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FEC-011

-FEC-011/77

TOP SECRET

COPY NO. _____

FEC-0116 March 1946FAR EASTERN COMMISSIONINTERIM PROCEDURES FOR RESTITUTION
OF IDENTIFIABLE LOOTED PROPERTYNote by the Secretary General

1. The enclosure, the Policy of the United States regarding Interim Procedures for Restitution of Identifiable Looted Property Found Within Japan, is circulated for the information and consideration of the Far Eastern Commission.

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

NELSON T. JOHNSON
Secretary General

FEC-011

SECRETE N C L O S U R E

STATEMENT OF UNITED STATES POLICY
REGARDING REQUEST FROM CHINESE FOR RETURN OF DREDGER
CHIEN SHO AND LIGHT CRUISER YAT SEN: INTERIM PROCEDURES FOR
RESTITUTION OF IDENTIFIABLE LOOTED PROPERTY FOUND WITHIN JAPAN.

1. For the time being the government of any of the United Nations at war with Japan should be permitted to take delivery, at a point in Japan designated by the SCAP, of property (with the exception of gold and other precious metals, tin, precious gems, foreign exchange and other securities, and ships and waterborne craft of all kinds) looted from it or from any of its nationals by the Japanese Government, Japanese armed forces or Japanese nationals, provided that:

a. Request for such restitution, accompanied by available evidences of ownership, has been presented by such government to the United States Government for transmission to SCAP.

b. The SCAP is satisfied (a) as to the identification of such property: and (b) that such claimed items come under the following definition of looted property restitutable from Japan, i.e., that they were removed from areas under occupation by Japanese armed forces subsequent to the date of such occupation (but not earlier than July 7, 1937), and that they were owned by the government or nationals of the claimant nation at the time when the Japanese Government, armed forces, or nationals took possession thereof. The question of payment, if any, by the Japanese at the time of acquisition should be disregarded.

c. The SCAP does not deem the employment of such property within Japan necessary for the requirements of the occupying forces or for the accomplishment of the objectives of the occupation.

d. Proper receipt has been furnished to SCAP upon delivery, together with an undertaking on the part of the claimant government to make appropriate equitable adjustment and abide by final inter-Allied decision in respect of any conflicting claims to such property that may be made by other nations or their nationals.

SECRET

2. In cases where SCAP is not satisfied that the conditions set forth in subparagraph 1 b. above have been met, he should be authorized in his discretion to withhold disposition of the claimed property pending consideration of the matter by an appropriate inter-Allied agency or by the interested governments.

3. The SCAP should be requested to recommend appropriate arrangements to permit representatives of nations occupied by the Japanese to engage in investigations within Japan directed towards location or identification of looted property.

4. The SCAP should report to JCS for transmission to the State, War and Navy Departments his action on all requests for restitution.

5. As an exception to the foregoing procedure and as a matter of expediency the Chinese Government should be permitted to take possession of looted vessels, Chien Sho and Yat Sen at points designated by you, upon proper receipt and undertaking on the part of the Government of China to make appropriate equitable adjustment or abide by final inter-Allied decision in respect of any conflicting claims to these vessels that may be made by other nations or their nationals.

SECRET

2. In cases where SCAP is not satisfied that the conditions set forth in subparagraph 1 b. above have been met, he should be authorized in his discretion to withhold disposition of the claimed property pending consideration of the matter by an appropriate inter-Allied agency or by the interested governments.

3. The SCAP should be requested to recommend appropriate arrangements to permit representatives of nations occupied by the Japanese to engage in investigations within Japan directed towards location or identification of looted property.

4. The SCAP should report to JCS for transmission to the State, War and Navy Departments his action on all requests for restitution.

5. As an exception to the foregoing procedure and as a matter of expediency the Chinese Government should be permitted to take possession of looted vessels, Chien Sho and Yat Sen at points designated by you, upon proper receipt and undertaking on the part of the Government of China to make appropriate equitable adjustment or abide by final inter-Allied decision in respect of any conflicting claims to these vessels that may be made by other nations or their nationals.

SECRETCOPY NO. //FEC 011/125 March 1946FAR EASTERN COMMISSIONINTERIM PROCEDURES FOR RESTITUTION
OF IDENTIFIABLE LOOTED PROPERTYNote by the Secretary General

1. The enclosure, the amended Policy of the United States regarding Interim Procedures for Restitution of Identifiable Looted Property Found Within Japan, is circulated for the consideration of the Far Eastern Commission and is referred to COMMITTEE NO. 1: REPARATIONS.

2. It will be noted that only paragraph 1a has been amended in this paper.

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

NELSON T. JOHNSON
Secretary General

FEC 011/1

SECRETENCLOSURE

STATEMENT OF UNITED STATES POLICY
REGARDING REQUEST FROM CHINESE FOR RETURN OF DREDGER
CHIEN SHO AND LIGHT CRUISER YAT SEN: INTERIM PROCEDURES FOR
RESTITUTION OF IDENTIFIABLE LOOTED PROPERTY FOUND WITHIN JAPAN.

1. For the time being the government of any of the United Nations at war with Japan should be permitted to take delivery, at a point in Japan designated by the SCAP, of property (with the exception of gold and other precious metals tin, precious gems, foreign exchange and other securities, and ships and waterborne craft of all kinds) looted from it or from any of its nationals by the Japanese Government, Japanese armed forces or Japanese nationals, provided that:

a. Request for such restitution, accompanied by available evidences of ownership, has been presented by such government to the United States Government for transmission to SCAP, except that Allied powers having in Japan representatives authorized to act for their government in matters relating to restitution will submit such request directly to SCAP through such representative.

b. The SCAP is satisfied (a) as to the identification of such property: and (b) that such claimed items come under the following definition of looted property restitutable from Japan, i.e., that they were removed from areas under occupation by Japanese armed forces subsequent to the date of such occupation (but not earlier than July 7, 1937), and that they were owned by the government or nationals of the claimant nation at the time when the Japanese Government, armed forces, or nationals took possession thereof. The question of payment, if any, by the Japanese at the time of acquisition should be disregarded.

c. The SCAP does not deem the employment of such property within Japan necessary for the requirements of the occupying forces or for the accomplishment of the objectives of the occupation.

d. Proper receipt has been furnished to SCAP upon delivery, together with an undertaking on the part of the claimant government to make appropriate equitable adjustment and abide by final inter-Allied decision in respect of any conflicting claims to such property that may be made by other nations or their nationals.

SECRET

2. In cases where SCAP is not satisfied that the conditions set forth in subparagraph 1 b. above have been met, he should be authorized in his discretion to withhold disposition of the claimed property pending consideration of the matter by an appropriate inter-Allied agency or by the interested governments.

3. The SCAP should be requested to recommend appropriate arrangements to permit representatives of nations occupied by the Japanese to engage in investigations within Japan directed towards location or identification of looted property.

4. The SCAP should report to JCS for transmission to the State, War and Navy Departments his action on all requests for restitution.

5. As an exception to the foregoing procedure and as a matter of expediency the Chinese Government should be permitted to take possession of looted vessels, Chien Sho and Yat Sen at points designated by you, upon proper receipt and undertaking on the part of the Government of China to make appropriate equitable adjustment or abide by final inter-Allied decision in respect of any conflicting claims to these vessels that may be made by other nations of their nationals.

FEC 011/2

26 March 1946

FAR EASTERN COMMISSION

RESTITUTION OF LOOTED CULTURAL OBJECTS

Note by the Secretary General

1. The enclosure, a proposed policy on the subject of restitution of looted cultural objects, was unanimously agreed to by COMMITTEE NO. 1: REPARATIONS at its fourth meeting on 25 March 1946, and is forwarded herewith for the consideration of the Far Eastern Commission.

2. The representative of the U. S. S. R. reserved the right of his government to object to the phrase "18 September 1931" in paragraph 1 of the enclosure.

NELSON T. JOHNSON
Secretary General

FEC 011/2

E N C L O S U R ERESTITUTION OF LOOTED CULTURAL OBJECTS

1. Without prejudice to subsequent extension of the scope of restitution, immediate steps should be taken to restore to countries at war with Japan identifiable cultural objects found in Japan which were removed by the Japanese or their agents from areas occupied by Japan, subsequent to the outbreak of hostilities or to Japanese occupation, whichever was earlier, but not prior to 18 September 1931. These objects shall be restored irrespective of whether any payment was made by the Japanese.

2. Representatives of member states of the Far Eastern Commission should inform their governments of the foregoing statement of policy and urge the drawing up of bilateral arrangements with the governments of those countries whose territories were wholly or partly occupied by Japan for the restitution of looted cultural objects found within their jurisdiction and claimed by Allied Powers.

3. The statement of policy set forth above should be transmitted through proper channels to countries other than those represented on the Far Eastern Commission in which looted cultural objects may be found, with a suggestion that such countries undertake through bilateral arrangements to restore these objects.

FEC 011/3

27 March 1946

FAR EASTERN COMMISSION

RESTITUTION OF LOOTED CULTURAL OBJECTS

Note by the Secretary General

1. The Far Eastern Commission, following discussion at its fifth meeting, 27 March 1946, unanimously agreed to return FEC 011/2 Restitution of Looted Cultural Objects, to COMMITTEE NO. 1: REPARATIONS, for further consideration.

2. The Commission unanimously agreed that the word "invite" should be substituted for the word "urge" in line 3 of paragraph 2 of FEC 011/2.

NELSON T. JOHNSON
Secretary General

FEC 011/3

FEC 011/4

16 April 1946

FAR EASTERN COMMISSION

JURISDICTION OF FAR EASTERN COMMISSION
WITH RESPECT TO LOOTED PROPERTY

(Reference SC 008)

Note by the Secretary General

1. The Chairman of COMMITTEE NO. 1: REPARATIONS presented the following report (SC 008) to the STEERING COMMITTEE on 4 April 1946:

"The Reparations Committee desires guidance on whether The Far Eastern Commission is competent to consider the eligibility of Korea, Siam and Portugal to submit claims for the restitution of property looted by the Japanese, upon which action may be taken by the Supreme Commander for the Allied Powers."

2. The enclosure, a proposal by the United States member of the STEERING COMMITTEE, was unanimously approved as an answer to the query of the Chairman of COMMITTEE NO. 1: REPARATIONS by the STEERING COMMITTEE at its ninth meeting, 16 April 1946, is circulated herewith for the consideration of the Far Eastern Commission.

NELSON T. JOHNSON
Secretary General

FEC 011/4

E N C L O S U R EJURISDICTION OF FAR EASTERN COMMISSION
WITH RESPECT TO LOOTED PROPERTY

1. The Far Eastern Commission is competent to determine policy with respect to the restitution of property looted by the Japanese and found in Japan.
2. In carrying out policy so determined by the Far Eastern Commission the Supreme Commander for the Allied Powers would necessarily be called upon to consider all information and statements of claim that might be brought before him either through the regular diplomatic channel or otherwise, including claims by Siam, Korea and Portugal.
3. The question, therefore, whether the Far Eastern Commission is competent to pass on the eligibility of Siam, Korea and Portugal to present claims, need not arise.
4. The extent to which the Far Eastern Commission might as a matter of policy wish to instruct the Supreme Commander for the Allied Powers in regard to returning property found in Japan to the rightful holders would appear to be a matter for the Commission to determine.

FEC 011/5

25 April 1946

FAR EASTERN COMMISSION

RESTITUTION OF LOOTED PROPERTY IN THE FAR EAST

Note by the Secretary General

The enclosure, a United Kingdom paper embodying proposals for a policy on restitution of looted property in the Far East submitted by the United Kingdom Delegate, is circulated herewith for the consideration of the Far Eastern Commission and is referred to COMMITTEE NO. 1: REPARATIONS.

NELSON T. JOHNSON
Secretary General

Ref. "Cultural"

FEC 011/5

E N C L O S U R ERESTITUTION OF LOOTED PROPERTY IN THE FAR EAST

1. The following three general principles should apply to the restitution of looted property in the Far East:

a. the definition of Restitution adopted at the Paris Conference, suitably amended, should be applied in the Far East. (See Appendix "A")

b. a clause should be added to the Paris definition of restitution to provide for the return of Allied property removed by the Japanese to another Allied territory;

c. restitution should be confined to property looted from an Allied Territory after the outbreak of the last war in the Pacific, i.e., after July 1937 in the case of China and after December 1941 in the case of other Allied territories

2. It is proposed that, on the basis of the three principles set out in paragraph 1, the Far Eastern Commission should adopt the following agreement on restitution policy:

a. The question of the restitution of property removed by the Japanese from Allied countries must be examined in all cases in the light of the United Nations Declaration of 5th January, 1943. (See Appendix "B")

b. In general, restitution shall be confined to identifiable goods which were removed from the occupied country with or without payment.

c. In cases where articles removed by the enemy cannot be identified, the claim for replacement shall be part of the general reparation claim of the country concerned.

d. As an exception to the above principles, objects (including books, manuscripts and documents) of an artistic, historical, scientific (excluding equipment of an industrial character), educational or religious character which have been looted by the Japanese or their agents shall so far as possible, be replaced by equivalent objects if they are not restored.

e. With respect to the restitution of looted goods which are still in the hands of Japanese concerns or residents of Japan, the burden of proof of the original ownership of the goods shall rest on the claimants.

f. All necessary facilities under the auspices of the S. C. A. P. shall be given to the Allied States to send expert missions into Japan to search for looted property and to identify, store and remove it to its country of origin.

g. Japanese or Japanese agents who are holders of looted property shall be compelled to declare it to the S. C. A. P.; stringent penalties shall be attached to infractions of this obligation.

h. The Governments of the countries adhering to this Agreement shall return to Governments of the Allied territory concerned any property which may have been removed to their territories by the Japanese or their agents from another Allied territory.

APPENDIX "A"Definition of Restitution adopted at Paris Conference of 17
January 1946

1. The question of restitution of property removed by the Germans from Allied countries must be examined, in all cases, in light of the declaration of January 5, 1943.

