

Declassified per Executive Order 12958, Section 3.5
NND Project Number: NND 775057 By: NND Date: 1977

German Assets in Italy: Art Libraries, 1948

[90 pp.]

ARCHAOLOGISCHES INSTITUT DES DEUTSCHEN REICHES

BERICHT UBER DIE HUNDERTJAHRFEIER

21 - 25 April 1929, (1930)

"Glückwünsche"

LONDON, BRITISH MUSEUM, Überreicht durch Dr. G. F. Hill.

The Trustees of the British Museum desire to offer their congratulations to the Deutsches Archäologisches Institut on the celebration of the hundredth anniversary of its birth. The century of its life has been a century of archaeological progress, in which the Institute has taken a foremost place. Among the investigations of historic sites in Hellenic lands, the German excavations at Olympia and Pergamon are honourably distinguished; and from its two homes at Athens and Rome the Institute has watched over successive revelations of Greek and Roman art, and has assisted students to know and appreciate them. At all times the Institute has set a high standard of accuracy, of thoroughness, and of scholarship; and scholars throughout the world, without distinction of nationality, join in congratulating it on its past achievements, and in wishing it equal success in the future.

In these congratulations and wishes the Trustees of the British Museum, who have in their keeping so many of the monuments of Greek and Graeco-Roman art, and who are deeply concerned in the causes in which the Institute is interested, desire to join with cordial sincerity.

Signed on behalf of the Trustees of the British Museum:
Crawford, Balcones. Frederic S. Kenyon, Director and Principal Librarian.

Page 415

LONDON, SOCIETY FOR THE PROMOTION OF HELLENIC STUDIES,
Überreicht durch Dr. H. R. Hall.

The Society for the Promotion of Hellenic Studies desires to offer to the Deutsches Archäologisches Institut its fraternal greetings on the celebration of the hundredth anniversary of its foundation. Ourselves about to commemorate our fiftieth birthday we regard with respect and admiration your institution, which for twice that period has pursued with courage and success the studies in which we are alike interested. The century during which the Institute has been pursuing, with ever-increasing honour, its career of research has been one of unequalled achievement in the sphere of classical

- 2 -

archaeology. On many a famous site in the Greek lands the representatives of your School at Athens have earned honour for themselves and have added to the knowledge of mankind, while from your home in Rome the Institute has watched over the resurrection of Roman art and history from the soil of Italy. Throughout this period, and in every part of the ancient classical world, the Institute has been in the forefront alike in excavation and in the study of the results of the excavations of others.

Science knows no boundaries of nationality; and to-day the scholars and archaeologists of the whole Western world, which owes its civilization to the art and literature of Greece and Rome, unite to do honour to a Society which has always held high the torch that guides the student in his search for truth.

On behalf of the Council: A. H. Smith, President.
C. A. Hutton, Hon. Secretary.

LONDON, PALESTINE EXPLORATION FUND, Überreicht durch
Dr. H. R. Hall.

The Palestine Exploration Fund present their congratulations to the Archaeologisches Institut des Deutschen Reiches upon the attainment of its centenary.

The Palestine Exploration Fund, founded in 1865, has for sixty-three years been engaged in the study of the archaeology of Palestine, and during an unbroken period of sixty years has issued its "Quarterly Statement" and numerous other publications recording the results of its own work and that of kindred learned societies.

During much of this time a cordial liaison has been maintained with German workers in the field of archaeology. We desire to mention in particular the names of Doctor Conrad Schick, Doctor Georg Schumacher, Professor Herman Thiersch and Professor Gustaf Dalman all of whom have made valuable contributions to our publications.

In the field of excavation there has existed between our respective Directors of work an appreciation and friendly rivalry which we believe has been mutually profitable. We desire to express the hope that this co-operation in a common object for the enrichment of the science of archaeology may continue and progress during the new century upon which the Archaeologisches Institut des Deutschen Reiches now enters.

H. R. Hall, Chairman. E. W. G. Masterman, Hon. Secretary.

- 3 -

SCHRIFTLICHE UND TELEGRAPHISCHE GLÜCKWUNSCH

(Americans)

New Haven (Conn.)

Prof. M. Rostovtzeff
Prof. P. V. O. Baur

New York

Giesela Richter
Caroline Ranson Williams
Mary Swindler

Page 435.

Declassified per Executive Order 12958, Section 3.5
NND Project Number: NND 775057 By: NND Date: 1977

Paul M. Bounner - Foreign
Service Reserve officer
now in Rome - left
last Thursday & sailed
Monday - Letter has
probably been rec. by him
or forwarded to Rome
Miss DeLoe thinks he may have Plenipotentiary

WESTERN
UNION

WESTERN
UNION

OFS

DISSEMINATED AREAS DIVISION
(ADD)

JAN 14 1948

DEPARTMENT OF STATE

DO/T TRAFFIC SECTION

JAN 2 12 48 PM '48

EXAMINING UNIT
(DIVISION OF DEPARTMENTAL)

JAN 8 1948

CLR

RT117-118.SDB

TWU R30 DL PD

TDB CAMBRIDGE MASS JAN 2 1200P

PAUL H BONNER

DEPT OF STATE

WESTERN
UNION

ON BEHALF OF COLLEGE ART ASSOCIATION 1500 MEMBERS INCLUDING
SCHOLARS AND TEACHERS OF ART THROUGHOUT UNITED STATES
STRONGLY URGE YOU SUPPORT PROPOSAL THAT INTERNATIONAL UNION
OF INSTITUTES ACQUIRE GERMAN LIBRARIES IN ITALY WITH
ENDOWMENT PROVIDED BY SALE OF OTHER GERMAN ASSETS LETTER
FOLLOWS .

WESTERN
UNION

FREDERICK B DEKNATEL PRESIDENT

1253PM

1500..

RR30SD

See Microfilm

N

C
O
P
Y
OUTGOING AIRGRAM DEPARTMENT OF STATE Washington, Jan. 15, 1948
No. A-22

~~SECRET~~

AMEMBASSY,

ROME.

1017

Careful study has been given in the Department to the suggestion in the Embassy's telegram 3757 of November 21 and airgram 1211 of November 25, 1947, that Italy be empowered to use the proceeds from the liquidation of the German assets in Italy to pay the claims of United Nations nationals for war damages, in accordance with the provisions of Article 78 of the Treaty of Peace.

Since, as you point out, the Department has the fixed intention of obtaining for Italy all of the proceeds of the liquidation of the German assets, the problem, so far as present policy is concerned, would seem to resolve itself into whether it will be more desirable to veer the aim toward the utilization suggested in the referenced 'grams, or to hold to the proposition that the proceeds of the assets should be turned over to Italy unconditionally.

The Department unfortunately is possessed of no better figures than the Embassy in regard to the total claims of U. S. citizens or of United Nations nationals to be brought against Italy under Article 78. Estimates have been made of the claims of U. S. citizens of roughly 50 million dollars out of an almost 200 million dollars total property interested in Italy of American citizens and business enterprises organized under American law. This figure would seem to be at serious odds with the estimate of 200 million dollars in claims in the Embassy's telegram. It is believed further that the next largest group of claimants would be U. K. nationals, and it is believed, though not demonstrable, that their claims plus the claims of all other United Nations nationals would not come to an additional 50 million dollars. The recitation of these estimates is, however, probably futile, since no tenable estimates seem to exist of the realizable value of German assets in Italy.

It may safely be assumed, however, that aside from nationals of the U. S. and U. K. and, perhaps, France, the nationals of other IARA nations have claims against Italy lower, in proportion to the total claims against Italy, than their respective percentage shares of reparation from Germany which they may still hope to realize out of German assets in Italy. If this conclusion can not be demonstrated mathematically, it must be

assumed

~~SECRET~~

A-22

- 2 -

Jan. 15, 1948

assumed politically. The result of ear marking the proceeds of German assets in Italy for indemnification of United Nations claimants might be tantamount in the eyes of the other IARA nations, to ear marking German assets in Italy for the United States. Those nations that will be loath to accept a final disposition of German assets in Italy that delivers their proceeds to Italy, would be even more loath to accept a disposition that delivers the value to the United States.

To obtain the consent of Britain and France to the release of the proceeds to the Italians would seem no more difficult (if as much so) than to obtain their consent to the use of the proceeds for paying off war damage claims and it would seem certain that the effect on Italian morale of an unconditional release of the proceeds would be even more favorable than the conditional one suggested.

Since unconditional release would be as readily accepted by Britain and France and less unfavorably received by the other IARA countries, and would probably be the cause of greater satisfaction to the Italians themselves, it would seem that the strongest argument in favor of the earmarking as opposed to the unconditional release would be that by earmarking the proceeds for the satisfaction of war damage claims, American citizens might appear more likely to receive early consideration and payment of their claims. This is, of course, a weighty consideration but its impact is weakened by the situation suggested in the 4th paragraph of the reference telegram, i.e., that Italy may have to seek special agreement with the U. S. and U. K. and France on war damage claims.

In June, officials of the British and French Embassies here were asked at high levels in the Department to give urgent consideration to the U. S. recommendation that the entire proceeds of the liquidation of German assets in Italy be turned over to the Italian government as the proceeds become available. The problem of the disposition of these proceeds has, however, become inter-mixed with the other problems dividing France and Italy, as well as psychologically related problems between the U. S. and France. Such an unconditional disposition is, however, still the policy of this government and the British and French here will be pressed at once to obtain replies from their foreign offices.

The Embassy's early comments on the foregoing are requested.

/S/ Marshall

OE:WASilver:mjh 12/16/47 FN Le/E EUR - attn Mr. Dowling

C
O
P
Y

INCOMING AIRGRAM
Department of State Division of Communications and Records Telegraph Branch

AIRGRAM 2658

FROM: American Embassy,
Rome, Italy

DATE: February 6, 1948

REC'D: Feb. 16, 1948

2:20 PM

~~SECRET~~

3

Z

ACTION OFD

INFO

DC/R

UE

A-S

LE

EUR

DC/L

OCD

CIA

FC

Secretary of State,
Washington.

A-126, February 6, 1948.

Reference Department's Airgram 22, January 15, 1948, concerning the use of the proceeds from the liquidation of the German assets in Italy to pay the claims of United Nations nationals for war damages. The Embassy's documents were requested.

On several occasions members of the Italian Government have indicated to representatives of this and other United Nations Embassies in Rome that because of the total value of the claims to be filed in accordance with the provisions of Article 78 of the Treaty of Peace and of the present economic situation of Italy, the Government might have to come to a special understanding with the Governments of the United States, United Kingdom and France as to the conditions for payment of war damage claims. The Agreement between the Governments concerned would probably be in the way of a lump-sum settlement. That this (is) the thinking in certain quarters of the Government is evident from recent informal statements made by persons in the Government responsible for the execution of the economic clauses of the Treaty. This thinking is also reflected in a memorandum prepared by Minister Berio and others, a copy of which was transmitted to the Department as Enclosure No. 1 to Embassy's despatch No. 1904, November 19, 1947.

In view of these developments, the Embassy suggested to the Department the possibility of releasing to the Italian Government the proceeds from the liquidation of the German assets in Italy as a source from which Italy might be able to meet its obligations for payment of war damages. It was not the intent of the Embassy that the proceeds from the liquidation of the German assets, if released to the Italian Government, be labeled for payment of war damages. Since the Department, however, had indicated that its objective was to obtain the release of the proceeds to Italy, it was felt that if they could be released now or as they are received, the additional income

~~SECRET~~

A-126, American Embassy,
Rome, Italy.

- 2 -

~~SECRET~~

to the Italian Government would enable it to pay the claims and would forestall any attempt on its part to come to special agreements for a lump-sum or any other form of settlement. It should, however, be pointed out to the Italian Government, if the proceeds are released, that such action on the part of the Allied Governments gives Italy additional financial resources and that those Governments expect Italy to fulfill its commitments under the Treaty.

As stated in the Embassy's airgram and the Department's telegram, there is no accurate estimate as to the total claims of United Nations nationals under Article 78. Commendatore Dadone, Italian representative on the Committee on German assets in Italy, has recently estimated that the German assets in Italy to be disposed of by the Committee are worth about 60 million lire (approximately \$105,000,000). If Dadone's estimate is correct and the claims of United States nationals come to no more than \$50 million and those of all other United Nations nationals to an additional \$50 million, as mentioned in the Department's airgram, the proceeds of the liquidation of the German assets would more than meet the deficiencies in the Italian Government's budget for payment of war damage claims.

In its airgram the Department refers to the interest of the other IARA countries in the German assets in Italy. The Embassy was of the impression that the German assets in Italy were not subject to IARA but only to the three Governments, the United States, United Kingdom and France. The records of the proceedings of the drafting of Article 77, Paragraph 5, of the Treaty of Peace clearly show that the United States opposed any wording which would indicate that either the IARA or the Allied and Associated Powers were entitled to German assets in Italy. (See "The Negotiation of the Treaties of Peace with Italy, Rumania, Bulgaria and Hungary - Part 1, Economic and Related Articles and Economic Annexes," prepared by the Division of Historical Policy Research, Research Project No. 44, pp. 312-314.) The Embassy would appreciate being informed of what claim other IARA countries might have to German assets in Italy.

DUNN

JGMein:fpb

~~SECRET~~

No. 302

American Embassy

~~RESTRICTED~~

Rome, February 18, 1948

SUBJECT: Current Developments in Regard to German Libraries in Italy.

THE HONORABLE

THE SECRETARY OF STATE,

WASHINGTON.

SIR:

With reference to Embassy's despatches Nos. 1995 and 2051, of December 9 and 18, 1947, respectively. I have the honor to report current developments in regard to the Archaeological and other German libraries in Italy, and to request instructions as to their disposition.

