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Declassified E.O. 12356 Section 3.3/NND No. 785016

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142/447

ARMISTICE TERMS (ITALY)
(OCT. 1942); JUNE 1943 – JULY 1946

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4055 Depts, Desc

CONFIDENTIAL SECRET NC

ALCOM ACCC FROM ADMIRAL STONE 1809Z 5B JULY 1946

AFHQ FOR GEORGE FIVE OMA EYOUSA FOR COMGENMED

4216 SECRET

IN MEETING YESTERDAY WITH PRIME MINISTER HE STATED THAT NOW NEW GOVERNMENT WAS FORMED HE HOPED TO FORWARD LATE THIS WEEK OR EARLY NEXT WEEK ITALIAN GOVERNMENT COMMENTS AND QUOTE COUNTERPROPOSALS UNQUOTE TO AMERICAN AND BRITISH AGREEMENTS ACCOMPANYING PROPOSED REVISED ARMISTICE FD

PARA TWO FD HE STATED THAT THE FOREIGN OFFICE WAS OF THE VIEW CMA ALTHOUGH FINAL DECISION HAS NOT YET BEEN TAKEN CMA THAT THESE AGREEMENTS MAY HAVE TO BE SUBMITTED TO THE CONSTITUENT ASSEMBLY PURSUANT TO THE DECREE OF SIXTEEN MARCH WHICH CREATED THE CONSTITUENT ASSEMBLY

Col Hannaford - Seen

DISTRIBUTION:
UB Ambassador
ER Ambassador
US Poland
BR Poland
VP CA Bao
EX Counr
CC

PRIORITY

Chief Commissioner

222 MILLARD W. STONE
Rear Admiral, USNR
Chief Commissioner

Downgraded To Confidential

SECRET

Being forward for Col Weber on his return from Trieste CONFIDENTIAL

~~TOP~~SECRET

Downgraded to Restricted by Wing Leader [illegible]

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394

Ref: 5A/A.S.

SUBJECT:- ARMISTICE TERMS

Tel: 525

TO:- Chief Legal Officer

24th Sept.,'44.

1. Your opinion is required on the rights of the Allied Control Commission under the Armistice terms in the following circumstances as soon as possible.

2. The Italian Government appear now to taking the view that they are entitled to fix such matters of economic interest as the general wage level and the price of essential commodities without the agreement of the A.C.C., and in order that the Chief Commissioner may be in a position to formulate his attitude to the Italian Government in these matters he desires to be advised of the legal position.

3. The question has arisen in two ways.

a) The Italian Government have recently increased the price of wheat in Sicily without any reference to this H.Q. At first I thought that this was a breach of the price agreed upon in May between the then Chief Commissioner and the then Prime Minister, but it appears from Folio 4 that there was no such agreement but that the Government followed of their own volition, for political or economic reasons, the price set by us in Foggia which was then military government territory. Thus if we are to claim to controlany variations in price by the Italian Government subsequently, it appears we cannot rely on any prior agreement but only upon the armistice terms supplemented possibly by document "A" and ancilliary documents thereto.

b) The Italian Government yesterday issued a statement (Folio 5) announcing a general wage increase stating that they had the agreement of the Allied Control Commission. In fact this agreement was so limited in scope that you may assume that

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general wage level and the price of essential commodities without the agreement of the A.C.C., and in order that the Chief Commissioner may be in a position to formulate his attitude to the Italian Government in these matters he desires to be advised of the legal position.

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a) The Italian Government have recently increased the price of wheat in Sicily without any reference to this H.Q. At first I thought that this was a breach of the price agreed upon in May between the then Chief Commissioner and the then Prime Minister, but it appears from Folio 4 that there was no such agreement but that the Government followed of their own volition, for political or economic reasons, the price set by us in Foggia which was then military government territory. Thus if we are to claim to control any variations in price by the Italian Government subsequently, it appears we cannot rely on any prior agreement but only upon the armistice terms supplemented possibly by document "A" and ancilliary documents thereto.

b) The Italian Government yesterday issued a statement (Folio 5) announcing a general wage increase stating that they had the agreement of the Allied Control Commission. In fact this agreement was so limited in scope that you may assume that the Government were innacurate in stating that there was any such agreement.

Accordingly your opinion is requested on the powers of the Allied Control Commission under the Armistice Terms and any other document such as document "A" to control the actions of the Italian Government in these matters.

4. As a matter of history you should be informed that Allied Control Commission has in fact claimed to control wage rates on the footing that in Army areas the Army authorities fix the wages of the persons they desire to employ, and the wage rates of the remainder of the population should be about 15 lire a day less. There seems no logical background for this state of affairs, and if the Allied Control Commission are entitled to control wages it seems that a general wage level for the country should be fixed and an additional 15 lire per day paid in Army areas. The above is stated for your information but will not I think affect your legal opinion.

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5. In dealing with this matter I desire you to consider and cover in your opinion Articles 10 and 12 of the short Armistice Terms. As you know higher authority has from time to time expressed the view (in which I have never concurred) that additional terms could be promulgated by us under the above mentioned provisions. You will please give this matter your full consideration in expressing your opinion.

6. So far as the long Armistice Terms are concerned it seems that Articles 22, 23 and 36 are the most important articles, but you may find solace and comfort in other articles. It is further appreciated that you may not be able to give a clear cut "yes" or "no" to the questions asked of you but may consider that our powers of control when applied to price fixing and wage fixing are essentially questions of the degree of control that can be exercised in any given case.

G.R. Upjohn

G.R. UPJOHN. Brigadier.
V.P. Admin. Section.

GRU/YMB.

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TOP SECRET

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Downgraded to Restricted

4 Oct 44

HEADQUARTERS
ALLIED CONTROL COMMISSION
A.P.O. 394

SUBJECT:- Armistice Terms. ACC/4055/L.

TO:- V.P., Admin. Section.

1. Reference yours 5A/A/S dated 24 September 1944.

2. The question propounded involves a determination of the extent of the power, if any, of the Allied Control Commission to control the general wage and price level of the Italian Economy.

3. The answer will depend upon whether such power has been conferred by or reserved in such documents as currently represent the agreement of the United Nations with Italy with respect to the restoration of territory.

4. The rights ~~and~~ powers reserved in the agreements covering the restoration of territory to the Italian Government (Document "A" and ancilliary instruments) are in addition to and not in limitation of any conferred by or reserved in the Armistice (short terms) or the Terms of Surrender (Long Terms).

5. Such power accordingly exists if it has been conferred by or reserved in the aforesaid documents, either taken separately or in the aggregate.

6. These documents will accordingly be individually examined.

7. The Terms of Restoration (Document"A"and ancilliary instruments). Document "A", itself reserves no such power, but Document "D" does make specific reference thereto. Para 2 (a) thereof provides as follows: "Your Excellency is also requested to pass and to publish in the Official Gazette before the date of restoration the following decrees: A decree stabilising wage rates, maximum prices, charges for services; maximum quantities of grain to be held by anyone; as existing at the date of restoration and pending the future policy being agreed upon between us". The underlined portion clearly indicates that the intention was

general wage and price level of the [illegible]

3. The answer will depend upon whether such power has been conferred by or reserved in such documents as currently represent the agreement of the United Nations with Italy with respect to the restoration of territory.

4. The rights and powers reserved in the agreements covering the restoration of territory to the Italian Government (Document "A" and ancilliary instruments) are in addition to and not in limitation of any conferred by or reserved in the Armistice (short terms) or the Terms of Surrender (Long Terms).

5. Such power accordingly exists if it has been conferred by or reserved in the aforesaid documents, either taken separately or in the aggregate.

6. These documents will accordingly be individually examined.

7. The Terms of Restoration (Document "A" and ancilliary instruments). Document "A", itself reserves no such power, but Document "D" does make specific reference thereto. Para 2 (a) thereof provides as follows: "Your Excellency is also requested to pass and to publish in the Official Gazette before the date of restoration the following decrees: A decree stabilising wage rates, maximum prices, charges for services; maximum quantities of grain to be held by anyone; as existing at the date of restoration and pending the future policy being agreed upon between us".

The underlined portion clearly indicates that the intention was not merely to require a piece of so-called transitory legislation to carry over the transfer period leaving the Italian Government thereafter free to act but rather that it was intended that such "freezing" statute should continue in force except as otherwise agreed upon by the contracting parties.

However, even if it be concluded that Document "D" paragraph 2(a) reserved the powers as above described they are of a negative nature only. The Italian Government could not thereunder change the price or wage structure without the consent of the A.C.C. but neither could A.C.C. do likewise without the acquiescence of the Italian Government.

Thus the power of A.C.C. in that connection would in substance be the right of veto only. It could not under this provision impose prices and wages different than those set by the "freeze" without the consent of the Italian Government.

It should be pointed out moreover that the crucial phrase of paragraph 2(a) above is included only in the terms of the first transfer and is not included in the terms of either the second or third. As to the latter two transfers the Italian Government is required to pass the "freezing" decree No.32 but no reference whatsoever is made to subsequent changes in the price or wage structure along the lines of paragraph 2 (a) above.

Despite the omission, however, the intention of the contracting parties to attach the same terms to the second and third transfers as to the

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the underlined portion of
first appears so manifest that para. 2(a) above is to be deemed included as a condition to the second and third transfers although not specifically so stated.

8. It follows that by agreement with the Italian Government (Document "A" and ancilliary instruments) the price and wage structure in restored areas may not be changed or revised by the Italian Government without the consent and approval of A.C.C.

9. Having disposed of Document "A" and ancilliary instruments it remains to be determined whether or not the Armistice (Short Terms) or the Terms of Surrender (long terms) confer upon the A.C.C. the right and power to control the Italian Economy in the manner suggested by the enquiry.

10. Generally speaking I believe it must be assumed that any and all powers conferred upon the United Nations or the Allied Forces under either the short or long terms were intended to be limited to matters affecting or related to the prosecution of the war. The sole exception might consist of the argument that since the Italian Government binds itself to pay the cost of occupation (Terms of Surrender, paragraph 33A) the right to control the Italian Economy so as to ensure payment thereof is to be implied. In view, however, of the conclusions hereinafter set out resort need not be had to this thesis.

The question first to be answered then is whether the power to control the economy of Italy through control of its price and wage structure is one incident to the prosecution of the war. I submit that the answer must be in the affirmative. Certainly it is essential to the prosecution of the war in this theatre that the lines of communication in the rear areas be undisturbed by civil strife or commotion by interruption in the production of essential supplies, by the diminition in agricultural produce, by stoppage or interference with power or public transportation or any of the productive facilities of the nation which are necessary or essential to the prosecution of the war.

Uncontrolled inflation for example might paralise the whole industry and commerce of Italy with the usual consequences in terms of civil unrest and disorder. Certainly such controls of the Italian economy as are reasonably necessary for the prevention thereof and for maximum industrial and agricultural production are important implementing tools for the prosecution of the war.

The price of grain is one of the specific subjects of inquiry. Certainly it could not be argued that if the price of grain were to be fixed at a point which would materially reduce or eliminate its production with the resulting consequences in terms of starvation, unrest, sickness, diminished

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powers con[illegible] intended to be
the short or long terms were intended to be [illegible] or related to the prosecution of the war. The sole exception might conceivably be of the argument that since the Italian Government binds itself to pay the cost of occupation (Terms of Surrender, paragraph 33A) the right to control the Italian Economy so as to ensure payment thereof is to be implied. In view, however, of the conclusions hereinafter set out resort need not be had to this thesis.

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The price of grain is one of the specific subjects of inquiry. Certainly it could not be argued that if the price of grain were to be fixed at a point which would materially reduce or eliminate its production with the resulting consequences in terms of starvation, unrest, sickness, diminished individual productive capacity and the rest, the prosecution of the war would not seriously be effected thereby.

The same applies to the matter of wages. The armed forces would be immediately affected with respect to civilians directly employed by them and with respect to Italian supplies purchased by them. Indirectly the armed forces would be affected in the various respects heretofore indicated. The details and instances could be multiplied without number.

11. Having concluded that the control of the Italian economy by price and wage fixing might well be requisite to the prosecution of the war it remains to be seen whether the short or long terms by general or specific provision, or even by implication, confer such powers upon A.C.C.

12. The Armistice (Short Terms).

Paragraph 10 thereof provides as follows: "The Commander-in-Chief of the Allied Forces reserves to himself the right to take any measure which in his opinion may be necessary for the protection of the interests of the Allied Forces for the prosecution of the war, and the Italian Government binds itself to take such administrative or other action as the Commander-in-Chief may require ....."

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The above provision is ample in my opinion to confer authority upon A.C.C. (through the Commander-in-Chief) to dictate and control the fundamental price and wage structure in restored areas, and to oblige the Italian Government to take such action as may be necessary to effect the same.

Paragraph 12 of the Armistice (short terms) provides as follows: "Other conditions of a political, economic and financial nature with which Italy will be bound to comply will be transmitted at a later date".

This paragraph further particularizes the general powers reserved under paragraph 10 above, and confirms the conclusion that economic control by the Allied Forces was fully contemplated by the contracting parties.

13. The Terms of Surrender (Long Terms).

The long terms are next to be examined. The paragraphs thereof which might be pertinent to our inquiry are as follows:-

> "22. The Italian Government and people will abstain from all action detrimental to the interests of the United Nations and will carry out promptly and efficiently all orders given by the United Nations.
>
> 23. The Italian Government will make available such Italian currency as the United Nations may require. The Italian Government will withdraw and redeem Italian currency within such time-limits and on such terms as the United Nations may specify all holdings in Italian territory of currencies issued by the United Nations during military operations or occupation and will hand over the currencies withdrawn free of cost to the United Nations. The Italian Government will take such measures as may be required by the United Nations for the control of banks and business in Italian territory, for the control of foreign exchanges and foreign commercial and financial transactions and for the regulation of trade and production and will comply with any instructions issued by the United Nations regarding these and similar matters.
>
> 36. The Italian Government will take and enforce such legislative and other measures as may be necessary for the execution of the present instrument. Italian military and civil authorities will comply with any instructions issued by the Allied Commander-in-Chief for the same purpose."

I am of the opinion that paragraph 23 above "The Italian Government will take such measures as may be required by the United Nations for the control of ..... business in Italian territory ..... and for the regulation of trade and production and will comply with any instructions issued by the United Nations regarding these and similar matters" is sufficient authority for the exercise of the power of control with respect to prices and wages.

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36. The Italian Government will take and enforce such legislative and other measures as may be necessary for the execution of the present instrument. Italian military and civil authorities will comply with any instructions issued by the Allied Commander-in-Chief for the same purpose."

I am of the opinion that paragraph 23 above "The Italian Government will take such measures as may be required by the United Nations for the control of ..... business in Italian territory ..... and for the regulation of trade and production and will comply with any instructions issued by the United Nations regarding these and similar matters" is sufficient authority for the exercise of the power of control with respect to prices and wages.

Paragraph 22 above is so general in its terms as to appear little helpful in this discussion. I think it must be construed to mean that the Italian Government will carry out all orders given by the United Nations with respect to the restraint of action detrimental to the interests of the United Nations rather than that all orders will be carried out without regard to their character or subject. If the latter were the true meaning the other provisions of the document would be without purpose since the powers of the United Nations would be entirely unlimited thereby. Moreover if it had been thought that such extensive powers had been thus conferred there would have been no need to resort to the Restoration Terms for the additional powers conferred thereunder.

However, it might notwithstanding be argued that even under the more limited construction, the action, of the Italian Government in changing the price or wage structure would be "detrimental to the interests of the United Nations" and could, therefore, be restrained under the terms of paragraph 22 above.

Paragraph 36 grants no powers but merely requires the implementation of those exercised under the agreement through appropriate action on the part of

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the Italian Government and its agencies.

14. In my opinion there is ample legal justification and authority, under the long and short terms, taken either separately or together, for the A.C.C. either affirmatively to dictate the price or wage structure of the vital phases of the Italian economy or negatively to prevent the Italian Government from making vital changes therein contrary to the interests of the United Nations. This right whether positive or negative exists in my opinion absolutely and without any question of degree. The matter of degree arises only in so far as it will be necessary for our Economists to determine in each case whether any proposed action or any inaction by the Italian Government does in fact affect prejudically the interests of the United Nations.

Marc Grossman Lt Col

MARC. J.GROSSMAN.
Lieutenant-Colonel
Chief Counsel,
for Chief Legal Officer.

DISTRIBUTION :-
A/Chief Commissioner
Chief of Staff
Economic Section (2)

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TOP SECRET.

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

27 September 1944.

ACC/4055/L.

SUBJECT : Armistice Terms.

TO : V.P., Admin Sec.

1. Reference yours 5A/A/S dated 24 September 1944.

2. The question propounded involves a determination of the extent of the power, if any, of the Allied Control Commission to control the general wage and price level of the Italian Economy.

3. The initial inquiry must be directed first to the question of whether or not such powers are specifically conferred upon or reserved in the A.C.C. by any of the previous pertinent empowering or reservation documents and second if such powers exist whether they may be exercised in and over Italian Government Territory in consonance with the applicable terms of restoration.

4. The provisions of Document A and ancilliary instruments clearly are not in derogation of the rights and powers reserved in the armistice ("short terms") and instrument of surrender ("long terms"). On the contrary there is an enlargement of such rights and powers in addition to a specific reservation thereof.

Certain specific rights and powers are spelled out in the Terms of Surrender as to occupied territory only. They doubtless should equally have been applicable to unoccupied territory.

5. Baldly stated as a condition precedent to restoration it was provided that the A.C.C. should have certain rights and powers in the restored territories which otherwise it would not have had therein subsequent to occupation under the Terms of Surrender. The right of requisition, the holding of military courts and the extra territoriality for officials are examples.

6. If there be any doubt of this purpose it is solved by the cable dated 7 February 1944 from the Commander-in-Chief to General MacFarlane "276/CA" folio 10. "If the United Nations were to insist upon the retention and exercise of all the rights under Article 19 of long terms, the Italian Government would be bound to "make available" many facilities. The United Nations are now willing to make certain territory "non occupied" stipulating

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4. The provisions of Document A and ancilliary instruments clearly are not in derogation of the rights and powers reserved in the armistice ("short terms") and instrument of surrender ("long terms"). On the contrary there is an enlargement of such rights and powers in addition to a specific reservation thereof.

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7. Thus it is clear that the rights and powers reserved in Document A and ancilliary instruments are in addition to and not in limitation of any conferred by or reserved in the short or long terms.

8. The extent of our powers must therefore be determined by an examination of the short terms, the long terms and Document A and ancilliary documents since our powers and rights derive from all three.

9. It would be politically desirable, I believe, to predicate our powers in connection with the questions raised by your inquiry upon the terms of Document A and ancilliary documents if such powers can be there discovered rather than on the provisions of the short or long terms. I shall accordingly first discuss the question of whether such powers can be found therein within the framework of the Terms of Restoration.

10. Document A itself reserves no such power. No conclusion, however, can be drawn from the omission thereof because two quite contradictory reasons might be asserted. First that although it was intended to reserve such powers there was no need specfically so to do in Document A since they were already reserved in the short or long terms and that the purpose of Document A was to

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reserve only such rights and powers as did not already exist under the short or long terms. Second that it was not intended to reserve such powers irrespective of whether or not they were exercisable under the long or short terms.

11. Document D does however specifically refer to such powers. Paragraph 2 (a) thereof provides as follows :

> "Your Excellency is also requested to pass and to publish in the Official Gazette before the date of restoration the following decrees: A decree stabilizing wage rates, maximum prices, charges for services; maximum quantities of grain to be held by anyone; as existing at the date of restoration and pending the future policy being agreed upon between us."

The underlined portion clearly indicates that the intention was not merely to require a piece of so called transitory legislation to carry over the transfer period leaving the Italian Government thereafter free to act but rather that it was intended that such "freezing"statute should continue in force except as otherwise agreed upon by the contracting parties. Since the language used is "being agreed upon" this view might be affected by what actually transpired in the negotiations, of which I have no knowledge.

Surely unless it had been assumed that the powers in question already existed under the long or short terms, they were of such basic and fundamental importance as to have deserved a less casual treatment but the foregoing language would clearly seem to indicate the intention on the part of the contracting parties that the underlying price and wage structure of restored areas was to remain frozen save by mutual agreement.

Unfortunately, however, even if it be concluded that Document D paragraph 2 (a) reserved the powers as above described they are of a negative nature only. The Italian Government could not thereunder change the price or wage structure without the consent of the A.C.C. but neither could A.C.C. do likewise without the acquiescence of the Italian Government.

Thus the power of A.C.C. in that connection would in substance be the right of veto only. It could not under this provision impose prices and wages different than those set by the "freeze" without the consent of the Italian.

Moreover the crucial phrase of paragraph 2 (a) above is included only in the terms of the first transfer and is not included in the terms of either the second or third. As to the latter two transfers the Italian Government is required to pass the "freezing" decree No. 32 but no reference whatever is made to subsequent changes in the price or wage structure along the lines of

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Unless it could be argued that it was so clearly the intention of the parties to attach the same terms to the second and third transfers as to the first and that accordingly paragraph 2 (a) above is to be included therein, the powers arising from said paragraph 2 (a) although applying to the first transfer would not apply to the second and third

12. Unless the meaning of the clause "and pending the future policy being agreed upon between us" (paragraph 2 (a) Document D) is shown by parole evidence with respect to the actual intention of the parties to be different than its natural and ordinary meaning I submit that as to the first transfer the Italian Government has no right or power to change either the price or wage structure from the so called freeze without the consent of A.C.C.

13. For the reasons stated above I believe it could soundly be argued that it was the clear intention of the contracting parties to attach the same terms and conditions to the second and third transfers as to the first and that the omission was due to inadvertence only. I therefore conclude that as to these areas as well, the price and wage structure is not subject to revision by the Italian Government save with the consent of A.C.C.

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14. Having disposed of Document A and ancillary instruments it remains to be determined whether or not the Armistice (Short Terms) or the Terms of Surrender (long terms) confer upon the A.C.C. the right and power to control the Italian Economy in the manner suggested by the enquiry.

15. Generally speaking I believe it must be assumed that any and all powers conferred upon the United Nations or the Allied Forces under either the short or long terms were intended to be limited to matters affecting or related to the prosecution of the war. The sole exception might consist of the argument that since the Italian Government binds itself to pay the cost of occupation (Terms of Surrender, paragraph 33A) the right to control the Italian Economy so as to ensure payment thereof it to be implied. In view, however, of the conclusions hereinafter set out resort need not be had to this thesis.

The question first to be answered then is whether the power to control the economy of Italy through control of its price and wage structure is one incident to the prosecution of the war. I submit that the answer must be in the affirmative. Certainly it is essential to the prosecution of the war in this theatre that the lines of communication in the rear areas be undisturbed by civil strife or commotion by interruption in the production of essential supplies, by the diminition in agricultural produce, by stoppage or interference with Public transportation or any of the productive facilities of the nation which are necessary or essential to the prosecution of the war.

Uncontrolled inflation for example might paralize the whole industry and commerce of Italy with the usual consequences in terms of civil unrest and disorder. Certainly such controls of the Italian economy as are reasonably necessary for the prevention thereof and for maximum industrial and agricultural production are important implementing tools for the prosecution of the war.

The price of grain is one of the specific subjects of inquiry. Certainly it could notbe argued that if the price of grain were to be fixed at a point which would materially reduce or eliminate its production with the resulting consequences in terms of starvation, unrest, sickness, diminished individual productive capacity and the rest, the prosecution of the war would not seriously be affected thereby.

The same applies to the matter of wages. The armed forces would be immediately affected with respect to civilians directly employed by them and with respect to Italian supplies purchased by them. Indirectly the armed forces would be affected in the various respects heretofore indicated. The details and instances could be multiplied without number.

16. Having concluded that the control of the Italian economy by price and wage fixing might well be requisite to the prosecution of the war it remains to be seen whether the short or long terms by general or specific provision, or

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The same applies to the matter of wages. The armed forces would be immediately affected with respect to civilians directly employed by them and with respect to Italian supplies purchased by them. Indirectly the armed forces would be affected in the various respects heretofore indicated. The details and instances could be multiplied without number.

16. Having concluded that the control of the Italian economy by price and wage fixing might well be requisite to the prosecution of the war it remains to be seen whether the short or long terms by general or specific provision, or even by implication, confer such powers upon A.C.C.

17. The terms of the Armistice (short terms) would, I believe, categorically answer the questions propounded had we an authentic copy thereof. I am satisfied that the copy in the possession of A.C.C. is not a true copy but a paraphrased emasculated version thereof prepared for public consumption. This conclusively is established in my opinion by communication dated 1 November 1943 from A.F.H.Q. to Major-General Holmes in which paragraph 10 thereof is quoted as follows :-

> "The Commander-in-Chief of the Allied Forces reserves to himself the right to take any measure which in his opinion may be necessary for the protection of the interests of the Allied Forces for the prosecution of the war, and the Italian Government binds itself to take such administrative or other action as the Commander-in-Chief may require ....."

Even this quotation is incomplete as indicated by the asterisks appearing at the end thereof.

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18. If the foregoing be a true copy of paragraph 10 of the short terms and the omitted portion thereof places no limitation thereon as seems unlikely, I am of the opinion that it of itself confers ample authority upon A.C.C. (thru the Commander-in-Chief) to dictate the price and wage structure in restored areas, and that the Italian Government has bound itself thereunder to take such action as may be necessary to effect the same.

N.B. Since foregoing was dictated we have received from A.F.H.Q. what purports to be an accurate copy of the short terms. This copy confirms my opinion that we did not have a true copy thereof and that the paragraph as set forth in the letter of A.F.H.Q. above referred to was the paragraph as actually included in the document itself

19. The same conclusion might perhaps be reached with respect to the version of paragraph 10 of the short terms as it appears in the copy in the possession of A.C.C. reading as follows :-

> "The Commander-in-Chief of the Allied Forces reserves the right to take any such action necessary for the prosecution of the war. The Commander-in-Chief of the Allied Forces may establish an Allied Military Government whenever it seems advisable."

But such conclusion would be less easy to arrive at in view of its more general language as appears manifest from an examination thereof.

20. I do not believe paragraph 12 of the short terms, as reflected by our copy, is pertinent to our inquiry since its application appears limited to such matters as are to be the subject of mutual agreement. It may well be, however, that this paragraph has likewise been paraphrased in the version which we have. This version reads as follows :-

> "Other dispositions of a political, economic and financial nature accepted by the Italian Government will be announced at a later date."

N.B. Since the foregoing was dictated what purports to be an accurate copy of the short terms has been received from A.F.H.Q. Paragraph 12 thereof is fundamentally different than the same paragraph of the version of the short terms, upon the basis of which we have been working. Your attention is accordingly directed to the discussion which appears at the end of this opinion with respect to the interpretation of paragraph 12 of the short terms as they now appear to have been written.

21. The long terms are next to be examined. The paragraphs thereof which might be pertinent to our inquiry are as follows

> "22. The Italian Government and people will abstain from all action detrimental to the interests of the United Nations and will carry out

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21. The long terms are next to be examined. The paragraphs thereof which might be pertinent to our inquiry are as follows

> "22. The Italian Government and people will abstain from all action detrimental to the interests of the United Nations and will carry out promptly and efficiently all orders given by the United Nations.
>
> 23. The Italian Government will make available such Italian currency as the United Nations may require. The Italian Government will withdraw and redeem Italian currency within such time-limits and on such terms as the United Nations may specify all holdings in Italian territory of currencies issued by the United Nations during military operations or occupation and will hand over the currencies withdrawn free of cost to the United Nations. The Italian Government will take such measures as may be required by the United Nations for the control of banks and business in Italian territory, for the control of foreign exchanges and foreign commercial and financial transactions and for the regulation of trade and production and will comply with any instructions issued by the United Nations regarding these and similar matters.
>
> 36. The Italian Government will take and enforce such legislative and other measures as may be necessary for the execution of the present instrument. Italian military and civil authorities will comply with any instructions issued by the Allied Commander-in-Chief for the same purpose."

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I am of the opinion that paragraph 23 above "The Italian Government will take such measures as may be required by the United Nations for the control of ..... business in Italian territory..... and for the regulation of trade and production and will comply with any instructions issued by the United Nations regarding these and similar matters" is sufficient authority for the exercise of the power of control with respect to prices and wages.

Paragraph 22 above is so general in its terms as to appear little helpful in this discussion. I think it must be construed to mean that the Italian Government will carry out all orders given by the United Nations with respect to the restraint of action detrimental to the interests of the United Nations rather than that all orders will be carried out without regard to their character or subject. If the latter were the true meaning the other provisions of the document would be without purpose since the powers of the United Nations would be entirely unlimited thereby. Moreover if it had been thought that such extensive powers had been thus conferred there would have been no need to resort to the Restoration Terms for the additional powers conferred thereunder.

However it might notwithstanding be argued that even under the more limited construction, the action, of the Italian Government in changing the price or wage structure would be "detrimental to the interests of the United Nations" and could, therefore, be restrained under the terms of paragraph 22 above.

22. Paragraph 36 grants no powers but merely requires the implementation of those exercised under the agreement through appropriate action on the part of the Italian Government and its agencies.

23. In my opinion there is ample legal justification and authority, under the long and short terms, taken either separately or together, for the A.C.C. either affirmatively to dictate the price or wage structure of the vital phases of the Italian economy or negatively to prevent the Italian Government from making vital changes therein contrary to the interests of the United Nations. This is a matter of degree I think only in that superficial changes not affecting the economy and therefore the Allied Forces, are excluded from the exercise of the foregoing powers. The measure of the degree is for the determination of our economists and socialogists.

24. If the expressions of A.F.H.Q. can be deemed to add weight to the validity of this opinion the following quotation from letter of A.F.H.Q. dated 1 November 1944 to Major-General Joyce is to be noted.

"The Armistice (short terms) deals chiefly with military matters. In Article 10, however, it is stipulated generally that (paragraph 10 as hereinbefore quoted is here reproduced). The Instrument of Surrender (long terms) deals with conditions of a political, economic

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price or wage structure "... ... ...

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of the original, it is apparent that the copy, upon which many of our conclusions have been predicated these many months, is not only a bad paraphrasing of the original, but in several respects a distortion thereof.

The discrepancies which are material to this discussion occur in Paragraphs 10 and 12 thereof. I had already discovered the former and my opinion is predicated upon paragraph 10 as we may now assume it appears in the original. I accordingly adhere thereto. However the new version of paragraph 12 is vitally different from the old, and therefore my conclusions with respect thereto must be radically revised.

26. Paragraph 12 of the old version reads as follows :-

"other dispositions of a political, economic and financial nature, accepted by the Italian Government, will be announced later."

I concluded that the underlined portion made the consent of the Italian Government essential and that the paragraph could therefore not be considered as conferring any power within the scope of an inquiry.

However, paragraph 12 appears actually to read as follows :-

"Other conditions of a political, economic and financial nature with which Italy will be bound to comply will be transmitted at a later date".

This paragraph is manifestly a drastic departure from the version which we had, since by virtue thereof Italy is bound by such conditions of "a political, economic and financial nature" as may be imposed upon her, without respect to her consent.

27. Unless by their course of conduct, the Allied Forces have precluded themselves from promulgating additional terms under paragraph 12 (above) with respect to economic policies, I am of the opinion that they remain free to do so, and that they are empowered thereunder to dictate and control the price and wage structure of the Italian Economy.

MARC. J. GROSSMAN.
Lieutenant-Colonel,
Chief Counsel,

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considered as conferring any p[illegible]

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MARC. J. GROSSMAN.
Lieutenant-Colonel,
Chief Counsel,
for Chief Legal Officer.

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Secret

Confidential

Paraphrased

U.S. SECRET Equals British MOST SECRET

No 4

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NOTE.—Open by cutting the label.
Re-use by affixing fresh label.

ON HIS MAJESTY'S SERVICE

U.S. SECRET Equals British MOST SECRET
ON HIS MAJESTY'S SERVICE.

FASTEN Envelope by gumming this Label across Flap.
OPEN by cutting Label instead of tearing Envelope.

7

U.S. SECRET Equals British MOST SECRET
(Label)

Draft of Nov. 10, 1943.

SECRET

C

Draft Proclamation of Acceptance of a Transfer of Territory by Head of Italian State.

