

FEC Mtgs. 143-154

**CONFIDENTIAL**

FAR EASTERN COMMISSION

Transcript of 143rd Meeting of the Far Eastern Commission  
Held in Main Conference Room, 2516 Massachusetts Avenue, N.W.

Thursday, March 3, 1949

NOTE: The attention of all concerned is invited to the classification of this transcript which prohibits the dissemination of the information contained therein to unauthorized persons or to the press.

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### Representatives Present

Major General Frank H. McCoy, Chairman	(United States)
His Excellency Mr. N. J. O. Makin	(Australia)
Mr. R. E. Collins	(Canada)
Dr. S. H. Tan	(China)
Mr. J. Daridan	(France)
Mr. S. N. Banerji	(India)
Mr. G. J. Jobsis	(Netherlands)
Mr. G. R. Laking	(New Zealand)
Mr. E. Abello	(Philippines)
His Excellency Mr. A. S. Panyushkin	(U.S.S.R.)
Mr. H. A. Graves	(United Kingdom)
Mr. J. F. Ford	

### Secretary General

Mr. Nelson T. Johnson

Reporter: Mr. R. Holtz, Department of State--FEC

(The 143rd meeting of the Far Eastern Commission, 2516 Massachusetts Avenue, N.W., Washington, convened at 10:35 A.M., 3 March 1949, Major General Frank R. McCoy, Chairman.)

GEN. MCCOY: Good morning, gentlemen: the session is open.

ITEM 1 - CORRECTION AND APPROVAL OF THE PROVISIONAL MINUTES OF THE 142nd MEETING

GEN. MCCOY: We will consider your comments and suggestions as to the minutes of the previous meeting.

Mr. Secretary General, have you any comments or corrections?

MR. JOHNSON: No, sir. My attention has not been called to any.

MR. BANERJI: Mr. Chairman, there is a small correction in regard to paragraph 38, the first sentence of which should read as follows: "MR. BANERJI (India) said that as had been indicated at a previous meeting (p. 5, Minutes, 134th FEC Mtg.)"--here is the change--"the Indian delegation realized that the interim directive was issued by the United States Government in exercise of the powers vested in them by the Terms of Reference of the Far Eastern Commission".

GEN. MCCOY: Are there any other changes or corrections desired?

(No response)

GEN. MCCOY: Apparently not. The minutes of the previous meeting will stand approved on the record.

ITEM 2 - POLICY TOWARD PATENTS, UTILITY MODELS, AND DESIGNS IN JAPAN (FEC-284/17)

GEN. MCCOY: The first item on the agenda this morning is under Item 2, Policy toward Patents, Utility Models, and Designs in Japan. FEC-284/17 is a proposed policy decision submitted by the United States representative. The proposal contains the substance of FEC-284/14, with paragraph 5 deleted. You may remember the incidents connected with the consideration of that paper and the fact that the effort on the part of the Chinese Ambassador in propos<sup>ing</sup> an amend-

ment to revamp paragraph 5 of the basic paper was defeated, and that the Chairman, speaking for the moment as the United States representative, informed the Commission that the paper--less paragraph 5--would be submitted by the United States member, and was, with the additional statement of information that the United States representative would also ask for consideration of the deleted article in a separate paper which was referred to the working committee. So that that leaves before us this morning the original paper with paragraph 5 deleted for your consideration.

I would be glad to have any further comment, or if the delegates feel that they have explained their position and are ready for a vote, why I would be very glad to go to that. But I await your pleasure.

MR. DARIDAN: Mr. Chairman, I am afraid that I should ask you kindly to postpone the vote until the next meeting since I haven't gotten the instructions I have been obliged to ask from my Government whether they would consider the paper acceptable to them if paragraph 5 is deleted. So if you don't mind I would be extremely grateful to you if you will accept the postponement of the vote for another week.

GEN. MCCOY: Well I will have to consider that in view of the position of the other members for the moment under the urgency I am under for getting action on this paper and either getting its approval or definitely settling the question.

Are there any other of my colleagues who care to make any remarks?

MR. GRAVES: Mr. Chairman, I might say that I am ready to vote for the paper--to vote in favor of the paper.

MR. MAKIN: Mr. Chairman, I wish to say that I am ready to vote in favor of the paper too.

MR. COLLINS: Mr. Chairman, my position is the same.

DR. TAN: My delegation is also ready for voting on the paper.

MR. BANERJI: I am also ready, Mr. Chairman.

MR. JOBSIS: My Government regrets the deletion of paragraph 5, but we are prepared to vote in favor of the paper.

MR. LAKING: Prepared to vote in favor.

MR. ABELLO: Prepared to vote in favor.

MR. PANYUSHKIN: Mr. Chairman, since the French representative asked to postpone the voting of this paper, I believe that it would be better to postpone the final vote of the paper. And today I am not ready to vote, Mr. Chairman.

GEN. MCCOY: Well, under the circumstances the vote on the paper will be postponed.

ITEM 3 - RECOMMENDATIONS REGARDING JAPANESE-OWNED PATENTS, UTILITY MODELS, AND DESIGNS IN TERRITORIES OF COUNTRIES AT WAR WITH JAPAN (FEC-311/7)

GEN. MCCOY: Let's see, the paper before us is FEC-311/7, isn't it?

MR. JOHNSON: Yes, sir. This is Item 3 and it is FEC-311/6 on your agenda, but they discovered a mistake and so a replacement has been issued as FEC-311/7.

GEN. MCCOY: Yes. Has this been circulated?

MR. RICHLER: Yes, sir.

GEN. MCCOY: The corrected paper that is for your consideration this morning has been circulated. Instead of the original one mentioned on the agenda, FEC-311/6, this is now FEC-311/7, a similar paper but corrected as to a date.

This is a proposed policy decision approved by Committee No. 1 on the 28th of February by a vote of 9 in favor to 1 opposed with 1 abstention. The proposal is a revision of the FEC-311/2 paper which was referred to Committee No. 2 by the Commission on the 13th of January for consideration in conjunction with the paper which we have just now postponed for another week. Possibly there is no need of concerning ourselves about this paper pending action on the basic paper. However, is there any comment or objection to that?

DR. TAN: Mr. Chairman, paragraph 4 of this paper is quite analgous to paragraph 5 of the preceding paper and would maintain more or less a similar position from the standpoint of my delegation. I just want to make an informal suggestion that if this paragraph is deleted perhaps it would be more acceptable to the countries represented here--I think acceptable to more countries. I just desire it as a sort of informal proposal.

GEN. MCCOY: Well I would be very glad to have the Commission express their views on that particular point. I had considered that the papers as now before us might be considered together after we're ready to vote on the original paper, but I'm very glad to have this point considered now and whether the countries concerned--and we all are in both these papers--feel that we should put this paper on all four feet with the original paper. I think it would be well to discuss it and consider that point because some of the others may want to obtain instructions from their governments and we don't want to have to defer this important subject any longer than possible. I must say that we have considered it pretty fully in the general terms.

What is your wish--view? Any opinion about that paragraph 4, Mr. Ambassador?

MR. PANYUSHKIN: Mr. Chairman, the Soviet representatives have already stated their opinion on this paper and this paper is unacceptable for the Soviet delegation as a whole because this paper is contradictory to the widely accepted principle that the resumption of international conventions involving Japan could be exercised only after the conclusion of the peace treaty with Japan. It is necessary to wait until the peace treaty with Japan is concluded.

MR. ABELLO: Mr. Chairman, at the committee level the Philippine delegation expressed the view that this paper would be complete and satisfactory if we merely retained paragraphs 1, 2, 3 and 5 for the purpose for which the paper was intended. So that we sup-

ported on that level the deletion of paragraph 4. We still believe that paragraph 4 need not be in this paper.

GEN. MCCOY: Well, in view of the statements, we'll not give any more time this morning to this paper and pass on to item 4.

ITEM 4 - ECONOMIC STABILIZATION IN JAPAN

GEN. MCCOY: On the 24th of February the Commission agreed to retain this subject on its agenda, while referring the various information papers and the other papers in the 329 series to Committee No. 2: Economic and Financial Affairs. Are there any comments this morning?

In the meantime I have put before my Government the statements here and my own assurance to you of full information on the subject of the carrying out of the directive to SCAP. That is in the process of being done and that information will be of such nature that I think rather than circulate it at this level--that it is that type of information that will first have to be considered by the working committee. It was for that reason that we adopted the suggestion of the Chinese Ambassador at the last meeting that at the working committee the consideration would be given in that way to this subject, but that the subject itself would be kept on the Commission level for any continuing interest or comment at this table.

Have we anything this morning on this subject?

MR. FANYUSHKIN: Mr. Chairman, I would like to say a few words in respect to this item.

"In its statements of January 27 and February 3, 17 and 24, 1949, the Soviet delegation already pointed out the inadmissibility of such a situation when the United States Government, in evasion of the Far Eastern Commission, unilaterally adopts important decisions in respect to the Japanese economy with the purpose of subjecting it to the interests of American monopolistic groups at the expense of Japan's economic independence.



"Today I intend to reply to the United States representative's statement of February 17, 1949, and in this connection to dwell in more detail on the question of foreign commercial activities in Japan.

"In his statement of February 17, 1949, the United States representative asserts that the Supreme Commander allegedly has the right to establish at his own discretion regulations in respect to commercial activities of foreigners in Japan. This statement of the United States representative is absolutely unfounded.

"In the Far Eastern Commission policy decision FEC-273/22 on 'Conduct of Trade with Japan' it is clearly defined on what basis the commercial activities of foreigners in Japan should develop and the realization of what objectives these activities should foster. Paragraph 1 of this decision says:

'...Japan's foreign trade should be so conducted as to:

- a. foster the development and balanced growth of Japanese foreign trade to a level consistent with Japan's peaceful needs as defined by the Far Eastern Commission;
- b. encourage an increase in Japanese exports:
  - (1) in order that these exports may, as soon as possible, pay for the imports required for the prevention of disease and unrest within Japan, and for the re-establishment of a self-sustaining economy; and
  - (2) in order that Japan may participate in providing goods for international trade;
- c. insure competitive conditions in trade free of contracts or agreements which limit access to markets or foster monopolistic controls, and prevent excessive concentration of economic power in Japan and

monopolies in Japanese foreign trade, whether with the participation of Japanese or foreign capital'.

"Consequently, in fulfillment of this decision of the Far Eastern Commission, the Supreme Commander should have carried out first of all those measures which would foster the development and balanced growth of Japanese foreign trade in order that Japanese exports may, as soon as possible, pay for the imports, and thus re-establish a self-sustaining Japanese economy.

"Besides this, had the Supreme Commander followed the above-mentioned decision of the Far Eastern Commission, his measures should have been directed towards the prevention of creation of monopolies in Japanese foreign trade, whether with the participation of Japanese or foreign capital.

"It is for the purpose of fostering the fulfillment of these objectives alone that the commercial activities of foreign firms or private persons in Japan should be permitted, as is clearly set forth in paragraph 2 of the said decision.

"Thus, for example, in subparagraph g of paragraph 2 which enumerates the categories of persons to be permitted to enter Japan, it is said that the following persons should be permitted such entry:

'Representatives of companies or individuals who had pre-war property interests in Japan, the renewed operation of which would contribute to the accomplishment of the objectives in paragraph 1'.

"As regards the question of acquisition by foreigners of Japanese property and the operation by foreigners of Japanese enterprises, it is directly said in paragraph 3 of the above-mentioned Far Eastern Commission decision that:

'Nothing in this policy decision is to be understood as requiring the re-opening or operation of factories in Japan'.

"This paragraph was introduced in the Far Eastern Commission decision because of the fact that the acquisition by foreign firms of Japanese property or rights to operate enterprises in Japan can not foster the realization of the objectives, referred to in paragraph 1 of the policy decision FEC-273/22.

"Nevertheless, by his Circular No. 2 of January 14, 1949, in respect to 'foreign business and investment activities in Japan' the Supreme Commander requested the Japanese Government to permit unlimited expansion of the field of activities of foreigners in Japan, to permit free investment of foreign capital and to permit foreigners to acquire Japanese property, and also requested the Japanese Government to revise acting legislation and to remove existing limitations in respect to foreign enterprises.

"Such actions of the United States occupation authorities in Japan are clearly in contradiction to the policy decision FEC-273/22 on 'Conduct of Trade with Japan', and are unquestionably directed towards the subjection of the Japanese economy to the interests of American monopolies.

"This is also confirmed by such a fact as the prohibition by the United States authorities for the Japanese Government to give government subsidies to the Japanese export industry, which prohibition was dictated by a clear intention to close the outlet of Japanese goods to the export market in order to create privileged conditions for American monopolies.

"In this connection it is noteworthy that Japan's foreign trade indebtedness which amounted to 790 million dollars by June 1948 is not only not decreasing but, as can be seen from the latest press reports, will increase by another 500 million dollars in 1949.

"It is also necessary to point out that the policy of encouraging the purchase by foreign--mainly American monopolistic

firms--of Japanese enterprises at a time when the Japanese economy is extremely weakened not only can not insure competitive conditions in trade or prevent the possibility of creating monopolies in Japanese foreign trade but, on the contrary, can only foster the creation of such monopolistic combines.

"Therefore, the attempt of the United States representative in his statement of February 17, 1949, to justify the unilateral action of the United States Government and General MacArthur who allowed foreign firms to acquire Japanese property and enterprises, in spite of this being forbidden by the above-mentioned decision of the Far Eastern Commission, is absolutely unfounded. Not having any convincing arguments whatsoever in order to justify these actions, the United States representative allowed himself to wholly distort the meaning of paragraph 3 of document FEC-273/22, asserting in essence that the Supreme Commander 'when he feels it desirable' can, allegedly, act on his own discretion in regard to foreign investments in Japan regardless of the decisions of the Far Eastern Commission. It is my belief that so long as there exists an appropriate policy decision of the Far Eastern Commission the United States Government and the Supreme Commander are obligated to fulfill this decision and have no right to take any actions contrary to this decision.

"I would just like to remind the United States representative that in paragraph 1, Part III, of the Terms of Reference of the Far Eastern Commission it is clearly stated, that:

'The Supreme Commander shall be charged with the implementation of the directives which express the policy decisions of the Commission'.

"Consequently, in a matter dealing with foreign commercial activities in Japan, the Supreme Commander had no right to act on his own discretion but should have carried out such measures as exactly corresponded to the policy decision of the Far Eastern Commission FEC-273/22, 'Conduct of Trade with Japan'.

"In order to justify the actions of General MacArthur the United States representative likewise referred to the argument that the permission to make investments in Japan, as he said, is given not to American investors alone but 'equally' to all non-Japanese, and the Japanese allegedly have safeguards which are expressed in the fact that any contract for the acquisition by foreign investors from the Japanese of business rights or property 'will be void unless validated by the Japanese Government and the Supreme Commander for the Allied Powers'. According to the United States representative this general arrangement constitutes a safeguard that the economic independence of Japan will not be endangered.

"It is hardly likely that these arguments of the United States representative can be convincing to anybody. It is clear that the several different references of the United States representative to the argument that General MacArthur's Circular No. 2 of January 14, 1949, gives the right to make investments not only to American but likewise to other foreign investors cannot conceal the fact that the policy carried out by the American authorities in effect creates favorable conditions for foreign and, mainly, for American capital to seize a dominant position in the Japanese economy at the expense of the economic independence of Japan. In my statement at the meeting of the Far Eastern Commission on February 24, 1949, I already quoted several examples in confirmation of this fact.

"Today I would only like to refer once again to the New York Times report of February 8, 1949, in which it is said that not only the Japanese workers but Japanese capital as well fear the influx of foreign capital into Japan.

"It is appropriate to put a question as to why not only the workers of Japan but Japanese national capital as well

experience fear of those measures which are being carried out by the United States Government and the United States occupation authorities in Japan in contradiction with the policy and policy decisions adopted by the Allied Powers in respect to Japan.

"The Japanese people experience this fear because of the fact that the United States authorities, using their dominant position in Japan and having led the Japanese economy to an extremely bad condition have openly begun to carry out their own policy in Japan directed towards the subjection of the already weakened Japanese economy to the interests of American monopolistic groups and have resorted to the direct seizure of Japanese enterprises and other Japanese property, in an attempt to establish their unlimited domination over the Japanese economy.

"All this testifies to the fact that illegal unilateral actions of the United States Government and the United States occupation authorities in Japan are directed towards the prevention of the normal development of Japan's external economic relations and towards the subjection of Japan's economy to the interests of American monopolistic groups which constitutes an obstacle on the road towards the re-establishment of Japan's peaceful independent economy. Thus, all this proves the fact that the United States have taken the course of turning Japan into an economic appendage of the United States, which in its very basis is contrary to the principles set forth in the Potsdam Declaration and in the policy decisions of the Far Eastern Commission."

That is all, Mr. Chairman.

GEN. MCCOY: Will that be circulated to the Commission?

MR. PANYUSHKIN: I believe that it would be originally in the minutes of the meeting.

