteer basis into service and labor units under their own officers and NCO's and so far as practicable in accordance with tables of organization. They are not designated as Prisoner of War Units but as General Service Units, Ordnance Units, Port Units, etc.

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Guards are being reduced and will be dispensed with as rapidly as practicable. Technically, they are still prisoners of war, but for all practical purposes they are released volunteers organized into service units.

It is recognized that the statements made by the President and the Prime Minister prior to the armistice commit us to an eventual release of these prisoners, and as contemplated in our W-1815, 6th October, and W-2111, 9th October, we propose to continue to release individual prisoners desired by the Italian government and those who volunteer for duty in specific units to be formed by ITALY for combat under Allied command. Further enlargement of this release policy should be contingent on developments.

It is considered that the present Allied policy in this Theater does not weaken the protections of the GENEVA Convention, because it is in forthright accord. It has been adopted in this area by agreement and close collaboration between British and USA authorities and presents an Allied front and a firm practical solution recognized and agreed to by the Italian government. Such modifications as are expedient in the future, can be made logically to the extent justified by the Italian Government's good faith and ability to produce concrete aid to the war effort.

ORIGINATOR: G-1

AUTHENTICATION: B W SARRIDGE, BRIG GEN

INFORMATION: DTC
 SOS
 FMG
 G-1(B)
 G-2
 G-3
 G-4
 HCS
 SOS NATOUSA

SUMMARY
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 G-2 NATOUSA
 AG RECORDS

MC OUT 9024 30 Oct 43 1045A Ref No. W-3775

- 2 -

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(6a)

AGREEMENT WITH THE ITALIAN GOVERNMENT

MODIFYING THE TREATMENT OF ITALIAN PRISONERS OF WAR

for the

Chief Commissioner, Allied Control Commission

1. Reasons for Agreement. The necessity for an agreement is that in territories where the British or United States authorities are holding Italian P/W it is essential to suspend certain provisions of the P/W Convention by agreement with the Italian Government in order that their labour may be used to the greatest advantage of the common war effort.

2. Objects of the Agreement.

a. To do away with those articles of the Convention which prohibit certain classes of work and so meet the Italian Government's declared wish for full cooperation as co-belligerents.

b. To substitute for the representatives of the protecting power Italian military representatives with means of direct communication with their government.

The Convention itself (Article 83) allows an agreement of this sort to be made. The other provisions of the Convention will remain unaffected; e.g., those governing standards of feeding, accommodation, inspection, complaints, etc.

The following are ^{short} notes on the main points of the Draft Agreement.

ment.

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a. To do away with those articles of the Convention which prohibit certain classes of work and so meet the Italian Government's declared wish for full cooperation as co-belligerents.

b. To substitute for the representatives of the protecting power Italian military representatives with means of direct communication with their government.

The Convention itself (Article 83) allows an agreement of this sort to be made. The other provisions of the Convention will remain unaffected; e.g., those governing standards of feeding, accommodation, inspection, complaints, etc.

The following are ^{short} notes on the main points of the Draft Agreement.

3. Retention of P/W Status. This is unavoidable in British and United States territories in order to maintain the necessary discipline, since no sentence, either by a British/American or Italian officer, imposing a restraint on liberty in any such territory would otherwise be enforceable.

The alternatives of release to civilian status or enrolling in "Allied" or "Italian" units have been rejected, as has also the solution of enrollment in either the British or American forces. There are strong political objections to all these on grounds of public and Allied opinion,

also morale of British and American troops, to all of which the Cabinet Committee attach great importance (see also attached cutting). In addition, enrollment in "Allied" or "Italian" units would involve special legislation in the United Kingdom, Dominions and India; also in the United States. In any case P/W status will not be apparent; e.g., it is proposed to call the units "Italian Labour Battalions"; only those who misbehave will be affected.

If required, an outline of how the agreement will be put into practice in British territories can be supplied. Broadly speaking the intended arrangements are more favorable to the Italians than those now in force in North Africa, which have proved satisfactory.

4. Suspension of Articles 9, 31 and 32. These articles limit the nature and locality of work and are as such inconsistent with co-belligerency. It is clear from the agreement that the work on which Italians will be employed will not differ from that which any British or American soldier would be required to perform.

Note: The agreement does not oblige any detaining government to form these units or to employ Italians on war work. This permissive character is necessary as some Dominion Governments may not wish to avail themselves of the provisions on this point.

5. Replacement of Protecting Power. It is believed that the Ital-

nature and locality of work and are as such inconsistent with co-belligerency. It is clear from the agreement that the work on which Italians will be employed will not differ from that which any British or American soldier would be required to perform.

Note: The agreement does not oblige any detaining government to form these units or to employ Italians on war work. This permissive character is necessary as some Dominion Governments may not wish to avail themselves of the provisions on this point.

5. Replacement of Protecting Power. It is believed that the Italians do not pay the expenses of the Swiss, while no communications are at present passing from the Swiss Government in Bern to the Italian Government. It is directly to the Italian advantage and consistent with co-belligerency that Italian officers should be responsible for looking after the interests of Italian soldiers and should be able to report direct to their own government.

6. Financial Agreement. A separate note is attached dealing with the provisions proposed for this agreement. It seems probable that the Italians will raise this matter in conjunction with the main agreement, and if so it will be impossible to avoid going into the matter as fully as they desire before concluding the main agreement. If, however, the Italians do not raise the matter, it has been clearly agreed with the war

Department that Marshal Badoglio should be informed that the Italian Government will be ultimately responsible for pay issued, and that so far as the British Commonwealth is concerned certain financial conditions will be involved. The extent to which these should be disclosed at this stage will be stated in the telegram from the Combined Chiefs of Staff, except that a slight modification must be made in the wording of "Point A" which deals with the question of pay for officers.

6597

REVISED DRAFT ON MAIN AGREEMENT

(In view of 98A)

101A

The Government of the United States and the Governments of British Commonwealth of Nations, having accepted Italian peoples as co-belligerents, and the Italian Government having expressed the desire that all Italian officers, warrant officers and enlisted personnel at present held as prisoners of war by British Commonwealth of Nations and the United States should work together with American and British peoples in military activities in the form of special services, the following agreement is confirmed by regulating activities:

This agreement shall remain in force unless modified by earlier agreement, until peace is restored respectively between the Italian Government and other Governments concerned.

The Italian Government confirm that application of Articles 9, 31 and 32 etc., is suspended in so far as they restrict the location and nature of employment and that⁺ provision of the Convention concerning functions of Protecting Power and its representatives should be replaced by direct relations between Government of United States and the Government of the British Commonwealth of Nations

+ Note.

Insert "any ~~ex~~" after "that" and before "provision"

activities:

This agreement shall remain in force unless modified by earlier agreement, until peace is restored respectively between the Italian Government and other Governments concerned.

The Italian Government confirm that application of Articles 9, 31 and 32 etc., is suspended in so far as they restrict the location and nature of employment and that⁺ provision of the Convention concerning functions of Protecting Power and its representatives should be replaced by direct relations between Government of United States and the Government of the British Commonwealth of Nations respectively on the one part and the Italian Govt on the other. Provision for welfare of the Italian personnel concerned will be made by setting up necessary special Italian representation in countries in which such personnel are located, with power to discharge functions hitherto exercised by Protecting Power.

6596

The Italian volunteers now, or hereafter, as and when practicable, + enrolled in service units, will perform work in military effort similar to that performed by service units of Government of the United States and of the Government of British Commonwealth of Nations and to that being performed at this time in Mediterranean area by the existing service units composed of similar Italian personnel. Such volunteers shall serve under United

/ States

+ Note.
Insert "any ~~entity~~"
after "that" and
before "provision"

+ Note.
Insert "may be" after
"practicable" and before
"enrolled" *of and before*

2 2 4 8

States or British Commonwealth of Nations command, and as far as possible, the units in which volunteers are enrolled will bear the (.....? character) of Italian units. The Italian personnel covered by this agreement, both those organized into service units and those not so organized, shall enjoy the benefit of all provisions of Prisoners of War Convention except those which have been suspended as incompatible with desired co-operation between the Governments concerned.

+ Note.

Omit "which have been suspended as "

+ Note.

Omit whole paragraph. OR Substitute.

"The provisions of " this agreement may be" applied to personnel" protected under the Geneva Red Cross " Convention 1929."

+ The Government of the British Commonwealth of Nations and the Government of United States will accept services of personnel protected under the Convention for the amelioration of the condition of wounded and sick of armies in the field, who volunteer to minister to their fellow countrymen covered by this agreement, in such numbers as may be necessary to provide adequately for spiritual and physical welfare of their fellow countrymen.