2. Restitution will be limited in the first instance to identifiable goods which existed at the time of occupation of the country concerned and which have been taken by the enemy by force from the territory of that country. Measures of restitution can also be extended to cover identifiable goods produced during the period of occupation and which have been obtained by force.

3. All other property removed by the enemy is eligible for restitution to the extent consistent with reparations. However the United Nations retain the right to receive from Germany compensation for this other property removed as reparations.

4. As to goods of a unique character, restitution of which is impossible, a special instruction will fix the categories of goods which will be subject to replacement, the nature of these replacements, and the condition under which such goods could be replaced by equivalent objects.

5. Relevant transportation expenses within the present German frontiers and any repairs necessary for proper transportation, including the necessary manpower, material, and organization, are to be borne by Germany and are included in restitution. Expenses outside Germany are borne by the recipient country.

6. The Control Council will deal on all questions of restitution with the government of the country from which the objects were looted at the time of their removal into Germany.

APPENDIX "B"INTER-ALLIED DECLARATION AGAINST ACTS OF DISPOSSESSION COMMITTED
IN TERRITORIES UNDER ENEMY OCCUPATION OR CONTROL (WITH COVERING
STATEMENT BY HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM AND
EXPLANATORY MEMORANDUM ISSUED BY THE PARTIES TO THE DECLARATION)

London, 5th January, 1943.

DECLARATION

The Governments of the Union of South Africa; the United States of America; Australia; Belgium; Canada; the Czechoslovak Republic; the United Kingdom of Great Britain and Northern Ireland; Greece; India; Luxembourg; the Netherlands; New Zealand; Norway; Poland; the Union of Soviet Socialist Republics; Yugoslavia; and the French National Committee:

Hereby issue a formal warning to all concerned, and in particular to persons in neutral countries, that they intend to do their utmost to defeat the methods of dispossession practiced by the Governments with which they are at war against the countries and peoples who have been so wantonly assaulted and despoiled.

Accordingly, the Governments making this Declaration and the French National Committee reserve all their rights to declare invalid any transfers of, or dealings with, property, rights and interests of any description whatsoever which are, or have been situated in the territories which have come under the occupation of control, direct or indirect, to persons (including juridical persons resident in such territories. This warning applies whether such transfers or dealings have taken the form of open looting or plunder or of transactions apparently legal in form, even when they purport to be voluntarily effected.

The Governments making this Declaration and the French National Committee solemnly record their solidarity in this matter.

Note on the Meaning, Scope and Application of the
Inter-Allied Declaration Against Acts of Dispossession
Committed in Territories Under Enemy Occupation or Control

1. The Governments who have to-day issued this Declaration include all the Governments of the United Nations who have suffered the invasion of their national territory by brutal and rapacious enemies.

2. The Declaration is being communicated on behalf of all parties to the Governments of the other United Nations, with an invitation to consider marking their adherence to the principles embodied in the Declaration by some pronouncement of their own. The Declaration is also being brought to the notice of neutral Governments. The parties to the Declaration are collaborating to arrange the maximum publicity for it, through the press and by broadcasting.

3. The Declaration is in the form of a general statement of the attitude of the participating Governments and of the French National Committee towards the acts of dispossession, of whatever nature, which have been, and are being increasingly, practiced by the enemy Powers in the territories which they have occupied or brought under their control by their successive aggressions against the free peoples of the world. The Declaration makes it clear that it applies to transfers and dealings effected in territory under the indirect control of the enemy (such as the former "unoccupied zone" in France) just as much as it applied to such transactions in territory which is under his direct physical control.

4. In the Declaration the parties "reserve all their rights" to declare invalid transfers of or dealings with property, rights, etc., which have taken place during the period of enemy occupation or control of the territories in question. It is obviously impossible for a general declaration of this nature to define exactly the action which will require to be taken when victory has been won and the occupation or control of foreign territory by the enemy has been brought to an end. Dispossession has taken many forms and all will require consideration in the light of circumstances which may well vary from country to country. The wording of the Declaration, however, clearly covers all forms of looting to which the enemy has resorted. It applies, e.g., to the stealing or forced purchase of works of art as much as to the theft or forced transfer of bearer bonds.

5. In so far as transfers or dealings are confined in their scope to the territory of a particular country, the procedure of examination and the decision reached regarding their invalidation will fall to be undertaken by the legitimate Government of the country concerned on its return. The Declaration marks, however, the solidarity in this important matter of all the participating Governments and of the French National Committee, and this means that they are actually pledged to assist one another as may be required, and, in conformity with the principles of equity, to examine and if necessary to implement the invalidation of transfers or dealings with property, rights, etc., which may extend across national frontiers and require action by two or more Governments.

6. The expression of solidarity between the parties also means that they are agreed so far as possible to follow in this matter similar lines of policy, without derogation to their national sovereignty and having regard to the differences prevailing in the various countries. The parties making the Declaration have accordingly decided as a first step in this direction to establish a committee of experts, who will consider the scope and sufficiency of the existing legislation of the Allied countries concerned for the purpose of invalidating transfers or dealings of the nature indicated in the Declaration in all proper cases. The Committee have also been asked to receive and collect available information upon the methods adopted by the enemy Governments and their adherents to lay their hands upon property, rights, etc., in the territories which they have occupied or brought under this control. When a report is available from this committee of experts the whole question will be reviewed by the Governments making the Declaration and the French National Committee. The other Governments of the United Nations will be informed of the results of this enquiry.

FEC 011/6

26 April 1946

FAR EASTERN COMMISSION

JURISDICTION OF FAR EASTERN COMMISSION WITH RESPECT TO LOOTED
PROPERTY

Note by the Secretary General

1. The Far Eastern Commission, at its tenth meeting, 25 April 1946, unanimously agreed to refer FEC 011/4, Jurisdiction of Far Eastern Commission With Respect to Looted Property, to COMMITTEE NO. 1: REPARATIONS for consideration.

2. The French Representative proposed that paragraph 2 of FEC 011/4 be amended in one of the following ways:

a. Delete the words "including claims by Siam, Korea and Portugal";

b. Add the words "subject to priority rights of those nations that participated in the war against Japanese aggression".

NELSON T. JOHNSON
Secretary General

FEC 011/6

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FEC 011/7

2 May 1946

FAR EASTERN COMMISSION

INTERIM PROCEDURES FOR RESTITUTION OF LOOTED PROPERTY
FOUND IN JAPAN

Note by the Secretary General

1. The enclosure, the United States policy regarding interim procedures for restitution of looted property found in Japan, is circulated herewith for the information of the Far Eastern Commission and is referred to COMMITTEE NO. 1: REPARATIONS.
2. A certified copy of this U. S. policy, which has been forwarded to the Supreme Commander for the Allied Powers, has been filed with the Commission by the United States Government in accordance with Section III, paragraph 4, of the Terms of Reference.
3. The attention of all concerned is invited to the classification of this document which prohibits the dissemination of the information contained therein to unauthorized persons or to the press.

NELSON T. JOHNSON
Secretary General

CONFIDENTIAL

Serial No. 30

E N C L O S U R EINTERIM PROCEDURES FOR RESTITUTION OF LOOTED PROPERTY
FOUND IN JAPAN

The following received from State, War and Navy Department is forwarded for your (SCAP) guidance. Chinese requests for return of dredger CHIEN SHO and light cruiser YAT SEN are approved. However, return of cruiser is subject to decision by you that it is not required for accomplishment of essential objectives of your mission. You may permit authorized agent of Chinese Government to man and take possession of these two vessels at points designated by you, upon your receipt and undertaking on the part of the Government of China to make appropriate equitable adjustment or abide by final inter-Allied decision in respect of any conflicting claims to these vessels that may be made by other nations or their nationals.

The following directive approved by the State, War and Navy Departments will supplement paragraph 28 of Basic Directive for Post-Surrender Military Government in Japan Proper* and will apply for the time being pending inter-governmental concurrence in policies and procedures as to restitution.

You (SCAP) will require the Japanese Government to effect prompt restitution of identifiable looted property of the United Nations at war with Japan providing:

A. That request for restitution, accompanied by all available evidences of ownership, has been presented to U. S. Government through normal diplomatic channels by a United Nations Government at war with Japan representing claimant individuals, corporations, or official agencies, and has been transmitted to you by the Joint Chiefs of Staff; except that Allied powers having in Japan representatives authorized to act for their government in matters relating to restitution will submit such request directly to you through such representatives.

*FEC 015

FEC 011/7

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B. That you (SCAP) are satisfied (1) that you have located and identified the items claimed, (2) that such claimed items were removed from areas occupied by Japanese armed forces subsequent to the date of such occupation (but not earlier than 7 July 1937) and (3) that such claimed items were owned by the government or nationals of the claimant nation at the time when the Japanese Government, armed forces or nationals took possession of them;

C. That you (SCAP) do not deem the employment of such property within Japan to be necessary for the requirements of your forces or for the accomplishment of the objectives of the occupation;

D. That the claimant government accepts delivery of such property at such point as is designated by you;

E. That proper receipt is furnished to you (SCAP) upon delivery together with an undertaking on the part of the claimant government to make appropriate equitable adjustment and abide by final inter-Allied decision in respect of any conflicting claims to such property that may be made by other nations or their nationals.

When you (SCAP) are not satisfied that foregoing conditions have been met, you are authorized to withhold disposition of the claimed property in your discretion pending consideration of the matter by an appropriate inter-Allied agency or by the interested governments.

Ships and waterborne craft, gold and other precious metals, tin, precious gems and foreign exchange and other securities are excluded from the foregoing directive, and will be covered by separate directives now being prepared.

Desired that you (SCAP) recommend appropriate arrangements to permit representatives of nations occupied by the Japanese to engage in investigations within Japan directed towards location or identification of looted property.

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The substance of this directive is being transmitted through diplomatic channels to the Governments of Australia, Canada, China, France, Great Britain, India, Netherlands, New Zealand, Philippines and Russia.

Desired that you (SCAP) report to the Joint Chiefs of Staff for transmission to the State, War and Navy Departments your action on all requests for restitution, including disposition of Chinese vessels CHIEN SHO and YAT SEN.

CONFIDENTIALCOPY NO. 143FEC-011/814 May 1946FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY
(Reference SC-014)Note by the Secretary General

1. The enclosure, a proposed policy for restitution of looted property, was approved by COMMITTEE NO. 1: REPARATIONS at its fourteenth meeting, 6 May 1946, and forwarded to the STEERING COMMITTEE for its consideration. The STEERING COMMITTEE, at its thirteenth meeting, 14 May 1946, unanimously agreed to forward the document to the Far Eastern Commission, for its consideration, together with the reservation referred to in paragraph 3 below, and contained in the appendix.

2. Paragraphs 1 - 7 constitute the policy proper. Paragraphs 8, 9 and 10 constitute methods for implementing the policy through channels outside the purview of the U. S. Government and the Supreme Commander for the Allied Powers.

3. The appendix contains the position of the Canadian, Chinese, United Kingdom and Soviet members of Committee No. 1 with regard to the meaning of the words "recent conflict" in the enclosure.

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

NELSON T. JOHNSON
Secretary General

FEC-011/8

CONFIDENTIALENCLOSURERESTITUTION OF LOOTED PROPERTY

1. Immediate steps shall be taken to restore to Allied countries objects in the four categories listed below which were found in Japan and which are identified as having been located in an Allied country at the time of occupation of that country, and which were removed by fraud or duress by the Japanese or their agents during the recent conflict. The fact that payment was made shall be disregarded unless there is conclusive evidence that fraud or duress did not take place.

- a. Industrial and transportation machinery and equipment
- b. Gold, other precious metals, precious gems, foreign securities, foreign currencies, and other foreign exchange assets
- c. Cultural objects
- d. Agricultural products and industrial raw materials

2. Immediate steps shall be taken to restore to Allied countries ships of all types and sizes found in Japanese waters which are identified as having been registered in an Allied country at the time of seizure or sinking by the Japanese or their agents, or at the time of acquisition by the Japanese or their agents by fraud or duress during the recent conflict. The fact that payment was made shall be disregarded unless there is conclusive evidence that fraud or duress did not take place.

3. Ships damaged or sunk and found in Japanese waters, on the request of the claimant country shall as a matter of priority be salvaged, repaired, or refitted as may be necessary to permit their return in a condition substantially similar to that at the time they came into Japanese hands. The costs of necessary salvage, repair and refitting in Japan shall be borne by the Japanese Government but shall be applied against the reparations apportionment to the claimant country.

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4. The processing of claims for industrial and transportation machinery and equipment found in Japan shall not be permitted in general to delay removals of machinery and equipment on reparations account, but no item for which a restitution claim has been received by the Supreme Commander for the Allied Powers shall be allocated on reparations account until the claim has been acted upon. On the other hand, no restitution claim shall be recognized for articles already allocated to particular countries on reparations account.

5. Relevant transportation expenses within Japan and any repairs necessary for proper transportation including the necessary manpower, materials and organization are to be borne by Japan and are included in restitution. Expenses outside Japan are borne by the recipient country.

6. Restitution claims for property other than ships should be made by the government of the Allied country from whose territory the property claimed was removed; and restitution made to that government. In the case of ships restitution claims should be filed by, and restitution made to, the government of the country whose flag the vessels were wearing or on whose register of shipping the vessels were borne at the time of sinking, seizure or acquisition as specified in paragraph 2.

7. No items shall be included in Japanese export programs which are subject to restitution as defined above. If items made subjects to restitution should be exported for purchase, equitable compensation shall be made to the country to which the items exported should have been restored.

8. Without prejudice to other arrangements which may be made between the interested parties, the foregoing restitution policies, especially those in paragraph 6, are not intended to give the Allied government concerned the right to withhold from a person who is a national of another Allied Power any property as to which he may establish a legitimate title.

FEC 011/8

CONFIDENTIAL

9. The Far Eastern Commission recommends to the Government of those countries within whose territories may be found looted objects such as

- a. Industrial and transportation machinery and equipment
- b. Gold, other precious metals, precious stones, foreign securities, foreign currencies, and other foreign exchange assets
- c. Cultural objects
- d. Agricultural products and industrial raw materials
- e. Ships

that bilateral arrangements be drawn up providing for restitution according to these principles.