To the Italian People:-

WHEREAS the United Nations have agreed to the request of the Italian Government that certain territories heretofore occupied by the Allied Forces be restored to the Italian Government upon such terms and conditions as are necessary for the proper prosecution of the war, and

WHEREAS

NOW, therefore, I

head of the Italian State, hereby proclaim as follows:-

1. Military Government by the Allied Forces in the territory restored has terminated.

2. All powers of government and jurisdiction in the territory restored and over its inhabitants and final administrative responsibility, subject only to the rights therein reserved to the United Nations, are vested in the Government of Italy and all persons in the territory except members of the Allied Forces and other representatives and agents of any of the United Nations are hereby declared to be subject to the laws and decrees of the government of Italy

3. All Proclamations and Orders heretofore issued by the Military Governor or under his authority in the said territory and which [illegible]

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1. Military Government by the Allied Forces in the territory restored has terminated.

2. All powers of government and jurisdiction in the territory restored and over its inhabitants and final administrative responsibility, subject only to the rights therein reserved to the United Nations, are vested in the Government of Italy and all persons in the territory except members of the Allied Forces and other representatives and agents of any of the United Nations are hereby declared to be subject to the laws and decrees of the government of Italy

3. All Proclamations and Orders heretofore issued by the Military Governor or under his authority in the said territory and which have been terminated therein by the Military Governor upon its restoration are hereby recognised by the Italian Government as having been validly and legally issued and are declared to be of the same legal effect as if they had been issued by the Italian Government in accordance with Italian law and they will be so recognised by all Italian Courts and officials.

4. All acts done by any member of the Allied Forces in pursuance of such Proclamations or Orders and all official action of any nature taken by the Allied Military Government in pursuance thereof including all appointments to and removals from any provincial, communal, judicial or other office public or private, are hereby recognised by the Italian Government as legal, valid and binding and will be so recognised by all Italian courts and officials.

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5. All sentences imposed by Allied Military Courts are hereby recognised by the Italian Government as valid and legal and of the same effect as if imposed by an Italian Court and will be so recognised by Italian courts and Italian officials unless set aside or modified by or with the consent of the United Nations.

6. The Allied Forces are fighting our common enemy against whom Italy has declared war, for the purposing of driving the invader from Italian territory and restoring Italy as a free and independent nation, liberated from Axis domination and from all traces of Fascism. I call upon all Italians in every walk of life to aid in this fight upon the successful outcome of which the future of Italy depends.

7. In prosecuting the war it will be necessary for the members of the Allied Forces and of the United Nations to circulate freely within the restored territory and to maintain military zones therein for the purpose of quartering troops or for other military purposes. It is the duty of every Italian to co-operate fully with all members of the Allied Forces and of the United Nations within the said territory at all times, and to obey all orders and regulations which may from time to time be posted by Commanders of the Allied Forces in military zones. All persons within such zones will be subject to the jurisdiction of the Allied Military Forces and of such courts as they may set up within such zones.

8. Only by the most whole-hearted co-operation can our war be won. Any Italian doing any act hostile to the Allied Forces or any member thereof or doing any act which in any way impedes the war effort or aids the enemies of Italy will be severely punished either by Italian courts or by Allied Military Courts.

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8. Only by the most whole-hearted co-operation can our war be won. Any Italian doing any act hostile to the Allied Forces or any member thereof or doing any act which in any way impedes the war effort or aids the enemies of Italy will be severely punished either by Italian courts or by Allied Military Courts.

9. Notwithstanding the termination of the Allied Military Government and of the proclamations and orders issued by it, certain provisions of those orders and proclamations will remain in force. Future decrees will be issued from time to time specifying exactly what provisions of such orders and proclamations will be adopted as part of the Italian Law. Until further notice all laws, orders, proclamations, regulations and decrees issued by the Allied Military Government and in effect on the date hereof relating to or affecting prices, wages, currency, rates of exchange, finance, business and property of any of the United Nations or of any national thereof and those relating to prices, posting of prices, rationing declaration, amassing, confiscation, sale and removal of food and other supplies and those relating to agrarian or agricultural matters and organisations wi

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deemed continued in force and all persons violating any of such provisions will be punished in Italian Courts.

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SECRET.

Draft Proclamation for Military Governor.

WHEREAS by Proclamation No. 1 first published in the Island of Sicily on the 10th day of July, 1943 and on the Mainland of Italy on the 3rd day of September, 1943, I assumed all powers of government and jurisdiction in the territory of Sicily and Italy occupied by my troops and over its inhabitants and established the Allied Military Government of Occupied Territory to exercise these powers in such territory under my direction, and

WHEREAS in the exercise of such powers further Proclamations and Orders have been issued from time to time by me or under my authority throughout such territories, and

WHEREAS (recital of Armistice)

and

WHEREAS since that date the Italian Government having declared war upon Germany has been granted the status of a co-belligerent by the United Nations, and

WHEREAS the Italian Government has requested that as much of the said Occupied Territory may be restored to the jurisdiction of the Italian Government as may be compatible with military exigencies and upon such terms and conditions as the Allied Forces may deem necessary for the successful prosecution of the War,

NOW, therefore, I, HAROLD R.L.G. ALEXANDER, G.C.B., C.S.I., D.S.O., M.C., General, Supreme Officer Commanding the Allied Forces in Sicily and on the Mainland of Italy and Military Governor of all the Occupied Territory, hereby proclaim as follows:-

WHEREAS since that date the Italian Government, having declared war upon Germany has been granted the status of a co-belligerent by the United Nations, and

WHEREAS the Italian Government has requested that as much of the said Occupied Territory may be restored to the jurisdiction of the Italian Government as may be compatible with military exigencies and upon such terms and conditions as the Allied Forces may deem necessary for the successful prosecution of the War;

NOW, therefore, I, HAROLD R.L.G. ALEXANDER, G.C.B., C.S.I., D.S.O., M.C., General, General Officer Commanding the Allied Forces in Sicily and on the Mainland of Italy and Military Governor of all the Occupied Territory, hereby Proclaim as follows:-

Allied Military Government and all Proclamations and Orders heretofore issued by me or under my authority in the territory of:

are hereby terminated as of this date and all powers of government and jurisdiction in such territory and over its inhabitants and final administrative responsibility are hereby restored to the Government of Italy upon such terms and conditions as have been heretofore laid down by me.

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June 2
Proclamation 2 3/4 (1)
Text to Secretary

The anniversary of this memorable day on which our Nations and ~~their~~ their victorious friends, are gaining victory over our common enemy,

Whereas on this historic day 11 of November 1943, the United Nations have restored to the sovereignty of the Italian Government the following territory from which the enemy has been expelled — — — — — , subject to terms and conditions heretofore or hereafter to be agreed to, and

Whereas in the pursuit of our common purpose to expel from all Italian Territory the forces of the German Reich, ~~and~~ it will remain necessary for the U.N. Allied forces to make use temporarily certain of the territory so restored to the Italian sovereignty and to take all appropriate measures of military necessity therein.

Now, I, by virtue of the proclamation in the name of the Italian Government

1. The sovereignty of Italy has been restored to the above mentioned territory, subject to the requirements thereof of the U.N. Allied military forces in pursuit of our common aim.

2. In order to complete the restoration of Italian Sovereignty to said Territory and to make such restoration effective and orderly, from this date until further order or proclamation Martial Law shall prevail in such territory and we do hereby so decree

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Declassified E.O. 12356 Section 3.3/NND No. 785016

Subject:- Constitution of Allied Military Courts

AMGOT/4002/L

10 Aug 43

1. Each Senior Civil Affairs Officer is hereby authorized to appoint, by special order, such Summary and Superior Courts he may deem necessary, to hear and determine such cases as may arise in the districts and territories under his control in accordance with the provisions of Proclamation No. 4.

2. All Senior Civil Affairs Officers are authorized to sit as a Summary Military Court or as a member of a Superior Military Court.

3. All Officers of AMGOT who are lawyers by profession are hereby designated as Judicial Officers within the meaning of Proclamation No. 4.

4. No officer not assigned to AMGOT will be appointed to an Allied Military Court without the consent of his Commanding Officer.

5. Civil Affairs Police Officers will not be appointed to Allied Military Courts.

6. Two copies of all such orders of appointment will be forwarded to this Headquarters directed to the attention of the Chief Legal Officer.

AMGOT
15 Army Group.

Major-General Lord Rennell of Rodd,
Chief Civil Affairs Officer.

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3. Inasmuch as Italy is the first step in the restoration of peace in a country, whose people have been led into a wasteful, cruel and disastrous war against their own liberators and natural friends and contrary to their best judgment, we call upon you, the people of Italy, to cooperate in every way to make orderly and free from disturbance this transition period so an example to the entire world of the ability and the democratic desires of the Italian people.

4. So this end it will remain necessary for the ~~Allied~~ U.N. Military Forces to continue to make use from time to time of certain of the territory so restored to the Italian Government, and we call upon you the Italian people to render willingly and gladly every possible service to the ~~Allies~~ U.N. and to any Commission of the United Nations Military Forces and to refrain from any act that might in any way be prejudicial to the success of our common aim to expel the military forces of the German Reich from our borders and to establish as quickly as possible peace and to effect the economic reorganization within our beloved country.

5. To you who are still in Territory occupied by our Enemy we call upon you to continue

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AMGOT/4002/L

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Chief Civil Affairs Officer.

AMGOT
15 Army Group.

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down to greatest extent to refrain from giving any assistance to the enemy and traitors within our borders and to do everything within your power to thwart the efforts of the enemy of the Italian people and thus bring peace more quickly to our stricken country.

6. Finally to you in the Armed Forces of Italy we call upon you to exhibit to the world the bravery and courageous sacrifice which Italians have always throughout history shown in defending their homes from the ravages of barbarians, and to this end to render every possible effort to aid the military forces of our co belligerents who despite you are the saviors of our country.

7. Our final victory is certain. It is not far off. It lies within you, the people of Italy, to give your unstinted and courageous aid in bringing about with the utmost speed this final victory and the restoration of peace to the entire world.

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Subject:- Constitution of Allied Military Courts

AMGOT/4002/L

10 Aug 43

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Chief Civil Affairs Officer.

AMGOT
15 Army Group.

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(Form of preamble if Italian Govt)

Whereas on the day of September 1943 an instrument of surrender was duly executed by and on behalf of the Italian Government, and

Whereas on the day of 1943 an instrument of surrender containing additional provisions was duly executed by and on behalf of the Italian Government, and

Whereas Italy has since become a co-belligerent with the United Nations, and

Whereas it is proposed by the United Nations to restore to the sovereignty of Italian Government certain Territory heretofore occupied by the United Nations Military Forces, subject however, to the provisions, terms and conditions of such instruments, and

Whereas, in the pursuit of military operations against the common enemy, and for the restoration of the functions of the Italian Government and for the economic revival of Italy, it will remain necessary for the United Nations Military Forces to retain certain rights and privileges with and appertaining to the Territory proposed to be so restored,

The Italian Government in order to avoid any delay in the execution of economic measures and without limiting in any way the provisions, terms and conditions of the above mentioned instruments agrees to the foregoing to be in effect during the period of such instruments

1. For the housing and maintenance of Personnel and for the protection of property of the United Nations

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Subject:- Constitution of Allied Military Courts

AMGOT/4002/L

10 Aug 43

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Chief Civil Affairs Officer.

AMGOT
15 Army Group.

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Subject Forces of the United Nations Military forces may continue to make requisitions in the occupied territory as the term "occupied" is used in the above mentioned instruments.

2. Any person or persons alleged to have committed an offense against or in front of occupied occupied territory against the United Nations Military Forces or the persons or property of the United Nations Military Forces or affecting the safety or security of the United Nations Military Forces may be tried, and, if found guilty sentenced by an Allied Military Court; and without prejudice to the foregoing the Allied Military Court shall have full and complete jurisdiction thereof to conduct and carry to a conclusion the trial of any person for an offence hereby committed and expressly made liable under any proclamation or order hereto for issued by or on behalf of the Allied Military Governor.

3. Whenever and as long as deemed necessary by the Allied Commander-in-Chief for any military purpose, the United Nations Military Forces shall have ~~the full and~~ complete or partial control of the territory determine and so notify the Italian Government, and any area and all the installations, facilities or services thereof of every kind nature and description, within or without occupied territory occupied territory, shall be full and complete right to use and operate such installations,

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Subject:- Constitution of Allied Military Courts

AMGOT/4002/L

10 Aug 43

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Major-General Lord Rennell of Rodd,
Chief Civil Affairs Officer.

AMGOT
15 Army Group.

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(3)

facilities and services, including (but not limited to) ports, airfields, transportation and communications systems, power stations, other industrial plants and storage and public services.

4. The Allied Commander-in-Chief may station, quarter and garrison throughout and occupy temporarily such military personnel and for such periods as he shall deem necessary for the furtherance of his military objectives any or all parts of and any place or station, quarters or garrison as provided in paragraph B foregoing.

5. Neither the Italian government nor any of its political subdivisions or agencies shall assert, levy or assess any tax, excise or duty of any kind, nature or description against or upon the United Nations Armed Forces or any member thereof, military or civilian or any property thereof, or against any Commission, agency, board or welfare organization of the United Nations or any one of them, whether military or civilian, or against or upon any member thereof, military or civilian, or any property thereof, whether within or without occupied territory.

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Subject:- Constitution of Allied Military Courts

AMGOT/4002/L

10 Aug 43

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Chief Civil Affairs Officer.

AMGOT
15 Army Group.

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6. No person being a member of the United Nations Military Forces or of any organization referred to in paragraph 5 hereof shall be subject to the jurisdiction of any Italian Court for any purpose or cause whatsoever, nor shall the property of such person be subject to such jurisdiction, whether within or without occupied Territory.

7. Whenever any disturbance or disorder shall occur or condition arise which in his opinion may affect the safety or security of the United Military Forces, the Allied Commander-in-Chief may take such measures as he shall deem necessary, whether within or without occupied Territory, for the suppression of such disturbance or the elimination of such condition. The Allied Commander-in-Chief in his sole discretion may entrust allied military Government in the whole or any part of Italy.

8. The Italian Government hereby notifies and confirms all sentences heretofore imposed by the Allied Military Courts and undertakes to give to them full and complete effect, and undertakes to do likewise in the case of any sentence imposed hereafter by any Allied Military Court

9. The rights, powers and authority of the Allied Commander-in-Chief shall be exercised with equal force and effect be him or any Combined Commander by the

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Declassified E.O. 12356 Section 3.3/NND No. 785016

Subject:- Constitution of Allied Military Courts

AMGOT/1002/L

10 Aug 43

1. Each Senior Civil Affairs Officer is hereby authorized to appoint, by special order, such Summary and Superior Courts he may deem necessary, to hear and determine such cases as may arise in the districts and territories under his control in accordance with the provisions of Proclamation No. 4.

2. All Senior Civil Affairs Officers are authorized to sit as a Summary Military Court or as a member of a Superior Military Court.

3. All Officers of AMGOT who are lawyers by profession are hereby designated as Judicial Officers within the meaning of Proclamation No. 4.

4. No officer not assigned to AMGOT will be appointed to an Allied Military Court without the consent of his Commanding Officer.

5. Civil Affairs Police Officers will not be appointed to Allied Military Courts.

6. Two copies of all such orders of appointment will be forwarded to this Headquarters directed to the attention of the Chief Legal Officer.

Major-General Lord Rennell of Rodd,
Chief Civil Affairs Officer.

AMGOT
15 Army Group.

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Declassified E.O. 12356 Section 3.3/NND No. 785016

(5)

United Nations by whatever name designated.

10. The Italian Government hereby confirms and ratifies all acts of the Allied Military Government heretofore done and performed and undertakes to ratify and confirm all acts of the Allied Military Government hereafter done and performed. It again pledges its fullest efforts in carrying out and effect the foregoing and will re-enact any Proclamation order or any part or parts thereof as it may directed by the Allied Commander-in-Chief; and it will take such legislative and other measures as be necessary for the execution of the foregoing provisions.

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Declassified E.O. 12356 Section 3.3/NND No. 785016

Subject:- Constitution of Allied Military Courts

AMGOT/4002/L

10 Aug 43

1. Each Senior Civil Affairs Officer is hereby authorized to appoint, by special order, such Summary and Superior Courts he may deem necessary, to hear and determine such cases as may arise in the districts and territories under his control in accordance with the provisions of Proclamation No. 4.

2. All Senior Civil Affairs Officers are authorized to sit as a Summary Military Court or as a member of a Superior Military Court.

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Major-General Lord Rennell of Rodd,
Chief Civil Affairs Officer.

AMGOT
15 Army Group.

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Alteration to exhibit 5 Instrument

14. B - Provides that ... - port equipment will be kept at the disposal of the UN forces for such purposes as they may direct. This does not give full control of port & port area.

18 Occupation of territory

21 A Passage over Non-occupied Territory

13 Transport facilities in ... ...

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Declassified E.O. 12356 Section 3.3/NND No. 785016

Subject:- Constitution of Allied Military Courts

AMGOT/1002/L

10 Aug 43

1. Each Senior Civil Affairs Officer is hereby authorized to appoint, by special order, such Summary and Superior Courts he may deem necessary, to hear and determine such cases as may arise in the districts and territories under his control in accordance with the provisions of Proclamation No. 4.

2. All Senior Civil Affairs Officers are authorized to sit as a Summary Military Court or as a member of a Superior Military Court.

3. All Officers of AMGOT who are lawyers by profession are hereby designated as Judicial Officers within the meaning of Proclamation No. 4.

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5. Civil Affairs Police Officers will not be appointed to Allied Military Courts.

6. Two copies of all such orders of appointment will be forwarded to this Headquarters directed to the attention of the Chief Legal Officer.

Major-General Lord Rennell of Rodd,
Chief Civil Affairs Officer.

AMGOT
15 Army Group.

DRAFT OF NOV 10, 1943 SECRET A 4

Draft Terms for restoration of Territory to Italian Government.

WHEREAS, in the course of their conduct of the war against the Axis powers, the Allied Forces have occupied certain Italian territory and

WHEREAS, an armistice has been concluded with the Italian government pursuant to which the United Nations may take such measures within and in regard to such territory as they may deem necessary for the protection of the Allied Forces and for the successful prosecution of the war and

WHEREAS, the Italian government has declared war on Germany and has been granted the status of a co-belligerent by the United Nations and

WHEREAS, the Italian government has requested that certain areas now occupied by the Allied Forces be restored to the jurisdiction of the Italian government and

WHEREAS, it is the desire of the United Nations to comply with this request in so far as may be compatible with the successful prosecution of the war and

WHEREAS, it is necessary for the successful prosecution of the war that certain rights and powers in such territory and over the Italian people residing therein be retained by the Allied Forces,

NOW, THEREFORE, I, HAROLD R.L.G. ALEXANDER, G.C.B., C.M.G., D.S.O., A.D.C., General, General Officer Commanding the Allied Forces in Italy and Sicily and Military Governor, hereby relinquish and restore to the government of Italy all powers of government and jurisdiction heretofore exercised by me in the following territory and over its inhabitants, subject to the terms and conditions hereinafter set forth:

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WHEREAS, the Italian government has requested that certain areas now occupied by the Allied Forces be restored to the jurisdiction of the Italian government and

WHEREAS, it is the desire of the United Nations to comply with this request in so far as may be compatible with the successful prosecution of the war and

WHEREAS, it is necessary for the successful prosecution of the war that certain rights and powers in such territory and over the Italian people residing therein be retained by the Allied Forces,

NOW, THEREFORE, I, Harold R.L.G. ALEXANDER, G.C.B., C.M.G., D.S.O., M.C., General, General Officer Commanding the Allied Forces in Italy and Sicily and Military Governor, hereby relinquish and restore to the government of Italy all powers of government and jurisdiction heretofore exercised by me in the following territory and over its inhabitants, subject to the terms and conditions hereinafter set forth:

Territory Restored:

Terms of Restoration: Without prejudice to any rights of the United Nations under the instrument of surrender and any addition thereto heretofore granted to the Italian government, all of which remain in full force and effect throughout all Italian territory, there is hereby reserved to the Allied Forces the right in any part of the said territory:

1. To operate and use such ports and airfields, and all such means of transportation or communication within the said territory as they may desire;

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whereupon the maintenance of essential administrative and public services in such
military areas shall come under the direct control of the Allied forces.

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[illegible]

[illegible]

[illegible]

[illegible]

2. To quarter troops in such parts of said territory as they may see fit;

3. To declare any areas which may be needed for the operation of ports, air fields, transportation or communication facilities, for the quartering of troops, or for such other purposes as they may deem necessary for the successful prosecution of the war, to be Allied Military Zones; Rider I

4. To ~~assume full administrative jurisdiction over such Military Zones, and to issue~~ issue and enforce such orders and regulations for the conduct of all persons in and about such zones as they may see fit;

5. To convene Allied Military Courts for the trial of any person violating any such order or regulation, or otherwise doing any act hostile to the Allied Forces or any member thereof in any part of such territory, and to inflict such punishment upon such persons as such Courts may direct;

6. To retain the right, through Allied Military Courts, to conduct and carry to ultimate conclusion the trial of any person charged with an offense heretofore committed and cognizable under any proclamation or order heretofore issued by or on behalf of the Allied Military Governor;

7. To exercise the same rights to requisition private or public property in such territory as they possessed before the present restoration;

8. To reoccupy the whole or any part of such territory at any time or to take such other steps or exercise such other rights in any part of such territory as they may from time to time deem necessary for the proper prosecution of the war;

9. To import and to control and supervise the distribution to the civilian population of such civilian supplies as the Allied Forces may determine

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to inflict such punishment upon such persons as such courts may direct;

6. To retain the right, through Allied Military Courts, to conduct and carry to ultimate conclusion the trial of any person charged with an offense heretofore committed and cognizable under any proclamation or order heretofore issued by or on behalf of the Allied Military Governor;

7. To exercise the same rights to requisition private or public property in such territory as they possessed before the present restoration;

8. To reoccupy the whole or any part of such territory at any time or to take such other steps or exercise such other rights in any part of such territory as they may from time to time deem necessary for the proper prosecution of the war;

9. To import and to control and supervise the distribution to the civilian population of such civilian supplies as the Allied Forces may determine without the payment of any import, tax, charge, or duty of any kind whatsoever either to the Italian government or to any of its political subdivisions or agencies.

10. Any official or other representative or agent of the United Nations, civilian or military, may enter and remain within such territory free from the imposition of any impost, tax, charge or duty of any kind whatsoever by the Italian government or any of its political sub-divisions or agencies; nor shall any member of the Allied Forces or any official

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or other representative or Agent of the United Nations, civilian or military, be brought to trial in any Italian Court for any cause whatsoever either civil or criminal without the consent of the Allied Powers;

11. No member of the Allied Forces may be held answerable at any time in any Italian Court on account of any act which he has done in the said territory during the period of occupation, without the consent of the appropriate authorities of the nation of which he is a national;

12. Any person having any claim by reason of an alleged illegal or wrongful act of the Allied Forces or any member thereof may present such claim to an official to be designated by the Italian government and such claim will, if thought justified, be presented to the appropriate official of the Allied Forces at the appropriate time, for such action as may be determined upon in accordance with International law.

13. A proclamation in the form annexed hereto and made a part of these terms and conditions will be issued by the head of the Italian State at the time of transfer of the territory.

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Draft of Nov. 10

B

SECRET

Draft Proclamation for Military Governor.

WHEREAS by Proclamation No. 1 first published in the Island of Sicily on the 10th day of July, 1943, and on the mainland of Italy on the 3rd day of September 1943, I assumed all powers of government and jurisdiction in the territory of Italy and Sicily occupied by my troops and over its inhabitants and established the Allied Military Government of Occupied Territory to exercise these powers in such territory under my direction, and

WHEREAS in the exercise of such powers further Proclamations and Orders have been issued from time to time by me or under my authority throughout such territories, and

Recital re Armistice

WHEREAS since that date the Italian Government, having declared war upon Germany has been granted the status of a co-belligerent by the United Nations, and

WHEREAS the Italian Government has requested that as much territory of the said Occupied Territory may be restored to the full sovereignty of the Italian Government as may be compatible with military exigencies and upon such terms and conditions as the Allied Forces may deem necessary for the successful prosecution of the War,

NOW, therefore, I, HAROLD R.L.G. ALEXANDER, G.C.B., C.S.I., D.S.O., M.C., General, General Officer Commanding the Allied Forces in Sicily and on the mainland of Italy and Military Governor of all the Occupied Territory, hereby Proclaim as follows:-

Allied Military Government and all Proclamations and Orders heretofore issued by me or under my authority in the territory of

T O S 2

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Germany has been granted the status of a co-belligerent by the United Nations, and

WHEREAS the Italian Government has requested that as much territory of the said Occupied Territory may be restored to the civil sovereignty jurisdiction of the Italian Government as may be compatible with military exigencies and upon such terms and conditions as the Allied Forces may deem necessary for the successful prosecution of the War,

NOW, therefore, I, HAROLD R.L.G.ALEXANDER, G.C.B., O.B.E., D.S.O., M.C., General, General Officer Commanding the Allied Forces in Sicily and on the mainland of Italy and Military Governor of all the Occupied Territory, hereby Proclaim as follows:-

Allied Military Government and all Proclamations and Orders heretofore issued by me or under my authority in the territory of

are hereby terminated as of this date and all powers of government and jurisdiction in such territory and over its inhabitants and final administrative responsibility are hereby restored to the Government of Italy, upon such terms and conditions as have been heretofore laid down by me.

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Rider 3.

except members of the Allied Forces and other representatives and agents of any of the United Nations

C

#9

Draft of Nov. 10, 1943

DRAFT

Draft Proclamation of Acceptance of a Surrender of Territory by Head of Italian State.

To the Italian People:

WHEREAS, the United Nations have agreed to the request of the Italian government that certain territory heretofore occupied by the Allied Forces be returned to the Italian government upon such terms and conditions as are necessary for the proper prosecution of the war, and

WHEREAS,

NOW, THEREFORE, I,

Head of the Italian State, hereby proclaim as follows:

1. Military government by the Allied Forces in the territory restored has terminated;

2. All powers of government and jurisdiction in the territory restored and over the inhabitants, and final administrative responsibility, subject only to the rights therein reserved to the United Nations, are vested in the government of Italy, and all persons in the territory

See Rider 3

[redacted] are hereby declared to be subject to the laws

[redacted] of Italy;

Declassified E.O. 12356 Section 3.3/NND No. 785016

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Declassified E.O. 12356 Section 3.3/NND No. 785016

son, Territories, I,

head of the Italian State, hereby proclaim as follows:

1. Military government by the Allied forces in the territory restored to Italy is terminated;

2. All powers of government and jurisdiction in the territory restored and over its inhabitants, and final administrative responsibility, subject only to the obligations therein reserved to the United Nations, are vested in the government of Italy, and all persons in the territory

See Packet 3

/ ~~and members of the Allied forces and officials and other employees of the United Nations~~ are hereby declared to be subject to the laws and decrees of the government of Italy;

3. All proclamations and orders heretofore issued by the military Governor or under his authority in the said territory and which have been terminated thereby by the military governor upon its restoration are hereby recognized by the Italian government as having been validly and legally issued and are declared to be of the same legal effect as if they had been issued by the Italian government in accordance with Italian law, and they will be so recognized by all Italian courts and officials.

4. All acts done by any member of the Allied forces in pursuance of such proclamations or orders, and all official action of any nature taken by the Allied Military Government in pursuance thereof including all appointments to and removals from any provincial, communal, judicial or other public offices, are hereby recognized by the Italian government as legal, valid and binding, and will be so recognized by all Italian courts and officials.

5. All sentences imposed by Allied Military Courts are hereby recognized by the Italian government as valid and legal and of the same effect as if imposed by an Italian court and will be so recognized by Italian courts and Italian officials unless set aside or remitted by or with the consent of the United Nations.

6. The Allied forces are fighting our common enemy against whom Italy has united in war, for the purpose of driving the invader from Italian territory and restoring Italy as a free and independent nation, liberated from Axis domination and from all traces of fascism. I call upon all Italians in every walk of life to aid in this fight upon the successful outcome of which the future of Italy depends.

7. In prosecuting the war, it will be necessary for the members of the Allied forces and of the United Nations to circulate freely within the restored territory and to maintain military zones therein for the purpose of guarding troops or for other military purposes. It is the duty of every Italian to cooperate fully with all members of the Allied forces and of the United Nations within the said territory at all times, and to

Declassified E.O. 12356 Section 3.3/NND No. 785016

Italian courts and to the officials under the chief of staff of [illegible] with the consent of the United Nations.

6. The Allied forces are fighting our common enemy against whom Italy has neither fought, for the purpose of driving the invader from Italian soil and restoring Italy as a free and independent nation, liberated from Axis domination and free all lovers of freedom. I call upon all Italians in every walk of life to aid in this fight upon the successful outcome of which the future of Italy depends.

7. In prosecuting the war, it will be necessary for the members of the Allied forces and of the United Nations to circulate freely within the restored territory and to maintain military zones therein for the purpose of quartering troops or for other military purposes. It [redacted] has duty of every Italian to cooperate fully with all members of the Allied forces and of the United Nations within the said territory at all times, and to obey all orders and regulations which may from time to time be posted by Commanders of the Allied Forces in military zones. All persons within such zones will be subject to the jurisdiction of the Allied Military Forces and of such courts as they may set up within such zones.

8. Only by the most whole-hearted cooperation can our war be won. Any Italian doing any act hostile to the Allied forces or any member thereof or doing any act which in any way hinders the war effort or aids the enemy of Italy, will be severely punished either by Italian courts or by Allied Military Courts.

Declassified E.O. 12356 Section 3.3/NND No. NN850016

9. Notwithstanding the termination of the Allied Military Government and of the proclamations and orders issued by it, certain provisions of those orders and proclamations will remain in force. Future decrees will be issued from time to time specifying exactly what provisions of such orders and proclamations will be adopted as part of the Italian law. Until further notice all laws, orders, proclamations, regulations and decrees issued by the Allied Military Government and in effect on the date hereof relating to or affecting prices, wages, currency, rates of exchange, finance, business and property of any of the United Nations or of any national thereof, and those relating to prices, posting of prices, rationing, declaration, censoring, confiscation, sale and control of food and other supplies and those relating to agrarian or agricultural matters and requisitions will be deemed continued in force and all persons violating any of such provisions will be punished in Italian Courts.

Declassified E.O. 12356 Section 3.3/NND No. 785016

9. Notwithstanding the termination of the Allied Military Government and of the proclamations and orders issued by it, certain provisions of those orders and proclamations will remain in force. Future decrees will be issued from time to time specifying exactly what provisions of such orders and proclamations will be adopted as part of the Italian law. Until further notice all laws, orders, proclamations, regulations and decrees issued by the Allied Military Government and in effect on the date hereof relating to or affecting prices, wages, currency, rates of exchange, finance, business and property of any of the United Nations or of any national thereof, and those relating to prices, posting of prices, rationing, declaration, seizing, confiscation, sale and removal of food and other supplies and those relating to agrarian or agricultural matters and organizations will be deemed continued in force and all persons violating any of such provisions will be punished in Italian Courts.

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Declassified E.O. 12356 Section 3.3/NND No. 785016

...or Nov. 10, ...

SECRET

C

Draft Proclamation of Acceptance of a Transfer of Territory by Head of Italian State.

To the Italian People:-

WHEREAS the United Nations have agreed to the request of the Italian Government that certain territories heretofore occupied by the Allied Forces be restored to the Italian Government upon such terms and conditions as are necessary for the proper prosecution of the war, and

WHEREAS

NOW, therefore, I

head of the Italian State, hereby proclaim as follows:-

1. Military Government by the Allied Forces in the territory restored has terminated.

2. All powers of government and jurisdiction in the territory restored and over its inhabitants and final administrative responsibility, subject only to the rights therein reserved to the United Nations, are vested in the Government of Italy and all persons in the territory except members of the Allied Forces and other representatives and agents of any of the United Nations are hereby declared to be subject to the laws and decrees of the government of Italy.

3. All proclamations and orders heretofore issued by the Military Governor

Now, therefore, I

head of the Italian State, hereby proclaim as follows:-

1. Military Government by the Allied Forces in the territory restored has terminated.

2. All powers of government and jurisdiction in the territory restored and over its inhabitants and final administrative responsibility, subject only to the rights therein reserved to the United Nations, are vested in the Government of Italy and all persons in the territory except members of the Allied Forces and other representatives and agents of any of the United Nations are hereby declared to be subject to the laws and decrees of the government of Italy.