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(52)

FINANCE AGREEMENT WITH THE ITALIAN GOVERNMENT

MODIFYING THE PROVISIONS GOVERNING PAY OF ITALIAN PRISONERS OF WAR

for the

Chief Commissioner, Allied Control Commission

1. Reasons for Agreement. The objects which it is desired to attain are at present prevented by the provisions of the P/W or Red Cross Conventions or special agreement with the Italian Government and can therefore only be modified by agreement.

2. Objects of the Agreement. There are four main points and two subsidiary as follows:

Main Points

a. Responsibility of Italian Government. Under the Convention the Italian Government are responsible ^{to} H.M. Governments for pay issued to Italian P/W but this responsibility does not extend to working pay. This provision will make the Italian Government ultimately responsible for all advances of pay made to officers and men -- since this responsibility is accepted by our Allies it should also be accepted by the Italians. Its implementation is remote but it would be inconsistent with co-belligerency if pay of Italian service personnel was not, at any rate theoretically, derived from their government.

b. Advances of pay for officers. Under the Convention Ital-

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Declassified E.O. 12065 Section 1-402/NNDG NO. 785020

a. Responsibility of Italian Government. Under the Convention the Italian Government are responsible ^{to} H.M. Governments for pay issued to Italian P/W but this responsibility does not extend to working pay. This provision will make the Italian Government ultimately responsible for all advances of pay made to officers and men -- since this responsibility is accepted by our Allies it should also be accepted by the Italians. Its implementation is remote but it would be inconsistent with co-belligerency if pay of Italian service personnel was not, at any rate theoretically, derived from their Government.

b. Advances of pay for Officers. Under the Convention Italian officers are credited with their full rate of pay in the Italian Army converted at 72 lire. Since they pay no income tax, they are credited with ~~the~~ sums in excess of the pay drawn by British officers of equivalent ranks. In fact, they do not get the money, since their ability to spend is strictly limited to what they are allowed to buy; i.e., necessities only.

We propose only such advances as are necessary for pocket money plus free messing, which is worth six pounds a month.

The balance of their pay would be credited in lire by the Italian Government, thus avoiding the present arrangement by which very large sums are credited in sterling in British territory, and which would be merely notified to the Italian Government on repatriation. The pro-

posed arrangement does away with an artificial state of affairs involving constant pressure by these officers to be allowed to spend more of their credit balance than can be agreed to, since the luxury articles they would wish to buy are in short supply.

The wording of this paragraph has been substituted for wording which applied the official exchange rate (400 lire equals one pound) to the pay credited and which would have had the same effect in reducing the amounts in their accounts in England to the sums actually required.

c. Cooperators' Rates. This is necessary if other ranks, who now get two shillings a week plus working pay, are to get an adequate incentive to work willingly. So far as officers are concerned it would be impossible to fix a rate between that of those who refuse to cooperate and those of Allied and British officers of equivalent rank unless the present rates for P/W officers had first been reduced under what is above.

d. Protected Personnel. This was originally included in the main agreement. It is necessary to remove the protection of the Red Cross Convention since under this all protected personnel should be repatriated, whilst medical officers are at present getting the same rates as for R.A.M.C. of equivalent rank but without tax or other deductions. In

now get two shillings a week plus working pay, are to get an adequate incentive to work willingly. So far as officers are concerned it would be impossible to fix a rate between that of those who refuse to cooperate and those of Allied and British officers of equivalent rank unless the present rates for P/W officers had first been reduced under the above.

d. Protected Personnel. This was originally included in the main agreement. It is necessary to remove the protection of the Red Cross Convention since under this all protected personnel should be repatriated, whilst medical officers are at present getting the same rates as for R.A.M.C. of equivalent rank but without tax or other deductions. In addition the bulk of other ranks, ^{as} ~~as~~ stretcher bearers with no medical knowledge, who cannot under the Convention be employed on work other than medical, for which they are neither needed nor qualified. It should be emphasized that all medical officers, chaplains and medical orderlies will continue to be employed in looking after the physical and spiritual welfare of the Italians.

Subsidiary Points

e. Stoppage of Pay. At present this is prevented by a special agreement under the Convention made with the Italian Government. It is important from a disciplinary point of view and according with powers over British troops.

f. Remittances. Many letters from next of kin in Italy to Italian P/W complain that their allowances have ceased. The Italian Government have presumably no records which will enable these to be continued. Two varieties are involved and in neither case can sterling pass.

(1) If Italian Government agreed to "b" above and credit Italian P/W with their pay in the Italian Army, all that is necessary is that we should transmit to them a statement of the P/W's wishes as to the disposal of this credit.

(2) If a P/W saves money from the advance issued, we can inform the Italian Government of the amount standing to his credit in sterling and of his wishes. It is for them to decide what rate of exchange to apply.

This proposal should be most attractive to the Italian Government.

3. We have agreed with the United States that when concluding the main agreement, Padoglio should be informed of "2 a, b, c" above. Insofar as 2a is concerned, the U.S.A. are also involved. Insofar as 2b is concerned it should be noted that although the result in IED is the same we no longer intend to produce it ~~but~~ applying the official rate of exchange and communication made to Padoglio must be amended.

exchange to apply.

This proposal should be most attractive to the Italian Government.

3. We have agreed with the United States that when concluding the main agreement, Badoglio should be informed of "2 a, b, c" above. Insofar as 2a is concerned, the U.S.A. are also involved. Insofar as 2b is concerned it should be noted that although the result in LAD is the same we no longer intend to produce it ~~by~~ applying the official rate of exchange and communication made to Badoglio must be amended accordingly.

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SECRET

With reference to the letters exchanged between us on about the employment of Italian personnel detained as prisoners of war it is further agreed that in place of the present arrangements providing for the pay of such personnel detained by the Governments of the British Commonwealth the following arrangements shall come into force as from to-day's date.

Letter to
Marshal Badoglio
(Finance Agreement)

[Responsibility of
Italian Government.]

The Italian Government agrees that as co-belligerents they in common with the Governments of the British Commonwealth accept responsibility for all pay (including all advances of pay) issued to all such Italian personnel.

[Advances of pay for
officers.]

The Governments of the British Commonwealth will however make on behalf of the Italian Government advances of pay to all Italian officers detained by them and will make no charge for housing. These advances will be fixed upon the basis of their rank and will enable them to satisfy their reasonable spending requirements in the territories in which they may be [and will when necessary be the subject of discussion with the Italian representatives.]

[Co-operating rates.]

Since it is desirable that all such Italian officers and other ranks may have an adequate incentive to

of pay to all Italian officers detained by them and will make no charge for housing. These advances will be fixed upon the basis of their rank and will enable them to satisfy their reasonable spending requirements in the territories in which they may be [and will when necessary be the subject of discussion with the Italian representatives.]

[Cooperators Rates.]

Since it is desirable that all such Italian officers and other ranks may have an adequate incentive to contribute their best efforts to work for the common cause it is agreed that the Governments of the British Commonwealth may increase the normal advances issued to officers and to other ranks in cases where work performed by them is regarded as justifying some increased spending power.

[Stoppage of pay.]

At the same time H.M. Governments may stop the pay of any officer or man either in place of or in addition to any disciplinary or judicial award or in respect of any period of absence.

[Protected Personnel.]

The exceptional treatment accorded to certain personnel under the Geneva Red Cross Convention is no longer appropriate in view of the so-called status of the Italian Government, and such personnel shall in future

future be treated in all respects like other Italian service personnel under the control of the Government of the British Commonwealth.

[Emphasis.]

The Government of the British Commonwealth agree to notify to the Italian Government wherever possible the wishes of Italian officers and other ranks regarding the disposal of any savings from advances of pay received from H.M. Government or of any pay credited to them by the Italian Government for the benefit of their relatives resident in territories under the administration of the Italian Government and the Italian Government will arrange for payments to be made in accordance with the wishes so expressed.

[Replacement of Prisoners of War and Red Cross Conventions.]

The arrangements contained in this letter shall supersede the provisions of the Prisoners of War and Red Cross Conventions, Geneva 1929, insofar as they are inconsistent therewith.

If Your Excellency agrees with these proposals, I am to suggest to Your Excellency that this letter and your reply accepting these proposals shall as from the date of the latter be regarded as constituting an agreement between the Government of and the

so expressed.