10. The Far Eastern Commission requests the U. S. Government to forward this statement of policy through the usual channels to States which are not represented on the Far Eastern Commission and within whose territories such looted objects may be found.

SC 014

A P P E N D I XRESERVATIONSCANADA

"The Canadian Government feels that it would be undesirable to provide for the presentation to Japan of claims regarding property seized prior to September 18, 1931."

CHINA

"In principle, the Chinese Delegation sympathizes with the Soviet position that restitution should apply to objects looted during previous periods of aggression on the part of Japan. However, in view of the practical administrative limitations of SCAP under the present circumstances, the Chinese Delegation is of the opinion that the date September 18, 1931, which marks the beginning of the recent conflict, should be taken as the date of application in the case under discussion. This is without prejudice to Chinese claims for restitution of objects looted prior to that date and the Chinese Government reserves the right to seek the subsequent restitution of such objects through peace with Japan or by other diplomatic means.

UNION OF SOVIET SOCIALIST REPUBLIC

"In so far as, at one of the last meetings, the representative of the Government of the United States on Committee No. 1 put the question of whether the Soviet side would insist upon an earlier date in relation to questions of reparations, and in so far as the representative of New Zealand expressed his opinion that in case the Soviet side would not use, as precedent, the deleting of the words 'during the recent conflict' from Cl-002/4 (Restitution of Looted Property), he would agree with such a deletion, I may at the present time bring to the attention of Committee No. 1 that the Soviet side has no intention of insisting upon the earlier date, say 1918, in discussing the question of reparations.

Since the question about the date is very clear now, I ask you to strike out the above mentioned date or to indicate an earlier date, say 1918. In the case no period be mentioned, that, in general, will be acceptable to us; this would mean that any side may present claims for restitution of property looted by the Japanese in the period prior to 1937 or 1931."

SC 014A P P E N D I XUNITED KINGDOM

"In the opinion of the United Kingdom, restitution should be confined to property looted from an Allied territory after the outbreak of the last war in the Pacific, i.e., after July 1937 in the case of China and after December 1941 in the case of other Allied territories."

FEC 011/8

Appendix

CONFIDENTIALCOPY NO. 139FEC-011/921 May 1946FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY
(Reference SC-014, FEC 011/8)Note by the Secretary General

1. The Steering Committee, in its fourteenth meeting, 21 May 1946, unanimously agreed that SC-014, Restitution of Looted Property (circulated to the Commission as FEC-011/8), should be submitted to the Commission for consideration and decision as to the phrase "during the recent conflict" in paragraph 1 of the paper, together with the reservations in this regard of the Canadian, Chinese, United Kingdom, and Soviet members of Committee No. 1, as indicated in the Appendix.

2. It was the unanimous recommendation of the Steering Committee that, after decision on this point by the Commission, the paper should then be referred back to the Steering Committee for reconsideration as a whole.

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

NELSON T. JOHNSON
Secretary General

FEC-011/9

CONFIDENTIALCOPY NO. 135FEC 011/1023 May 1946FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY

(Reference: FEC 011/8, FEC 011/9, SC 014)

Note by the Secretary General

1. The Far Eastern Commission, at its twelfth meeting, 22 May 1946, considered FEC 011/8 and FEC 011/9 and it was agreed, pending confirmation by the United Kingdom and Netherlands Representatives, that the phrase "during the recent conflict" should be deleted in paragraphs 1 and 2 of FEC 011/8, and that no date be specified prior to which claims against Japan for looted property would not be valid.

2. FEC 011/8 and FEC 011/9 are referred back to the Steering Committee for consideration in the light of the above agreement.

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

NELSON T. JOHNSON
Secretary General

FEC 011/10

FEC-011/11

6 June 1946

FAR EASTERN COMMISSION

RESTITUTION OF LOOTED PROPERTY

Note by the Secretary General

1. The enclosure, a United Kingdom reservation on the paper FEC-011/8, Restitution of Looted Property, as submitted by the United Kingdom member of the Steering Committee at its sixteenth meeting, 4 June 1946, is circulated herewith for the information of the Far Eastern Commission, and is referred to the STEERING COMMITTEE for consideration.

2. The enclosure should be considered in connection with FEC-011/8, FEC-011/9, and FEC-011/10.

NELSON T. JOHNSON
Secretary General

FEC-011/11

ENCLOSURERESTITUTION OF LOOTED PROPERTY

His Majesty's Government in the United Kingdom are prepared to agree to the adoption of Paper F.E.C. 011/8 - Restitution of Looted Property, subject to the following reservation: -

The acceptance of paragraph 3, which reads:-

"Ships damaged or sunk and found in Japanese waters, on the request of the claimant country shall as a matter of priority be salvaged, repaired, or refitted as may be necessary to permit their return in a condition substantially similar to that at the time they came into Japanese hands. The costs of necessary salvage, repair and refitting in Japan shall be borne by the Japanese Government but shall be applied against the reparations apportionment to the claimant country."

is subject to the express condition that this in no way establishes a precedent for dealing with similar problems in other parts of the world.

If the reservation is admitted, His Majesty's Government wish to have the fact recorded in the Commission's Minute of Adoption.

CONFIDENTIALENCLOSURERESTITUTION OF LOOTED PROPERTY

1. Immediate steps should be taken to restore to Allied countries objects in the four categories listed below which are found in Japan and which are identified as having been located in an Allied country at the time of occupation of that country, and which were removed by fraud or duress by the Japanese or their agents. The fact that payment was made should be disregarded unless there is conclusive evidence that fraud or duress did not take place. Restitution of any object included in category a which follows should be deferred, however, so long as its retention is required for the safety of the occupation forces. In such cases the Supreme Commander for the Allied Powers should provide an explanation of reasons for retention and an estimated date of restoration

- a. Industrial and transportation machinery and equipment.
- b. Gold, other precious metals, precious gems, foreign securities, foreign currencies, and other foreign exchange assets.
- c. Cultural objects.
- d. Agricultural products and industrial raw materials.

2. Steps should be taken to restore to Allied countries ships of all types and sizes found in Japanese waters which are identified as having been registered in an Allied country at the time of seizure or sinking by the Japanese or their agents, or at the time of acquisition by the Japanese or their agents by fraud or duress. The fact that payment was made should be disregarded unless there is conclusive evidence that fraud or duress did not take place. Restitution of such Allied vessels should be accomplished as rapidly as conditions permit and should be completed not later than December 31, 1946.

3. Within the limits of feasibility, ships damaged or sunk

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and found in Japanese waters, on the request of the claimant country should as a matter of priority be salvaged, repaired, and refitted as may be necessary to permit their return in a condition substantially similar to that at the time they came into Japanese hands. The costs of necessary salvage, repair and refitting in Japan should be borne by the Japanese Government but should be applied against the reparations apportionment to the claimant country.

4. The processing of claims for industrial and transportation machinery and equipment found in Japan should not be permitted in general to delay removals of machinery and equipment on reparations account, but no item for which restitution claim has been received by the Supreme Commander for the Allied Powers should be allocated on reparations account until the claim has been acted upon. On the other hand, no restitution claim should be recognized for articles already allocated to particular countries on reparations account.

5. The claimant government should take delivery at a point in Japan designated by the Supreme Commander for the Allied Powers except that in the case of Allied vessels subject to restitution the Supreme Commander may at his discretion make delivery at Western Pacific points outside Japan whenever delivery will thereby be facilitated. Expenses incurred after delivery by the claimant government should be borne by that government, except that in the case of delivery within Japan, delivery transportation expenses within Japan and any dismantling, packing and repairs necessary for proper transportation, including the necessary manpower, materials and organization, should be borne by Japan and be included in restitution. The claimant government should indemnify the Supreme Commander for the Allied Powers against all claims made in respect of the property received.

SEC 011/12

CONFIDENTIAL

6. Restitution claims for property other than ships should be made by the government of the Allied country from whose territory the property claimed was removed; and restitution made to that government. In the case of ships restitution claims should be filed by, and restitution made to, the government of the country whose flag the vessels were flying or on whose register of shipping the vessels were borne at the time of sinking, seizure or acquisition as specified in paragraph 2.

7. No items should be included in Japanese export programs which the Supreme Commander for the Allied Powers considers as probably subject to restitution as defined above. If items later found to be subject to restitution should be exported, equitable compensation should be made to that country in which the items exported should have been restored.

8. Without prejudice to other arrangements which may be made between the interested parties, the foregoing restitution policies especially those in paragraph 6, are not intended to give the Allied government concerned the right to withhold from a person who is a national of another Allied Power any property as to which he may establish a legitimate title.

9. The Far Eastern Commission should recommend to the Government of those countries within whose territories may be found looted objects such as:

- a. Industrial and transportation machinery and equipment;
- b. Gold, other precious metals, precious gems, foreign securities, foreign currencies, and other foreign exchange assets;
- c. Cultural objects;
- d. Agricultural products and industrial raw materials;
- e. Ships;

That bilateral arrangements be drawn up providing for restitution according to these principles.

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10. The Far Eastern Commission should request the U.S. Government to forward this statement of policy through the usual channels to States which are not represented on the Far Eastern Commission and within whose territories such looted objects may be found.

FEC 011/13

23 July 1946

FAR EASTERN COMMISSION

RESTITUTION OF LOOTED PROPERTY

(Reference: FEC 011/12; FEC 011/8; SC 014/1; CI 002/8-9)

Note by the Secretary General

1. A decision of policy relative to Restitution of Looted Property (FEC 011/12) was unanimously approved by the Far Eastern Commission at its twentieth meeting, 18 July 1946.
2. The letter of transmittal of the Secretary General forwarding this decision on behalf of the Far Eastern Commission to the Secretary of State of the United States Government in accordance with the Terms of Reference, is circulated herewith as the enclosure.

NELSON T. JOHNSON
Secretary General

FEC 011/13

E N C L O S U R ELETTER OF TRANSMITTAL

18 July 1946

The Honorable James F. Byrnes
Secretary of State
Washington, D. C.

My dear Mr. Secretary:

The Terms of Reference of the Far Eastern Commission provide that one of the functions of the Commission should be to "formulate the policies, principles and standards in conformity with which the fulfillment by Japan of its obligations under the Terms of Surrender may be accomplished."

It is further provided that when such decisions are made by the Far Eastern Commission, "The United States Government shall prepare directives in accordance with the policy decisions of the Commission and shall transmit them to the Supreme Commander through the appropriate United States Government agency."

At the twentieth meeting of the Far Eastern Commission held at 2516 Massachusetts Avenue, Northwest, Washington, D. C., on 18 July 1946, the enclosed policy decision relative to Restitution of Looted Property, was unanimously approved.

As Secretary General of the Far Eastern Commission, I have been instructed to forward this decision to you on behalf of the Commission, in order that the appropriate directives may be prepared and transmitted to the Supreme Commander in accordance with the Terms of Reference.

In giving his approval to the statement of policy enclosed, the United States representative requested, that the following statement be included in the minutes of the Commission meeting, and the Commission agreed to its inclusion:

"At the 23rd meeting of Committee No. 1: Reparations the U. S. member agreed to the rejection of his amendment for the insertion of the words 'by the Supreme Commander for the Allied Powers' in paragraph 1 and 2 of the document but asked that it be recorded in the minutes of the committee and subsequently in the minutes of the Commission meeting that it is recognized that The Supreme Commander for the Allied Powers is the final implementing authority of policy decisions of the Far Eastern Commission."

Attention is invited particularly to paragraphs 9 and 10 of the enclosed policy decision, in which the Commission requests the United States Government "to forward this statement of policy through the usual channels to States which are not represented on the Far Eastern Commission and within whose territories such looted objects may be found." The Commission would appreciate, I am sure, information as to action taken in this connection.

Respectfully yours,

Nelson T. Johnson
Secretary General

FEC-011/14

5 August 1946

FAR EASTERN COMMISSION

RESTITUTION OF LOOTED PROPERTY

Note by the Secretary General

1. The enclosure, a United States directive to the Supreme Commander for the Allied Powers forwarding the statement of policy of the Far Eastern Commission on restitution of looted property, is circulated herewith for the information of the Far Eastern Commission.

2. This directive was forwarded to the Supreme Commander for the Allied Powers on 24 July 1946.

3. A certified copy of this United States policy directive to the Supreme Commander for the Allied Powers has been filed with the Commission in accordance with Section III, paragraph 4, of the Terms of Reference.

NELSON T. JOHNSON
Secretary General

FEC-011/14

ENCLOSURE

Searial No. 57

24 July 1946

RESTITUTION OF LOOTED PROPERTY

The following directive, prepared by the State Department to implement the policy adopted by the Far Eastern Commission on 18 July 1946 under the provisions of paragraph II, A, 1, of its terms of reference, has been received from the State, War, and Navy Departments for transmission to you for your guidance in accordance with paragraph III, 1, of those terms of reference:

"1. Immediate steps should be taken to restore to Allied countries objects in the 4 categories listed below which are found in Japan and which are identified as having been located in an Allied country at the time of occupation of that country, and which were removed by fraud or duress by the Japanese or their agents. The fact that payment was made should be disregarded unless there is conclusive evidence that fraud or duress did not take place. Restitution of any object included in category a which follows should be deferred, however, so long as its retention is required for the safety of the occupation forces. In such cases ~~the~~ Supreme Commander for the Allied Powers (SCAP) should provide an explanation of reasons for retention and an estimated date of restoration.

"a. Industrial and transportation machinery and equipment.

"b. Gold, other precious metals, precious gems, foreign securities, foreign currencies, and other foreign exchange assets.

"c. Cultural objects.

"d. Agricultural products and industrial raw materials.

"2. Steps should be taken to restore to Allied countries ships of all types and sizes found in Japanese waters which are identified as having been registered in an Allied country at the time of seizure or sinking by the Japanese or their agents, or at the time of acquisition by the Japanese or their agents by fraud or duress. The fact that payment was made should be disregarded unless there is conclusive

evidence that fraud or duress did not take place. Restitution of such Allied vessels should be accomplished as rapidly as conditions permit and should be completed not later than 31 December 1946.