Prior to the war the German Government, in accordance with an Agreement signed with the Italian Government, maintained five scientific Institutes in Italy: the German Archaeological Institute (Rome); the German Historical Institute (Rome); the German Institute of the History of Art (Florence); the Institute of the "Kaiser Wilhelm Gesellschaft" for the history of Art and of Culture (Rome); and the German Academy (Rome). None of these Institutes is in operation at the present time, although it appears that their charters are still valid, and they may some day be reactivated. The first four institutes maintained libraries, all of which are of great importance in their respective fields, and which are now the subject of consideration by the Committee on German Assets in Italy. A brief historical sketch of each of the four libraries might be helpful to an understanding of the problem.

1. Library of the German Archaeological Institute of Rome.

The Institute, with its library, was founded by persons of French nationality in 1829, with the title of Istituto di Corrispondenzo Archaeologica, and was supported by contributions from several nationalities. In 1874, after the Franco-German war, the Istituto was taken over by the German Government. The library was confiscated by the Italian Government during the war of 1914-1918, and restored to German ownership in 1920, on condition that it would not be removed from Italy. Contrary to the agreement, however, the library which consisted of 65,000 volumes and 100,000 photographs, was removed by the German army in 1943. It was returned in February 1946 by action of the Austrian United States Army Command, Division of Reparations, Deliveries and Restitution. The library has recently been temporarily reconstituted in its former quarters, and is open to scholars by appointment, and to the public twice a week. In addition to the library the Institute owned Villino Amelung, the residence of a former director, Mr. Amelung. In his will Mr. Amelung, who died on September 12, 1927, left the Villino to the Institute, the income from rents to be used for the upkeep of the library. The budget of the Institute for 1936 was L15,550 (approximately \$,) of which L1,855 were designated for the library for the purchase of books and periodicals.

2. Hertziana

~~RESTRICTED~~

Despatch No. 302, February 18, 1948
American Embassy, Rome.

~~RESTRICTED~~

- 2 -

2. Hertziana Library - Rome.

This library was established in 1919 by Henrietta Hertz, who in her will, dated September 15, 1912, left it to the Kaiser Wilhelm Gesellschaft, with the proviso that it not be removed from Rome. It is considered by scholars as probably the finest collection in the world of books and photographs on the history of Italian art of the Renaissance, and as the best organized and catalogued library of its type. The Hertz will, which also bequeathed the Palazzo Zuccari, in which the library was housed, provided: (1) the Palazzo Zuccari and library, which were to be considered as a unit, were not to be used for any purpose other than that intended by the founder; (2) the proceeds from the rents of the Palazzo were to be used for the maintenance of the building and the upkeep of the library; and (3) the library was not to be removed from its location. The Palazzo is exempt from payment of taxes and has no mortgages. The library was removed from Rome by the German Army in 1943, and returned in February 1946, by action of the Austrian United States Army Command, Division of Reparation, Deliveries and Restitution. The Palazzo was sequestered by the Italian Government and until recently occupied by the Italian Section of the International Red Cross and a few tenants in the apartments. The books, which were stored in the Gallery of Modern Art in Rome, have been returned to the Palazzo Zuccari and are now in the process of being shelved. The budget for 1939 was approximately L40,000. It is reported that the library served as a center of Nazi propaganda in Rome.

3. Library of the German Historical Institute - Rome.

The Institute was constituted in 1938 by the amalgamation of the Prussian Historical Institute and the Austrian Historical Institute, which had been reestablished in 1930. The library of the Prussian Institute, founded in 1888, had been built up to meet the special objects of the Institute's research, the history of Medieval Rome and of the Papacy. It worked closely with the Italian Historical Institute, and the two Institutes have since 1903 issued several joint publications and are in many respects complementary and mutually dependent. The library was confiscated by the Italian Government after the 1914-1918 War but returned to its German ownership in 1920, on condition that it would not be removed from Italy. In 1938 the German Government, in an agreement with the Italian Government, restated it did not intend to remove the library from Italy. Nevertheless, the library, consisting of approximately 45,000 volumes, was removed by the German Army in 1943 and returned from Germany in November 1946. The books are now in temporary deposit and use in the Vatican Library.

4. Library of the German Institute of the History of Art - Florence.

The Library was established in 1897. It was confiscated by the Italian Government after the war of 1914-1918 and restored to its German ownership in 1920, on condition that it would not be removed from Italy. In an agreement signed in 1938, the German Government again indicated that it had no intentions of removing the library from Italy. The library was taken by the Germans in 1943, and returned from Germany in November 1946. It is now in temporary deposit and partial operation in the Palazzo Guadagni, Florence.

In a note

~~RESTRICTED~~

Despatch No. 302, February 18, 1948.
American Embassy, Rome.

~~RESTRICTED~~

- 3 -

In a note to this Embassy, dated September 29, 1945, the Ministry of Foreign Affairs requested the Embassy's assistance in obtaining the return of the four libraries from Germany and Austria. On January 7, 1946, the Minister of Public Instruction of the Italian Government agreed to the temporary custody of the libraries by the International Union of Institutes of Archaeology, History, and History of Art in Rome, which was approved by the Civil Affairs Section of the Allied Commission for Italy, by letter of February 29, 1946, pending "definite decision by the United States, British and other Governments concerned as to the future of the libraries."

The International Union of Institutes of Archaeology, History, and History of Art in Rome (hereinafter referred to as the Union) was organized on February 6, 1946, for the purpose of:

- (1) Coordinating the activities of the Institutions forming the Union, and constituting a center of consultation on questions of interest to all of its members.
- (2) Protecting the scientific material and libraries belonging to its fields of research, and promoting the formation of a Union Catalogue of the libraries of the academics and institutes for archaeology, history and the history of art in Rome.
- (3) Assuming, by itself or in collaboration with others, such other responsibilities as are related to or analogous to those cited in paragraphs 1 and 2, above.

The Members of the Union are: American Academy in Rome; Academic Belgien; Ecole-Francaise de Rome; British School at Rome; Nederlandach Historisch Instituut to Rome; Istituto di Archeologia e Storia dell'Arte; Istituto di Studi Romani; Biblioteca di Roma dell'Accademia Polacca, Cracovia; Scoala Romana din Roma; Pontificia Accademia Romana di Archeologia; Pontificio Istituto di Archeologia Cristiana; Sveneka Institutet i Rom; International Association for Classical Archaeology.

On September 3, 1947, the Union addressed a letter to the Committee on German Assets in Italy requesting that the following disposition be made of the four libraries in its custody:

- "a) That all four items be transferred to ownership of the Union above-mentioned, in gift or by sale at nominal price;
- "b) That the unity of the Palazzo Zuccari and the Hertziana Library be recognized in this transfer, to the effect that the Palazzo Zuccari passes with the Library into possession of the Union;
- "c) That the similar relation of the Library of the Archaeological Institute to the Villino Amelung, Via Cesalpina No. 1, be similarly recognized, to the effect that the rent of this Villino continue, as before the war, and in accordance with its deed of gift to the former German Archaeological Institute in Rome, to be employed for the maintenance of the Archaeological Library.
- "d) That such transfer carry with it the legal privilege, on the Union's part, of revising the rents of the said Villino, and of the apartments in the Palazzo Zuccari without reference to previous ceiling restrictions."

The letter

~~RESTRICTED~~

Despatch No. 302, February 18, 1948
American Embassy, Rome.

~~RESTRICTED~~

- 4 -

The letter stated further that the Union planned, with the possible help of UNESCO, a world-wide appeal for endowment. Efforts already made in this direction, however, in Sweden, Switzerland, and the United States, have met with no results. It would also have to rely on the rents from the apartments in the Palazzo Zuccari, and of the Villino Amelung, to keep the libraries in operation. The Union has no funds or income and must depend on outside financial assistance if it is to undertake anything so extensive as the operation of the four libraries. In January 1947 it requested from UNESCO a grant of \$50,000 for operation of the libraries during 1947, \$15,000 of which was recommended by the UNESCO Secretariat to be paid when the question of the title to the libraries had been cleared. Although the title to the libraries has not been settled, the Union received part of the UNESCO grant to assist it in the limited operation of some of the libraries.

The question of the disposition of the libraries was presented to the Committee on German Assets in Italy at its meeting on December 3, 1947. (See Minutes of sixth meeting, enclosure to Despatch No. 2051, December 8, 1947.) The Italian Representative took the position that since the libraries serve a public interest they cannot be considered free assets. It was his opinion that since the libraries are not of exclusive benefit to German subjects but are of interest to scholars of all nations, they do not fall within the jurisdiction of the Committee but come within exception (c) of Paragraph 2 of the Memorandum of Understanding signed in Washington on August 14, 1947. His interpretation is based on the wording of the Italian text, conveying a different meaning from that of the English text. Since the libraries are centers of international study open to scholars of all nationalities, he argued they cannot be regarded as "di beneficio a tedeschi" (beneficially German-owned).

The position of the Italian Government, according to its representative on the Committee, was that the libraries would become the property of the Italian Government when peace with Germany is declared, and that they would be maintained for the benefit of all scholars. The Committee took note of the position expressed by the Italian Representative. The French, British and United States Representatives expressed their disagreement with the Italian interpretation of paragraph 2(c) and reserved their positions.

Following that meeting the United States Representative discussed the wording of the Memorandum of Understanding, and the interpretation of it by the Italian Representative on the Committee, with Mr. Ivan Matteo Lombardo. Mr. Lombardo undertook to discuss it with Minister Alberto Berio, of the Foreign Office, and Mr. Dedone, the Italian member of the Committee. At its meeting on December 17, 1947, the Committee was informed that the question had been discussed by the above group, and that it had been decided that the viewpoint of the Italian Government is not so much that it wishes to obtain possession of the Libraries as that it wishes to have the Libraries remain in Italy, under the supervision of the Ministry of Public Instruction and available to the scholars of all nations. The question of the jurisdiction of the Committee was evidently never discussed. It was then agreed that the matter should be discussed out of the Committee by all interested in the future of the Libraries with a view to formulating proposals with regard thereto for consideration at a later date by the Committee. Such a discussion has not yet taken place and will not be held until after a reply has been received to the questions raised in this despatch.

On December 9,

~~RESTRICTED~~

Despatch No. 302, February 18, 1948,
American Embassy, Rome.

RESTRICTED

- 5 -

On December 9, 1947, the Union addressed a memorandum to the Ministry of Public Instruction proposing that the libraries be sold by the Committee to the Union at a nominal price and that the transfer of ownership include the Palazzo Zuccari and the Villino Amelung. It stated also that it intended to request that an endowment of one billion lire (approximately \$1,750,000) be set aside from the proceeds of the sale of the German properties, the income to be used for maintenance of the Libraries under the control of the Union. The figure of one billion lire and the estimated income, if invested in the Italian Reconstruction Loan (which pays 3.5% interest), would correspond roughly to the estimated minimum expenses of the four libraries, being about one-half of the pre-war budgets of those libraries.

At a meeting held on January 21, 1948, attended by Mr. Paul Hyde Bonner and Dr. Charles R. Morey, (President of the Union), of this Embassy; Mr. F. W. Tooby, of the British Embassy; Mr. Ward Perkins, Director of the British School at Rome; and Prof. Albert Grenier, Director of the Ecole Francaise de Rome, the question of disposition of the libraries was discussed at length. The group was informed that Minister Borio, of the Foreign Office, had told a member of my staff recently that, although Italy recognized the right of the Three Powers occupying Germany to dispose of the libraries, nevertheless it was the hope of his Government that they would be given to Italy.

The request of the Union that the libraries, and the two buildings, be given or sold to it for a nominal price, and that one billion lire be set aside from the proceeds of the sale of the German assets in Italy for the maintenance of the libraries, poses, Mr. Bonner stated, a problem the solution of which is not within the competence of the Committee, since it involves disposition, and not liquidation, of the assets which can only be dealt with by the Governments of the United States, United Kingdom and France. To satisfy the Union and the Italian Government, and at the same time to insure that the libraries would be properly maintained for the benefit of scholarship, the following formula for their disposition was suggested:

1. The four libraries and the two pieces of real estate shall be given to Italy, on condition that Italy agree with the three Allied Powers (United States, United Kingdom and France) that it will entrust the libraries and the real property to the Union for a long term (possibly 99 years) without rent, and free from all restrictions and taxes, allowing the Union free entry of all publications and the same free use of international copyrights as would be accorded any international institute under the aegis of UNESCO.

2. The Union shall be given by the three Allied Powers a sum of one billion lire of the proceeds of the liquidation of the German assets in Italy as an endowment to be used for the maintenance of the libraries.

3. The Union shall agree to invest the endowment fund in the Italian Reconstruction Loan, or other Italian Government bonds, and to maintain the libraries, making them fully available to scholars and the general public, and using the proceeds of the fund not only for their care and maintenance, but also to add such books and publications as may be necessary to keep them up to date.

Professor Grenier

RESTRICTED

Despatch No. 302, February 18, 1948.
American Embassy, Rome.

RESTRICTED

- 6 -

Professor Grenier objected to this solution on the grounds that if Italy had title to the properties they would constantly interfere and would prevent the smooth carrying-out of their administration. Mr. Ward Perkins pointed out that the sponsorship of UNESCO, which the Union is anxious to obtain, might not be forthcoming if title to the property were in the Italian Government. The suggested long-term lease, however, would seem to overcome both these arguments, since it would prevent any interference by Italy, and in the eyes of UNESCO would place them under complete international control.

This suggested formula for the disposition of the libraries was discussed by the Union at a meeting held on February 7th, attended by all the Institutes and Academies represented except that of Rumania. The Union adopted the following resolution:

"1.) The Union wishes to record its appreciation of the courtesy of the American representative on the Committee for the disposition of German assets in Italy, in allowing the Union to consider the essential features of the proposal of the libraries which will be referred to the Department of State.