GEN. MCCOY: Well it's so long and repetitious of former statements that I thought possibly by this time the Ambassador had taken

time to make it short. But quite the contrary. So that it's rather hard for the difference in languages and the extended sinister implications of the Ambassador, which are common with him in dealing with other nations, that I don't care to comment on the statement itself this morning. It has mostly been already answered by the United States in proper and truthful ways, and his intimation that the United States is flying in the face of the policy of this Commission is entirely beside the mark; quite the contrary--we're trying our best to work in the Commission--in spite of his implications that his opinions are the opinions of this Commission. They are not up-to-date--they are certainly not the opinions of the United States.

The United States is not a sinister power bearing down on the poor Japanese in the shape of monopoly; it is trying to deal justly with the Japanese--encouraging its recovery economically speaking with the help of all these powers at the table--and certainly with the help of the United States because, unfortunately for the world, the United States is the only one able to help the Japanese at the moment, financially speaking. I wish very much that the other powers would have the capital available to help in this recovery of Japan. They can help by understanding the efforts of the United States Government to keep them informed and ask their help and not this continual factious, hypocritical action of the Soviet Ambassador and his continued needling on things that are based largely on mis-statements of fact.

MR. PANYUSHKIN: Mr. Chairman--

GEN. MCCOY: I would also like to ask the Ambassador if he intends to give this to the press?

MR. PANYUSHKIN: Mr. Chairman, it is my right whether I shall give it to the press or not and I ask you not to question me in this way.

Mr. Chairman, I would ask you to take back such expressions

as "sinister" and "hypocritical" statements of the Soviet Ambassador. I didn't speak of the United States Government as being "sinister"; I spoke only of the violations by the United States Government of the policy decisions adopted by the Far Eastern Commission and of the Potsdam Declaration. You have not yet proved, and I am sure that you have no proof, that you do not violate the policy decisions of the Far Eastern Commission. You haven't given in essence a single satisfactory answer to the statements of the Soviet delegation on behalf of the United States Government. The Soviet representative cannot believe by word--you should prove that the United States does not violate the policy decisions. It is very good that the United States Government has capital but it does not mean that the United States Government, because of this, can violate the policy decisions. You cannot buy us for money. That is all.

GEN. MCCOY: I have nothing further to remark this morning. I would be very glad to hear any other member. Of course, the Chairman doesn't speak for the Commission yet in this matter--neither does the Soviet Ambassador. He's giving his own opinions--not the opinions of this Commission, I am sure.

Is there any further discussion this morning on the subject before the Commission?

(No response)

GEN. MCCOY: There seems to be none.

ITEM 5 - LABOR POLICY IN JAPAN (FEC-045/5; FEC-318/12, FEC-318/9; FEC-267, FEC-267/3, -/4; FEC-269, FEC-270)

GEN. MCCOY: Item 5, the Labor Policy in Japan--

MR. PANYUSHKIN: Mr. Chairman, I would like to speak on this item.

GEN. MCCOY: Yes. The Soviet representative:



MR. PANYUSHKIN: "The question of labor policy in Japan and that of General MacArthur's violation of the Potsdam Declaration and the decisions of the Far Eastern Commission in regard to the democratization of Japan has already been discussed in the Far Eastern Commission for several months. The discussion of this question began, as is known, in connection with the fact that on July 22, 1948, General MacArthur had issued to the Japanese Government a directive in which he demanded that workers and employees of government enterprises and institutions be forbidden to conclude collective agreements and to resort to strikes, and also, in connection with cabinet order of the Japanese Government of July 31, 1948, issued in compliance with this directive.

"In its statement of September 16, 1948, the Soviet delegation called the attention of the Far Eastern Commission to the fact that the said actions of General MacArthur were in contradiction with the Potsdam Declaration in respect to Japan and that they constituted a violation of the decisions of the Far Eastern Commission in regard to the democratization of Japan. At that time the Soviet delegation submitted for the consideration of the Commission a draft decision which provided that the above-mentioned directives of General MacArthur and the order of the Japanese Government be revoked since they deprived a major part of the Japanese workers and employees of their elementary rights to protect their vital interests. The Soviet delegation insisted also that repressions against workers and employees of government enterprises and institutions should be discontinued. After a lengthy discussion of the proposals of the Soviet delegation, this proposal was rejected in the beginning of January by the majority of the Commission members. Thus, the majority actually took the position of supporting the policy of the United States military authorities in Japan which

is in violation of the Potsdam Declaration in respect to Japan and the decisions of the Far Eastern Commission regarding the democratization of Japan.

"At the same time the above-mentioned anti-democratic measures were approved by the Japanese Diet under the pressure of the United States occupation authorities in Japan, and were reflected in the amendments adopted by the Japanese Diet to the National Public Service Law of November 30, 1948, and in the Public Corporations Labor Relations Law of December 11, 1948. In order to prove that the adopted laws are basically in contradiction with the principles decided upon by the Far Eastern Commission in regard to Japanese trade unions set forth in the decision of December 6, 1946, 'Principles for Japanese Trade Unions', it is sufficient to give the following examples.

"In paragraph 1 of the above-mentioned decision it is stated:

'Japanese workers should be encouraged to form themselves into trade unions for the purpose of preserving and improving conditions of work participating in industrial negotiations to this end, and otherwise assisting the legitimate trade union interests of workers, including organized participation in building up a peaceful and democratic Japan'.

"The same objective of protecting the democratic rights of trade unions is pursued by paragraph 2 of this decision:

'The right of trade unions and their members to organize for these purposes should be assured and protected by law. The freedom of workers to join trade unions should be provided for by law. All laws and regulations preventing trade unions achieving these objectives should be immediately abrogated. Employers should be forbidden to refuse employment to, or discriminate against, a worker because he is a member of a trade union'.

"In paragraph 4 it is also stated that:

'Trade unions should be encouraged to negotiate with the employers on behalf of their members regarding terms and conditions of employment. The Japanese Government should establish mediation and arbitration machinery for dealing with industrial disputes that cannot be settled by direct and voluntary negotiation between the worker or his representative and the employer. The mediation and arbitration machinery should operate under conditions assuring the protection of the interests of the workers'.

"Such are the Far Eastern Commission decisions the purpose of which is to protect the legitimate interests of Japanese workers and trade unions from the arbitrary actions of employers.

"However, the above-mentioned laws deprive the workers and employees of government enterprises and institutions of the elementary rights of protecting their interests by means of concluding collective agreements as well as by means of participation in labor conflicts. Severe repressive measures including imprisonment for a period of one to three years and a fine of 100,000 yen are imposed for participation in such conflicts.

"As to the workers and employees of other branches of industry and the national economy, these laws give the Cabinet Ministers the right to define the categories of workers and employees which are allowed to participate in trade unions and also the right to determine a list of questions which, according to the opinion of the government, may be included in collective agreements for workers.

"Paragraph 13 of the above-mentioned decision of the Far Eastern Commission is also violated. This paragraph reads as follows:

'Japanese government and other agencies which were set up or functioned for the purpose of obstructing or in such a way as to obstruct free labor organization and

legitimate trade union activities should be abolished or their powers in respect to labor revoked. No police or other government agencies should be employed in spying on workers, breaking strikes, or suppressing legitimate union activities'.

"In violation of this paragraph the revised National Public Service Law establishes a system of police spying and repressive measures in respect to government workers and employees. Besides, these illegal measures against the workers and employees are being taken on a more and more broad scale.

"Finally, paragraph 6 of the Commission's decision reads:

'Trade unions should be allowed to take part in political activities and to support political parties'.

"Very often this paragraph is rudely violated. This can be seen even from the fact that the revised National Public Service Law permits the National Personnel Authority which is under the Prime Minister to determine at its discretion the character of political activities of government employees and also provides that government employees be prohibited from engaging in any political activities other than exercising the right to vote. In practice this had led to arbitrary measures on the part of Japanese authorities in respect to government employees and to an offensive against their elementary and inalienable rights.

"The above-mentioned examples refute the United States representative's statement at the Commission's meeting on January 13, 1949, to the effect that the recent Japanese laws, mentioned above, allegedly are not inconsistent with the principles set forth in the Far Eastern Commission decision in respect to Japanese trade unions.

"It is notable that in his statement the United States

representative could not but recognize the absolutely self-evident fact that the Commission's decisions do not make any distinctions between the workers and employees engaged in government enterprises and institutions and those engaged in private enterprises. Nevertheless, the United States military authorities in Japan and the Japanese Government, acting under their patronage, do make such distinctions, depriving first of all the workers and employees engaged in government enterprises and institutions of their legitimate rights.

"The attempt of the United States representative to prove that the Supreme Commander, allegedly, has the right to interpret and implement the Commission's decisions at his own discretion was dictated by a clear intention to justify illegal actions of General MacArthur and those of the Japanese Government. This attempt constitutes an example of ignoring the rights of the Far Eastern Commission which is the only agency to formulate Allied policy in respect to Japan. Recently such attempts have become more and more numerous.

"In this connection it is impossible not to note that the aforesaid new laws have led to the increase of police reprisals against Japanese workers, trade union leaders, promoters of democracy in Japan, and that these reprisals are now being extended not only to the workers and employees of government enterprises and institutions to whom new Japanese laws are directly applied, but also to the workers and employees of other branches of industry.

"As examples of arbitrariness and repressions against workers and employees during the recent time one may point out the following.

"In November 1948 the military tribunal of the 24th United States Infantry Division in Kokura sentenced sixteen trade union

officers to hard labor. The beating by the Japanese police on November 28, 1948, of girl operators of the Tokyo Central Telephone station who were on strike may be taken as another example of unlawful practices. The sentencing of twenty railway workers in the city of Asahigawa, Hokkaido, to imprisonment, although they did not commit any crime or offense, also belongs to the same illegal tricks.

"It is also known that there are repeated cases when representatives of the Supreme Commander's Headquarters summon trade union leaders and by threats of repressions and a direct pressure upon the representatives of striking workers and employees deprive them of their legitimate rights and interests.

"On February 3 the Japanese Labor Ministry issued an order in respect to the activity of trade unions. By this order the prefectural governors are required to examine the 'constitutionality' of trade unions and to dissolve those of them which will not answer the criteria established by the above-mentioned order of the Ministry of Labor. In accordance with these criteria, the trade unions which engage in the organization of mutual aid for their members, engage in cultural activities, and take part in political activities are considered as unconstitutional and subject to dissolution.

"It is not difficult to note that this order of the Japanese Ministry of Labor, approved on February 2, 1949, by the Labor Division of General MacArthur's Headquarters, once again rudely violated the Far Eastern Commission's decision of December 6, 1946.

"According to reports widely published in the Japanese press, the Japanese Government is at the present time preparing itself for the further limitation of the rights of the Japanese working people by means of a new revision of labor legislation and trade

union statutes as well. With this purpose there was created a governmental commission which according to Mr. Hepler, Chief of Labor Division of the United States occupation forces headquarters, should 'prepare a bill for the revision of labor legislation'. On February 14 the Japanese Ministry of Labor published new drafts for the revision of the trade union law and the labor relations law.

"The publishing of these drafts created a wave of protests on the part of Japanese democratic organizations. In particular, the two largest trade union organizations of Japan--the National Congress of Industrial Trade Unions and the All-Japanese Federation of Labor--were against these drafts. In the statement of the National Congress of Trade Unions it is pointed out that the above-mentioned drafts were 'one-sidedly and undemocratically worked out by the government in an attempt to take advantage of the United States program on the stabilization of Japanese economy for the revision of labor legislation to the worse'.

"On February 15 a delegation of eleven Japanese trade unions visited the members of the Allied Council for Japan and presented them a petition. In the petition it is stated that the above-mentioned bills, prepared by the Japanese Government, are directed toward abolishing labor agreements, that they deprive the workers of elementary human rights, ignore the right of workers to participate in the consideration of the Labor Relations Law and sanction the right of the local government labor boards to interfere directly in trade union affairs. The delegation justly states that the anti-democratic measures and laws being passed in Japan are in contradiction with the decision of the Far Eastern Commission regarding Japanese trade unions.

"The representatives of eleven trade unions appeal to the countries participating in the control over Japan with the request to prevent these anti-democratic measures of the Japanese Government.

"Such is the position of the Japanese workers and employees in regard to the anti-democratic laws and measures being passed by the Japanese Government with the encouragement and on the direct orders of the United States military authorities. How can the Far Eastern Commission fail to listen to the voice of the representatives of the Japanese trade unions? It cannot, of course, fail to do this, since not to reckon with these legitimate demands of the workers of Japan means to ignore its own decisions directed toward the attainment of democratization in Japan.

"In view of the fact that the revised Public Service Law of November 30, 1948, and the Public Corporations Labor Relations Law of December 11, 1948, adopted by the Japanese Diet on the basis of General MacArthur's directive of July 22, 1948, as well as the drafts for the revision of the Labor Relations Adjustment Law and the Trade Union Law, published by the Japanese Government on February 14 deprive the Japanese workers and employees of their inalienable right to fight for the protection of their legitimate interest and rights provided for by the decisions of the Far Eastern Commission, the Soviet delegation submits the following proposals for the consideration of the Commission?

1. The Far Eastern Commission finds that the revised 'National Public Service Law' and the 'Public Corporations Labor Relations Law', adopted by the Japanese Diet on November 30 and December 11, 1948, respectively, as well as the draft of the Labor Relations Adjustment Law and the draft of the Trade Unions Law, published on February 14, directed towards depriving the Japanese workers and employees of the possibility of protecting their legitimate rights, constitute a violation of the decisions of the Far Eastern Commission--'Basic Post-Surrender Policy for Japan' of 19 June 1947 and 'Principles for Japanese Trade Unions' of December 6, 1946.



2. The Far Eastern Commission deems it necessary that on the part of the Supreme Commander of the United States Occupation Forces in Japan appropriate measures be taken towards the abrogation of the revised 'National Public Service Law' and the 'Public Corporations Labor Relations Law'.

The Commission also deems it necessary that the Supreme Commander take measures to prevent the adoption of the drafts of new laws, enumerated in item 1--regarding the adjustment of labor relations and trade unions--as violating the above-mentioned decisions of the Far Eastern Commission.

3. The Far Eastern Commission draws the attention of the Supreme Commander to the necessity of taking actions to prevent in the future the adoption by the Japanese Government and the Japanese Diet of measures which violate the Potsdam Declaration in respect to Japan and the policy decisions of the Far Eastern Commission."

GEN. MCCOY: Mr. Ambassador, do you wish this referred to a working committee or do you want it kept at the Commission level? It seems to be full of complex questions that would seem to me better possibly in a working committee, but since you introduced the resolution I defer to your wishes in this case.

MR. PANYUSHKIN: Mr. Chairman, the question is naturally complex but it is also a clear one. Since we have discussed this question of labor policy in Japan since September 16, I believe it would be better to keep this item on the Commission's agenda and to consider it at the level of the Far Eastern Commission. Besides this, some other representatives promised to make statements on this question.

GEN. MCCOY: Well I was going to consult my colleagues both on the procedure and the substance of course. Are there any comments on the part of any other members of the Commission?

MR. ABELLO: Mr. Chairman, after hearing the statement made by the Soviet representative and considering the definite proposal mentioned in the last part of this statement, which it is not possible for the Commission at the Commission level to examine very carefully and to study, I believe that this proposal should be referred by the Commission to a committee so that the same may be given most careful consideration.

MR. MAKIN: Mr. Chairman, we would wish that the matter that has been brought forward by the Soviet Ambassador should be referred to a committee.

GEN. MCCOY: Are there any other comments, gentlemen?

MR. DARIDAN: I support the proposal made by the Philippine delegate.

DR. TAN: Mr. Chairman, I think it's very reasonable because my delegation takes the view more or less the same as toward Item 4 of today's agenda, that is to say, as this proposal is very long and it takes time to consider, while being kept on the agenda of

the Commission is quite advisable, we have the same subject thoroughly discussed by the committee concerned so that we can give the matter thorough consideration.

MR. PANYUSHEIN: Mr. Chairman, as a compromise I could agree with the suggestion made by the Chinese representative, but I believe, while referring this paper to the working committee, it would be advisable to put a definite deadline for the work of this working committee of, let us say, a week after which the working committee should report back to the Commission, and to retain the general subject of labor policy in Japan at the Commission's agenda.

MR. LAKING: Mr. Chairman, if it were a question of considering the substance of the Soviet proposals I think there is no doubt that the New Zealand delegation would prefer to have the matter referred to a committee, but I think some preliminary question may arise as to whether these proposals do not suggest action which is not within the Terms of Reference of the Commission, that is to say, as expressed in the form circulated to the members of the Commission. I am sure that neither the Soviet representative nor any other representative would want action indorsed which is not within the Terms of Reference, and it might be better therefore if no decision were taken at this meeting as to whether the measure should be dealt with in full Commission or referred to a committee, in order to give members of the Commission an opportunity to consider whether this action proposed here would be in accordance with the Terms of Reference of the Commission. And I would be prepared to suggest that we might defer decision on this procedural question until next week.