"3. Within the limits of feasibility, ships damaged or sunk and found in Japanese waters, on the request of the claimant country should as a matter of priority be salvaged, repaired, or refitted, as may be necessary to permit their return in a condition substantially similar to that at the time they came into Japanese hands. The costs of necessary salvage, repair and refitting in Japan should be borne by the Japanese Government but should be applied against the reparations apportionment to the claimant country.

"4. The processing of claims for industrial and transportation machinery and equipment found in Japan should not be permitted in general to delay removals of machinery and equipment on reparations account, but no item for which restitution claim has been received by SCAP should be allocated on reparations account until the claim has been acted upon. On the other hand, no restitution claim should be recognized for articles already allocated to particular countries on reparations account.

"5. The claimant government should take delivery at a point in Japan designated by SCAP except that in the case of Allied vessels subject to restitution SCAP may at his discretion make delivery at Western Pacific points outside Japan whenever delivery will thereby be facilitated. Expenses incurred after delivery to the claimant government should be borne by that government, except that in the case of delivery within Japan, relevant transportation expenses within Japan and any dismantling, packing and repairs necessary for proper transportation, including the necessary man-power, materials, and organization, should be borne by Japan and be included in restitution. The recipient government should indemnify SCAP against all claims made in respect of the property received.

"6. Restitution claims for property other than ships should be made by the government of the Allied country from whose territory the property claimed was removed; and restitution made to that government. In the case of ships restitution claims should be filed by, and restitution made to, the government of the country whose flag the vessels were wearing or on whose register of shipping the vessels were borne at the time of sinking, seizure, or acquisition as specified in paragraph 2.

"7. No items should be included in Japanese export programs which SCAP considers as probably subject to restitution as defined above. If items later found to be subject to restitution should be exported, equitable compensation should be made to that country to which the items exported should have been restored.

"8. Without prejudice to other arrangements which may be made between the interested parties, the foregoing restitution policies especially those in paragraph 6, are not intended to give the Allied government concerned the right to withhold from a person who is a National of another Allied Power any property as to which he may establish a legitimate title.

"For SCAP's information the Far Eastern Commission has recommended to the government of those countries within whose territories may be found looted objects such as:

"a. Industrial and transportation machinery and equipment;

"b. Gold, other precious metals, precious gems, foreign securities, foreign currencies, and other foreign exchange assets;

"c. Cultural objects;

"d. Agricultural products and industrial raw materials;

"e. Ships;

that bilateral arrangements be drawn up providing for restitution according to these principles.

"The Far Eastern Commission has also requested the U.S. Government to forward this statement of policy through the usual channels to States which are not represented on the Far Eastern Commission and within whose territories such looted objects may be found."

FEC-011/15

22 August 1946

FAR EASTERN COMMISSION

RESTITUTION OF LOOTED PROPERTY

Note by the Secretary General

The enclosure, a memorandum from the Assistant Secretary of State to the Secretary General, relative to the forwarding to countries not represented on the Far Eastern Commission of the Commission's policy decision on restitution of looted property (FEC-011/12), is circulated herewith for the information of the Far Eastern Commission and is referred to COMMITTEE NO. 1: REPARATIONS.

NELSON P. JOHNSON
Secretary General

FEC-011/15

ENCLOSURERESTITUTION OF LOOTED PROPERTY

Department of State
Washington, D. C.
August 16, 1946

MEMORANDUM FOR THE SECRETARY GENERAL,
FAR EASTERN COMMISSION

In accordance with paragraph 10 of FEC 011/12 wherein the Far Eastern Commission requested that the United States Government forward the statement of policy regarding Restitution of Looted Property, approved by the Far Eastern Commission on July 18, 1946, through the usual channels to States which were not represented on the Far Eastern Commission and within whose territories such looted objects might be found, the Far Eastern Commission is informed that the Acting Secretary of State has forwarded this statement to the Governments of Portugal and Siam.

/s/ J. H. Hilldring

J. H. HILLDRING
Assistant Secretary

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COPY NO. 151

FEC-011/16

9 September 1946

FAR EASTERN COMMISSION

INTERIM PRINCIPLES FOR RESTORATION OF IDENTIFIABLE PROPERTY
CONFISCATED IN JAPAN FROM ALLIED NATIONALS

Note by the Secretary General

1. The enclosure, a statement of the views of the United States Government with respect to interim principles for the restoration of identifiable property confiscated in Japan from Allied nationals, submitted by the United States member of the Far Eastern Commission, is circulated herewith for the information of the Commission and is referred to COMMITTEE NO. 6: ALIENS IN JAPAN for consideration, after consultation with Committee No. 1: Reparations.

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

NELSON T. JOHNSON
Secretary General

FEC-011/16

CONFIDENTIALENCLOSUREINTERIM PRINCIPLES FOR RESTORATION OF IDENTIFIABLE PROPERTY
CONFISCATED IN JAPAN FROM ALLIED NATIONALS

The Supreme Commander for the Allied Powers (SCAP) shall be authorized to restore to nationals of any of the United Nations at war with Japan identifiable property, tangible or intangible owned by them and located in Japan prior to December 7, 1941 and seized, confiscated, or sequestered, formally or otherwise, during the recent war by the Japanese Government, members of its Armed Forces, or by official or private Japanese or other enemy individuals or groups, regardless of the present ownership of such property, except that gold, other precious metals, foreign exchange and large scale commercial and industrial enterprises shall not be restored at this time, and provided further that:

(1) Restoration subject to the Supreme Commander for the Allied Powers' discretion, shall be made only to:

(a) Natural persons in Japan.

(b) Small sized business, commercial and service corporations where the stockholders of a controlling interest are United Nations nationals now resident in Japan.

(c) Charitable and religious institutions financed primarily by non-Japanese funds, where a duly authorized agent or properly qualified person is resident in Japan to receive title.

(2) The Supreme Commander for the Allied Powers is satisfied as to the identification of such property.

For the purpose of determining whether property was in fact confiscated it shall be assumed that all property taken by the Japanese or other enemy Government, armed forces, or nationals during the recent war from nationals of any of the United Nations at war with Japan was confiscated whether or not payment was made at the time of acquisition unless it can be definitely shown that no duress or fraud were involved.

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If payment to restoree was made at the time of confiscation, the Supreme Commander for the Allied Powers shall require persons repossessing the property to agree to remit such amounts to the Japanese Government as a prerequisite to restoration. However, actual payment of such amounts shall be made only after settlement of claims as specified in paragraph 4 d below.

The restoration of property shall be made without prejudicing the claim of the original owners against the Japanese or other enemy Government and/or their nationals for damages to property, rent, depreciation, and other ascertainable losses.

If funds received in payment for confiscated property were blocked by the Japanese Government, such funds shall be unblocked and the owner permitted to draw upon them on the same basis as depositors in general draw upon their bank funds, except that in the event that the confiscated property is returned such funds shall be transferred to the Japanese Government in accordance with part (c) above.

The right to restoration of confiscated property provided in the foregoing paragraphs and even the completion of restoration shall in no manner preclude properties from being assigned to reparations as a prior claim, in which case the original owners of such property shall receive only a general claim against the Japanese or other enemy Government and their nationals.

The right to restoration provided in the foregoing paragraphs and even the completion of restoration shall not be considered as the basis for permission to operate certain properties where the Supreme Commander for the Allied Powers considers the operations of such property injurious to the occupying forces or to the purposes of the occupation. Similarly, the operation of properties considered by the Supreme Commander for the Allied Powers to be beneficial to the occupying forces and/or the accomplishment of the purposes of the occupation shall not await restoration of title or the transfer of possession of such properties.

Japanese nationals injured by the provisions of the foregoing paragraphs shall look to the Japanese Government for relief.

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Although the foregoing applies only to property owned by persons presently in Japan, the provisions contained herein should not operate to discriminate against other United Nations nationals who may own property located in Japan. It is recognized that the Office of the Civil Property Custodian on the Supreme Commander for the Allied Powers' staff is concerned with investigating and listing other Allied property for which direct restoration or claims against the Japanese or other enemy Government may be made at a later date. The Supreme Commander for the Allied Powers' recommendation on this matter should be solicited. Specifically, the Supreme Commander for the Allied Powers should be requested to advise whether he is prepared administratively to restore one or more of the following types of property to United Nations nationals outside of Japan: Tangible, intangible, personal, commercial; and whether shipping is available to permit such restoration.

FEC-011/17

12 September 1946

FAR EASTERN COMMISSION

RESTITUTION OF LOOTED PROPERTY
(Reference: FEC-011/12)

Note by the Secretary General

The enclosure, a communication to the Secretary General from the United States Government conveying a request from the Supreme Commander for the Allied Powers for clarification of the Commission's policy on Restitution of Looted Property, FEC-011/12, (forwarded to the Supreme Commander for the Allied Powers as Directive, Serial No. 57 contained in FEC-011/14) is circulated herewith for the information of the Commission and is referred to COMMITTEE NO. 1: REPARATIONS.

NELSON T. JOHNSON
Secretary General

FEC-011/17

E N C L O S U R ERESTITUTION OF LOOTED PROPERTY

September 12, 1946

MEMORANDUM FOR THE SECRETARY GENERAL FAR EASTERN COMMISSION

With reference to the directive regarding Restitution of Looted Property prepared on the basis of a policy decision unanimously approved by the Far Eastern Commission on July 18, 1946, and transmitted to General MacArthur for his guidance on July 24, 1946, the following message has been received from the Supreme Commander for the Allied Powers on this subject:

"Reference Directive Serial 57 dated 24 July 1946, request clarification as to whether date 31 December 1946, paragraph 2, is intended to be applicable to Paragraph 3, ships damaged or sunk and found in Japanese waters. Recommend elimination of any target date as to Paragraph 3 ships."

It is requested that the Secretary General inform the Secretary of State as to the views of the Far Eastern Commission on this matters.

/s/ J. H. Hilldring
J. H. HILLDRING
Assistant Secretary

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FEC-011/18

18 September 1946FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY

(Reference: FEC-011/12; FEC-011/17; SC-014/2)

Note by the Secretary General

1. The enclosure, a revision of the Commission's policy with regard to the restitution of looted property (FEC-011/12), was approved by the Steering Committee at its thirtieth meeting, 17 September 1946, and is forwarded herewith for the consideration of the Far Eastern Commission.

2. The Soviet member reserved his position on the enclosure.

3. In accordance with paragraph 3 of FEC-067/3 the Steering Committee recommends that the enclosure be released in the normal procedure, to the press.

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

NELSON T. JOHNSON
Secretary General

FEC-011/18

CONFIDENTIAL

E N C L O S U R E

RESTITUTION OF LOOTED PROPERTY

The policy adopted by the Far Eastern Commission on 18 July 1946 regarding the restitution of looted property (FEC-011/12) is revised as follows:

(1) In the last sentence of paragraph 2, the words "if seaworthy" are added after the words "Allied vessels".

(2) In paragraph 3, the following sentence is added:
"Salvage, repair or refitting should be completed as soon as possible but not necessarily before 31 December 1946."

FEC-011/19

8 October 1946

FAR EASTERN COMMISSION

NETHERLANDS STATEMENT ON THE RESTITUTION OF
TIN LOOTED BY THE JAPANESE

Note by the Secretary General

1. Enclosure "A", a letter from the Netherlands Representative requesting the Far Eastern Commission to redraft its policy on the restitution of looted property (FEC-011/12), is circulated herewith for the information of the Far Eastern Commission and is referred to COMMITTEE NO. 1: REPARATIONS for consideration.

2. Enclosure "B", a statement attached to the letter of the Netherlands Member contains a discussion of the Netherlands point of view regarding the restitution of tin looted by the Japanese from the Netherlands East Indies.

NELSON T. JOHNSON
Secretary General

FEC-011/19

ENCLOSURE "A"

2 October, 1946

My dear Mr. Secretary General,

I have the pleasure in handing you herewith for the consideration of the Far Eastern Commission a note on tin, looted by the Japanese from the Netherlands East Indies, restitution of which is claimed by the Netherlands Government. The difference of opinion between the United States and the Netherlands Government as regards the interpretation of the Commission's policy with regard to restitution of looted property is mentioned in the paragraphs 8 and 9. The other paragraphs contain a discussion on the Netherlands point of view.

The Netherlands Delegation invites the Far Eastern Commission to re-draft its policy so as to state unambiguously that all property, looted by the Japanese during the occupation and identified satisfactorily as the property of the United Nations or their nationals should be restored to the rightful owners.

I am, my dear Mr. Secretary General,

Sincerely yours,

/s/ A. Loudon
A. LOUDONThe Honorable Nelson T. Johnson,
Secretary General of the
Far Eastern Commission,
Washington.

ENCLOSURE "B"NOTE ON TIN LOOTED BY THE JAPANESE FROM THE NETHERLANDS
EAST INDIES, RESTITUTION OF WHICH IS NOW CLAIMED
BY THE NETHERLANDS GOVERNMENT.

1. By letter of the Secretary of State, dated December 5, 1945 and addressed to the Ambassador of the Netherlands, the Netherlands Government was notified that the Supreme Commander for the Allied Powers had located in Japan certain stockpiles of rubber, tin and antimony. It was proposed in this letter to request the Supreme Commander to adopt strict conservation and substitution measures in the use of these materials in Japan and to maximize the amounts available for export. The agreement was asked from the Netherlands Government and from all other Governments represented in the Far Eastern Advisory Commission to immediate shipment of exportable amounts of rubber, tin and antimony to the United States, subject to future re-allocation.

2. By letter of the Ambassador of the Netherlands to the Secretary of State, dated January 21, 1946, the Netherlands Government concurred with the United States' proposal but it was explicitly stated that the Netherlands Government wished to reserve its rights on stockpiles found in Japan, which were looted from the Netherlands East Indies.