3. All Proclamations and Orders heretofore issued by the Military Governor or under his authority in the said territory and which have been terminated therein by the Military Governor upon its restoration are hereby recognised by the Italian Government as having been validly and legally issued and are declared to be of the same legal effect as if they had been issued by the Italian Government in accordance with Italian law and they will be so recognised by all Italian Courts and officials.

4. All acts done by any member of the Allied Forces in pursuance of such Proclamations or Orders and all official action of any nature taken by the Allied Military Government in pursuance thereof including all appointments to and removals from any provincial, communal, judicial or other office public or private, are hereby recognised by the Italian Government as legal, valid and binding and will be so recognised by all Italian courts and officials.

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5. All sentences imposed by Allied Military Courts are hereby recognised by the Italian Government as valid and legal and of the same effect as if imposed by an Italian Court and will be so recognised by Italian courts and Italian officials unless set aside or modified by or with the consent of the United Nations.

6. The Allied Forces are fighting our common enemy against whom Italy has declared war, for the purpose of driving the invader from Italian territory and restoring Italy as a free and independent nation, liberated from Axis domination and from all traces of Fascism. I call upon all Italians in every walk of life to aid in this fight upon the successful outcome of which the future of Italy depends.

7. In prosecuting the war it will be necessary for the members of the Allied Forces and of the United Nations to circulate freely within the restored territory and to maintain military zones therein for the purpose of quartering troops or for other military purposes. It is the duty of every Italian to co-operate fully with all members of the Allied Forces and of the United Nations within the said territory at all times, and to obey all orders and regulations which may from time to time be posted by Commanders of the Allied Forces in military zones. All persons within such zones will be subject to the jurisdiction of the Allied Military Forces and of such courts as they may set up within such zones.

8. Only by the most whole-hearted co-operation can our war be won. Any Italian doing any act hostile to the Allied Forces or any member thereof or doing any act which in any way impedes the war effort or aids the enemies of Italy will be severely punished either by Italian courts or by Allied Military Courts.

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7. In prosecuting the war it will be necessary for the members of the Allied Forces and of the United Nations to circulate freely within the restored territory and to maintain military zones therein for the purpose of quartering troops or for other military purposes. It is the duty of every Italian to co-operate fully with all members of the Allied Forces and of the United Nations within the said territory at all times, and to obey all orders and regulations which may from time to time be posted by Commanders of the Allied Forces in military zones. All persons within such zones will be subject to the jurisdiction of the Allied Military Forces and of such courts as they may set up within such zones.

8. Only by the most whole-hearted co-operation can our war be won. Any Italian Sole, any act hostile to the Allied Forces or any member thereof or doing any act which in any way impedes the war effort or aids the enemies of Italy will be severely punished either by Italian courts or by Allied Military Courts.

9. Notwithstanding the termination of the Allied Military Government and of the proclamations and orders issued by it, certain provisions of those orders and proclamations will remain in force. Future decrees will be issued from time to time specifying exactly what provisions of such orders and proclamations will be adopted as part of the Italian law. Until further notice all laws, orders, proclamations, regulations and decrees issued by the Allied Military Government and in effect on the date hereof relating to or affecting prices, wages, currency, rates of exchange, finance, business and property of any of the United Nations or of any national thereof and those relating to prices, posting of prices, rationing declaration, seizing, confiscation, sale and removal of food and other supplies and those relating to agrarian or agricultural matters and organisations will

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deemed continued in force and all persons violating any of such provisions will be punished in Italian Courts.

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Declassified E.O. 12356 Section 3.3/NND No. 785016

Draft of Nov. 10.

B

SECRET.

Draft Proclamation for Military Governor.

WHEREAS by Proclamation No. 1 first published in the Island of Sicily on the 10th day of July, 1943 and on the Mainland of Italy on the 3rd day of September, 1943, I assumed all powers of government and jurisdiction in the territory of Sicily and Italy occupied by my troops and over its inhabitants and established the Allied Military Government of Occupied Territory to exercise these powers in such territory under my direction, and

WHEREAS in the exercise of such powers further Proclamations and Orders have been issued from time to time by me or under my authority throughout such territories, and

WHEREAS (recital of Armistice)

and

WHEREAS since that date the Italian Government, having declared war upon Germany has been granted the status of a co-belligerent by the United Nations, and

WHEREAS the Italian Government has requested that as much of the said Occupied Territory may be restored to the jurisdiction of the Italian Government as may be compatible with military exigencies and upon such terms and conditions as the Allied Forces may deem necessary for the successful prosecution of the War,

NOW, therefore, I, HAROLD R.L.G. ALEXANDER, G.C.B., C.S.I., D.S.O., M.C., General, General Officer Commanding the Allied Forces in Sicily and on the Mainland of Italy and Military Governor of all the Occupied Territory, hereby Proclaim as follows:-

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WHEREAS (recital of Armistice)

and

WHEREAS since that date the Italian Government, having declared war upon Germany has been granted the status of a co-belligerent by the United Nations, and

WHEREAS the Italian Government has requested that as much of the said Occupied Territory may be restored to the jurisdiction of the Italian Government as may be compatible with military exigencies and upon such terms and conditions as the Allied Forces may deem necessary for the successful prosecution of the War,

NOW, therefore, I, HAROLD R.L.G. ALEXANDER, G.C.B., C.S.I., D.S.O., M.C., General, General Officer Commanding the Allied Forces in Sicily and on the Mainland of Italy and Military Governor of all the Occupied Territory, hereby Proclaim as follows:-

Allied Military Government and all Proclamations and Orders heretofore issued by me or under my authority in the territory of:

are hereby terminated as of this date and all powers of government and jurisdiction in such territory and over its inhabitants and final administrative responsibility are hereby restored to the Government of Italy upon such terms and conditions as have been heretofore laid down by me.

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Rider 2

9. To take such measures as may deem necessary to suppress disturbances or disorders in said territory or to assist the Italian government in so doing."

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Declassified E.O. 12356 Section 3.3/NND No. 785016

Rider 2

9. To take such measures as may deem necessary to suppress disturbances or disorders in said territory or to assist the State Government in so doing.

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NOTE: This does nothing about changing the right of confiscation to Allied Military Government and does not make reports to Italian Government substituted for reports to AMG as required in some instances. To spell this out would take pages. As proclamation probably does not have force of law, should not each sub-coordination be directed to furnish draft of what it wants in some legally binding decree etc. of the Italian Government to be promulgated at the same time?.

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Page 4

Until further notice all laws, orders, proclamations, regulations and decrees issued by the Allied Military Government and in effect on the date hereof relating to or affecting prices, wages, currency, rates of exchange, finance, business and property of any of the United Nations or of any national thereof, and those relating to prices, posting of prices, rationing, destruction, armaging, confiscation, sale and removal of food and other supplies, and those relating to agrarian or agricultural matters and organizations will be deemed continued in force and all persons violating any of such provisions will be punished in Italian courts.

9. Notwithstanding the termination of the Allied Military Government and of the proclamations and orders issued by it, certain provisions of those orders and proclamations will remain in force. Future decrees will be issued from time to time specifying exactly what provisions of such orders and proclamations will be adopted as part of the Italian law. Until further notice all price regulations, all orders or regulations regarding the declaration of food or other supplies and all regulations affecting currency, rates of exchange, finance and business, contained in any proclamation or order issued by the Allied Military Government, will be deemed continued in force and all persons violating such provisions will be punished in Italian courts.

Refer 4

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Para. 1

~~tut~~ where upon the maintenance of order and administrative and public service in such military Zones shall come under the direct control of the allied Forces

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6

ABSOC
15 Army Group

10 July - Sicily

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Declassified E.O. 12356 Section 3.3/NND No. 785016

Rider #1

Until further notice {~~Signature directed by the~~ Allied Forces} all laws, orders, proclamations, regulations and decrees issued by the Allied Military Government and in effect on the date hereof, and relating to prices, posting of prices, rationing, declaration, amassing, confiscation, sale and removal of food and other supplies, and otherwise relating to agrarian or agricultural matters and organizations, and relating to or affecting trades, wages, currency, (and property rights of the United Nations or any national thereof) rights and transactions shall be deemed continued in force and all persons violating any of such provisions will be punished in Italian Courts.

Note: This does not in any way change right to confiscation by Allied Military government & does not make Reports to Italian Govt. substituted for reports to Allied, as required in some instances. To spell this out would take pages. As proclamation probably will have force of law, should not each Sub Com. be directed to furnish drafts of what it wants in some legally binding decree of the Italian Government to be promulgated at the same time? Also should following be included in the above Rider?

I Wage Freeze

II Property rights of United Nations & nationals thereof.

III Wages

IV Allied Military Government Requisitions

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Subject:- Constitution of Allied Military Courts.

1. Each Senior Civil Affairs Officer [illegible] appoint, by special order, as many [illegible] may deem necessary, to hear and determine [illegible] arise in the districts [illegible] accordance with the provisions [illegible]

2. All Senior Civil Affairs Officers [illegible] as a Summary Military Court [illegible] Court.

3. All Officers of ANCOT who [illegible] hereby designated as Judicial Officers [illegible] Proclamation No. 2.

4. No officer may sentence [illegible] Allied Military Court without [illegible] Officer.

5. Civil Affairs Police [illegible] Allied Military Courts.

6. Two copies of [illegible] forwarded to the Deputy Judge Advocate [illegible] Chief Legal Officer.

[illegible] of Troops,
[illegible] Officers.

ANCOT
15 Army Group.

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Paraphrased to Confidential SECRET

600/EC

Col. Weber,

C. I. A.,

SECRET

Legal S/C

AC DRAFT No.1.

INTERIM DOCUMENT TO REPLACE EXISTING ARMISTICE TERMS.

This Memorandum of Agreement is entered into between the undersigned Lt.General Morgan, etc., Supreme Allied Commander Mediterranean Theatre on behalf of the United Nations and the undersigned _____ representing the Italian Government and duly authorised to sign on its behalf.

Whereas in the course of the conduct of their war against the Axis powers which at that time included Italy, then subject to Fascist domination, it became necessary for Allied Forces to invade and occupy certain portions of Italy and set up Allied Military Government therein.

And Whereas after the fall of the Fascist Ministry formerly in power, the Italian Government applied to the Allies for an armistice and an Agreement of Armistice was executed on 3 September 1943 at Fairfield Camp in Sicily, the provisions of which were subsequently amplified by a document executed in Malta on 29 September 1943 and known, in accordance with a Protocol executed at Brindisi on 9 November 1943 as "Additional Conditions of Armistice with Italy".

And Whereas in pursuance of the provisions of the "Additional Conditions of Armistice with Italy" above referred to, the Allied Commission (originally designated the Allied Control Commission) was established in Italy with the object of regulating and executing the terms of such conditions of Armistice under the orders and general direction of the Allied Commander-in-Chief.

And Whereas the Italian Government declared war on Germany on 13 October 1943,

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And Whereas after the fall of the Fascist Ministry formerly in power, the Italian Government applied to the Allies for an armistice and an Agreement of Armistice was executed on 3 September 1943 at Fairfield Camp in Sicily, the provisions of which were subsequently amplified by a document executed in Malta on 29 September 1943 and known, in accordance with a Protocol executed at Brindisi on 9 November 1943 as "Additional Conditions of Armistice with Italy".

And Whereas in pursuance of the provisions of the "Additional Conditions of Armistice with Italy" above referred to, the Allied Commission (originally designated the Allied Control Commission) was established in Italy with the object of regulating and executing the terms of such conditions of Armistice under the orders and general direction of the Allied Commander-in-Chief.

And Whereas the Italian Government declared war on Germany on 13 October 1943,

And Whereas the Italian Government has cooperated with the Allies and has been of substantial assistance to them in the prosecution of the war against Germany.

And Whereas, because of the increased ability of the Italian Government to re-create their administrative machinery and to resume the functions of government, it has been possible successively to hand back territory to their jurisdiction subject to the reservation to the Allied forces within such territory of certain powers and rights.

And Whereas it is and has been the desire and intention of the Allies to assist the Italian Government in the difficult tasks which lie before

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it and, pending the signing of a Treaty of Peace between the Italian Government and the United Nations, to encourage the Italians in the light of the declaration made 26 September 1944 by Prime Minister Churchill and the late President Roosevelt.

Now therefore it is agreed

I. Abrogation of Prior Agreements.

The conditions of Armistice executed at Fairfield Camp in Sicily dated 3 September 1943, and the document executed in Malta on 27 October 1943 and known in accordance with the protocol executed at Brindisi on 9 November 1943, as "Additional Conditions of Armistice with Italy", and the Terms of Restoration of Italian Territory effective 11 February 1944 and similar documents executed thereafter respecting specified areas of Italian territory shall from the date of execution of this Agreement be null, void, and of no further force or effect, and the following provisions shall govern the relations of the parties hereto.

1. The Italian Government will do all in its power to assist the interests of the United Nations and of the Allied Forces in Italy.

2. The United Nations will continue to assist the Italian Government and people towards the speedy restoration of their economic life.

3. Relations between the Italian Government and Nations of the Allied Forces in Italy are covered by "Arrangements for Civil Administration and Jurisidiction concerning Allied Forces in Italy" attached to this agreement.

4. The Italian Government shall have full jurisdiction and power of administration over all territory restored to them, free of control by the

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the Terms of Restoration of Italian Territory directive 11 February 1944 and similar documents executed thereafter respecting specified areas of Italian territory shall from the date of execution of this Agreement be null, void, and of no further force or effect, and the following provisions shall govern the relations of the parties hereto.

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2. The United Nations will continue to assist the Italian Government and people towards the speedy restoration of their economic life.

3. Relations between the Italian Government and Nations of the Allied Forces in Italy are covered by "Arrangements for Civil Administration and Jurisidiction concerning Allied Forces in Italy" attached to this agreement.

4. The Italian Government shall have full jurisdiction and power of administration over all territory restored to them, free of control by the Allied Forces except as set forth in this Agreement, or in case of military necessity or when assistance or advice may be requested by the Italian Government. (Cut out The right is reserved by the Supreme Allied Commander to establish total or partial Allied Military control over any area in Italy if he considers that the military situation renders such a step necessary.)

5. Italian diplomatic relations with other States will be solely within the competence of the Government of Italy.

6. The Italian Government recognise as likewise binding upon it the Allied pledge to the Italian people that they may determine their own form of Government. (To ensure the fullest possible expression of the wishes of Put in 1 above.

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the Italian people on this important question, the Italian Government undertakes to submit the institutional question to the Italian people in the form of a plebescite or a national referendum notwithstanding previous Italian legislation to the contrary.

7. Italian Armed Forces.

(a) The Italian Army. The Italian Army will be under the control of the Italian Government and will be limited to a force of 140,000 troops and 65,000 Carabinieri.

The Italian Government will assume full administrative and supply responsibilities of these forces.

(b) Italian Navy.

(c) Italian Air Force.

8. The Italian Government agrees that no new fortifications or military installations shall be constructed and no new armaments or other defences added to existing fortifications without permission of the Supreme Allied Commander.

9. The Italian Government agrees to limit the manufacture, production

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(c) Italian Air Force.

8. The Italian Government agrees that no new fortifications or military installations shall be constructed and no new armaments or other defences added to existing fortifications without permission of the Supreme Allied Commander.

9. The Italian Government agrees to limit the manufacture, production and construction of, research and experimentation upon, war material and its import, export and transit, except as agreed upon by the United Nations.

10. Economics. There shall be full commercial intercourse, or dealings, with or for the benefit of any foreign country subject to limitations hitherto laid down until such limitations shall be hereafter modified.

11. The Italian Government will establish and maintain an effective foreign exchange control agency for the purpose of implementing the international economic objectives of the United Nations Governments and to assure the most effective use of Italy's foreign exchange resources. The Italian Government ~~will work out~~, in consultation with the appropriate United Nations diplomatic missions in Rome, measures to be adopted in support of the international economic objectives of the United Nations.

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12. It is not intended in this agreement to dispose of any question or predetermine any controversy which may arise respecting the ultimate disposition of any territory heretofore Italian, nor to adjudicate upon any matter relating to any boundary which may hereafter be in dispute. All such questions and any questions relating to sovereignty are for disposition by and between the United Nations and the Italian Government. (Peace Treaty)

13. Nothing in this document is to be considered as constituting a final settlement of or impairing the full rights of the Allied Forces and of the United Nations to reparations from the Italian Government for war damage suffered by them at the hands of the Italian people or Government or settlement by the Italian Government including the full cost of the Allied occupation of Italy. The Italian Government recognises the obligation to make restitutions or reparation to the United Nations for the full cost of the Allied occupation of Italy and the Italian campaigns.

14. In the event of the Italian Government's failure to observe or comply with any of the terms contained in this agreement, the Supreme Allied Commander reserves the right to take such action, including the re-imposition of restrictions and control and the use of armed force, as he deems necessary.

15. An Allied Liaison Mission shall be established, under the authority of the Supreme Allied Commander, to coordinate the work of the Army, Navy and Air Force Missions, and to act as intermediary between the Supreme Allied Commander and the Italian Government for the mutual regulation of the terms

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Italy. The [illegible]

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SECRET

HEADQUARTERS ALLIED COMMISSION
APO 394
Office of the Executive Commissioner.

6 December 1945.

Meeting held at 0930 hours, 6 December 1945, in the Chief Commissioner's Conference Room, Hq Allied Commission, Rome, to discuss the draft AFHQ reply to the draft directive to AC contained in TAM 719.

Present: Major General Duff, Rear Admiral Stone, Mr. Kirk, Sir Noel Charles, Sir Richard Nosworthy, Mr. Hopkinson, Lieut. Col. Hannaford, Mr. P. Broad, Mr. Hodgetts, Mr. Keeney, Brig. General Hamblen, Mr. Offie, Mr. Jones, Mr. Livengood, Lieut. Col. McCleary, Brig. Lush, Mr. Cleveland, Col. Weber.

NOTE: These minutes should be read in conjunction with Document 'P'.

General Duff opened the meeting by stating that its purpose was not to draw up a reply to TAM 719, but rather to find out such major differences of opinion as might exist between the Embassies, AFHQ and AC. He stated that he was not empowered to take decisions but that he desired to return to AFHQ fully conversant with the views of those present in order to discuss the matter with SACMED and Deputy SACMED and then to compose a new telegram. Admiral Stone suggested that any points not agreed to should be presented at SAC's Political Conference.

Speaking in general terms of the AC modifications to the AFHQ draft MAT, General Duff commented on the undesirability of fettering SAC's discretionary powers and on the desirability of encouraging CCS not to become involved with the internal organisation of AC which should be a matter of SAC's discretion. Admiral Stone however pointed out that the organisation of AC did not lie entirely within SAC's discretion as it had been established in previous directives issued by CCS.

It was agreed to use the AFHQ draft MAT as the agenda, and the following discussions took place with regard to Part I thereof: (Following paragraphs are lettered to correspond with the lettered paragraphs of Part I of AFHQ draft MAT).

A. The proposed modifications to para A as appearing in "AC Draft for MAT" were agreed to.

B. Admiral Stone stated that the AC modification to the AFHQ draft MAT

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General Duff opened [illegible] to draw up a reply to TAM 719, but rather to find out such major [illegible] of opinion as might exist between the Embassies, AFHQ and AC. He stated that he was not empowered to take decisions but that he desired to return to AFHQ fully conversant with the views of those present in order to discuss the matter with SACMED and Deputy SACMED and then to compose a new telegram. Admiral Stone suggested that any points not agreed to should be presented at SAC's Political Conference.

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It was agreed to use the AFHQ draft MAT as the agenda, and the following discussions took place with regard to Part I thereof: (Following paragraphs are lettered to correspond with the lettered paragraphs of Part I of AFHQ draft MAT).

A. The proposed modifications to para A as appearing in "AC Draft for MAT" were agreed to.

B. Admiral Stone stated that the AC modification to the AFHQ draft MAT was intended to emphasize the dual functions of AC HQ, which extended over both AMG territory and Italian Government territory. General Duff said that this proposed modification would be borne in mind when revising the draft MAT.

C. With reference to the wording of the first sentence, Admiral Stone said that it could be argued that the service sub-commissions did now "form the nucleus of separate service missions", and suggested that the sentences be changed to read "until they become separate service missions". This amendment was accepted. General Hamblen stated he understood that the separation of these missions from the AC was under consideration, therefore this point had not been raised in the AFHQ draft.

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Referring to the AC proposal to include the request for the maintenance of a Deputy President in Rome, General Hamblen stated that there was no intention of changing the present organisation in this regard and thought it advisable to leave internal matters to SAC's discretion. However, Admiral Stone said that since FAN 487, which contained this instruction, had followed the joint Governmental announcement of the appointment of a Chief Commissioner, it was though advisable to have confirmation of this from CCS. Ambassador Kirk suggested that as long as it was the intention to keep the Deputy President in Rome, this point could be covered by some reference in Part II to which suggestion all present agreed.

With reference to the retention of French and Russian representatives on AC, Sir Noel Charles drew attention to the Moscow Protocol which has laid down that when SACMED relinquishes direct military control of Italy and consequently the Presidency of the AC, this role will be assumed by the Advisory Council. General Hamblen observed that SACMED therefore should retain his authority until AC was no longer necessary or until the Advisory Council is abolished. Ambassador Kirk suggested that the abolition of this Council might be recommended in some way in the telegram. General Hamblen agreed to follow up.

Admiral Stone stated that the AFHQ draft para C was commendably brief but suggested the AC elaboration be accepted in order to keep the CCS fully informed. He thought it advisable to give a detailed statement as to why liaison officers were required and the functions they would perform. General Hamblen suggested this be stated simply, in some such wording as "I propose to maintain small liaison groups in Italian Government territory, some of whom will become attached to UNRRA when it takes over".

D. The AC proposal to read "Italian Government Territory" for "King's Italy" was accepted.

General Hamblen stated that the reference in the modification to para D proposed by AC as regards the retention of the electrical power unit in Italian Government territory brought up the question of the retention of an economic group in the North. He added that this had been the subject of discussions at AFHQ and it was possible that it might be considered a contravention of FAN 487 and therefore abolished. Mr. Cleveland stated that the economic group had been established to work with the Italian Northern Economic Group, but that if the Italian Government were to establish a national group to supersede the present northern and southern groups, then the economic group would be withdrawn. At present the Economic Group as an executive function under AMG, but on withdrawal of AMG it would have liaison duties only and would have the same authority there that the Economic Section had in Rome, in relation to the Italian Government. Admiral Stone stated that the function of this group was intended to be transferred to UNRRA, and that

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para D of "AC Draft for M&T" if the economic group were permitted to remain in the North, but would refer the matter for further discussion.

D(I) AC Draft for M&T. General Hamblen suggested that this paragraph be omitted as the Local Government S/C could continue under AMG, but Admiral Stone stated that the residual functions of this S/C would continue and he would prefer not to use subterfuge in concealing that fact. The Foreign Office wanted Local Government S/C to remain as part of AC, and it was decided to accept this paragraph, exersing the sentence "The U.S. Government recently gave the opinion that the AC, operating through Local Government S/C, should continue to ensure procedure of local elections is fair, free and democratic.

E. Admiral Stone said that the only proposed modification to the draft AFHQ M&T, para E, was the provision for notifying CCS of the final plans, which was included at the suggestion of the U.S. Political Adviser to AC since both Governments were interested in the disposition of certain sub-commissions. General Hamblen proposed that CCS be notified of such action after it had been taken. Admiral Stone cited the Communications Sub-Commission as being of particular interest to the U.S. and British Governments. In this connection he stated that one of the functions of AC has been to act as a buffer between the Italians and the military, and the AC has had increasing recognition of that role from AFHQ. Mr. Kirk cited the importance of having an agency in immediate contact with the Italian Government as an argument for keeping these S/C's under AC. Sir Noel Charles said that it was very important that AC be retained as a buffer. The new directive, he felt, was intended to prepare Italy for the peace treaty, and the real purpose of the CCS directive would be best served by retaining elements to act as that buffer. Mr. Kirk stated that if the AC were removed, there would be direct contact between elements in the military machine and the Italians, who were not used to dealing with each other. Admiral Stone added that this would seem to the Italians as an increase of military control rather than a lessening. General Hamblen agreed to Mr. Kirk's suggestion to mention this fact in the final reply. He pointed out that the AFHQ draft M&T does not indicate disposition of these Sub-Commissions. Gen Hqr said no staff section in AFHQ could assume day to day relations with the Italian Government. All agreed that for the time being these S/C's should remain at AC.

E(i) AC Draft for M&T. Mr. Cleveland stated that general financial advice could best be given by the present Chief Financial Advisor of AC, who was also supervising the implementation of FAN 583, which, if it passed to the Embassies, would involve considerable detailed reporting. Mr. Kirk pointed out that the Embassies can report to CCS only through their respective Governments. Mr. Cleveland brought up the case of the Italian-Swiss agreement, which had been referred to CCS by AC as contravening FAN 583. However, the reply was communicated to the Italian Government through the Embassies. General Hamblen stated that the AC [illegible]

Declassified E.O. 12356 Section 3.3/NND No. 785016

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E(i) AC Draft for MAT. Mr. Cleveland stated that general financial advise could best be given by the present Chief Financial Advisor of AC, who was also supervising the implementation of FAN 583, which, if it passed to the Embassies, would involve considerable detailed reporting. Mr. Kirk pointed out that the Embassies can report to CCS only through their respective Governments. Mr. Cleveland brought up the case of the Italian-Swiss agreement, which had been referred to CCS by AC as contravening FAN 583. However, the reply was communicated to the Italian Government through the Embassies. General Hamblen stated that the AC modifications in this sub-para were accepted, although he added that he felt that since it had been requested by CCS, as many functions as possible should be transferred from AC to AFHQ. General Duff stated that the proportion of the functions turned over was not important.

E(ii). General Hamblen agreed to the suggestion in para E(ii) of AC draft for MAT, with some rewording of the last two sentences.

F. Referring to the second sentence of para F of AFHQ draft MAT, General Hamblen felt that the statement that proposals were "based on UNRRA supply of Italy" should not be restricted to this paragraph but should be inserted in a general paragraph. This proposal was agreed to.

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F(i) AC Draft for MAT. It was agreed to withdraw the recommendation that a definite date be set for the turnover of functions to the Embassies and that the phrase "as soon as personnel can be procured" be inserted instead. Mr. Kirk and Sir Noel Charles proposed that the last sentence of sub-para F(i) be modified to read "However, Embassies indicate they are not yet in a position to assume this function because of lack of personnel."

F(ii). The proposed modification as contained in AC Draft for MAT, sub-para F(ii), was agreed to, inserting "not before" in place of "after".

F(iii). It was agreed to withdraw the proposed modification contained in AC Draft for MAT, Sub-para F(iii).

G. General Hamblen stated that there were now in Italy between 25 and 30,000 displaced persons, of whom several thousand cannot be taken over by UNRRA because of its charter. General Hamblen recommended that the AFHQ draft as regards Displaced Persons S/C should remain. Admiral Stone agreed.

All agreed to the inclusion of the statement that a supply group has already been set up in the Economic Section at AC Headquarters in Rome.

H. It was agreed to include in para H of AFHQ draft MAT a provision requesting SACMED's concurrence of civilian appointments to key positions.

I. It was agreed to substitute para I of AC Draft for MAT for para I of AFHQ Draft MAT.

PART II.

Document 'S' was submitted for discussion in place of the proposed Part II of Document "Q". It was decided however not to discuss the document at this present time and the meeting then adjourned.

H S Linn
Brigadier,
Executive Commissioner.

DISTRIBUTION:
HE Sir Noel Charles, Bt., KCMG., British Embassy.
HE Mr. Alexander Kirk, U.S. Embassy.
Mr. H. L. D'A. Hopkinson, C.M.G. Polad (R) HQ AC.

Declassified E.O. 12356 Section 3.3/NND No. 785016

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H. It was agreed to include in para H of AFHQ draft MAT a provision requesting SACMED's concurrence of civilian appointments to key positions.

I. It was agreed to substitute para I. of AC Draft for MAT for para I of AFHQ Draft MAT.

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Brigadier,
Executive Commissioner.

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HE Mr. Alexander Kirk, U.S. Embassy.
Mr. H. L. D'A Hopkinson, C.M.G. Polad (B), HQ AC.
Sir Richard Nosworthy, KCMG, British Embassy.
Mr. Wesley Jones, Polad (A), HQ AC.
Mr. Livengood, U.S. Embassy.
Maj. Gen. A.C. Duff, OBE, MC., C.O, AFHQ.
Brig. Gen. A. L. Hamblen, G-5, AFHQ.
Rear Admiral Ellery W. Stone, Chief Commissioner, HQ AC.
Brig. M. S. Lush, CB., CBE., MC., Exec Commissioner, HQ AC.
Mr. Philip Broad, Br Resmin, AFHQ.
Mr. Offie, US Polad, AFHQ.
Mr. S. M. Keeney, UNRRA.
Mr. C. E. Hodgetts, UNRRA.
Mr. Harlan Cleveland, Econ Section, HQ AC.
Colonel Weber, Chief Legal Advisor, HQ AC.
Lt. Col. G. G. Hannaford, Dep. Chief Legal Advisor, HQ AC.
Lt. Col. F. H. McCleary, HQ, AC.

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Paragraphed 2

Maj Gen
ACofS

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NOTE.—Open by cutting the label.
Re-use by affixing fresh label.

ON HIS MAJESTY'S SERVICE

ON HIS MAJESTY'S SERVICE.

FASTEN Envelope by gummed part of this Label across Flap.
OPEN by cutting Label instead of tearing Envelope.

P. Ltd. Wt. 6872. 3/41. (Tablets)

Chief Legal Adviser

SECRET

Armistice Terms: Hiatus

13/10/45

HEADQUARTERS ALLIED COMMISSION
APO 394
Office of the Executive Commissioner

SECRET

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PROPOSAL FOR PUBLICATION OF LONG ARMISTICE TERMS.

Clause No.	Remarks.
1 - 5	Obsolete. Superseded by events.

6 At the time of the German surrender the Army numbered 313,000 plus 65,000 CC.RR. This figure included troops serving with the Allies. It is anticipated that the interim Army will number about 140,000 plus 65,000 CC.RR, when the demobilization of the older classes is completed. The present strength of the CC.RR, 65,000, was requested by the first Prime Minister and later by Bonomi and is believed to be the Metropolitan pre-war strength. The maximum ceiling for the Italian Air Force prior to and since the cessation of hostilities has been fixed at 31,000. The established maximum strength of the Italian Royal Navy has never been formally laid down, but it was agreed, soon after the armistice, that victuals would not be provided for more than 75,000 officers and men. The present strength is about 64,000. In effect no demobilization took place but on the contrary recruitment up to the strengths above was effected.

7 Stands.

8 Has been modified in favour of the Italian Air Force, as it was intended to ground all aircraft at the end of hostilities. Restriction of flying has been based on scarcity of aircraft and POL. Not only were the Italian Air Force not completely grounded but they were permitted to use all available aircraft. In addition Allied aircraft was made available to them. Italian civil aviation is not permitted, but consideration is being given to the re-establishment of civil aviation.

9 This has been considerably relaxed.

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Declassified E.O. 12356 Section 3.3/NND No. NS50016

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8 Has been modified in favour of the Italian Air Force, as it was intended to ground all aircraft at the end of hostilities. Restriction of flying has been based on scarcity of aircraft and POL. Not only were the Italian Air Force not completely grounded but they were permitted to use all available aircraft. In addition Allied aircraft was made available to them. Italian civil aviation is not permitted, but consideration is being given to the re-establishment of civil aviation.

9 This has been considerably relaxed.

10 The Italian Ministry of Marine continue to provide such information as is demanded and personnel and material are disposed where necessary at the direction of the Flag Officer, Italy and Liaison, and the Navy Sub-Commission, Allied Commission. The same is being done with Land Forces and Air Forces. It is entirely in the interests of the Italian Government that they continue to do so.

11 The requirements of this clause have been complied with by the Italian Ministry of Marine although it has been impossible to provide complete detail of the war materials formerly at its disposal. More recently authority has been given for the return of all Italian navy materials and equipment to the Italian Royal Navy subject to any specific requirements of the Allies. Information has been provided by the Italian Government in its own interests.

Declassified E.O. 12356 Section 3.3/NND No. 785016

12 Largely carried out.

13 Stands. No comment.

14A It has been impossible for the Ministry of Marine to ensure that all merchant shipping, fishing vessels and other craft were made available in good repair and a seaworthy condition as priorities at all dockyards have, until recently, been accorded to the repair of Allied vessels. Italian ships have been repaired from time to time only as this priority arrangement for Allied vessels permitted.