GEN. MCCOY: Well I think that's a wise suggestion. It's such a comprehensive affair and it touches not only the labor situation, which is in itself continuing and complex--and continuing--and changing--but also the broad subjects of economic and financial affairs as effected not only by law but by the recent directives of General MacArthur following the unilateral directive of this

Government. So that there are a good many problems involved and we haven't had a chance to consider them yet. So that I will accept in a general sense the opinion of the members, but in particular just hold it on the agenda for another week for further consideration as suggested by the delegate of New Zealand.

(Mr. Graves, the United Kingdom representative, departed the meeting at 12:13 P.M., and Mr. Ford assumed his chair as alternate.)

ITEM 6 - a LEVEL OF ECONOMIC LIFE IN JAPAN: POLICY TOWARD JAPANESE INDUSTRY (FEC-242/32; FEC-242/35, FEC-242/37)

- b LEVEL OF ECONOMIC LIFE IN JAPAN: POLICY TOWARD SHIPBUILDING AND SHIPPING (FEC-297/10)

ITEM 7 - REPARATIONS REMOVALS; ACCESSORY FACILITIES, BUILDINGS, TECHNICAL DATA (FEC-299/5; -/6, -/7, -/8, -/9, -/10)

ITEM 8 - a STATEMENT BY THE UNITED STATES REPRESENTATIVE OF THE FAR EASTERN COMMISSION ON REPARATIONS SHARES (FEC-278)

- b REPORT OF COMMITTEE NO. 1 TO THE FAR EASTERN COMMISSION REGARDING DIVISION OF REPARATIONS SHARES (FEC-219/25, 219 series)

GEN. MCCOY: In behalf of the United States, I have no comment on Items 6, 7 and 8 this morning.

ITEM 9 - JAPANESE MEMBERSHIP IN INTERNATIONAL CONVENTION OF TELECOMMUNICATIONS (FEC-334)

GEN. MCCOY: I have before me a statement of the Soviet delegate at the last meeting on Japanese Membership in International Convention of Telecommunications, which is Commission paper FEC-334. I have a statement of my Government on that subject which I will read, and since it only came to me this morning I will have to have it circulated later, but immediately after. The Secretary General says that they have made copies during the session and that they will be distributed.

This is with reference to the statement of the Soviet member on the 24th of February regarding adherence of Japan to the International Telecommunications Convention:

"With reference to the Soviet member's statement at the last meeting, the United States Government is of the opinion that the adherence of Japan to the International Telecommunications Convention of Atlantic City, October 7, 1947, has full legal force and effect and that SCAP's action in approving Japan's accession to the Convention is not illegal. The Far Eastern Commission itself has laid the general policy groundwork of this action. In the Basic Post-Surrender Policy for Japan, FEC-014/9, June 19, 1947, the nations composing the Commission agreed 'To help the people of Japan, in their own interest as well as that of the world at large, to find means whereby they may develop within the framework of a democratic society an intercourse...with other countries along economic and cultural lines that will enable them to satisfy their reasonable individual and national needs and bring them into permanently peaceful relationship with all nations'. They also agreed that one of the ultimate objectives in relation to which policies for the post-surrender period for Japan should conform was 'to bring about the earliest possible establishment of a democratic and peaceful government which will carry out its international responsibilities, respect the rights of other states, and support the objectives of the United Nations. Such government in Japan should be established in accordance with the freely expressed will of the Japanese people'. Finally, the Supreme Commander was directed to exercise his authority through Japanese governmental machinery and agencies "to the extent that this satisfactorily furthers the objectives and policies stated herein'.

"However, the Soviet member contended that SCAP's action in approving the accession of Japan to the ITU is in contradiction to this Far Eastern Commission policy decision on the Basic

Post-Surrender Policy for Japan. The Commission will recall that the particular provision which the Soviet member cites as a reference reads as follows: 'According to the judgment and discretion of the Supreme Commander the Japanese Government may be permitted to exercise the normal powers of government in matters of domestic administration...'. It seems clear that there was no intention on the part of the Commission to imply a denial to the Supreme Commander of such discretion in matters of external affairs. The apparent purpose of the express grant of discretionary authority was to cover the immediate internal situation then before SCAP.

"It is the view of the United States Government that the adherence of Japan to the International Telecommunications Union, and the Supreme Commander for the Allied Powers' approval thereof, is fully consistent with the policies set forth above. The attention of the Soviet delegation is called to the International Telecommunications Convention and to the associated protocols and radio regulations, adopted by the International Radio Conference held at Atlantic City."

I believe all of the countries around the table were represented there officially.

"Article 17 concerning Accession to the Convention provides:

'1. The Government of a country, not a signatory of this convention, may accede thereto at any time subject to the provisions of Article 1.

'2. The instrument of accession shall be deposited with the Secretary General by diplomatic channel through the intermediary of the government of the country of the seat of the Union. Unless otherwise specified therein, it shall become effective upon the date of its deposit.

The Secretary General shall notify the members and Associate Members of each accession when it is received and shall

forward to each of them a certified copy of the act of accession'.

"Protocol II concerning Germany and Japan provides:

'It is hereby agreed that Germany and Japan may accede to the International Telecommunications Convention of Atlantic City by fulfilling the provisions of Article 17 thereof at such time as the responsible authorities consider such accession appropriate. The formalities prescribed by Article 1 of that Convention shall not apply to these two countries'.

"The signatories of the Atlantic City Convention, including the Union of Soviet Socialist Republics, by specifically providing in the additional protocol a means under which Japan could accede to the Convention, evidently envisaged the resumption by Japan of accession to the International Telecommunications Union. This Government finds it impossible to accept any other interpretation of the additional protocol.

"On September 1, 1948, the Supreme Commander for the Allied Powers informed the Japanese Government that he considered the time to be appropriate for Japan to accede to the Atlantic City Convention and related radio regulations and additional protocols as the Japanese Government might determine.

"In this connection, it is the view of the United States Government that the Supreme Commander for the Allied Powers is the responsible authority to determine under Additional Protocol II the appropriate time for Japan's accession to the Convention. This position was made clear by the United States representative to the Conference at Atlantic City and no objection was raised at that time. There is no Far Eastern Commission policy decision which precludes the Supreme Commander for the Allied Powers from exercising his administrative authority in this regard.

**CONFIDENTIAL**

FAR EASTERN COMMISSION

Transcript of 144th Meeting of the Far Eastern Commission

Held in Main Conference Room, 2516 Massachusetts Avenue, N.W.

Thursday, March 10, 1949

144

NOTE: The attention of all concerned is invited to the classification of this transcript which prohibits the dissemination of the information contained therein to unauthorized persons or to the press.

**CONFIDENTIAL**



# CONFIDENTIAL

## FAR EASTERN COMMISSION

Transcript of 144th Meeting of the Far Eastern Commission  
Held in Main Conference Room, 2516 Massachusetts Avenue, N.W.  
Thursday, March 10, 1949

### Representatives Present

Mr. W. W. Butterworth, Chairman <u>pro tempore</u>	(United States)
Mr. H. W. Bullock	(Australia)
Mr. R. E. Collins	(Canada)
His Excellency Dr. V. K. Wellington Koo	(China)
Mr. J. Daridan	(France)
Mr. S. N. Banerji	(India)
Mr. G. J. Jobsis	(Netherlands)
His Excellency Sir Carl Berendsen	(New Zealand)
Mr. Emilio Abello	(Philippines)
His Excellency Mr. A. S. Panyushkin	(U.S.S.R.)
Mr. H. A. Graves	(United Kingdom)

### Secretary General

Mr. Nelson T. Johnson

Reporter: Mr. R. Holtz, Department of State--FEC

(The 144th meeting of the Far Eastern Commission, 2516 Massachusetts Avenue, N.W., Washington, convened at 10:35 A.M., 10 March 1949.)

MR. JOHNSON: Gentlemen: General McCoy will not be able to attend the meeting today, and in his absence Mr. W. Walton Butterworth, who is known to you all and who is Director of the Far Eastern Affairs Office of the Department of State, has been designated by the United States Government to serve as General McCoy's alternate here at the Commission.

Our procedure is to elect a chairman pro tem. Nominations are in order.

DR. KOO: Mr. Secretary General, I am sorry to hear our beloved chairman is not able to come, but we're glad to hear that the United States Government has sent Mr. Butterworth as General McCoy's alternate. As you have said, we all know Mr. Butterworth as a great specialist on Far Eastern questions. So I would like to move that in the temporary absence of General McCoy as our chairman Mr. Butterworth be elected as our chairman for this meeting.

MR. COLLINS: Mr. Chairman, I would like to second that.

MR. JOHNSON: Mr. Butterworth has been nominated to occupy the chair as chairman pro tem, and seconded by the Canadian representative. I take it that all are in favor of that.

I will introduce Mr. Butterworth to you as the chairman for the time being.

MR. BUTTERWORTH: I might say informally that I would like to assure the Commission that my temporary tenure of office has only a fortuitous connection with the repainting that is now going on outside.

ITEM 1 - CORRECTION AND APPROVAL OF THE PROVISIONAL MINUTES OF THE 143rd MEETING

MR. BUTTERWORTH: Unless there is objection, I take it that the minutes stand approved.

(No objection)

MR. BUTTERWORTH: Mr. Secretary General, we will pass to Item 2.

ITEM 2 - DEPUTY CHAIRMAN OF COMMITTEE NO. 2: ECONOMIC AND FINANCIAL AFFAIRS (FEC-206/22)

MR. BUTTERWORTH: Likewise, I take it this pro forma item, unless there is objection. We will pass on to the next item.

ITEM 3 - ACCESS TO JAPANESE TECHNICAL AND SCIENTIFIC INFORMATION IN JAPAN (FEC-280/14, FEC-280/9, FEC-315/7)

MR. BUTTERWORTH: This item has come up to the Commission from the Steering Committee without objection.

I would like to say, on behalf of my Government, that we would seek your indulgence to pass over this item for this week while my Government studies a little bit more carefully the implications of such proposal. If there is no objection, we will pass on to Item 4.

ITEM 4 - POLICY TOWARD PATENTS, UTILITY MODELS, AND DESIGNS IN JAPAN (FEC-284/17)

MR. BUTTERWORTH: Similarly Item 4. It's my understanding that all the governments here have not yet received the instructions which they have sought to obtain from their respective governments, and unless the Commission has other desires in this matter I would propose to defer this item until next week.

I might say, however, that there is some urgency about this matter, and I would hope that the representatives who have not yet received instructions would attempt to obtain same so the matter can be disposed of next week.

MR. DARIDAN: I have just got word from Paris that the matter is receiving examination by the Minister of Commerce and I am quite sure that at the next meeting I will be able to inform you of my instructions.

ITEM 5 - RECOMMENDATIONS REGARDING JAPANESE-OWNED PATENTS, UTILITY MODELS, AND DESIGNS IN TERRITORIES OF COUNTRIES AT WAR WITH JAPAN (FEC-311/7)

MR. BUTTERWORTH: This is in a sense a subsidiary item to Item 4 on the agenda, and it having been the decision, agreeable to the Commission as a whole, to postpone Item 4, I take it that that automatically means that Item 5 likewise should be deferred.

ITEM 6 - ECONOMIC STABILIZATION IN JAPAN

MR. BUTTERWORTH: If no member has any comment to make, we will pass on to the next item.

MR. GRAVES: Mr. Chairman, may I refer to a question which I asked on the 10th of February--a month ago. I asked then the United States representative if he could inform the Commission the date when the stabilization program had been initiated. I wonder whether--

MR. BUTTERWORTH: Steps have been taken to obtain from Tokyo a factual account of the various steps that have been taken in implementing and making a beginning of implementing this measure. These will be placed before Committee No. 2, which I believe is actively discussing all phases of this problem, and it would be my hope that Committee No. 2, when it receives that information, would be able to choose the most logical of what will necessarily be two or three rather arbitrary dates.

MR. GRAVES: Thank you.

ITEM 7 - LABOR POLICY IN JAPAN (FEC-045/5; FEC-318/12, FEC-318/13, FEC-318/9; FEC-267, FEC-267/3, FEC-267/4; FEC-269, FEC-270)

MR. BUTTERNORTH: I understand that at the last meeting most members seemed to favor a reference of this matter to Committee No. 2, and I would wish to seek the feeling of the Commission as to whether or not it would favor the reference of this item to Committee No. 2 for discussion, which is now going on in great detail into the stabilization program as a whole of which this is a very important part.

MR. DARIDAN: Mr. Chairman, now that most governments seem to have expressed their views at the Commission, that is at the Commission level, because of the many details it would seem to me to justify the question being referred to Committee No. 2. If that meets with your approval I would be agreeable.

MR. COLLINS: Mr. Chairman, I would fully concur in that point of view.

MR. BULLOCK: Mr. Chairman, I am in favor of sending this question to the committee.

SIR CARL BERENDSEN: Mr. Chairman, I am sure I would concur had I been able to hear what was said, but unfortunately I couldn't.

Might I just ask for one moment to be permitted to think aloud. I must advise my colleagues around the table that my delegation is far from happy in respect of the situation in labor relations in Japan and that we are not, I am not surprised, Mr. Chairman, to learn, entirely satisfied with the reply that we have received to the question which we raised on that matter to the United States delegation. The resolution proposed by the Soviet representative is not acceptable to us. I don't suppose our Soviet colleague expected that it would be. It expresses an approval or disapproval of certain draft laws which for our part we haven't seen and, consequently, it seems to me quite impossible at this stage, since we haven't those documents, to accept the proposal which was made

before the Commission last week. I would have no objection at all to referring the matter to the committee provided that referring the matter to the committee doesn't mean that the matter is going to be buried or that it is going to be put to bed. If the intention is that the committee will actively and seriously consider this matter then I am entirely in favor of that course of action.

MR. BANERJI: Mr. Chairman, this problem of labor stabilization really falls under Committee No. 4: Strengthening of Democratic Tendencies, and I quite agree that it has a relation to the economic stabilization program. Nevertheless, if it is the intention of the Commission to refer it to the committee, that is, the Economic Committee, I would suggest that the Economic Committee proceed to the examination of this matter in consultation with Committee No. 4.

MR. ABELLO: Mr. Chairman, the Philippine delegation at the last meeting proposed that this be referred to Committee No. 2 and we still believe that it should be referred to Committee No. 2.

MR. BUTTERWORTH: As to the point of the Indian member, I think it would be up to Committee No. 2 to seek contact with any of the other committees that it felt so disposed to contact.

Is it the general feeling of the Commission that this matter then may be referred to Committee No. 2?

MR. PANYUSHKIN: Mr. Chairman, at the last meeting of the Commission there was no such proposal that this item should be referred to Committee No. 4. The proposal was that this item should be retained on the agenda of this Commission but that some details of this question be referred to a working committee. This proposal to refer some details to an appropriate working committee was made in connection with the contention of some representatives that the Soviet proposal made at the last meeting of this Commission required some study of the details. With such a proposal and such reasoning one may agree and one may not agree. Why can one agree to such a proposal? It is true that some details may be discussed at a

working committee but without prejudice here when at this level we have oral discussions of details. The question of labor policy is not a new question for discussion in the Far Eastern Commission. It might be new if it is referred to Committee No. 4 or Committee No. 2 as is suggested now by the Chairman. All the time we have considered this question at the level of the Commission and it will be useful to consider it at the level of the Commission. However, if the majority of the Commission favor its consideration at the working committee, I would not object to that course if some details be referred to Committee No. 4 or Committee No. 2 and the general subject be retained on the agenda of this Commission.

And now, about my expectations in regard to the resolution. It was my colleague, the New Zealand Ambassador, who raised this question. He said that introducing this proposal the Soviet representative did not, allegedly, expect that this resolution would be favored. We haven't exchanged views with the New Zealand Ambassador on this question, and I believe that this resolution will be acceptable. It seems clear that nobody doubts that the Potsdam Declaration and the relevant policy decisions of the Far Eastern Commission in respect to the labor question are being violated. The violation of our decisions began with the issuance of the letter by the Supreme Commander to the Japanese Prime Minister and thus, following General MacArthur, the Japanese Government continued to violate the policy decisions of the Allies. As is known, in December the Soviet delegation introduced a proposal that General MacArthur repeal his directive of July 22nd. However, the members of this Commission did not agree to that course. If this new proposal of the Soviet delegation is unacceptable for other delegations, as it was said by the New Zealand representative, it would mean that some countries would further support the policy of the United States authorities in Japan which violates the Potsdam Declaration and the policy decisions of the Far Eastern Commission in respect to the democrati-

zation of Japan. I'm an optiaist and I believe that the Far Eastern Commission will pay due attention to the Soviet proposals. This matter cannot be delayed; the matter is very serious and important. The matter involves democratic rights of the workers and employees of Japan--the rights which were determined by appropriate decisions of the Far Eastern Commission. Therefore, this question should be carefully and comprehensively considered at this Commission. This does not exclude consideration of the details of this matter at an appropriate working committee.