3. Since this exchange of notes the matter has repeatedly come up in the discussions in the Committees on Reparations and Economic and Financial Affairs and their Sub-Committees. At the occasion of the drafting of the proposal for a policy on Restitution of Looted Property in the Sub-Committee ad hoc, the Netherlands Delegation has time and again pointed out that the wording of the policy should be such that it would cover the possibility of restoring to claimant countries goods such as rubber and tin looted by the Japanese from countries which were occupied by them and which are now found in Japan. The original United States' draft (FEC-011) did not provide for such restitution, tin being among the exceptions mentioned in that paper. The Netherlands Delegation has, in the meetings of the Sub-Committee on Looted Property, immediately

raised objections to this exception but it waived its objections when it was pointed out by the United States member, that the paper proposed was meant as an interim-proposal, introduced with the object of making a start with the restitution program.

4. A more definite proposal was submitted to the Far Eastern Commission as a re-draft of the original United States' proposal in CI-002/2. In this proposal the original items mentioned as exceptions to the interim-proposal were now included, with the only exception of tin which was left out. To this the Netherlands Delegation raised its objections, putting forward that there seems to be no reason to exclude from the policy any goods regarding which proof can be provided that they have been looted. The reply of the United States member has been that such goods as tin and rubber, in general industrial raw materials can as a rule not be identified. To this the Netherlands Delegation has replied that such identification may in some cases be difficult but that this difficulty may under no circumstances lead to precluding the claimant country of submitting its claim nor may it preclude S.C.A.P. from investigating the strength of the case. To this the Netherlands Delegation added that even in those cases in which a positive and decisive identification is impossible as a result of the nature of the goods concerned or of the mutilation of its marks or its appearance by the Japanese, there seems to be every reason to consider the claim on the value of circumstantial evidence. In case it is a well established fact that certain goods have been looted by the Japanese, and such goods are now found among the stockpiles in Japan, restitution should be considered even if marks and wrappings have been eradicated by the Japanese, for which they of course have had good reasons. The Netherlands Delegation has also put forward that it realized that the Netherlands Indies are not the only country where the Japanese have been looting goods like tin, rubber, diamonds, a.s.o. It, therefore, proposed that all countries which have been robbed of such goods in the same way, should participate in a pool to be formed by what is being discovered as remnants in Japan on an allocation basis which could easily be agreed upon. No argument against these ideas has been raised by the United States representative.

He merely stated that such action would not meet with the approval of his Government.

5. The Sub-Committee, however, in response to these remarks, re-drafted the paper in such a way that "agricultural products and raw materials" were added as a fourth category to the list. Be doing so the Sub-Committee, after careful consideration, acknowledged the principle that no exception should be made with regard to tin, rubber and similar goods. The paper was adopted by the Far Eastern Commission.

6. The matter was also brought up in the Committee on Economic and Financial Affairs and its Sub-Committee on Immediate Import and Export. In FEC-032 a program of import and export for the year 1946, recommended by the Supreme Commander was circulated to the Far Eastern Commission for its information. This program provided for the export, among other items, of 4000 tons of tin and 10,000 tons of crude rubber. During the discussions on this paper in the Sub-Committee on April 1, the Netherlands Delegation has again drawn attention to the facts related above. It stated that it did not seem reasonable to integrate goods, now found in excess in Japan, but of which huge quantities have been looted from countries occupied by Japan, in the export program, pending decision to be taken on the subject by the Far Eastern Commission. The reply of the representative of the United States has been that he had no authority to discuss this issue and he gave as his opinion that the integration in the export program did not prejudice in any way the decisions which might be arrived at in a later stage. The acceptance by the Sub-Committee of the proposed program did not mean that any country waived its claim to restitution of looted property. Under this reservation the program was accepted.

7. In a later stage the subject was again touched upon in the Sub-Committee. Replying to a query by the Netherlands Delegation as to the proceedings with regard to the stockpiles in Japan of tin and rubber the United States representative stated that considerable difficulty was experienced in Japan in connection with the identification. However, seeing that a portion of these stockpiles was

going to be sent to the United States, identification could take place upon arrival provided countries interested could have the shipments inspected by experts. The reply of the Netherlands Delegation has been that such experts are available and it was agreed upon that the Netherlands authorities would be notified of the arrival of any such shipments.

8. Such notification has taken place upon the arrival of the s.s. Marine Leopard at New York on July 9. By letter of September 9, 1946, of the Netherlands Ambassador, the Acting Secretary of State has been informed that this shipment, comprising of 5,417 slabs of tin had been examined by experts, and that the result of the expert examination was that the tin indubitably was produced by the Government mines on the island of Banka in the year 1943 (all the slabs bearing that mark), whereby the ownership of this quantity of tin seemed to have been established. It was therefore requested by the Netherlands Ambassador to restore these 5,417 slabs of Banka tin to the rightful ownership of the Netherlands Government.

9. By letter of September 24 the Acting Secretary of State informed the Netherlands Ambassador as follows:

"The right of restitution of property of Allied countries invaded and occupied by Japan is determined by the policy of the Far Eastern Commission, as established by action of the Commission on July 24, 1946. The policy stated that objects, including industrial raw materials, 'which are found in Japan and which are identified as having been located in an Allied country at the time of occupation of that country' should be restored. It is the position of the United States Government that this policy requires restitution only of property in existence when the Japanese occupied the country. This would mean that the tin produced in 1943 would not be subject to restitution.

Since the Netherlands Government appears to interpret the policy of the Far Eastern Commission differently I am instructing the United States delegate to the Far Eastern Commission to refer the matter to the Commission."

10. At the occasion of a discussion between the Netherlands Delegation in the Far Eastern Commission and a representative of the State Department, it was suggested by the latter that the matter be brought up in the Commission by the Netherlands Delegation.

11. The essence of the United States point of view is that the policy adopted by the Commission requires restitution only of property in existence when the Japanese occupied the country. Evidently the United States Government bases this conclusion on the words "..... which are identified as having been located in an Allied country at the time of occupation of that country".

12. This is not the interpretation of the Netherlands Delegation. The Netherlands Delegation holds the view that the guiding principle on the restitution of looted property should be, and in the discussions in the Sub-Committee on Looted Property and in the Committee on Reparations has always been, that any property looted by the Japanese from the countries occupied by them and which properties are now found in Japan, should be restored to the rightful owners, provided the latter identify these goods satisfactorily.

13. This guiding principle as been laid down already in the Inter-Allied Declaration of London, dated January 5, 1943. This Declaration represents a warning to all concerned that the Allies "intend to do their utmost to defeat the methods of dispossession practiced by the Governments with which they are at war against the countries and peoples who have been so wantonly assaulted and despoiled". "Accordingly", the Declaration continues "the Governments reserve all their rights to declare invalid any transfers of, or dealings with, property, rights and interests of any description whatsoever which are or have been situated in the territories which have come under the occupation or control, direct or indirect to persons resident in such territories. This warning applies whether such transfers or dealings have taken the form of open looting or plunder, or of transactions apparently legal in form, even when they purport to be voluntarily effected".

No limitation has been made in this Declaration to goods which existed on the day the countries were invaded by the enemy, all goods taken by the enemy from the countries being controlled by him being included.

14. This is even more clearly stated in the "Note on the Meaning of the Declaration" which accompanied the said Declaration: "In the Declaration the parties reserve all their rights to declare invalid transfers of or dealings with property, rights, etc., which have taken place during the period of enemy occupation or control of the territories in question" "The wording of the Declaration, however, clearly covers all forms of looting to which the enemy has resorted".

15. No limitations to goods which were in existence already at the day marking the beginning of the occupation either was made in the Basic Post Surrender Policy for Japan (FEC 014, 014/1, SC-022); "Full and prompt restitution will be required of all identifiable property, looted, delivered under duress, or paid for in worthless currency".

16. Neither was such limitation considered in Interim Procedures for Restitution of Identifiable Looted Property (Policy of the United States) FEC-011: ".... b That they were removed from areas under occupation by Japanese armed forces subsequent to the date of such occupation, and that they were owned by the Government or nationals of the claimant countries at the time when the Japanese Government, armed forces or nationals took possession thereof ..."

17. The paper Policy for Restitution of Looted Property (U.S. re-draft of proposal) C1-002/2 is the first in which the words "... identified as having been located in an Allied country at the time of occupation of that country" appear. In the light of all previous discussions on the guiding principle the Netherlands Delegation has not for a moment thought that the insertion of these words could mean the introduction of an entirely new principle, to which new principle the Sub-Committee had most certainly not agreed. Consequently the Netherlands Delegation has understood these words to mean simply that the goods involved have been located in the occupied country at some time during the occupation. The preamble mentioned "... which were removed by fraud or duress by the Japanese or their agents during the recent conflict from areas occupied

by Japanese armed forces at the time of removal", whereas under the headings b and c: Industrial and Transportation Machinery, etc., and: Gold, etc. was mentioned: "... and identified as having been located in an Allied country at the time of the occupation of that country". The one sentence in conjunction with the other can, again in the light of all the foregoing and especially of the discussions in the Sub-Committee only mean that in principle all goods removed by fraud or duress by the Japanese are to be considered as looted property liable to restitution provided those who claim the ownership can prove that the goods were existent in their country when the alleged loot took place. It is one thing to establish the fact that in Japan goods are available, looted from other countries (the general principle of restitution), and another thing to prove that these specific goods were looted during the time of the occupation from a specific country (the implementation).

18. In C1-002/4 both criteria were moulded into one sentence of the preamble viz.: "Immediate steps shall be taken to restore to Allied countries objects in the four categories listed below which were found in Japan or in territories under Japanese control, which are identified as having been located in an Allied country at the time of occupation of that country, and which were removed by fraud or duress by the Japanese or their agents during the recent conflict". (Note: the fourth category being agricultural products and industrial raw materials having been added by the Sub-Committee explicitly to cover such products as tin, rubber, bauxite, hemp, etc. of which it was known that the Japanese had looted huge quantities from some of the countries occupied by them of which quantities considerable stockpiles were reported as found in Japan). In a more perfect way than was the case in the original draft this wording states that claims for restitution of property can only be lodged against goods actually still available in Japan and that the burden of proof that these goods, or part of them are his property rests on the claimant.

19. In view of the above the Netherlands Delegation is of the opinion that the United States understanding that the implementation

- of the policy of the Commission should be limited to such goods as existed already on the day of the Japanese invasion of the country from where the goods were looted, finds no support in the history of the drafting of this policy by the Reparations Committee and its Sub-Committee and that it would moreover be inconsistent with the guiding principle laid down at the highest level.

20. Moreover the Netherlands Delegation draws attention to the fact that it is a well established principle of law that a person who discovers his property in the possession of another person, has the right to require its restitution, with priority over all creditors and this, whether these creditors have an ordinary or a preferential claim. It is clear that it is exactly of this universally recognized principle of law that the Inter-Allied Declaration of London, partially quoted above, gives a reminder to all concerned. There is no solid reason why the Japanese should have the benefit of an exception to this rule and to this formal warning.

21. Apart from the above the United States interpretation seems unworkable and particularly unjust to those countries who have been stripped to the bone by the Japanese and who are now precluded from recovering even a very modest part of the goods of which they are the rightful owners and which goods are still in Japanese hands. To clarify this the Netherlands Delegation draws attention to the following:

a. Some of the countries involved, and among those particularly the Netherlands East Indies, have followed the policy of the "scorched earth" immediately before the Japanese invaded their territories. Hence enormous stockpiles of products were destroyed which otherwise would have fallen into the hands of the enemy and which would have contributed to the enemy's strength.

b. This has excited the enemy's wrath to such an extent that scores of those responsible for the destruction have been beheaded, whereas furthermore all management and overseer personnel were put into concentration camps. From that moment onward the Japanese have exploited the human, industrial and

natural resources of the country at their will, using slave labor and exhausting to the extreme raw materials, industrial equipment a.s.o. In this way they succeeded in some branches of the economic life in arriving at some production without importing a single thing for this purpose. Consequently this was a predatory exploitation of human, natural and industrial reserves. Of some products in the course of the years so much was looted from the countries occupied that at the conclusion of the war huge stockpiles of these products were available in Japan. It seems a matter of logic that the greater portion of these stockpiles do not form part of what the Japanese found available in the invaded countries at the moment they invaded these countries (the United States' criterion); such stocks will either have fallen victims to the "scorched earth" policy or they will have been consumed by the Japanese. This being so it seems quite unreasonable not to recognize the legal ownership of goods now available in Japan, indubitable looted during the war, produced under fraud and duress during the war without any contribution by the Japanese.

c. In the case of agricultural products the United States interpretation of the Commission's policy would render this policy in most instances entirely meaningless. Agricultural products are mostly of a perishable nature. It is hardly conceivable that agricultural products harvested five years ago are still in existence. The United States' understanding of the Commission's policy would therefore lead to the consequence that that portion of stockpiles of agricultural products available in Japan and indubitably looted from countries occupied by Japan during the war were withheld from claimant countries even though these countries furnish proof that

1. the Japanese looted such products as were available in their countries at the outbreak of the war;
2. the Japanese also looted such products as were produced during the war with the sacrifice of the country's human, natural and industrial resources

without any contribution from Japan, very often even under fraud and duress, merely on the argument that these stockpiles are physically not exactly the same as those that were in existence at the outbreak of the war.

d. In case "at the time of the occupation" should be understood as meaning "on the day of the invasion" the question arises how this day should be fixed. The countries invaded by Japan consisted of territories of a continental extensiveness. The occupation took months and even years to be completed. How should this "day" be fixed?

22. The conclusion of the Netherlands Delegation therefore is that the United States position with regard to the Commission's policy is inconsistent with the guiding principle laid down at the highest level; inconsistent with the history of the Commission's policy; definitely contrary to the interests of the Allied countries definitely in favour of the Japanese who as a result of the United States interpretation would benefit of a protection which according to all general principles of law is withheld from any thief and any receiver; unworkable.

