

## Memorandum of Understanding (Lombardo Agreement)

61 Stat. 39 62 (1947)

*Between the Government of the United States of America and the Government of Italy regarding Italian assets in the United States of America and certain claims of United States nationals*

Discussions have taken place with representatives of the Government of Italy on the question of disposition of Italian property in the United States of America. These discussions have grown out of the terms of the Treaty of Peace with Italy dated at Paris February 10, 1947, particularly Article 79 thereof; and out of the financial and other relations between the United States of America and Italy during the period since the Italian Armistice. As a further step toward the bettering of relations between Italy and the United States of America, the Government of the United States of America has felt it desirable, subject to appropriate governmental action, to renounce certain of the rights granted to it under the terms of the Treaty of Peace, and to return and unblock property in the United States of America which has been vested or blocked by the Government of the United States of America by reason of an interest of Italy or Italian nationals. The Government of Italy, on the other hand, has recognized that in justice it should provide funds to be utilized by the Government of the United States of America in application to claims of United States nationals arising out of the war with Italy.

The Government of the United States of America and the Government of Italy have, therefore, reached an understanding, as follows:

### Article I

1. The Government of the United States of America, referring to Article 79 of the Treaty of Peace with Italy, dated at Paris February 10, 1947, nevertheless agrees, within the limits provided by law:

(a) to take the necessary steps to effect the return of property and interests vested in or transferred to any officer or agency of the Government of the United States of America under the Trading with the Enemy Act, as amended,<sup>1</sup> which were owned by the Government of Italy or Italian nationals immediately prior to such vesting or transfer, or the net proceeds of such property or interest; provided, however, that such return shall be subject to the conditions and exceptions set forth in Annex I, which constitutes an integral part of this Memorandum of Understanding;

(b) to take the necessary steps to effect the release by the United States authorities of blocked property and interests in the United States of America of Italy or Italian nationals. Such release shall be effected in accordance with conditions stated in a letter of assurances, dated today, and addressed by the Italian authorities to the Secretary of the Treasury of the United States of America, it being understood that the unblocking procedure will actually be put into effect not later than one month from the date of this Memorandum of Understanding;

(c) to take the necessary steps to return, in their condition at the time of return, to the Government of Italy all vessels which were under Italian registry and flag on September 1, 1939, which were thereafter acquired by the Government of the United States of America either by purchase or by forfeiture and which are now owned by the Government of the United States of America; provided, that in the event forfeiture proceedings against any of the vessels are dismissed, the Government of Italy agrees to discharge and save harmless the Government of the United States of America from any responsibility and liability for the processing, settlement and satisfaction of any claims against such vessels; and

(d) to take the necessary steps, subject to all terms and conditions of authorizing legislation, to transfer to the Government of Italy surplus liberty ships of the Government of the United States of America, to be operated by Italy for commercial uses, of a total tonnage approximately equal to the total tonnage of vessels which were under Italian registry and

<sup>1</sup> 50 U.S.C. App. 1-38.

flag on September 1, 1939, and were subsequently seized in United States ports and thereafter lost while being employed in the United States war effort, provided that the selection of such surplus ships shall be by the Government of the United States of America, after consultation with the Government of Italy, and provided further that the ships shall be transferred on an as is where is basis.

2. The release or return of property and interests under the present Article shall not prevent the assertion of rights or claims to, against or with respect to such property and interests or the proceeds thereof; nor (in accordance with Article 76 of the Treaty of Peace signed at Paris) shall this Memorandum of Understanding or its execution in any way give rise to any cause of action or claim against the Government of the United States of America, or any officer or agency thereof.

3. (a) The provisions of this Article shall in no manner impose any obligation upon the Government of the United States of America to return any royalty or other compensation or right to receive a royalty or other compensation to the Government of Italy or any Italian national arising out of the use prior to December 31, 1945 of any invention, patent or patent right in the United States held by the Government of Italy or Italian nationals, or subject to return to the Government of Italy or Italian nationals pursuant to this Memorandum of Understanding.

(b) The Government of Italy recognizes that the Government of the United States of America, its agencies or United States nationals, have no responsibility for the processing, settlement or satisfaction of any claims of Italian nationals falling under the terms of this paragraph and agrees, consistent with Paragraph 3 of Article 79 of the Treaty of Peace, to compensate Italian nationals for any duly established claims falling under the terms of this Article.