MR. BUTTERNORTH: The members of the Commission having been so good as to express their views, in so doing have conveyed to the Chairman the impression that they are agreeable to this matter being referred to Committee No. 2. Unless there is objection, I will do so.

MR. BULLOCK: Mr. Chairman, Sir Carl Berendsen said that this question should not be buried in the committees and I think that is a point which should be kept very well in mind. The general question of labor policy, as the Soviet Ambassador said, is not new to this Commission. It has been on our agenda for the last four or five months, anyhow, and nothing very constructive has been done on the general problem, and it is because we feel that this is a problem, and admittedly a very difficult problem, that it must be approached from the calm, constructive atmosphere of the committee, that we feel it is essential the matter be referred to the committee. But while I would not be prepared to put any time limit on the committee's consideration of the matter, I think that all of us have an obligation in that committee to try to deal with this problem as speedily as possible.

DR. KOO: Mr. Chairman, the proposal before the Commission is really one of procedure and as a procedure my delegation thinks it is a good course to follow. Because of the question's importance it should be carefully studied and discussed and our working com-



mittees are for that purpose. So I think a reference to that committee would really serve a useful purpose for the Commission.

I would like to say at the same time that our indorsing the reference to the committee does not prejudice our position as to the question of substance of principle, because I gather from what the Soviet Ambassador said that he asked a question whether reference to the committee does not imply that those who are in favor of such reference all share the views of the United States delegation on the substance. Now that does not necessarily follow. In that respect we are free to take a position. I know some delegations have taken a position on the question of substance--the question of the principles; others have not as yet. Therefore, Mr. Chairman, my intervention is for two purposes: in the first place to indorse your proposal for reference to the committee, and, secondly, to reserve our position as regards the question of principles involved in the substance of the question itself.

MR. BUTTERWORTH: Well, shall we pass to the next item?

MR. PANYUSHKIN: Mr. Chairman, I am not clear what the decision on this item is.

MR. BUTTERWORTH: The decision is that this item has been referred to Committee No. 2 which, as the members are no doubt aware, is actively discussing at this time the question of the stabilization proposals, and therefore it seems to me that very activity answers the queries that have been put by one or two members as to whether or not this would be buried. I don't think you can bury something in a state of great activity.

MR. PANYUSHKIN: And will this item be retained on the agenda of the Commission?

MR. BUTTERWORTH: If it is the sense of the Commission that they wish this item retained on the agenda, of course the chair has no objection.

DR. KOO: I think, Mr. Chairman, we had a similar case about two weeks ago regarding the Economic Stabilization in Japan. There was also a question raised of referring it altogether to a working committee and there was also the question raised at the same time of leaving the question on the agenda pending discussion of a report by the committee. Perhaps we might follow the same procedure--leave the question on the agenda and that the active discussions take place in the committee.

MR. BUTTERWORTH: Does the chair have any other expressions of views about this matter?

MR. PANYUSHKIN: Mr. Chairman, I do not agree with the discussion of the details of this question at Committee No. 2. Committee No. 2 deals with economic questions while the question of labor policy in Japan deals with the policy decisions on democratization. Therefore, it would be more logical if we decide to refer this question to a working committee to discuss it--at Committee No. 4. That is one point.

The second point is, if we refer the discussion of the details of this question to a working committee, we should put a deadline for this discussion, let us say, a week.

MR. ABELLO: Mr. Chairman, after hearing the statement made by the Chinese Ambassador that the proposal of the Soviet representative, while being referred to Committee No. 2 the whole subject of labor policy in Japan should be retained on the agenda of the Commission, I wish to state that on behalf of the Philippine delegation, if we remember the history of this Item 7 correctly, it started with a proposal from the Soviet delegation which, after discussion, was rejected by the Commission. The matter was nevertheless retained on the agenda and further statements were made by several representatives--many statements were made by the Soviet representative--and there was a proposal which was so far-reaching

in nature, in the view of the Philippine delegation, that we proposed reference of the same proposal to a working committee, Committee No. 2, and there would be nothing on labor policy in Japan which would be discussed by the Commission--on the Commission level--considering that the Soviet proposal would be discussed in Committee No. 2. The moment Committee No. 2, after deliberations, is ready to report to the Steering Committee and to the Commission, then the subject on labor policy could return to the agenda. In the meantime, there is no advantage gained in leaving this item on the Commission agenda. After all, statements naturally would probably be forthcoming from various delegates, especially from the Soviet delegate, which statements would probably be in implementation of the Soviet proposal presented at the last meeting and which statements could be made before the working committee. So that there would be nothing gained by leaving this item on the active agenda of the Commission unless there is some intention to burden this Commission--its weekly meetings--with statements which should be made on the committee level and not on the Commission level. I therefore believe that by reference of the Soviet proposal of the last meeting to Committee No. 2 the item on labor policy in Japan should be dropped from the Commission agenda in the meantime.

MR. BUTTERNORTH: Would the Philippine representative like to put that in the form of a motion?

MR. ABELLO: Yes. I would propose that after reference of the Soviet proposal contained in FEC-318/13, that Item 7 be dropped from the agenda of the Commission until a report from said committee is ready for presentation to the Commission.

MR. BUTTERNORTH: Committee No. 2?

MR. ABELLO: Committee No. 2.

MR. JOBSIS: Mr. Chairman, I quite agree with the reasoning of my Philippine colleague, and my delegation is in favor of discussion at the level of Committee No. 2--and Committee No. 2 instead

of Committee No. 4 because in our opinion labor is at the root of economics, and I think that really placing it at the economic subcommittee would be the very best thing instead of running into lots of legalistic aspects of this affair.

Secondly, I am in favor of the motion just now put by my Philippine colleague to drop it from the agenda because my delegation had already--in October--proposed to drop it from the agenda. Consequently, my position should remain there.

Thirdly, the very earnest work done in the subcommittees is of course endangered a little bit when every now and then we get new implementation from the level of the full Commission.

As of the deadline of a week, I do love quick work, but I do love also serious work, and I cannot believe that a week was meant seriously.

MR. BUTTERWORTH: Do I take it that you second the motion?

MR. JOBSIS: It is not customary, Mr. Chairman, to second; otherwise I would do it.

MR. BULLOCK: I would like to say, Mr. Chairman, that I would support the suggestion that the item be dropped from the agenda of the Commission while the matter is in the committee. I think we are setting a very strange sort of precedent in having items both on the agenda of the full Commission and the agenda of the committees. As this Commission has worked in the past, it has been customary for proposals to be introduced into the Commission and then to be referred to the committees where some useful and detailed work could be done upon them, and then ultimately, when there was some consensus of views, the problem was referred back to the Commission. And that is the way we would like to see the Commission operating. I would like to say, however, that, of course, dropping the item from the agenda would not necessarily prevent any member raising the question--making a statement on labor policy in Japan

under "Other Business" at any meeting. But I don't approve of this precedent we are setting of having items in two places at once. I think the real work on this problem must be done in the committee.

MR. BUTTERNORTH: I would like to associate myself on behalf of my Government with the remark of the representative from Australia.

DR. KOO: Mr. Chairman, I would like to clarify my position in supporting the idea of leaving the question on the agenda while referring the active discussions of this subject to the working committee. It is this. Some delegations have made formal statements on the question; other delegations, including my own, have not as yet. It has been the policy to let the different delegations, who wish to make such statements before the Commission rather than before a working committee, to do so, and that was also the reason Item 6 has been left on the agenda. I don't think the procedure of leaving the subject on the agenda and referring the discussions to the committee--I do not think that the two steps are necessarily contradictory. At least half the items on our agenda have remained there for the last six months or longer even. No discussion has taken place. The Chairman has skipped over a number of items which have been passed over every meeting for the past, as I say, six months or more even. In other words, we must make a distinction between leaving the question on the agenda and the discussions, and personally I think it would be inadvisable for the same subject to be discussed simultaneously in two different bodies. But really there should be no serious objection to leaving the question on the agenda--general agenda of the Commission, so that whenever a delegation which has got any formal statement on the question of principle could do so before the Commission without their having the question of procedure sort of raised again. I know usually there has been no objection when a delegation desired to make a

formal statement on a subject, but we cannot be certain. So I'm still in favor of leaving the general subject on the agenda and the active discussions to proceed in the working committee. I know, when I say that, when delegations desire to make formal statements can do so before a commission so long as discussion is proceeding before a working committee, and those statements should also be referred to the committee for consideration along with the general subject. And it would be a wise course if we avoid discussion in the Commission while the subject is being actively discussed in the working committee. Therefore, Mr. Chairman, I still think that if the subject could be left on the general agenda, there is not necessarily a contradiction between that course and referring the subject matter of the question to the working committee for active discussion.

MR. BUTTERNORTH: It seems to me that the contradiction lies in the fact that the Commission has at times done both things, and the point, as I understand it, that the Australian representative made is as to whether it is desirable to continue on the course of keeping things on the agenda when they are under discussion in the committee and when they can be raised under "Other Business".

We have before us a proposal by the Philippine representative and I think we should seek a vote.

MR. JOHNSON: Mr. Chairman, the question before the Commission is whether we should refer FEC-318/13 to Committee No. 2 and drop Item 7 from the FEC agenda.

SIR CARL BERENDSEN: Mr. Chairman, before the vote is taken, would I be in order in a clarification? Are we quite sure that we want to refer this to Committee No. 2? Has that been decided? I am bound to say that there is much to be said about referring it to Committee No. 4, but I am so easy going that I am not going to make any trouble about the thing. But have we decided that Committee No. 2

is the right committee? I must say I am not thoroughly impressed by the argument that the question of economic stabilization is entirely bound up with the question of human rights. But if that is the wish of the Commission I am not going to say any more about it.

MR. BANERJI: As indicated before, Mr. Chairman, I also agree with the New Zealand member that Committee No. 4 is the proper committee rather than Committee No. 2. Committee No. 4 could be the master committee and if necessary the subject of labor policy could be referred to Committee No. 2 on Economic and Financial Affairs. So I would support Committee No. 4.

MR. BUTTENWORTH: Well I think the position is we have a proposal before the Commission.

MR. PANYUSHKIN: I regret to say, but I think that our today's Chairman is not acquainted with the matter. At the last meeting no decision was made. There were only some comments and no decision was made and this question was deferred to this meeting. As regards the discussion of the details of this question, I believe that the majority was in favor of retaining this item on the agenda of the Commission. There was no objection to referring the details of this question to an appropriate working committee, and Committee No. 4 was in mind. Today's proposal to refer this question to Committee No. 2 is not a Philippine proposal but the proposal of the United States representative because he proposed it first.

It is understandable why it is suggested to refer this item to Committee No. 2. Committee No. 2 is concerned with economic questions--but this matter of labor policy in Japan is directly connected with the question of democratization of Japan. The Chairman says that this question is related to economic questions and I would ask, what questions are not related to economic questions? What questions which have been discussed here are not in some way connected with economic questions? It might be said that there

have been no questions which in one or another way were not connected with economic matters. Therefore, if we agree with the point of view of the Chairman, it would mean that all the questions should be discussed at Committee No. 2. Naturally we cannot agree with the proposal of the United States representative.

I am sure that if we decide to discuss the details of this question at a working committee this working committee should be Committee No. 4. And just a few minutes ago we heard that some members of this Commission support my view. Why is it suggested to refer this item to Committee No. 2 and without determining a deadline, and how does this matter look in connection with the proposal of the United States representative? I am sure that the United States representative has the desire to bury this item. The matter is a very complex and important one--it deals with millions of working masses in Japan--and we cannot bury it. In deciding this matter it should be decided first of all whether the representatives support the previous decisions of the Far Eastern Commission. There is a decision in respect to the democratization of Japan; there is the Potsdam Declaration. It is very clearly said there what objectives are in respect to Japan. I feel that the statements of some representatives, who think that this item should be dropped from the agenda of this Commission and referred to Committee No. 2, are not justifiable and such statements have no foundations whatsoever. I have already proposed here, and was supported by some members, that this item as a whole be retained on the agenda of this Commission and that the details of this question be referred to Committee No. 4 with the deadline of, say, a week. But some representatives didn't agree with a week term and I would like to hear their objections and proposals in respect to some other term.

MR. DARIDAN: Mr. Chairman, it seems to me that there are two different questions involved in the Philippine proposal. The first



is as to what working committee the question should be referred, Committee No. 2 or Committee No. 4. I would say that the French delegation would gladly follow the majority. The other one is the question of procedure, and in this respect I would like to state that I share in the feeling as expressed in the suggestion put forward by the Chinese Ambassador. It seems to me that there should be no objection to leaving on the agenda an item such as Item 7 if it were agreed that there couldn't be a discussion at the same time in two bodies of the Commission. I would not strongly object to the adoption of the Philippine proposal provided a deadline--maybe longer than the one suggested by the Soviet Ambassador--should be placed on the committee to make their report. I am not at all underrating the extremely difficult work done by the working committee, but several delegations, including mine, seem to have the feeling that it could be more sure of the Commission reaching a result if the subject were not to be dropped from the agenda. In that respect I should be unable to vote for that part of the Philippine proposal if no deadline at all were put on the working committee to report.

MR. ABELLO: Mr. Chairman, I am not the author of the reference to Committee No. 2 originally but the fact of the matter is that I made the motion. I made a motion that this proposal should be referred to Committee No. 2 and that item 7 be dropped from the agenda. I really cannot see any great difference between the viewpoint of the Soviet Ambassador and the viewpoint probably of all of the members of this Commission, because whether it is referred to Committee No. 4 or referred to Committee No. 2 the Soviet representative would probably vote in Committee No. 2 taking into consideration the other objective of strengthening democratic tendencies in Japan, at least the Philippine delegation would, in voting in Committee No. 2, consider the objective of strengthening the democratic tendencies in Japan.

In order to obviate difficulties in voting on the Philippine proposal, I would ask the Chairman to split the motion into two parts, the first part of the motion being that the Soviet proposal be referred to Committee No. 2, the second part being to drop Item 7 from the Commission agenda, and let us vote on those two motions separately.

MR. BUTTERWORTH: If that is agreeable--

MR. GRAVES: Mr. Chairman, I would like to submit an amendment to the Philippine resolution, and that is that the Soviet proposal be referred to a joint committee of Committees No. 2 and 4. We have done that in the past and it has been a satisfactory method, and that would take care of the fact that the history of most of these papers under Item 7 have been in connection with Committee No. 4. But as it is of overlapping interest probably it would be useful if we could have a joint committee, and I would submit that as an amendment to the Philippine resolution--first part of the resolution.

MR. BANERJI: Mr. Chairman, I would support the United Kingdom amendment.

MR. BUTTERWORTH: Well it's a matter of indifference to my Government, so I propose that we proceed to the vote.

MR. ABELLO: I have no objection to accepting the United Kingdom amendment.

MR. JOHNSON: The motion then is that FEC-318/13 be referred to a joint committee of Committees No. 2 and 4.

MR. PANYUSHKIN: Mr. Chairman, I have no objections if, while discussing the details of this matter at Committee No. 4, members of Committee No. 2 also participate in those discussions. It is clear that the question should be referred to some committee and it is also clear that the committee should be Committee No. 4. Since all questions under discussion touch economic matters, I believe that it would be useful if members of Committee No. 2 be present at the meetings of Committee No. 4 and express their opinions if necessary. This item falls under the jurisdiction of Committee

No. 4 and we have no foundations not to believe that committee. Such a complex structure suggested by the United Kingdom representative--to refer this item to a joint meeting of committees--would only complicate the problem. Even besides this, this matter is a complex one and at the same time it is suggested to complicate this problem even more. It would only delay the discussion of this matter. This question is a very urgent one because of the fact that the Japanese Government, with the help of General MacArthur, continues to violate certain decisions of the Far Eastern Commission. I believe that all the members of this Commission should preserve the honor of this Commission and fight against the violations of its decisions. If we show the lack of desire in this matter it would only encourage further violations.

MR. JOBSIS: Mr. Chairman, on behalf of my delegation I would say that I am very much in favor of the English amendment which I consider a very constructive one.

MR. JOHNSON: The motion before the Commission is that FEC-318/13 be referred to a joint committee of Committees No. 2 and 4.

MR. BULLOCK: In favor.

MR. COLLINS: In favor.

DR. KOO: Yes.

MR. DARIDAN: Favor.

MR. BANERJI: In favor.

MR. JOBSIS: In favor.

SIR CARL BERENDSEN: Yes.

MR. ABELLO: In favor.

MR. PANYUSHKIN: Against.

MR. GRAVES: In favor.

MR. BUTTERNORTH: In favor.

MR. JOHNSON: The tally, Mr. Chairman, is 10 in favor; 1 opposed.

MR. BUTTERNORTH: This is a procedural matter and therefore that part of the motion is carried.

MR. BUTTERNORTH: We will proceed to the vote on the next part of the motion.

MR. PANYUSHKIN: Mr. Chairman, I would like to say a few words in respect to the interpretation by the Chairman of the results of the voting.