The arrangements contained in this letter shall
supervise the provisions of the Prisoners of War and
Red Cross Conventions, Geneva 1929, insofar as they are
inconsistent therewith.

If Your Excellency agrees with these proposals, I
am to suggest to Your Excellency that this letter and your
reply accepting these proposals shall as from the date
of the latter be regarded as constituting an agreement
between the Government of
Italian Government.

[Replacement of
Prisoners of War and
Red Cross Conventions]

4a

SUPPLEMENTARY NOTES TO BE READ IN THE LIGHT OF PARAGRAPH OF THE

MAIN INSTRUCTIONS.

A. There are three points in the agreed draft of the Main Agreement on which it would be better, if possible, to make small amendments as follows:-

- (i) Paragraph 3, line 4. The Protecting Power or its representatives appear in a number of Articles in the Convention. It is desirable to abolish it in all these places and therefore "any" should be inserted before "provision".
- (ii) Paragraph 4, lines 1 and 2. The words "now, or hereafter, as and when practicable, enrolled" are meant to make this part of the agreement permissive to and not obligatory upon the Governments of the British Commonwealth or the U.S.A. This point is explained in paragraph 4 of the main note and is important. The above wording is clumsy and not very clear and it would be better to insert "may be" before "enrolled" and "and" before "will".
- (iii) Paragraph 4, last three lines. The effect of the words "which have been suspended as" is that we are completely bound by all the provisions of the P/W Convention except those definitely suspended above (i.e., Arts. 5, 31 and 32 and the Protecting

Power provisions). This may lead to difficulties later if it

2280

and when practicable, enrolled" are meant to make this part of the agreement permissive to and not obligatory upon the Governments of the British Commonwealth or the U.S.A. This point is explained in paragraph 4 of the main note and is important. The above wording is clumsy and not very clear and it would be better to insert "may be" before "enrolled" and "and" before "will".

(iii) Paragraph 4, last three lines. The effect of the words "which have been suspended as" is that we are completely bound by all the provisions of the P/W Convention except those definitely suspended above (i.e., Arts. 9, 31 and 32 and the Protecting Power provisions). This may lead to difficulties later if it is desired to make other small deviations from the Convention. Also it is intended to supersede Arts. 23, 24 etc. of the Convention in the Financial Agreement. The words should therefore be omitted if possible as being unnecessary and likely to lead to difficulties later.

6591
B. The agreed draft of the Main Agreement must clearly be used in discussions with the Italians, as it has been agreed by the C.C.S. In some respects, however, it may appear too formal and wide discretion has been given to the negotiator in the drafting of the letters (see paragraph of Main Instructions). Something simpler on the lines of the attached draft letter might be more palatable.

D R A F T

FO Draft

Having regard to the acceptance by His Majesty's Government and the Government of the United States of the Italian people as cobelligerents in the present struggle and to the expressed desire of the Italian Government that all Italians should collaborate with the British and American peoples for the advancement of the common war effort :-

it is agreed that notwithstanding any relevant article of the Prisoner of War ~~[and Red Cross]~~ Convention (Geneva 1929) Italian service personnel who are now prisoners of war in any territory of the British Commonwealth or the United States or elsewhere may henceforward be employed on any work which will promote the general purposes of the war.

In order that the conditions of such personnel may be as favourable as possible and that their interests may be fully protected selected Italian Officers in any such territory may wherever mutually convenient co-operate directly with the British and American Military Authorities charged with their administration. In all such cases facilities will be given to these officers to report from time to time

(Geneva 1929) Italian service personnel who are now prisoners of war in any territory of the British Commonwealth or the United States or elsewhere may henceforward be employed on any work which will promote the general purposes of the war.

In order that the conditions of such personnel may be as favourable as possible and that their interests may be fully protected selected Italian Officers in any such territory may wherever mutually convenient co-operate directly with the British and American Military Authorities charged with their administration. In all such cases facilities will be given to these officers to report from time to time direct to the Italian Government.

In the light of this Agreement the intervention of the Protecting Power under the Prisoners of War Convention is no longer required.

6590

SECRET

FARGO 617

(34)

FARGO

30 JANUARY 44

SECRET

10050 MAGFARLANE

URGENT

FRENCH (ACTION) HQ ACMP (INFO) PATINA (REAR) (INFO)

MY NUMBER FIVE SIX TWO OF TWO EIGHT JANUARY
 REFERS TO MINUTES OF WAR AGREEMENT. RE I HAVE JUST RECEIVED A NOTE
 VERBALE FROM THE ITALIAN GOVERNMENT SIGNED BY BADOGLIO HQ PEBASE
 FARGO FARGO FROM MAGFARLANE FARGO TO AFHQ FOR HQS GPTD HQ ACMP FOR
 INFO FOR PATINA REAR FOR INFO PD UITS FARGO SIX ONE SEVEN PD A
 LENGTHY DOCUMENT WHICH DETAILS THE REASONS FOR WHICH THE ITALIAN GOVT
 DECIDES TO ACCEPT THE AGREEMENT TO VICE PRESIDENT STONE WHO RECEIVED
 THE NOTE VERBALE FROM BADOGLIO PERSONALLY AGREES WITH ME THAT THERE
 APPEARS TO BE NO PROSPECT OF GETTING BADOGLIO TO SIGN AN AGREEMENT ON
 THE LINE OF THE ONE WE HAVE PRESENTED TO HIM PD IN THE NOTE VERBALE
 THE ITALIAN GOVERNMENT REFER TO THEIR MINISTRY OF FOREIGN AFFAIRS
 MEMORANDUM NUMBER FOUR TWO OF FIVE JANUARY FORWARDED TO YOU BY GENERAL
 JOYCE THREE NUMBER THREE EIGHT THREE POINT SIX OF EIGHT JANUARY PD
 THIS CONCERNING A PLAN FOR THE DISPOSAL OF ITALIAN PRISONERS OF WAR
 ALLEGED TO HAVE BEEN DISCUSSED BETWEEN GENERAL GAZZERA AND THE PROVOST
 MARSHAL GENERAL AND GENERALS WHITE AND MONTAGNY IN THE UNITED STATES
 PD THE ITALIAN GOVERNMENT AGAIN PROPOSES THAT THE WHOLE FUNCTION OF

E J.P.

 L.F. HIGGINS,
 Lt. Col. ASD
 Adjutant General

6589

SECRET

SECRET

FARGO 517

FARGO

30 JANUARY 44

SECRET

10050 MACFARLANE

URGENT

FREEDOM (ACTION) HQ ACMP (INFO) PATIMA (REAR) (INFO)

ITALIAN PRISONERS OF WAR SHOULD BE REFERRED TO A SMALL MIXED
COMMISSION OF ITALIANS AMERICANS AND BRITISH PD I HAVE INFORMED
BADOGLIO THAT I AM FORWARDING HIS NOTE VERBALE TO YOU AT ONCE PD I
AM SENDING YOU THE ORIGINAL NOTE VERBALE WITH TRANSLATION AND MY
COMMENTS BY HAND OF MACFARLANE

L. F. NICKEL,
Lt. Col. AGO
Adjutant Gen. 6588

SECRET

*Political Sec
for Sub.*
SECRET

FARGO 562

(2)

FARGO

28 JANUARY 44

SECRET

10050 MACFARLAND

URGENT

AFHQ RPTD FILIPOT AND FATIMA

With reference my 2116. Prisoners of War agreement. I saw Badoglio yesterday. He said that he had considered the agreement carefully with his Colleagues and that he could not possibly sign it. He stated that if he signed the document he would lose face entirely with the Italian people and that he would resign rather than sign. He pointed out that with half a million prisoners of war affected probably four million or more Italians were intimately concerned. He proposed that a committee should be formed consisting of Signor Prun as General Gdzera and British and American representatives to reconsider the whole question. I argued forcibly and at length with the Marshal and produced I think every possible reason why it was urgently necessary that the agreement as presented should be immediately concluded. I told the Marshal very strongly that his refusal to sign and his counter proposal would inevitably be very mal vue by the American and British Governments. He remained adamant and it was impossible to shake him. I saw him again this morning. I told him that if he

383.6
L.F. NICKEL,
Lt. Col. AGD
Adjutant General 65817SECRET

SECRETcontinuation
FARGO 562FARGO
SECRET
URGENT28 JANUARY 44
10050 MAGFARIANE

FREEDOM RPTD FILPOT , PATINA

still declined to sign he must state most urgently and specifically exactly what his objections are. I insisted on his giving me at once his specific reasons and refused to accept a refusal in general terms to sign. He asked for time to produce a detailed reply and promised to let me have it tonight. I finished our talk by impressing upon him once again the great urgency which the Allied Governments attached to the question

383.6

L.F. NICKEL,
Lt. Col. AGD
Adjutant GeneralSECRET

P/175

1a

Prisoner of War

FMM/rj

5th. April, 1944.