14B Allied controls over Italian inland transport have been relaxed and such transport has now for the most part been returned to normal Italian administration, except insofar as the redeployment and maintenance of the Allied Forces have to be affected.

15 The provisions of this clause, as regards small vessels and craft, have not yet been fully satisfied owing to the difficulty of locating and identifying the vessels and craft concerned. Their recovery when established as Allied property has been regarded as a matter for representation by the Governments concerned to the Italian Government through diplomatic channels where these exist.

16 Control of radio has been returned to Italian Government. Only restriction remaining is necessity to apply for frequency allocation to Allied Military authorities who coordinate such requests on an International basis. A delegation from the Italian Ministry of Posts and Telecommunications attended the meeting of the European Radio Conference in London in September 1945. Other telecommunications facilities have been progressively passed to the control of the Italian Government. At the present all telecommunications facilities not needed for military purposes are under the control of the Italian Government; facilities not being used by the military are being returned to Italian control. Censorship has been abolished; operation of radio is in the hands of the Italian Government or parastatal companies; in AMG

10961

Declassified E.O. 12356 Section 3.3/NND No. 785016

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It has always been the policy to have such censorship carried out by Italian personnel, and early in 1944 the direct operation of such censorship was turned over to the Italian General Staff with Allied control being reduced to a minimum. Censorship of external mails, telephone and telegraph has been continued as the only means of insuring to the Italian Government the control of foreign exchange and foreign commerce which is economically necessary. Such censorship is carried out by Italian personnel under general policy direction of a small Liaison Group of Allied Officers.

17 Stands.

Declassified E.O. 12356 Section 3.3/NND No. 785016

18 The second sentence of this paragraph has never been invoked, except in two frontier areas.

19 This article stands without modification, as it is one of the bases for Allied payments policy in Italy. All local goods and services procured by the Allied Forces in Italy are paid for by the Italian Government, either directly or by the Allied Forces in Allied military lire which is charged to the Italian Government as an occupation cost. Care has been taken to conserve wherever possible Italian resources for the use of the civil economy, and to utilise local goods and services only when military necessity demanded. The Allied Forces Local Resources Board* was established as an allocation agency, before which the military agencies stated their needs and the Allied Commission appeared as a claimant for Italian civil needs. In other words, while the legal rights of the Allied Forces under Article 19 have not been modified, in practice it has been administered with as much regard as possible for Italian needs. With the redeployment of Allied Troops from Italy, the utilisation of local resources and facilities is diminishing rapidly.

* on the committes of which Italian representatives have sat.

20 Article 20 refers to the governance of AMG; Article 21 distinguished Italian Government territory. Article 20 was never fully enforced; no instruction issued for removal of Italian forces. It was the invariable practice to use Italian troops, e.g. CC.RR. The enforcement of Armistice terms was most rigorous in Army areas where at times for operational reasons there was considerable restriction of movement, and offences against Allied troops, property or security were more frequently dealt with by Allied Courts.

This was progressively released in AMG Regional areas; the administration was almost entirely by Italian officials under AMG direction, restrictions were largely removed and cases except those of greater importance transferred to Italian Courts.

The third phase of relaxation was the handing over of the territory to Italian administration freed from AMG direction; on the handing over the Allied reserved rights necessary for the maintenance and security of its armies including rights of trial but this latter was seldom enforced. AC officers left in Italian Government territory areas are not even advisers but have merely functions of observation and liaison.

At the time that Italy became a cobelligerent there was territory in all three phases of administrion; in all three there were relaxations suitable to the new station of Italy as a cooperator.

Then came FAN 487 and the Macmillan aide memoire by which the functions of AC itself were in day to day matters of administration changed and it had in such matters no powers even to advise unless

Declassified E.O. 12356 Section 3.3/NND No. 785016

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At the time that Italy became a cobelligerent there was territory in all three phases of administrion; in all three there were relaxations suitable to the new station of Italy as a cooperator.

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This aide memoire stated that in matters of ordinary day to day administration we would not enforce our rights but would leave the Italians to administer as they thought fit.

21A Stands.

Declassified E.O. 12356 Section 3.3/NND No. 785016

21B This article still stands, particularly the first part which deals with the availability of free transit for Allied Nations war materials and supplies. Although the latter part must still stand, with the departure of a large number of troops from Italy, and the handover of the greater part of Italy to the Italian Government, for some time past the powers conferred in this have rarely been exercised. It has been the function of ALRB to effect the progressive handing back of plant and stocks as much as possible.

22 This article must clearly be contained in any Armistice terms. However, with the early declaration of war upon the Germans by the Italian Government, the cooperation and loyalty of the Italian people to the Allied cause, there has never been any necessity to invoke it.

23 The first two sentences of this Article stand without modification. We are preparing to negotiate with the Italian Government a currency agreement whereby the Italian Government or its designated agency would be recognised as the issuing authority for all AM lire.

The last sentence of Article 23 has been substantially modified and modification explained to the Italian Government. AC informed the Italian Government that the Allied Commission will no longer intervene in Italian internal financial affairs (except in cases of Allied military necessity) and that, with two exceptions, the Italian Government no longer needed to obtain the approval of the Allied Commission prior to the execution of external financial transactions. The Minister of the Treasury was informed that the Italian Government was now free to fix or negotiate exchange rates for the lira without prior consultation with the Allied Commission. The cooperation of the Italian Government in the execution of this Article is considered to have been very good.

24 Modified by informing the Italian Government that private export trade may now be resumed and that all types of non-transactional and transactional commercial and financial correspondence may now go forward from Italy to the non-enemy world.

25A Obsolete

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Declassified E.O. 12356 Section 3.3/NND No. 785016

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its designated agency would be recog[illegible]
for all AM lire.

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24 Modified by informing the Italian Government that private export trade may now be resumed and that all types of non-transactional and transactional commercial and financial correspondence may now go forward from Italy to the non-enemy world.

25A Obsolete

25B Obsolete

26A This has been modified so far as individuals are concerned to the extent that no Military Travel authorization is now required. Provided an individual has the necessary civil documents such as passport visa, etc. there is nothing to prevent him leaving Italian territory. If leaving Italy by land, movement is virtually unrestricted even though an AMG pass must be obtained before passing through the frontier Northern zone. Movement by air or sea is restricted by the fact that the United Nations control the transport services and an Allied travel order must be obtained before the journey can be made. As regards any mass movement of Italian subjects this continues to be controlled by AFHQ.

26B In effect obsolete.

I-1041
Declassified E.O. 12356 Section 3.3/NND No. 835014

27 Obsolete

28A Obsolete

28B Stands

28C Stands

28D Stands

29 Stands

30 First part carried out; second part revoked.
This article has never been enforced as expressed: the Commander-in-Chief has not issued any instruction. The Italian Government has of its own volition done all that would have been required. The Government does in fact keep AC informed.

31 Stands. All Italian laws involving discrimination on ground of race, colour, creed, or political opinion, have at the instance of the Italian Government been repealed. It is believed that all persons detained on any such grounds have been released, and those suffering any legal disability have been relieved therefrom It has not been necessary for the Allied Commander in Chief to issue any "further directions" under the Article.

32A Obsolete

32B Carried out and now obsolete

Declassified E.O. 12356 Section 3.3/NND No. 785016

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This article has never been enforced as expressed
the Commander-in-Chief has not issued any instruction. The Italian
Government has of its own volition done all that would have been
required. The Government does in fact keep AC informed.

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not been necessary for the Allied Commander in Chief to issue any
"further directions" under the Article.

32A Obsolete

32B Carried out and now obsolete

32C The Italian Government has cooperated loyally in carrying
out such instructions as have been given concerning the preservation
and administration of United Nations property in Italy, previously
sequestrated by the Italian Government.

33A Stands with explanation

33B Stands. The part relating to the furnishing of information
stands. The part that deals with the disposal of foreign assets
has been modified by FAN+ 383, in that prior approval of the Allied
Commission for such disposal is no longer necessary.

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34 Stands. No comments.

35 Stands. No comments.

36 Stands, but modified by Macmillan aide memoire of 24 February 1945.

37 Control has been dropped in Italian Government territory. See Macmillan aide memoire.

38 No comments.

39 No comments.

40 No comments.

41 Stands, with the exception of Albania.

42 No comments.

43 No comments.

44 No comments.

Declassified E.O. 12356 Section 3.3/NND No. 785016

HEADQUARTERS ALLIED COMMISSION

APO 394

Confidential
Secret

Office of the Executive Commissioner

MEMORANDUM

Ref: 2608/EC

14th October, 1945

PUBLICATION LONG ARMISTICE TERMS

The last official demand we have received from the Italian Government for publication of Long Armistice Terms was in August 1944 from Bonomi.

2. AFHQ, in their letter of 3 November 1944, directed delaying action and added that when publication is made responsibility for initiative in the matter should lie with the Italian Government.

3. The present Government accepted the "Armistice and surrender instrument" but requested successfully that the title be changed to "Armistice and Additional Conditions of Armistice".

4. There have been demands made in the various political newspapers and the Prime Minister in his latest speech did not demand publication but rather enumerated the various limitations imposed on Italy by the Armistice.

There has, however, been no official request since 1944 from the Italians.

5. Unless the Allied Governments wish to publish the terms by way of reply to Parri's speech it is suggested that before publishing them at the initiative of the Allies it would be wise to consult the Italian Government as to their real wishes, pointing out to them that many of the clauses are now inoperative since hostilities have ceased and many have been modified in practice either as a result of directives from Allied Governments or because it was unnecessary to invoke the full force of the clauses.

6. If it is decided by the Italian and the Allied Governments that publication is desirable then we should insert a simultaneous publication of Mr. Macmillan's aide memoire of 24 February 45 (FAN 487) and a summary of FAN 583, 640 and other modifying directives. There should also be published an agreed commentary on the progressive modification of existing [illegible] in implementation of the terms.

Declassified E.O. 12356 Section 3.3/NND No. 785016

3. The [illegible] instrument" but requested successively "Armistice and Additional Conditions of Armistice".

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There has, however, been no official request since 1944 from the Italians.

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7. Unless this is done the publication will give an entirely distorted view of the effect of these terms, some of which have never been implemented and many of which have been implemented only partially.

8. We should also consider, subject to assent of C in C Mediterranean the publication of the Cunningham de Courtens agreement. Allied Commission sees no objection to publication on the same lines as in para 6 above.

9. Detailed comments on the clauses of the document are attached.

P H S Lt C

BRIGADIER
Executive Commissioner

DISTRIBUTION

Admin (20)
Chief Control
Econ (2)
Polad (6)
CA Sec
Eco Sec
Navsec
Land Forces S/c
Air Forces S/c
Communications S/c
Other Executive Adv
Other Financial Adv

Declassified E.O. 12356 Section 3.3/NND No. 785016

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HEADQUARTERS ALLIED COMMISSION

OFFICE OF THE EXECUTIVE
COMMISSIONER

A P O 394

14th October, 1945

ADDENDUM TO ALLIED COMMISSION

MEMORANDUM

1. It is also fair to state that the Long Armistice Terms have in fact been progressively modified by each Document A (Terms of Restoration of Italian Territory) signed by SACMED and agreed by the Italian government as each portion of territory has been restored to the Italian Government.

2. These Terms of Restoration, although made without prejudice to the Armistice terms which remain in force do specify the requirements of the Allied Forces in virtual modification of the Armistice terms themselves.

BRIGADIER
Executive Commissioner

Declassified E.O. 12356 Section 3.3/NND No. 785016

4095

FILE.

Mod 40 A

Roma, 4 Luglio 1946

Ministero di Grazia e Giustizia
DIREZIONE GENERALE DEGLI AFFARI PENALI
DELLE GRAZIE E DEL CASELLARIO

Alla COMMISSIONE ALLEATA
Sottocommissione Legale
R O M A

Ufficio I° A.P.
Prot. N° 131.913./1985/46

Risposta al f. del
Div. Sez. N°

OGGETTO Consenso a procedere contro militare alleato.-

All. n. 2

e per conoscenza:
ALL'UFFICIO COLLEGAMENTO
S E D E

AL PROCURATORE GENERALE presso
la Corte di Appello di
(Rif.f.31.5.1946 n° 322)
TORINO

^^^^^^^^^^^^^^

Ai sensi dell'art. 12 del documento "A", relativo ai "Termini di restituzione dei territori italiani", emanato dalle Autorità Alleate previo accordo con il Governo Italiano, si trasmettono in copia le note 31 d.m. n. 322 della Procura Generale di Torino e 27 detto n. 2468/46 del P.M. presso il Tribunale di Alessandria con le quali si chiede il consenso del Comandante Supremo Alleato del Teatro del Mediterraneo a condurre a giudizio il Sud Africano Caporal Maggiore FOUCHE' H.S. Conc.

./.

Declassified E.O. 12356 Section 3.3/NND No. 785016

K.N. Tratton 17 Fem di Arquata Scrivia, per rispondere del reato di omicidio colposo in danno di LAGUZZI Luigi (art. 589 codice Penale).-

Si prega codesta On.e Sottocommissione di voler far conoscere a questo Ministero le decisioni, che in riguardo alla cennata richiesta, saranno adottate dal Comandante Supremo del Mediterraneo.-

per il M I N I S T R O

SUB-COMMISSION
Chief Counsel
GIO
Italian Section
CL RKS
JUL 8 - 1946

Mod 1847 MG

FILE

Ministero di Grazia e Giustizia

647

COPIA

PROCURA GENERALE presso la Corte di Appello di
TORINO

N. 322 di prot. Torino 31 Maggio 1946

OGGETTO: Consenso a procedere contro militare Alleato.-

AL MINISTERO DI GRAZIA E GIUSTIZIA
Direzione Generale degli Affari Penali
ROMA

^^^^^^^^^^^^^

A sensi della Circ. N. 9153.10.1.3. Gab. in data 26.1.1946 di codesto Superiore Ministero, trasmetto l'unita copia della nota n. 2468/46 del 27 corr. della Procura del Regno di Alessandria con la quale si chiede il consenso del Comandante Supremo Alleato del Teatro del Mediterraneo a condurre a giudizio il sud Africano Caporal maggiore FOUCHE' H.S. Conc. KN. Tratton 17 REM di Arquata Scrivia, per rispondere di omicidio colposo.-

IL PROCURATORE GENERALE DEL REGNO
F.to Illeggibile

PER COPIA CONFORME
Roma 2 Luglio 1946
IL DIRETTORE CAPO DELL'UFFICIO Ic AFFARI PENALI

Declassified E.O. 12356 Section 3.3/NND No. 785016

C O P I A

PROCURA GENERALE presso la Corte di Appello di
T O R I N O

N. 322 di prot. Torino 31 Maggio 1946

OGGETTO: Consenso a procedere contro militare Alleato.-

AL MINISTERO DI GRAZIA E GIUSTIZIA
Direzione Generale degli Affari Penali
R O M A

^^^^^^^^^^^^

A sensi della Circ. N. 9153.10.1.3. Gab. in data 26.1.1946 di codesto Superiore Ministero, trasmetto l'unita copia della nota n. 2468/45 del 28 corr. della Procura del Regno di Alessandria con la quale si chiede il consenso del Comandante Supremo Alleato del Teatro del Mediterraneo a condurre a giudizio il sud Africano Caporal maggiore FOUCHE' H.S. Conc. KN. Tratton 17 REM di Arquata Scrivia, per rispondere di omicidio colposo.-

IL PROCURATORE GENERALE DEL REGNO
F.to Illeggibile

PER COPIA CONFORME
Roma 2 Luglio 1946
IL DIRETTORE CAPO DELL'UFFICIO I° AFFARI PENALI

Declassified E.O. 12356 Section 3.3/NND No. 785016

Mod. 1347 M.G.

FILE

Ministero di Grazia e Giustizia

COPIA

PROCURA DEL REGNO DI ALESSANDRIA

Alessandria 27 Maggio 1946

N° 2466/46

OGGETTO: Autorizzazione a procedere contro militare Alleato.-

A.S.E. IL PROCURATORE GENERALE DEL REGNO

TORINO

****

Il 1.4.1946 nei pressi della frazione Castellar Ponzano di Tortona il sudafricano Caporal Maggiore Fouchè H.S. Conc. KN. Tratton 17 REM di Arquata Scrivia investiva con la propria autovettura JEP tale LAGUZZI Luigi di Carlo causandone la morte.-

Il Fouchè, a quanto asserisce un teste che si trovava nella macchina investitrice, era alquanto alticcio avendo bevuto molto cognac e procedeva ad una velocità di circa Km. 75 all'ora.-

Dopo l'investimento non frenò la macchina nè tentò di farlo avendo perduto il controllo di se.-

Il LAGUZZI che era in bicicletta teneva regolarmente la propria destra e si trovava davanti alla macchina; il Fouchè poichè sopraggiungeva un'altra macchina in senso inverso alla sua si era spostato completamente sulla sua destra andando a urtare contro un paracarro, investendo quindi il ciclista.-

Dovendo pertanto il predetto militare rispondere di omicidio colposo, ai sensi della nota 9453/10/I/3 Gab. in data 26.I.1946 del Superiore Ministero prego richiedere il nulla osta del Comando Superio-

Declassified E.O. 12356 Section 3.3/NND No. 785016

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Dovendo pertanto il predetto militare rispondere di omicidio colposo, ai sensi della nota 9353/10/I/3 Gab. in data 26.I.1946 del Superiore Ministero prego richiedere il nulla osta del Comando Superiore Alleato del teatro del Mediterraneo a che si proceda contro il Fouchè.-

IL PROCURATORE DEL REGNO
F.to Mazzoni

E' Copia conforme all'originale
Torino 31 Maggio 1946
IL SEGRETARIO
F.to illeggibile

PER COPIA CONFORME
Roma 2 Luglio 1946
IL DIRETTORE CAPO DELL'UFFICIO I° AFFARI PENALI

Declassified E.O. 12356 Section 3.3/NND No. 785016

Declassified E.O. 12356 Section 3.3/NND No. 785016

Copy/ 10 Oct 45

7 Nov 63A

INCOMING MESSAGE

HEADQUARTERS, ALLIED COMMISSION

Originator's Reference: F 42407 Message Centre No. G 016

Date/Time of Origin : OCT 12/1252A Date Time Rec'd OCT 13/0315A

Precedence: IMMEDIATE

FROM: APHQ ALLIED MILITARY GEN PERS

TO: ALCOM ROME

Confidential

SECRET.

1. Following is text of signal from ACSAN.

"Growing United States feeling here that only very strong reasons should prevent present publication of armistice terms with ITALY. Understood Secretary of State has intimated to newspapermen that only WAR DEPARTMENT is withholding publication. Your views of publication from military standpoint desired at this time".

2. Preliminary view here is that there are no strictly military objections to publication of armistice terms if such a course is considered politically desirable by Allied Governments.

3. Meeting is being held in G-5 Conference Room APHQ 1400 hours 15 October to co-ordinate views of interested staff sections. You are invited to send representative or to furnish G-5 with written brief embodying your views.

DOWNGRADED TO UNCLASSIFIED

Col. Int. Chief Political Officer for Chief Civil Affairs Officer

ACTION: [illegible]

INFO: [illegible]

62A

MEMORANDUM OF AGREEMENT OF 23 SEPTEMBER 1943 ON THE
EMPLOYMENT AND DISPOSITION OF
THE ITALIAN FLEET AND MERCANTILE MARINE BETWEEN THE ALLIED NAVAL
COMMANDER IN CHIEF, MEDITERRANEAN, ACTING
ON BEHALF OF THE ALLIED COMMANDER IN CHIEF AND THE
ITALIAN MINISTER OF MARINE AS AMENDED BY PROTOCOL OF
17 NOVEMBER 1943

---

1. The armistice having been signed between the Head of the Italian Government and the Allied Commander-in-Chief under which all Italian warships and the Italian Mercantile Marine were placed unconditionally at the disposal of the United Nations, and H.M. The King of Italy and the Italian Government having since expressed the wish that the Fleet and the Italian Mercantile Marine should be employed in the Allied effort to assist in the prosecution of the war against the Axis powers, the following principles are established on which the Italian Navy and Mercantile Marine will be disposed.

It is understood and agreed that the provisions of this Agreement as to immediate employment and disposition of Italian warships and merchant ships do not affect the right of the United Nations to make such other dispositions of any or all Italian ships as they may think fit. Their decisions in this respect will be notified to the Italian Government from time to time.

(A) Such ships as can be employed to assist actively in the Allied effort will be kept in commission and will be used under the orders of the Commander-in-Chief, Mediterranean, as may be arranged between the Allied Commander-in-Chief and the Italian Government.

(B) Ships which cannot be so employed will be reduced to a care and maintenance basis and be placed in designated ports, measures of disarmament being undertaken as may be necessary.

(C) The Government of Italy will declare the names and whereabouts of

(i) Warships
(ii) Merchant ships

now in their possession which previously belonged to any of the United Nations. These vessels are to be returned forthwith as may be directed by the Allied Commander-in-Chief. This will be without prejudice to negotiations between the Governments which may subsequently be made in connection with replacing losses of [illegible] United Nations caused by Italian action.

Declassified E.O. 12356 Section 3.3/NND No. 785016

immedi te employment and disposition of Italian [illegible] not affect the right of the United Nations to make such other dispositions of any or all Italian ships as they may think fit. Their decisions in this respect will be notified to the Italian Government from time to time.

(A) Such ships as can be employed to assist actively in the Allied effort will be kept in commission and will be used under the orders of the Commander-in-Chief, Mediterranean, as may be arranged between the Allied Commander-in-Chief and the Italian Government.

(B) Ships which cannot be so employed will be reduced to a care and maintenance basis and be placed in designated ports, measures of disarmament being undertaken as may be necessary.

(C) The Government of Italy will declare the names and whereabouts of

(i) Warships
(ii) Merchant ships

now in their possession which previously belonged to any of the United Nations. These vessels are to be returned forthwith as may be directed by the Allied Commander-in-Chief. This will be without prejudice to negotiations between the Governments which may subsequently be made in connection with replacing losses of ships of the United Nations caused by Italian action.

(D) The Allied Naval Commander-in-Chief will act as the agent of the Allied Commander-in-Chief in all matters concerning the employment of the Italian Fleet or Merchant Navy, their disposition and related matters.

(E) It should be clearly understood that the extent to which the terms of the armistice are modified to allow of the arrangements outlined above and which follow, are dependent upon the extent and effectiveness of Italian co-operation.

2. Method of Operation. The Commander-in-Chief, Mediterranean, will place at the disposal of the Italian Ministry of Marine a high ranking Naval officer with the appropriate staff who will be responsible to the Commander-in-Chief, Mediterranean, for all matters in connection with the operation of the Italian Fleet, and be the medium through which dealings will be carried out in connection with the Italian Mercantile Marine. The Flag Officer acting for these duties

Declassified E.O. 12356 Section 3.3/NND No. 485016

(Flag Officer Liaison), will keep the Italian Ministry of Marine informed of the requirements of the Commander-in-Chief, Mediterranean, and will act in close co-operation as regards issue of all orders to the Italian Fleet.

3. Proposed disposition of the Italian Fleet.

(a) All battleships will be placed on a care and maintenance basis in ports to be designated and will have such measures of disarmament applied as may be directed. These measures of disarmament will be such that the ships can be brought into operation again if it so seems desirable. Each ship will have on board a proportion of Italian Naval personnel to keep the ships in proper condition and the Commander-in-Chief, Mediterranean, will have the right of inspection at any time.

(b) Cruisers. Such cruisers as can be of immediate assistance will be kept in commission. At present it is visualized that one squadron of four cruisers will suffice and the remainder will be kept in care and maintenance as for the battleships but at a rather greater degree of readiness to be brought into service if required.

(c) Destroyers and Torpedo Boats. It is proposed to keep these in commission and to use them on escort and similar duties as may be requisite. It is proposed that they should be divided into escort groups working as units and that they should be based on Italian ports.

(d) Small Craft. M.A.S., Minesweepers, auxiliaries and similar small craft will be employed to the full, detailed arrangements being made with the Flag Officer (Liaison) by the Italian Ministry of Marine for their best employment.

(e) Submarines. In the first instance submarines will be immobilized in ports to be designated and at a later date these may be brought into service as may be required to assist the Allied effort.

4. Status of Italian Navy. Under this modification of the armistice terms, all the Italian ships will continue to fly their flags. A large proportion of the Italian Navy will thus remain in active commission operating their own ships and fighting alongside the forces of the United Nations against the Axis Powers.

The requisite liaison officers will be supplied to facilitate the working of the Italian ships in co-operation with Allied forces. A small Italian liaison mission will be attached to the Headquarters of the Commander-

Declassified E.O. 12356 Section 3.3/NND No. 785016

in commission and to use them on escort [illegible] may be requisite. It is proposed that they should be divided into escort groups working as units and that they should be based on Italian ports.

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The requisite liaison officers will be supplied to facilitate the working of the Italian ships in co-operation with allied forces. A small Italian liaison mission will be attached to the Headquarters of the Commander-in-Chief, Mediterranean, to deal with matters affecting the Italian Fleet.

5. Mercantile Marine. It is the intention that the Italian Mercantile Marine should operate under the same conditions as the merchant ships of the Allied Nations. That is to say, all mercantile shipping of the United Nations is formed into a pool which is employed as may be considered necessary for the benefit of all the United Nations. In this will naturally be included the requirements for the supply and maintenance of Italy. The system will be analogous to that used in North Africa, where the North Africa Shipping Board controls all United States, British and French shipping under certain agreements which will have to be arranged in detail in so far as Italian ships are concerned. While it may be expected that a proportion of Italian ships will be working within the Mediterranean and to and from Italian ports, it must be appreciated that this will not always necessarily be the case and ships flying the Italian flag may be expected to be used elsewhere as is done with the merchant ships of all the United Nations. Italian ships employed as outlined in this paragraph will be manned so far as possible by crews provided by Italian Ministry of Marine and will fly the Italian flag.

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COMMENTS ON THE CUNNINGHAM-de COURTEN AGREEMENT.

1. As explained within the terms, this agreement was produced in modification of the Armistice Terms in order that the Italian Fleet and Mercantile Marine could assist in the prosecution of the war against the Axis Powers.

2. The additions to the agreement were inserted at the Allied request after the original agreements had been concluded and were accepted on the Italian side in view of an amelioration of certain articles in original terms of the Armistice. Signature was accompanied by the formal statement of Admiral de Courten printed above.

3. The provisions of this agreement have been carried out and those provisions which remain operative with the cessation of hostilities are still being carried out. Furthermore, many Italian warships are undertaking work of direct benefit to the Italians themselves, e.g. transport of displaced persons.

4. While the employment of Italian ships has been of use to the United Nations it is pointed out that considerable United Nations resources have been expended in Italy to help the Italian Government in keeping Italian ships running and the crews fed and clothed.

5. In addition to the use of the Italian Mercantile Marine shipping, under this agreement a number of smaller Italian merchant ships have been returned to the control of the Italian authorities.

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AFHQ G-5 SECTION

8405 3 DEC. 1945 ROUTINE

RESTRICTED FD

PARA ONE FD REQUEST CLEARANCE BE OBTAINED FOR STAFF SERGEANT ERIC SZEIN PARTY A PARTY THREE SIX SEVEN ONE SEVEN ZERO NINE THREE LEGAL SUBCOMMISSION THIS HEADQUARTERS TO TRAVEL TO VIENNA AUSTRIA ON TEMPORARY DUTY FOR APPROXIMATELY TEN DAYS FD .

PARA TWO AFHQ G FIVE SECTION FROM H A COLE CIVE ACCAS PARTY PARA TWO FD FOLLOWING VISIT AND CONFERENCE WITH CHIEF LEGAL OFFICER ALLIED COMMISSION AUSTRIA BRITISH ELEMENT ON THE SUBJECT OF IMPLEMENTATION OF ITALIAN ARMISTICE THRU ITALIAN LEGISLATION AND IMPLEMENTATION OF GOVERNMENTAL LEGISLATION BY ALLIED COMMISSION AND ALLIED MILITARY GOVERNMENT IN ITALIAN TERRITORY STILL UNDER MILITARY OCCUPATION SERGEANT SZEIN CMA WHO HAS BEEN DEALING WITH THE MATTER CMA IS PROCEEDING TO VIENNA AND WILL GIVE ALL NECESSARY EXPLANATIONS OR EXPLANATIONS ADOPTED HERE.

CIVIL AFFAIRS SECTION

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DOWN GRADED
UNCLASSIFIED

Col. Inf.
Chief Judicial Officer
for Chief Civil Affairs Officer.

40555 File.

(40A)

MAINFIELD CAMP

SICILY.

September 3rd, 1943.

The following conditions of an Armistice are presented by

General DWIGHT D. EISENHOWER,

Commander-in-Chief of the Allied Forces,

acting by authority of the Governments of the United States and Great Britain and in the interest of the United Nations, and are accepted by

Marshal PIETRO BADOGLIO

Head of the Italian Government.

1. Immediate cessation of all hostile activity by the Italian armed forces.

2. Italy will use its best endeavors to deny, to the Germans, facilities that might be used against the United Nations.

3. All prisoners or internees of the United Nations to be immediately turned over to the Allied Commander in Chief, and none of these may now or at any time be evacuated to Germany.

4. Immediate transfer of the Italian fleet and Italian aircraft to such points as may be designated by the Allied Commander in Chief, with details of disarmament to be prescribed by him.

5. Italian merchant shipping may be requisitioned [illegible]

Declassified E.O. 12356 Section 3.3/NND No. 785016

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4. Immediate transfer of the Italian Fleet and Italian aircraft to such points as may be designated by the Allied Commander-in Chief, with details of disarmament to be prescribed by him.

5. Italian merchant shipping may be requisitioned by the Allied Commander in Chief to meet the needs of his military - naval program.

6. Immediate surrender of Corsica and of all Italian territory both islands and main and, to the Allies, for such use as operational bases and other purposes as the Allies may see fit.

7. Immediate guarantee of the free use by the Allies of all airfields and naval ports in Italian territory, regardless of the rate of evacuation of the Italian territory by the German forces. These ports and fields to be protected by Italian armed forces until this function is taken over by the Allies.

8. Immediate/....

Declassified E.O. 12356 Section 3.3/NND No. 785016

8. Immediate withdrawal to Italy of Italian armed . from all participation in the current war from whatever areas in which they may be now engaged.

9. Guarantee by the Italian Government that if necessary it will employ all its available armed forces to insure prompt and exact compliance with all the provisions of this armistice.

10. The Commander in Chief of the Allied Forces reserves to himself the right to take any measure which in his opinion may be necessary for the protection of the interests of the Allied forces for the prosecution of the war, and the Italian Government binds itself to take such administrative or other action as the Commander in Chief may require, and in particular the Commander in Chief will establish Allied Military Government over such parts of Italian territory as he may deem necessary in the military interests of the Allied Nations.

11. The Commander in Chief of the Allied Forces will have a full right to impose measures of disarmament, demobilisation, and demilitarisation.

12 Other conditions of a political, economic and financial nature with which Italy will be bound to comply will be transmitted at a later date.

The conditions of the present Armistice will not be made public without prior approval of the Allied Commander in Chief. English will be considered the official text.

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The conditions of the present Armistice will not be made public without prior approval of the Allied Commander in Chief. English will be considered the official text.

Marshal PIETRO BADOGLIO
Head of Italian Government.

By;

GIUSEPPE CASTELLANO
Brigadier General, attached to
The Italian High Command

DWIGHT D. EISENHOWER
General, U. S. Army,
Commander in Chief
Allied Forces.

By:

WALTER B. SMITH,
Major General, U. S. Army
Chief of Staff.

Present:....

Declassified E.O. 12356 Section 3.3/NND No. 785016

Present:

Rt. Hon. HAROLD MACMILLAN
British Resident Minister, A.F.H.Q.

ROBERT MURPHY
Personal Representative of the
President of the United States.

ROYER LICK
Commodore, U.S.N.
Chief of Staff to the C. in C. Med.

Lowell W. ROOKS
Major General, U. S. Army
Assistant Chief of Staff, G-3 A.F.H.Q.

FRANCO MONTANARI
Official Italian Interpreter

Brigadier KENNETH STRONG
Assistant Chief of Staff, G-3 A.F.H.Q.