The Terms of Reference of the Far Eastern Commission make no distinction between procedural and other questions. In paragraph 2, Part V of the Terms of Reference of the Far Eastern Commission it is said:

"The Commission may take action by less than unanimous vote provided that action shall have the concurrence of at least a majority of all the representatives including the representatives of the four following Powers: United States, United Kingdom, Union of Soviet Socialist Republics and China."

As you see, there is no distinction between procedural questions and non-procedural questions. Therefore I consider that this proposal was rejected since the Soviet delegation voted against the proposal.

MR. BUTTERNORTH: Any other comments?

(No response)

MR. BUTTERNORTH: I am prepared to consult with legal and other advisers the interpretation placed by the United States on this matter. It has always been with the emphasis on the word "action". This can hardly be regarded as the Far Eastern Commission taking a policy action by deciding to refer a matter for consideration by one of its committees.

MR. BULLOCK: Mr. Chairman, I don't want to get into the discussion very deeply, but we certainly could not agree that any one power is able to exercise its veto as to how the Commission should conduct its business.

MR. BUTTERNORTH: Is there any other comment?

(No response)

MR. BUTTERNORTH: We will proceed to voting on the next part of the motion.

MR. JOHNSON: The proposal before the Commission is to drop Item 7 from the agenda of the Far Eastern Commission.

MR. BULLOCK: In favor.

MR. COLLINS: In favor.

DR. KOO: Against.

MR. DARIDAN: Against.

MR. BANERJI: Against.

MR. JOBSIS: In favor.

SIR CARL BERENDSEN: Yes.

MR. ABELLO: In favor.

MR. PANYUSHKIN: Against.

MR. GRAVES: In favor.

MR. BUTTERNORTH: In favor.

The tally, as taken by the Secretary General, is 7 in favor and 4 against, and the chair rules as it did in the previous instance.

MR. PANYUSHKIN: Mr. Chairman, once again I repeat that I cannot agree with the interpretation of our chairman of the results of the vote. I am sure that such an arbitrary interpretation is in direct violation with the Terms of Reference of the Far Eastern Commission. I cannot but object to such an illegal decision. I don't know how other members of this Commission can agree with such an interpretation. At least I haven't heard any objections on the part of the members to this interpretation. If we see the history of the work of the Commission we will find that there was such a case and that was the question of advance transfers. At that time the Soviet delegation objected to its reference to a working committee and the Soviet objections were recognized by other members as correct. And at that time General McCoy recognized that the

Soviet delegation was right and because of the fact that the Soviet delegation voted against the reference of this matter to a working committee that item was retained on the agenda of the Commission. I don't know why the interpretation of the Terms of Reference of the Far Eastern Commission at today's meeting is different. I'm sure that the efforts to bury this question are intended towards not discussing this matter. Once again I object to the interpretation of the Chairman and consider that both proposals made by the Philippine representative were rejected, because during the vote on the first proposal the Soviet delegation voted against and in the second case the Soviet delegation and the Chinese delegation voted against.

MR. BUTTERNORTH: There is no desire on the part of the United States Government to prevent the Commission from discussing these procedural questions at whatever length it desires. I would call the attention of the Commission to the fact that on a previous occasion, on May 5, 1947, a matter of this kind came up against a United States veto, and the Chairman, General McCoy, at that time overrode the United States veto on a procedural matter of this kind. It seems to me that it is quite clear that the principle of concurrence applies to the Commission's actions--not to its internal organization or arrangements, and if the other members of the Commission would like to express themselves on that point the Chairman hopes they will feel free to do so.

SIR CARL BERENDSEN: Mr. Chairman, I would place myself on record as indorsing the ruling that you have taken. The order of reference of this Commission, like so many international documents, is extremely ambiguous in more than one respect. I don't think anybody could dogmatize as to what was the intention of that particular form of words--a case could be made on both sides--but where there is a matter of doubt, then I think one adopts the course that is consonant with common sense and that seems to be the line that you have taken, sir, and that General McCoy took on a previous occasion.

Now it is exactly the same problem in connection with the Security Council which requires the concurrent votes of the five veto powers, and the Council itself, with Soviet concurrence, has agreed that an abstention would not be regarded as a veto. In other words, you must, it seems to me, apply some measure of common sense in construction of these matters and I am bound to think that your decision is entirely correct.

Now, on the point that has been made by our Soviet colleague that those who voted to have this item removed from the agenda are thereby assisting to preclude a full consideration on that, I am bound to make my most definite reservations. I am in the foremost of those who wish to see this matter fully debated, and the decision we took was by no means to put the matter into the discard. It solely is a matter of procedure as the simplest way of handling the matter.

MR. BULLOCK: I would like to support what the New Zealand representative said and to repudiate any suggestion that by wishing to have this question taken off the agenda of this Commission and put into the committee thereby we are anxious to have this matter buried. That is far from the truth in our case, sir. We consider that this question of labor problem in Japan is an extremely important question, but it is also an extremely difficult and complex problem and if I might speak frankly I think that discussion in this Commission on the problem have not been productive because the whole question has been stirred up in a controversial way and we want to see this question discussed calmly and constructively in the committees. And in suggesting that it go to the committee itself our earnest desire<sup>is</sup> that all the issues involved will be faced up to by the committee.

MR. ABELLO: The Philippine delegation supports the interpretation given by the Chairman to the vote that has been made this morning.

I wish to associate ourselves with the statements made by the New Zealand and Australian representatives, that by voting for reference of this proposal to a working committee and dropping at this time the item from the agenda it was our intention to bury the question. As a matter of fact we sincerely believe that more productive results will issue from a committee discussion than from statements made in the Commission on this matter, especially which probably lead to more exhibition than to work.

MR. DARIDAN: Mr. Chairman, according to the view of the French delegation in the question, the vote was clear. We were in favor of the question being referred to a working committee; we were against its being dropped from the agenda as one of the delegations particularly desirous to see it retained on the agenda. I have not been for a long time attending the meetings of the Far Eastern Commission, but it seems to me that generally the Commission has always admitted that questions of procedure were decided by a majority. I think these decisions were quite fair to the majority even though our point of view in one case was defeated.

DR. KOO: My delegation doesn't feel very strongly on any question of procedure, and I do not. The reason for voting against dropping the item from the agenda was, in addition to the reasons which I had previously explained this morning, also to try to maintain as far as possible some line of consistency. Only a fortnight ago the Commission was confronted with a similar situation and also with a similar series of discussions and decided to leave Item 6, for example, on the agenda and refer the whole question to a working committee for discussion. But we do not feel very strongly on that, especially in the light of the declarations made by several delegations that dropping the item from the agenda does not in any way preclude or prevent any representative from making further statements on this question. And in fact, if I recall correctly, I recollect



the Chairman, General McCoy, stated, in reply to a question on my part, that any representative could always make any statement on any subject before the Commission without having the subject previously inserted on the agenda.

And now as regards the immediate point before the Commission, whether the veto should apply to procedural questions or not or whether there is a difference recognized by the Commission between the substantive questions and procedural questions, I think we may perhaps refer to our records and call upon perhaps our Secretary General to give us some light at the next meeting, because the Commission has been sitting for over three years and myself, although I was not present at the beginning of this Commission, I have been sitting nearly three years also, and I recall that we have had many similar questions and many similar votes taken and rulings by the chair. So I think that, in view of the point having been raised as to the soundness of the chair's ruling, we might adjourn our discussion on this question and request our Secretary General to give us a very brief report of the decisions taken in the past on similar questions. Then, in the light of the past facts, we perhaps may arrive at our conclusion more easily.

MR. BUTTERNORTH: Any comment on that suggestion?

(No reply)

MR. BUTTERNORTH: Then I take it that it is the consensus of the Commission that the Secretary General would comply with the wishes of the Chinese representative. And I also take it that it is desirable that, unless the Commission at its next meeting expresses a contrary view, progress by the two committees on this matter which has been represented by all concerned is a matter of considerable interest and urgency should not be delayed by such procedural matters and that the two committees should get down to work about the matter. If there is anyone who feels that it is more important

that the procedural matter be debated, however barren, than the substantive matter be dealt with, the chair would like to hear it.

MR. PANYUSHKIN: Mr. Chairman, although it is clear that the interpretation of the results of the voting made by the Chairman is not legal, the Soviet delegation, proceeding from the fact that this matter is very complex and urgent, changes its vote on the first proposal. In such a case the Soviet delegation does not vote against the proposal but abstains. The Soviet delegation makes such a step in order not to delay the discussions of this very important matter at the committee level. However, the Soviet delegation affirms its vote against the second proposal, and once again I repeat that the interpretation given by the Chairman is illegal--interpretation of the results of the vote.

SIR CARL BERENDSEN: Mr. Chairman, purely as a matter of interest and to put a smile into the rather dull proceedings, may I suggest here that the very generous action that has been taken has no effect whatsoever. What you have got to do, according to the rules of order, is to have the concurrence of each of these four powers and abstentions are accepted as the same effect, unless we rule to the contrary, as negation.

MR. PANYUSHKIN: Perhaps the New Zealand representative likes to make such statements which are followed by laughter. However, there is nothing to laugh at, gentlemen. We are discussing a very important question. In a previous statement the New Zealand representative spoke of common sense. The question is, what is the common sense in suggesting to refer this question to Committee No. 2, as was made by the United States representative? And what common sense is there in the second proposal to drop this item from the agenda of the Commission? There is sense, but not common. I have

said that not for the purpose of making laughter. The real sense of that proposal was to delay the discussion of this matter. The real sense was to justify illegal actions of General MacArthur. The sense was to legalize illegal actions of the Japanese Government, and what is more important and more dangerous is that we doubt our former decisions. Thus we encourage General MacArthur and the Japanese Government to further violations of the Potsdam Declaration and the policy decisions of the Far Eastern Commission. Such an unprincipled attitude toward the policy decisions of the Far Eastern Commission on the part of some representatives encouraged General MacArthur and the Japanese Government to further violations of the policy decisions. It is not a secret that General MacArthur systematically violates the policy decisions of the Far Eastern Commission and the Potsdam Declaration. Therefore, in the fact that the Soviet delegation voted against this second proposal there was common sense. But, in order not to delay the discussion of this very important matter, the Soviet delegation decides to abstain on the first proposal in order to take part in the discussions of this matter. So this is the difference between sense and common sense.

MR. BUTTERNORTH: If the Commission is agreeable, we will pass on to the next item.

ITEM 8 - a LEVEL OF ECONOMIC LIFE IN JAPAN: POLICY TOWARD JAPANESE INDUSTRY (FEC-242/32; FEC-242/35, FEC-242/37)

- b LEVEL OF ECONOMIC LIFE IN JAPAN: POLICY TOWARD SHIPBUILDING AND SHIPPING (FEC-297/10)

MR. BUTTERNORTH: The United States has no further comment to offer at this time on this matter.

MR. PANYUSHKIN: Mr. Chairman, I have a question. This item of economic levels has been on the agenda of this Commission for many months and the discussion of this item is being delayed in connection with the fact that the United States delegation hasn't yet expressed its opinion. I believe that today's chairman will be able

to give an answer to the question as to when this Commission can expect the United States position on this matter, since he is the Chief of the Far Eastern Division of the State Department. While General McCoy has promised several times to give the position of the United States on this matter, he has failed to do so.

MR. BUTTERNORTH: I thank the Soviet representative for his kind implications in his remarks, but the Director of the Office of Far Eastern Affairs is neither the Secretary of State nor the United States Government. This is a question of the United States Government having a position, and my original statement was directed to the fact that it was not prepared at this time to offer any further comments.

Would the Commission like to address itself to the next item?

ITEM 9 - REPARATIONS REMOVALS; ACCESSORY FACILITIES, BUILDINGS, TECHNICAL DATA (FEC-299/5; -/6, -/7, -/8, -/9, -/10)

MR. BUTTERNORTH: The same statement is applicable.

ITEM 10- a STATEMENT BY THE UNITED STATES REPRESENTATIVE OF THE FAR EASTERN COMMISSION ON REPARATIONS SHARES (FEC-278)

- b REPORT OF COMMITTEE NO. 1 TO THE FAR EASTERN COMMISSION REGARDING DIVISION OF REPARATIONS SHARES (FEC-219/25, 219 series)

MR. BUTTERNORTH: That likewise applies to Item 10.

That brings us, if it is agreeable to the Commission, to Item 11.

ITEM 11- JAPANESE MEMBERSHIP IN INTERNATIONAL CONVENTION OF TELECOMMUNICATIONS (FEC-334, FEC-334/1)

MR. PANYUSHKIN: Mr. Chairman, I have a statement to make.

"The considerations expressed by the United States representative at the meeting of the Far Eastern Commission on March 3, 1949, to the effect that the limitation of the jurisdiction of the Japanese Government and of the Supreme Commander to matters of domestic administration, as provided for in the Far

Eastern Commission decision of June 19, 1947, does not allegedly mean the prohibition for the Supreme Commander to engage at his own discretion in matters of external affairs, are unfounded.

"The reference contained in the said decision of the Far Eastern Commission to the rights reserved for the Supreme Commander in respect to matters of domestic administration means at the same time that the matters of Japan's external affairs do fall outside his competence. Such matters can be decided only by the Far Eastern Commission. Since the adherence of Japan to the International Telecommunications Convention is a matter of external affairs, and not a matter of domestic administration, this adherence as well as the action of the Supreme Commander who sanctioned this act are illegal.

"The Soviet delegation confirms its statement presented at the Far Eastern Commission meeting on February 24, 1949."

MR. BUTTERWORTH: The United States Government has made its position clear on this matter and of course it rejects any suggestion both on this item and on the previous items that any illegal action has been taken on its part or on the part of the Supreme Commander.

MR. BULLOCK: Mr. Chairman, my Government has looked into this question and I should say at the outset that we see no objection why Japan should not adhere to technical inter-governmental conventions, and, perhaps, it may even be desirable.

But from a purely legal point of view it seems to us that two questions appear to be involved: a, whether the Japanese Government in the existing circumstances is competent to perform an act of adherence to an international convention and respect responsibility for carrying out its obligations under it, and, b, whether SCAP himself has the authority to permit such adherence. Now, as regards the first point, we feel perhaps that the United States is reading more into that provision of the basic policy than was really intended, and I say it seems to have read into that a permissive

sense which from a strictly legal point of view we don't think exists and we don't think was intended. It is the view of the Australian Government that, strictly speaking, all aspects of Japan's foreign relations must remain until the peace conference in the hands of the responsible authority, which we feel is the Far Eastern Commission with the Supreme Commander acting as its agent.

At the same time it seems to us to be perfectly proper that Japan should be a party to purely technical inter-governmental conventions of the type of the International Telecommunications Union, and we feel there is no strong reason why an act of adherence should not be performed by the Japanese Government itself. But the other question posed is, who is the responsible authority in respect to Japan? It will be recalled that the protocol adopted at Atlantic City mentioned the term "the appropriate authority", and we would regard the Far Eastern Commission and not the Supreme Commander as the appropriate authority in that sense. So we feel that perhaps a faulty procedure has been used to achieve an end which is not objectionable in itself and, in fact, even desirable.

Now I'm not clear whether the Soviet objects in principle to the Japanese belonging to the ITU. We certainly don't object in principle and in fact would be prepared to support a policy decision which would make provision for Japan's adherence, either specifically to the ITU or to any other technical conventions of a defined nature.

MR. BUTTERWORTH: Any more discussion on that item?

(No response)

ITEM 12- OTHER BUSINESS

MR. BUTTERWORTH: Shall we take up the question of other business?

If there is no other business, the meeting is adjourned.

(The meeting adjourned at 12:25 P.M.)

**CONFIDENTIAL**

FAR EASTERN COMMISSION

Transcript of 145th Meeting of the Far Eastern Commission

Held in Main Conference Room, 2516 Massachusetts Avenue, N.W.

Thursday, March 17, 1949

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NOTE: The attention of all concerned is invited to the classification of this transcript which prohibits the dissemination of the information contained therein to unauthorized persons or to the press.

**CONFIDENTIAL**

# CONFIDENTIAL

## FAR EASTERN COMMISSION

Transcript of 145th Meeting of the Far Eastern Commission  
Held in Main Conference Room, 2516 Massachusetts Avenue, N.W.  
Thursday, March 17, 1949

### Representatives Present

Mr. W. Walton Butterworth, Chairman <u>pro tempore</u>	(United States)
His Excellency Mr. W. J. O. Makin	(Australia)
Mr. R. E. Collins	(Canada)
Dr. S. H. Tan	(China)
Mr. J. Daridan	(France)
Mr. S. N. Banerji	(India)
Mr. G. J. Jobsis	(Netherlands)
His Excellency Sir Carl Berendsen	(New Zealand)
His Excellency Brig. Gen. C. P. Romulo	(Philippines)
His Excellency Mr. A. S. Panyushkin	(U.S.S.R.)
Mr. H. A. Graves	(United Kingdom)

### Secretary General

Mr. Nelson T. Johnson

Reporter: Mr. R. Holtz, Department of State--FEC



(The 145th meeting of the Far Eastern Commission, 2516 Massachusetts Avenue, N.W., Washington, convened at 10:35 A.M., 17 March 1949.)