I have received your letter No. 998 of April 3rd. enclosing a redraft of an agreement regarding the use of Italian prisoners of war held by the Governments of the U.S.A. and the British Commonwealth.

2. In this redraft you have failed to comply with the directions of the Governments which I represent as regards the two basic principles of Command and Prisoners of War status.
3. I have explained the situation as regards these two questions very fully and on several occasions to your representatives and to yourself. At my last meeting with you I left you a draft agreement which represented within the latitude allowed me by the Governments which I represent the furthest concessions that I could make to meet your wishes. I had expected to receive from you only some questions on my draft and not a redraft of the agreement which does not take into account the basic principles which according to the existing laws of the United States and the British Commonwealth must govern the treatment of such units.
4. In these circumstances I must conclude that the Italian Government does not accept these principles and that it is profitless to continue negotiating an agreement. I propose, therefore, to inform my Governments accordingly.
5. You will not fail to appreciate the importance that my Governments attach to the contribution to the war effort which such an agreement would have made.

NOEL MASON MACFARLANE,
Lieutenant-General,
Chief Commissioner.

S.E. Marshal Pietro Badoglio,
Capo del Governo.

6585

NOTES FOR THE COMMISSIONER
ON PAPER PLACED BY GENERAL CHAMBERLAIN
AT LONDON ON 24/3/44

Point 1. Agreement to give P/W in French hands at their own
request under German Italian Control.

This is impossible unless the French knew that we to be
made parties to the agreement. Further on the Convention P/W
are to the power of the Government whose forces captured them and
not of any individual or location. It is true that some of
those now held by the French were captured by British or American
forces and later handed over, this requires a French acknowledgment.
The right of transfer between allied governments was not
immediately questioned and the Italians themselves handed over
any British P/W to the German Govt before it is surrendered.
The U. S. Government and B.H.G. are now advising the French

to return those so handed over. All that can be said is - (1)
to undertake to return to the U. S. and United Governments
the P/W should pass the French either (a) to treat Italian
P/W better or (b) to enter into a similar agreement with the U. S.
Government. (2) to undertake to hand over any British and
Italian P/W captured by British/American forces to the French.

has not been questioned and the Italian themselves handed over

to my British P/W to the Germans long before Italy surrendered.

The U. S. Government in D.H.G. are now pressing the French to return those so handed over. All that can be done is - (1) to undertake to recommend to the U. S. and British Governments that they should press the French either (a) to treat Italian P/W better or (b) to enter into a similar agreement with the Italian Government. (2) to undertake not to hand over any additional Italian P/W captured by British/American forces to the French.

Point 2. Form of Employment.

No coloured British/American troops are employed in work which white troops could not equally be required to perform. This stipulation is completely meaningless. There is no objection in principle to white being allowed to fight.

Point 3. Italian Government does not agree that P/W should be allowed "to volunteer."

6584

There is no objection to abandonment of ideas of volunteerism provided (a) formation of special units is not made obligatory on the detaining Governments which must retain the right to treat Italians who can not be employed for lack of work (a.c. shortage of and basic staff) or are unsuitable for employment as clerks or clerk substitutes if they are being treated as

present and (b) Italian Government will give the necessary orders to Italian P/W where the detaining Government wish to employ, to join the units and work as ordered. Failure to obey such orders will result the detaining Government to take disciplinary action including to turn to a re-selected treatment.

One point is that unemployed or overeducated can not be shipped back to Italy (if because there is no shiping, (b) because there could be a large increase in their numbers if this was the solution.

Point 4. Italian Government insist on Italian officials to accompany units.

No objection to principle provided sufficient are available in each territory and number is about 1000 would derogate from the fact that British/American officers alone can manage and survive without of military courts or extra disciplinary or judicial sentences. (Italian officials could work with British/American units as deprivation of privileges or extra sentences.)

British/American commands to consistent with Article 15 which the Italian agrees to retain and it follows that Italian officers will enjoy the same as other personnel, orders being normally issued by them but the sanction behind their orders must be exercised by British/American officers. This is in fact what remaining P/W

Under the fact that British/American officials alone can convene and serve as members of all by some in state disability or judicial sanctions. (Italian officials could serve along disability very convenient and as servants of the Italian officers.)

British/American personnel in consistency with Article 45 with the Italian agreed to retain and is followed the Italian officers also enjoy the status of citizens, except being officially is- used by them but the status in British and Italy must be or revised by British/American officers. This is an Italian document of the status of citizens.

status of citizens.

After incidents in Italy concerned and involved certain practical difficulties e.g. in the U.S. there are 90 Italian off- icers (mostly very junior) for 80,000 refugees of war.

Point 5. Italian status of citizens is in disagreement with the status of citizens.

0583

disagreement.

This is a political and not present difficulties which is not joint. Co-belligerency is a status which is not known to involve to and the Italian argument is in disagreement from a very should not be treated as citizens. This status concerns

-2-

under international law until peace is restored or the P/W is repatriated. Article 75 states that even after capture of a P/W, P/W status can be retained until repatriation. If P/W status is retained, obviously an Italian officer on the exercise order is guilty of an international offense.

Point 6. Extension of War Status (or equivalent) of USG Incarceration).

If P/W status was abolished in the absence of specific legislation in the United States and U.S. territories would be that no sentence or award by either British/American or Italian officers involving a violation of liberty in the case of anyone of the half million Italian P/W now held would be legal and those responsible for inflicting such sentences or awards would themselves be liable to legal proceedings. In addition, should legislation be enacted to provide pay for these Italian P/W in the U.S.

In the first contract made to the U. S. Government (contract 6607 and 6608 of October 1950 to Washington) the above arguments were not fully stated and in their reply (4724 October 1950) the U. S. Government suggested that P/W status should be abolished and that Italian P/W should become members of military units of

the U. S. Government under that contract in fact, he effective date

the Italian position of the Italian Government is responsible for enforcing such measures to ensure that the Italian Government is able to fulfill its obligations. In addition, the Italian Government should be advised to provide pay for Italian P/W in the U.S.

In the most approach made to the U. S. Government (tel-gram 6637 and 6938 of October 17 and 18, 1943) the above arguments have not fully stated and in their reply (4724 October 18) the U. S. Government suggested that P/W status should be abolished and that Italian P/W should become members of military units of the Italian Government under the U. S. could be effective. Italian/British, etc., control--Fascist sympathizers would be sought and treated as military personnel of the Italian Government.

In reply (7515 November 5, 1943, 5, 7, 8) H.M.G. pointed out the legal responsibility stated above and in their answer (5302, November 5) the U. S. Government after consultation with General Eisenhower, accepted principle the U. S. P/W status was be retained. The position of the two Governments has been maintained through at subsequent correspondence and is enclosed 67-92. It is noted in the instructions to the GDS (page 4, P/W 122, March 18).

The photostat instruction is dated 14 October 1943 and outlines a "Probable Release of Prisoners of War" and was issued before the Italian was finally agreed by the U.S.G. and H.M.G. in view

of the above statement is that it is assumed to be effective and in fact case in which a British subject is in British territory (see para 3 RUM 346 March 13) subsequently arrives in the U.S.S.R. position was fully explained in the sense of the instructions issued by C.C.S. to General Gerasimov when he was in the U.S.S.R.)

The suggestion that an Italian divisional commander is required in each theater indicates clearly that the Italians have not necessarily understood that the difficulty of jurisdiction makes it impossible for an Italian as for a British/American officer to hold a court martial or award any sentence involving deprivation of liberty to British or American territory.

Point 7. Italian Government Claim Full Liberty for Italian PW in British/American Territory.

This is impossible for the following reasons as shown U.S.G. and H.M.G. attach great importance: (a) Allied Governments would resent such treatment (Greece, Yugoslavia); (b) there have been a number of instances of Italian maltreatment of British and American PW and this is sufficiently well known to cause the utmost alarm. In particular in the U.S. the treatment accorded at Benghazi has caused great bitterness; (c) the British Army has captured large numbers would resent complete liberty and so would their relatives at home; (d) public opinion, sentiment and

By Staff Sergeant John J. L. L. L.