"2.) The Union remains unanimously of the opinion that both ownership and administration by the Union constitute the most certain means of insuring the international character and operation of the libraries, but

"3.) The desire of the Union to meet more than half-way any proposal which will insure the maintenance of the libraries, consistent with their importance to international scholarship and which will provide for their minimum needs; and also the paramount necessity, in the eyes of the Union, of re-opening the libraries for international use at the earliest possible moment, impels the Union to agree to the proposal, as outlined in the despatch, with the following respectful reservations.

"4.) That in the final agreement it be clearly stated and understood that the Union's possession of the libraries by lease and for administration is unrestricted by any obligation to, or control by, the Italian or any other government, to the end that the use of the libraries and their administration may be representative in the fullest sense of the international character of the Union and its desire to serve impartially the interest of scholars of all nations without discrimination."

On February 17 Minister Alberto Berio, of the Foreign Office, handed a member of my staff a memorandum outlining the present position of the Italian Government as to the disposition of the libraries. The position taken in that memorandum, which is almost identical to the formula discussed above, is as follows:

"1. The ownership of the German libraries in the Italian Government is recognized.

"2. The Italian Government undertakes to entrust in perpetuum the operation and administration of the said libraries to the International Union of the Academies of Rome.

"3. The procedure for the application of paragraph 2 shall be set forth in an Agreement to be concluded under the auspices of the four-Power Committee between the Italian Government and the Union of the Academics."

Two problems

RESTRICTED

Despatch No. 302, February 18, 1948
American Embassy, Rome.

~~RESTRICTED~~

- 7 -

Two problems seem to be involved:

1. Disposition to be made of the libraries. Under the terms of the Memorandum of Understanding the Committee can sell or liquidate the Libraries, but does not have the power to dispose of any asset by gift. The Union is anxious that the assets involved be given to it, or sold for a nominal price, which would seem to be beyond the competence of the Committee.

2. The request of the Union for an endowment of one billion lire from the proceeds of the liquidation of the German assets in Italy. Paragraph 4 of the Memorandum of Understanding provides that the proceeds of liquidation are to be held in a special account "for such disposition as may subsequently be determined in accordance with Article 77, paragraph 5, of the Treaty of Peace with Italy." This wording definitely removes the request of the Union from the competence of the Committee.

In reaching a decision in this case the Department may want to keep in mind that other requests for advance disposition of German assets will undoubtedly be submitted to the Committee. The British Government intends to acquire, if possible, the Villa Wolkonski, the former German Embassy to Italy, and the French Government is very anxious to acquire the Villa Bonaparte, the former German Embassy to the Holy See. The French have stated that they would like to obtain Villa Bonaparte as reparation, without payment of any money into the liquidation fund, which will be subject to later disposition. There will undoubtedly be other cases, such as the former German Consulate in Italy, in some of which the United States Government may well have an interest.

The Embassy would appreciate consideration of the facts in the case by the Department, and early instructions as to what disposition should be made.

Respectfully yours,

FOR THE AMBASSADOR:

Homer M. Byington, Jr.
Counselor of Embassy

~~RESTRICTED~~

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

DATE:

4/20/48

TO :

FROM :

SUBJECT :

Miss Hall

*I have the
original of this!*

Charles E. Zelen

INCOMING TELEGRAM

DEPARTMENT OF STATE—DIVISION OF COMMUNICATIONS AND RECORDS

TELEGRAPH BRANCH

5-M

~~SECRET~~

Action: OFD-DE

Info:

SS

UE

C

G

P

O

EUR

L

OCD

CIA

DCL

FC

OIE

DCR

FROM: Rome

TO: Secretary of State

NO: 1117, March 13, 4 p.m.

REFEMBTEL 3757 November 20; Embassy's A-1211 November 25; Department's A-22 January 15, 1948; Embassy's A-126 February 6; and EMBDESP 302 February 18, subject: current developments in regards German libraries in Italy.

In exploring every means of fortifying the present Government of Italy in its reiterated statements to the electorate that its foreign policy of friendship with Western democracies is bearing far greater fruits than could be obtained from USSR and its satellites, it is suggested that agreement at this time on part of US, UK and France for unconditional turnover of proceeds from liquidation of German assets to Italy might have important and salutary effect on coming elections.

DUNN

MHD:MP

*Mrs. Lewis on
2692 in OFD
is going to tell me
who has "action"
on this - I saw
talk with him.
Mr. Guleas*

~~SECRET~~

INFORMATION COPY

Control 4855

Rec'd March 13, 1948
6:21 p.m.

Hall

for info

and retention

~~RESTRICTED~~

OFB: Mr. Norman T. Hess

March 31, 1948

ILI: Carl A. Sauer

Rome despatch no.302, February 18, 1948.

This despatch deals with the disposition of the Archaeological and other German libraries in Italy. An information copy was routed through this Division of Libraries and Institutes.

This Division has no desire to insinuate itself into the matter, but would respectfully offer the opinion that the Librarian of Congress, who has great interest in the location and fortunes of the great research collections of the world, might with great profit to all concerned be invited to participate in this in an advisory capacity.

ILI: CASauer:KMF

C O P Y

Department of State
Division of Language Services
(Translation)

TC No. 57244
T.15/R-IV
French

EMBASSY OF FRANCE IN THE

UNITED STATES

Washington, April 2, 1948

AW/GB

NO. 116

The Embassy of France in the United States presents its compliments to the Department of State and has the Honor to inform it of the following:

Among the items of German property subject to the jurisdiction of the Committee on the Liquidation of German Property in Italy set up by the Washington Agreement, are, as the Department knows, the libraries of four former German scientific institutions: the Archaeological Institute in Rome, the Kaiser Wilhelm Institute (called the Hertzian Library), the Historical Institute in Rome, and the History of Art Institute in Florence.

v The volumes in these four libraries, which suffered various vicissitudes during the war, are stored at present in temporary quarters in Rome and Florence. It is of the greatest importance, because of their great scientific value, that they be placed at the disposal of the public, and, consequently, that a decision be reached concerning their final disposition.

The Italian Government has several times requested of the Allied representatives that the libraries in question be transferred to the Italian State. On its part, the Union of the Institutes of Archaeology, History, and the History of Art in Rome, which was created on February 6, 1946, and which includes the various scientific institutes in Rome, both Italian and foreign, would like to resume the administration of the German libraries. In the face of these conflicting proposals, the American delegate on the Liquidation Committee has unofficially suggested to his French and British colleagues a compromise solution

-2-

the general tenor of which would be as follows:

The property of the libraries as well as that of the Zuccari Palace, where the Hertzian Library is located, and of a villa intended to be used as the residence of the Director of the Archaeological Institute, would be handed over free of charge to the Italian Government, whose request would thus be granted.

The Italian Government would lease without charge for 99 years the libraries and the two buildings in question to the Union, which would thus have the administration of the libraries.

Since the Union has no financial resources and since the UNESCO subsidies, supposing that they are actually paid, are reported to be very small, a billion lira would be taken from the proceeds of the liquidation of German property and assigned to the Union.

The Union would invest this amount in Italian Government bonds, the income from which would be applied to the upkeep of the libraries.

Such a solution would have the advantage, on the one hand, of assuring better administration of the libraries than / could be provided/ by the Italian Government (whose scientific institutes have at their disposal only very limited financial resources), and on the other hand, of guaranteeing the Allies against a possible return of the libraries by Italy to Germany. It is approved in principle by the Italian authorities as well as by the members of the Union itself.

However, the adoption of this solution goes beyond the powers of the Committee for the Liquidation of German Property established by the Washington Agreement.

On the one hand, this Committee has the authority to liquidate or sell German property, but not to allocate it free of charge.

On the other hand, under the Washington Agreement, the distribution of funds realized on the liquidation of German property was referred to a subsequent agreement between France, Great Britain and the United States. Consequently, only a joint decision of the three Governments can authorize the earmarking of a billion lire of such funds for the benefit of the Union.

In

-3-

In the opinion of the French authorities, the allocation of the libraries to the Italian Government should be contingent upon the latter providing the Union with a building to house the libraries of the Archaeological Institute and the Historical Institute, which are not on the former German premises that are under the jurisdiction of the Liquidation Committee.

The French Government, for its part, is prepared to support the United States proposal and approves of the allocation of the libraries without charge to the Italian Government. It desires, however, that in return for the concession thus granted to the Rome Government, the Villa Bonaparte be allocated free of charge to France while the Villa Volkonsky would be allocated to Great Britain. The French authorities consider that if such a decision were made jointly by the three Powers the Italian Government would have no objection and the Liquidation Committee could confirm it without delay.

The Embassy of France would be grateful to the Department of State if it would be so good as to inform it whether this proposal meets with its approval.

The Embassy of France avails itself of the occasion of the present note to renew to the Department of State the assurances of its very high consideration.

"The Frankfurter Neue Presse on April 30, 1948 asks editorially why the former German - owned libraries of Rome and Florence and the library of the German Rabbinical College should have been returned to Italy. There is an increasingly articulate German resentment against those phases of cultural restitution which are not based on outright loot." OMG for Hesse, MFASA Monthly Consolidated Report, dated May 20, 1948, pp. 5, 6..

GERMAN ART LIBRARIES

COLLEGE ART JOURNAL,

vol. VII, No. 3, Spring 1948, p. 226

Professor Deknatel of Harvard University, President of the College Art Association submitted for approval of the members of the Association, the following action which had already been taken by the Board of Directors.

"5. Letters that the President has written to the State Department, on recommendation of Professor Morey, expressing the Association's backing of the plan to turn over German Libraries in Italy, as German war assets to the Union of International Institutes of History, Art History and Archaeology.

These actions were approved by vote of members."

German collections of art, libraries, and archives in public ownership, which were established outside Germany or were transferred to another country during World War II for reasons of safety, should not be subject to confiscation, but should be accorded the same respect given German cultural collections and cultural institutions within Germany.

The College Art Association has supported on the recommendation of Professor Charles R. Morey, Attache to the American Embassy in Rome approved a plan to seize five German Art Libraries in Italy with the finest special collections of books in the world as German war assets in Italy and to transfer them to the Union of International Institutes of History, Art History and Archaeology (College Art Journal, vol. VII, No. 3, Spring 1948, page 226.) However the integrity of these libraries and their foundations should be respected.

Sixty-seven important masterpieces including the world-famous collection of Rembrandts from the Kassel Museum, Germany, were sent to Vienna for safekeeping from aerial bombings during the war and are still held in protective custody in the Kunsthistorisches Museum. They should eventually be returned to the public museum at Kassel that rightfully owns them and they should not be regarded as external German assets in Austria.

Paris, June 1, 1948.

To: OSS.

Subject: Disposition of German Official Property
in Italy.

REC'D
JUNE 7

ACTION
CI

I FO
OCD
FC
FR
LCK
EUR
CI

CIA
TREAS

Referring to the recent discussions held in Paris
on the disposition of German assets, the Ambassador
has the honor to transmit a copy and free translation
of a note from the Ministry of Foreign Affairs, dated
May 28, 1948, concerning the disposition of German
official property in Italy.

Enclosures:

Copy of note from Ministry
of Foreign Affairs dated
May 28, 1948.
Translation of same.

711.3
Gotten.sdh

Original and Photograph to the Department
Copy to American Embassy, Rome.

Enclosure # 1, to despatch No. 838, June 1, 1948; from
Paris.

COPY

MINISTERE
des
AFFAIRES ETRANGERES

Direction des Accords Techniques

Le Ministere des Affaires Etrangeres presente ses compliments a l'Ambassade des Etats-Unis et a l'honneur de lui exposer de qui suit:

An cours des negociations qui ont eu lieu recemment a Paris au sujet de la disposition des biens d'Etat allemand en Italie, l'Expert des Etats-Unis a exprime le desir que fut confirmee par une note, la position du gouvernement francais a l'egard de cette question.

Le Ministere des Affaires Etrangeres a l'honneur de faire connaitre a l'Ambassade des Etats-Unis que le gouvernement francais se rallie volontiers a la solution preconisee par le Delege des Etats-Unis, d'attribuer gratuitement a l'Etat italien les bibliotheques des quatre anciens instituts scientifiques allemands ainsi que la palais Zuccari et une villa destinee a loger le Directeur de l'institut archeologique, et charge pour le gouvernement italien de louer les bibliotheques et ces deux immeubles a l'Union des instituts d'archeologie, d'histoire et d'histoire de l'art a Rome, que recevrait elle-meme, sur le produit de la liquidation des biens allemands, la somme de un milliard de lires, les revenus de ce capital investi en fonds d'Etat italiens etant affectes a l'entretien des dites bibliotheques.

Le gouvernement francais estime toutefois qu'en contrepartie de cette renonciation a ses droits sur une part de ces biens d'etat allemand, il serait juste de lui consentir la cession a titre gratuit de la villa Bonaparte, ancienne ambassade d'Allemagne aupres du Vatican.

Le Ministere des Affaires Etrangeres insiste pour que cette question, pendante depuis plus d'un an, recoive une prompte solution, etant entendu qu'il serait, en meme temps, donne satisfaction a la requete du gouvernement britannique tendant a se faire attribuer a titre gratuit la villa Volkonsky.

28 Mai 1948.

AMBASSADE DES ETATS-UNIS

PARIS.

Enclosure #2, to despatch No. 838, June 1, 1948, from Paris.

TRANSLATION

MINISTRY OF FOREIGN AFFAIRS

Division of Technical Accords

The Ministry of Foreign Affairs presents its compliments to the Embassy of the United States of America and has the honor to set forth the following:

During the negotiations which recently took place in Paris with respect to the disposition of German governmental assets in Italy, the United States Expert expressed the desire to have the position of the French Government on this question confirmed by a note.

