

ACC

10000/142/450

CONFIRMATION
SEPT., OCT.

CONFIRMATION BY ITALIAN GOV'T OF ACTS OF AMG
SEPT., OCT. 1945

1450

- 4 -

For Comm.

Please see minutes 1 and 3.

18/10

V.P. CTS

I agree with C.A. & have drafted reply

for issue if you agree.

18/10

CC Legal Sec.

is a despatched by CH Sec

Heathman S/H

CAS
23 Oct 15

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MINUTE SHEET NO. 1

- 1 -

TO: Polad (A),
Polad (A),
Executive Commissioner.

With reference to AMQ letter at 12. which was checked to the C.L.A.

Col. HANCOCK, during a recent visit to this Headquarters, asked that apart from the legal aspects of this matter, the Allied Commission should express an opinion as to whether it was feasible or necessary to obtain from the Italian Government an undertaking on the lines of the draft at 10.

It will be observed from para 2 of 2A that the Chief Legal Adviser considers the proposed letter unnecessary from the legal point of view. I agree with this opinion and consider that as a matter of general policy the proposed letter is both unnecessary and undesirable.

May I have your views, please.

Mcarr Brigade

ES 18/10

M. CARR, Brig.,
VF CA Section.

Tel. Ext. 325.
13 Oct 45.

To VP C.A. Section

- 2 -

I note that this question was raised by U.S. War Department and assume that any decision would be taken at a military level. From a political standpoint, I fail to see any reason for favoring such a letter at this time and fail to see why question should have arisen at this moment. I presume request for such a document from Italian Govt

(4A)

HEADQUARTERS ALLIED COMMISSION
ATC 394
CIVIL AFFAIRS SECTION

Ref : AC/4055/2/L

20 Oct 45

SUBJECT : Confirmation by Italian Government of
Acts of Allied Military Government.

TO : AFHQ, G-5 Section

With further reference to your letter G-5: 367.4 of 2 Oct and to your telegram #43998 of 17 Oct.

- 1A
- 3A
- 1 The opinion of this Commission as to the legal aspect of this question was contained in this HQ letter AC/4055/2/L of the 8 Oct.

2A

 - 2 So far as the question of the general desirability of the proposed procedure is concerned it is considered unnecessary and undesirable to request the Italian Government to give a second undertaking worded slightly differently to the undertaking which they have consistently given in successive handover documents and which they will as usual give on the forthcoming handover.
 - 3 Further when parallel undertakings are given in different wordings, there is always the danger of the two documents bearing slightly different interpretation and as to determining which shall prevail.

FOR THE CHIEF COMMISSIONER :

M. CARR, Brig,
VP CA Section

Copy to : Executive Commissioner

17 OCT 1945

INCOMING MESSAGE

HEADQUARTERS ALLIED COMMISSION

17 OCT 1945

Originator's Reference: F 48998
 Date/Time of Origin: OCT 16/1812A

Message Centre No: G 1245
 Date Time Rec'd: OCT 17/1130A
 Precedence: ROUTINE

FROM: AFHQ SIGNED SACRED CITE FHGEG
 TO : ALCOM ROME

~~SECRET~~ ~~Confidential~~

SECRET.

Conversation Colonel HAMMOND Brigadier CARR refers. your further comments to our G5 387.4 of 2 october forwarding proposed Italian government undertaking are requested soonest.

DIST

ACTION : DA SEC

INFO : CHIEF COMMISSIONER
 FILE (2)
 FLOAT

HEADQUARTERS
 17 OCT 1945
 A. C.

DOWN GRADED
 TO
 UNCLASSIFIED

ACTION

~~SECRET~~

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

98/146

5003

SECRET

2A

HEAD QUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AG/4055/2/L.

Confidential /10.
8 October 1945.

SUBJECT : Confirmation by the Italian Government of acts of
Allied Military Government.

TO : AFHQ, G-5 Section.

1. Reference your G-5: 387.4 of 2nd October forwarding copy of a letter that it is proposed should be signed by the President of the Council of Ministers upon the termination of the armistice. The purpose of the letter is to obtain an undertaking from the Italian Government that it recognizes as valid:

- (1) all Proclamations and Orders, issued by A.M.G.,
- (2) all acts done by members of the Allied Forces in pursuance of such Proclamations or Orders, including appointments to and removal from any office, and
- (3) all sentences imposed by A.M.G. Courts.

2. The terms of the proposed letter are identical with Clauses 2, 3, and 4 of the Proclamation signed on the occasion of each restoration of territory to the Italian Government. On each restoration the President of the Council of Ministers has bound the Italian Government in the precise terms contained in the proposed draft letter, and upon the restoration of the remaining territory an identical document will be signed. From the legal point of view the proposed letter is unnecessary, as the undertaking sought from the Italian Government has been definitely given in the clearest terms on the occasion of each restoration.