This is impossible for the following reasons to which U.S.S. and H.M.G. attend great importance: (a) Allied Governments could expect such treatment (Greece, Yugoslavia); (b) there have been a number of instances of Italian maltreatment of British and American P/W and this is sufficiently well known as to cause great discontent at home. In particular in the U.S. the treatment accorded at Bucharest has caused great bitterness; (c) the British Army who captured large numbers would resent complete liberty and so would their relatives at home; (d) public transport, amusement and shopping facilities are severely limited, particularly in U.S. and unrestricted access to newspapers would lead to great resentment; (e) opportunities for sexual relations with women are scarce; (f) severe public criticism and have a serious effect on the morale of troops overseas; (g) public feeling is such that in parts of the U.S. and of the British Commonwealth it could be reasonably anticipated to grant other than a restricted amount of liberty to Italian personnel.

6581

NOTE FOR CHIEF COMMISSIONER ON POINTS RAISED BY GENERAL

GAZZERA AT PEKING ON 21/2/44.

Point 1. Agreement to cover P/W in French hands as having been captured under

Supreme Allied Command.

This is impossible unless the French Committee are to be made parties to the agreement. Further under the Convention P/W are in the power of the government whose forces captured them and not of any individual or formation. It is true that some of those now held by the French were captured by British or American forces and later handed over, thus becoming a French responsibility. The right of transfer between Allied Governments has not hitherto been questioned and the Italians themselves handed over many British P/W to the Germans long before Italy surrendered.

The U.S. Government and H.M.G. are now pressing the French to return those so handed over. All that can be done is - (1) to undertake to recommend to the U.S. and British Governments that they should press the French either (a) to treat Italian P/W better or (b) to enter into a similar agreement with the Italian Government. (2) to undertake not to hand over any additional Italian P/W captured by British/American forces to the French.

Point 2. Type of Employment.

No coloured British/American troops are employed on work which white troops

between Allied Governments has not hitherto been questioned and the Italians themselves handed over many British P/W to the Germans long before Italy surrendered.

The U.S. Government and H.M.G. are now pressing the French to return those so handed over. All that can be done is - (1) to undertake to recommend to the U.S. and British Governments that they should press the French either (a) to treat Italian P/W better or (b) to enter into a similar agreement with the Italian Government. (2) to undertake not to hand over any additional Italian I/W captured by British/American forces to the French.

Point 2. Type of Employment.

No coloured British/American troops are employed on work which white troops would not equally be required to perform. This stipulation is accordingly meaningless. There is no objection in principle to units being allowed to fight.

Point 3. Italian Government does not agree that P/W should be allowed "to volunteer".

There is no objection to abandonment of idea of volunteering provided (a) formation of special units is not made obligatory on the detaining government which must retain the right to treat Italians who cannot be employed for lack of work (e.g. thousands in South and East Africa) or are unsuitable for employment as being Fascists or ^{rich} substantially as they are being treated at present and (b) Italian Government will give the necessary orders to Italian P/W ^{when} the detaining government wish to employ, to join the units and work as ordered. Failure to obey such orders will permit the detaining government to take disciplinary action including return to non-selected treatment.

The point is that unemployables or recalcitrants cannot be shipped back to Italy

- - 2 - -

(e) because there is no shipping, (b) because there would be a large increase in their numbers if this was the solution.

Point 4. Italian Government insist on Italian Officers to command units.

An objection in principle provided sufficient are available in each territory and nothing is stated which would detract from the fact that British/American Officers alone can convene and serve as members of military courts or award disciplinary or judicial sentences. (Italian Officers could award minor disciplinary punishment such as deprivation of privileges or extra fatigues.

British/American command is consistent with Article 45 which the Italians agree to retain and it follows that Italian Officers will enjoy the outward show of command, orders being generally issued by them but the sanction behind their orders must be exercised by British/American Officers. This ^{is} in fact that ~~is~~ retaining

E/W statute means.

Note: Insistence ^{by} Italian command would involve certain practical difficulties e.g. in the U.K. there are 90 Italian Officers (mostly very junior) for 80,000 prisoners of war.

Point 5. Italians argue that P/W status is inconsistent with co-belligerency.

This is a political and for present purposes a debating point. Co-belligerency is a status hitherto unknown to international law and the Italian argument is indistinguishable from a claim that they should now be treated as allies. P/W status continues under international law until peace is restored or the P/W is repatriated.

orders must be exercised by British/American Officers. This/in fact what ~~the~~ retaining

P/W status means.

Note: ^{by} insistence ~~by~~ Italian command would involve certain practical difficulties e.g. in the U.K. there are 90 Italian Officers (mostly very junior) for 20,000 prisoners of war.

point 5. Italians argue that P/W status is inconsistent with co-belligerency.

This is a political and for present purposes a debating point. Co-belligerency is a status hitherto unknown to international law and the Italian argument is indistinguishable from a claim that they should now be treated as allies. P/W status continues under international law until peace is restored or the P/W is repatriated. article 75 shows that even after restoration of peace P/W status can be retained until repatriation. If P/W status is retained, obviously an Italian Officer cannot exercise disciplinary or judicial powers ~~in a P/W camp~~.

6579

Point 6. Prisoner of War Status (CF Photostat Copy of USG Instructions).

If P/W status was abolished in the absence of specific legislation the position in British and US territories would be that no sentenced or award by either British/American or Italian officers involving restraint of liberty in the case of anyone of the ^{hell} ~~several~~ million Italian P/W now held would be legal and those responsible for enforcing such sentences or awards would themselves be liable to legal proceedings. In addition special legislation would be required to provide pay for those Italian P/W in the US.

In the first approach made to the US Government (telegrams 6907 and 6908 of October 12 FO to Washington) the above ^{arguments} ~~statements~~ were not fully stated and in their reply (4724 October 13) the US Government suggested that P/W status should be abolished and that Italian P/W should become members of military units of the Italian Government under what would in fact be effective American/British, etc., control--Fascist sympathizers would be segregated and treated as military prisoners of the Italian Government.

In reply (7515 November 4, paras 3b, 5, 7, 8, 9) HMG pointed out the legal impossibility stated above and in their answer (5004, November 5) the US Government after consultation with General Eisenhower, accepted principle that P/W status must be retained. ^{maintained through hostilities} This position of the two governments has been ~~maintained~~ subsequent correspondence and is specifically dealt with in the instructions from CCS (para 4, FAN 344, March 13).

The photostat instruction is dated 18 October 1943 and outlines a

ive American/British, etc.. control--Pascist sympathizers would be segregated and treated as military prisoners of the Italian Government.

In reply (7515 November 4, paras 3b, 5, 7, 8, 9) HMG pointed out the legal impossibility stated above and in their answer (5004, November 5) the US Government after consultation with General Eisenhower, accepted principle that P/W status must be retained. *maintained throughout* This position of the two governments has been ~~maintained~~ subsequent correspondence and is specifically dealt with in the instructions from CCS (para 4, FAN 344, March 13).

The photostat instruction is dated 18 October 1943 and outlines a "Probable Scheme of Organization" and was issued before the position was finally agreed by the USG and HMG. In view of the ~~above~~ AGREEMENT reached it is presumably *indefinite* and in any case no such solution would work in British territory (see Para 3 FAN 346 March 13 as subsequently amended showing the USG position ^{was fully explained} in the sense of the instructions issued by CCS to General Gazzera when he was in the USA)

0078

The suggestion that an Italian divisional commander is required in each theater indicates clearly that the Italian have not properly understood that the difficulty of jurisdiction ^{equally} makes it impossible for an Italian of ~~the line~~ ^{as for a British/American} to hold a court martial ~~and~~ ^{award and} sentence involving *retention of liberty* in British or American territory.

if Prisoner of War is released, it is retained by the Italian officer and has no judicial or disciplinary powers.

Point 7. Italian Government Claim Full liberty for Italian P/W in British/American territories. This is impossible for the following reasons to which USG and HMG attach great importance: (a) Allied Governments would resent such treatment (Greeks, Yugoslavs); (b) there have been a number of instances of Italian maltreatment of British and American P/W and this is ^{sufficiently} well known as to cause resentment at home. In particular in the UK the treatment accorded at Benghazi has caused great bitterness; (c) The Eighth Army who captured large numbers would resent complete liberty and so would their relatives at home; (d) ^{Public} the problem of transport, amusement and shopping facilities are severely limited, particularly in UK and unrestricted access to them would lead to great resentment; (e) opportunities for sexual relations with women would cause severe public criticism and ^{have} serious effect on the morale of troops overseas; (f) public feeling is such that in parts of the US and ⁱⁿ the British Commonwealth it would be impossible initially to grant ^{now them} a restricted amount of liberty to Italian personnel.