The Ministry of Foreign Affairs has the honor to inform the Embassy of the United States that the French Government willingly joins in the solution suggested by the French Government willingly joins in the solution suggested by the United States Delegate to assign, gratuitously, to the Italian Government, the libraries belonging to the four former German scientific institutes as well as the Palace Zuccari and a villa for the purpose of lodging the Director of the Archeological Institute, providing that the Italian Government lease the libraries and these two buildings to the Union of Institutes of Archeology, History and History of Art in Rome which itself would receive, from the proceeds of the liquidation of the German assets, the sum of one billion lira, the income from this capital, invested in Italian Government securities would be used for the upkeep of these libraries.

However, in return for the renunciation of its rights to a part of these German official assets, the French Government believes that, as a matter of justice, the Villa Bonaparte, former German Embassy to the Vatican, should be ceded gratuitously to it.

The Ministry of Foreign Affairs wishes to emphasize that this question, which has been pending for more than a year, should be solved promptly, it being understood that, at the same time, the desire of the British Government, to obtain, gratuitously, the Villa Volkonsky, should be satisfied.

May 28, 1948.

THE EMBASSY OF THE UNITED STATES

PARIS.

No. 1034

AMERICAN EMBASSY

Rome, July 6, 1948.

~~CONFIDENTIAL~~

SUBJECT: Disposition of the German Libraries in Italy

THE HONORABLE

THE SECRETARY OF STATE,

WASHINGTON.

SIR:

With reference to Embassy Despatch No. 302, February 18, 1948, "Current Developments in Regard to German Libraries in Italy," I have the honor to report that at the meeting of the Committee on German Assets in Italy held on June 23, 1948, the Italian Representative presented a memorandum /GAI (Doc) 192/ in which he inquired, on behalf of the Ministry of Foreign Affairs, as to whether any decision had been reached by the Allied Governments in regard to the disposition of the four German Libraries, including Palazzo Zuccheri and Villino Amelung. The memorandum also stated that the restitution of the Libraries had evidently been completed, and that the Ministry of Public Instruction had been designated to represent the Government in the negotiation of the Agreement, as suggested by Minister Berio /See Page 7 of Despatch No. 302/. "to be concluded under the auspices of the four-Power Committee between the Italian Government and the Union of the Academies."

At that meeting the United States Representative informed the Committee that in principle the United States Government agrees with the proposal made by Minister Berio, and to the transfer to the Union of one billion lire out of the Special Account, which the Union would invest in Italian Government Bonds and use the interest therefrom for the maintenance and operation of the Libraries. He added that from information received from other sources it seemed that the final disposition of the Libraries had been tied in with the disposition of Villa Bonaparte and Villa Wolkonsky. /See Embassy Despatch No. 1021, July 1, 1948./ Further discussion of the subject was postponed, however, until the Allied Representatives receive definite instructions from their Governments.

In a paper prepared for the Treaty Implementation Conference recently held in Rome, designated as TIC D-21/14a, May 27, 1948, it is stated "Everyone (U.S., U.K., France, Italy) is agreed that the Italian Government should have the libraries and a billion lira endowment for them." The paper then discusses the desire of the French for a quid pro quo in the form of Villa Bonaparte, and concludes "Aside from the French request for a quid pro quo it would seem desirable to turn over the libraries and the endowment to the Italians at once."

The above, except for scattered bits of information gathered from unofficial British and French sources, is the first indication the Embassy has received as to the thinking of the three Governments on the subject. The disposition of the libraries in accordance with the plan under discussion will not only satisfy all parties concerned, but

will

~~CONFIDENTIAL~~

Rec'd
July 19

ACTION
JED

INFO
DCR
EUR
A-S
POS
OFS
OGD
FC
CIA
TREAS
CON
OAP

Despatch No. 1034. July 6, 1948.
American Embassy, Rome.

-2-

~~CONFIDENTIAL~~

will also facilitate the operation of the libraries by providing the necessary funds for their maintenance. The Embassy agrees with the opinion expressed in the paper quoted above that it would be desirable to turn over the libraries to the Italians at once (subject to long-term lease to the Union, and assignment of the endowment to the Union) and trusts that such can be done. It would be helpful if the Embassy were informed of the present status of the question and given the necessary instructions as soon as a decision is reached, so that negotiations for the final disposition of the libraries can be started.

The Embassy concurs in the opinion also expressed in that paper that it would be better to divorce the question of the libraries from that of ultimate disposition of Villa Bonaparte and Villa Wolkonsky. There is no great urgency in the case of the two Villas, since the British are now occupying Villa Wolkonsky, and at its last meeting on June 30, 1948, the Committee approved temporary custody and occupancy of Villa Bonaparte by the French pending a final decision as to its disposition. On the other hand, full use of the libraries cannot be made until a decision is made by the three Governments and an agreement is reached between the Italian Government and the International Union of Institutes of Archaeology, History and History of Art in Rome.

Respectfully yours,

FOR THE AMBASSADOR:

Homer M. Byington, Jr.
Counselor of Embassy

JGMein:fpb

Original and hectograph
to the Department

~~CONFIDENTIAL~~

Miss Hall

No. 1081

AMERICAN EMBASSY

Rome, July 14, 1948.

~~SECRET~~

SUBJECT: Comments on Paper Concerning German Assets in Italy Prepared
for the Conference on Treaty Implementation, Rome,
June 14 - 21, 1948.

~~ONE EUROPEAN AREA DIVISION~~

THE HONORABLE

THE SECRETARY OF STATE,

JUL 29 1948

WASHINGTON.

DEPARTMENT OF STATE

Rec'd
July 21

ACTION
OFF

INFO
DCR
LUR
POS
AS
ONS
L
OCDD
FC
CIA

2683

SIR:

I have the honor to refer to a paper prepared for the Treaty Implementation Conference held in Rome June 14-21, entitled "Disposition of Proceeds of German Assets in Italy," (TIC D-21/14a, May 27, 1948), and to submit as of possible interest to the Department some comments on the various points raised. Although the paper was prepared for discussion at the conference, and the subject was an item on the Agenda, it was never formally discussed, as the reports of the Conference will indicate.

The position of this Embassy in regard to the disposition of the proceeds from the sale and liquidation of German assets in Italy is well known to the Department, and repetition here would serve no useful purpose. Discussion will, therefore, be limited to the points raised in the paper, concerning which the Department expressed an interest in obtaining the Embassy's opinion. The questions will be treated in the same order in which they appear in the paper.

1. Although members of the Italian Government have informally suggested to the Embassy that release of the proceeds from the sale and liquidation of German assets in Italy would assist Italy in making payment of war damage claims to United Nations nationals under Article 78, there has been no mention in their conversations with members of this Embassy of any possible nexus between release to the Italian Government of the proceeds and payment by Italy of her obligations under Article 78 of the Treaty. As reported in Embassy's airmail A-126, February 6, 1948, the suggestion that the proceeds from the liquidation of the German assets in Italy be released to the Italian Government was made to the Department by the Embassy because of the economic situation of Italy and of the thinking in certain quarters of the Italian Government that it might have to come to a special understanding, possibly in the form of a lump-sum settlement with the Governments of the United States, United Kingdom and France as to the conditions for payment of war damage claims. It was thought that since the Department had indicated that its objective was to obtain the release of the proceeds to Italy, release at this time would enable the Italian Government to pay the claims and would forestall any attempt on its part to come to special agreements for a lump-sum or any other form of settlement.

There

~~SECRET~~

Despatch 1081, July 14, 1948.
American Embassy, Rome.

-2-

~~SECRET~~

There have been no indications from conversations with members of the Italian Government that they in any way consider the obligations under Articles 77 and 78 related. On the contrary, it appears that the Government is fully aware of its obligations under both articles and considers them as separate and distinct. The Embassy concurs with the position of the Department as stated in the paper under reference, and is of the opinion that if the proceeds are released, it should be pointed out to the Italian Government, nevertheless, that such action on the part of the Allied Governments gives Italy additional financial resources and that those Governments expect Italy to fulfill its commitments under Article 78 of the Treaty. (Embassy A-126, February 6, 1948.)

2. There is no evidence that the Italian Government has deliberately attempted to procrastinate or delay the program for the sale or liquidation of German assets in Italy pending a decision as to the disposition of the proceeds, and it has never been mentioned to members of this Embassy by any Italian official that release of the proceeds would in any way expedite the program. There is no doubt, however, that such an action on the part of the Allied Representatives would be a boost to the morale of the Italian authorities responsible for the program and would have some effect on its operation. There have been differences of opinion between the Italian and Allied Representatives as to interpretation of the Memorandum of Understanding and as to procedures, but there is no reason to believe that the Italian Representative has disagreed for purposes of stalling or delaying the work. The Italian Representative has been extremely cooperative, going out of his way, if necessary, to facilitate the work.

It is interesting in this connection that the Italian Representative has repeatedly prodded the Representatives of the United States, United Kingdom, and France for the speeding up of the program, specially in matters of policy, in cases involving intercustodial problems, and in reaching a decision as to the disposition to be made of German-owned patents and trademarks. The Agency of the Italian Government has completed the evaluation of ten large companies, one of which, S.A. Italiana dei Forni Elettrici e dell'Elettrocarbonio, has already been offered for sale (Embassy despatch No. 991, June 25, 1948). In the case of seven of the ten companies, the patent and trademark question is involved. That will also be true of most of the companies to be considered by the Committee (Embassy despatch 2043, December 18, 1947), the sale or liquidation of which will have to await a decision as to the policy to be followed. The most important part of the program, therefore, is at a standstill, not because of any action of the Italian Government or its Representative, but rather because of the lack of any agreed policy on the part of the Allied Governments as to what is to be done in regard to the disposition of the German-owned patents and trademarks. Although the Embassy has received recent instructions from the Department regarding patents (Department's telegram No. 1413, May 19, 1948), the British and French Representatives have not. An early agreement as to patents, and a determination of the policy as to trademarks, therefore, would eliminate one of the big obstacles to the successful execution and conclusion of the program.

3. A complete

~~SECRET~~

Despatch 1081, July 14, 1948.
American Embassy, Rome.

-3-

~~SECRET~~

3. A complete discussion of the question of assets in Italy owned by German nationals residing outside of Germany will be found in Embassy despatch No. 1042, July 7, 1948.

4. It is thoroughly understood that the United States proposal with regard to the disposition of German assets in Italy contemplates a release of the "proceeds" resulting from the implementation of the Memorandum of Understanding and no mention has been made to members of the Embassy by the Italians, or any others with whom the subject has been discussed, that acceptance of the proposal or release of the proceeds implies, or would result in a disregard of the Memorandum of Understanding.

5. The Embassy hopes that the United States will insist on the British Government fulfilling its commitment, and that it will succeed in obtaining full transfer of the proceeds to Italy (except, of course, the libraries and a one billion lire endowment, and perhaps the Villa Wolkonski and Villa Bonaparte). This would in the long run be the most beneficial policy for all concerned.

It is suggested in the paper that as an alternative to bargaining with the British, the Italians might be encouraged to liquidate for other than foreign exchange, so that only non-convertible lire would be available for disposition as a result of the liquidation program. Before such a policy is adopted, the following should be considered. One of the questions discussed extensively during the early days of the Committee was that of subsidiary foreign currency accounts in the Special Account established in accordance with Article 4 of the Memorandum of Understanding, and at the insistence of the three Allied Representatives it was decided, and the Italian Government reluctantly agreed, to establish such subsidiary accounts in the Ufficio Italiano dei Cambi (Embassy despatch No. 411, March 8, 1948). Also, the procedure for the sale of assets adopted by the Committee at its meeting on April 27, 1948, provides that although bids are to be made in lire, payment will be accepted in any hard (subsequently changed to "acceptable") currency. (Embassy despatch No. 841, May 19, 1948). In both cases the United States Representative on the Committee sided with those of the United Kingdom and France in insisting that those provisions be adopted, and it would be embarrassing, to say the least, to reverse our position without any strong and compelling reason which could be discussed openly. The Embassy recommends, therefore, that this course of action not be considered.

6. Libraries. For a full discussion of the question of the four German-owned libraries, see Embassy despatches Nos. 302, February 18, 1948, and 1034, July 6, 1948.

7. As stated in Despatch No. 1034, July 6, 1948, the Embassy agrees with the position expressed in the paper that it would be better to separate the question of the libraries from that of ultimate disposition of Villa Bonaparte and Villa Wolkonski. The plan for the disposition of the libraries (Embassy despatch No. 302, February 18, 1948) was agreed to by the three Allied Representatives after considerable discussion and submitted for approval to their respective Governments. It is a problem in itself, involving special considerations and of interest to all four Governments, and in the opinion of the Embassy cannot in any

~~SECRET~~

way

Despatch 1081, July 14, 1948.
American Embassy, Rome.

-4-

~~SECRET~~

way be construed as being allied with the special interests of any one of the Governments concerned. To agree to the French suggestion "that the Italians reward the French and British for the United States concession would be an admission on our part that the disposition of the libraries in accordance with the plan agreed to by Representatives of the three Governments would be a concession to us, which it would not, and that we are willing to pay a price to see it approved. Also, it is the Embassy's understanding that title to German-owned property in Italy is in the Allied Powers and not in Italy, so it is difficult to understand how the Italians can "reward" the French and British.