MR. JOHNSON: Gentlemen, the meeting will come to order.

The Chairman, General McCoy, is not here this morning, so that it will be necessary again to elect a chairman pro tem. The United States has indicated to me that Mr. Butterworth, Director of the Office of Far Eastern Affairs of the Department of State, is here as General McCoy's alternate. Nominations are in order.

MR. GRAVES: Mr. Chairman, I propose Mr. Butterworth as chairman pro tem.

MR. JOHNSON: Any second?

GEN. ROMULO: Mr. Chairman, I nominate Mr. Butterworth as chairman pro tem.

MR. JOHNSON: Thank you. Mr. Butterworth has been nominated and seconded as chairman pro tem. Those in favor: opposed:

Mr. Butterworth, you are elected.

MR. BUTTERWORTH: Shall we proceed with the business of the Commission.

ITEM 1 - CORRECTION AND APPROVAL OF THE PROVISIONAL MINUTES OF THE 144th MEETING

MR. BUTTERWORTH: The Secretary General will deal with that.

MR. JOHNSON: Mr. Chairman, I have a number of amendments that have been submitted. I have the following amendments which have been submitted by the American representative:

On page 1, paragraph 7 of the minutes of the 144th meeting should read:

"MR. BUTTERWORTH (Chairman, US) said that he understood that not all representatives were in receipt of instructions which would enable them to act on this subject. He stated that this is a matter of some urgency and hoped that the representatives

who had not yet received instructions would attempt to obtain some so the matter could be disposed of next week."

And paragraph 13 on page 1 of the same minutes should read:

"MR. BUTTERNORTH (Chairman, US) said that steps had been taken to obtain from Tokyo a factual account of the various steps that had been taken in implementing and making a beginning of implementing this measure. He pointed out that these would be placed before Committee No. 2, which he believed was actively discussing all phases of this problem. It was his hope that Committee No. 2, when it received that information, would be able to choose the most logical of what would necessarily be two or three rather arbitrary dates."

And, Mr. Chairman, I have a number of corrections submitted by the Chinese representative which I will read:

Page 1, paragraph 2, in the second line, after the phrase "to serve as Chairman pro tem." add the words "in the temporary absence of General McCoy".

Page 3, paragraph 28, to be revised to read:

"DR. KOO (China) said that the proposal to refer the subject to a working committee was purely one of procedure. In endorsing this suggested procedure he was guided by the importance of the subject which should be carefully studied and discussed in the working committee. He did not therefore wish to prejudice the Chinese position on the substance of the Soviet proposal and the subject of labor policy. He assumed that support of the United States opinion as to appropriate procedure did not in any way imply sharing of the United States views on the substance of the Soviet proposal in particular nor on the labor policy in general. While favoring reference of the question to the committee, he would reserve the Chinese position on its substance."

Page 3, paragraph 31, in the third line change the phrase "details of the subject" to "substance of the question".

Page 4, paragraph 38, first line, change the phrase "proposal that the general subject" to "proposal to keep the general subject"; fifth line, insert the words "more formal" between "submit" and "statements"; tenth line, change the phrase "while referring discussion" to "and referring the discussion"; fifteenth line, after the phrase "at two levels" insert the words "at the same time"; fifteenth line, revise the sentence beginning in this line to read "He could see no objection on procedural grounds to retaining a subject on the agenda in order to afford an opportunity to any delegation to submit statements whenever it wished to do so".

Page 7, revise paragraph 64 to read:

"DR. KOO (China) said that he held no strong views on the procedural question. An additional reason for opposing the removal of the item from the agenda, besides those he had already mentioned, was the desirability to maintain some line of consistency in the action of the Commission. A similar situation had arisen a fortnight ago in the Commission with regard to the subject of economic stabilization and the Commission had decided to retain the general subject on the agenda while referring its substance to a working committee for discussion. However, he did not feel strongly on the matter because as he had already pointed out, the removal of the subject from the Commission's agenda did not, he understood, preclude further statements in the Commission by any representative. He recalled that on numerous occasions the regular Chairman, General McCoy, had held that any representative could make a statement on any subject without having the item previously placed on the Commission agenda."

Page 8, revise paragraph 65 to read:

"With regard to the Chairman's ruling on the effect of the voting which had just taken place, DR. KOO suggested that further discussion be postponed, and meanwhile the Secretary

General be requested to report at the next meeting on the decisions taken by the Commission under similar circumstances. On the basis of the precedents of whether any distinction between substantive and procedural questions had been drawn by the Chairman's rulings as to the voting, the Commission might arrive at its conclusion more easily."

GEN. ROMULO: Mr. Chairman, may I ask that the final approval of these provisional minutes be deferred until the next meeting, since my alternate is not here and has not had a chance to approve these minutes?

MR. BUTTERWORTH: Any objection to that procedure? If not, we will follow the procedure suggested by the Philippine representative.

ITEM 2 - DEPUTY CHAIRMAN OF COMMITTEE NO. 5: WAR CRIMINALS (FEC-206/25)

MR. BUTTERWORTH: Is there any objection to Item 2 being dealt with? If not, if there is no objection, we will pass to Item 3.

(No response)

ITEM 3 - ACCESS TO JAPANESE TECHNICAL AND SCIENTIFIC INFORMATION IN JAPAN (FEC-280/14, -/9, FEC-315/7)

MR. BUTTERWORTH: The Commission will recall that last week I pointed out that my Government was giving this matter active consideration and hoped to reach a conclusion very shortly. I would ask, if the Commission would be so good as to pass this item over until next week when we hope to be able to deal with it.

MR. BANERJI: Mr. Chairman, this proposal is a very simple one and has a little bit of urgency in it because the present policy will expire on the 31st of March. I sincerely hope that the United States Government and any other government which wants of instructions should be able to reach some conclusion by the next meeting.

MR. BUTTERWORTH: We share that hope with you and we have no intention of deferring this until the expiration date. I might say informally and off-the-record that we are consulting Tokio about the matter as to the feasibility of it.

MR. BANERJI: Just from the point of information on this, there are some Indian technical experts who are in Tokio at the present moment, and in case for some reason or other we are unable to reach a decision before the 31st of March of extending this policy I presume the Supreme Commander will have no objection to allowing those people to finish their work if it takes a couple of weeks or so more than the deadline.

MR. BUTTERWORTH: I should be glad to represent to him the indication that you have been so good as to give me today of your Government's views.

ITEM 4 - POLICY TOWARD PATENTS, UTILITY MODELS, AND DESIGNS IN JAPAN  
(FEC-284/17)

MR. BUTTERWORTH: The Commission will recall that last week I pointed out the urgency of this matter being dealt with. I hope the member governments will be prepared--

MR. DARIDAN: I am prepared to vote on this, Mr. Chairman.

MR. BUTTERWORTH: You are? Shall we proceed then to vote on Item 4?

MR. JOHNSON: Mr. Chairman, the question before the Commission is a vote on the Policy toward Patents, Utility Models, and Designs in Japan, FEC-284/17. Australia?

MR. MAKIN: Yes.

MR. COLLINS: Yes.

MR. PANYUSHKIN: Excuse me, Mr. Chairman. Before voting on this paper I would like to remind the Commission that there was a suggestion of the Soviet delegation to leave paragraph 4 in the drafting in which it was originally in C1-284/3. For the Soviet delegation this paragraph would be more acceptable in the drafting of C1-284/3 rather than in the new drafting.

MR. BUTTERWORTH: Do I understand that it is the desire of the Soviet representative to offer his suggestion in the form of an amendment?

MR. PANYUSHKIN: Yes, Mr. Chairman. I formally move this amendment.

MR. BUTTERWORTH: Well, then we would take a vote then on the amendment first. Is that correct?

MR. JOHNSON: Yes. The question before the Commission is an amendment offered by the Soviet representative to FEC-284/17 as it stands, the amendment being to substitute paragraph 4 as it appears in C1-284/3 for the text of paragraph 4 as it stands in FEC-284/17.

MR. MAKIN: No.

MR. COLLINS: No.

DR. TAN: Abstention, Mr. Chairman.

MR. DARIDAN: Abstention, Mr. Chairman.

MR. BANERJI: Abstain.

MR. JOBSIS: No.

SIR CARL BERENDSEN: No.

GEN. ROMULO: No.

MR. PANYUSHKIN: In favor.

MR. GRAVES: No.

MR. BUTTERNORTH: No.

The amendment is lost: 1 for, 7 against, 3 abstentions.

We will now proceed to vote on Item 4 unamended.

MR. JOHNSON: The question is a vote on FEC-284/17 as it stands.

MR. WAKIN: In favor.

MR. COLLINS: Yes.

DR. TAN: Yes.

MR. DARIDAN: In favor.

MR. BANERJI: Yes.

MR. JOBSIS: Yes.

SIR CARL BERENDSEN: Yes.

GEN. ROMULO: Yes.

MR. PANYUSHKIN: Abstain.

MR. GRAVES: In favor.

MR. BUTTERNORTH: Yes.

The voting is 10 in favor, 1 abstention, and the item is carried.

MR. PANYUSHKIN: Mr. Chairman, the fact that the Soviet delegation abstained from voting on FEC-284/17, Policy toward Patents, Utility Models, and Designs in Japan, does not predetermine in any way the Soviet position in the discussion of this matter at the peace settlement with Japan. I ask to incorporate this statement in the minutes of this meeting.

MR. BUTTERNORTH: That will be done in the usual way.

ITEM 5 - PRIORITY FOR PATENT APPLICATIONS IN JAPAN (PBG-333/2)

MR. BUTTERWORTH: We now proceed with Item 5. Mr. Secretary General, will you take--

DR. TAN: Mr. Chairman, I should like to introduce a little amendment to this item, to delete a few words beginning at the end of the third line: "entry of the country of the national concerned into the war"--to delete these few words and substitute these words: "the outbreak of hostilities of the country of the national concerned".

Mr. Chairman, as you know, the circumstances which led to the state of war between each of the states represented on this Commission and Japan were by no means uniform. If we change these few words as I have just proposed then it would cover all circumstances and would accord equal treatment to all the countries represented here. Therefore my amendment is one of principle and has no substantive interest involved whatsoever. And besides, I may say that it is a sort of question of drafting to make the text in such a way as to cover all types of circumstances.

MR. BUTTERWORTH: Is there any discussion of this suggestion by the Chinese member?

GEN. ROMULO: May we have read again the amendments, Mr. Chairman?

MR. JOHNSON: Yes. Mr. Chairman, the Chinese representative poses the following amendment: eliminate, beginning at the end of the third line of the text, the following words: "entry of the country of the national concerned into the war" and substitute therefor the following words: "the outbreak of hostilities of the country of the national concerned".

MR. MAKIN: I was wondering, Mr. Chairman, whether the Chinese representative could amplify any further this amendment because I'm afraid it's not just perfectly clear really what its implications may be, and I would be glad if I could be supplied with some further explanations about the amendment.

DR. TAN: I would be very pleased to do so.



Mr. Chairman, as we know, in the last, say, twenty years or so there has been a great deal of literature among academic people and discussion, I say, among statesmen, of this question of war in a legal sense and war in a material sense. There may be war in a legal sense only under certain circumstances, but you find in many parts of the world in the last twenty years there was war in a material sense--a certain circumstance happened which might be regarded as a state of war if the two parties involved were of equal strength and equally favorably situated. In other words, in a civil society usually it takes two parties to create a quarrel but it is not so, you see, in case of the international community of nations. An act of hostility in a material sense may take place perpetuated by one country and the victim may not feel it expedient to call it a war. Now that is the type of circumstance I have in mind. So the reason for my proposing this amendment is simply to use an ordinary term instead of using such a technical term as "entry into war", which has a very technical sense--just use an ordinary term which would cover the relations of all the countries represented here with Japan as a whole. If we allow this text to stand there may be times when it comes to interpret this text that certain countries may find it difficult to justify it.

MR. MAKIN: Is this a case where it is to overcome the position where there has been no formal declaration of war? Is that the position?

DR. TAN: Yes, more or less. But the case of declaration of war always comes last with reference to Japan. But as to the time element, of course there was a period of time when there was no formal declaration of war.

GEN. ROMULO: In other words, Mr. Chairman, the amendment would seem to provide for those countries that merely had an incident with Japan and not a formal declaration? Isn't that the point?

DR. TAN: No. I think all the countries represented here declared war on Japan, but the declaration of war might not have come at the same time when hostilities began. You see, hostilities might have begun a long time before formal declaration of war.

MR. BUTTERWORTH: I have followed with interest and with a measure of sympathy the remarks of the Chinese member and it seems to me his amendment in itself has much logic behind it. However, I would point out that there is a technical matter which would seem to me to argue against its adoption because the paper that the Commission has just passed under Item 4 contains, in paragraph 4, subparagraph (2), a statement which would not be in accord with the purport of his amendment. Paragraph 4 is headed "Patents in Japan Owned by Allied Nationals" and under that subparagraph 2 deals with the question of the effective date of loss.

GEN. ROMULO: Mr. Chairman, would it not have the same effect as the amendment to give China priority rights dating back to 1937 while others would be from 1941 or 1942?

MR. BUTTERWORTH: Are there any other expressions of views?

DR. TAN: Mr. Chairman, as I said, there is no material interest involved on the part of my Government at all. I don't think that is the case at all about these patents. But here is one of the policy decisions which might be passed and it will remain in textual books, so to say, as it were, and it would look better if it were to resort to a language which would cover all the countries. The amendment I propose, as I said, is a matter of principle and it would not in any way prejudice the interest of any of the countries represented here. In fact, as I said, Mr. Chairman, it is a question of drafting; we may find appropriate language which would cover all types of circumstances.

MR. BUTTERWORTH: That being so, that there is no material point involved, and in view of the considerations which I mentioned

previously about the inconsistency of that language with the action which the Commission has just taken on the previous paper, would the Chinese representative feel himself justified in reconsidering his amendment?

DR. TAN: But this case here, Mr. Chairman, is the effective date of loss--that is the point that is important--and the case of entry into war is inapplicable. It's protected there, but that is not so in this short paper, you see. In case of doubt the effective date of loss would be the ruling principle. But here in this short policy paper it doesn't say so--it merely mentions the state of war. So there is no inconsistency or discrepancy between the two.

MR. BANERJI: Mr. Chairman, I am not very clear about the Chinese amendment. I think in this case we are talking of the loss of priority rights and I wonder if that loss of priority right can ever take place when there is not a formal declaration of war between the countries concerned? I will just take a hypothetical case: let us say, July 1937, whatever the date may be, there was an outbreak of hostility, say, between India and Japan. I suggest that it was not possible for any loss of priority rights for a national of India at that time unless there was a formal declaration of war between India and Japan. So I have quite full sympathy with the Chinese desire for clarity in this particular proposal, but I do think that it is a little out of place in this case because I cannot see a loss of priority rights unless there is a formal declaration of war.

DR. TAN: You say there is no loss of formal rights unless there is a formal declaration of war?

MR. BANERJI: Loss of priority rights for patents of which we are talking in this case.

DR. TAN: That I should like to have some legal experts study.

MR. BANERJI: Well I am just suggesting it for consideration.

DR. TAN: In between these last two wars international

relations have developed in such a way that some of our friends who have been professors of international law their whole lives have become so discouraged that they question whether they should revise old textbooks or not. In my country, to illustrate, everything was a full-class war except that my country didn't consider it expedient to take up the challenge and call it a war. So it was a war in a material sense prevailing all the time, you see. Anyway, I don't want to go into this academic discussion except, as I said, to suggest that it is best to resort to a language which would cover the interests of all. That is the main point, Mr. Chairman.

MR. GRAVES: Mr. Chairman, the crux of the question seems to me to be a question of material interests. The Chinese representative said that no material interests are involved. If we introduce a phrase of unknown definition such as "outbreak of hostilities" we are making the policy less understandable in material terms, and I should very much prefer to retain it in the language of FEC-333/2.

DR. TAN: Yes, but, Mr. Graves, we have our respective Foreign Offices to contend with. Suppose my United Kingdom colleague would say that this has no material interest to the United Kingdom, but if we look at it from my standpoint the same thing might not be with my Foreign Office. So perhaps it would be a good thing for all of us concerned to adopt an acceptable language.

SIR CARL BERENDSEN: Mr. Chairman, I have a very great sympathy indeed with the point of view that animates this proposal. I think it's fair to say that the Chinese were fighting our war long before we knew we were in a war, and they were fighting a war long before that war--for very good reasons--was declared formally to be one. For that reason I should hate to vote against this proposal. But I am afraid I should have to. Quite apart from the English, which I think is not impeccable, from the formal points, particularly

that so ably expressed by our colleague from India, I am swayed--  
*decisively* swayed by the point of view expressed by the representative of the United Kingdom. Here we have a phrase of definition "entry into war"--that has a definite date and those whose business it is to operate with these patents have to contend with a definite date. Under the proposal which we are considering now we are going to have a different date presumably for every country concerned, and if there is nothing to be gained by China or by any Chinese, then for the life of me I can't see why we should import considerations of uncertainty into a paper which is otherwise certain.