^{Public} their relatives at home; (d) the problem of transport, amusement and shopping facilities are severely limited, particularly in UK and unrestricted access to them would lead to great resentment; (e) ^{have} opportunities for sexual relations with women would cause severe public criticism and serious effect on the morale of troops overseas; (f) public feeling is such that in parts of the US and ⁱⁿ the British Commonwealth it would be impossible initially to grant ^{even them} a restricted amount of liberty to Italian personnel.

6577

DRAFT OF AGREEMENT FOR THE USE OF PRISONERS OF WAR

The Government of the United States of America and the Governments of the British Commonwealth, having accepted the Italian People as co-belligerent and the Italian Government having expressed the desire that also all officers, non-commissioned officers and soldiers of the Italian Forces ^{held as} taken prisoners of war by ^{these forces} [the British or American Armed Forces or by those of other countries, but operating under their command] should cooperate with the British and American Peoples in a common military effort for cobelligerency, stipulate the following agreement.

Par. 1.

This agreement will remain in effect, unless modified by mutual agreement, up to the conclusion of peace between the Italian Government and the British and American Governments. ✓

shall, as far as possible, be organized into Italian military units, held by the Gote

Par. 2

All prisoners of war captured by [the Armed Forces] of the British Commonwealth of Nations and [those] of the United States of America, [as also of the Armed Forces of other Countries operating under their command of the British or American Military Authorities,] ^{may be organized into Italian military units, held by the Gote} are incorporated into military units according to ^{these} military Italian military laws and customs and they can be used in services or work of military character in a similar way as rendered by units of the Government of the United States and Governments of the British Commonwealth, [composed of soldiers of the white race] and in the same localities.

Par. 3

These Italian Military ^{units} ~~Formations~~ will be organized in ^{insofar as possible} all areas where there are Italian prisoners of war, through the special Italian military representatives, as set out per article 6 below. ^{with their connection with} They will be organized ^{as soon as practicable} by Italian officers and non-commissioned officers [and commanded by Italian officers] drawn from the prison camps, but for their work will be placed directly under the orders of the British or American Military Authorities. ^{but will be authorized directly}

Par. 4

[The details of organization of the Italian military Units and the treatment of their components and their cadre are specified in the annex to this agreement.]

Par. 5.

From the date of constitution of the individual Italian military Units, the regulations of the Geneva Convention relative to prisoners of war will cease to be in effect.

Par. 6

For the organizational needs and the operation of the Italian Military Units, direct relations between the Government of the United States and the British Government respectively on one side and the Italian Government on the other will be established through special Italian ^{representative} ~~representative~~ agencies which will be constituted by the Italian Government in the countries in which the Italian prisoners of War are held. 6576

see special Italian agencies can correspond directly with the Italian Government.

The Italian soldier-prisoner of war who volunteered to do the work of the Detaining Power in the above mentioned duties, would commit, according to Italian penal Law, a sever crime, because the juridical cloak of belligerent enemy is necessarily correlative for the Detaining Power in regard to his quality as prisoner of war. Furthermore the prohibition established in regard to such work in the Geneva Convention is so absolute that not even voluntary offers should be accepted by the Detaining Powers.

On the other hand if the Italian Government would agree with the Detaining Governments that its prisoners of war execute work of integral military cooperation with the Armed Forces of the same, the Italian prisoners of war would have no choice but to obey, because in our Country military service has always been compulsory and the Italian prisoners of war are, even though in a state of imprisonment, still to be viewed as soldiers in the service under the effects of the national military law.

6. Furthermore the constitution of military Units does not correspond to the necessities of the Italian State, not even in the way in which it has been proposed. Because above all not even the character of "Italian" Units has been assured to it, the American and British Governments reserving the right to grant this "as much as possible", and in the second place because, as has been defined in the attached non-official note, also the military Units of Italian character should be commanded by officers of the American or British Armed Forces.

So that the military units to be formed can truly acquire the Italian military character, it is necessary that not only disciplinary control be discharged by Italian officers, as also administrative control, but that it be exercised especially by those in full command, because it is especially in the exercise of the command that the basic elements of the Italian military character are realized and manifested: the hierarchic authority and the unity of the department.

Naturally for determination of employment and for all orders relative thereto, these units must remain at the complete disposal of the American or British Military Authorities. In the same message of Marshal Badoglio of 11 October had been stated that the Italian Units "will be commanded by Italian officers, prisoners of war, especially designated".

7. It may therefore be concluded in regard to this fundamental point of the project, that the units formed by Italian prisoners of war should have a compulsory and organic Italian military character and therefore must be constituted for all Italian prisoners of war by who have been captured by the contracting Allied States and therefore in all Camps; and they must be placed under the command of Italian officers, with the provision then to be used by the Allied Military Authorities.

Only with such an organic incorporation of all Italian prisoners of war, the very firm will of the U.S. Government to give its utmost support of collaboration and the duty of the Italian prisoners of war to assist this effort can find united and effective expression and could the contracting Governments find their best support.

8. As finally regards the pretense to conserve for all Italian prisoners of War either incorporated or isolated, the treatment provided in the Geneva Convention relative to prisoners of war, the following observations are to be made:

- a) that it does not appear to correspond to the proposals of the preamble of the project;
- b) that it constitutes a grave legal error.

6573

9. Because the fact that the American or British Governments (and also the Russian) have accepted cobelligerency, as stated in the draft, signifies evidently that the Italian Forces must, with the other forces which fight or serve or work for the common goal, be aligned on the ground of collaboration at least in the service, in the work,

Par.7.

The American and British Governments may also equip, arm, train and employ the Italian military Units in combat on the fronts of cobelligerency, always under the orders of the officers and non-commissioned Italian officers of these units.

Par.8.

Repatriation of the Italian military personnel now prisoners of war may be effected at any time according to the availability of the means of transportation of the American and British Governments on request of the Italian Government for the Italian needs of cobelligerency and for health and humanitarian reasons.

Par.9.

All Italian military personnel shall be repatriated within the shortest period possible after conclusion of the peace, excepting that by virtue of special agreements stipulated between the contracting Governments they may be repatriated previously.

[Repatriation will take place by unit in agreement with the special Italian agencies]

made

HIGH COMMISSIONER FOR PRISONERS OF WAR

Cava dei Tirreni, 24 March 1944

No.23

VERBAL NOTE

1. The draft of an agreement between the American and British Governments on one hand and the Italian Government on the other concerning the organization and the use of Italian prisoners of war captured by the Armed Forces of the aforementioned Governments and by other forces operating under their orders, has been the subject of warm attention by the R. Italian Government. Having completed a careful study, the R. Government presents the following observations.
2. Above all it is to be noted that the draft omits from consideration in the preamble the prisoners of war who by the American and British Governments have been transferred to the jurisdiction of other Governments, even by violation of law, as for example those who have been transferred to the French Committee of Liberation and ~~ASST~~ who most urgently need this agreement. The military reorganization must include all Italian prisoners of war who have been captured by the Armed Forces of the proponent Governments or by other Forces operating under their orders.
3. The draft of the agreement is rooted in three fundamental provisions:
 - a) use of Italian prisoners of war for any service or work whatsoever and in any place, as would be the case with any American or British soldier (supplementary note);
 - b) establishment of Italian Units from prisoners of war who volunteer for such duties or work;
 - c) conservation of the treatment prescribed in the Geneva Convention of July 27, 1929, for all Italian prisoners of war, both isolated or incorporated.
4. To make possible the use of Italian War prisoners for any service or work of military interest as would be the case with any soldier (of white race, well understood) of the American or British Armed Forces, truly responds to the point of view of the Italian Government. But the latter in truth has also asked that its prisoners of war may also be used in combat, because it desires that they also contribute with their free comrades of the Armed Forces and like all the Italian People in the best way possible to the fight against the Germans in the area of cobelligerency. And this possibility would however be denied to the Italian prisoners of war in the project under study.
5. Also the constitution of the Italian Units does not correspond in the manner in which it is provided in the project to the needs of the Italian State. It does not correspond by the criterion of voluntary participation by Italian prisoners of war, which it intends to follow, because:
 - either the Italian Government does not authorize the use of its prisoners of war in work prohibited by the Geneva Convention (especially in that which has a direct connection with the war operations of the Detaining Power) and then no Italian prisoner of war can participate.
 - or the Italian Government orders that this work be carried out and then none of its prisoners can free himself from the obligation to obey.

and above all in combat (if participation is consented to) and also in human and military dignity.