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Declassified E.O. 12356 Section 3.3/NND No. 785016

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HEADQUARTERS ALLIED COMMISSION
APO 394

/mda

27 November 1945

SUBJECT : Scope of the Armistice.

TO : Finance Sub-Commission.

1. This Sub-Commission has been requested to give its opinion as to whether or not the long terms of armistice apply to Zone B of Venezia occupied and administered by the Jugoslav Forces.

2. The legal evidence on which such opinion can be based is scanty. It consists of two documents, the Vaugan-Jovanovic and the Belgrade agreements. Neither of them refer to the armistice terms as the instrument under which Zone B is administered.

3. The purposes of the High Contracting Parties when these documents were entered into is not known to this Sub-Commission. The legal position may very well depend on the evidence of intention which may have been expressed by both signatories at the time. To date this evidence has not been made available to this Commission.

4. It must be noted, however, that all material evidence appears to confirm the fact that the Jugoslavs do not consider themselves bound by the armistice terms at least as far as the administration of Zone B is concerned.

5. Furthermore the document known as the Caserta agreement, which it is understood provided for AMG administration of the whole of Venezia Giulia was unilaterally broken, and eventually replaced by the two agreements above referred where AMG administration is not considered.

6. It is well realised that the Allied Governments are facing the following dilemma - either the armistice terms apply to Zone B by delegation of [illegible] authority under its provisions and the Allies become responsible

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For every violation of international law committed by the Jugoslavs or they do not, and in that case the Allies have unilaterally broken an international agreement to which Italy was a party.

7. Before giving a definite opinion on the incomplete evidence in our possession, it is suggested that the matter be referred to A.F.H.Q.

C.C. HUMPHREY
Lt.Col.,
Deputy Chief Legal Adviser.

Copy to :

Executive Commissioner
POLAD (A)
POLAD (B)
AG/4055/L.

Declassified E.O. 12356 Section 3.3/NND No. 785016

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55A 1)

-Confidential-

RIGHTS OF JUGOSLAVS

1. I believe that all United Nations have acquired rights and ~~attained~~ obtained duties under the long terms.

(a) The preamble specifies that the U.K., U.S. and Soviet Governments are acting on behalf of the United Nations.

(b) United Nations are given the right to "require, direct, specify, permit, prescribe, receive, surrender, exercise all the rights, give orders, order disposal of etc" (Arts 3, 4, 10, 11, 12, 13, 14, 15, 18, 19, 20, 21 (b), 22, 23, 25, 29, 30, 32, 33, 35.)

2. However, both the underlying spirit of the instrument and the practice whereby it has been applied points to the Allied Commander in Chief as the sole supreme enforcing authority. This opinion is also confirmed by the following:

(a) The technical directives to be issued under the instruments were to be issued by the AC in C (Art. 3, 2nd sentence "as may be sanctioned by the AC in C" ; Art. 4 last sentence; Art. 6; Art. 7; Art. 8; Art. 11 2nd sentence "Subject to such use as the AC in C may make of it, the war material will be placed in store etc..."; Art. 16, end of 1st sentence, 2nd and 3rd sentence; Art. 18, end of 2nd sentence; Art. 20, last sentence ; Art 21 (B); Art. 24 end; Art. 26; Art. 28 (D); Art. 30 1st sentence; Art. 31 2nd sentence; Art. 33 (B); Art. 34; Art. 36)

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Col. Inf.
Chief Judicial Officer.
for Chief Civ Affairs Officer.

(b) Art. 38 expressly states that the term "United Nations" includes the AC in C.

(c) Art. 37 states that "there will be appointed a control commission representative of the U.N. charged with regulating and executing this instrument under the orders ....of the AC in C.

3. Art. 18 states that "the forces of U.N. will require to occupy certain parts of Italian territory." The territories or areas concerned will from time to time be notified to the U.N. and all

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Italian Land, Sea and Air Forces will thereupon withdraw from such territories or areas in accordance with the instructions issued by the AC in C." Art. 20 gives the U. N. the power to exercise all the rights of an occupying power throughout the territories or areas referred in the Art. 18....Personnel of the Italian administrative, judicial and public services will carry out their functions under the control of the AC in C. Consequently the Jugoslav forces as "forces of the U.N." have the right to occupy certain parts of Italian territory "notified" by Jugoslavia as one of the U.N. However, such occupation would have to be carried out with the consent and under the supreme direction of the AC in C.

4. It is generally known that the original occupation of the entire Venezia Giulia by the Jugoslavs did not take place with the consent and under the supreme direction of the AC in C.

5. This position was not affected by the Belgrade agreement. This agreement in fact liquidated the Jugoslav occupation west of the Morgan line; the only reference to Jugoslav occupation east of the line is made in a negative way: para 7, 2nd sentence, states that such occupation shall not prejudice the ultimate disposal of the Jugoslav occupied area. Obviously this document did not purport to regulate the Jugoslav occupation east of the Morgan line in accordance with the wishes of the AC in C and thus bring this occupation within the terms of surrender.

6. It appears from the "Note by Jugoslavs on Allied Military Government" presented by Jovanovic to Gen. Morgan at Duino on 20 June 1945 that the Jugoslavs themselves do not derive their regime of occupation of Venezia Giulia from the terms of surrender with Italy.

Para 1 of the note states:

"In connection with point 3 of Belgrade agreement and in regard of fact that the population of the territory has compactly organized an armed resistance movement on the Allied side against the Italian army and authorities before the capitulation of Italy.... It appears from this "Note" and from Gen. Morgan's reply to it that rather than to consider the direction of the AC in C in the area east of the Morgan line the Jugoslavs sought to induce the AC in C to accept their own ideas for the administration to be applied in the zone occupied by Allied Forces.

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7. The perusal of the agreement itself signed at Duino by Gen. Morgan and Mr. Jovanovic on 20 June 1945 only confirms the above interpretation.

8. Consequently it appears that the Jugoslavs do not occupy Venezia Giulia in accordance with the terms of surrender and can not claim any right thereunder. Their rights and duties are determined solely by the relevant rules of international law of occupation.

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57A

From: O

The Lord Schuster, G.C.B, C.V.O., K.C.,

Legal Division,

Allied Commission for Austria (British Element),

C.M.F.

October 4th, 1945.

Dear Hannaford,

Very many thanks for your letter September 26th. I am very much obliged for the information which you send. We will now try to arrange for a formal request from this Commission to the Allied Commission. It is is very good of you to have the copies typed in advance so that no time may be lost.

I am sorry that Ian Campbell is not going to the F.O. I think they are making a great mistake, and losing a very good man.

Yours sincerely,

Schuster

Lt.Col. G.G. Hannaford,
Legal Sub-Commission,
Hq Allied Commission for Italy,
APO 394.

S/EAS
Vienna

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Declassified E.O. 12356 Section 3.3/NND No. 785016

56A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

19 November 1945

SUBJECT : Art. 31 and 32 C of the long terms armistice.

TO : Avv. LOPEZ.

The provisions complying with the above/m articles are as follows:

1. R.D.D. 20.1.1944 No. 25 "Disposizioni per la reintegrazione nei diritti civili e politici dei cittadini italiani e stranieri gia' dichiarati di razza ebraica o considerati di razza ebraica." Published in G.U. (special nory) N. 5 of 9th 2.1944.

2. R.D.L. 20.1.1944 N. 26 published with D.L.L. 5.10.1944 N. 252 (in G.U. N. 71 of 20.10.1944). "Pubblicazione ed entrata in vigore del Regio D.L. 20.1.1944 N. 26, contenente disposizioni per la reintegrazione nei diritti patrimoniali dei cittadini italiani e stranieri gia' dichiarati o considerati di razza ebraica."

3. D.L.L. 14.9.1944 N. 287 "Provvedimenti relativi alla riforma della legislazione civile" published in G.U. N. 79 of 9.10.1944.

4. D.L.L. 19.10.1944 N. 306 "Norme complementari alle disposizioni del R.D. Legge 20.1.1944 N. 25, concernente la reintegrazione nei diritti civili e politici dei cittadini italiani e stranieri gia' dichiarati di razza ebraica o considerati di razza ebraica" - published in G.U. N. 82 of 16 Nov. 1944; errata corrige in G.U. N. 84 of 21 Nov. 1944.

5. D.L.L. 12 Apr. 1945 N. 222 " Norme complementari integrative e di attuazione del D.L.L. 20 Gennaio 1944 N. 26, per la reintegrazione dei cittadini italiani e stranieri colpiti dalle disposizioni razziali nei loro diritti patrimoniali." published in G.U. N. 64 of 22.5.1945.

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Laws concerning the State Departments contain special provisions for the readmittance of persons discriminated for political or recial reasons. Vide ex. gr. D.L.L. 14 sept. 1944 N.308 " Modalità per la riammissione del personale militare delle Forze Armate dello Stato di grado non superiore al V già dispensato per motivi politici o razziali." published in G.U. N. 83 of 18 nov. 1944.

D.L.L. 1 - 2 1945 N.36 " Revoca dei provvedimenti e delle misure adottati in materia di beni appartenenti agli Stati delle Nazioni Unite, nonchè alle persone fisiche e giuridiche, aventi la nazionalità degli Stati stessi." published in G.U.N. 25 of the 27 - 2 - 1945.

Note: It is brought to your attention that the afore said decree N. 36 has been excluded from implementation in A.M.G. territories by an order dated 11 - 3 1945 published in G.U. N. 33 of the 17 - 3 - 1945.
Such exclusion has been confirmed by the Order N. 2 dated 27 april 1945 published in Suppl. Ord.N. 51 of the 28 - april - 1945.
The matter of property control is governed in A.M.G. territories by Proclamation N. 2.

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Declassified E.O. 12356 Section 3.3/NND No. 785016

65-A

FROM : Lt. COL. G.G.HANNAFORD

LEGAL SUB-COMMISSION
HQ ALLIED COMMISSION
APO 394
26 September 1945.GGH/lc.

Dear Lord Schuster,

In Billy Behrens's absence I have opened your letter in which you request copies of:

a) the Armistice Terms,

b) the Terms of Restoration of Territory to the Italian Government,

c) all circulars based on the last document.

As you know all these documents are still highly confi_ dential and this Sub-Commission is not empowered to communicate them and much less supply copies of them except through official channels.

I feel sure however that if you could arrange for a formal request to be made to the Allied Commission, the necessary authorization would be given without further ado.

In the meantime I am having copies typed in order that no time should be lost once we are authorized to forward these to you.

Beherens is in Milan and may be leaving for home any day now.

If I can help you in any other way kindly let me know.

Yours sincerely,

P.S.

I understand that Ian Campbell is not going to the F.O. after all.

LORD SCHUSTER
Legal Division
Allied Commission for Austria (British Element)
C.M.F.

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Declassified E.O. 12356 Section 3.3/NND No. 785016

HQ 355.

Legal Division,

Allied Commission for Austria (British Element)

September 12th, 1945.

C.M.F.

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ACA/LEG/705/

Dear Behrens,

I am not sure when your departure on Release is due. This letter may be opened and handled by your successor.

It is possible that if and when an Austrian government is recognised certain terms will have to be formulated, as conditions of recognition, for the protection of Allied troops and security generally. It occurs to me that the provisions by which Allied Commission, Italy, retained the right to set up military courts in territory handed back to the Italian government may afford valuable precedents to my Division. I should also be interested to see the method by which your Commission exercises control which they have over legislation proposed by the Italian Ministry of Justice

I should be very grateful if you could furnish this Division with copies of the following: (a) the Armistice terms (I believe these were in two documents, long and short); (b) any subsequent agreement transferring responsibility for provinces; (c) any other agreement providing for a measure of control by you over the Italian Ministry of Justice.

I know that the Armistice terms were at one time highly confidential matter. I understand that this has recently been relaxed. If however you do not find yourself at liberty to furnish copies through the technical legal channels, I will arrange for a formal request to be passed from this Commission to Allied Commission, Italy.

I imagine that you will be glad to be on your way home. I wish you all good fortune on your return to life in the Temple.

Yours sincerely,

Schuster

Director.
Legal Division.

Col. W.E. Behrens,
Legal Sub-Commission,
Allied Commission, Italy.

Vienna.
RLH/EAS

S E C R E T

(53A)

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

MJG/pa.
2 Dec 44.

SUBJECT : Executive Memorandum No. 85.(Customs Duties)

TO : V.P. Civ Aff Sec.

1. The Legal Sub-Commission was not consulted prior to the issue of the above.

2. Document A provides for the free import of :-
(a) such civilian supplies as the Allied Forces may determine for distribution to the civilian population (Para 10) and

(b) such military or other supplies or property of any nature as may be deemed necessary for the proper prosecution of the war (Para 11).

3. The exemptions specified in parms 4A and 4B of Executive Memorandum No. 85 fall easily within the terms of Document A (supra). Indeed the only limitation upon the property which could be so exempted is that it be of a character "deemed necessary for the proper prosecution of the war".

4. Para 7 of Executive Memorandum No. 85 merely provides a mechanism for the payment and collection of customs duties, and would seem to involve no question under either the Armistice or Document A.

5. It is assumed that the customs duties referred to especially in the case of petroleum are assessed with the consent and agreement of the Commander in Chief.

MARC J. GROSSMAN,
Lt.Colonel,
Chief Counsel,
for Chief Legal Adviser.

Declassified E.O. 12356 Section 3.3/NND No. 785016

(a) such civilian supplies as the United Nations may [illegible] for distribution to the civilian population (Para 10) and

(b) such military or other supplies or property of any nature as may be deemed necessary for the proper prosecution of the war (Para 11).

3. The exemptions specified in paras 4A and 4B of Executive Memorandum No. 83 fall easily within the terms of Document A (supra). Indeed the only limitation upon the property which could be so exempted is that it be of a character "deemed necessary for the proper prosecution of the war".

4. Para 7 of Executive Memorandum No. 83 merely provides a mechanism for the payment and collection of customs duties, and would seem to involve no question under either the Armistice or Document A.

5. It is assumed that the customs duties referred to especially in the case of petroleum are assessed with the consent and agreement of the Commander in Chief.

MARC J. GROSSMAN,
Lt.Colonel,
Chief Counsel,
for Chief Legal Adviser.

Copy in file AC/4055/L

Declassified E.O. 12356 Section 3.3/NND No. 785016

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Copy for file 4055/L

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HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

/rlp.
27 October 1944.

ACC/4005/L

SUBJECT : Waldenisian Church.

TO : Political Sec (THRU: VP, CA Sec).

1. The Legal S/C has examined the difficulties experienced by the Waldenisian Church as requested by memorandum A04/4/44 of 21 October 1944. Professor Comba has been interviewed and he furnished a copy of the complaints submitted to the Bishop of Lichfield. This copy is attached hereto. No extra copy is retained by this s/c.

2. The complaints of the Waldenisian Church fall within two heads: (a) that under the Lateran Treaty 1929, the Waldenisian Church is in a position of inferiority to the Roman Catholic church; and (b) that under the administration of RDL. No. 1159 of 24 June 1929 certain specific acts of discrimination have been committed against the Waldenisian Church.

3. In the opinion of this s/c no action can properly be taken under the Armistice Terms, or at all, to endeavor to force the Italian Government to infringe or put an end to the conditions of the Lateran Treaty. If the principle of a State religion be accepted, as it is in England, the Lateran Treaty does not discriminate against the Waldenisian Church. Even if this principle is rejected, such discrimination as is thereby created, does not fall, in the opinion of this s/c, within the class contemplated by Article 31 of the Armistice Terms.

4. The complaints under RDL No. 1159 of 24 June 1929 are based on the allegation that this decree has been applied differently in the various provinces of Italy. The decree itself was passed in order to implement the terms of the Lateran Treaty and it is the opinion of the Legal S/C that the decree does not provide for any discrimination against the Waldenisian Church.

5. The administration of these matters is in the hands of the Direzione di Culti, which is a department of the Ministry of Interior. It would seem that acts of discrimination which have taken place either were due to administrative action which had no basis in law or were the result of defective interpretation placed upon the decree by the Ministry of Interior or its local representatives.

6. It is felt that the attention of the Minister of the Interior could be drawn to the individual acts of discrimination complained of and he could

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be required to take the necessary action to remove the difficulties created and to ensure that similar situations do not recur.

W. E. [illegible].
Colonel,
Deputy Chief Legal Advisor.

Incl.

1143

Declassified E.O. 12356 Section 3.3/NND No. 785016

1 File

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

510

/rm.

ACC/1055/L.

24 Oct. 44.

SUBJECT : Armistice Terms.

TO : A.F.H.Q. G.5.

Reference your G5.387.4 dated 22 October 44, receipt is acknowledged of photostat copies of short and long Italian Armistice Terms.

F.E. BEHRENS,
Colonel,
Deputy Chief Legal Adviser.

1144

Declassified E.O. 12356 Section 3.3/NND No. 785016

SECRET

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

AMB/as

G-5: 387.4

22 October 1944

SUBJECT: Authenticated copies short and long Italian Armistice Terms.

TO : Headquarters, Allied Control Commission, APO 394. (Attn: Legal Sub-Commission).

1. Herewith photostatic copies of short and long Italian Armistice Terms in response to your recent request.

2. Acknowledgement of receipt is requested.

For the Asst. Chief of Staff, G-5:

A. M. BULLOWA
1st Lt., AUS

3 encls: (photostats)
Short Terms
Protocol
Long Terms

Ack receipt

SECRET

1145

Declassified E.O. 12356 Section 3.3/NND No. 785016

4055

Report S/C 49A

12-30

SECRET

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

AMB/as

G-5: 387.4

22 October 1944

SUBJECT: Authenticated copies short and long Italian Armistice Terms.

TO : Headquarters, Allied Control Commission, APO 394. (Attn: Legal Sub-Commission).

1. Herewith photostatic copies of short and long Italian Armistice Terms in response to your recent request.

2. Acknowledgement of receipt is requested.

For the Asst. Chief of Staff, G-5:

A. M. BULLOWA
1st Lt., AUS

3 encls: (photostats)
Short Terms
Protocol
Long Terms

HEADQUARTERS
23 OCT 1944
A. C. C.

1146

Declassified E.O. 12356 Section 3.3/NND No. 785016

(48A)

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4055/L. /rlp.
20 October 1944.

SUBJECT : Italian Engineer Responsibilities.

TO : Army Sub-Commission.

1. We have considered the questions raised in your letter A/Q 8 of 3 Oct 44 to AFHQ (G-5).

2. The repair and maintenance of structures, installations and buildings for Allied use should normally be achieved by a requisition of the necessary goods and services.

3. Within Military Government Territory the Allied Forces have the rights of an occupying power which include the right to requisition goods and services. In Italian Government Territory the various terms of restoration expressly reserve to the Allies the right to requisition public and private goods and services.

4. The only limitation upon the goods or services which can be requisitioned is that prescribed by the Hague Regulations to the effect that they must be required for the needs of the Army. The word "needs" must be construed reasonably strictly and extends only to such requirements as are directly concerned with the war effort. "Needs" do not extend to luxuries.

5. Upon the questions of payment it will be appreciated that the ultimate responsibilities for such requisitions will fall upon the Italian Government as part of the costs of occupation. This extends both to Military and Italian Government Territory. Under international law a liability for immediate payment is incurred by the requisitioning force, which has to recoup itself from the government of the occupied territory, but it is understood that by agreement with the Italian Government this initial liability has been taken over by the Italian Government.

6. The mechanics of requisitioning are doubtless familiar to you and are laid down in the official regulations.

RICHARD H. WILMER,
Colonel, CAC,
Chief Legal Advisor.

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Declassified E.O. 12356 Section 3.3/NND No. 785016

4055

Legal

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 091.711-1 (Italy). 11 October 1944

SUBJECT: Italian Engineer Responsibilities.

TO : Director Army Sub-Commission and U.N.I.A.
(Attention: Lt. Colonel F. J. Noakes).
Headquarters, Allied Control Commission, APO 394.

1. Your letter on the above subject, dated 3 October 1944, encloses a letter written by Colonel De Michelis for General Oxilia, the Italian Undersecretary of State for War, requesting instructions from you concerning the obligation of the Italian Government to supply materials and services for the Allies. The request was made with a view to the issuance of instructions to the Italian Engineers, by the Italian Undersecretary of State for War.

2. In view of the fact that the Allied Control Commission is itself charged with executing the Armistice and is the agency through which relations between the Allies and the Italian Government are conducted it is suggested that advice be requested from the Legal Sub-Commission with respect to the framing of a reply to the Italian Under-secretary of State for War.

CHARLES W. SPOFFORD
Brigadier General, G. S.C.
Assistant Chief of Staff, G-5

Copies to:
HQ. ACC. (Attn: Acting Chief Commissioner
Legal Sub-Commission) - 2 copies.
British SUBORDINATE Adviser.
British Resident Minister.

CLO
DCLO
Chief Counsel
CJO
Italian Section
CLERKS

ALLIED FORCE HEADQUARTERS
12 OCT 1944
A. C. of S.

148

Declassified E.O. 12356 Section 3.3/NND No. 785016

460

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 091.711-1 (Italy). 11 October 1944

SUBJECT: Italian Engineer Responsibilities.

TO : Director Army Sub-Commission and U.M.I.A.
(Attention: Lt. Colonel F. J. Keaker).
Headquarters, Allied Control Commission, APO 394.

1. Your letter on the above subject, dated 3 October 1944, encloses a letter written by Colonel De Michelis for General Orlia, the Italian Undersecretary of State for War, requesting instructions from you concerning the obligation of the Italian Government to supply materials and services for the Allies. The request was made with a view to the issuance of instructions to the Italian Engineers, by the Italian Undersecretary of State for War.

2. In view of the fact that the Allied Control Commission is itself charged with executing the Armistice and is the agency through which relations between the Allies and the Italian Government are conducted it is suggested that advice be requested from the Legal Sub-Commission with respect to the framing of a reply to the Italian Undersecretary of State for War.

CHARLES M. SPOFFORD
Brigadier General, U. S. A.
Assistant Chief of Staff, G-5

Copies to:
HQ. ACC. (Attn: Acting Chief Commissioner
Legal Sub-Commission) - 2 copies.
United States Political Adviser.
British Resident Minister.

HEADQUARTERS
12 OCT 1944

1491

Declassified E.O. 12356 Section 3.3/NND No. 785016

TO ~~XXXX~~ Legal Sub Commission 14 Oct 44

C O P Y

(145A)

SUBJECT: Italian Engineer Responsibilities

Military Mission Italian Army
Rome
AQ/8
3 October 1944.

TO: AFHQ (G-5)

1. Attached as Appendix 'A' is a letter from the Italian Ministry of War, which raises the question to what extent the Italian Army is responsible for providing Engineer materials and services to the Allies.

2. It is understood that under the terms of the Armistice, the Italian Army will repair and maintain structures, installations, buildings, etc., which are required for Allied use, and that the cost will be borne by the Italian Government.

3. This responsibility is capable of very wide interpretation, as shown by the attached letter, and a ruling is therefore necessary to define.

(a) The extent of Italian Army responsibility for the provision of Engineer services to the Allies.

(b) The type of materials that the Italian Army is required to provide.

(c) The Allied authorities that have the right to make demands upon the Italian Army for Engineer materials and services.

(d) The channels through which these demands should be made.

4. May such a ruling, please, be given, so that the Italian Ministry of War may be informed accordingly.

F. J. NOAKES, Lt. Col.,
for Major General,
M. M. I. A.

JGB/ri

CC: to 'G' and RE

1150

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44 A

COPY

APPENDIX 'A'

Subject: Work on behalf of the Allies.

It happens that Allied Units ask the Italian Engineer authorities to do works of repair or adaptation of fittings for them, and also to supply materials for equipment, in some cases of a"luxury" nature, and not strictly indispensable.

The Italian Authorities have always agreed to those requests.

It has happened, however, that the Base H.Q. of the French Army, at the Time of its arrival in ROME, asked to be provided with 2 armchairs and 5 large carpets, costing a matter of 80,000 lire, over and above the fact that they had obtained labour in the adaptation of the Palazzo VIDONI to suit their needs to the tune of 585,000 lire.

When the above H.Q. transferred to some other quarter, it did not think it opportune to pay the bill, but alleged that such material remained the property of the Italian Military Administration.

So as to be able to issue more precise instructions to directive and executive organs of the Engineers, I would be grateful if you could lay down in what measure we are to conform to requests for labour, and whether there are limitations on the nature and character of the works themselves and on the eventual supply of materials to be used for repair.

(Signed) E. DE MICHELIS, Col. for
Gen. OXILIA, Undersecretary
of State for War.

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Secret 43A

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/~~4055/3~~/1/L. MJG/ap.
17 October 1944.

SUBJECT : Commissari.

TO : Deputy Chief of Staff, C.A. Sec.

1. In my opinion (ACC 4014/9/L Folio 19A) I concluded that the Italian Government could be required by appropriate legislation to appoint as commissario of A.G.I.P. persons from time to time constituting the managing committee of C.I.P.

2. I based this opinion upon the conclusion that in circumstances where the power to control resided in the United Nations, there was ample authority for the exercise thereof through such means and mechanisms as the United Nations elected to utilize.

3. Thus it could be required of the Italian Government in appropriate cases to appoint commissari and to dictate the personnel thereof.

4. In my opinion to the V.P. Adm Section 4 October 1944 (See 5A/CA - Folio 9A) I concluded that there was ample authority for Allied Control Commission affirmatively to dictate the price and wage structure of the vital phases of the Italian economy or negatively to prevent the Italian Government from making vital changes therein contrary to the interests of the United Nations.

5. Para 30 of the Long Terms requires the Italian Government to comply with such directions as the United Nations may give for the abolition of Fascist Institutions, the dismissal of Fascist personnel, the control of Fascist funds, the suppression of Fascist Idealogy and teaching.

6. It follows that the powers of control vested in the United Nations whether their object be oil properties, the general economy or Fascist institutions, may be exercised by and through commissari composed of personnel chosen, if desired by the United Nations.

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7. The power to control includes the power to exclude the control of others. With respect to those objects the control of which is reserved to the United Nations all powers of control by the Italian Government may be eliminated or restricted at the will of the United Nations. Among the powers of the Italian Government which may be thus wholly interdicted or partially restrained is the power to appoint Commissari. It must follow that with respect to the aforesaid objects the United Nations at their pleasure may either entirely prevent the appointment of Commissari or may permit their appointment only on such terms and conditions as the United Nations may prescribe.

8. I therefore conclude that the Italian Government may be required to secure from the Allied Control Commission prior approval of any proposed decree appointing Commissari and of all personnel intended to be appointed thereunder, subject only to the condition that the decree affects objects, things or matters reserved to the control of the United Nations.

MARC J. GROSSMAN,
Lt. Colonel,
Chief Counsel,
for Chief Legal Advisor.

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42A

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4055/L. /rlp.
11 October 1944.

SUBJECT : Armistice Terms.

TO : AFHQ, G-5.

While my copies of the Armistice Terms, short and long, purport to be exact copies, I would like for the work that is being done here to have authenticated copies of both terms in order that there may be no doubt as to the exact wording of each of them.

RICHARD H. WILMER,
Colonel, CAC,
Chief Legal Advisor.

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Declassified E.O. 12356 Section 3.3/NND No. 785016

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4055/L. /rlp.
7 October 1944.

SUBJECT : Armistice Terms.

TO : Shipping Sub-Commission, AFHQ, CMF.

1. Reference your letter 4th Oct 44.

2. It is regretted that only one copy of the Armistice Terms is in the possession of this sub- commission. This sub-commission is not permitted to supply copies of the Armistice Terms.

3. The Armistice Terms can be seen by Directors of sub-commissions only if they make personal application to this office for that purpose.

RICHARD H. WILMER,
Colonel, CAC,
Chief Legal Advisor.

1155

Declassified E.O. 12356 Section 3.3/NND No. 785016

SHIPPING SUB-COMMISSION,
A.F.H.Q.,
C.M.F.

4th October, 1944.

To: Director,
LEGAL SUB-COMMISSION
A.C.C., H.Q.

1. I am advised that it was stated at a meeting of the Economic Section held in Rome on 2nd. October that a copy of the Armistice terms were available, to the Directors of the various Sub-Commissions, but that these terms could only be seen if applied for in person to your Department.

2. As the Shipping Sub-Commission is virtually established in this Headquarters I should be obliged by your letting me have a copy of these terms for reference here.

(J. GIBSON GRAHAM)
CHAIRMAN
SHIPPING SUB-COMMISSION.

HEADQUARTERS
7 OCT 1944
A. C. C.

TOP SECRET

~~SECRET~~

HEADQUARTERS
ALLIED CONTROL COMMISSION
A.P.O. 394

SUBJECT:- Armistice Terms. ACC/4055/1.

TO:- V.P., Admin. Section.

1. Reference yours 5A/A/S dated 24 September 1944.

2. The question propounded involves a determination of the extent of the power, if any, of the Allied Control Commission to control the general wage and price level of the Italian Economy.

3. The answer will depend upon whether such power has been conferred by or reserved in such documents as currently represent the agreement of the United Nations with Italy with respect to the restoration of territory.

4. The rights and powers reserved in the agreements covering the restoration of territory to the Italian Government (Document "A" and ancillary instruments) are in addition to and not in limitation of any conferred by or reserved in the Armistice (short terms) or the Terms of Surrender (Long Terms).

5. Such power accordingly exists if it has been conferred by or reserved in the aforesaid documents, either taken separately or in the aggregate.

6. These documents will accordingly be individually examined.

7. The Terms of Restoration (Document "A" and ancilliary instruments). Document "A", itself reserves no such power, but Document "D" does make specific reference thereto. Para 2 (a) thereof provides as follows: "Your Excellency is also requested to pass and to publish in the Official Gazette before the date of restoration the following decrees: A decree stabilising wage rates, maximum prices, charges for services; maximum quantities of grain to be held by anyone; as existing at the date of restoration and pending the future policy being agreed upon between us".
The underlined portion clearly indicates that the intention was

Declassified E.O. 12356 Section 3.3/NND No. 785016

by or reserved in [illegible] the United Nations with Italy with respect to the restoration of territory.

4. The rights and powers reserved in the agreements covering the restoration of territory to the Italian Government (Document "A" and ancilliary instruments) are in addition to and not in limitation of any conferred by or reserved in the Armistice (short terms) or the Terms of Surrender (Long Terms).

5. Such power accordingly exists if it has been conferred by or reserved in the aforesaid documents, wither taken separately or in the aggregate.

6. These documents will accordingly be individually examined.

7. The Terms of Restoration (Document"A"and ancilliary instruments). Document "A", itself reserves no such power, but Document "D" does make specific reference thereto. Para 2 (a) thereof provides as follows: "Your Excellency is also requested to pass and to publish in the Official Gazette before the date of restoration the following decrees: A decree stabilising wage rates, maximum prices, charges for services; maximum quantities of grain to be held by anyone; as existing at the date of restoration and pending the future policy being agreed upon between us".

The underlined portion clearly indicates that the intention was not merely to require a piece of so-called transitory legislation to carry over the transfer period leaving the Italian Government thereafter free to act but rather that it was intended that such "freezing" statute should continue in force except as otherwise agreed upon by the contracting parties.

However, even if it be concluded that Document "D" paragraph 2(a) reserved the powers as above described they are of a negative nature only. The Italian Government could not thereunder change the price or wage structure without the consent of the A.C.C. but neither could A.C.C. do likewise without the acquiescence of the Italian Government.

Thus the power of A.C.C. in that connection would in substance be the right of veto only. It could not under this provision impose prices and wages different than those set by the "freeze" without the consent of the Italian Government.

It should be pointed out moreover that the crucial phrase of paragraph 2(a) above in included only in the terms of the first transfer and is not included in the terms of either the second or third. As to the latter two transfers the Italian Government is required to pass the "freezing" decree No.32 but no reference whatsoever is made to subsequent changes in the price or wage structure along the lines of paragraph 2 (a) above.

Despite the omission, however, the intention of the contracting parties to attach the same terms to the second and third transfers as to the

Declassified E.O. 12356 Section 3.3/NND No. 759201

first appears so manifest that para. 2(a) above is to be deemed included as a condition to the second and third transfers although not specifically so stated.

8. It follows that by agreement with the Italian Government (Document "A" and ancilliary instruments) the price and wage structure in restored areas may not be changed or revised by the Italian Government without the consent and approval of A.C.C.

9. Having disposed of Document "A" and ancilliary instruments it remains to be determined whether or not the Armistice (Short Terms) or the Terms of Surrender (long terms) confer upon the A.C.C. the right and power to control the Italian Economy in the manner suggested by the enquiry.