23. As has been mentioned above the Netherlands Government has from the very beginning reserved its rights with regard to stockpiles in Japan of products looted from the Netherlands East Indies during the war; moreover, also from the very beginning the Netherlands Delegation has raised objections in principle to the fact that regularly portions of these stockpiles were allocated to the Japanese consumption, by which action any identification by claimant countries of these stockpiles was made impossible. The Netherlands Delegation, however, has not pressed this point too much in the Committee meetings, considering that the Supreme Commander has to face the difficult task of reviving the economic life of Japan for which purpose a portion of these stockpiles was essential. In acquiescing in this fact the Netherlands Delegation has not for a moment abandoned the rights of its Government. When accepting the United States proposal that the excess quantities of these stockpiles be shipped to the

United States and that examination for identification may take place upon arrival of these shipments, the Netherlands Delegation fully realized that for all practical purposes this identification was being limited to that portion of the stockpiles as was being shipped to the United States, and that consequently identification and restitution could not take place with regard to stocks retained in Japan for local consumption. The Netherlands Delegation adopted this attitude, which meant a considerable sacrifice on the part of its Government, considering that by way of this compromise the practical difficulties for the Supreme Commander would be solved in the best way. The Netherlands Delegation could and would never have acquiesced in using the stockpiles in question for Japanese consumption before opportunity for identification had been given, if it had foreseen an interpretation of the policy adopted by the Commission which precludes the Netherlands Government from getting restitution of only a modest portion of its property.

Washington,

October 1, 1946.

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CONFIDENTIALFEC-011/2014 October 1946FAR EASTERN COMMISSIONINTERIM PRINCIPLES FOR RESTITUTION OF IDENTIFIABLE PROPERTY
CONFISCATED IN JAPAN FROM ALLIED NATIONALSNote by the Secretary General

1. The enclosure, a revision of FEC-011/16, a proposed United States Government policy relative to restitution of identifiable property confiscated in Japan from Allied nationals, is submitted by the United States representative, and is circulated herewith to the Far Eastern Commission for information and referred to COMMITTEE NO. 6: ALIENS IN JAPAN, for consideration.

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

NELSON T. JOHNSON
Secretary General

CONFIDENTIALE N C L O S U R EINTERIM PRINCIPLES FOR RESTITUTION OF IDENTIFIABLE PROPERTY
CONFISCATED IN JAPAN FROM ALLIED NATIONALS

1. The Supreme Commander for the Allied Powers shall be authorized to restore to nationals of any of the United Nations at war with Japan identifiable property, tangible or intangible, owned by them and located in Japan prior to 7 December 1941, and seized, confiscated, or sequestered, formally or otherwise, during the recent war by the Japanese Government, members of its Armed Forces, or by official or private Japanese or other enemy individuals or groups, provided that:

(a) Subject to the discretion of the Supreme Commander, restitution shall be made at this time only to:

- (1) Natural persons present in Japan
- (2) Juridical persons (other than those referred to in subparagraph 3 below) where the holders of a controlling interest are nationals of Members of the United Nations now resident in Japan
- (3) Charitable and religious institutions financed primarily by non-Japanese funds, where a duly authorized agent or properly qualified person is resident in Japan to receive title.

(b) Without in any way prejudging the definitive policy later to be adopted by the Far Eastern Commission with respect to the disposition of large-scale enterprises, only small-scale commercial and industrial enterprises shall be restored at the present time.

(c) Gold, other precious metals, and foreign exchange shall not be physically restored to the owners at this time, but steps shall be taken to restore title thereto without releasing custody and control.

(d) The Supreme Commander is satisfied as to the identification of such property.

2. For the purpose of determining whether property was in fact confiscated it shall be assumed that all property taken by the Japanese or other enemy Government, Armed Forces, or nationals during the recent war from nationals of any of the United Nations at war with Japan was confiscated whether or not payment was made at the time of acquisition unless it can be definitely shown that no duress or fraud was involved.

3. The restitution of property shall be made without prejudicing the claim of the original owners against the Japanese or other enemy Government and/or their nationals for damages to property, rent, depreciation, and other ascertainable losses.

CONFIDENTIAL

4. If payment to restoree was made at the time of confiscation, the Supreme Commander for the Allied Powers shall require persons repossessing the property to agree to remit such amounts to the Japanese Government as a prerequisite to restitution. However, actual payment of such amounts shall be made only after settlement of claims as specified in paragraph 3 above.

5. If funds received in payment for confiscated property were blocked by the Japanese Government, such funds shall be unblocked and the owner permitted to draw upon them on the same basis as depositors in general draw upon their bank funds, except that in the event that the confiscated property is returned such funds shall be unblocked in an amount sufficient to make the payments required in paragraph 4 above.

6. The right to restitution provided in the foregoing paragraphs and even the completion of restitution shall not be considered as the basis for permission to operate certain properties where the Supreme Commander for the Allied Powers considers the operations of such property injurious to the occupying forces or to the purposes of the occupation. Similarly, the operation of properties considered by the Supreme Commander for the Allied Powers to be beneficial to the occupying forces and/or the accomplishment of the purposes of the occupation shall not await restitution of title or the transfer of possession of such properties.

7. Japanese nationals injured by the provisions of the foregoing paragraphs shall look to the Japanese Government for relief.

FEC-011/21

23 October 1946

FAR EASTERN COMMISSION

RESTITUTION OF LOOTED PROPERTY

(Reference: FEC-011/14)

Note by the Secretary General

1. Enclosure "A" a decision of policy of the Far Eastern Commission amending its policy decision relative to Restitution of Looted Property (FEC-011/14), was unanimously approved by the Far Eastern Commission at its twenty-ninth meeting on 10 October 1946.

2. The letter of transmittal of the Secretary General forwarding this decision on behalf of the Far Eastern Commission to the Acting Secretary of State of the United States Government in accordance with the Terms of Reference, is circulated herewith as enclosure "B".

NELSON T. JOHNSON
Secretary General

FEC-011/21

ENCLOSURE "A"RESTITUTION OF LOOTED PROPERTY

The policy adopted by the Far Eastern Commission on 18 July 1946 regarding the restitution of looted property (FEC-011/12) is revised as follows:

(1) In the last sentence of paragraph 2, the words "if seaworthy" are added after the words "Allied vessels".

(2) In paragraph 3, the following sentence is added:
"Salvage, repair or refitting should be completed as soon as possible but not necessarily before 31 December 1946."

ENCLOSURE "B"

10 October 1946

The Honorable Dean Acheson
Acting Secretary of State
Washington, D. C.

My dear Mr. Secretary:

The Terms of Reference of the Far Eastern Commission provide that one of the functions of the Commission should be to "formulate the policies, principles and standards in conformity with which the fulfillment by Japan of its obligations under the Terms of Surrender may be accomplished."

It is further provided that when such decisions are made by the Far Eastern Commission, "The United States Government shall prepare directives in accordance with the policy decisions of the Commission and shall transmit them to the Supreme Commander through the appropriate United States Government agency."

At the twenty-ninth meeting of the Far Eastern Commission held at 2516 Massachusetts Avenue, Northwest, Washington, D. C., on 10 October 1946, the enclosed policy decision relative to Restitution of Looted Property was unanimously approved.

As Secretary General of the Far Eastern Commission, I have been instructed to forward this decision to you on behalf of the Commission, in order that the appropriate directives may be prepared and transmitted to the Supreme Commander in accordance with the Terms of Reference.

In adopting the enclosed policy decision, the Commission agreed that it should be released to the press forty-eight hours after its receipt in Tokyo, so as to give the Supreme Commander time to provide for simultaneous release if he so desires. I would appreciate it if you could make arrangements to notify me when the enclosed policy decision has been received in Tokyo.

Because of the intention of not releasing the enclosure to the press until it has been received in Tokyo, the Commission would appreciate it if appropriate arrangements might be made to preserve the necessary security in the transmission of this message.

Sincerely yours,

NELSON T. JOHNSON
Secretary General

FEC-011/22

29 October 1946

FAR EASTERN COMMISSION

REVISION OF DIRECTIVE ON RESTITUTION OF LOOTED PROPERTY

Note by the Secretary General

1. The enclosure, a United States directive to the Supreme Commander for the Allied Powers forwarding the statement of policy of the Far Eastern Commission regarding revision of directive on restitution of looted property, is circulated herewith for the information of the Far Eastern Commission.

2. This directive was forwarded to the Supreme Commander for the Allied Powers on 16 October 1946.

3. A certified copy of this United States policy directive to the Supreme Commander for the Allied Powers has been filed with the Commission in accordance with Section III, paragraph 4, of the Terms of Reference.

NELSON T. JOHNSON
Secretary General

FEC-011/22

E N C L O S U R EREVISION OF DIRECTIVE ON RESTITUTION OF LOOTED PROPERTY*Serial No. 61

16 October 1946

The following directive, prepared by the State Department to implement the policy adopted by the Far Eastern Commission on 10 October 1946 under the provisions of paragraph II, A, 1, of its terms of reference, has been received from the State, War, and Navy Departments for transmission to you for your guidance in accordance with paragraph III, 1, of those terms of reference:

"The policy adopted by the Far Eastern Commission on 18 July 1946 regarding the restitution of looted property (FEC-011/12)* is revised as follows:

"(1) In the last sentence of paragraph 2, the words 'if seaworthy' are added after the words 'Allied vessels'.

"(2) In paragraph 3, the following sentence is added: 'Salvage, repair or refitting should be completed as soon as possible but not necessarily before 31 December 1946.'"

*Serial No. 57

FEC-011/23RESTRICTEDFEC-011/234 February 1947FAR EASTERN COMMISSION

INTERIM PRINCIPLES FOR RESTITUTION OF IDENTIFIABLE
PROPERTY CONFISCATED IN JAPAN FROM ALLIED NATIONALS
(Reference: FEC-011/20, C6-014, -014/1, 014/2,
-014/3; SC-014/3)

Note by the Secretary General

1. The enclosure, a proposed policy statement relative to property of Allied nationals, was approved by the Steering Committee at its fiftieth meeting, 4 February 1947, and forwarded herewith for the consideration of the Far Eastern Commission. The vote was 8 to 1. The Soviet member was opposed. The Chinese member abstained and the Indian member was absent.

2. The Soviet member desired the insertion of the words "upon consultation with the Allied Council" between the word "Powers" and the words "to be beneficial" in paragraph 6 of the enclosure.

NELSON T. JOHNSON
Secretary General

FEC-011/23

RESTRICTEDENCLOSUREINTERIM PRINCIPLES FOR RESTITUTION OF IDENTIFIABLE PROPERTY CONFISCATED
IN JAPAN FROM ALLIED NATIONALS

1. The Supreme Commander for the Allied Powers should be authorized to restore to nationals of any of the United Nations identifiable property, tangible or intangible, which was located in Japan prior to 7 December 1941, and owned by them at that time or lawfully acquired thereafter, and which was seized, confiscated, or sequestered, formally or otherwise, during the recent war by the Japanese Government, members of its armed forces, or by official or private Japanese or other enemy individuals or groups, provided that:

a. Subject to the discretion of the Supreme Commander, restitution shall be made at this time only to:

- (1) Natural persons present in Japan
- (2) Juridical persons where the holders of a controlling interest are nationals of Members of the United Nations now resident in Japan
- (3) Charitable and religious institutions financed primarily by non-Japanese funds, where a duly authorized agent or properly qualified person is resident in Japan to receive title.

b. Without in any way prejudging the definitive policy later to be adopted by the Far Eastern Commission with respect to the disposition of large scale enterprises, only small-scale commercial and industrial enterprises shall be restored at the present time.

c. Though title to gold, other precious metals and foreign exchange may be restored to United Nations owners, they should remain subject to the laws and regulations in force at any time governing the custody, control and transfer of such assets.

d. The Supreme Commander is satisfied as to the identification of such property.

The policy for restitution of similar property to nationals of Members of the United Nations who are not resident in Japan at present will be dealt with in a future paper.

2. For the purpose of determining whether property was in fact confiscated it should be assumed that all property taken by the Japanese or other enemy Government, Armed Forces, or nationals during the recent war from nationals of any of the United Nations at war with Japan was confiscated whether or not payment was made at the time of acquisition unless it can be definitely shown that no duress or fraud was involved.

3. The restitution of property should be made without expense for the owners and without prejudicing the claim of the original owners against the Japanese or other enemy Government and/or their nationals for damages to property, rent, depreciation, and other ascertainable losses. To facilitate the preparation and adjudication of claims, agreed statements as to the extent and condition of the property restored should be drawn up at the time of its return. The Japanese Government should be required to furnish to the owner a complete inventory of the property together with a report by the Japanese official administrator on the management of it and, in the case of industrial and commercial concerns, a closing balance sheet.

4. If payment to restoree was made at the time of confiscation, the Supreme Commander for the Allied Powers should require persons repossessing the property to agree to remit such amounts to the Japanese Government as a prerequisite to restitution. However, actual payment of such amounts should be made only after settlement of claims as specified in paragraph 3 above.

5. If funds received in payment for confiscated property were blocked by the Japanese Government, such funds should be unblocked and the owner permitted to draw upon them on the same basis as depositors in general draw upon their bank funds, except that in the event that the confiscated property is returned, such funds should be unblocked only in an amount sufficient to make the payments required in paragraph 4 above.

RESTRICTED

6. The right to restitution provided in the foregoing paragraphs and even the completion of restitution should not be considered as permission to operate properties where the Supreme Commander for the Allied Powers considers the operations of such property injurious to the occupying forces or to the purposes of the occupation. Similarly, the operation of properties considered by the Supreme Commander for the Allied Powers to be beneficial to the occupying forces and/or the accomplishment of the purposes of the occupation should not await restitution of title or the transfer of possession of such properties; but in such cases compensation for the use of the property should be paid for the account of the owner.

7. Japanese nationals injured by the provisions of the foregoing paragraphs should look to the Japanese Government for relief.