The sentiment of Italianity and the military sentiment of the Italian soldiers who live in prison camps are no different from those which pulsate in the souls of their brothers in arms who in the Fatherland in five months of cobelligerency have ceaselessly and silently contributed with every sacrifice to the Allied military effort.

10. Furthermore, as war imprisonment is only, according to the spirit of the Geneva Convention, but a safety measure intended to prevent that the captured combattant may take up again arms against the detaining belligerent, it is obvious that it has no further reason of existence in regards to Italian military personnel, if the legality is to be respected, now that they would fight or serve outright, together with the Armed Forces of the detaining States, against a common enemy.

In the ajoining note, reference is made, it is true, to the difficulties which would arise, in such event, in the United States of American and Great Britain to carry out orders of the English or American or Italian officers, which would entail for the Italian military personnel, restrictions of personal liberty; but without going into the details of this question (which also is not stated clearly) it is believed that it is sufficient to observe how the military personnel belonging to all the nations which fight against the Germans circulates freely in the British Dominions and in the territory of the United States, and how they, when erring, are punished without military discipline in these territories being compromised.

It is therefore not understood what obstacle there still could be in the way of restoration to Italian prisoners of war of all their personal rights and military responsibilities.

11. The R. Government must therefore insist on the legal, military and moral necessities which compel that all Italian prisoners of war be incorporated into units established according to Italian law and military customs and commanded by Italian officers and that their use be organized outside of war prisoner regulations as has been organized in Italy the work which is carried out by our Units for the Allied Forces, excepting of course the widest applications which military necessities may direct. And all the more it is to be insisted in these requests as they coincide with the treatment which the United States War Department had officially offered since October 1943 in their camps to thousands of Italian officer prisoners of war detained in that Country. For that purpose and with the intent to facilitate to the proponent Governments their decisions, for Italian prisoners of war a concrete plan of activation has been prepared based precisely on the above mentioned principles, which is submitted for the study of the Governments concerned.

12. Only this settlement which is presented for the examination of the American and British Governments could:

- restore to Italian prisoners of war their full spirit of collaboration, which in spite of cobelligerency cannot but be effected by continued detention.
- persuade the Italian People which has great confidence in the generosity and spirit of justice of the Allies that the common cause of cobelligerency must be served without reserve and without restrictions;
- neutralize enemy propaganda which among Italians in the territory still occupied by the Germans tends to discredit the authority of the Italian Government and wipe out in the feelings of Italians any moral prestige for the Allies, making a particular point of this remaining in a state of imprisonment of our soldier prisoners, in spite of the realization of cobelligerency, - offer to the Allied Governments an opportunity to give to the Italian Government and People a proof of faith in this vital question.

DRAFT OF AGREEMENT FOR THE USE OF PRISONERS OF WAR

The Government of the United States of America and the Governments of the British Commonwealth, having accepted the Italian People as co-belligerent and the Italian Government having expressed the desire that also all officers, non-commissioned officers and soldiers of the Italian Forces held as prisoners of war by those Governments should cooperate with the British and American Peoples in a common military effort for cobelligerency, stipulate the following agreement.

Article 1

This agreement will remain in effect, unless modified by mutual agreement, up to the conclusion of peace between the Italian Government and the Governments of the British Commonwealth and of the U.S. A.

Article 2

All prisoners of war held by the Governments of the British Commonwealth and of the United States shall as far as possible be organized into Italian military units with Italian uniforms, insignia, and badges of rank and they may be used in services or work of a military character in the same way and in the same localities as units of the forces of the Governments of the British Commonwealth and United States may be employed.

Article 3

These Italian Military Units will so far as possible be organized in any area where there are Italian prisoners of war. Their connection with special Italian military officers is set out in Article 5. They will be organized with Italian officers and non-commission-

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These Italian Military Units will so far as possible be organized in any area where there are Italian prisoners of war. Their connection with special Italian military officers is set out in Article 5. They will be organized with Italian officers and non-commissioned officers drawn as soon as practicable from prisoner of war camps and they will be utilized directly under the orders of the British or American Military Authorities.

Article 4

Although in order to provide for the continuation of pay, jurisdiction and discipline the present status of all Italian service personnel held by the Governments of the British Commonwealth and of the United States must be retained, the remaining provisions of the Geneva Conventions relative to the treatment of prisoners of war and of the wounded and sick in armies in the field are suspended by mutual agreement from 1st May 1944. The treatment of all such personnel, shall, however, continue to be no less favorable than that assured by the Prisoner of War Convention.

Article 5

In order to safeguard the interests of all such Italian service personnel and to assist in the organization and operation of the Italian Military Units, specially selected officers will be appointed to discharge the functions hitherto exercised by the Protecting Power in the countries where Italian prisoners of war are held. These officers will correspond directly with the Italian Government.

Article 6

The American and British Governments may also equip, arm, train and employ the Italian Military Units in combat on the fronts of cobelligerency, always under the orders of the officers and non-commissioned Italian officers of these units.

Article 7

Repatriation of the Italian military personnel now prisoners of war may be effected at any time according to the availability of the means of transportation of the American and British Governments on request of the Italian Government for the Italian needs of cobelligerency and for health and humanitarian reasons.

Article 8

All Italian military personnel shall be repatriated within the shortest period practicable after conclusion of the peace, excepting that by virtue of special agreements stipulated between the contracting Governments they may be repatriated previously.

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ARTICLE 4.

except for prisoners of war when it is undesirable or impossible to include in these military units for political, health or other causes, all prisoners of war held by the Governments of the British Commonwealth and of the United States ^{and} who are embodied in these Italian military units will cease to be treated as prisoners of war ^{although} it is necessary for them to retain prisoners of war status for purposes of pay, correspondence and discipline involving ^{detention by} penalties. ~~the prisoners of war~~

with the exception of the clauses dealing with the above questions, the Geneva Convention relative to the treatment of prisoners of war and of the wounded and sick in armies in the field is suspended by mutual agreement from 1st. May, 1944. The treatment of all such personnel shall, however, continue to be no less favorable than that assured by the Prisoner of War Convention.

Abus  ndus



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Thus for



~~with the exception of the wounded and sick of the Prisoner of War Convention~~



6569

RETENTION OF PRISONER OF WAR STATUS UNDER MAIN AGREEMENT

for the

Chief Commissioner, Allied Control Commission

Question

We expect to be faced with this argument. "You want our men to do any kind of work for you, and instead of taking them out of the Convention and giving them status as co-belligerents so that they cease to be Prisoners of War, you propose to get the work out of them by breaking the Convention whilst keeping them in P/W status."

Arguments in Reply

1. A legal note on status is attached. From this it is clear that no legal machinery at present exists whereby officers (whether British/American or Italian) commanding an Italian unit situated in British or American territory can legally maintain discipline. It is for this reason (the maintenance of discipline) that the British and American Governments have decided that Italian P/W now in these territories must retain their status as such.

Without special legislation in the United States of America, United Kingdom, Dominions and India the necessary jurisdiction to maintain discipline if P/W status was abolished could not be established.

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Without special legislation in the United States of America, United Kingdom, Dominions and India the necessary jurisdiction to maintain discipline if P/W status was abolished could not be established. The British and American Governments have decided against instituting such legislation which would provoke political controversy and also entail considerable delay. They are not yet prepared to have Italians at liberty in these territories as Allies.

2. The proposed agreement is not contrary to the Convention but is specifically permitted by its ^{provisions} conventions to allow for variation by agreement. The British and Italian Governments made many such agreements during hostilities.

3. The restrictions which it is proposed to alter by agreement prevent Italian P/W from working for the common effort and thus conflict with co-belligerency:

6568

These clauses which prevent a P/W from assisting the war effort of the detaining government have no application when his government have declared common cause with the government detaining the prisoner. It was for this reason that Marshal Badoglio instituted the arrangement with General Eisenhower in North Africa by which Italian P/W were allowed to do war work and which has worked satisfactorily.

4. It is intended, as far as ^{volunteers} soldiers are concerned, to drop all reference to them as prisoners of war. They will be Italian soldiers employed on pioneer duties, helping by their work to defeat Germany and end the war. They are, in fact, retaining all the benefits of the Convention, including the activities of the I.R.C.C. and Y.M.C.A., and with their own officers in place of the Swiss representatives.

5. If the Italian government want concessions from the British and United States governments, they should be ready to meet their wishes, particularly when these involve greatly improved treatment of Italians, which can hardly fail to bring the Italian government considerable credit.