From informal conversations with the Italian Representative on the Committee, it would seem that his Government assumes that the British will eventually acquire Villa Welkonski and the French Villa Bonaparte, and that in neither case will any money be paid for the property. Also, he seems to assume that the decision as to whether these properties are to be disposed of in that manner is a question for the three Allied Governments. If title is in the three Powers, as has been assumed by the Embassy, then the position of the Italian Representative is correct, and there is no question as to whether the Italians will go along or not. The Italians would probably be willing to take the lead in suggesting that the two villas be given to the French and British, however, if that were determined to be the disposition to be made of these properties and if it were found preferable to have the suggestion come from the Italians. It would seem advisable, however, that, if such is to be done, it be handled separately and not as a quid pro quo for obtaining title to the libraries. Withholding of our consent to this disposition of the Villa Welkonski might, on the other hand, hasten British agreement to residual transfer of proceeds to Italy.

When the question of the disposition of the two villas was first discussed informally by the Allied Representatives on the Committee, the British Representative indicated that his Government would probably be willing to pay for the Villa with the understanding that if the proceeds were eventually turned over to Italy, the British would expect to be refunded the amount paid. The French Representative, on the other hand, has consistently taken the position that Villa Bonaparte should be transferred to his Government as reparations, and that his Government should not be expected nor required to pay for it. Except for these two villas and possibly the former German Consulate building in Naples, which is now occupied by the British, there seems to be no special interest that the Embassy is aware of concerning the disposition of German official properties in Italy. Neither the French nor the British Representative has expressed an interest in any other official property, and an examination of the list of what might be available failed to disclose any property which might be of use or interest to us. It would seem, therefore, that all of the German official property except probably the three pieces mentioned above can be disposed of in accordance with the provisions of the Memorandum of Understanding.

Respectfully yours,

Homer M. Byington, Jr.
Chargé d'Affaires ad interim

JMS:fbp

Original and hectograph
to the Department

~~SECRET~~

UNCLASSIFIED

No. 59

Vatican City, July 15, 1948.

Subject: Former German Embassy to the Holy See

Rec'd
July 21

ACTION
OFD

The Honorable
The Secretary of State,
Washington, D.C.

INFO

OCD

FC

DCR

DS

EUR

L

ARMY

CIA

COM

TREAS

OAP

Sir:

I have the honor to refer to the Department's telegram no. 21, December 23, 6 p.m., 1947, instructing this office that the property of the former German Embassy to the Holy See, the Villa Bonaparte, should be disposed of by the quadripartite Committee set up at Rome under the provisions of the Memorandum of Understanding signed at Washington on August 14, 1947, by United States, British, French and Italian representatives.

- 1/ In the foregoing connection there is now enclosed a
2/ copy of Note No. 125E, July 7, 1948, from the French Embassy to the Holy See, and a copy of this office's reply dated July 14, 1948. Copies of these communications have also been forwarded to the Embassy to Italy. It will be noted that the French Embassy's Note states that at a meeting on June 30, 1948, the Quadripartite Committee decided to entrust to the French Embassy the custody of the Villa Bonaparte, former German Embassy to the Holy See, until such time as the formalities relating to its final disposition should be settled by the Allied Governments. The Embassy's Note is also notification that as of July 1, 1948, it assumed sole custody and responsibility for the maintenance of the property, pending its final disposition as a German asset located in Italy.

Respectfully yours,

Franklin C. Gowen
Special Assistant to the
Personal Representative of the President
of the United States of America
to His Holiness Pope Pius XII

Enclosure:

- 1/ Copy of Note dated
July 7, 1948;
2/ Copy of Note dated
July 14, 1948.

711.3

JGParsons/ham

To the Department in original and hectograph.
cc: American Embassy, Rome.

UNCLASSIFIED

Enclosure no. 1 to despatch no. 59, July 15, 1948,
from Vatican City.

COPY

AMBASSADE DE FRANCE
PRES LE SAINT-SIEGE

Rome, le 7 Juillet 1948.

No. 125E

L'Ambassade de France près le Saint-Siège a l'honneur de faire savoir à la Représentation Personnelle de S.E. Monsieur le Président des Etats-Unis d'Amérique au près du Saint-Siège que, lors de sa réunion du 30 juin dernier, le Comité Allié chargé de la liquidation des biens allemands en Italie a décidé de confier, à dater du 1er Juillet, à cette Ambassade la garde de la Villa Bonaparte, siège de l'ex-Ambassade d'Allemagne près le Saint-Siège, en attendant que les modalités concernant la dévolution définitive de ce domaine soient réglées par les Gouvernements Alliés.

En conséquence l'Ambassade de France près le Saint-Siège a pris possession de la Villa Bonaparte à la date du 1er Juillet et en assumera seule la garde et l'entretien jusqu'à ce que soient déterminées les conditions dans lesquelles la propriété de ce bien sera dévolue à la France.

En portant ce qui précède à la connaissance de la Représentation Personnelle de S.E. Monsieur le Président des Etats-Unis d'Amérique, l'Ambassade de France profite de l'occasion qui lui est offerte pour lui renouveler les assurances de sa très haute considération.

A la Représentation Personnelle
de S.E. Monsieur le Président
des Etats-Unis d'Amérique
aupres du Saint-Siège.

Enclosure no. 2 to despatch no. 59, July 15, 1948,
from Vatican City.

COPI

The Office of the Personal Representative of the President of the United States of America to His Holiness Pope Pius XII presents its compliments to the French Embassy to the Holy See and has the honor to acknowledge with thanks the receipt of Note No. 125E, July 7, 1948, by which the Embassy kindly informed this office that at its meeting on June 30, 1948, the committee charged with the liquidation of German assets in Italy, under the Memorandum of Understanding of August 1947, had decided, effective July 1, to give custody of the Villa Bonaparte to the Embassy until such time as its final disposition could be arranged by the Allied Governments. It has been noted also that the Embassy took possession of the Villa Bonaparte on July 1, and has assumed its responsibilities under the committee's decision.

The Office of the Personal Representative of the President takes advantage of the occasion to renew to the French Embassy to the Holy See the assurances of its highest consideration.

Rome, July 14, 1948.

To the

French Embassy to the Holy See,

Rome.

July 27, 1948

COPY

The Secretary of State presents his compliments to His Excellency the Ambassador of France and has the honor to refer to his note no. 116 (AW/CB), previously acknowledged, dated April 2, 1948, on the subject of German libraries and certain German official properties in Italy. The Department of State concurs in all the suggestions in the note under reference and would be pleased to give immediate consideration to such draft note to the Italian Government as the Embassy may consider an appropriate embodiment of the views of the three Governments.

Why want
the question of the
villas kept
separate, as Rome
recommended?

Were it not, however, for the interest of the French Government in the immediate acquisition of the Villa Bonaparte, the Secretary would earnestly have desired that the release of the villas await the general disposition of German assets in Italy. The Secretary takes this opportunity, therefore, to urge that the Governments of France and the United States concert in an approach to the Government of the United Kingdom to secure the agreement of the latter to the release to the Italian Government of all the proceeds of the liquidation of German assets in Italy as they become available. Prior to the present Italian election the French Government indicated that it was in agreement with the Government of the United States that such should

-2-

be the disposition of German assets in Italy. As the Embassy is aware, the Government of the United Kingdom did not agree, and proposed to release to Italy considerably less than the full amount of the proceeds. In the opinion of the Government of the United States, the reasons why the Governments of France and of the United States have considered the total release to Italy to be the most desirable disposition possible under all attending circumstances are no less persuasive now than they were before the election. It is the urgent suggestion of the Secretary, therefore, that the United States and France at once associate themselves in representations to the Government of the United Kingdom that the disposition upon which the United States and France agreed before the election should now, and with no less desirable results, be effected by the three Governments.

Department of State

Washington, July 27, 1948

DIVISION OF
COMMUNICATIONS AND RECORDS
TELEGRAPH BRANCH

DEPARTMENT OF STATE

OUTGOING TELEGRAM
SECRET

6 INFORMATION
"COPY"

CONTROL
SECRET

7250

Classification approved

JUL 22 1945

14

Origin:

OFD

Info:

P

O

EUR

OLA

CIA

DCL

FC

POS

AMEMBASSY,

ROME

2006

Fr Emb here (re Rome's des 1034, July 6; Paris des 838, June 1, copied to Rome; Vatican City des 59, July 15, copied to Rome) presented note Apr 2 re problem Ger libraries Italy. Note set forth as solution proposed by Am rep CIA Committee that: Libraries, Zuccari Palace, and villa intended as residence Director Archeological Institute free to Ital Govt which would lease without charge foregoing for 99 years to Union; billion lire from proceeds GAI assigned to Union for investment Ital Gov bonds, income for upkeep libraries. Note states Fr opinion that transfer libraries to Ital govt shld be conditioned on latter providing Union with building to house libraries of Archeological Institute and Historical Institute, and conditioned further that France get Villa Bonaparte free and UK get Villa Volkonsky free. On the two conditions Fr prepared to align herself with the "American proposal".

Meanwhile, ur info only, Officer Fr Emb here has informed Dept Fr prepared join US in representations Fr to secure release total proceeds liquidation to Ital. (Apparently, Fr beginning to consider that Ital in strong position to keep the proceeds

anyway ~~anyway~~

-2-#2006, July 29, 6 pm, to Rome

~~SECRET~~

~~SECRET~~

-2-

anyway, and that time running against Allies, so that US-UK-Fr may as well get credit for the inevitable.) Dept not completely without skepticism this report ~~XXXXXXXXXX~~ from Fr Emb, but desires ~~XXXXXX~~ demonstrate rapport with Fr re GAI. Therefore, despite Emb Rome's comments re concession of villas, with which Dept in sympathy, and in view apparent~~IX~~ Fr eagerness acquire full title villa Bonaparte, Dept today handed Fr note in reply their note Apr 2, conceding all Fr points and expressing willingness give immediate consideration a draft Fr note to Ital govt embodying position three Allied govts. Dept assumes Fr will get Br ~~XXXXXXXXXX~~ concurrence. Dept will suggest presentation at Rome.

Depts note, however, took occasion of these concessions to Fr to invite Fr to join US forthwith in representations to Br to abandon their present position re disposition GAI and join US, Fr in tripartite release proceeds to Italy. (Send Rome as _____; rpt London _____; Paris _____; Brussels for Dorr by air _____; and Vatican City by air _____.)

CODE ROOM: SEND Rome 2006; rpt London 2999; Paris 2899
Brussels for Dorr by air _____; Vatican City by air 21.

~~SECRET~~

EL:WASilver:mjh

7-27-48

SE

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. George V. Allen - P

DATE: August 3, 1948.

FROM : Miss A. R. Hall - ILI, Arts and Monuments.

SUBJECT: Disposition of the German Art Libraries in Italy.

It is recommended that the recent disposition made of the four German libraries in Italy be reexamined. These famous libraries containing valuable collections of books and photographs are among the finest in the world.

The four German art libraries with their property: the Palazzo Zuccari and Villino Amelung, and their endowments are to be transferred by the Committee on German Assets in Italy (GAI) to the Italian Government free of charge under the following conditions.

(1) The Italian Government will lease without charge for 99 years the libraries and the two buildings owned by the libraries to the Union of the Institutes of Archaeology, History, and the History of Art, created on February 6, 1946.

(2) One billion lire will be taken from the proceeds of the liquidation of German property and assigned to the Union, to be invested in Italian Government bonds, the income from which is to be applied to the upkeep of the libraries.

(3) In return for the concession of these libraries to the Italian Government, the French Government will receive the Villa Bonaparte and the British Government will receive the Villa Volkonsky.

It is understood that the Villas Bonaparte and Volkonsky are not a part of the endowed property of the libraries. They are economic rather than cultural assets and are not considered in this memorandum.

The German art libraries are cultural institutions, privately and publicly endowed. They have been maintained free to the public. They are clearly within the terminology of article 56 of the Hague Convention (IV) of 1907 as "institutions dedicated to charity and education, the arts and sciences." As such, their collections, property, and endowments are protected from all seizure.

As cultural institutions they are exempt from liquidation as German assets under the Memorandum of Understanding between

SECRET

-2-

~~SECRET~~

OK | the United States, France, the United Kingdom, and Italy, signed at Washington, August 14, 1947. In the phraseology of the Memorandum, the libraries should be regarded as charitable institutions (2,b) and not beneficially German-owned (2,c), and are therefore not within the jurisdiction of the Committee on German Assets in Italy.

OK | Under other agreements, ~~institutions~~ and directives of World War II, the United States Government has vigorously supported the basic principle of respect for cultural institutions and cultural collections of the enemy-nations.

OK | The former German foundations should be recognized as the rightful owners and their former title to the collections, property, and endowments, should be upheld, as was properly done by the Italian Government following World War I.

OK | The transfer of the ownership of these libraries to the Italian Government is the first instance in which the United States Government does not recognize the inviolability of cultural property under international law. France, the United Kingdom, and Italy are equally obligated to respect cultural property. Any abrogation of this universally accepted principle would be an unfortunate and unworthy precedent.

to obtain
a settlement
of cultural
property
OK | The care and maintenance of these libraries presents a separate and an emergency problem. ~~By a joint agreement among the U.S., France, and U.K., funds from German assets in Italy may be earmarked for that purpose.~~ It is believed that means should be devised, in cooperation with the German foundations, by which the libraries might be administered, ~~jointly for a term of years with the Union.~~ The same public and scholarly interests would be served in a manner that would contribute to goodwill and good relations among nations.

It is not
certain the
provision
OK | The Arts and Monuments officer has not previously participated in any of the negotiations, and many of the earlier documents have not been received in the Division. The documents bearing upon the recent decision are attached. Information on these libraries, their foundation, history, and vicissitudes of World War II are contained in the OSS Art Looting Investigation Unit File in the Department.

ILI:ARHall:cd

~~SECRET~~

8/3/48

C
O
P
Y

Mr. George V. Allen - P

August 3, 1948

Miss A. R. Hall - III, Arts and Monuments.