FEC-011/24RESTRICTEDFEC-011/2420 February 1947FAR EASTERN COMMISSIONINTERIM PRINCIPLES FOR RESTITUTION OF IDENTIFIABLE
PROPERTY CONFISCATED IN JAPAN FROM ALLIED NATIONALS
(Reference: FEC-011/23, C6-014, -014/1, 014/2,
-014/3; SC-014/3)Note by the Secretary General

1. The enclosure, a proposed policy statement relative to property of Allied nationals, was amended by the Far Eastern Commission at its forty-sixth meeting, 20 February 1947, and referred to COMMITTEE NO. 2: ECONOMIC AND FINANCIAL AFFAIRS for consideration of Chinese amendments and in the light of the Commission's discussion.

2. The Chinese Representative proposed the following amendments:

- a. Paragraph 1, line 5.
Insert after the word "thereafter",
"or prior to the outbreak of hostilities between
China and Japan and owned by Chinese nationals
then or lawfully acquired thereafter,"
- b. Paragraph 2, line 5,
Insert after the word "Japan",
"or during the earlier period of hostilities
between China and Japan from Chinese nationals"

NELSON T. JOHNSON
Secretary General

FEC-011/24

RESTRICTEDE N C L O S U R EINTERIM PRINCIPLES FOR RESTITUTION OF IDENTIFIABLE PROPERTY
CONFISCATED IN JAPAN FROM ALLIED NATIONALS

1. The Supreme Commander for the Allied Powers should be authorized to restore to nationals of any of the United Nations identifiable property, tangible or intangible, which was located in Japan prior to 7 December 1941, and owned by them at that time or lawfully acquired thereafter, and which was seized, confiscated, or sequestered, formally or otherwise, during the recent war by the Japanese Government, members of its armed forces, or by official or private Japanese or other enemy individuals or groups, provided that:

a. Subject to the discretion of the Supreme Commander, restitution shall be made at this time only to:

- (1) Natural persons present in Japan
- (2) Juridical persons where the holders of a controlling interest are nationals of Members of the United Nations now resident in Japan
- (3) Charitable and religious institutions financed primarily by non-Japanese funds, where a duly authorized agent or properly qualified person is resident in Japan to receive title.

b. Without in any way prejudging the definitive policy later to be adopted by the Far Eastern Commission with respect to the disposition of large scale enterprises, only small-scale commercial and industrial enterprises shall be restored at the present time.

c. Though title to gold, other precious metals and foreign exchange may be restored to United Nations owners, they should remain subject to the laws and regulations in force at any time governing the custody, control and transfer of such assets.

d. The Supreme Commander is satisfied as to the identification of such property.

The policy for restitution of similar property to nationals of Members of the United Nations who are not resident in Japan at present will be dealt with in a future paper.

2. For the purpose of determining whether property was in fact confiscated it should be assumed that all property taken by the Japanese or other enemy Government, Armed Forces, or nationals during the recent war from nationals of any of the United Nations at war with Japan was confiscated whether or not payment was made at the time of acquisition unless it can be definitely shown that duress or fraud was involved.

3. The restitution of property should be made without expense for the owners and without prejudicing the claim of the original owners against the Japanese or other enemy Government and/or their nationals for damages to property, rent, depreciation, and other ascertainable losses. To facilitate the preparation and adjudication of claims, agreed statements as to the extent and condition of the property restored should be drawn up at the time of its return. The Japanese Government should be required to furnish to the owner a complete inventory of the property together with a report by the Japanese official administrator on the management of it and, in the case of industrial and commercial concerns, a closing balance sheet.

4. If payment to restorer was made at the time of confiscation, the Supreme Commander for the Allied Powers should require persons repossessing the property to agree to remit such amounts to the Japanese Government as a prerequisite to restitution. However, actual payment of such amounts should be made only after settlement of claims as specified in paragraph 3 above.

RESTRICTED

5. If funds received in payment for confiscated property were blocked by the Japanese Government, such funds should be unblocked and the owner permitted to draw upon them on the same basis as depositors in general draw upon their bank funds, except that in the event that the confiscated property is returned such funds should be unblocked only in an amount sufficient to make the payment required in paragraph 4 above.

6. The right to restitution provided in the foregoing paragraphs and even the completion of restitution should not be considered as permission to operate properties where the Supreme Commander for the Allied Powers considers the operations of such property injurious to the occupying forces or to the purposes of the occupation. Similarly, the operation of properties considered by the Supreme Commander for the Allied Powers upon consultation with the Allied Council for Japan in accordance with the Terms of Reference of the Allied Council for Japan to be beneficial to the occupying forces and/or the accomplishment of the purposes of the occupation should not await restitution of title or the transfer of possession of such properties; but in such cases compensation for the use of the property should be paid for the account of the owner.

7. Japanese nationals injured by the provisions of the foregoing paragraphs should look to the Japanese Government for relief.

FEC-011/25RESTRICTEDFEC-011/2521 February 1947FAR EASTERN COMMISSIONINTERIM PRINCIPLES FOR RESTITUTION OF IDENTIFIABLE PROPERTY
CONFISCATED IN JAPAN FROM ALLIED NATIONALS
(Reference: FEC-011/24)Note by the Secretary General

It has been noted that the cover page of FEC-011/24, Interim Principles for Restitution of Identifiable Property Confiscated in Japan from Allied Nationals, refers that document to Committee No. 2: Economic and Financial Affairs. The paragraph should be corrected to refer FEC-011/24 to COMMITTEE NO. 6: ALIENS IN JAPAN.

NELSON T. JOHNSON
Secretary General

FEC-011/25

FEC-011/26RESTRICTEDFEC-011/2626 February 1947FAR EASTERN COMMISSIONINTERIM PRINCIPLES FOR RESTITUTION OF IDENTIFIABLE PROPERTY
CONFISCATED IN JAPAN FROM ALLIED NATIONALS
(References: FEC-011/24, C6-014 Series,
SC-014 Series)Note by the Secretary General

1. The enclosure, a revision of FEC-011/24, a proposed policy statement relative to property of Allied nationals is circulated herewith for the consideration of COMMITTEE NO. 6: ALIENS IN JAPAN.

2. The enclosure was prepared by an ad hoc subcommittee composed of the Chinese and United States members of Committee No. 6, in accordance with the instructions of the committee given at its thirty-fifth meeting, 21 February 1947. Proposed deletions from and additions to the text of FEC-011/24 are indicated by lining-out and underscoring.

NELSON T. JOHNSON
Secretary General

FEC-011/26

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E N C L O S U R E

INTERIM PRINCIPLES FOR RESTITUTION OF IDENTIFIABLE PROPERTY
CONFISCATED IN JAPAN FROM ALLIED NATIONALS

1. The Supreme Commander for the Allied Powers should be authorized to restore to nationals of any of the United Nations identifiable property, tangible or intangible, which was located in Japan prior to 7-December-1941, the outbreak of hostilities between their government and the government of Japan and owned by them at that time or lawfully acquired thereafter, and which was seized, confiscated, or sequestered, formally or otherwise, during the recent war hostilities by the Japanese Government, members of its armed forces, or by official or private Japanese or other enemy individuals or groups, provided that:

a. Subject to the discretion of the Supreme Commander, restitution shall be made at this time only to:

- (1) Natural persons present in Japan
- (2) Juridical persons where the holders of a controlling interest are nationals of Members of the United Nations now resident in Japan
- (3) Charitable and religious institutions financed primarily by non-Japanese funds, where a duly authorized agent or properly qualified person is resident in Japan to receive title.

b. For the purpose of the present paper "the outbreak of hostilities" shall be regarded as 7 July 1937 for the Government of China and as 7 December 1941 for the Governments of the other United Nations.

b. c. Without in any way prejudging the definitive policy later to be adopted by the Far Eastern Commission with respect to the disposition of large scale enterprises, only small-scale commercial and industrial enterprises shall be restored at the present time.

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e. d. Though title to gold, other precious metals and foreign exchange may be restored to United Nations owners, they should remain subject to the laws and regulations in force at any time governing the custody, control and transfer of such assets.

d. e. The Supreme Commander is satisfied as to the identification of such property.

The policy for restitution of similar property to nationals of Members of the United Nations who are not resident in Japan at present will be dealt with in a future paper.

2. For the purpose of determining whether property was in fact confiscated it should be assumed that all property taken by the Japanese or other enemy Government, Armed Forces, or nationals during the recent war hostilities from nationals of any of the United Nations ~~at-war-with-Japan~~ was confiscated whether or not payment was made at the time of acquisition unless it can be definitely shown that no duress or fraud was involved.

3. The restitution of property should be made without expense for the owners and without prejudicing the claim of the original owners against the Japanese or other enemy Government and/or their nationals for damages to property, rent, depreciation, and other ascertainable losses. To facilitate the preparation and adjudication of claims, agreed statements as to the extent and condition of the property restored should be drawn up at the time of its return. The Japanese Government should be required to furnish to the owner a complete inventory of the property together with a report by the Japanese official administrator on the management of it and, in the case of industrial and commercial concerns, a closing balance sheet.

4. If payment to restorer was made at the time of confiscation the Supreme Commander for the Allied Powers should require persons repossessing the property to agree to remit such amounts to the Japanese Government as a prerequisite to restitution. However, actual payment of such amounts should be made

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only after settlement of claims as specified in paragraph 3 above.

5. If funds received in payment for confiscated property were blocked by the Japanese Government, such funds should be unblocked and the owner permitted to draw upon them on the same basis as depositors in general draw upon their bank funds, except that in the event that the confiscated property is returned such funds should be unblocked only in an amount sufficient to make the payment required in paragraph 4 above.

6. The right to restitution provided in the foregoing paragraphs and even the completion of restitution should not be considered as permission to operate properties where the Supreme Commander for the Allied Powers considers the operations of such property injurious to the occupying forces or to the purposes of the occupation. Similarly, the operation of properties considered by the Supreme Commander for the Allied Powers upon consultation with the Allied Council for Japan in accordance with the Terms of Reference of the Allied Council for Japan to be beneficial to the occupying forces and/or the accomplishment of the purposes of the occupation should not await restitution of title or the transfer of possession of such properties; but in such cases compensation for the use of the property should be paid for the account of the owner.

7. Japanese nationals injured by the provisions of the foregoing paragraphs should look to the Japanese Government for relief.

FEC-011/27RESTRICTEDFEC-011/273 March 1947FAR EASTERN COMMISSIONINTERIM PRINCIPLES FOR RESTITUTION OF IDENTIFIABLE PROPERTY
CONFISCATED IN JAPAN FROM ALLIED NATIONALS
(References: FEC-011/24, FEC-011/26, C6-014 Series,
SC-014 Series)Note by the Secretary General

1. The enclosure, a proposed policy decision relative to property of Allied nationals was approved by Committee No. 6: Aliens in Japan at its thirty-sixth meeting, 28 February 1947, and is forwarded herewith for the consideration of the STEERING COMMITTEE. The Indian, Netherlands, and Soviet members of Committee No. 6, were absent from the meeting.

2. The Chinese member of Committee No. 6, in approving the paper, recorded the following statement:

"The Chinese Delegation reserves its position regarding the restitution of Chinese property and cultural objects removed from China by the Japanese Government, members of its armed forces, Japanese officials or nationals, or other enemy individuals or groups. It desires to have it clearly understood that the agreement that the outbreak of hostilities should be regarded as 7 July 1937 for the Government of China for the purpose of the paper on INTERIM PRINCIPLES FOR RESTITUTION OF IDENTIFIABLE PROPERTY CONFISCATED IN JAPAN FROM ALLIED NATIONALS will not form a precedent and will in no way affect the policy statements to be adopted by the Far Eastern Commission relating to the question of restitution as a whole and the restitution of cultural objects.

"The Chinese Delegation also reserves its right to request of the Supreme Commander for the Allied Powers the restitution of Chinese property within the terms of this paper (FEC-011/27) which was seized, confiscated, or sequestered before 7 July 1937."

NELSON T. JOHNSON
Secretary General

FEC-011/27

RESTRICTEDE N C L O S U R EINTERIM PRINCIPLES FOR RESTITUTION OF IDENTIFIABLE PROPERTY
CONFISCATED IN JAPAN FROM ALLIED NATIONALS

1. The Supreme Commander for the Allied Powers should be authorized to restore to nationals of any of the United Nations identifiable property, tangible or intangible, which was located in Japan prior to the outbreak of hostilities between their government and the government of Japan and owned by them at that time or lawfully acquired thereafter, and which was seized, confiscated, or sequestered, formally or otherwise, during the recent hostilities by the Japanese Government, members of its armed forces, or by official or private Japanese or other enemy individuals or groups, provided that:

a. Subject to the discretion of the Supreme Commander, restitution should be made at this time only to:

(1) Natural persons present in Japan

(2) Juridical persons where the holders of a controlling interest are nationals of Members of the United Nations now resident in Japan

(3) Charitable and religious institutions financed primarily by non-Japanese funds, where a duly authorized agent or properly qualified person is resident in Japan to receive title.

b. For the purpose of the present paper "the outbreak of hostilities" should be regarded as 7 July 1937 for the Government of China, as 22 September 1940 for the Government of France, and as 7 December 1941 for the Governments of the other Members of the United Nations.

c. Without in any way prejudging the definitive policy later to be adopted by the Far Eastern Commission with respect to the disposition of large-scale enterprises, only small-scale commercial and industrial enterprises should be restored at the present time.

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d. Though title to gold, other precious metals and foreign exchange may be restored to United Nations owners, they should remain subject to the laws and regulations in force at any time governing the custody, control and transfer of such assets.

e. The Supreme Commander is satisfied as to the identification of such property.

The policy for restitution of similar property to nationals of Members of the United Nations who are not resident in Japan at present will be dealt with in a future paper.

2. For the purpose of determining whether property was in fact confiscated it should be assumed that all property taken by the Japanese or other enemy Government, Armed Forces, or nationals during the recent hostilities from nationals of any of the United Nations was confiscated whether or not payment was made at the time of acquisition unless it can be definitely shown that no duress or fraud was involved.