10. Generally speaking I believe it must be assumed that any and all powers conferred upon the United Nations or the Allied Forces under either the short or long terms were intended to be limited to matters affecting or related to the prosecution of the war. The sole exception might consist of the argument that since the Italian Government binds itself to pay the cost of occupation (Terms of Surrender, paragraph 33A) the right to control the Italian Economy so as to ensure payment thereof is to be implied. In view, however, of the conclusions hereinafter set out resort need not be had to this thesis.

The question first to be answered then is whether the power to control the economy of Italy through control of its price and wage structure is one incident to the prosecution of the war. I submit that the answer must be in the affirmative. Certainly it is essential to the prosecution of the war in this theatre that the lines of communication in the rear areas be undisturbed by civil strife or commotion by interruption in the production of essential supplies, by the diminition in agricultural produce, by stoppage or interference with power or public transportation or any of the productive facilities of the nation which are necessary or essential to the prosecution of the war.

Uncontrolled inflation for example might paralise the whole industry and commerce of Italy with the usual consequences in terms of civil unrest and disorder. Certainly such controls of the Italian economy as are reasonably necessary for the prevention thereof and for maximum industrial and agricultural production are important implementing tools for the prosecution of the war.

The price of grain is one of the specific subjects of inquiry. Certainly it could not be argued that if the price of grain were to be fixed at a point which would materially reduce or eliminate its production with the resulting consequences in terms of starvation, unrest, sickness, diminished individual productive capacity and the rest, the prosecution of the war

Declassified E.O. 12356 Section 3.3/NND No. 785016

view, however, of the conclusions hereinafter set out [illegible]
had to this thesis.

The question first to be answered then is whether the power to control the economy of Italy through control of its price and wage structure is one incident to the prosecution of the war. I submit that the answer must be in the affirmative. Certainly it is essential to the prosecution of the war in this theatre that the lines of communication in the rear areas be undisturbed by civil strife or commotion by interruption in the production of essential supplies, by the diminition in agricultural produce, by stoppage or interference with power or public transportation or any of the productive facilities of the nation which are necessary or essential to the prosecution of the war.

Uncontrolled inflation for example might paralise the whole industry and commerce of Italy with the usual consequences in terms of civil unrest and disorder. Certainly such controls of the Italian economy as are reasonably necessary for the prevention thereof and for maximum industrial and agricultural production are important implementing tools for the prosecution of the war.

The price of grain is one of the specific subjects of inquiry. Certainly it could not be argued that if the price of grain were to be fixed at a point which would materially reduce or eliminate its production with the resulting consequences in terms of starvation, unrest, sickness, diminished individual productive capacity and the rest, the prosecution of the war would not seriously be affected thereby.

The same applies to the matter of wages. The armed forces would be immediately affected with respect to civilians directly employed by them and with respect to Italian supplies purchased by them. Indirectly the armed forces would be affected in the various respects heretofore indicated. The details and instances could be multiplied without number.

11. Having concluded that the control of the Italian economy by price and wage fixing might well be requisite to the prosecution of the war it remains to be seen whether the short or long terms by general or specific provision, or even by implication, confer such powers upon A.C.C.

12. The Armistice (Short Terms).

Paragraph 10 thereof provides as follows: "The Commander-in-Chief of the Allied Forces reserves to himself the right to take any measure which in his opinion may be necessary for the protection of the interests of the Allied Forces for the prosecution of the war, and the Italian Government binds itself to take such administrative or other action as the Commander-in-Chief may require ....."

Declassified E.O. 12356 Section 3.3/NND No. 785016

The above provision is ample in my opinion to confer authority upon A.C.C. (through the Commander-in-Chief) to dictate and control the fundamental price and wage structure in restored areas, and to oblige the Italian Government to take such action as may be necessary to effect the same.

Paragraph 12 of the Armistice (shortterms) provides as follows: "Other conditions of a political, economic and financial nature with which Italy will be bound to comply will be transmitted at a later date".

This paragraph further particularizes the general powers reserved under paragraph 10 above, and confirms the conclusion that economic control by the Allied Forces was fully contemplated by the contracting parties.

13. The Terms of Surrender (Long Terms).

The long terms are next to be examined. The paragraphs thereof which might be pertinent to our inquiry are as follows:-

> "22. The Italian Government and people will abstain from all action detrimental to the interests of the United Nations and will carry out promptly and efficiently all orders given by the United Nations.
>
> 23, The Italian Government will make available such Italian currency as the United Nations may require. The Italian Government will withdraw and redeem Italian currency within such time-limits and on such terms as the United Nations may specify all holdings in Italian territory of currencies issued by the United Nations during military operations or occupation and will hand over the currencies withdrawn free of cost to the United Nations. The Italian Government will take such measures as may be required by the United Nations for the control of banks and business in Italian territory, for the control of foreign exchanges and foreign commercial and financial transactions and for the regulation of trade and production and will comply with any instructions issued by the United Nations regarding these and similar matters.
>
> 36. The Italian Government will take and enforce such legislative and other measures as may be necessary for the execution of the present instrument. Italian military and civil authorities will comply with any instructions issued by the Allied Commander-in-Chief for the same purpose."

I am of the opinion that paragraph 23 above "The Italian Government will take such measures as may be required by the United Nations for the control of ..... business in Italian territory ..... and for the regulation of trade and production and will comply with any instructions issued by the United Nations regarding these and similar matters" is sufficient authority for the exercise of the power of control with respect to prices and wages.

Declassified E.O. 12356 Section 3.3/NND No. 785016

of currencies issued by the [illegible] occupation and will hand over the currencies withdrawn free of cost to the United Nations. The Italian Government will take such measures as may be required by the United Nations for the control of banks and business in Italian territory, for the control of foreign exchanges and foreign commercial and financial transactions and for the regulation of trade and production and will comply with any instructions issued by the United Nations regarding these and similar matters.

36. The Italian Government will take and enforce such legislative and other measures as may be necessary for the execution of the present instrument. Italian military and civil authorities will comply with any instructions issued by the Allied Commander-in-Chief for the same purpose."

I am of the opinion that paragraph 23 above "The Italian Government will take such measures as may be required by the United Nations for the control of ..... business in Italian territory ..... and for the regulation of trade and production and will comply with any instructions issued by the United Nations regarding these and similar matters" is sufficient authority for the exercise of the power of control with respect to prices and wages.

Paragraph 22 above is so general in its terms as to appear little helpful in this discussion. I think it must be construed to mean that the Italian Government will carry out all orders given by the United Nations with respect to the restraint of action detrimental to the interests of the United Nations rather than that all orders will be carried out without regard to their character or subject. If the latter were the true meaning the other provisions of the document would be without purpose since the powers of the United Nations would be entirely unlimited thereby. Moreover if it had been thought that such extensive powers had been thus conferred there would have been no need to resort to the Restoration Terms for the additional powers conferred thereunder.

However, it might notwithstanding be argued that even under the more limited construction, the action, of the Italian Government in changing the price or wage structure would be "detrimental to the interests of the United Nations" and could, therefore, be restrained under the terms of paragraph 22 above.

Paragraph 36 grants no powers but merely requires the implementation of those exercised under the agreement through appropriate action on the part of

Declassified E.O. 12356 Section 3.3/NND No. NND 850116

the Italian Government and its agencies.

14. In my opinion there is ample legal justification and authority under the long and short terms, taken either separately or together, for the A.C.C. either affirmatively to dictate the price or wage structure of the vital phases of the Italian economy or negatively to prevent the Italian Government from making vital changes therein contrary to the interests of the United Nations. This right whether positive or negative exists in my opinion absolutely and without any question of degree. The matter of degree arises only in so far as it will be necessary for our Commanders to determine in each case whether any proposed action or any inaction by the Italian Government does in fact affect prejudicially the interests of the United Nations.

MARC. J. GROSSMAN.
Lieutenant-Colonel
Chief Counsel,
for Chief Legal Officer.

DISTRIBUTION :-
A/Chief Commissioner
Chief of Staff
Economic Section (2)

Declassified E.O. 12356 Section 3.3/NND No. 785016

Declassified E.O. 12356 Section 3.3/NND No. 785016

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(38A)

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 387.4

CF/seb
26 September 1944

SUBJECT: "Short Terms" of Italian Armistice.

TO : Allied Control Commission
(Attention: Chief Legal Officer)
APO 394.

Pursuant to Colonel Wilmer's request, a copy of the short terms of the Italian Armistice is herewith supplied. The original document was never furnished to this Section for comparison but the text inclosed is believed to be exact.

For the Asst. Chief of Staff, G-5:

CHARLES FAIRMAN
Lt. Col., JAGD,
Legal Adviser.

Incl:
as above.

HEADQUARTERS
27 SEP 1944
A. C. C.

Put in Armistice file
& Returned

TOP SECRET. (3A)

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

ACC/4055/L.

27 September 1944.

SUBJECT : Armistice Terms.

TO : V.P., Admin Sec.

1. Reference yours 5A/A/S dated 24 September 1944.

2. The question propounded involves a determination of the extent of the power, if any, of the Allied Control Commission to control the general wage and price level of the Italian Economy.

3. The initial inquiry must be directed first to the question of whether or not such powers are specifically conferred upon or reserved in the A.C.C. by any of the previous pertinent empowering or reservation documents and second if such powers exist whether they may be exercised in and over Italian Government Territory in consonance with the applicable terms of restpration.

4. The provisions of Document A and ancilliary instruments clearly are not in derogation of the rights and powers reserved in the armistice ("short terms") and instrument of surrender ("long terms"). On the contrary there is an enlargement of such rights and powers in addition to a specific reservation thereof.

Certain specific rights and powers are spelled out in the Terms of Surrender as to occupied territory only. They doubtless should equally have been applicable to unoccupied territory.

5. Baldly stated as a condition precedent to restoration it was provided that the A.C.C. should have certain rights and powers in the restored territories which otherwise it would not have had therein subsequent to occupation under the Terms of Surrender. The right of requisition, the holding of military courts and the extra territoriality for officials are examples.

6. If there be any doubt of this purpose it is solved by the cable dated 7 February 1944 from the Commander-in-Chief to General MacFarlane "276/CA" folio 10. "If the United Nations were to insist upon the retention and exercise of all the rights under Article 19 of long terms, the Italian Government would be bound to [illegible]

Declassified E.O. 12356 Section 3.3/NND No. 785016

documents and secret [illegible]
and over Italian Government Territory in consonance with the applicable terms of restoration.

4. The provisions of Document A and ancilliary instruments clearly are not in derogation of the rights and powers reserved in the armistice ("short terms") and instrument of surrender ("long terms"). On the contrary there is an enlargement of such rights and powers in addition to a specific reservation thereof.

Certain specific rights and powers are spelled out in the Terms of Surrender as to occupied territory only. They doubtless should equally have been applicable to unoccupied territory.

5. Baldly stated as a condition precedent to restoration it was provided that the A.C.C. should have certain rights and powers in the restored territories which otherwise it would not have had therein subsequent to occupation under the Terms of Surrender. The right of requisition, the holding of military courts and the extra territoriality for officials are examples.

6. If there be any doubt of this purpose it is resolved by the cable dated 7 February 1944 from the Commander-in-Chief to General MacFarlane "276/CA" folio 10. "If the United Nations were to insist upon the retention and exercise of all the rights under Article 19 of long terms, the Italian Government would be bound to "make available" many facilities. The United Nations are now willing to make certain territory "non occupied" stipulating however for certain rights which the long terms attach to "occupation".

7. Thus it is clear that the rights and powers reserved in Document A and ancilliary instruments are in addition to and not in limitation of any conferred by or reserved in the short or long terms.

8. The extent of our powers must therefore be determined by an examination of the short terms, the long terms and Document A and ancilliary documents since our powers and rights derive from all three.

9. It would be politically desirable, I believe, to predicate our powers in connection with the questions raised by your inquiry upon the terms of Document A and ancilliary documents if such powers can be there discovered rather than on the provisions of the short or long terms. I shall accordingly first discuss the question of whether such powers can be found therein within the framework of the Terms of Restoration.

10. Document A itself reserves no such power. No conclusion, however, can be drawn from the omission thereof because two quite contradictory reasons might be asserted. First that although it was intended to reserve such power there was no need specifically so to do in Document A since they were already reserved in the short or long terms and that the purpose of Document A was to

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reserve only such rights and powers as did not already exist under the short or long terms. Second that it was not intended to reserve such powers irrespective of whether or not they were exercisable under the long or short terms.

11. Document D does however specifically refer to such powers. Paragraph 2 (a) thereof provides as follows :

> "Your Excellency is also requested to pass and to publish in the Official Gazette before the date of restoration the following decrees: A decree stabilizing wage rates, maximum prices, charges for services; maximum quantities of grain to be held by anyone; as existing at the date of restoration and pending the future policy being agreed upon between us."

The underlined portion clearly indicates that the intention was not merely to require a piece of so called transitory legislation to carry over the transfer period leaving the Italian Government thereafter free to act but rather that it was intended that such "freezing" statute should continue in force except as otherwise agreed upon by the contracting parties. Since the language used is "being agreed upon" this view might be affected by what actually transpired in the negotiations, of which I have no knowledge.

Surely unless it had been assumed that the powers in question already existed under the long or short terms, they were of such basic and fundamental importance as to have deserved a less casual treatment but the foregoing language would clearly seem to indicate the intention on the part of the contracting parties that the underlying price and wage structure of restored areas was to remain frozen save by mutual agreement.

Unfortunately however, even if it be concluded that Document D paragraph 2 (a) reserved the powers as above described they are of a negative nature only. The Italian Government could not thereunder change the price or wage structure without the consent of the A.C.C. but neither could A.C.C. do likewise without the acquiescence of the Italian Government.

Thus the power of A.C.C. in that connection would in substance be the right of veto only. It could not under this provision impose prices and wages different than those set by the "freeze" without the consent of the Italian.

Moreover the crucial phrase of paragraph 2 (a) above is included only in the terms of the first transfer and is not included in the terms of either the second or third. As to the latter two transfers the Italian Government is required to pass the "freezing" decree No. 42 but no reference thereto is made

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already existed under the long or short terms, they were of such basic and fundamental importance as to have deserved a less casual treatment but the foregoing language would clearly seem to indicate the intention on the part of the contracting parties that the underlying price and wage structure of restored areas was to remain frozen save by mutual agreement.

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Moreover the crucial phrase of paragraph 2 (a) above is included only in the terms of the first transfer and is not included in the terms of either the second or third. As to the latter two transfers the Italian Government is required to pass the "freezing" decree No. 32 but no reference whatever is made to subsequent changes in the price or wage structure along the lines of paragraph 2 (a) above.

Unless it could be argued that it was so clearly the intention of the parties to attach the same terms to the second and third transfers as to the first and that accordingly paragraph 2 (a) above is to be included therein, the powers arising from said paragraph 2 (a) although applying to the first transfer would not apply to the second and third

12. Unless the meaning of the clause "and pending the future policy being agreed upon between us" (paragraph 2 (a) Document D) is shown by parole evidence with respect to the actual intention of the parties to be different than its natural and ordinary meaning I submit that as to the first transfer the Italian Government has no right or power to change either the price or wage structure from the so called freeze without the consent of A.C.C.

13. For the reasons stated above I believe it could soundly be argued that it was the clear intention of the contracting parties to attach the same terms and conditions to the second and third transfers as to the first and the omission was due to inadvertence only. I therefore conclude that as to these areas as well, the price and wage structure is not subject to revision by the Italian Government save with the consent of A.C.C.

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14. Having disposed of Document A and ancilliary instruments it remains to be determined whether or not the Armistice (Short Terms) or the Terms of Surrender (long terms) confer upon the A.C.C. the right and power to control the Italian Economy in the manner suggested by the enquiry.

15. Generally speaking I believe it must be assumed that any and all powers conferred upon the United Nations or the Allied Forces under either the short or long terms were intended to be limited to matters affecting or related to the prosecution of the war. The sole exception might consist of the argument that since the Italian Government binds itself to pay the cost of occupation (Terms of Surrender, paragraph 33A) the right to control the Italian Economy so as to ensure payment thereof it to be implied. In view, however, of the conclusions hereinafter set out resort need not be had to this thesis.

The question first to be answered then is whether the power to control the economy of Italy through control of its price and wage structure is one incident to the prosecution of the war. I submit that the answer must be in the affirmative. Certainly it is essential to the prosecution of the war in this theatre that the lines of communication in the rear areas be undisturbed by civil strife or commotion by interruption in the production of essential supplies, by the diminition in agricultural produce, by stoppage or interference with Public transportation or any of the productive facilities of the nation which are necessary or essential to the prosecution of the war.

Uncontrolled inflation for example might paralize the whole industry and commerce of Italy with the usual consequences in terms of civil unrest and disorder. Certainly such controls of the Italian economy as are reasonably necessary for the prevention thereof and for maximum industrial and agricultural production are important implementing tools for the prosecution of the war.

The price of grain is one of the specific subjects of inquiry. Certainly it could notbe argued that if the price of grain were to be fixed at a point which would materially reduce or eliminate its production with the resulting consequences in terms of starvation, unrest, sickness, diminished individual productive capacity and the rest, the prosecution of the war would not seriously be affected thereby.

The same applies to the matter of wages. The armed forces would be immediately affected with respect to civilians directly employed by them and with respect to Italian supplies purchased by them. Indirectly the armed forces would be affected in the various respects heretofore indicated. The details and instances could be multiplied without number.

16. Having concluded that the control of the Italian economy by price and wage fixing might well be requisite to the prosecution of the war it remains to be seen whether the short or long terms by general or specific provision, or even by implication, confer such powers upon A.C.C.

Declassified E.O. 12356 Section 3.3/NND No. 785016

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16. Having concluded that the control of the Italian economy by price and wage fixing might well be requisite to the prosecution of the war it remains to be seen whether the short or long terms by general or specific provision, or even by implication, confer such powers upon A.C.C.

17. The terms of the Armistice (short terms) would, I believe, categorically answer the questions propounded had we an authentic copy thereof. I am satisfied that the copy in the possession of A.C.C. is not a true copy but a paraphrased emasculated version thereof prepared for public consumption. This conclusively is established in my opinion by communication dated 1 November 1943 from A.F.H.Q. to Major-General Holmes in which paragraph 10 thereof is quoted as follows :-

> "The Commander-in-Chief of the Allied Forces reserves to himself the right to take any measure which in his opinion may be necessary for the protection of the interests of the Allied Forces for the prosecution of the war, and the Italian Government binds itself to take such administrative or other action as the Commander-in-Chief may require ....."

Even this quotation is incomplete as indicated by the asterisks appearing at t' end thereof.

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18. If the foregoing be a true copy of paragraph 10 of the short terms and the omitted portion thereof places no limitation thereon as seems unlikely, I am of the opinion that it of itself confers ample authority upon A.C.C. (thru the Commander-in-Chief) to dictate the price and wage structure in restored areas, and that the Italian Government has bound itself thereunder to take such action as may be necessary to effect the same.

N.B. Since foregoing was dictated we have received from A.F.H.Q. what purports to be an accurate copy of the short terms. This copy confirms my opinion that we did not have a true copy thereof and that the paragraph as set forth in the letter of A.F.H.Q. above referred to was the paragraph as actually included in the document itself

19. The same conclusion might perhaps be reached with respect to the version of paragraph 10 of the short terms as it appears in the copy in the possession of A.C.C. reading as follows :-

> "The Commander-in-Chief of the Allied Forces reserves the right to take any such action necessary for the prosecution of the war, The Commander-in-Chief of the Allied Forces may establish an Allied Military Government whenever it seems advisable."

But such conclusion would be less easy to arrive at in view of its more general language as appears manifest from an examination thereof.

20. I do not believe paragraph 12 of the short terms, as reflected by our copy, is pertinent to our inquiry since its application appears limited to such matters as are to be the subject of mutual agreement. It may well be, however, that this paragraph has likewise been paraphrased in the version which we have. This version reads as follows :-

> "Other dispositions of a political, economic and financial nature accepted by the Italian Government will be announced at a later date."

N.B. Since the foregoing was dictated what purports to be an accurate copy of the short terms has been received from A.F.H.Q. Paragraph 12 thereof is fundamentally different than the same paragraph of the version of the short terms, upon the basis of which we have been working. Your attention is accordingly directed to the discussion which appears at the end of this opinion with respect to the interpretation of paragraph 12 of the short terms as they now appear to have been written.

21. The long terms are next to be examined. The paragraphs thereof which might be pertinent to our inquiry are as follows

> "22. The Italian Government and people will abstain from all action detrimental to the interests of the United Nations and will carry out

Declassified E.O. 12356 Section 3.3/NND No. 785016

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21. The long terms are next to be examined. The paragraphs thereof which might be pertinent to our inquiry are as follows

"22. The Italian Government and people will abstain from all action detrimental to the interests of the United Nations and will carry out promptly and efficiently all orders given by the United Nations.

23. The Italian Government will make available such Italian currency as the United Nations may require. The Italian Government will withdraw and redeem Italian currency within such time-limits and on such terms as the United Nations may specify all holdings in Italian territory of currencies issued by the United Nations during military operations or occupation and will hand over the currencies withdrawn free of cost to the United Nations. The Italian Government will take such measures as may be required by the United Nations for the control of banks and business in Italian territory, for the control of foreign exchanges and foreign commercial and financial transactions and for the regulation of trade and production and will comply with any instructions issued by the United Nations regarding these and similar matters.

36. The Italian Government will take and enforce such legislative and other measures as may be necessary for the execution of the present instrument. Italian military and civil authorities will comply with a instructions issued by the Allied Commander-in-Chief for the same purpo

Declassified E.O. 12356 Section 3.3/NND No. 785016

I am of the opinion that paragraph 23 above "The Italian Government will take such measures as may be required by the United Nations for the control of ..... business in Italian territory..... and for the regulation of trade and production and will comply with any instructions issued by the United Nations regarding these and similar matters" is sufficient authority for the exercise of the power of control with respect to prices and wages.

Paragraph 22 above is so general in its terms as to appear little helpful in this discussion. I think it must be construed to mean that the Italian Government will carry out all orders given by the United Nations with respect to the restraint of action detrimental to the interests of the United Nations rather than that all orders will be carried out without regard to their character or subject. If the latter were the true meaning the other provisions of the document would be without purpose since the powers of the United Nations would be entirely unlimited thereby. Moreover if it had been thought that such extensive powers had been thus conferred there would have been no need to resort to the Restoration Terms for the additional powers conferred thereunder.

However it might notwithstanding be argued that even under the more limited construction, the action, of the Italian Government in changing the price or wage structure would be "detrimental to the interests of the United Nations" and could, therefore, be restrained under the terms of paragraph 22 above.

22. Paragraph 36 grants no powers but merely requires the implementation of those exercised under the agreement through appropriate action on the part of the Italian Government and its agencies.

23. In my opinion there is ample legal justification and authority, under the long and short terms, taken either separately or together, for the A.C.C. either affirmatively to dictate the price or wage structure of the vital phases of the Italian economy or negatively to prevent the Italian Government from making vital changes therein contrary to the interests of the United Nations. This is a matter of degree I think only in that superficial changes not affecting the economy and therefore the Allied Forces, are excluded from the exercise of the foregoing powers. The measure of the degree is for the determination of our economists and socialogists.

24. If the expressions of A.F.H.Q. can be deemed to add weight to the validity of this opinion the following quotation from letter of A.F.H.Q. dated 1 November 1944 to Major-General Joyce is to be noted.

"The Armistice (short terms) deals chiefly with military matters. In Article 10, however, it is stipulated generally that (paragraph 10

Declassified E.O. 12356 Section 3.3/NND No. 785016

However it might notwithstanding be argued that even under the more limited construction, the action, of the Italian Government in changing the price or wage structure would be "detrimental to the interests of the United Nations" and could, therefore, be restrained under the terms of paragraph 22 above.

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23. In my opinion there is ample legal justification and authority, under the long and short terms, taken either separately or together, for the A.C.C. either affirmatively to dictate the price or wage structure of the vital phases of the Italian economy or negatively to prevent the Italian Government from making vital changes therein contrary to the interests of the United Nations. This is a matter of degree I think only in that superficial changes not affecting the economy and therefore the Allied Forces, are excluded from the exercise of the foregoing powers. The measure of the degree is for the determination of our economists and socialogists.

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> "The Armistice (short terms) deals chiefly with military matters. In Article 10, however, it is stipulated generally that (paragraph 10 as hereinbefore quoted is here reproduced). The Instrument of Surrender (long terms) deals with conditions of a political, economic and financial nature as well."
>
> "The United Nations are in a position if they enforce the full measure of the rights for which they have stipulated to control Italian administration and economy."

In this connection the press release of the announcement of "restoration of Italian Territory" by the Commander-in-Chief of the Allied Forces dated 10 Feb. 44, paragraph 10 is of interest. "According to the Terms of the Armistice it (A.C.C.) will continue to ensure the effective use of Italian resources in the common war and to represent Allied interests in the national and local governmer ....."

25. Since dictating this opinion at my request we have received from A.F.H.Q. a copy of the short terms which it believes to be exact "although ' original document was never furnished" to Col. Fairman's Section for compa If the copy for the first time now supplied us by A.F.H.Q. is an accurate

* see paragraph 17.

Declassified E.O. 12356 Section 3.3/NND No. 759016

of the original, it is apperent that the copy, upon which many of our conclusions have been predicated these many months, is not only a bad paraphrasing of the original, but in several respects a distortion thereof.

The discrepancies which are material to this discussion occur in Paragraphs 10 and 12 thereof. I had already discovered the former and my opinion is predicated upon paragraph 10 as we may now assume it appears in the original. I accordingly adhere thereto. However the new version of paragraph 12 is vitally different from the old, and therefore my conclusions with respect thereto must be radically revised.

26. Paragraph 12 of the old version reads as follows :-

"other dispositions of a political, economic and financial nature, accepted by the Italian Government, will be announced later."

I concluded that the underlined portion made the consent of the Italian Government essential and that the paragraph could therefore not be considered as conferring any power within the scope of an inquiry.

However, paragraph 12 appears actually to read as follows :-

"Other conditions of a political, economic and financial nature with which Italy will be bound to comply will be transmitted at a later date".

This paragraph is manifestly a drastic departure from the version which we had, since by virtue thereof Italy is bound by such conditions of "a political, economic and financial nature" as may be imposed upon her, without respect to her consent.

27. Unless by their course of conduct, the Allied Forces have precluded themselves from promulgating additional terms under paragraph 12 (above) with respect to economic policies, I am of the opinion that they remain free to do so, and that they are empowered thereunder to dictate and control the price and wage structure of the Italian Economy.

MARC. J. GROSSMAN.
Lieutenant-Colonel,
Asst. Counsel.

Declassified E.O. 12356 Section 3.3/NND No. 785016

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MARC. J. GROSSMAN,
Lieutenant-Colonel,
Chief Counsel,
for Chief Legal Officer.

Declassified E.O. 12356 Section 3.3/NND No. 785016

TOPSECRET

(34)

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394

Ref: 5A/A.S.

SUBJECT:- ARMISTICE TERMS

Tel: 525

TO:- Chief Legal Officer

24th Sept., '44.

1. Your opinion is required on the rights of the Allied Control Commission under the Armistice terms in the following circumstances as soon as possible.

2. The Italian Government appear now to taking the view that they are entitled to fix such matters of economic interest as the general wage level and the price of essential commodities without the agreement of the A.C.C., and in order that the Chief Commissioner may be in a position to formulate his attitude to the Italian Government in these matters he desires to be advised of the legal position.

3. The question has arisen in two ways.

a) The Italian Government have recently increased the price of wheat in Sicily without any reference to this H.Q. At first I thought that this was a breach of the price agreed upon in May between the then Chief Commissioner and the then Prime Minister, but it appears from Folio 4 that there was no such agreement but that the Government followed of their own volition, for political or economic reasons, the price set by us in Foggia which was then military government territory. Thus if we are to claim to control any variations in price by the Italian Government subsequently, it appears we cannot rely on any prior agreement but only upon the armistice terms supplemented possibly by document "A" and ancilliary documents thereto.

b) The Italian Government yesterday issued a statement (Folio 5) announcing a general wage increase stating that they had the agreement of the Allied Control Commission. In fact this agreement was so limited in scope that you may assume that the Government were inaccurate in stating that there was any such agreement.

Declassified E.O. 12356 Section 3.3/NND No. 785016

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b) The Italian Government yesterday issued a statement (Folio 5) announcing a general wage increase stating that they had the agreement of the Allied Control Commission. In fact this agreement was so limited in scope that you may assume that the Government were innacurate in stating that there was any such agreement.

Accordingly your opinion is requested on the powers of the Allied Control Commission under the Armistice Terms and any other document such as document "A" to control the actions of the Italian Government in these matters.

4. As a matter of history you should be informed that Allied Control Commission has in fact claimed to control wage rates on the footing that in Army areas the Army authorities fix the wages of the persons they desire to employ, and the wage rates of the remainder of the population should be about 15 lire a day less. There seems no logical background for this state of affairs, and if the Allied Control Commission are entitled to control wages it seems that a general wage level for the country should be fixed and an additional 15 lire per day paid in Army areas. The above is stated for your information but will not I think affect your legal opinion.

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5. In dealing with this matter I desire you to consider and cover in your opinion Articles 10 and 12 of the short Armistice Terms. As you know higher authority has from time to time expressed the view (in which I have never concurred) that additional terms could be promulgated by us under the above mentioned provisions. You will please give this matter your full consideration in expressing your opinion.

6. So far as the long Armistice Terms are concerned it seems that Articles 22, 23 and 36 are the most important articles, but you may find solace and comfort in other articles. It is further appreciated that you may not be able to give a clear cut "yes" or "no" to the questions asked of you but may consider that our powers of control when applied to price fixing and wage fixing are essentially questions of the degree of control that can be exercised in any given case.

G.R. McJOHN. Brigadier.
V.P. Admin. Section.

GRM/YMB.

Declassified E.O. 12356 Section 3.3/NND No. 785014

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V.P. Admin. Section.

GRU/YMB.

Declassified E.O. 12356 Section 3.3/NND No. 785016

Declassified E.O. 12356 Section 3.3/NND No. 785016

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SECRET

GRU/gmf

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

Confidential

27 March 1944.

ACC/4055/L

Dear Dean;

Referring to our conversation yesterday over the drafting of Armistice terms, there seem to me to be two methods of approach:

(1) To go into great detail in the Armistice Terms themselves and under each heading to try and cover all points that are likely to arise. This method in my opinion has two drawbacks:
(a) It will produce a document of erormous length.
(b) It will fail to cover the point which does arise.
For these reasons I much prefer the method briefly mentioned below.

(2) Under each heading in the Armistice Terms very general powers should be retained suseptible of a very wide construction so that the Terms can always be interpreted in the sense desired by the Allies at the time without appearing to be doing an injustice to the defeated enemy. This has not always proved easy in the case of the Italian Terms. In this connection I should point out that in the Italian Terms the expression frequently arises that "The Italian Government will comply, etc". This is not satisfactory as the Government are frequently unable to comply, even with the best will in the world and powers for the Allies to do things themselves, even in unoccupied territory, should always be reserved.

At the same time these general clauses should be very clear and not for instance like clauses 23 or 28 of the Italian Terms.

This method should result in a document of reasonable dimensions but it should be accompanied by an administrative directive to the commission or body concerned with the execution of the Armistice, stating what policy is to be adopted in regard to the Terms and this document should deal with the Armistice Terms clause by clause. This directive will presumably insist on a harsh interpretation of the terms in the initial stages and later can be revised from time to time and the burden progressively lightened if the terms are executed in a reasonable manner.

DOWN GRADED TO UNCLASSIFIED

Copy to: Mr. Caccia.

Colonel.
Chief Judicial Inf.
for Chief Civ. Affairs Officer

SECRET

1182

Declassified E.O. 12356 Section 3.3/NND No. 785016

SECRET

34

34

SECRET

CHU/gmf

Confidential

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

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Copy to: Mr. Caccia.

Colonel.

SECRET

1183

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SECRET

HEAD QUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394.

CCW/gen

12 February 1946.

CC/AG/321

SUBJECT: Secret Documents.

TO : V.P. Administrative Directorate.

The Chief Commissioner stated last night that he had no objection to the Heads and Deputy Heads (if of opposite nationality) seeing (a) the Armistice Long Terms and (b) Document A signed by the Head of Government on the restoration of Regions I & II.