POSITION IF ITALIAN GOVERNMENT DO NOT AGREE

1. British and American governments can keep Italian P/W as such without any improvement in treatment; or

2. British and American governments could do what is now proposed

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POSITION IF ITALIAN GOVERNMENT DO NOT AGREE

1. British and American Governments can keep Italian P/Ws as such without any improvement in treatment; or

2. British and American Governments could do what is now proposed without any formal agreement under the arrangement made between Marshal Badoglio and General Eisenhower and put into effect hitherto only in North Africa. This would not, of course, carry with it the improved arrangements for pay proposed in the financial agreement.

PROPOSALS FOR TREATMENT OF ITALIANS IN THE UNITED KINGDOM AS SOON AS THE

AGREEMENT BECOMES OPERATIVE

(I can only speak for the U.K., but as these proposals have gone out to all the Dominions and India, it can be assumed that reorganization there will be on very similar lines. That the intentions of the United States Government are similar can be seen from articles #2* and #3* of the former agreement previously put forward, but I have no details.)

a. Organization. At present Italian P/W have no military organization--Italian combatant officers are segregated from their men and have no employment--WOS and NCOs have no definite unit to command, except an hut or a working party.

It is proposed to organize them, either into labour battalions or Pioneer companies, under their own officers, WOS and NCOs. The battalion or company will be commanded by a British officer, Italian officers, WOS and NCOs being responsible for maintenance of discipline and good order, though imprisonment or detention will only be given by a British court or officer. These Italian units will work under their own officers, WOS and NCOs and will perform their own provost duties. There will be no British escort, whereas at present parties of any size go out to work under escort.

b. Wire. At present the great majority are in camps with barbed and danner wire, patrolled by armed British guards. It is proposed that at camps the only wire to be left will be that delimiting the boundary of the camp--hostels of which there are some 260 will have no wire, whilst many companies will be accommodated in vacated British lines with no wire.

c. Clothing. At present Italian P/W wear large colored patches,

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c. Clothing. At present Italian P/W wear large colored patches, and only those wear badges of rank who have retained those they wore when captured or have received them from Italy. It is proposed that they should wear battle dress similar to that worn by the British soldiers, but of a distinct color with a field service cap of the same color--ITALY in red on a white ground ^{should be} the title. Camp police will wear a brassard. Badges of rank will be those applicable to units in the Italian Army---Good conduct badges will be worn.

d. Welfare. Except on their way to and from work, P/W are not at present allowed out of their camp or hostel. Italian medical officers⁶³⁶⁶ and chaplains have their own mess inside the wire perimeter. P/W are not allowed to communicate with men in other camps. It is now proposed that Italian officers should generally share the British officers mess. Special arrangements are being made for film and stage shows and concerts provided

by Italian organizations. Every camp will have bands within which Italians can exercise outside the camp when not at work. In addition to the continuance of free mail to and from Italy (incidentally they would lose this if their status was changed), they will be able to correspond with men in other battalions. Rest camps are under consideration.

e. Liaison Officers. Italian officers appointed as liaison officers will act as representatives of the Italian Government. They will visit camps and, as far as possible, deal with complaints on the spot with the military authorities. They will be able to forward reports to the Italian Government.

the Italian Government.

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NOTE ON STATUS

Status is a creation of law which can only be altered by operation of law. A person can only have one of two opposing statuses at the same time. If therefore a person is a Prisoner of War, he retains P/W status until this is changed by legal means; e.g., by release or by a statute of the detaining government relieving him of that status and giving him another. It is therefore not possible to change the status of these Italian P/W, except by statute in the United Kingdom or U. S. A., but their treatment can be varied indefinitely.

By statute these Italians could be given "Allied" status like the Poles or a "co-belligerent" status which would make them for certain purposes; e.g., discipline and offences; subject to British or military law though not members of the British or American forces. This is legally possible but has been rejected for the present by the British and American Governments. If this is to be changed and co-belligerency status introduced, a decision of the Cabinet is required in the U.K. and special legislation must be introduced. This would take time in the U.K. and no doubt if similar decisions were reached in the United States, Dominions and India also. It can only be done in the U.K. as a matter of cabinet policy. To give the Italians "Allied" status would be legally easier, as the powers already exist and an order applying them to the Italians could be made: it raises however larger political

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DRAFT AGREEMENT

Now that the American and British peoples are co-belligerents with the Italian people, who are resolved to assist the common effort to the limit of their abilities, the Government of the United States, the Governments of the British Commonwealth of Nations and the Italian Government recognise that it is inappropriate that Italian service personnel now detained by the Governments of the United States and of the British Commonwealth should continue to be regarded as prisoners of war, and that the restrictions upon their employment laid down by the provisions of the Prisoners of War Convention (Geneva, 1929) are inconsistent with the wishes of Italian service personnel, who themselves desire to render active assistance in the common struggle. Nevertheless they recognise that in order that discipline may continue to be enforced and jurisdiction to try and punish offences committed by Italian personnel so detained may continue, their present status must be retained whilst they are in any place where Italian jurisdiction does not apply.

The Governments above referred to accordingly agree that, where practicable, opportunities may be given to all such Italian officers and other ranks to serve in special units under American or British command and engaged on similar duties to those performed by the members

selves desire to render active assistance in the common struggle. Nevertheless they recognise that in order that discipline may continue to be enforced and jurisdiction to try and punish offences committed by Italian personnel so detained may continue, their present status must be retained whilst they are in any place where Italian jurisdiction does not apply.

The Governments above referred to accordingly agree that, where practicable, opportunities may be given to all such Italian officers and other ranks to serve in special units under American or British command and engaged on similar duties to those performed by the members of the American and British forces. Whilst so serving they shall, so far as legal and military considerations permit, exercise their own system of promotion and internal administration, and shall wear Italian insignia and badges of rank; their treatment will be at least as good as at present and, where possible, will be further improved.

The Governments of the United States and of the British Commonwealth further undertake that the conditions of Italian service personnel detained by them but not serving in these units shall be in all respects as favorable as those required by the provisions of the Prisoners of War Convention.

In consequence it is agreed that as regards all Italian service personnel, whether serving in special units or not, the provisions of the Prisoners of War Convention are no longer required and shall be suspended with the exception of those which provide for the maintenance of status, discipline and jurisdiction--in particular Articles 1 and

the United States 45 to 67 inclusive--(whilst the provisions of the Red Cross Convention concerned in this shall likewise be suspended so that those hitherto protected by its point which has by agreement with provisions may be treated whilst remaining in the above territories in the financial all respects as other Italian service personnel).

Finally, to ensure full protection of the interests of all such Italian service personnel, selected Italian officers will be appointed to discharge the functions hitherto exercised by the protecting Convention power with facilities to report from time to time direct to the Italian Government.

This agreement shall remain in force so long as Italy continues to be regarded as a co-belligerent.

be covered as Italian service personnel, selected Italian officers will be appointed. It is agreed with the U.S. Govt. although it seems inconsistent to abolish power with facilities to report from time to time direct to the one Convention and not the other Italian Government. in the main agreement.

This agreement shall remain in force so long as Italy continues to be regarded as a co-belligerent.

6562

COPY

Reference DP/G/26

S E C R E T

30th January 1944.

Subject: Prisoners of War Agreement.

To: Allied Force Headquarters

For the attention of Lt. General James Gammell, Chief of Staff

My telegram no. 617 of 30th January.

1. I enclose herewith copy of note verbale received from Marshal Badoglio and a translation. These were handed to Vice-President Ellery Stone by Marshal Badoglio last night and reached me this morning.
2. My principal comment on the present impasse is as follows:
3. I am very doubtful indeed of our being able to obtain the agreement regarding Italian Prisoners of War in the hands of the United States or the British Commonwealth unless we are prepared to accept the following:
 - a. That Prisoners of War who volunteer and are accepted for duty in organized labor units cease to be considered Prisoners of War.
 - b. That Prisoners of War who are not included in such labor units shall continue to be dealt with as Prisoners of War in accordance with the Geneva Convention.
4. My opinion in this respect is shared by all my responsible advisers here.
5. I realize very fully the extreme urgency of coming to an agreement regarding the use of our Italian Prisoner of War resources for purposes other than those allowed under the Geneva Convention. I have now led Badoglio to the water firmly on several occasions but I can not induce him to drink in the way we wish him to. Taking all the circumstances of the case into consideration I feel personally that we are possibly asking rather too much of him.

Lieutenant General
Deputy President

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