3. The proposed letter further asks an undertaking that the Italian Government will not, except in individual cases of great hardship, grant any amnesty in the case of sentences by A.M.G. Courts, or by Italian Courts in cases growing out of injury or loss to Allied personnel or property. Certain proposals regarding the whole question of amnesty have been made by the President of the Council of Ministers to the Chief

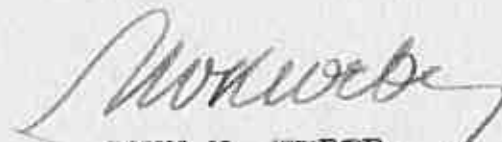
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Col. Inf.
Chief Judicial Officer
for Chief Civil Affairs Officer

Commissioner who has them at present under consideration.

4. Delay in replying is due to the fact that I have been presiding over a General Military Court in North Italy during the last week.

For the Chief Commissioner:



JOHN K. WEBER,
Colonel,
Chief Legal Advisor.

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6389

4055/2

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ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

FTH/WSW

552
LEGAL S/C
1A

G-5: 387.4

2 October 1945

SUBJECT: Confirmation by Italian Government of Acts of Allied Military Government.

TO : Headquarters, Allied Commission, APO 394.
(Attention: Colonel Weber, Chief Legal Advisor)

1. Inclosed is copy of proposed letter to be requested from the Italian Government to confirm judicial and other action taken by Allied Military Government in Italy, together with copy of letter of transmittal from General Snofford to General Hamblen.
2. It is requested that your comments be furnished as a matter of urgency, for consideration by this Headquarters.

For Asst. Chief of Staff, G-5:

Incl:
as above



F. T. Hammond, Jr.
F. T. HAMMOND, JR.,
Colonel, G.S.C.

This is personal for CHA
to comment upon -
G-5

LEGAL SUB-COMMISSION	
CIO	
DCIO	
Chief	
CIO	
Italian	
CL RIC	
45 OCT 1945	

SECRET

COPY

WAR DEPARTMENT
OFFICE OF THE ASSISTANT SECRETARY
Washington, D. C.

20 September 1945

Brigadier General A. L. Hamblen
Assistant Chief of Staff, G-5
Allied Force Headquarters
APO 512, c/o Postmaster
New York, New York

Dear Arch:

In connection with the termination of the armistice at the effective date of the peace treaty, the legal advisors here believe, as I believe our lawyers in the theater do, that some undertaking should be obtained from the Italian Government recognizing the validity of action taken during the occupation by AMG. Appointments, removals, action taken under the proclamations and similar matters are involved. Reservations covering this general subject matter are included in the handover documents each time territory is transferred to Italian Government administration. In spite of this fact, the lawyers here believe that some overall final reservation should be a part of the papers delivered at the time the treaty becomes effective.

For this purpose there has been drafted a letter to be addressed by the President of the Council of Ministers to SAC, a copy of which is inclosed. The theater comments, both British and U.S., on the desirability of an instrument of this character and on the form proposed would be appreciated.

We have thought it well to handle the matter by an undertaking of the sort proposed rather than in the treaty since it is not of interest to the signatories of the treaty other than the U.S. and U.K. It should not be covered in the civil affairs agreement since that will be temporary in nature and for the duration of redeployment in Italy and the occupation of Germany and Austria. We have made it run to SAC since comparable papers during the occupation have been set up on this basis. This also is a matter on which theater comment is invited.

Although the question of who is going to be where at what time is still rather indefinite, I think your comments should be addressed to both London and Washington as in the case of the civil affairs agreement.

Sincerely,

Incl:
as above

/s/ ??

(1c)

The Supreme Allied Commander
Mediterranean Theater of Operations

Sir:

In view of the fact that it is anticipated that a Treaty of Peace will shortly be entered into between the United States, the United Kingdom and other Allied Powers, action on behalf of the United Nations, and Italy, I desire to give you following assurance on the part of my Government which will become effective upon the execution of such Treaty of Peace:

All Proclamations and Orders heretofore issued in any part of Italy by the successive Allied Military Governors or under their authority by their delegates are hereby recognized by the Italian Government as having been validly issued during the time they were operative and are declared to have been of the same legal effect during that time 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.

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 office, public or private, will be recognized by all Italian courts and officials as legal, valid and binding.

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 all Italian Courts and Italian officials. Such sentences as well as sentences

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issued by the Italian Government in accordance with Italian law, and they will be so recognized by all Italian Courts and officials.

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 office, public or private, will be recognized by all Italian courts and officials as legal, valid and binding.

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 all Italian Courts and Italian officials. Such sentences as well as sentences imposed by Italian Courts in cases growing out of injury or loss to Allied personnel or property shall not be the subject of any future amnesty law or decree promulgated by the Italian Government, provided, however, that the Italian Government in individual cases of either type may, in the event of undue hardship, illness or exemplary conduct on the part of the particular individuals convicted, release them from imprisonment on the same conditions

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and under the same circumstances as would obtain in cases of a similar nature tried by the Italian Courts and not involving any Allied interest.

President of the Council of Ministers

Rome, _____ 1945.

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

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