

THE FIRST SCHEDULE

PART VII

PROPERTY, RIGHTS AND INTERESTS

SECTION I

UNITED NATIONS PROPERTY IN ITALY

Article 78

1. In so far as Italy has not already done so, Italy shall restore all legal rights and interests in Italy of the United Nations and their nationals as they existed on June 10, 1940, and shall return all property in Italy of the United Nations and their nationals as it now exists.

2. The Italian Government undertakes that all property, rights and interests passing under this Article shall be restored free of all encumbrances and charges of any kind to which they may have become subject as a result of the war and without the imposition of any charges by the Italian Government in connection with their return. The Italian Government shall nullify all measures, including seizures, sequestration or control, taken by it against United Nations property between June 10, 1940, and the coming into force of the present Treaty. In cases where the property has not been returned within six months from the coming into force of the present Treaty, application shall be made to the Italian authorities not later than twelve months from the coming into force of the present Treaty, except in cases in which the claimant is able to show that he could not file his application within this period.

3. The Italian Government shall invalidate transfers involving property, rights and interests of any description belonging to United Nations nationals, where such transfers resulted from force or duress exerted by Axis Governments or their agencies during the war.

- (a) (a) The Italian Government shall be responsible for the restoration to complete good order of the property returned to United Nations nationals under paragraph 1 of this Article. In cases where property cannot be returned or where, as a result of the war, a United Nations national has suffered a loss by reason of injury or damage to property in Italy, he shall receive from the Italian Government compensation in lire to the extent of two-thirds of the sum necessary, at the date of payment, to purchase similar property or to make good the loss suffered. In no event shall United Nations nationals receive less favourable treatment with respect to compensation than that accorded to Italian nationals.
- (b) United Nations nationals who hold, directly or indirectly, ownership interests in corporations or associations which are not United Nations nationals within the meaning of paragraph 9(a) of this Article, but which have suffered a loss by reason of injury or damage to property in Italy, shall receive compensation in accordance with sub-paragraph (a) above. This compensation shall be calculated on the basis of the total loss or damage suffered by the corporation or association and shall bear the same proportion to such loss or damage as the beneficial interests of such nationals in the corporation or association bear to the total capital thereof.
- (c) Compensation shall be paid free of any levies, taxes or other charges. It shall be freely usable in Italy but shall be subject to the foreign exchange control regulations which may be in force in Italy from time to time.
- (d) The Italian Government shall grant United Nations nationals an indemnity in lire at the same rate as provided in sub-paragraph (a) above to compensate them for the loss or

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damage due to special measures applied to their property during the war, and which were not applicable to Italian property. This sub-paragraph does not apply to a loss of profit.

5. All reasonable expenses incurred in Italy in establishing claims, including the assessment of loss or damage, shall be borne by the Italian Government.

6. United Nations nationals and their property shall be exempted from any exceptional taxes, levies or imposts imposed on their capital assets in Italy by the Italian Government or any Italian authority between September 3, 1943, and the coming into force of the present Treaty for the specific purpose of meeting charges arising out of the war or of meeting the costs of occupying forces or of reparation payable to any of the United Nations. Any sums which have been so paid shall be refunded.

7. Notwithstanding the territorial transfers provided in the present Treaty, Italy shall continue to be responsible for loss or damage sustained during the war by property in ceded territory or in the Free Territory of Trieste belonging to United Nations nationals. The obligations contained in paragraphs 3, 4, 5 and 6 of this Article shall also rest on the Italian Government in regard to property in ceded territory and in the Free Territory of Trieste of United Nations nationals except in so far as this would conflict with the provisions of paragraph 14 of Annex X and paragraph 14 of Annex XIV of the present Treaty.

8. The owner of the property concerned and the Italian Government may agree upon arrangements in lieu of the provisions of this Article.

9. As used in this Article:

(a) "United Nations nationals" means individuals who are nationals of any of the United Nations, or corporations or associations organised under the laws of any of the United Nations, at the coming into force of the present Treaty, provided that the said individuals, corporations or associations also had this status on September 3, 1943, the date of the Armistice with Italy.

The term "United Nations national" also includes all individuals, corporations or associations which, under the laws in force in Italy during the war, have been treated as enemy;

(b) "Owner" means the United Nations national, as defined in sub-paragraph (a) above, who is entitled to the property in question, and includes a successor of the owner, provided that the successor is also a United Nations national as defined in sub-paragraph (a). If the successor has purchased the property in its damaged state, the transferor shall retain his rights to compensation under this Article, without prejudice to obligations between the transferor and the purchaser under domestic law;

(c) "Property" means all movable or immovable property, whether tangible or intangible, including industrial, literary and artistic property, as well as all rights or interests of any kind in property. Without prejudice to the generality of the foregoing provisions, the property of the United Nations and their nationals includes all seagoing and river vessels, together with their gear and equipment, which were either owned by United Nations or their nationals, or registered in the territory of one of the United Nations, or sailed under the flag of one of the United Nations and which, after June 10, 1940, while in Italian waters, or after they had been forcibly brought into Italian waters, either were placed under the control of the Italian authorities as enemy property or ceased to be at the free disposal in Italy of the United Nations or their nationals, as a result of measures of control taken by the Italian authorities in relation to the existence of a state of war between members of the United Nations and Germany.