3. The restitution of property should be made without expense for the owners and without prejudicing the claim of the original owners against the Japanese or other enemy Government and/or their nationals for damages to property, rent, depreciation, and other ascertainable losses. To facilitate the preparation and adjudication of claims, agreed statements as to the extent and condition of the property restored should be drawn up at the time of its return. The Japanese Government should be required to furnish to the owner a complete inventory of the property together with a report by the Japanese official administrator on the management of it and, in the case of industrial and commercial concerns, a closing balance sheet.

4. If payment to restoree was made at the time of confiscation the Supreme Commander for the Allied Powers should require persons repossessing the property to agree to remit such amounts to the Japanese Government as a prerequisite to restitution. However, actual payment of such amounts should be made only after settlement of claims as specified in paragraph 3 above.

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5. If funds received in payment for confiscated property were blocked by the Japanese Government, such funds should be unblocked and the owner permitted to draw upon them on the same basis as depositors in general draw upon their bank funds, except that in the event that the confiscated property is returned such funds should be unblocked only in an amount sufficient to make the payment required in paragraph 4 above.

6. The right to restitution provided in the foregoing paragraphs and even the completion of restitution should not be considered as permission to operate properties where the Supreme Commander for the Allied Powers considers the operations of such property injurious to the occupying forces or to the purposes of the occupation. Similarly, the operation of properties considered by the Supreme Commander for the Allied Powers upon consultation with the Allied Council for Japan in accordance with the Terms of Reference of the Allied Council for Japan to be beneficial to the occupying forces and/or the accomplishment of the purposes of the occupation should not await restitution of title or the transfer of possession of such properties; but in such cases compensation for the use of the property should be paid for the account of the owner.

7. Japanese nationals injured by the provisions of the foregoing paragraphs should look to the Japanese Government for relief.

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FEC-011/28RESTRICTEDFEC-011/285 March 1947FAR EASTERN COMMISSIONINTERIM PRINCIPLES FOR RESTITUTION OF IDENTIFIABLE PROPERTY
CONFISCATED IN JAPAN FROM ALLIED NATIONALS

(References: FEC-011/24, FEC-011/26, FEC-011/27, C6-014
Series, SC-014 Series)

Note by the Secretary General

1. The enclosure, a proposed policy relative to restitution of identifiable property confiscated in Japan from Allied Nationals, was unanimously approved by the Steering Committee at its fifty-fourth meeting, 4 March 1947, and is forwarded herewith for the consideration of the Far Eastern Commission.

2. The Chinese member of the Steering Committee, in approving the enclosure, requested that the following statement explaining the position of his Government should be included in the minutes of the Commission meeting adopting the policy, and should be transmitted to the Supreme Commander for his information along with the policy directive:

"It is agreeable to the Chinese Delegation to eliminate paragraph 1. b. from the document FEC-011/27 if it is clearly understood that for the purpose of this paper the expression 'the outbreak of hostilities' should be regarded, insofar as China is concerned, as 7 July 1937. The Chinese Delegation desires to reserve its right to request of the Supreme Commander for the Allied Powers the restitution of Chinese property within the terms of this paper which was seized, confiscated, or sequestered before 7 July 1937.

It is the understanding of the Chinese Delegation that the definition of 'the outbreak of hostilities' as indicated above is only for the purpose of this paper and will in no way affect policy statements to be adopted by the Far Eastern

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Commission relating to the question of restitution as a whole and the restitution of cultural objects removed from China by the Japanese Government, members of its armed forces, Japanese officials or nationals, or other enemy individuals or groups."

3. The French representative of the Steering Committee, in approving the enclosed policy, also expressed a desire to record the views of his Government in the minutes of the Commission meeting at which the enclosure is adopted.

4. The Steering Committee unanimously recommended that the enclosed policy decision should be released to the press in the normal course, following receipt by the Supreme Commander of the policy directive based upon this decision.

NELSON T. JOHNSON
Secretary General

FEC-011/28

RESTRICTEDE N C L O S U R EINTERIM PRINCIPLES FOR RESTITUTION OF IDENTIFIABLE PROPERTY
CONFISCATED IN JAPAN FROM ALLIED NATIONALS

1. The Supreme Commander for the Allied Powers should be authorized to restore to nationals of any of the United Nations identifiable property, tangible or intangible, which was located in Japan prior to the outbreak of hostilities between their government and the government of Japan and owned by them at that time or lawfully acquired thereafter, and which was seized, confiscated, or sequestered, formally or otherwise, during the recent hostilities by the Japanese Government, members of its armed forces, or by official or private Japanese or other enemy individuals or groups, provided that:

a. Subject to the discretion of the Supreme Commander, restitution should be made at this time only to:

(1) Natural persons present in Japan

(2) Juridical persons where the holders of a controlling interest are nationals of Members of the United Nations now resident in Japan

(3) Charitable and religious institutions financed primarily by non-Japanese funds, where a duly authorized agent or properly qualified person is resident in Japan to receive title.

b. Without in any way prejudging the definitive policy later to be adopted by the Far Eastern Commission with respect to the disposition of large-scale enterprises, only small-scale commercial and industrial enterprises should be restored at the present time.

c. Though title to gold, other precious metals and foreign exchange may be restored to the United Nations owners, they should remain subject to the laws and regulations in force at any time governing the custody, control and transfer of such assets.

d. The Supreme Commander is satisfied as to the identification of such property.

The policy for restitution of similar property to nationals of Members of the United Nations who are not resident in Japan at present will be dealt with in a future paper.

2. For the purpose of determining whether property was in fact confiscated it should be assumed that all property taken by the Japanese or other enemy Government, Armed Forces, or nationals during the recent hostilities from nationals of any of the United Nations was confiscated whether or not payment was made at the time of acquisition unless it can be definitely shown that no duress or fraud was involved.

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3. The restitution of property should be made without expense for the owners and without prejudicing the claim of the original owners against the Japanese or other enemy Government and/or their nationals for damages to property, rent, depreciation, and other ascertainable losses. To facilitate the preparation and adjudication of claims, agreed statements as to the extent and condition of the property restored should be drawn up at the time of its return. The Japanese Government should be required to furnish to the owner a complete inventory of the property together with a report by the Japanese official administrator on the management of it and, in the case of industrial and commercial concerns, a closing balance sheet.

4. If payment to restoree was made at the time of confiscation the Supreme Commander for the Allied Powers should require persons repossessing the property to agree to remit such amounts to the Japanese Government as a prerequisite to restitution. However, actual payment of such amounts should be made only after settlement of claims as specified in paragraph 3 above.

5. If funds received in payment for confiscated property were blocked by the Japanese Government, such funds should be unblocked and the owner permitted to draw upon them on the same basis as depositors in general draw upon their bank funds, except that in the event that the confiscated property is returned such funds should be unblocked only in an amount sufficient to make the payment required in paragraph 4 above.

6. The right to restitution provided in the foregoing paragraphs and even the completion of restitution should not be considered as permission to operate properties where the Supreme Commander for the Allied Powers considers the operations of such property injurious to the occupying forces or to the purposes of the occupation. Similarly, the operation of properties considered by the Supreme Commander for the Allied Powers upon consultation with the Allied Council for Japan in accordance with the Terms of Reference of the Allied Council for Japan to be beneficial to the occupying forces and/or the accomplishment of the purposes of the occupation should not await restitution of title or the transfer of possession of such properties; but in such cases compensation for the use of the property should be paid for the account of the owner.

7. Japanese nationals injured by the provisions of the foregoing paragraphs should look to the Japanese Government for relief.

Unclassified per FEC-011/69
~~RESTRICTED~~ 4/24/51

FEC-011/29

FEC-011/29

7 March 1947

FAR EASTERN COMMISSION

INTERIM PRINCIPLES FOR RESTITUTION OF IDENTIFIABLE PROPERTY
CONFISCATED IN JAPAN FROM ALLIED NATIONALS

(References: FEC-011/24, FEC-011/26, FEC-011/27, FEC-011/28,
C6-014 Series, SC-014 Series)

Note by the Secretary General

1. Enclosure "A", a policy decision relative to Interim Principles for Restitution of Identifiable Property Confiscated in Japan from Allied Nationals, was unanimously approved by the Far Eastern Commission at its forty-eighth meeting, 6 March 1947.

2. Enclosure "B" is the letter of transmittal of the Secretary General, forwarding this decision on behalf of the Far Eastern Commission to the Secretary of State of the United States Government in accordance with the Terms of Reference.

3. The excerpts referred to in the letter of transmittal are circulated herewith as the Appendix.

NELSON T. JOHNSON
Secretary General

FEC-011/29

RESTRICTEDENCLOSURE "A"INTERIM PRINCIPLES FOR RESTITUTION OF IDENTIFIABLE PROPERTY
CONFISCATED IN JAPAN FROM ALLIED NATIONALS

1. The Supreme Commander for the Allied Powers should be authorized to restore to nationals of any of the United Nations identifiable property, tangible or intangible, which was located in Japan prior to the outbreak of hostilities between their government and the government of Japan and owned by them at that time or lawfully acquired thereafter, and which was seized, confiscated, or sequestered, formally or otherwise, during the recent hostilities by the Japanese Government, members of its armed forces, or by official or private Japanese or other enemy individuals or groups, provided that:

a. Subject to the discretion of the Supreme Commander, restitution should be made at this time only to:

(1) Natural persons present in Japan;

(2) Juridical persons where the holders of a controlling interest are nationals of Members of the United Nations now resident in Japan;

(3) Charitable and religious institutions financed primarily by non-Japanese funds, where a duly authorized agent or properly qualified person is resident in Japan to receive title;

b. Without in any way prejudging the definitive policy later to be adopted by the Far Eastern Commission with respect to the disposition of large-scale enterprises, only small-scale commercial and industrial enterprises should be restored at the present time;

c. Though title to gold, other precious metals and foreign exchange may be restored to the United Nations owners, they should remain subject to the laws and regulations in force at any time governing the custody, control and transfer of such assets;

d. The Supreme Commander is satisfied as to the identification of such property.

2. The policy for restitution of similar property to nationals of Members of the United Nations who are not resident in Japan at present will be dealt with in a future paper.

3. For the purpose of determining whether property was in fact confiscated it should be assumed that all property taken by the Japanese or other enemy Government, Armed Forces, or nationals during the recent hostilities from nationals of any of the United Nations was confiscated whether or not payment was made at the time of acquisition unless it can be definitely shown that no duress or fraud was involved.

Enclosure "A"

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4. The restitution of property should be made without expense for the owners and without prejudicing the claim of the original owners against the Japanese or other enemy Government and/or their nationals for damages to property, rent, depreciation, and other ascertainable losses. To facilitate the preparation and adjudication of claims, agreed statements as to the extent and condition of the property restored should be drawn up at the time of its return. The Japanese Government should be required to furnish to the owner a complete inventory of the property together with a report by the Japanese official administrator on the management of it and, in the case of industrial and commercial concerns, a closing balance sheet.

5. If payment to restoree was made at the time of confiscation the Supreme Commander for the Allied Powers should require persons repossessing the property to agree to remit such amounts to the Japanese Government as a prerequisite to restitution. However, actual payment of such amounts should be made only after settlement of claims as specified in paragraph 3 above.

6. If funds received in payment for confiscated property were blocked by the Japanese Government, such funds should be unblocked and the owner permitted to draw upon them on the same basis as depositors in general draw upon their bank funds, except that in the event that the confiscated property is returned such funds should be unblocked only in an amount sufficient to make the payment required in paragraph 5 above.

7. The right to restitution provided in the foregoing paragraphs and even the completion of restitution should not be considered as permission to operate properties where the Supreme Commander for the Allied Powers considers the operations of such property injurious to the occupying forces or to the purposes of the occupation. Similarly, the operation of properties considered by the Supreme Commander for the Allied Powers upon consultation with the Allied Council for Japan in accordance with the Terms of Reference of the Allied Council for Japan to be beneficial to the occupying forces and/or the accomplishment of the purposes of the occupation should not await restitution of title or the transfer of possession of such properties; but in such cases compensation for the use of the property should be paid for the account of the owner.

8. Japanese nationals injured by the provisions of the foregoing paragraphs should look to the Japanese Government for relief.

RESTRICTEDENCLOSURE "B"LETTER OF TRANSMITTAL

6 March 1947

The Honorable Dean Acheson
Acting Secretary of State
Washington, D. C.

My Dear Mr. Secretary:

The Terms of Reference of the Far Eastern Commission provide that one of the functions of the Commission should be to "formulate the policies, principles and standards in conformity with which the fulfillment by Japan of its obligations under the Terms of Surrender may be accomplished."

It is further provided that when such decisions are made by the Far Eastern Commission, "The United States Government shall prepare directives in accordance with the policy decisions of the Commission and shall transmit them to the Supreme Commander through the appropriate United States Government agency."

At the forty-eighth meeting of the Far Eastern Commission held at 2516 Massachusetts Avenue, Northwest, Washington, D. C., on 6 March 1947, the enclosed policy decision relative to Interim Principles for Restitution of Identifiable Property Confiscated in Japan from Allied Nationals was unanimously approved.

As Secretary General of the Far Eastern Commission, I have been instructed to forward this decision to you on behalf of the Commission in order that the appropriate directives may be prepared and transmitted to the Supreme Commander in accordance with the Terms of Reference.

Before the enclosed policy decision was formally approved by the Commission, the Chinese and French Representatives made statements setting forth the views of their Governments with regard to the expression "the outbreak of hostilities" in paragraph 1 of the enclosure. They recommended that these statements be recorded in the minutes and be transmitted to the Supreme Commander for his information. Excerpts from the draft minutes of the Commission's forty-eighth meeting, including these statements verbatim, are enclosed. The Commission has accordingly instructed me to ask that the United States Government in transmitting the appropriate directive based on the enclosed policy decision to the Supreme Commander, also forward the Chinese and French statements for the Supreme Commander's information.

In adopting the enclosed policy decision the Commission agreed that it should be released to the press after being received by the Supreme Commander. In accordance with our normal procedure I would appreciate it if you could make arrangements to notify me when the enclosed policy decision has been received in Tokyo.

Sincerely yours,

Nelson T. Johnson
Secretary General

Enclosures

FEC-011/29