Disposition of the German Art Libraries in Italy.

It is recommended that the recent disposition made of the four German libraries in Italy be reexamined. These famous libraries containing valuable collections of books and photographs are among the finest in the world.

The four German art libraries with their property: the Palazzo Zuccari and Villino Amelung, and their endowments are to be transferred by the Committee on German Assets in Italy (GAI) to the Italian Government free of charge under the following conditions.

(1) The Italian Government will lease without charge for 99 years the libraries and the two buildings owned by the libraries to the Union of the Institutes of Archaeology, History, and the History of Art, created on February 6, 1946.

(2) One billion lire will be taken from the proceeds of the liquidation of German property and assigned to the Union, to be invested in Italian Government bonds, the income from which is to be applied to the upkeep of the libraries.

(3) In return for the concession of these libraries to the Italian Government, the French Government will receive the Villa Bonaparte and the British Government will receive the Villa Volkonsky.

It is understood that the Villas Bonaparte and Volkonsky are not a part of the endowed property of the libraries. They are economic rather than cultural assets and are not considered in this memorandum.

The German art libraries are cultural institutions, privately and publicly endowed. They have been maintained free to the public. They are clearly within the terminology of article 56 of the Hague Convention (IV) of 1907 as "institutions dedicated to charity and education, the arts and sciences." As such, their collections, property, and endowments are protected from all seizure.

As cultural institutions they are exempt from liquidation as German assets under the Memorandum of Understanding between the

~~SECRET~~

- 2 -

~~SECRET~~

United States, France, the United Kingdom, and Italy, signed at Washington, August 14, 1947. In the phraseology of the Memorandum, the libraries should be regarded as charitable institutions (2,b) and not beneficially German-owned (2,c), and are therefore not within the jurisdiction of the Committee on German Assets in Italy.

Under other agreements and directives of World War II, the United States Government has vigorously supported the basic principle of respect for cultural institutions and cultural collections of the enemy-nations.

The former German foundations should be recognized as the rightful owners and their former title to the collections, property, and endowments, should be upheld, as was properly done by the Italian Government following World War I.

The transfer of the ownership of these libraries to the Italian Government is the first instance in which the United States Government does not recognize the inviolability of cultural property under international law. France, the United Kingdom, and Italy are equally obligated to respect cultural property. Any abrogation of this universally accepted principle would be an unfortunate and unworthy precedent.

The care and maintenance of these libraries presents a separate and an emergency problem. It is believed that means should be devised, in cooperation with the German foundations, by which the libraries might be administered. The same public and scholarly interests would be served in a manner that would contribute to goodwill and good relations among nations.

The Arts and Monuments officer has not previously participated in any of the negotiations, and many of the earlier documents have not been received in the Division. The documents bearing upon the recent decision are attached. Information on these libraries, their foundation, history, and vicissitudes of World War II are contained in the OSS Art Looting Investigation Unit File in the Department.

The Secretary of State presents his compliments to His Excellency the Ambassador of the French Republic and has the honor to refer to his note No. 116 of April 2, 1948 on the subject of the disposition of German art libraries and certain official German property in Italy.

The Secretary, herewith, withdraws his concurrence to these proposals as contained in a note from the Department of State dated July 27, 1948, in order that the disposition of these cultural and official properties may receive further consideration by the Department of State.

Department of State;

Washington,

August 16, 1948.
cc - P - Mr. Allen

MEMORANDUM

Subject: Disposition of the German Art Libraries in Italy.

Problem.

The American member of the Committee for the Liquidation of German Assets in Italy (GAI), on which the United States, the United Kingdom, France, and Italy are represented, has proposed that four German art libraries in Italy, their property, the Villino Amelung and the Palazzo Zuccari, and their endowments should be turned over to the Italian Government free of charge under specified conditions. This proposal was agreed to by the French Government and concurred in by the Department of State in a telegram, No. 2006, to the American Embassy, Rome, dated July 27, 1948 and in a note to the French Embassy, dated July 27, 1948.

However, such disposition of these German art libraries would be a violation of the immunity universally accorded to cultural property under international law.

Relevant Facts.

The proposed transfer of the German art libraries to the Italian Government would be made under the following conditions.

(1) The Italian Government will lease without charge for 99 years the libraries and the two buildings owned by the libraries to the Union of the Institutes of Archaeology, History, and the History of Art, created on February 6, 1946.

(2) One billion lire will be taken from the proceeds of the liquidation of German property in Italy and assigned to the Union, to be invested in Italian Government bonds, the income from which is to be applied to the upkeep of the libraries.

-2-

(3) In return for the concession of these libraries to the Italian Government, the French Government will receive the Villa Bonaparte (the former German Embassy to the Holy See) and the British Government will receive the Villa Wolkenski (the former German Embassy in Italy).

The four German art libraries are:

- (1) The Library of the German Archaeological Institute of Rome, founded in 1829, and its property, the Villino Amelung, bequeathed to the Institute in 1927;
- (2) The Hertziana Library, Rome, and its property, the Palazzo Zuccari, established in 1913;
- (3) The Library of the German Historical Institute, Rome, founded as the Prussian Historical Institute in 1888, not including the Austrian Historical Institute Library with which it was combined in 1938;
- (4) The Library of the German Institute of the History of Art, Florence.

Discussion.

These famous libraries containing valuable collections of books and photographs are among the finest of their type in the world. They were privately and publically endowed and have been maintained free to the public.

They are cultural institutions as expressly defined in article 56 of the Hague Convention (IV) of 1907, respecting the Laws and Customs of War on Land, in which it is stated that, "... institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property (i.e. "Private property cannot be confiscated." Article 46, Ibid.). All seizure of ... institutions of this character...works of art and science is forbidden, and should be made the subject of legal proceedings."

This immunity which has been universally accorded to cultural

-3-

property, includes the collections, buildings, equipment, and all assets of the institutions, endowments, funds, and securities, even if under State jurisdiction.

As cultural institutions, they should be regarded as exempt from liquidation as German assets under the Memorandum of Understanding between the United States, the United Kingdom, France, and Italy, signed at Washington, August 14, 1947, paragraph 2b, as "charitable" institutions and paragraph 2c, as "not beneficially German-owned."

Under all other agreements and directives of World War II, the United States Government has actively supported the principle of respect for the cultural institutions and cultural collections of all nations, including former enemy-nations.

The transfer of the ownership of these German libraries to the Italian Government would be the first instance in which the United States does not recognize the inviolability of cultural property under international law. The United Kingdom, France, and Italy are equally obligated to respect cultural property and cultural institutions.

Any abrogation of this universally accepted principle would be an unfortunate and unworthy precedent. It is believed that such confiscation and transfer of cultural property would have serious repercussions and a disastrous effect upon all efforts to obtain a final and satisfactory settlement of cultural property following World War II.

An affirmation of these obligations under article 56 of the Hague Convention (IV) of 1907 is found in the position recently taken by the Secretary of the Army, General Clay, and General MacArthur in their opposition to the seizure of former enemy cultural property for the satisfaction of Allied claims under a policy of replacement-in-kind of cultural objects (Letter from the Secretary of the Army to the Secretary of State, dated July 28, 1948 and cable from SCAP, Tokyo, to the Department of the Army, C-61096, dated May 31, 1948.)

-4-

Recommendations.

It is recommended that:

1. The former German foundations and societies be recognized as the rightful owners of the German art libraries in Italy which belonged to each one under the former terms of establishment, will, or endowment. Their title to the collections, property, and endowment should be upheld.
2. A cable be sent to the American Embassy, Rome, withdrawing Department approval of the proposals for transfer to the Italian Government. (Cable attached.)
3. An airgram be sent to the American Embassy, Rome, setting forth the position of the Department. (Airgram attached.)
4. A note be sent to the French Embassy in Washington informing the French Government that the disposition of the German art libraries in Italy will receive further consideration by the Department of State. (Note Attached.)

-5-

The previous documents on the disposition of German art libraries in Italy include:

1. Department telegram to American Embassy, Rome, No. 2006, July 29, 1948;
2. Department to French Embassy, July 27, 1948;
3. American Embassy, Rome, despatch No. 1081, July 14, 1948; subject: Comments on Paper concerning German Assets in Italy prepared for the Conference on Treaty Implementation, Rome, July 14-21, 1948.
4. American Embassy, Rome, despatch No. 1034, July 6, 1948; subject: Disposition of German Libraries in Italy;
5. American Mission, Vatican City, despatch No. 59, July 15, 1948; subject: Former German Embassy to the Holy See.
6. American Embassy, Paris, despatch No. 838, June 1, 1948; subject: Disposition of German Official Property in Italy;
7. French Embassy, Washington, note No. 116, April 2, 1948;
8. American Embassy, Rome, telegram No. 1117, March 13, 1948;
9. American Embassy, Rome, despatch No. 302, February 18, 1948, subject: Current developments in regard to German Libraries in Italy;
10. American Embassy, Rome, despatch No. 2051, December 18, 1947, subject: Minutes of the Sixth Meeting, Committee on German Assets in Italy.

FORM DS-322
7-18-46

OUTGOING TELEGRAM

INDICATE

Collect

Charge Department

Charge to

Department of State

Washington

CLASSIFICATION

~~SECRET~~

~~AMEMBASSY~~

ROME

Re DEPTTEL 2006 on disposition of German art libraries in Italy.
Approval of proposal for transfer of German art libraries to Italian
Government is herewith withdrawn on basis of US obligations under
Hague Convention (IV) of 1907 to respect the inviolability of cultural
property and cultural institutions. DEPT suggests all negotiations
be delayed pending receipt of airgram from DEPT.

Code Room: Send to:

Mission

Rome

Repeat to

Missions:

London

Paris

Brussels

Vatican City

DISTRIBUTION
DESIRED
(OFFICES ONLY)

CR CLEARANCE

ILI: ARHall:arh POS/G ADE OEX P EP CE SE EUR LE
8/16/48

~~SECRET~~

FORM DS-323
7-12-46

OUTGOING AIRGRAM

CLASSIFICATION

Department of State

~~SECRET~~

NO. _____

Washington,

AMEMBASSY

ROME

Re DEPTIL 2006, July 29, 1948. DEPT has reconsidered the decision concerning proposed disposition of German art libraries in Italy and withdrawn its approval of their transfer free of charge to the Italian Government.

DEPT has reviewed the proposals contained in AMEMBASSY, Rome, despatches No. 1051, July 14, 1948 and No. 1034, July 6, 1948; in note from French Embassy in US, No. 116, April 2, 1948; as well as information contained in earlier and related documents.

As the Villa Bonaparte was the property of the former German Embassy to the Holy See and the Villa Wolkenski was the former German Embassy in Italy, they are official assets and not cultural assets and are, therefore, not considered in the same category as the German art libraries.

The German art libraries include (1) Library of the German Archaeological Institute of Rome, founded in 1829, and the Villa Amelung bequeathed to the Institute in 1927, (2) the Hertziana Library, Rome, and its property, the Palazzo Zuccari, established in 1913, (3) the Library of the German Historical Institute, Rome, founded as the Prussian Historical Institute in 1888, combined in 1938 with the Austrian Historical Institute, which had been established in 1930, (4) the Library of the German Institute of the History of Art, Florence.

You are instructed that the former German foundations and societies should be recognized as the rightful owners of these libraries and their former title to the collections, property, and assets should be upheld.

As cultural institutions, these four German art libraries in Italy are immune from confiscation and transfer under international law, in accordance with the principle of inviolability clearly defined and expressly extended to cultural property and cultural institutions under article 56 of the Convention (IV) respecting the Laws and Customs of War on Land, signed at the Hague, October 18, 1907.

DISTRIBUTION
DESIRED
(OFFICES ONLY)

CR CLEARANCE

~~SECRET~~

FORM DS-323
7-18-48

Page 2.
OUTGOING AIRGRAM

CLASSIFICATION

Department of State

~~SECRET~~

NO. _____

Washington,

As cultural institutions maintained free to the public, they are exempt from liquidation as German assets under the Memorandum of Understanding between the United States, France, the United Kingdom, and Italy, signed at Washington, August 14, 1947, under paragraphs 2b and 2c.

The obligation to respect cultural property and cultural institutions has been reaffirmed by the US GOVT in all declarations, agreements, and directives of World War II. The transfer of the German art libraries to the Italian GOVT would be the first instance in which the US has not recognized the inviolability of cultural property and cultural institutions. France, UK, and Italy are equally obligated under the Hague Conventions of 1899 and 1907 to respect cultural property. Any abrogation of this universally accepted principle would create an undesirable precedent.

It should be further recognized that the immunity covering such institutions is not limited to the collections but includes the buildings, equipment, and all assets of the institutions, their endowments, funds, and securities, even if such institutions were under State jurisdiction.

The Legation of Austria in Washington has informally presented to the DEPT the claim of the Austrian Government for the recovery of the Austrian art libraries in Italy which were amalgamated with the German art libraries. The DEPT will recommend that the Austrian claim should be recognized.

It is understood that the care of the books and photographs and the maintenance of the German art libraries, so that these valuable collections may be made available to the public, presents a difficult and emergency problem. The maintenance of the libraries should be considered as a separate matter following recognition of German ownership. Means to this end should be devised in consultation and cooperation with the German foundations. The DEPT is interested and willing to support proposals of appropriate assistance, so long as public and scholarly interests will be served in manner that will contribute to goodwill and good relations among the nations concerned.

DISTRIBUTION
DESIRED
(OFFICES ONLY)

~~SECRET~~

CR CLEARANCE

ILI:ARHall:arh

POS/G
8/16/48

ADE OEX P EP CE SE EUR LE

The Secretary of State presents his compliments to His Excellency the Ambassador of the French Republic and has the honor to refer to his note No. 116 of April 2, 1945 on the subject of the disposition of German art libraries and certain official German property in Italy.