SECTION II

ITALIAN PROPERTY IN THE TERRITORY OF ALLIED AND ASSOCIATED POWERS

Article 79

1. Each of the Allied and Associated Powers shall have the right to seize, retain, liquidate or take any other action with respect to all property, rights and interests which on the coming into force of the present Treaty are within its territory and belong to Italy or to Italian nationals, and to apply such property or the proceeds thereof to such purposes as it may desire, within the limits of its claims and those of its nationals against Italy or Italian nationals, including debts, other than claims fully satisfied under other Articles of the present Treaty. All Italian property, or the proceeds thereof, in excess of the amount of such claims, shall be returned.

2. The liquidation and disposition of Italian property shall be carried out in accordance with the law of the Allied or Associated Power concerned. The Italian owner shall have no rights with respect to such property except those which may be given him by that law.

3. The Italian Government undertakes to compensate Italian nationals whose property is taken under this Article and not returned to them.

4. No obligation is created by this Article on any Allied or Associated Power to return industrial property to the Italian Government or Italian nationals, or to include such property in determining the amounts which may be retained under paragraph 1 of this Article. The Government of each of the Allied and Associated Powers shall have the right to impose such limitations, conditions and restrictions on rights or interests with respect to industrial property in the territory of that Allied or Associated Power acquired prior to the coming into force of the present Treaty by the Government or nationals of Italy, as may be deemed by the Government of the Allied or Associated Power to be necessary in the national interest.

- (a) (a) Italian submarine cables connecting points in Yugoslavia shall be deemed to be Italian property in Yugoslavia, despite the fact that lengths of these cables may lie outside the territorial waters of Yugoslavia.
- (b) Italian submarine cables connecting a point in the territory of an Allied or Associated Power with a point in Italian territory shall be deemed to be Italian property within the meaning of this Article so far as concerns the terminal facilities and the length of cables lying within territorial waters of that Allied or Associated Power.

6. The property covered by paragraph 1 of this Article shall be deemed to include Italian property which has been subject to control by reason of a state of war existing between Italy and the Allied or Associated Power having jurisdiction over the property, but shall not include:

- (a) Property of the Italian Government used for consular or diplomatic purposes;
- (b) Property belonging to religious bodies or private charitable institutions and used exclusively for religious or charitable purposes;
- (c) Property of natural persons who are Italian nationals permitted to reside within the territory of the country in which the property is located or to reside elsewhere in United Nations territory, other than Italian property which at any time during the war was subjected to measures not generally applicable to the property of Italian nationals resident in the same territory;
- (d) Property rights arising since the resumption of trade and financial relations between the Allied and Associated Powers and Italy, or arising out of transactions between the Government of any Allied or Associated Power and Italy since September 3, 1943;
- (e) Literary and artistic property rights;

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- (f) Property in ceded territories of Italian nationals, to which the provisions of Annex XIV shall apply;
- (g) With the exception of the assets indicated in Article 74, part A, paragraph 2(b) and part D, paragraph 1, property of natural persons residing in ceded territories or in the Free Territory of Trieste who do not opt for Italian nationality under the present Treaty, and property of corporations or associations having siège social in ceded territories or in the Free Territory of Trieste, provided that such corporations or associations are not owned or controlled by persons in Italy. In the cases provided under Article 74, part A, paragraph 2(b) , and part D, paragraph 1, the question of compensation will be dealt with under Article 74, part E.

SECTION III

DECLARATION OF THE ALLIED AND ASSOCIATED POWERS IN RESPECT OF CLAIMS

Article 80

The Allied and Associated Powers declare that the rights attributed to them under Articles 74 and 79 of the present Treaty cover all their claims and those of their nationals for loss or damage due to acts of war, including measures due to the occupation of their territory, attributable to Italy and having occurred outside Italian territory, with the exception of claims based on Article 75 and 78.

SECTION IV

DEBTS

Article 81

1. The existence of the state of war shall not, in itself, be regarded as affecting the obligation to pay pecuniary debts arising out of obligations and contracts which existed, and rights which were acquired, before the existence of the state of war, which became payable prior to the coming into force of the present Treaty, and which are due by the Government or nationals of Italy to the Government or nationals of one of the Allied and Associated Powers or are due by the Government or nationals of one of the Allied and Associated Powers to the Government or nationals of Italy.

2. Except as otherwise expressly provided in the present Treaty, nothing therein shall be construed as impairing debtor-creditor relationships arising out of pre-war contracts concluded either by the Government or nationals of Italy.