GEN. ROMULO: Mr. Chairman, I support the stand of the United Kingdom and New Zealand. I have full sympathy with the views expressed by the Chinese delegate. China really had war long before we had war with Japan. But it is quite clear that the amendment from the point of view of phraseology is quite unacceptable. You would have "outbreak of hostilities of the country of the national concerned with Japan", which is not what you really mean; it's "outbreak of hostilities with Japan". And then "entry of the country...into the war" is more accurate. So that is the stand of the Philippine delegation on this question.

MR. DARIDAN: Mr. Chairman, I support the point of view which has been expressed by the Philippine and New Zealand representatives. I have sympathy with the point of view expressed by the Chinese member, but I feel that as it is presently proposed it is clearer and I should prefer to have it retained.

MR. JOBSIS: Mr. Chairman, I quite agree with the reasoning brought forward by my Indian colleague. I can imagine that there are circumstances in which my delegation would be in favor of introducing words like "the outbreak of hostilities" instead of "entry into war", but in this case I certainly think we should leave it as it is.

DR. TAN: Mr. Chairman, the amendment I have suggested may not be the happiest choice but what counts is the substance. As you are aware, in FEC-333, February 25, 1949, there is the expression "effective date of loss". Perhaps it's opportune for us to go back to that definition. That would be in harmony with the paper we have just passed and also with the prevailing views expressed. Not using either of the terms but just refer to the substance of it by using these words "effective date of loss".

MR. BUTTERWORTH: What words are you suggesting that are to be substituted for what other words?

DR. TAN: And besides, Mr. Chairman, as this point is rather minor, perhaps a good method to adopt would be for your good self to appoint a little committee to thrash out the phraseology and then submit it for solving at the next meeting

MR. BUTTERWORTH: I understand this question has already been discussed in committee at considerable length. And again, I would like to associate myself with the expressions of sympathy which have been so generously expressed here, but I believe that your representative on the appropriate committee has had a full opportunity to put forward his views about the matter. Those views have not received general acceptance and I wonder about the practicality at this late stage of undertaking a procedure which is in effect a review of a matter which has already been very carefully considered by the participating countries.

DR. TAN: Indeed, the Chinese representative did submit this idea at a lower level but I understand there was not such discussion of it. And, as you know, Mr. Chairman, this Commission has different hierarchies and naturally an amendment can be brought up at any level. In view of the reasonableness of the point of view I have expressed, I should like others to see my point of view because, you see, there is no infringement on the right of anybody at all except for putting it in language that is good enough to cover all types of circumstances.

MR. BUTTERWORTH: I wonder what the sense of the Commission is about this matter? You will recall that last week--Dr. Tan was not present--reference was made to the urgency of action on this problem, and for my part I would be guided by the sense of the Commission in this matter. I don't want to in any way undertake an unreasonable procedure; at the same time we do want to get forward with the public business which is before us and this is a matter of some urgency.

SIR CARL BERENDSEN: Mr. Chairman, as unquestionably the most pro-Chinese member of this Commission, I feel that we ought to say to our Chinese colleague his amendment is not doing very well. It is important to get this paper through, and I think he would be doing a wise thing if he were to withdraw his proposal and let us pass this paper.

DR. TAN: Mr. Chairman, I'm afraid I couldn't do that. The last time I was at this meeting but I was sitting behind the principal representative of my delegation, and in view of his absence and in view of the instructions from home I would have to ask for instructions. However I want to accommodate all. All my colleagues know, especially the chairman of the Steering Committee, to which I belong, know how reasonable I have always been in trying to compromise and accommodate others and facilitate the work of the Commission. However personally I might decide to act, as a representative I am not free to do so.

MR. BUTTERWORTH: In the given circumstances, it seems to me that the only practical course is to proceed with a vote on the Chinese amendment.

MR. COLLINS: Mr. Chairman, before we do that, I don't want to hold up the discussion but I haven't spoken on this point at all. I share the same views as that expressed by my Indian colleague on the practicality in point of the Chinese amendment. I expressed the

same view at the Committee level. However, Dr. Tan has suggested a return to the original phraseology of "effective date of loss" which was thrown out at the committee level because it really didn't apply in this particular paragraph at all. I have a suggestion to make which might possibly meet both points of view, and that would be to substitute "effective date of loss of right to file patent applications in Japan", which I think would be relevant to the situation--would meet the point raised by our Indian colleague and would cause no difficulty. If, as a matter of fact, the outbreak of war was the first date when loss of this right became effective that would apply here.

GEN. ROMULO: Would that be an amendment to the amendment?

MR. COLLINS: Yes, a substitute amendment.

MR. MAKIN: Mr. Chairman, I feel that I could support the suggestion by our representative from Canada, but I'm afraid that I would have to abstain if we had to have before us the question of the amendment as submitted by the Chinese representative.

GEN. ROMULO: Is the amendment, Mr. Chairman, acceptable to the Chinese delegate?

DR. TAN: I think I can exercise a little discretion and accept this and thank our Canadian colleague for his thoughtfulness in bringing about this compromise measure.

MR. BUTTERNORTH: Are there any other comments on this suggested compromise amendment?

GEN. ROMULO: I should like to have the substitute amendment read, Mr. Chairman.

MR. JOHNSON: Mr. Chairman, the amendment offered by the Canadian delegate is that the words beginning on the third line "date of entry of the country of the national concerned into the war with Japan" be eliminated and substituted therefor the following words: "effective date of loss of right to file patent applications



in Japan".

MR. BUTTERWORTH: Is there any further comment on the Canadian--? Did I understand the Australian representative to suggest that we first vote on the Canadian amendment to the amendment even though the Chinese representative has in fact accepted the Canadian amendment as a substitute for his?

MR. MAKIN: Mr. Chairman, all that I was doing was giving my blessing to the amendment as suggested by the Canadian representative and indicating what my own vote would have to be.

MR. BUTTERWORTH: If it is the unanimous wish of the Commission, I would suggest that we proceed to vote on the Canadian amendment as a substitute to the Chinese amendment; if it is not, why we will proceed to vote first on the Canadian amendment and then on the Chinese amendment. Can I take it that there is no objection to this?

(No response)

MR. BUTTERWORTH: Then we will proceed to vote on the Canadian amendment, there being no Chinese amendment.

MR. JOHNSON: The question to be voted upon, Mr. Chairman, is an amendment to the paper FEC-333/2 by eliminating the words beginning on line 3 "entry of the country of the national concerned into the war with Japan" and substituting therefor the words "effective date of loss of right to file patent applications in Japan".

GEN. ROMULO: So that it will read?

MR. JOHNSON: So that it will read:

"Nationals of countries at war with Japan who had duly filed in any country the first application for a patent not earlier than twelve months before the effective date of loss of right to file patent applications in Japan should be entitled, within twelve months after the date...".

MR. BUTTERWORTH: We will proceed to the vote.

MR. JOHNSON: Australia?

MR. MAKIN: Yes.

MR. COLLINS: Yes.  
DR. TAN: In favor.  
MR. DARIDAN: Yes.  
MR. BANERJI: Yes.  
MR. JOBSIS: Yes.  
SIR CARL BERENDSEN: Abstain.  
GEN. ROMULO: Abstain.  
MR. PANYUSHKIN: Abstain.  
MR. GRAVES: Yes.  
MR. BUTTERWORTH: Yes.

The amendment has been carried by 8 in favor with 3 abstentions. We will now proceed to vote the paper.

GEN. ROMULO: We will vote on the paper now?

MR. BUTTERWORTH: Vote on the paper as amended.

MR. JOHNSON: The question is now the paper FEC-333/2 which, amended, now reads:

"The Far Eastern Commission decides as a matter of policy that:

Nationals of countries at war with Japan who had duly filed in any country the first application for a patent not earlier than twelve months before the effective date of loss of right to file patent applications in Japan should be entitled, within twelve months after the date, as determined by the Supreme Commander, on which such governments and nationals are again permitted to apply for patents directly to the Japanese Patent Office and to obtain legal services necessary for this purpose, to apply for corresponding rights in Japan with a right of priority based upon the previous first filing of the application. Third parties who have bona fide manufactured, used, sold or leased the subject matter of any Japanese patent obtained with this priority should not be liable for infringement on account of such use but should be enabled to continue such use after the filing of the appli-

cation only under the terms of a non-exclusive license which the patent owner should be required to grant on terms providing for reasonable royalties as fixed by an agency to be authorized to make such determinations. Payment of such royalties should be subject to applicable financial regulations in effect in Japan at the time they are paid."

Australia?

MR. MAKIN: Yes.  
MR. COLLINS: Yes.  
DR. TAN: Yes.  
MR. DARIDAN: Yes.  
MR. BANERJI: Yes.  
MR. JOBSIS: Yes.  
SIR CARL BERENDSEN: Yes.  
GEN. ROMULO: Yes.  
MR. PANYUSHKIN: Against.  
MR. GRAVES: Yes.  
MR. BUTTERWORTH: Yes.

The tally is 10 in favor, 1 opposed, with a veto.

It's a matter of regret to my Government that the Commission has not been able to deal with this matter since it is one of considerable urgency.

ITEM 6 - RECOMMENDATIONS REGARDING JAPANESE-OWNED PATENTS, UTILITY MODELS, AND DESIGNS IN TERRITORIES OF COUNTRIES AT WAR WITH JAPAN (PEC-311/7)

DR. TAN: Mr. Chairman, at one of the meetings I made the informal proposal--not a formal amendment but just a proposal--that this paper would be more conducive to acceptance if paragraph 4 would be deleted. You may be aware, if you compare this paper with the accompanying one which was passed, there you find paragraph 5 of that paper and paragraph 4 of this paper are more or less analogous--the substance is more or less analogous. So I

just want to make that suggestion again, thinking that if we do that perhaps it would be easier for some countries to accept it.

MR. BUTTERWORTH: As I understand it the objection to the informal suggestion which the Chinese member made is the fact that such an amendment would necessitate reference back to the home governments for further instructions and therefore be a cause of delay of uncertain length before action could be taken on the matter.

DR. TAN: Mr. Chairman, if we go back to the minutes and see what kind of discussion we had, all the arguments offered against paragraph 5 of that paper are practically applicable to this paragraph. Now the basic reason behind this is that in this paragraph, as in paragraph 5 of the other paper, reference is made to an international convention and made it applicable to Japan, while it is a fact that many countries represented here in this Commission are not members of that convention--they never had subscribed to that convention.

MR. BUTTERWORTH: Any other members of the Commission have views they want to express?

MR. DARIDAN: Mr. Chairman, I am fully conscious of the reasons which have been set forth by the Chinese colleague in support of his informal proposal. But I would like to remind the Commission that this paper was adopted by the Steering Committee after a very long discussion and if paragraph 4 were to be withdrawn it would deprive the paper of most of its implications, at least in the French delegation's eyes. I consider it entirely advisable to try to reach the utmost possible agreement in the Commission, but if we are to deprive most of the papers of their substance I think that would serve no purpose at all. I think the time has now arrived that the Commission should consider the possibility to vote.

GEN. ROMULO: Mr. Chairman, my New Zealand colleague and I here, being in the South Pole, can hardly hear those in the North Pole. If they would kindly raise their voices a little bit then

we can discuss more intelligently.

MR. BUTTERNORTH: Shall we proceed with a vote on this paper?

The Secretary General will take the count.

MR. JOHNSON: The question, Mr. Chairman, is a vote on the paper FEC-311/7, Recommendations regarding Japanese-Owned Patents, Utility Models, and Designs in Territories of Countries at War with Japan.

Australia?

MR. MAKIN: Yes.

MR. COLLINS: Yes.

DR. TAN: Abstain, Mr. Chairman. May I just make one comment. When the other paper was put to a vote there was more or less an atmosphere just like today, and after that paper was defeated our good Chairman, General McCoy, was very resourceful and suggested a method to get out of the impasse by proposing to delete paragraph 5 and make it into a separate paper. But, as I said, I always want to facilitate the work of the Commission and I don't want because of one delegation to hold up things, so I abstain. But I anticipate history will repeat itself.

MR. BUTTERNORTH: I take note of those remarks. It's a matter of considerable doubt in my mind as to whether the temporary chairman has those resources of ingenuity comparable to the permanent chairman.

DR. TAN: I'm sure he has.

MR. DARIDAN: Yes.

MR. BANERJI: Yes.

MR. JOBSIS: Yes.

SIR CARL BERENDSEN: Yes.

GEN. ROMULO: Yes.

MR. PANYUSHKIN: Against.

MR. GRAVES: Yes.

MR. BUTTERNORTH: Yes.

MR. BUTTERWORTH: The count is 9 in favor 1 abstention and 1 veto.

MR. PANYUSHKIN: Mr. Chairman, I would like to say a few words. I would like to remind the Commission why the Soviet delegation voted against this paper.

A fortnight ago I insisted that this item be dropped from the agenda of this Commission because of the fact that the resumption of the convention could be exercised only after the conclusion of the peace treaty with Japan. Because of these reasons the Soviet delegation voted against the paper.

MR. BUTTERWORTH: Again I must express regret that the Commission has not taken action.

ITEM 7 - TRIAL OF JAPANESE WAR CRIMINALS (FEC-314/12)

MR. GRAVES: Mr. Chairman, this paper was passed to the appropriate working committee and has come back to the Commission without any change. It had been before the Commission for some time in its previous life, and as neither the working committee nor the Steering Committee have found it necessary to make any change I would formally move that this proposal be adopted.

MR. BUTTERWORTH: Are there any comments?

(No response)

MR. BUTTERWORTH: If not, we will proceed with the vote.

MR. JOHNSON: The question, Mr. Chairman, is a vote on FEC-314/12, Trial of Japanese War Criminals.

Australia?

MR. MAKIN: Yes.

MR. PANYUSHKIN: Mr. Chairman, I would like to suggest amendments to this paper. The Soviet delegation suggests the following amendments: in the first two lines substitute the words "The Far Eastern Commission decides as a matter of policy:" instead of the words "The Far Eastern Commission makes the following recommendations

to member governments of the Commission:"; then, in the first line of the first paragraph--

MR. BUTTERWORTH: Excuse me. The Secretary General did not have an opportunity to take that amendment down. Would you mind repeating it?

MR. PANYUSHKIN: In the first two lines substitute the following: "The Far Eastern Commission decides as a matter of policy:".

Now, in the first line in the first paragraph, after the word "investigations" include the words "in Japan".

MR. JOHNSON: "in Japan"?

MR. PANYUSHKIN: Yes, "in Japan". And now, in the second line from the bottom after the word "trials" also add the words "in Japan". So that the policy will read:

"The Far Eastern Commission decides as a matter of policy that:

If possible, investigations in Japan in connection with offenses falling under paragraph 1 h and 1 g of the policy decision of the Far Eastern Commission entitled 'Apprehension, Trial and Punishment of War Criminals in the Far East' (PEC-007/3), passed by the Commission on 3 April 1946, including such offenses alleged to have been committed by persons suspected of offenses falling under paragraph 1 a of the said policy decision, should be completed before 30 June 1949, and all trials thereof in Japan should be concluded if possible before 30 September 1949."

MR. BUTTERWORTH: Are any of the members of the Commission prepared to express views on the suggested amendments of the Soviet representative?

(No response)

MR. BUTTERWORTH: Perhaps there are representatives of other governments here who may share my instinct that these amendments, coming as they do at this moment before the full Commission, and given their content which may be far-reaching in import and cer-

tainly involve technical legal considerations, might share with me the feeling that we might pass this item over until next week while we have an opportunity to consult our respective legal authorities.

GEN. ROMULO: I so move, Mr. Chairman, if necessary.

MR. BUTTERNORTH: Is anyone opposed to that procedure? Perhaps, if it would save the time of the Commission, we needn't go to a formal vote on that procedural matter. Unless there are objections, I will take the liberty of instructing the Secretary General to have this item on next week's agenda with the Soviet amendments, and we will discuss it at the next meeting. Is that agreeable?

(No response)

MR. BUTTERNORTH: Let us pass on then to Item 8.

ITEM 8 - ECONOMIC STABILIZATION IN JAPAN

MR. BUTTERNORTH: Unless there are specific comments to be made--this matter is before Committee No. 2--I suggest we pass on to the next item.

ITEM 9 - a LEVEL OF ECONOMIC LIFE IN JAPAN: POLICY TOWARD JAPANESE INDUSTRY (FEC-242/32; FEC-242/35, FEC-242/37)

- b LEVEL OF ECONOMIC LIFE IN JAPAN: POLICY TOWARD SHIPBUILDING AND SHIPPING (FEC-297/10)

MR. BUTTERNORTH: The situation is unchanged.