(c) Except as set forth in this Memorandum of Understanding or in Annex I hereto, industrial property released or returned by the Government of the United States of America pursuant to paragraph 1 of the present Article shall be subject only to such restrictions as may otherwise be generally applicable to industrial property in the United States of America held by foreign countries or nationals of such countries.

#### Article II

4. The Government of Italy agrees to pay and deposit with the Government of the United States of America on or before December 31, 1947 the sum of \$5,000,000 (five million dollars) in currency of the United States of America, this sum to be utilized, in such manner as the Government of the United States of America may deem appropriate, in application to the claims of United States nationals arising out of the war with Italy and not otherwise provided for.

#### Article III

##### Definitions

5. For the purposes of this Memorandum of Understanding, the term "Italian nationals" means individuals who are nationals of Italy or corporations or associations organized under the laws of Italy, at the time of the coming into force of this Memorandum of Understanding.

#### Article IV

##### Clauses of the Treaty of Peace

6. It is agreed that any of the clauses of the Treaty of Peace, dated at Paris February 10, 1947, to which this Memorandum of Understanding and the Annex hereto may refer, shall be considered as constituting an integral part of this Memorandum of Understanding and the Annex hereto, as between the Governments of the United States of America and Italy.

#### Article V

##### Effective Date

7. This Memorandum of Understanding shall enter into force upon the day it is assigned.

Done at Washington in duplicate, in the English and Italian languages, both of which shall have equal validity, this 14th day of August, 1947.

For the Government of the United States of America:  
ROBERT A. LOVETT

For the Government of Italy:  
LOMBARDO

#### Annex I

The Government of the United States of America intends to effect returns, pursuant to Article I, paragraph 1(a) of this Memorandum of Understanding, by appropriate legislation permitting returns of vested property to the Government of Italy and subjects or citizens of Italy and corporations or associations organized under the laws of Italy upon the terms and conditions generally applicable to return of such property to others eligible for return pursuant to Section 32 of the Trading with the Enemy Act, as amended.

It is understood that while the Government of the United States of America will seek to eliminate Italian nationality as a disqualification from eligibility for return pursuant to Section 32(a) of the Trading with the Enemy Act, as amended,

(a) The Government of the United States of America does not intend to assume any obligation to make returns to any of the following:

(1) The Italian Fascist Party, any organization closely affiliated therewith (other than the Government of Italy) or any person who was a member of such party or organization at any time after September 8, 1943; or

(2) Any person, firm or organization convicted of violation of any of the statutes set forth in Section 34(a) of the Trading with the Enemy Act, as amended; or

(3) Any person, firm or organization convicted of war crimes or of having collaborated with an enemy country after September 8, 1943; or

(4) Any person, firm or organization indicted or officially charged with war crimes or with having collaborated with an enemy country after September 8, 1943, until such person, firm or organization has been officially acquitted or cleared of such indictment or charge; or

(5) A corporation or association organized under the laws of any country other than Italy or Trieste; or

(6) Any individual who was at any time after December 7, 1941, a citizen or subject of a nation other than Italy with which the United States of America has at any time since December 7, 1941, been at war; or

(7) Any individual voluntarily resident at any time since December 7, 1941, within the territory of any nation other than Italy with which the United States of America has at any time since December 7, 1941, been at war;

(b) Ultimate disposition of property falling under the terms of section (a), paragraphs (1)-(7) above is reserved for future decision by the Government of the United States of America, after consultation between the Governments of Italy and the United States of America;

(c) The Government of the United States of America does not intend to make returns in any case in which it deems that return would be contrary to its interests in respect of national security or antitrust or fiscal policy; and

(d) The Government of the United States of America does not intend to assume any obligation to make returns of any property which was used pursuant to an arrangement to cloak or to conceal any property or interest within the United States of America of any person ineligible to receive a return under Section 32(a)(2) of the Trading with the Enemy Act, as amended.

It is further understood that in the case of any literary, artistic or industrial property to be returned, the property shall remain subject to all licenses and agreements for licenses which were granted or entered into by the United States of America with respect to it and which were in effect immediately prior to return; and any rights of the Government of the United States of America to revoke any such license or agreement for license shall not be included within the return.