The Secretary, herewith, withdraws his concurrence to these proposals as contained in a note from the Department of State dated July 27, 1945, in order that the disposition of these cultural and official properties may receive further consideration by the Department of State.

Department of State,

Washington,

FORM DS-322
7-18-46

INDICATE

Collect

Charge Department

Charge to

● OUTGOING TELEGRAM ●

Department of State

Washington

CLASSIFICATION

~~SECRET~~

AMEMBASSY,

ROME.

Re Deptel 2006, July 29, 1948.

DEPT requests info concerning subsequent negotiations
relating to proposed disposition of German art libraries in Italy
and their property for review and reconsideration.

~~SECRET~~

DISTRIBUTION
DESIRED
(OFFICES ONLY)

OEEX:ILI:ARHall:meh

2/4/48

OEEX

SE

CE

O

EP

CR CLEARANCE

Attachment 2.

D R A F T

~~SECRET~~

No.

To the

Officer in Charge of the American Mission
Rome

The Department of State has reconsidered the decision concerning the disposition of the German art libraries in Italy and withdrawn its approval of their transfer free of charge to the Italian Government, ^{as} contained in the Department telegram No. 2006, dated July 27, 1948.

The Department of State has reviewed the proposals contained in the Embassy's despatches No. 1081, dated July 14, 1948, subject: "Comments on Paper Concerning German Assets in Italy prepared for the Conference on Treaty Implementation, Rome, July 14 - 21, 1948;" No. 1034, dated July 6, 1948, subject: "Disposition of German Libraries in Italy;" and in a note from the Embassy of France in the United States, No. 116, dated April 2, 1948; as well as the information contained in related and earlier documents including, despatch No. 59 from Vatican City, dated July 15, 1948, subject: "Former German Embassy to the Holy See;" a despatch No. 838, from the American Embassy, Paris, dated June 1, 1948, subject "Disposition of German Official Property in Italy;" telegram from the American Embassy, Rome, No. 1117, dated March 13, 1948; despatches from the American Embassy, Rome, No. 302, dated February 18, 1948, subject: "Current developments in regard to German Libraries in Italy," and No. 2051, dated December 18, 1947, subject: "Minutes of the Sixth Meeting, Committee on German Assets in Italy."

As

As the Villa Bonaparte was the property of the former German Embassy to the Holy See and the Villa Wolkenski was the former German Embassy in Italy they are ~~not to be regarded as~~ official assets and not cultural assets and are therefore not considered in the same category as the German libraries.

~~XXXXXXXXXXXXXXXXXXXX~~ The German art libraries include (1) Library of the German Archaeological Institute of Rome, founded in 1829, ~~its property,~~ and the Villino Amelung bequeathed to the Institute in 1927, (2) The Hertziana Library - Rome and the Palazzo Zuccari, established in 1913, ~~as the Prussian Historical~~ (3) Library of the German Historical Institute - Rome, founded in 1888, ~~Institute combined in 1938 with~~ ~~in an amalgamation with the~~ ~~of the Prussian Historical~~ ~~apart from not including~~ ~~Institute and the Austrian Historical Institute which had been established~~ ~~and amalgamated with the Prussian Historical Institute in 1938.~~ (4) Library of the German Institute of the History of Art - Florence. As cultural institutions, these four German art libraries in Italy, are exempt from liquidation as German assets under the Memorandum of Understanding between the United States, France, the United Kingdom, and Italy, signed at Washington, August 14, 1947.

They are, furthermore immune from confiscation and transfer under international law, in accordance with the principle of inviolability ~~of cultural property~~ clearly defined and expressly extended to cultural property under article 56 of the Convention (IV) respecting the Laws and Customs of War on Land, signed at the Hague, October 18, 1907.

The obligation to respect cultural property and cultural institutions has been reaffirmed in principle by the United States Government in all ~~its~~ ~~subsequent~~ treaties, agreements, declarations, and directives. The transfer of these German libraries to the Italian Government ~~is~~ ^{would be} the first instance in which the United States Government has not recognized the inviolability of cultural property. France, the United Kingdom, and Italy are equally obligated under the Hague Conventions of 1899 and 1907 to respect cultural property. Any abrogation of this universally accepted principle would create an undesirable precedent.

It should be further recognized that the immunity covering such institutions

It is believed that means should be devised in consultation and cooperation with the German foundations, whereby the German art libraries might receive appropriate assistance from the Union of the Institutes of Archaeology, History, and History of Art and that the same public and scholarly interests will be served in a manner that will contribute to goodwill and good relations among the nations concerned.

DEPARTMENT OF STATE

Memorandum of Conversation

DATE: September 9, 1948

SUBJECT:

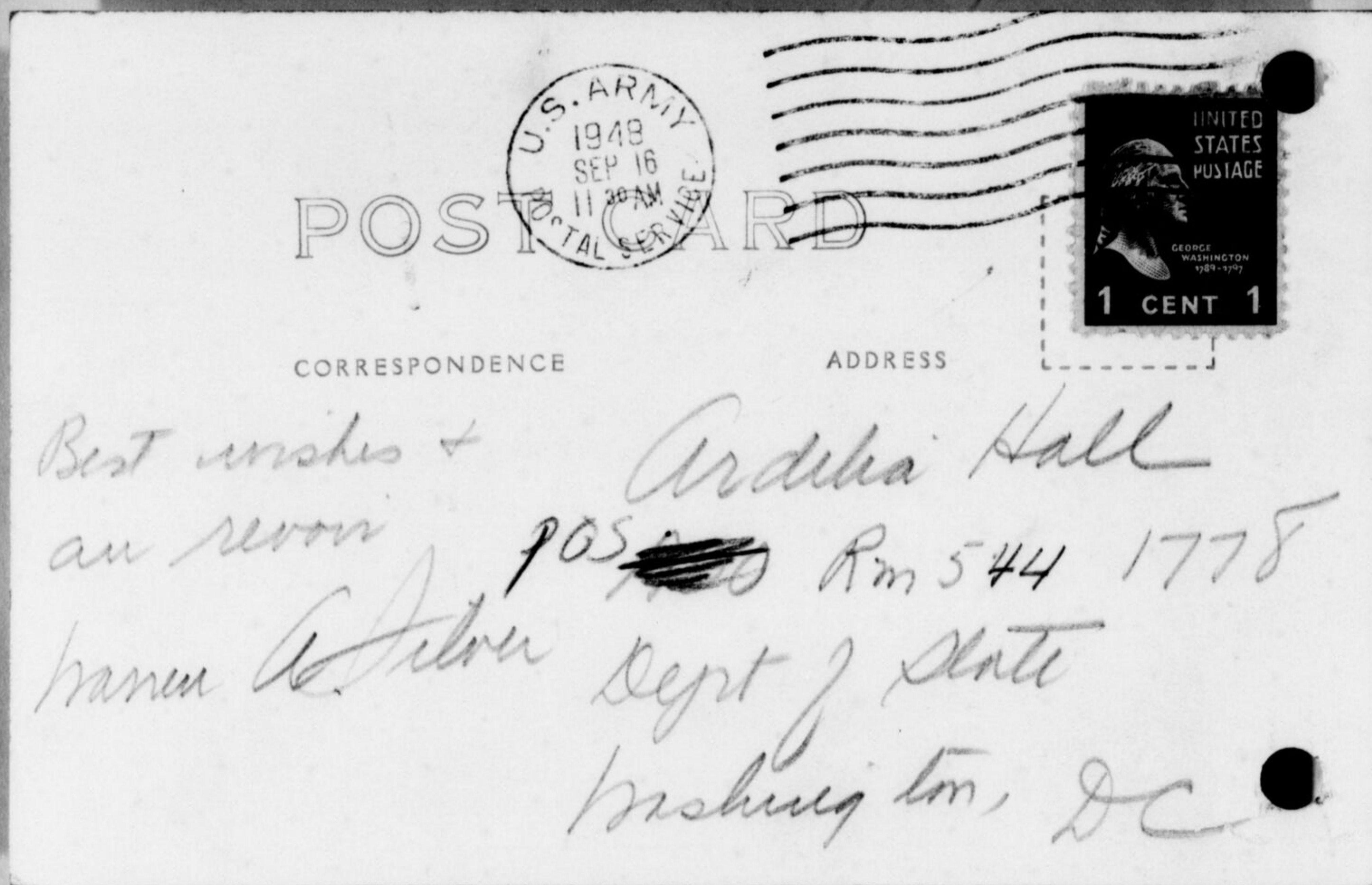
PARTICIPANTS: Mr. Eulass, OE, Room 11, O.S. •
and
Ardelia R. Hall

COPIES TO:

070 1-1408

Mr. Eulass called to tell me that Mr. Stanley Metzger Le/E had been consulted and ^{he} advised that it was U. S. policy to respect all enemy cultural institutions but that such a policy is not universally accepted. A person at Yale holds one view, Mr. Rubin another.

Declassified per Executive Order 12958, Section 3.5
NND Project Number: NND 775057 By: NND Date: 1977



3C/OER/13/PRG
Annex 4 - (10), 20 September 1948.

UNESCO in 1948 had a contract with the International Union of Institutes of Archaeology, History and History of Art in Rome. This organization is an international body acting as trustee of the Herziana Library to which a subsidy of \$3,000 was granted by the general conference of UNESCO to help the rehabilitation for world use of the Herziana Library.

This sum was approved by the UNESCO Executive Board at its sixth session.

Declassified per Executive Order 12958, Section 3.5
NND Project Number: NND 775057 By: NND Date: 1977

DC/R. Mr. S.
~~said tel Cirillo~~
Charged to
GAP/Fuller
Aug 16, 1949

Note & dist -

Mr. Greene

Called Research
X 2246

● Oct. 29, 1948

Disposition of Gen. Art. Lib.

- 1) Approved by Mr. Morris
- 2) Discussed with Mr. Oliver
Sept. 24
- 3) " " Mr. Fuller

Waiting now to hear
from C.E. Oct. 29-

Recommendations.

It is recommended that:

1. The former German foundations and societies be recognized as the rightful owners of the German art libraries in Italy which belonged to each one under the former terms of establishment, will, or endowment. Their title to the collections, property, and endowment should be upheld.
2. A cable be sent to the American Embassy, Rome, withdrawing Department approval of the proposals for transfer to the Italian Government. (Cable attached.)
3. An airgram be sent to the American Embassy, Rome, setting forth the position of the Department. (Airgram attached.)
4. A note be sent to the French Embassy in Washington informing the French Government that the disposition of the German art libraries in Italy will receive further consideration by the Department of State. (Note Attached.)

Gave memo
without recommendation
to Mr. Oliver on
Fri. Sept. 24

Saw Mr. Dulles on Oct

29, 1948

& left

memo,

telegram

airgram

& note

to Mr.

with

all

documents

withdrawing

He will

return

all

to me

with

opinion

Note: also
left letter
from Rozell
to Lovett on
replacement
with this.

DEPARTMENT OF STATE
CENTRAL
DIVISION OF EUROPEAN AFFAIRS

November 4, 1948

TO : ILI - Miss Hall
FROM : CE - C. Kidd *CK*
SUBJECT: Disposition of German Art Libraries in Italy

In reading the attached file, three facts, to my mind, stand out:

- (1) The Germans were the owners of the properties;
- (2) They violated conditions of ownership assumed by them when possession was restored to them after the first World War;
- (3) The arrangement authorized by DEPTTEL 2006 as qualified by DEPTTEL 2218 is a reasonable and practical solution, arrived at after months of study and apparently acceptable to all the other governments now concerned, viz., France, Great Britain, and Italy.

The question is whether we have violated Art. 56 of the Hague Convention, or are bound by that Article, bearing in mind Secretary Royall's remarks in his letter of October 26, 1948. Although referring to another cultural-property question, Secretary Royall said:

"For more than three years we have maintained a consistent policy in keeping with our obligations under the Hague Convention. Our theatre commanders both strongly urge that we continue this policy. It seems to me that good faith, as well as consistency, requires that we maintain our past policy."

It seems to me that the question is one primarily for Le to advise us on. I can perceive nothing politically objectionable in the course proposed by DEPTELS 2006 and 2218 and much to recommend it. I had supposed that the Hague rules were regarded more as guiding principles to be aimed at in general, rather than as strict rules applicable throughout the recent period. Even assuming their applicability, I feel that Italy and the other powers would have grounds for contending that the Germans had forfeited their rights of ownership by breach of conditions and that the solution served the original dedication of these cultural properties to public use.

Attachment:

Draft Telegram to ROME,
prepared in ILI:ARHall: 8-16-48

EUR:CE:CKidd:mrh

DEPARTMENT OF STATE
~~Southern~~
DIVISION OF EUROPEAN AFFAIRS

November 4, 1948

ILI - Miss Hall

I concur with CE's memo of November 4 regarding the disposition of German Art Libraries in Italy.