ITEM 10- REPARATIONS REMOVALS; ACCESSORY FACILITIES, BUILDINGS, TECHNICAL DATA (FEC-299/5; -/6, -/7, -/8, -/9, -/10)

MR. BUTTERNORTH: The same applies to Item 10. Unless there is objection, we will pass to Item 11.

ITEM 11- a STATEMENT BY THE UNITED STATES REPRESENTATIVE OF THE FAR EASTERN COMMISSION ON REPARATIONS SHARES (FEC-278)

- b REPORT OF COMMITTEE NO. 1 TO THE FAR EASTERN COMMISSION REGARDING DIVISION OF REPARATIONS SHARES (FEC-219/25, 219 series)

MR. BUTTERNORTH: The same comment applies.



ITEM 12- JAPANESE MEMBERSHIP IN INTERNATIONAL CONVENTION OF TELE-  
COMMUNICATIONS (FEC-334, FEC-334/1, FEC-334/2)

MR. BUTTERNORTH: Is there any discussion of this item?

SIR CARL BERENDSEN: Mr. Chairman, I would take the opportunity to express very briefly my general agreement with the point of view expressed on this point by the representative of Australia. I am very easily confused, and I am more than a little confused in endeavoring to follow the point of view expressed by the United States delegation on the 3rd of March.

In paragraph 2 of that statement--I am reading from document FEC-334/1--the attention of the Commission is drawn to a provision of the Far Eastern Commission policy decision on the Post-Surrender Policy which reads as follows:

"According to the judgment and discretion of the Supreme Commander the Japanese Government may be permitted to exercise the normal powers of government in matters of domestic administration...".

And the United States delegation comments on that as follows:

"It seems clear that there was no intention on the part of the Commission to imply a denial to the Supreme Commander of such discretion in matters of external affairs."

Now there, sir, I am completely at a loss. If the suggestion is that it required a basic decision--policy decision of the Far Eastern Commission to give to the Supreme Commander the authority to permit the Japanese Government to exercise the normal powers over matters of domestic administration, if the suggestion is that that form of words necessarily implies that the Supreme Commander has a similar authority to permit the Japanese Government to exercise the normal powers over matters of external administration, which seems to me to be what the American delegation suggests, I am bound to say that that seems to me to be contrary to every canon of logic and common sense and every canon of legal interpretation, and it seems to me that that

cannot be the meaning. I have the gravest doubt whether the Supreme Commander has the power to permit the Japanese Government to act externally and I have the gravest doubt as to what would be the authority that could give such a power to the Japanese Government.

Now, sir, I am not assuming that the interpretation I have given, which I cannot follow, is the interpretation of the United States delegation. I am asking that at some appropriate time--I don't suggest now--the United States delegation might perhaps explain to my rather muddled mind what the point of view is.

MR. BUTTERWORTH: Thank you very much.

GEN. ROMULO: Mr. Chairman, the Philippine delegation is waiting for its instructions on this item, so I would ask that it be deferred.

MR. BUTTERWORTH: If it is agreeable to the Commission, we will defer this item and a discussion will take place at a later date which I hope will satisfy the representative of New Zealand.

ITEM 13- OTHER BUSINESS

a. Problem of Japanese Reparations; Philippine Statement of 17 March 1949

GEN. ROMULO: Mr. Chairman, on Other Business:

"I have recently returned from a trip to the Philippines. I would like to report to the Commission that the problem of Japan and, specifically, the problem of Japanese reparations, is today one of the principal preoccupations of the people of my country. I have therefore asked for this opportunity to speak for the record.

"I shall try to speak plainly and--I hope--clearly and to the point.

"My country's concern is the common concern of all the countries represented in this Commission.

"It is the problem of Japan in relation to the rest of us in Asia, in the context of the crisis that now grips the world.

"The current crisis has given it a new urgency. We can no

longer run the risks that attend a policy of continued vacillation.

"Let the Commission decide, once and for all, what to do with Japan, to what extent we should allow and help it to recover, what manner of life we should permit its people to live, just how they shall fit into the new Asia which the war and the convulsions of revolutionary change have brought into being.

"It took us nearly four years to beat Japan. Nearly four more years have passed since the surrender in Tokyo Bay. This Commission has been in existence now for almost three years. After all that time we find the problem of reparations still unsettled. We have yet to formulate and implement a working program on the economic life of the Japanese nation. The entire problem of Japan's relations with postwar Asia lies before us. We are finding it harder to win the peace for which we fought the war.

"We have moved, so far, in a series of vicious circles.

"We have not solved the problem of reparations because we have, so far, failed to carry out the existing policy decision on the level of economic life for Japan. We are undecided whether or not to work out this policy because we have not made up our minds on just how strong Japan should be and how its strength should be used when it begins to recover.

"Until we are agreed on these basic goals we cannot even begin to determine Japan's new role in Asian economy and politics. Yet we are expected to proceed as though these problems have not only been solved, but solved satisfactorily.

"On December 10, 1948, the United States Government issued an interim directive instructing the Supreme Commander for the Allied Powers, General MacArthur, to 'require the Japanese Government immediately to put into effect a program of domestic economic mobilization', including the 'increased production of

all essential indigenous raw materials and manufactured products'. It sounds logical and simple, until we stop to consider just what are the essential raw materials and manufactured products referred to. Then we realize that they cannot be accurately defined and determined except in relation to a comprehensive and detailed economic program for Japan. We have no such program.

"On January 17 this year, General MacArthur announced as one of the aims of his foreign business and investment program 'the restoration of sound international peacetime economic relationships between Japan and the rest of the world'. Here again we come up against the need of defining what industries the Japanese people should be allowed to develop, how they should integrate their economic life with that of their neighbors and the rest of the world.

"We go back, inevitably, to the problem of reparations, for the simple reason that the rehabilitation of many of Japan's neighbors and former victims depends to a great extent on the reparations they expect to get from Japan. The case of the Philippines is typical, and illustrates my point perfectly.

"Our war damage claim against Japan totals five billion three hundred fifty million dollars. As of December 23, 1948, we had received interim reparations amounting to only eleven million three hundred and ninety thousand dollars, and so uncertain are the prospects of further removals that we have no way of estimating how much more we shall be able to get.

"It happens that a considerable portion of our industrialization program is built around the reparations we expected to get from Japan. A change in the policy on reparations, or even an unwarranted delay in the awarding of allocations, could throw our entire industrialization program out of gear.

"Reparations may spell the difference between success and

failure in an important part of our industrialization effort. To that extent, reparations will have been decisive in determining our future relationship with Japan--whether we shall revert to our pre-war position of being a mere supplier of raw materials for Japan's factories, or achieve a measure of self-sufficiency and independence in our industrial needs.

"Other Asian nations are in a similar predicament. Their problems, taken in their entirety, add up to the all-important issue of whether Japan shall be re-instated as the dominant economic and military power in Asia, or whether an earnest and resolute effort shall be made to build up the other Asian countries on a basis of economic equality.

"In any case, the problem points up the plain, self-evident fact that reparations, Japan's recovery and Japan's relations with the other nations of Asia and the rest of the world are inextricably inter-related. They cannot be solved piecemeal. Nor can they be wished away by inaction, indecision or improvised solutions to each particular difficulty as it arises. A comprehensive, integrated, over-all policy is needed, and the time to formulate it, to work out its practical application and to execute it, is now. Events will not forever wait upon us. The nature and the tempo of the changes now taking place in Asia daily remind us that we must decide quickly, and having decided, act with energy, resolution and dispatch.

"Up to this point, I have addressed myself to the Commission as a whole, for the problem concerns us all. I feel, however, that I must address a special appeal to the United States. As the occupying power, with broad powers to formulate policies and make on-the-spot decisions, the United States is in a peculiar position and has a unique responsibility with regard to Japan. By virtue of its position, the United States

is under special obligation to help the Commission formulate an over-all policy on Japan, and to facilitate the implementation of that policy after it has been adopted.

"Unfortunately, it seems that the United States has not quite made up its mind on what to do with Japan, and this basic indecision is reflected in the failure to settle the reparations problem.

"I need only cite one instance of how this indecision has impeded the allocation of reparations. I have in mind the delay in the removal of aircraft and private munitions plants in Japan. With your kind indulgence, I shall recount in brief its case history:

"On July 13, 1948, the United Kingdom member of the Steering Committee submitted a statement referring to the discussion in the reparations technical advisory committee in Tokyo in which the Supreme Commander for the Allied Powers' representative said that aircraft and private munition plants were not expected to be released for delivery under the advance transfer program until a decision was made on the recommendation of the Overseas Consultants and the Johnston Report. The United Kingdom member asked the United States delegation to comment on the matter.

"On July 20, 1948, the Chinese member said that the retention of aircraft and munitions plants declared available for reparations gave rise to strong suspicions that there was an intention not to carry out the Commission's policies in this regard. It gave evidence, he continued, of a tendency to preserve certain war industries in Japan because there was doubt in the minds of some people charged with the implementation of the United States interim directive as to the expediency of their removal. The United States member then said that the remarks of the United Kingdom delegate had been transmitted to the United States Government.

"On September 7, 1948, support for the United Kingdom position was expressed by the delegates of the Philippines, France, Netherlands and Australia. No reply had as yet been received from the United States Government.

"On September 14, consideration of the subject was postponed because of the United States statement on the level of economic life in Japan (FEC-242/35).

"On September 21, the United Kingdom and Chinese members urged that the United States reply to the question on the removal of aircraft and private munitions plants should not be postponed pending the formulation of its general position on the level of industry. The United States member informed the Commission that the United States Government was not yet prepared to present its position on the level of economic life in Japan, on the policy towards Japanese shipbuilding and shipping, or on the question of further removals under the advance transfer program. The United States member said that it might be some time before the United States Government would be able to give its views on these matters.

"On October 5, 1948, consideration of the subject was postponed.

"On October 26, the Australian, Chinese, French, Netherlands and Philippine members expressed their support of the United Kingdom statement. The United States, however, had not yet formulated its reply.

"On November 16, 1948, it was learned that the views of the United States on further removals under the advance transfer program had not yet been formulated.

"On November 23, the United States member stated that he had not yet received instructions from his Government.

"On December 7, the United States member said he was not prepared to give any indication of how soon he might receive his instructions.

"On December 14, the United States member said he was not prepared to state his Government's views on the subject.

"He made the same statement on December 31, 1948, and on January 11, 1949.

"On January 31 this year, the Philippine representative in Committee No. 1 asked the United States member if he could give any information on the status of the investigation raised at the reparations technical advisory committee meeting held in Tokyo on 5 October 1948 during which the question of allocating six aircraft plants to the advance transfer claimants had been discussed. The United States member replied that he would transmit the query to his Government.

"On February 8 this year, the question was still on the agenda awaiting the statement of the United States, and there it has remained to this day.

"The time covered by this episode is about eight months, during which the release of aircraft and munitions plants earmarked for reparations was suspended while the United States was trying to make up its mind on the recommendations of the Overseas Consultants and the Johnston Report.

"Another case pointing up the same difficulty comes to mind.

"On August 14, 1947, the Far Eastern Commission made a policy decision, to wit:

'Subject to the provisions stated in paragraph 10, the following actions, as detailed in paragraph 2-9, should be taken during the period of the occupation in order to reduce Japanese industrial war potential;

'a. All special purpose industrial machinery and equipment functionally limited to use in connection with combat equipment end-products, should be destroyed.

'b. All other industrial machinery and equipment in primary war industries, and such other industrial facilities



in secondary war industries and war-supporting industries as may be in excess of the peaceful needs of the Japanese economy should be made available for claim as reparations.

'c. During the period of the occupation, a prohibition should be maintained against the re-establishment of primary war industries; and specific war-supporting industries should be limited to the productive capacity levels remaining after completion of the reduction program outlined, except as modifications in these levels may be authorized by the Far Eastern Commission.'

"Again, the lack of a definitive United States policy on the final position and role of Japan has led to indecision on the industrial levels to be maintained, the extent of the destruction of war-supporting industries and the machinery to be allocated as reparations 'in excess of the peaceful needs of the Japanese economy'.

"And so the vicious circle winds back upon itself. The problem of reparations cannot be solved with finality until industrial levels are finally fixed. It is impossible to fix the industrial levels without a comprehensive over-all policy on the relation of Japan to her neighbors in Asia and to the rest of the world. Such a policy, in turn, must take into account the changed political and economic status of the Asian nations as well as their plans for the future--plans based at least in part on the destruction of Japan's war-making capacity and the distribution of some of its industrial machinery as reparations.

"For our part, I wish to state that the position of the Philippine Government on this question has been made abundantly clear in the course of our prolonged discussions. Ours is a stand uncolored by emotion or passion. We regard Japan not simply as a vanquished enemy that must be compelled to make reparations for injuries it has inflicted upon us, but as a

neighbor country that must be integrated into the economic life of Asia and made in the future to live at peace with the rest of us. Indeed, our major concern at this moment is not so much the exaction of our 'pound of flesh', since it is not possible to set a measurable price for the injuries we have suffered at the hands of Japan. Our principal concern, rather, is that having made due provision for a reasonable level of economic life for the Japanese people, we must insist on the policies already adopted by this Commission to win them over to the ways of peace and democracy and to take away from them the capacity for waging aggressive war.

"We have approved a policy decision on the level of economic life for Japan. There may be some question as to whether the removal of certain items for reparations would further depress the level of Japanese economy below the standard we have set. But regardless of its effect on Japanese economy, we hold that Japan must be stripped of all war and war-supporting industries, such as aircraft and munitions factories. With respect to non-military items, we hold that the need of the claimant countries should have priority over the need of Japan, wherever it can be demonstrated that these countries can take over such machinery and equipment to replace what they have lost or to raise themselves to a level where they will not be subject to the domination of revived Japanese industries or to the political and military threat that would follow such industrial revival.

"I submit that the time has come to face these issues squarely and dispose of them once and for all. We gain nothing by continued delay and irresolution. Indeed our indecision puts us in danger of falling into the trap of yet another vicious circle. Seeing Asia in turmoil, we are tempted to sit back and wait until things have settled down a bit, ignoring the fact that our inaction helps to promote the very chaos which we should strive at all cost to forestall.

"Some may feel that we can afford to debate the problem of Japan until doomsday. I imagine they have their reasons for feeling as they do. I feel duty-bound, however, to remind them that history in Asia is moving with dynamic force and jet-propelled speed. 'Doomsday' in Asia is no longer as distant as the millenium. It could be next year; it could be tomorrow. All the more reason for acting today.

"The welfare of our peoples and the peace of the world require that we make a new and resolute effort to settle the problem of Japan without further delay."

Mr. Chairman, I have been instructed by my Government to make this statement of record. I thank you.

b. Secretary General's Report on Procedural Precedents

MR. BUTTERWORTH: I would like to make a suggestion under "Other Business". It will be recalled that the Chinese member sought of the Secretary General a statement regarding past precedent in the matter of voting. Since the minutes of the last meeting have been held over for approval at the request of the Philippine representative until the next meeting, I make the suggestion that the Secretary General circulate to the members of the Commission the opinion which he has compiled of the records of the past and that this matter be considered at the next meeting in connection with the approval of the minutes, if consideration need be given it.

MR. PANYUSHKIN: Mr. Chairman, if nobody desires to speak on the statement of the Philippine representative, I would like to say a few words on another question.

I would like to draw the attention of the members of the Commission to the fact that one question has been dropped from our agenda. I have in mind the question of labor policy in Japan. Perhaps this was done on the instructions of our Chairman pro tempore. I cannot help but protest against this. I believe that our Chairman has taken this action in accordance with his own interpretation of

paragraph 2, Article V of the Terms of Reference. It is clear from that paragraph that there is no difference between procedural questions and questions of substance. If we follow the practices introduced by the Chairman some other questions also may disappear from the agenda of this Commission. Perhaps it would be those questions which are undesirable for the United States delegation to discuss. I don't think that we can follow such tactics as used by the United States representative. I have to repeat once more that I consider the interpretation given by the Chairman to the results of the votes in respect to the dropping of the labor question from the agenda as illegal, and I also consider that the action of the Chairman which resulted in dropping the item from the agenda as incorrect.

MR. BUTTERWORTH: I don't think I need take up the time of the Commission by any elaborate statement. I do want to address myself to one aspect of the Soviet representative's remarks, to record that the danger is neither apparent nor real that the United States member, acting as chairman, will omit from the agenda any items which other members might conceivably think would be embarrassing to him in his official capacity, because, as all the members of the Commission know, it is the current practice that members can introduce resolutions at will and it has been customary also in the Commission that other members under the item of other business can talk at will.

If there is no further business before the Commission--

MR. PANYUSHKIN: Mr. Chairman, I would like to say a few words. The question of dropping the item of labor policy from the agenda of this Commission was the result of an incorrect interpretation by you of the article of the Terms of Reference, and I draw the attention of the members of the Far Eastern Commission just to the fact that I cannot agree with your interpretation of this paragraph since your interpretation is not correct.