He stressed the fact that both these documents were of the highest priority of secrecy and that there must be no leakage whatever as to their contents. Under no circumstances was there to be any discussion of these documents outside the Commission offices.

Gerald D'Arcy
Colonel
Chief Legal Officer

Received the above Documents.

R. F. C. Tims
Lt. Col.

Copy to: CC/G.102/1.

SECRET

SECRET
Equals British
MOST SECRET

SECRET
(EQUALS BRITISH MOST SECRET)

ALLIED FORCE HEADQUARTERS

SECRET
By authority of
C-in-C, A F
Initials
Date: 18 Oct. 1942.

ARMISTICE TERMS

COVERING NOTE

COPY NO. 2

18 October, 1942.

Two sets of Armistice Terms are issued herewith. The two papers are entitled:

a. Arrangements resepcting (ALGERIA / French Zone of MOROCCO / TUNISIA

b. Terms for the Cessation of Hostilities.

Full instructions to Task Force Commanders regarding the use of these terms are contained in Operation Memorandum Number 23 dated 18 October, 1942.

By command of Lieutenant General EISENHOWER:

W. B. SMITH,
Brigadier General, G. S. C.,
Chief of Staff.

OFFICIAL:

per L. L. LEMNITZER,
Brigadier General, U.S.A.,
Assistant Chief of Staff, G-3.

DISTRIBUTION

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Deputy Commander-in-Chief	2
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Commander Eastern Assault Force	7-9
Commander Center Task Force	10-12
Commander Western Task Force	13-15
Naval Commander; XF (Admiral Ramsay)	16-18
Naval Commander; ETF, (Admiral Burrough)	19-20
Naval Commander, CTF, (Commodore Troubridge)	21-22
COS to C, XF	23
Commander-in-Chief, United States Fleet, Hq	

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W. B. SMITH,
Brigadier General, G. S. C.,
Chief of Staff.

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Brigadier General, U.S.A.,
Assistant Chief of Staff, G-3.

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S E C R E T

SECRET

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S E C R E T

ARRANGEMENTS RESPECTING (ALGERIA / FRENCH ZONE OF MOROCCO / TUNISIA)

COPY NO. 2

1. There shall be no further opposition to the landing and operations of land, sea and air forces under the command of the Commanding General, United States Army and supporting forces, the presence of such forces being for the purpose of preventing the subjugation of this territory by German and Italian forces and their Allies, and for carrying on the war against the Axis powers for their defeat.

The (sovereignty / rights / rights) of FRANCE in (ALGERIA / French Zone of MOROCCO / TUNISIA) remain (s) unimpaired. No undertaking requiring allegiance to any non-French authority will be required.

2. Except as herein otherwise provided there shall be no change in the status, command, functions, employment, rights, privileges, emoluments and pensions of French land, sea and air forces, the honor of which will be respected. Such forces will continue in the service of internal security and in the performance of their military duties in their normal stations. No military or air forces will be moved from their normal stations without prior consultation and agreement with the Commanding General, United States Army.

3. There shall be no change in the status, functions, employment, rights, privileges, emoluments and pensions of government personnel who continue in the performance of their functions with-

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The (rights) of FRANCE in (French Zone of MOROCCO) remain (s)
(rights) (TUNISIA)
unimpaired. No undertaking requiring allegiance to any non-French authority will be required.

2. Except as herein otherwise provided there shall be no change in the status, command, functions, employment, rights, privileges, emoluments and pensions of French land, sea and air forces, the honor of which will be respected. Such forces will continue in the service of internal security and in the performance of their military duties in their normal stations. No military or air forces will be moved from their normal stations without prior consultation and agreement with the Commanding General, United States Army.

3. There shall be no change in the status, functions, employment, rights, privileges, emoluments and pensions of government personnel who continue in the performance of their functions without disloyalty to the purpose of the forces under the Command of the Commanding General, United States Army and supporting forces. Such government personnel will take such measures as, in the opinion of the Commanding General, United States Army after consultation with the French authorities, are necessary for the maintenance of order and of public and administrative services throughout the territory.

4. The control and command of all landing facilities for aircraft, harbor and port facilities, defenses, fortifications and arsenals will be placed at the disposal of the Commanding General, United

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Arrangements respecting (ALGERIA / French Zone of MOROCCO / TUNISIA). Cont'd.

States Army, for the purpose set forth in paragraph 1., above. The control of these facilities shall not involve the use of French personnel without the consent of the French authorities.

5. Full information will be given as to the location of all facilities, installations, equipment and devices (such as airfields, anti-aircraft batteries, observation posts, radio-location and other technical observing stations, minefields, tank traps, military, naval and air force stores, fuel, supplies and equipment, etc.) which may be a hindrance or useful to the purpose of the forces under the command of the Commanding General, United States Army and supporting forces.

6. All telecommunications services essential to the maintenance of law and order and the preservation of human life will be maintained unaltered. For the purpose set forth in paragraph 1. above all other telecommunications services, whether civil, military, naval or air will be temporarily closed down and maintained in good order. The resumption of any of these services will be subject to the consent of the Commanding General, United States Army, and any services resumed will be operated under such control as he may direct.

All telecommunications installations, civil, military, naval and air with all connected plant and records will be placed at

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tary, naval and air [illegible]

which may be a hindrance or useful to the purpose of the forces under the command of the Commanding General, United States Army and supporting forces.

6. All telecommunications services essential to the maintenance of law and order and the preservation of human life will be maintained unaltered. For the purpose set forth in paragraph 1. above all other telecommunications services, whether civil, military, naval or air will be temporarily closed down and maintained in good order. The resumption of any of these services will be subject to the consent of the Commanding General, United States Army, and any services resumed will be operated under such control as he may direct.

All telecommunications installations, civil, military, naval and air with all connected plant and records will be placed at the disposal of the Commanding General, United States Army and any necessary repairs will be carried out by the French authorities concerned with such assistance as the Commanding General may be able to afford.

7. French warships will continue to fly the French colors and will retain and be provided with sufficient fuel to provide light, power and the upkeep of machinery. All torpedo warheads, torpedo pistols, explosives, fuses, cordite and fixed ammunition will be landed together with such parts of guns as will render the guns inoperative. Such parts of the machinery as will prevent ships putting to sea in less than 12 hours will be landed and wireless

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Arrangements respecting (ALGERIA / French Zone of MOROCCO / TUNISIA). Cont'd.

offices will be sealed and the transmitting and receiving gear rendered inoperative.

In order to maintain the ships in good order 33 per cent of each ship's company will remain on board, the balance of the crews being disembarked and accomodated on shore.

It is the intention, the hazards of war permitting, that all warships shall be maintained, both on board and in regard to stores and armament landed, so that warships can be returned intact and efficient to FRANCE when the Axis Powers have been defeated.

War ships will proceed when so instructed to such suitable port on which the United States may decide.

8. The officers and crews of all French merchant vessels now in the harbors of (ALGERIA / French Zone of MOROCCO / TUNISIA) will disembark as may be required by the Commanding General, United States Army. They can then make free choice whether to work for the United Nations; in case of volunteering pay and pensions will be guaranteed from the date of volunteering.

Merchant vessels will be employed in the service of the United Nations to take part in the war effort against the Axis and, subject to the hazards of war, will be held in trust for FRANCE and returned to her after the defeat of the Axis Powers.

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Merchant vessels will be employed in the service of the United Nations to take part in the war effort against the Axis and, subject to the hazards of war, will be held in trust for FRANCE and returned to her after the defeat of the Axis Powers.

9. All port facilities, harbor and naval installations and establishments, together with their records, will be placed intact at the disposal of the Commanding General, United States Army and such assistance as he may require will be rendered to allow proper maintenance and operating of all machinery and fittings.

As may be required personnel will withdraw temporarily to accommodation provided and may then volunteer to continue their duties, in which case pay and pensions will be guaranteed from the date of volunteering.

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Arrangements respecting (ALGERIA / French Zone of MOROCCO / TUNISIA). (Cont'd.)

10. Requisitioning of billets, supplies, lands, buildings, transportation and services for the military needs of the forces under command of the Commanding General, United States Army is authorized, if not procurable by agreement promptly, in sufficient quantities and at fair prices. Requisitions will be made only by authority of the Commanding Officer of the troops in the locality and upon the Mayor or other appropriate civil authorities, but may be upon individuals in cases of necessity. Payment will be made at once in cash or in voucher payable in cash by the disbursing officer of the Army to which the officer belongs upon whose authority the requisition is issued. Prices will be the fair market value to be fixed by agreement if possible, otherwise by the appropriate military authorities.

11. The authorities in (ALGERIA / French Zone of MOROCCO / TUNISIA) will furnish the Commanding General, United States Army with a list of all persons of whatsoever nationality who have been placed under restriction, detention or sentence (including persons sentenced "in absentia") on account of their dealings or sympathies with the United Nations. Those still under restriction or detention will be released when the Commanding General so directs.

12. All service personnel and merchant seamen of any of the United Nations who are interned in (ALGERIA / French Zone of MOROCCO) will

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requisition is issued. Prices will be the [illegible] fixed by agreement if possible, otherwise by the appropriate military authorities.

11. The authorities in (ALGERIA / French Zone of MOROCCO / TUNISIA) will furnish the Commanding General, United States Army with a list of all persons of whatsoever nationality who have been placed under restriction, detention or sentence (including persons sentenced "in absentia") on account of their dealings or sympathies with the United Nations. Those still under restriction or detention will be released when the Commanding General so directs.

12. All service personnel and merchant seamen of any of the United Nations who are interned in (ALGERIA / French Zone of MOROCCO / TUNISIA) will be released forthwith and transferred as the Commanding General, United States Army may direct.

13. The authorities in (ALGERIA / French Zone of MOROCCO / TUNISIA) will take such measures as the Commanding General, United States Army may deem appropriate with regard to the control of foreign property and of the persons and property of foreign nationals, neutral consular officers and such other persons as the Commanding General, United States Army may direct.

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Arrangements respecting (ALGERIA / French Zone of MOROCCO / TUNISIA). Cont'd.

14. No tax, direct or indirect, will be collected upon the property of the United States, its Allied Governments, their representatives and civilian employees, governmental agencies or authorized welfare organizations; nor will any tax be collected upon any purchase from, sale to, or any transaction of any kind with the United States, its Allied Governments, their representatives, civilian employees, agenices or organizations.

15. The Commanding General, United States Army, the forces under his command and supporting forces and their governments, the representatives of their governments and civilian employees of these governments shall enjoy extra-territorial privileges and be exempt from the jurisdiction and immune to the process of the courts, civil and criminal, of the territory.

16. Areas deemed by the Commanding General, United States Army, to be of importance or useful to the purpose set forth in paragraph 1 above, from time to time, may be declared by him to be military areas under his control, whereupon the maintenance of order and administrative and public services in such areas shall come under the direct control of such Commanding General.

17. If the internal situation at any time be such as in his opinion to endanger his lines of communication or threaten disorder the Commanding General, United States Army will inform the French authorities of such danger and the French authorities will under-

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and criminal, of the territory.

16. Areas deemed by the Commanding General, United States Army, to be of importance or useful to the purpose set forth in paragraph 1 above, from time to time, may be declared by him to be military areas under his control, whereupon the maintenance of order and administrative and public services in such areas shall come under the direct control of such Commanding General.

17. If the internal situation at any time be such as in his opinion to endanger his lines of communication or threaten disorder the Commanding General, United States Army will inform the French authorities of such danger and the French authorities will undertake, in concert with the Commanding General, such administrative and other measures as may be necessary for the protection of the military interests of the forces under his command and supporting forces.

18. The Commanding General, United States Army will appoint such military, naval, air and economic Missions and branch Missions as he may deem requisite to administer the provisions of these Arrangements in liaison with such agency or agencies as the local authorities may employ in cooperation.

19. The foregoing arrangements will be drawn up in the English and French languages. The English text is authoritative.

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TERMS FOR CESSATION OF HOSTILITIES

1. The civil, naval, military and air force authorities in (ALGERIA / French Zone of MOROCCO / TUNISIA) will order the immediate cessation of hostilities against the Allied Forces in (ALGERIA / French Zone of MOROCCO / TUNISIA).

2. The French land, sea and air forces, placing their arms, ships and aircraft undamaged at the disposal of the Allied Commander-in-Chief, will be accorded the honors of war. No undertaking regarding allegiance to any non-French authority will be required.

3. All members of the French land, sea and air forces, including the Legions de la Garde and Douairs, will proceed to and remain in barracks or camp pending parole or the decision of the Allied Commander-in-Chief as to their future status, provided however that such naval personnel may remain aboard ship as the Allied authorities may direct.

4. All buildings, installations, radio location and other technical observing stations, establishments, arms, ammunition, equipment, stores, supplies, animals, documents and records of the French land, sea and air forces will be placed undamaged at the disposal of the Allied Commander-in-Chief forthwith.

5. All land and coastal fortifications together with arms, ammunition, and equipment therein will be placed undamaged at the disposal of the Allied Commander-in-Chief as he may require. The situation of mine

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the Legions de la Garde and Douairs, will proceed to and remain in barracks or camp pending parole or the decision of the Allied Commander-in-Chief as to their future status, provided however that such naval personnel may remain aboard ship as the Allied authorities may direct.

4. All buildings, installations, radio location and other technical observing stations, establishments, arms, ammunition, equipment, stores, supplies, animals, documents and records of the French land, sea and air forces will be placed undamaged at the disposal of the Allied Commander-in-Chief forthwith.

5. All land and coastal fortifications together with arms, ammunition, and equipment therein will be placed undamaged at the disposal of the Allied Commander-in-Chief as he may require. The situation of mine positions, mine barrages and mine fields both on land and sea will be disclosed forthwith.

6. All plans, charts, maps, ciphers, documents, sketches and photographs of all naval, military and air force fortifications, installations, establishments, airfields, defenses, buildings, arms and equipment will be placed undamaged at the disposal of the Allied Commander-in-Chief forthwith.

7. All warships, naval equipment, fuel and stores will be placed undamaged at the disposal ofthe Allied Commander-in-Chief forthwith.

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Terms for Cessation of Hostilities. (Cont'd.)

8. All French merchant ships, coastal vessels and small craft will be be placed undamaged at the disposal of the Allied Commander-in-Chief forthwith and such portions of their crews disembarked as the Allied authorities may require. No ships or coastal vessels will leave any port in French North Africa without the permission of the Allied authorities.

9. All airdromes, together with buildings thereon, aircraft, aircraft spares, fuel, and maintenance and control equipment will be kept intact and placed undamaged at the disposal of the Allied Commander-in-Chief forthwith. No aircraft of any nationality will leave the ground without the permission of the Allied authorities.

10. Any aircraft or vessel not in the service of the United Nations which reaches (ALGERIA / French Zone of MOROCCO / TUNISIA) after the signature of these terms will be detained by the French North African authorities, with its crew, passengers and cargo, if any, pending the decision of the Allied authorities as to its disposal.

11. The authorities in (ALGERIA / French Zone of MOROCCO / TUNISIA) will order the continuation of public and administrative services in (ALGERIA / French Zone of MOROCCO / TUNISIA) and take such measures as the Allied authorities may require of them with a view to assisting in all respects in the maintenance of the security of the Allied Forces in this territory and of law, order and government and the public services throughout the territory.

12. Areas deemed by the Allied Commander-in-Chief to be of importance or useful to the operations of the forces under his command may from time to

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terms will be detained by the [illegible]

its crew, passengers and cargo, if any, pending the decision of the Allied authorities as to its disposal.

11. The authorities in (ALGERIA / French Zone of MOROCCO / TUNISIA) will order the continuation of public and administrative services in (ALGERIA / French Zone of MOROCCO / TUNISIA) and take such measures as the Allied authorities may require of them with a view to assisting in all respects in the maintenance of the security of the Allied Forces in this territory and of law, order and government and the public services throughout the territory.

12. Areas deemed by the Allied Commander-in-Chief to be of importance or useful to the operations of the forces under his command may from time to time be declared by him to be military areas under his control, whereupon the maintenance of order and the administrative and public services in such areas shall come under the direct control of the Allied military authorities.

13. The authorities in (ALGERIA / French Zone of MOROCCO / TUNISIA) will take steps to insure that all ports and port facilities, lighthouses and other aids to navigation and public and industrial installations remain intact and in full working order. Similarly all means of transportation including roads, bridges, railways, locomotives, rolling stock, waterways, public utility services and motor conveyances will be maintained intact and in

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Terms for Cessation of Hostilities. (Cont'd.)

full working order and any necessary repairs will be effected by the authorities in (ALGERIA / French Zone of MOROCCO / TUNISIA). All of the above will be placed at the disposal of the Allied Commander-in-Chief as he may require.

14. All telecommunications services, civil, military, naval and air will be closed down and maintained in good order. The resumption of any telecommunications services will be subject to the consent of the Allied Commander-in-Chief. Any services resumed will be operated under such control as the Allied Commander-in-Chief may direct.

All telecommunications installations, civil, military, naval and air, with all connected plant and records, will be placed undamaged at the disposal of the Allied Commander-in-Chief and any necessary repairs will be carried out by the French authorities concerned.

15. The authorities in (ALGERIA / French Zone of MOROCCO / TUNISIA) will take suitable measures to prevent damage to or removal or destruction of public or private, movable or immovable property, whether civil, military, naval or air force, including any currency, cash specie funds and realisable securities and archives. No transfers of government, municipal, or public property of whatever nature, including property of institutions, organizations, societies, corporations and associations subject to control by the government or a considerable portion of the capital of which is owned by the government, will be allowed without the permission of the Allied authorities.

16. All external communications, including communications between French North Africa and FRANCE will be suspended for the present for

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will be carried out by the French authorities concerned.

15. The authorities in (ALGERIA / French Zone of MOROCCO / TUNISIA) will take suitable measures to prevent damage to or removal or destruction of public or private, movable or immovable property, whether civil, military, naval or air force, including any currency, cash specie funds and realisable securities and archives. No transfers of government, municipal, or public property of whatever nature, including property of institutions, organizations, societies, corporations and associations subject to control by the government or a considerable portion of the capital of which is owned by the government, will be allowed without the permission of the Allied authorities.

16. All external communications, including communications between French North Africa and FRANCE will be suspended for the present for reasons of military security. Any such communications permitted to be resumed will be under such control as the Allied Commander-in-Chief may direct.

17. No persons will leave (ALGERIA / French Zone of MOROCCO / TUNISIA) without the permission of the Allied authorities.

18. The authorities in (ALGERIA / French Zone of MOROCCO / TUNISIA) will take such measures as the Allied authorities may require with regard to the control of foreign property and of the persons and property of foreign nationals,

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Terms for Cessation of Hostilities. (Cont'd.)

neutral consular officers and such other persons as the Allied Commander-in-Chief may direct.

19. The authorities in (ALGERIA / French Zone of MOROCCO / TUNISIA) will render all possible assistance in maintaining proper control of any neutral ships in harbor so as to insure that they inflict no damage on themselves or their cargo, take no hostile action, make no use of their wireless and remain in harbor in their present berths pending further direction by the Allied authorities.

20. The authorities in (ALGERIA / French Zone of MOROCCO / TUNISIA) will immediately furnishthe Allied authorities with a list of all persons of whatsoever nationality who have been placed under restriction, detention or sentence (including persons sentenced "in absentia") on account of their dealings or sympathies withthe United Nations. Those still under restriction or detention will be released forthwith if the Allied authorities so direct.

21. All service personnel and merchant seamen of any of the United Nations who are interned in (ALGERIA / French Zone of MOROCCO / TUNISIA) will be released forthwith and transferred as the Allied authorities may direct.

22. No tax, direct or indirect, will be collected upon the property of The United States, its Allied Governments, their representatives, civilian employees, governmental agencies or authorized welfare organizations; nor will any tax be collected upon any purchase from, sale to, or any transaction of any kind with the United States, its Allied Governments, their representatives, civilian employees, agencies or organizations.

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23. The Allied Commander-in-Chief, the forces under his command and supporting forces and their governments, the representatives of their governments and civilian employees of these governments shall enjoy extra-territorial privileges and be exempt from the jurisdiction and immune to the process of the courts, civil and criminal, of the territory.

24. If the internal situation at any time be such as in his opinion to endanger his lines of communication orthreaten disorder the Allied Commander-in-Chief will inform the French authorities of such danger and the French authorities will undertake, in concert with the Allied Commander-

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Terms for Cessation of Hostilities. (Cont'd.)

in-Chief, such administrative and other measures as may be necessary for the protection of the military interests of the Allied Forces.

25. While the Allied Commander-in-Chief will at all times consult with the French authorities, he reserves the right in case of military necessity, to take any measures necessary for the protection of the military interests of his forces. Such measures shall embrace the right to exercise all the powers of a military commander responsible for military government, to the extent that he may deem it necessary to exercise the powers of a military government for the lawful objects of such a government. Such measures will not continue beyond the immediate needs of the situation.

26. The Allied Commander-in-Chief will appoint such military, naval, air and economic Missions and branch Missions as he may deem requisite to administer the provisions of these terms in liaison with such agency or agencies as the local authorities may employ in cooperation.

27. The foregoing terms will be drawn up in the English and French languages. The English text is authoritative.

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27. The foregoing terms will be drawn up in the English and French languages. The English text is authoritative.

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Folder

Short Terms

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THE TERMS OF THE ARMISTICE BETWEEN ITALY AND THE ALLIES

21

13 September 1943

-

1) Immediate cessation of hostilities of the Italian Armed Forces.

2) Italy will use its best endeavors to prevent the Germans from using bases, installations, and the like.

3) All the prisoners and internees of the United Nations shall be placed immediately at the disposal of the Commander in Chief of the Allied Forces and none of them will be sent to Germany.

4) Transfer of the Italian air force and fleet to points designated by the Allied Command who will give instructions for their disarmament.

5) Italian merchant shipping may be requisitioned for military necessities.

6) Surrender of Corsica and of the Italian bases, including the islands, to serve as bases for the Allies.

7) Immediate guarantee of free use of airfields and ports in Italian territory. They, regardless of attack by Germans, must be defended by the Italians until the entry of Allied troops.

8) Immediate return to National Territory of the Italian Armed Forces who are now participating in the war in whatever zone they may be. Said troops will be used in Italy to assure the enforcement of the terms of the Armistice.

9) The Italian Government guarantees, if necessary, the use of all its Armed Forces to assure the maintenance of all the terms of the Armistice.

10) The Commander in Chief of the Allied Forces reserves the right to take any step necessary for the prosecution of the war. The Commander in Chief of the Allied Forces may establish an Allied Military Government wherever it seems advisable.

11) The Allied Commander in Chief has the full right to decide the method for the disarmament and demobilization of the Italian Forces.

12) Other dispositions of a political, economic and financial nature, accepted by the Italian Government, will be announced at a later date.

13) The terms of the present Armistice will not be published without previous authorization of the Allied Governments. The official text is the English text.

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Short Terms

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THE TERMS OF THE ARMISTICE BETWEEN ITALY AND THE ALLIES

13 September 1943

-

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2) Italy will use its best endeavors to prevent the Germans from using bases, installations, and the like.

3) All the prisoners and internees of the United Nations shall be placed immediately at the disposal of the Commander in Chief of the Allied Forces and none of them will be sent to Germany.

4) Transfer of the Italian air forces and fleet to points designated by the Allied Command who will give instructions for their disarmament.

5) Italian merchant shipping may be requisitioned for military necessities.

6) Surrender of Corsica and of the Italian bases, including the islands, to serve as bases for the Allies.

7) Immediate guarantee of free use of airfields and ports in Italian territory. They, regardless of attack by Germans, must be defended by the Italians until the entry of Allied troops.

8) Immediate return to National Territory of the Italian Armed Forces who are now participating in the war in whatever zone they may be. Said troops will be used in Italy to assure the enforcement of the terms of the Armistice.

9) The Italian Government guarantees, if necessary, the use of all its Armed Forces to assure the maintenance of all the terms of the Armistice.

10) The Commander in Chief of the Allied Forces reserves the right to take any step necessary for the prosecution of the war. The Commander in Chief of the Allied Forces may establish an Allied Military Government wherever it seems advisable.

11) The Allied Commander in Chief has the full right to decide the method for the disarmament and demobilization of the Italian Forces.

12) Other dispositions of a political, economic and financial nature, accepted by the Italian Government, will be announced at a later date.

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6) Surrender of Corsica and of the Italian ships, including [illegible], to serve as bases for the Allies.

7) Immediate guarantee of free use of airfields and ports in Italian territory. They, regardless of attack by Germans, must be defended by the Italians until the entry of Allied troops.

8) Immediate return to National Territory of the Italian Armed Forces who are now participating in the war in whatever zone they may be. Said troops will be used in Italy to assure the enforcement of the terms of the Armistice.

9) The Italian Government guarantees, if necessary, the use of all its Armed Forces to assure the maintenance of all the terms of the Armistice.

10) The Commander in Chief of the Allied Forces reserves the right to take any step necessary for the prosecution of the war. The Commander in Chief of the Allied Forces may establish an Allied Military Government wherever it seems advisable.

11) The Allied Commander in Chief has the full right to decide the method for the disarmament and demobilization of the Italian Forces.

12) Other dispositions of a political, economic and financial nature, accepted by the Italian Government, will be announced at a later date.

13) The terms of the present Armistice will not be published without previous authorization of the Allied Governments. The official text is the English text.

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Declassified E.O. 12356 Section 3.3/NND No. 785016

AMGOT

MOST SECRET

RG/26

1AIF/7812/GA

SUBJECT: Draft Armistice Terms

Military Government Section,
A.F.H.Q.

Reference the Armistice Terms for Italy forwarded under cover of G-3 Section Plans letter 18 June.

1. I presume that since the draft papers in Annex 1 and Annex 2 have been prepared by Washington and London in consultation with each other, no specific comments by AMGOT, except insofar as AMGOT is concerned, are required. Nevertheless if certain points of detail can still be altered, specific comments of sections of AMGOT below refer to them.

GENERAL COMMENTS

2. The documents make two pre-suppositions which affect AMGOT differently. In the event of a Central Government continuing to exist with which an Armistice can be concluded, a Commission of Control (referred to in Articles 42 and 43 of Annex 1) will take control and AMGOT will not then be concerned with such areas as are controlled by the Central Government under direction of the Commission of Control. It is however, not clear whether areas which have been occupied and administered by AMGOT, e.g. [redacted], prior to the conclusion of such Armistice, would or would not continue to be so administered. It is further not clear if such areas are to continue to be administered by AMGOT, what the relation of AMGOT will be to the Commission of Control. In other words, if the Central Government continues to exist under the Commission of Control, will this Government also govern occupied areas, or will it not. In the event that the Central Government does govern such areas, except possibly purely military zones, the administrative personnel of AMGOT will no longer be required for administrative functions in the territory.

3. If, alternatively, areas already occupied and areas to be occupied (See para 19 of Annex 1) do not come under the control of the Central Government and the Commission of Control, then it will be necessary for AMGOT to know what other areas, in addition to [redacted] and those areas affected by forthcoming operations COBLET, [redacted] and [redacted], it is desired or intended to be occupied. It is necessary to have this information in order to forecast what additional staff will be required. It is also in this connection necessary to obtain confirmation that it is not intended to occupy the whole of Italy and administer it through such an organisation as AMGOT; this is concluded to be implicit in the wording of Annex 1.

4. Arising out of the foregoing, it appears to be desirable to include

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the conclusion of such Armistice, [illegible] administered. It is further not clear if such areas are to continue to be administered by AMGOT, what the relation of AMGOT will be to the Commission of Control. In other words, if the Central Government continues to exist under the Commission of Control, will this Government also govern occupied areas, or will it not. In the event that the Central Government does govern such areas, except possibly purely military zones, the administrative personnel of AMGOT will no longer be required for administrative functions in the territory.

3. If, alternatively, areas already occupied and areas to be occupied (See para 19 of Annex 1) do not come under the control of the Central Government and the Commission of Control, then it will be necessary for AMGOT to know what other areas, in addition to HUSKY FIRED and those areas affected by forthcoming operations GOBLET, BUTTRESS and MUSKET, it is desired or intended to be occupied. It is necessary to have this information in order to forecast what additional staff will be required. It is also in this connection necessary to obtain confirmation that it is not intended to occupy the whole of Italy and administer it through such an organisation as AMGOT; this is concluded to be implicit in the wording of Annex 1.

4. Arising out of the foregoing, it appears to be desirable to include an Article in Annex 1, if the conclusion is correct, that the areas which have been occupied and are to be occupied under Article 19 and are directly administered by an Allied Military Government, will continue so to be administered and will not be controlled by the Central Government and Commission of Control.

5. In the event of the second set of circumstances arising, namely that there is no Central Government, it is implicit in Annex 2 that the Allied occupation and direct administration will be extended to more areas than contemplated under the circumstances in which Annex 1 would operate. In this connection it is therefore also necessary to know what is the maximum extension of direct administration contemplated, under the circumstances in question, namely in the absence of any Central Government.

SPECIFIC COMMENTS

6. In Annex 1 the use of the term "United Nations" has doubtless been considered, but may give rise to difficulties, in that commanders of Allied forces and their staffs may find it difficult to proclaim and sign terms on behalf of any Allied country from which they have not obtained particular authority.

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7. Consideration has no doubt been given to the consistency of the terms laid down in Annex 1 with the statement of policy contained in the directive from the Combined Chiefs of Staff to the effect that the administration of the occupied territory is to be benevolent and that the object of the Allies is to restore a free Italy.

8. It is felt that the terms of Article 24 of Annex 1 could with advantage be amplified and a redraft of this Article can be submitted if it is desired.

9. It is not clear from the draft of Annex 1 what is proposed to be done with diplomatic and consular officers of neutral countries (a) in occupied; (b) in unoccupied, parts of Italy.

10. In the event of the second set of circumstances arising, namely that there is no Central Government, it is suggested that the proclamations issued after the draft declaration, should conform to the form which is being used for AMGOT for the areas now to be occupied. A redraft of the proposed proclamation No. 1 can be made if required. It appears in particular to be unnecessary for the officer making the proclamation to take powers for his successor, since once the powers have been taken by virtue of a particular appointment, such powers devolve automatically on the successor to the appointment.

Major General,
C.C.A.O.
AMGOT

AMGOT Rear Headquarters,
AFHQ
NAF

COPIES TO: C.G.S., 141 Force
Master file

Declassified E.O. 12356 Section 3.3/NND No. 785016

7. Consideration has no doubt been given to the consistency of the terms laid down in Annex 1 with the statement of policy contained in the directive from the Combined Chiefs of Staff to the effect that the administration of the occupied territory is to be benevolent and that the object of the Allies is to restore a free Italy.

8. It is felt that the terms of Article 24 of Annex 1 could with advantage be amplified and a redraft of this Article can be submitted if it is desired.

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10. In the event of the second set of circumstances arising, namely that there is no Central Government, it is suggested that the proclamations issued after the draft declaration, should conform to the form which is being used for AMGOT for the areas now to be occupied. A redraft of the proposed proclamation No. 1 can be made if required. It appears in particular to be unnecessary for the officer making the proclamation to take powers for his successor, since once the powers have been taken by virtue of a particular appointment, such powers devolve automatically on the successor to the appointment.

Major General,
C.C.A.C.
AMGOT

AMGOT Rear Headquarters,
AFHQ
NAF

COPIES TO: C.G.S., 1&1 Force
Master file

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Declassified E.O. 12356 Section 3.3/NND No. 785016

Legal

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AMGOT/38/HQ

AMGOT HQ SICILY

9 September 1943

SUBJECT: Effect of Armistice

TO : All S.C.A.O.s

1. The Armistice concluded with the Italian Government does not immediately effect the position of AMGOT in occupied Italian territories. Until further notice, you will continue to carry out your duties in accordance with existing instructions.

By order of Chief Civil Affairs Officer:

CHARLES L. SPOFFORD
Lt. Col., G. S. C.
Chief Staff Officer

Distribution:

Agrigento	6
Caltanissetta	6
Catania	6
Enna	4
Palermo	35
Ragusa	6
Siracusa	14
Trapani	6
Messina	8
AMGOT Liaison	1
AMGOT 8th Main	1
Col. Hume	1
File	2
Float	1
Divisions	6
M.G.S., AFHQ	2

SECRET

(EQUALS ~~TOP SECRET~~)

S E C R E T

ALLIED FORCE HEADQUARTERS

G-3 SECTION
PLANS

COPY NO. 8

18 June 1943.

MEMORANDUM:

SUBJECT : Armistice Terms for ITALY.