You perhaps know that the proposal for turning over these libraries to the International Union of Institutes of Archaeology, History and History of Art in Rome was formulated by Professor Morey and approved by British, French, Italian and American scholars. I understand that Morey and other scholars were resentful of the manner in which the Nazi regime administered the libraries, and appalled by their action in removing the collections to Germany during the war, thereby exposing them to loss or damage. Morey's proposal was therefore intended to "internationalize" the administration of the libraries. It does not of course exclude the Germans from sharing in this administration eventually, as the German institutes in Rome, when they begin to function again, will undoubtedly resume membership in the International Union.

ws
EUR:SE:WCDowling:smw

DEPARTMENT OF STATE

THE LEGAL ADVISER

~~RESTRICTED~~

November 22, 1948

TO : ILI - Miss Hall

FROM : L/P - Conrad E. Snow *CS*

SUBJECT: Seizure of German-owned Libraries in Italy

1. A legal opinion is desired regarding the disposition of four German-owned libraries and associated property which are located in Italy. One of them is privately owned, -- the Herziana Library -- which is the finest collection in the world of books and photographs on the history of Italian art of the Renaissance. It was willed in 1913 to the Kaiser Wilhelm Gessellschaft, with a provision that it was not to be removed from Rome. The property includes a Palazzo in which the library is housed. The other three libraries appear to be Government-owned: (a) the Library of the German Archaeological Institute, consisting of 65,000 volumes and 100,000 photographs, together with a residence in Rome; (b) the Library of the German Historical Institute, a collection in Rome devoted to the history of Mediaeval Rome and the Papacy; (c) the Library of the German Institute of the History of Art, in Florence. These last three were confiscated by the Italian Government at the time of the First World War, but were restored to German ownership in 1920, on condition that they were not to be removed from Italy. All four libraries were removed from Italy by the German Army in 1943, but have been returned by the American occupation authorities. The American member of the Committee for the Liquidation of German Assets in Italy, on which the U.S., U.K., France and Italy are represented, has proposed that the four libraries, their real estate and endowments, be turned over to the Italian Government free of charge. It is proposed to turn over with them the sum of one billion lire taken from the proceeds of the liquidation of German assets in Italy, to be invested and the income applied to their upkeep. The Italian Government will lease the libraries (for 99 years), and assign the funds, to the International Union of Archaeology, History and History of Art, which is presently in temporary custody of the property. The proposition has already received the approval of the French Government.

2. ILI suggests that the proposal is in violation of Articles 46 and 56 of the Hague Convention (IV) of 1907 respecting the Laws and Customs of War on Land. Both Articles appear in Section III, Military Authority over the Territory of the Hostile State. Article 46 provides that private property "must be respected", and "cannot be confiscated".

Article 56

-2-

Article 56 provides that property of institutions dedicated to the arts and sciences, even when State property, shall be treated as private property, and that all seizure of institutions of this character, and of works of art and science, is forbidden, and should be made the subject of legal proceedings. 2 Malloy 2289-2290. The Libraries in question are clearly "institutions dedicated to the arts and science", and contain "works of art and science".

3. The question raised puts in issue the legality not only of the seizure of German "institutions dedicated to the arts and sciences" and of "works of art and science", but also of the confiscation of German private property in Italy generally. Under the Treaty of Peace with Italy, the Italian Government agreed to take all necessary measures to facilitate such transfers of German assets in Italy as may be determined by those of the Powers occupying Germany which are empowered to dispose of such assets (Art. 77, Par. 5). Acting under this article, France, the United Kingdom and the United States entered into a Memorandum of Understanding with Italy on August 14, 1947 (Treaty Series Number 1664). Italy agreed to take all necessary measures to effect the prompt sale or liquidation of all assets in Italy belonging to German individuals in Germany or corporations or other organizations organized under the laws of Germany, as well as assets of the German State; and to dispose of German assets only to non-German nationals, "with maximum safeguards to insure against their eventual return to German ownership or control." A committee was set up to review, in advance of consummation, all sales of German assets, "to insure that the proposed sales are in accord with the national interests of the four Governments, taking into account the objective of precluding the return of German external assets to German ownership or control . . ." It is no more illegal under the Hague Convention to seize State-owned institutions dedicated to the arts and sciences than it is to seize privately-owned property, to which they are assimilated by Article 56 of the Convention.

4. It is believed, however, that neither Article 46 nor Article 56 of the Hague Convention is applicable to German external assets in Italy. These two articles have to do only with the exercise of "military authority over a hostile State", or, in other words, to the right and duties of an invading army which is in occupation of a hostile state. Such an Army cannot rightfully confiscate private property or seize works of art or science, even though publicly owned. Italy is not, however, a hostile State, nor is it presently occupied by an invading Army claiming "military authority" over it. The two Articles of the Hague Convention do not limit the sovereign right of Italy to dispose of all tangible property within its borders, real or personal, public or private, and whether owned by its own nationals or by the citizens of another country, with which it may be at war or in peace.

This

~~RESTRICTED~~

-3-

This right is of its nature absolute, except in so far as it may be limited by the correlative right of a friendly foreign nation and its nationals to receive prompt and adequate compensation for property belonging to them and so seized. What Italy can do of her own sovereign right, she can equally bind herself to do by treaty.

4. It is therefore concluded that so far as the Hague Convention is concerned, Italy had a legal right to enter into a treaty and a memorandum of understanding, under the terms of which she agreed to a disposition of German external assets situated in Italy, which may in effect result in the confiscation of German private property in Italy, and even in the seizure of German institutions dedicated to the arts and sciences and German works of art and science, both privately owned and State-owned.

L:L/P:CESnow:lm1

~~RESTRICTED~~

11/29/48

General Conrad E. Snow - LE

Ardelia R. Hall - ILI

Seizure of German-owned libraries.

~~RESTRICTED~~

The opinions of which I have often spoken
are attached. I hope it may be possible for
you to reconsider the opinion contained in
your memorandum of November 22, 1948.

CEH:ILI:ARHall:mob

11/29/48

LE - General Conrad E. Snow

November 29, 1948

ILI - Ardelia R. Hall

Exemption of cultural property from seizure under Article 56 of the Hague Convention (IV) of 1907.

It is the unanimous opinion of all recognized exponents of international law that respect for cultural institutions and the exemption of their collections and property from confiscation is specifically required by Article 56 of the Hague Convention (IV) of 1907. Recent statements of the leading authorities are given below.

Earlier writers as Bluntschli, (Le droit international codifié, para. 650); Calvo (Le droit international, para 2213); G.F. Martens (Recueil du Droit, para 28); James Kent and O. W. Holmes Jr. (Commentaries on American Law, p. 92, 93); David Dudley Field, (Draft Outlines of an international code, para 840); Richard Henry Dana (Editor of 8th edition of Henry Wheaton, Elements of International Law, p. 454, Note 170) clearly denounced the practice of seizure of cultural objects.

An historical policy study, including both opinion and practice, would demonstrate that a complete respect for the integrity of cultural property has been well established in the custom and usage of civilized nations for over 150 years. Moreover, this principle has been upheld by the United States Government throughout its history. It is a principle which has been vigorously supported by informed American public opinion throughout World War II.

L. OPPENHEIM International Law (6th edition, revised 1944), para. 133, 135, 138, 142:

"138....For article 56 of the Hague regulations exempts the property of municipalities, of religious, charitable, or educational institutions and of institutions devoted to science and art. Thus the movable property of churches, hospitals, schools, universities, museums, and picture galleries, even when belonging to the hostile state, can not lawfully be appropriated by a belligerent....

"142....Article 56 of the Hague regulations enacts categorically that "all seizure" of such works and monuments is prohibited...."

STERLING E. EDMUNDS, International Law and the Treaty of Peace, GPO, Washington, 1919,

"It is unquestionably settled law that property of this character is inviolable."

- 2 -

W. E. HALL, A Treatise on International Law (8th edition, edited by A. Pearce Higgins 1924), p. 445

"The practice (of appropriating art and books) is absolutely forbidden by the terms of the Hague Regulations.

JAMES WILFORD GARNER, International Law and the World War (1920) pp. 435, 437.

"...Happily, during the eighteenth century the spoliation of art museums and libraries fell under condemnation and was rarely resorted to thereafter.... The last notable instance... was the seizure by Napoleon of the art treasures of Italy.... During the recent war (World War I) there appears to have been no wholesale spoliation of public art galleries, libraries, or museums..."

CHARLES DE VISSCHER, (Judge on the International Court of Justice), "Historic Monuments and Works of Art in time of War and in Treaties of Peace," Revue de droit international et de legislation comparee, 1935; reprinted by Office International des Musées, Art et Archéologie, no. 2, 1940:

"The removal of works of art by the military command during hostilities, or by the occupant, or by the victor at the close of the war, is a practice that modern international law has explicitly condemned..."

"It is interesting to note that condemnation of the practice of appropriating works of art dates back more than a century..."

"Since the first Peace Conference of 1899, this principle has become international conventional law. If this law has not abolished the spoliation of State property, it has limited the practice to certain categories of property and securities...; moreover, it expressly exempts 'the property of institutions dedicated to religious worship, charity, education, art, and science, even when belonging to the State.' 'All such property', states Article 56, para. 1, of the Regulations annexed to the Convention 'shall be treated as private property.' Despite that stipulation, which unfortunately is no longer of a nature to protect its immunity - the serious disregard of the respect due to private property during World War (I) is well-known - the scope of the principle is certain; it is clearly defined and expressly extended to historical monuments and works of art...

- 3 -

"Thus international conventional law has established such acts as genuine violations of the law of nations, the perpetrators of which are marked out for collective repression by the signatory States.

"It must be recognized that the immunity covering such institutions is not limited to the buildings, or to the equipment and the collections housed in them; it extends to the whole of their assets; consequently to their currency, funds, and securities, even if the institutions are under the State's jurisdiction. This follows particularly from the fact that Article 56 has placed the property of such establishments on the same footing as the property of communes whose patrimony is safe-guarded from all measures of seizure."

INTERNATIONAL MILITARY TRIBUNE, Nurnberg, Indictment and Judgment of Nazi leaders for the plunder of public or private property under Article 6 (b) of the Charter, was based upon Articles 46, 47, 56 of the Hague Convention of 1907 respecting the Laws and Customs of War on Land, Annex. Nazi Conspiracy and Aggression (1946) vol. 1, pp. 5, 15, 43, 1112; ibid, Opinion and Judgment (1947) pp. 3, 68.

DEPARTMENT OF STATE

Memorandum of Conversation

DATE: 11/30/48

SUBJECT:

PARTICIPANTS: General Snow
and
Ardelia R. Hall

COPIES TO:

General Snow told me he could not write a legal opinion protecting cultural property because private property is being seized in Japan and Germany for reparations. (So he is following the false syllogism: private property is being seized in violation of Article 46 of the Hague Convention; art is to be treated as private property; therefore art is to be seized.)

In Italy sovereign rights of a country within its own borders to seize property must be recognized. Committee is agreeing that Italy can seize cultural property.

"Loot" General Snow says is a term used in war with reference only to pillaging by occupying army. (I still believe that loot is any stealing or dispersal during a war.)

General Snow said treat the German libraries as a matter of policy, pure policy. Italy should not confiscate library if it wants other foundations established in Italy. If Library was in U. S. it would not be seized. Argument not to be based on legal opinion.

General Snow said his opinion is an important one and will be put in to file of legal opinions.

The way is open for another opinion to be written on use of art as reparations.

A.R.H. NOTE: Base argument that seizure of libraries is inconsistent with established U. S. policy.

11/30/48

Memorandum of Telephone Conversation

General Snow
and
Ardelia R. Hall

General Snow told me he could not write a legal opinion protecting cultural property because private property is being seized in Japan and Germany for reparations. (So he is following the false syllogism: private property is being seized in violation of Article 46 of the Hague Convention; art is to be treated as private property; therefore art is to be seized.)

In Italy sovereign rights of a country within its own borders to seize property must be recognized. Committee is agreeing that Italy can seize cultural property.

"Loot" General Snow says is a term used in war with reference only to pillaging by occupying army. (I still believe that loot is any stealing or dispersal during a war.)

General Snow said treat the German libraries as a matter of policy, pure policy. Italy should not confiscate library if it wants other foundations established in Italy. If library was in U. S. it would not be seized. Argument not to be based on legal opinion.

General Snow said his opinion is an important one and will be put in to file of legal opinions.

The way is open for another opinion to be written on use of art as reparations.

A.R.H. NOTE: ^{Use} ~~Base~~ argument that seizure of libraries is ^{also} inconsistent with established U. S. policy.

Declassified per Executive Order 12958, Section 3.5
NND Project Number: NND 775057 By: NND Date: 1977

12/3

Miss Hall -

Returned herewith

UIM

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : ILI - Miss Hall

DATE: Dec. 2, 1948

FROM : ILI - Lawrence S. Morris *LSM*

SUBJECT: General Snow's legal opinion concerning the seizure of German-owned libraries in Italy; your memorandum of telephone conversation 11/30/48 and General Snow's memorandum of 11/22/48.

I think you should prepare an analysis of General Snow's opinion, since he differs from the position ILI has taken and since his opinion will play a part in any future considerations by the Department of the question at issue.

Note that General Snow's essential reasoning in his memorandum is not the reasoning you attributed to him in the first paragraph of your memorandum of telephone conversation. He bases his position upon the points he makes in paragraph no. 4 at the bottom of page #2 and the top of page #3 of his memorandum.

Declassified per Executive Order 12958, Section 3.5
NND Project Number: NND 775057 By: NND Date: 1977

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : ILI - Miss Hall

DATE: Dec. 24, 1948

FROM : ILI - Lawrence S. Morris *LSM*

SUBJECT: General Snow's opinion concerning the seizure of German-owned libraries in Italy.

Reference is made to my memorandum to you of December 2, 1948.

Did you ever make an analysis of General Snow's opinion? — or do you think that that whole issue is now dead?

*Deftel 1193-6/15- agree but
2561 gone to Italy. Can Rome
Emb. Rome to Deft.
2928-11/11/46
Q-168-2/20/46
8/14/47 - memo of understanding in Italy -
Treaty Sec No 1664
✓ Emb. Leg. 302 - 2/18/48
11/11 1034 - 7/16/48*

*only 1 note. answered
on 11/4/48
other parts - 11/11/48
2/18/48*