1. Forwarded herewith for your consideration are copies of:

   a. Draft instrument of surrender (armistice terms if there is still a central government with which we can negotiate).

   b. Draft declaration (if Italian resistance ceases and there is no central government with which we can negotiate).

2. These documents were prepared in London by the Military Sub-committee for Post-War problems. They have been coordinated with the Service Ministries, Foreign Office, the Joint Planning Staff, etc. They have not yet, however, received the approval of the British Chiefs of Staff, nor have they been submitted to the Combined Chiefs of Staff.

3. It is proposed to correlate without delay the views of the AFHQ staff sections and agencies concerned in this matter, so that the Commander-in-Chief may be in a position to comment upon the documents should he be invited to do so by the Combined Chiefs of Staff.

4. It is requested, therefore, that your comments on the inclosures be forwarded to this office as early as practicable.

(Preferably not later than 26 June)

C. S. SUGDEN,
Brigadier,
Deputy Asst. Chief of Staff, G-3.

DISTRIBUTION:

	Copy No.
C-in-C Med	1
AOC-in-C Med	2

Declassified E.O. 12356 Section 3.3/NND No. 785016

Foreign Office, the Joint Planning Staff, etc. They have not yet, however, received the approval of the British Chiefs of Staff, nor have they been submitted to the Combined Chiefs of Staff.

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4. It is requested, therefore, that your comments on the inclosures be forwarded to this office as early as practicable.

((Preferably not later than 26 June))

C. S. SUGDEN,
Brigadier,
Deputy Asst. Chief of Staff, G-3.

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Liaison O (Col. Holmes)	7-12

SECRET

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SECRET

(SPECIAL BRITISH MOST SECRET)

S E C R E T

ANNEX I

COPY

2nd Revise

5th June 1943.

Draft Instrument of Surrender (for use in the event of Italy suing for the suspension of hostilities whilst the war with Germany continues).

WHEREAS the Royal Italian Government and the Italian Supreme Command acknowledges that the Italian forces have been totally defeated and that Italy can no longer carry on the war against the United Nations and have accordingly requested a suspension of hostilities;

AND WHEREAS the United Nations are willing to lay down the terms on which they are prepared to suspend hostilities against Italy provided that their military operations against Germany and her allies are not obstructed, and that Italy does not assist these Powers in any way;

The following terms have been presented by .....,
on behalf of the Supreme Command of the United Nations, duly authorised to that effect,
and have been accepted by.....,
representing the Supreme Command of the Italian land, sea and air forces, and duly authorised to that effect by the Royal Italian Government:-

1. Italian participation in the war in all theatres will cease immediately. There shall be no opposition to landings or other operations of the sea, land,

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AND WHEREAS the United Nations are willing to lay down the terms on which they are prepared to suspend hostilities against Italy provided that their military operations against Germany and her allies are not obstructed, and that Italy does not assist these Powers in any way;

The following terms have been presented by ....., on behalf of the Supreme Command of the United Nations, duly authorised to that effect,

and have been accepted by....., representing the Supreme Command of the Italian land, sea and air forces, and duly authorised to that effect by the Royal Italian Government:-

1. Italian participation in the war in all theatres will cease immediately. There shall be no opposition to landings or other operations of the sea, land, and air forces of the United Nations.

2. The Italian Supreme Command will give full information concerning the disposition and condition of all Italian land, sea and air forces, wherever they are situated, and of all such forces of Italy's allies as are situated in Italian or Italian-occupied territory.

3. Italian land, sea and air forces will proceed to and remain in their barracks, camps or ships, pending directions from the United Nations as to their future status and disposal. Exceptionally, such naval personnel shall proceed to shore establishments as the United Nations may direct.

4. Italian land, sea and air forces will, within the periods to be laid down by the United Nations, withdraw from all areas outside Italian territory

Declassified E.O. 12356 Section 3.3/NND No. 785016

(FORMALS BRITISH MOST SECRET)

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notified to the Italian Government by the United Nations and proceed to areas to be specified by the United Nations. Such movement of Italian land, sea and air forces will be carried out in conditions to be laid down by the United Nations and in accordance with the orders to be issued by them. All Italian officials will similarly leave the areas notified, except any who may be permitted to remain by the United Nations. Those permitted to remain will comply with the instructions of the United Nations.

5. No requisitioning, seizures or other coercive measures shall be effected by Italian land, sea and air forces or officials in regard to persons or property in the areas notified under Article 4.

6. The demobilisation of Italian land, sea and air forces in excess of such establishments as shall be notified will take place as prescribed by the United Nations.

7. Italian warships of all descriptions, auxiliaries and transports will be assembled as directed in ports to be specified by the United Nations. * Certain of them may be employed under the authority of the United Nations for making safe the waters round Italy and for conveying supplies etc., and for this purpose will retain such armament as the United Nations may direct: the remainder will be dealt with as prescribed by the United Nations.

8. Italian aircraft of all kinds will not leave the ground or water, except as directed by the United Nations.

9. Without prejudice to the provisions of Articles 14, 16 and 29 below, all

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7. Italian warships of all descriptions, auxiliaries and transports will be assembled as directed in ports to be specified by the United Nations. * Certain of them may be employed under the authority of the United Nations for making safe the waters round Italy and for convoying supplies etc., and for this purpose will retain such armament as the United Nations may direct: the remainder will be dealt with as prescribed by the United Nations.

8. Italian aircraft of all kinds will not leave the ground or water, except as directed by the United Nations.

9. Without prejudice to the provisions of Articles 14, 16 and 29 below, all merchant ships fishing or other craft of whatever flag, all aircraft and inland transport of whatever nationality in Italian or Italian-occupied territory or waters will, pending verification of their identity and status, be prevented from leaving.

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* Note. If at the date of the Armistice the whole of the Italian fleet has been assembled in Allied ports, this sentence would run:- "Italian warships of all descriptions, auxiliaries, and transports will remain in the ports where they are at present assembled, subject to any instructions which may be issued by the United Nations."

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Declassified E.O. 12356 Section 3.3/NND No. 785016

SECRET
(FORMALLY BRITISH MOST SECRET)

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10. The Italian Supreme Command will make available all information about naval, military and air devices, installations, and defences; about all communication systems established by Italy or her Allies on Italian territory or in the approaches thereto; about minefields or other obstacles to movement by land, sea or air and such other particulars as the United Nations may require in connexion with the use of Italian bases, or with the operations, security, or welfare of the United Nations land, sea or air forces. Italian forces and equipment will be made available as required by the United Nations for the removal of the above-mentioned obstacles.

11. The Italian Government will furnish forthwith lists of quantities of all war material showing the location of the same. The war material will be placed in store under such control as the United Nations may direct. The ultimate disposal of war material will be prescribed by the United Nations.

12. There shall be no destruction of nor damage to nor except as authorized or directed by the United Nations any removal of war material, wireless, radiolocation or meteorological stations, rail, road, port or other installations, or in general, public or private utilities or property of any kind, wherever situated; and the necessary maintenance and repair will be the responsibility of the Italian authorities.

13. The manufacture, production and construction of war material and the import, export and transit of such war material is prohibited, except as directed by the United Nations. The Italian Government will comply with any directions given by the United Nations for the manufacture, production or construction and

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in store under such control

posal of war material will be prescribed by the United Nations.

12. There shall be no destruction of nor damage to nor except as authorized or directed by the United Nations any removal of war material, wireless, radio-location or meteorological stations, rail, road, port or other installations, or in general, public or private utilities or property of any kind, wherever situated; and the necessary maintenance and repair will be the responsibility of the Italian authorities.

13. The manufacture, production and construction of war material and the import, export and transit of such war material is prohibited, except as directed by the United Nations. The Italian Government will comply with any directions given by the United Nations for the manufacture, production or construction and the import, export or transit of such war material.

14. All Italian merchant shipping and fishing and other craft, wherever they may be, and any constructed or completed during the period of the present Instrument will be made available in good condition by the competent Italian authorities at such places and for such purposes and periods as the United Nations may prescribe. Transfer to enemy or neutral flags is prohibited. Crews shall remain on board, pending further instructions regarding their continued employment or disposal. Any existing options to repurchase or re-acquire or to resume control of Italian or former Italian vessels sold or otherwise transferred or chartered during the war shall forthwith be exercised, and the above provisions shall apply to all

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SECRET
(BALL BANK MOST SECRET)

such vessels and their crews.

15. The United Nations will endeavour to provide for the essential economic needs of the Italian people so far as circumstances permit; but they reserve the right to recover the cost of supplies and transport for the purpose from the Italian Government. It is to the interest of the Italian Government and people to insure that Italian ships and equipment are made available in good and serviceable condition, together with their crews as required.

16. United Nations merchant ships, fishing, and other craft in Italian hands wherever they may be (including for this purpose those of any country which has broken off diplomatic relations with Italy), whether or not the title has been transferred as the result of prize court proceedings or otherwise, will be surrendered to the United Nations and will be assembled in ports to be specified by the United Nations for disposal as directed by them. The Italian Government will take all such steps as may be required to secure any necessary transfers of title. Any neutral merchant ships, fishing or other craft under Italian operation or control will be assembled in the same manner pending arrangements for their ultimate disposal. Any necessary repairs to any of the above mentioned vessels will be effected by the Italian Government, if required and at their expense.

17. No radio or telecommunication installations or other forms of intercommunication, ashore or afloat, under Italian control whether belonging to Italy or any nation other than the United Nations will transmit until directions for the control of these installations have been prescribed by the United Nations. The United [illegible] will institute such censorship of press broadcasting and publications and

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United Nations for disposal as directed by them. The Italian Government will take all such steps as may be required to secure any necessary transfers of title. Any neutral merchant ships, fishing or other craft under Italian operation or control will be assembled in the same manner pending arrangements for their ultimate disposal. Any necessary repairs to any of the above mentioned vessels will be effected by the Italian Government, if required and at their expense.

17. No radio or telecommunication installations or other forms of intercommunication, ashore or afloat, under Italian control whether belonging to Italy or any nation other than the United Nations will transmit until directions for the control of these installations have been prescribed by the United Nations. The United Nations will institute such censorship of press broadcasting and publications and supervision of intercommunication as may be necessary, or, at their discretion, may take over radio, cable and other communication stations.

18. The warships, auxiliaries, transports and merchant and other vessels and aircraft in the service of the United Nations will have the right freely to use the territorial waters around and the air over Italian territory.

19. The United Nations will require to occupy certain parts of Italian territory. The territories or areas concerned will from time to time be notified by the United Nations, and all Italian land, sea and air forces will thereupon withdraw from such territories or areas in accordance with the instructions issued by the United Nations. The provisions of this Article are without prejudice to those of Article 4 above.

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(UNITED KINGDOM TRUST SECRET)

20. In the territories or areas referred to in Article 19 all naval military and air installations, power stations, all ports and harbours, all transport and all intercommunication installations, facilities and equipment and such other installations or facilities as may be required by the United Nations will be made available in good condition by the competent Italian authorities with the personnel required for working them. The Italian Government will also supply, free of cost, such other local resources or services as the United Nations may require.

21. Without prejudice to the provisions of the present Instrument the United Nations will exercise all the rights of an occupying Power in the territories or areas referred to in Article 19. Personnel of the Italian administrative and public services will carry out their functions under the control of the United Nations Supreme Command, unless otherwise directed.

22. In addition to the rights in respect of occupied Italian territory prescribed by Articles 19-21,

(a) members of the land, sea or air forces and officials of the United Nations will have the right of passage in or over non-occupied Italian territory and will be afforded all the necessary facilities and assistance in performing their functions;

(b) the Italian authorities will make available in non-occupied Italian territory all transport facilities required by the United Nations, including free transit for their war material and supplies; and will comply with instructions issued by the United Nations regarding the use and control of airfields, ports, shipping, inland transport systems and vehicles, intercommunication systems, power-stations and public utility services, and connected repair and construction

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Nations Supreme Command, unless otherwise directed.

22. In addition to the rights in respect of occupied Italian territory prescribed by Articles 19-21,

(a) members of the land, sea or air forces and officials of the United Nations will have the right of passage in or over non-occupied Italian territory and will be afforded all the necessary facilities and assistance in performing their functions;

(b) the Italian authorities will make available in non-occupied Italian territory all transport facilities required by the United Nations, including free transit for their war material and supplies; and will comply with instructions issued by the United Nations regarding the use and control of airfields, ports, shipping, inland transport systems and vehicles, intercommunication systems, power-stations and public utility services, and connected repair and construction facilities.

23. The Italian Government and people will abstain from all action detrimental to the interests of the United Nations and will carry out promptly and efficiently all orders given by the United Nations.

24. The Italian Government will supply free of cost such Italian currency as the United Nations may require. The Italian Government will withdraw and redeem in Italian currency within such time-limits and on such terms as the United Nations may specify all holdings in Italian territory of currencies issued by the United Nations during military operations or occupation and will hand over the currencies so withdrawn free of cost to the United Nations. The Italian Government will take

Declassified E.O. 12356 Section 3.3/NND No. 785016

(REPEATS BRITISH MOST SECRET)

such measures as may be required by the United Nations for the control of banks and businesses in Italian territory, for the control of foreign exchange, and foreign commercial and financial transactions and for the regulation of trade and production, and will comply with any instructions issued by the United Nations regarding these and similar matters.

25. There shall be no financial, commercial or other intercourse with or dealings with or for the benefit of countries at war with any of the United Nations or territories occupied by such countries.

26. Relations with countries at war with any of the United Nations, or occupied by any such country, will be broken off. Italian diplomatic and consular officials accredited to or serving on missions with any such country will be recalled. Diplomatic and consular officials of such countries will be dealt with as the United Nations may prescribe.

27. Italian subjects will, pending further instructions, be prevented from leaving Italian territory except as authorised by the United Nations and will not in any event take service with any of the countries referred to in Article 26, nor will they proceed to any place for the purpose of undertaking work for any such country. Those at present so serving or working will be recalled as directed by the United Nations.

28. The military, naval and air personnel and material and the merchant shipping, fishing and other craft and the aircraft, vehicles and other transport equipment of any country against which any of the United Nations is engaged in active hostilities, or which is occupied by any such country, remain liable to attack or seizure wherever found in or over Italian territory or waters.

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called. Diplomatic and consular officials of such countries will be dealt with as the United Nations may prescribe.

27. Italian subjects will, pending further instructions, be prevented from leaving Italian territory except as authorised by the United Nations and will not in any event take service with any of the countries referred to in Article 26, nor will they proceed to any place for the purpose of undertaking work for any such country. Those at present so serving or working will be recalled as directed by the United Nations.

28. The military, naval and air personnel and material and the merchant shipping, fishing and other craft and the aircraft, vehicles and other transport equipment of any country against which any of the United Nations is engaged in active hostilities, or which is occupied by any such country, remain liable to attack or seizure wherever found in or over Italian territory or waters.

29. (a) The Warships, auxiliaries and transports of any such country or occupied country in Italian or Italian-occupied ports and waters and the aircraft vehicles and other transport equipment of such countries in or over Italian or Italian occupied territory will, pending further instructions, be prevented from leaving.

(b) The military, naval and air personnel and the civilian nationals of any such country or occupied country in Italian or Italian-occupied territory will be prevented from leaving and will be interned pending further instructions.

(c) All property in Italian territory belonging to any such country or occupied country or its nationals will be impounded and kept in custody pending further instructions.

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(d) The Italian Government will comply with any instructions given by the United Nations concerning the internment, custody or subsequent disposal, utilization or employment of any of the above mentioned persons, vessels, aircraft, material or property.

30. [War Criminals]

31. All Fascist organizations, including all branches of the Fascist Militia (MVSN), the Secret Police (OVRA) and Fascist Youth Organizations will be disbanded in accordance with the directions of the United Nations, except any such organisations or parts thereof as may be specified by the United Nations.

32. All Italian laws involving discrimination on grounds of race, religion or political opinions will be rescinded, and persons detained on such grounds will, as directed by the United Nations, be released and relieved from all legal disabilities to which they have been subjected.

33. (a) Prisoners of war belonging to the forces of the United Nations and any nationals of the United Nations, including Abyssinian subjects, confined, interned, or otherwise under restraint in Italian or Italian-occupied territory will not be removed and will forthwith be handed over to representatives of the United Nations or otherwise dealt with as the United Nations may direct.

(b) Persons of whatever nationality including Albanians who have been placed under restriction, detention or sentence (including sentences in absentia) on account of their dealings or sympathies with the United Nations, will be released under the direction of the United Nations, and relieved from all legal disabilities to which they have been subjected.

(c) The Italian Government will take such steps as the United Nations may

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Declassified E.O. 12356 Section 3.3/NND No. 759016

or political opinions will [illegible] as directed by the United Nations, be released and relieved from all legal disabilities to which they have been subjected.

33. (a) Prisoners of war belonging to the forces of the United Nations and any nationals of the United Nations, including Abyssinian subjects, confined, interned, or otherwise under restraint in Italian or Italian-occupied territory will not be removed and will forthwith be handed over to representatives of the United Nations or otherwise dealt with as the United Nations may direct.

(b) Persons of whatever nationality including Albanians who have been placed under restriction, detention or sentence (including sentences in absentia) on account of their dealings or sympathies with the United Nations, will be released under the direction of the United Nations, and relieved from all legal disabilities to which they have been subjected.

(c) The Italian Government will take such steps as the United Nations may direct to safeguard the persons and property of foreign states and nationals.

34. The Italian Government will comply with such directions regarding restitution and reparation and payment of the costs of occupation during the period of the present Instrument, as the United Nations may prescribe.

35. The Italian Government will carry out during the period of the present Instrument, such measures of disarmament and demilitarisation as may be prescribed by the United Nations.

36. The Italian Government will supply all information and provide all documents required by the United Nations.

37. The Italian Government will pass and enforce such legislative and adminis-

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trative measures as may be necessary for the execution of the present Instrument, Italian military and civil authorities will comply with any instructions issued by the United Nations for the same purpose.

38. The term "the United Nations" in the present Instrument includes the Control Commission referred to in Article 42 below, the Supreme Command of the United Nations, and any other authority which the United Nations may designate for the purpose.

39. Reference to Italian land, sea and air forces in the present Instrument shall be deemed to include Fascist Militia and all such other military or paramilitary units, formations or bodies as the United Nations may prescribe.

40. The term "war material" in the present Instrument denotes all material specified in such lists or definitions as may from time to time be issued by the Control Commission referred to in Article 42 below.

41. The term "Italian territory" includes all Italian colonies and dependencies and shall, for the purpose of the present Instrument (buth without prejudice to the question of sovereignty) be deemed to include Albania; provided however that, except in such cases and to such extent as the United Nations may direct, the provisions of the present Instrument shall not apply in or affect the administration of any Italian colony or dependency already occupied by the United Nations or the rights or powers therein possessed or exercised by them.

42. A Control Commission appointed by the United Nations will regulate and control the execution of the present Instrument. Any disagreement regarding the interpretation or execution of the present Instrument will be decided by the Con- [illegible] whose decision will be final.

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40. The term "war criminals" [illegible] specified in such lists or definitions as may from time to time be issued by the Control Commission referred to in Article 42 below.

41. The term "Italian territory" includes all Italian colonies and dependencies and shall, for the purpose of the present Instrument (buth without prejudice to the question of sovereignty) be deemed to include Albania; provided however that, except in such cases and to such extent as the United Nations may direct, the provisions of the present Instrument shall not apply in or affect the administration of any Italian colony or dependency already occupied by the United Nations or the rights or powers therein possessed or exercised by them.

42. A Control Commission appointed by the United Nations will regulate and control the execution of the present Instrument. Any disagreement regarding the interpretation or execution of the present Instrument will be decided by the Control Commission, whose decision will be final.

43. The Italian Government will send a delegation to the headquarters of the Control Commission to represent Italian interests and to transmit the orders of the Commision to the competent Italian authorities.

44. The present Instrument shall be confirmed by the Royal Italian Government. It will enter into force ..... hours after the Instrument of Confirmation has been received at....., and hostilities between the United Nations and Italy will cease in all theatres of war at that time. It will remain in operation until the coming into force of the Peace Treaty with Italy.

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45. The present Instrument may be denounced by the United Nations with immediate effect if the Italian Government do not fulfil their obligations under the Instrument or, as an alternative, the United Nations may penalise contravention of it by measures appropriate to the circumstances, such as the extension of the areas of military occupation, or air or other punitive action.

Drawn up in English and Italian, the English text being authentic, and signed on the ..... at.....

(hour).....(time) at.....(place).

(Signatures)

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(EQUALS BRITISH MOST SECRET)

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S E C R E T

ANNEX II

2nd Revise
5th June, 1943.

DRAFT DECLARATION OF UNITED NATIONS TO ITALY

(for use in the event of an Italian collapse, and the absence of a Central Government with whom we can or are willing to negotiate: the war with Germany continuing)

1. In the absence of a central Italian Government with which the United Nations are prepared to deal, the Commander-in-Chief of the forces operating against Italy makes in their name this declaration for the purpose of making clear the needs and intentions of the United Nations armed forces in the present and pending military and political situations.

2. The United Nations armed forces require the use of Italian territory for their military operations and in all such territory they will have all the rights of an occupying Power. They cannot allow the collapse of organised government and administration to prejudice them in their main purpose of carrying on the war against Germany and her allies. It rests with the local Italian Commanders and civil authorities to determine whether and how far in pursuing their aim the United Nations armed forces are compelled to add to the misfortune of Italy.

3. It is to the interest alike of the Italian population and of the United Nations armed forces that law and order should be upheld throughout Italy and especially in the regions which these forces have to enter. Except in so far as the Commander-in-Chief of the United Nations Armed Forces may otherwise direct, Italian officials, courts and police should continue to function under such directions as the Commander-in-Chief may issue.

Existing laws and regulations will remain in force except in so far as it may be found necessary to modify them to meet the principles of justice, military necessities, or the safety of the forces of the United Nations.

4. The United Nations will endeavour to provide for the essential economic needs of the Italian people so far as circumstances permit. It is an absolute condition, however, of the forebearance shown and the help afforded by the United Nations that the Italian people abstain from all action detrimental to the success of the United Nations' operations and carry out promptly and efficiently all orders given by the United Nations' authorities, in particular in regard to the handing over of ships and other transport services installations and equipment.

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of an occupying Power. They cannot allow the collapse of organised government and administration to prejudice them in their main purpose of carrying on the war against Germany and her allies. It rests with the local Italian Commanders and civil authorities to determine whether and how far in pursuing their aim the United Nations armed forces are compelled to add to the misfortune of Italy.

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Subject to the directions of the United Nations, citizens should continue their several occupations, keep open the churches and schools, and follow as far as possible the usual habits and customs of their lives and the business of the community.

5. The United Nations have no desire to continue active hostilities against the Italian armed forces, but here again it is an absolute condition that the latter cease all resistance, both active and passive, and comply loyally with the instructions of the United Nations military authorities.

6. Orders and proclamations issued will inform the Italian armed forces, officials and population of what is required of them and of what is forbidden; and will contain provisions amongst others in regard to routeing and other instructions for warships; the use, control and disposal of merchant ships, fishing and all small craft, of all aircraft, of transport and intercommunication facilities; the repair and production of ships craft and transport equipment; and other matters requiring regulation, as well as for the release of prisoners of war and civilian internees of United Nations' nationalities.

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S E C R E T

7. The United Nations reserve full rights with regard to the provisions required to be inserted in any formal Instrument relative to the suspension of hostilities should the course of events make such an Instrument necessary.

8. The sternest measures will be taken against all persons responsible for impeding the operations of the United Nations' forces or acting in a manner prejudicial to their interests.

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Draft - Proclamation No. 1.

Preamble.

Whereas Italy's action in entering the war, aggression against the members of the United Nations, have resulted in her total defeat and the occupation of her territory by the forces of the United Nations.

and whereas in the absence of a central Italian Government with which the United Nations are prepared to negotiate it is necessary to arrange for the maintenance of law and order and for the safety and sustenance of the people;

and whereas it is necessary for the United Nations to make use of Italian territory for their military operations;

Now therefore I (name and titles) hereby proclaim:

1. Jurisdiction. All territories in Italy now or hereafter occupied by any forces under my command will be under my exclusive military jurisdiction and will remain under such jurisdiction as far as long as military considerations demand and until an Italian Government recognised by the United Nations is established. I therefore assume for myself and for any successor of mine full judicial, legislative, administrative and executive powers and responsibility in regard to all territories in Italy occupied from time to time by the forces of the United Nations and exclusive jurisdiction over all persons and property therein.

2. Public Order. I will take all steps which I may deem necessary and expedient for the purpose of establishing and maintaining public order and safety and of facilitating so far as possible the satisfaction of the essential economic needs of the people and in so doing I will as far as military exigencies permit respect all laws, customs, and private rights in the said territories.

All persons in the said territories must abstain from any actions of a nature calculated to disturb the public peace and order or prejudice the interests of the Forces of the United Nations and they must conform promptly and efficiently with all orders given by me or under my authority.

3. Courts. Subject to such orders and regulations as may be prescribed by me or by any successor of mine Italian Courts both penal and civil shall continue to function. Their jurisdiction is prescribed in a separate Proclamation.

4. Military Courts and Martial Law. Proclamations issued by myself or a successor of mine will make such provision as may be deemed necessary in relation to the administration of martial law. Offences against Proclamations and Orders

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until an Italian Government recognised by the United Nations is established. I therefore assume for myself and for any successor of mine full judicial legislative administrative and executive powers and responsibility in regard to all territories in Italy occupied from time to time by the forces of the United Nations and exclusive jurisdiction over all persons and property therein.

2. Public Order. I will take all steps which I may deem necessary and expedient for the purpose of establishing and maintaining public order and safety and of facilitating so far as possible the satisfaction of the essential economic needs of the people and in so doing I will as far as military exigencies permit respect all laws, customs, and private rights in the said territories.

All persons in the said territories must abstain from any actions of a nature calculated to disturb the public peace and order or prejudice the interests of the Forces of the United Nations and they must conform promptly and efficiently with all orders given by me or under my authority.

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4. Military Courts and Martial Law. Proclamations issued by myself or a successor of mine will make such provision as may be deemed necessary in relation to the administration of martial law. Offences against Proclamations and Orders issued thereunder and such other offences as I may determine will be tried by military courts.

5. Civil Officials. All lawfully established local administrative authorities, and all officers and employees of all State Municipal and other public services are hereby authorised and required to continue to execute and discharge their duties powers and functions subject to such conditions of limitations as may be prescribed under the authority of myself or any successor of mine.

6. Restoration of Peaceful Conditions. In order that peaceful conditions and the safety of life and property may rapidly be restored, I hereby call upon all persons to preserve order and tranquility and to go about their normal occupations in good will and without fear.

7. Promulgation. This and all subsequent Proclamations, Ordinances or Orders of the United Nations authorities will be displayed at Court Houses, Municipal Buildings, Police Stations ..... in those parts of Italy which are occupied from time to time by the forces of the United Nations, and will be made known throughout Italy by such other means as the United Nations may direct.

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ANNEX TO INTERNATIONAL CONVENTION CONCERNING THE LAWS AND CUSTOMS OF WAR ON LAND. REGULATIONS RESPECTING THE LAWS AND CUSTOMS OF WAR ON LAND

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SECTION III

Military Authority over the Territory of the Hostile State

Art. 42

Territory is considered occupied when actually placed under the authority of the hostile army.

The occupation extends only to the territory[1] where such authority has been established and is in a position to assert itself.

Art. 43

The authority of the power of the State having passed de facto into the hands of the occupant, the latter shall do all in his power to restore, and ensure, as far as possible, public order and safety, respecting at the same time, unless absolutely prevented, the laws in force in the country.

Art. 44[2]

A belligerent is forbidden to compel the inhabitants of territory occupied by it to furnish information about the army of the other belligerent, or about its means of defense.

Art. 45

It is forbidden to force the inhabitants of occupied territory to swear allegiance to the hostile power.

Art. 46

Family honour and rights, individual life, and private property, as well as religious convictions and worship, must be respected.

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A belligerent is forbidden to compel the inhabitants of territory occupied by it to furnish information about the army of the other belligerent, or about its means of defense.

Art. 45

It is forbidden to force the inhabitants of occupied territory to swear allegiance to the hostile power.

Art. 46

Family honour and rights, individual life, and private property, as well as religious convictions and worship, must be respected.

Private property may not be confiscated.

Art. 47

Pillage is expressly forbidden.

Art. 48

If, in the territory occupied, the occupant collects the taxes, dues, and tolls payable to the State, he shall do so, as far as is possible, in accordance with the legal basis and assessment in force at the time, and shall in consequence be bound to defray the expenses of the administration of the occupied territory to the same extent as the national Government had been so bound.

1 - The translation should be "territories."
2 - This article has not been accepted by Germany, Japan and Russia.

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Art. 49

If, in addition to the taxes mentioned in the above Article, the occupant levies other money contributions in the occupied territory, they shall only be applied to the needs of the army or of the administration of the territory in question.

Art. 50

No collective penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which it cannot be regarded as collectively responsible.

Art. 51

No contribution shall be collected except under a written order, and on the responsibility of a General in command.

The collection of the said contribution shall only be effected in accordance with, as far as possible, the legal basis and assessment of taxes in force at the time.

For every contribution a receipt shall be given to the contributories.

Art. 52

Requisitions in kind and services shall not be demanded from local authorities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country, and of such a nature as not to involve the inhabitants in the obligation of taking part in military operations against their own country.

Such requisitions and services shall only be demanded on the authority of the commander in the locality occupied.

Contributions in kind shall as far as possible be paid for in ready money; if not, a receipt shall be given and the payment of the amount due shall be made as soon as possible.

Art. 53.

An army of occupation shall only take possession of cash, funds, and realizable securities which are strictly the property of the State, depots of arms, means of transport, stores and supplies, and, generally, all movable property belonging to the State which may be used for military operations.

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Requisitions in kind and services shall not be demanded from local authorities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country, and of such a nature as not to involve the inhabitants in the obligation of taking part in military operations against their own country.

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Art. 53.

An army of occupation shall only take possession of cash, funds, and realizable securities which are strictly the property of the State, depots of arms, means of transport, stores and supplies, and, generally, all movable property belonging to the State which may be used for military operations.

Except in cases governed by naval law, all appliances adapted for the transmission of news, or for the transport of persons or goods, whether on land, at sea, or in the air, depots of arms, and, in general, all kinds of war material may be seized, even if they belong to private individuals, but they must be restored at the conclusion of peace, and indemnities must be paid for them.

Art. 54

Submarine cables connecting an occupied territory with a neutral territory shall not be seized or destroyed except in the case of absolute necessity. They also must be restored at the conclusion of peace, and indemnities paid for them.

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Art. 55

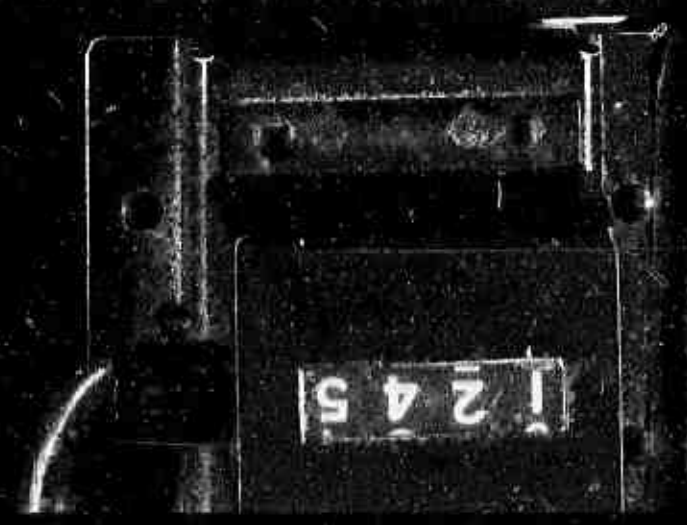
The occupying State shall be regarded only as administrator and usufructuary of public buildings, landed property, forest and agricultural undertakings belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of such properties, and administer them in accordance with the rules of usufruct.

Art. 56

The property of local authorities, as well as that of institutions dedicated to public worship, charity, education, and to science and art, even when State property, shall be treated as private property.

Any seizure or destruction of, or wilful damage to, institutions of this character, historic monuments and works of science and art, is forbidden, and should be made the subject of legal proceedings.

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